



**Tuvalu**

# **PUBLIC FINANCE ORDINANCE**

**Act 5 of 1978**





Tuvalu

## PUBLIC FINANCE ORDINANCE

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Tuvalu

## PUBLIC FINANCE ORDINANCE

Act 5 of 1978

**AN ORDINANCE TO MAKE PROVISION, ADDITIONAL TO THAT, IN CHAPTER IX OF THE CONSTITUTION, FOR THE CONTROL, MANAGEMENT AND AUDIT OF THE PUBLIC FINANCES OF TUVALU AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO**

ENACTED BY THE PARLIAMENT OF TUVALU

Commencement [1st October 1978]

### PART I - PRELIMINARY

#### 1 Short title and construction

- (1) This Ordinance may be cited as the Public Finance Ordinance.
- (2) This Ordinance shall be subject to, read in conjunction with and construed as one with the provisions of Chapter IX of the Constitution.

#### 2 Interpretation

In this Ordinance unless the context otherwise requires —

“**accountable officer**” means any public officer, including an accounting officer, 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 of Tuvalu established by section 94 (1) of the Constitution;

“**Crown Agents**” means the Crown Agents for Overseas Governments, and Administrations;

“**Expenditure Head**” or “**Head**” means the total sum applied to and appropriated for any purpose, by an Appropriation Ordinance or Supplementary Appropriation Ordinance;

“**financial year**” means the year commencing January 1st;

“**public moneys**” include —

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

“**public officer**” and “**public service**” have the meanings respectively assigned to those terms by sections 104 and 105 of the Constitution;

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

“**sitting**” in relation to Parliament has the meaning assigned to it by section 104 of the Constitution;

“**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 purpose of which is the appropriation of moneys in supplementation of the appropriation already made by an Appropriation Ordinance.

## PART II - POWERS AND DUTIES OF MINISTER

### 3 Supervision of finances

- (1) The Minister shall so supervise the finances of the Government as to ensure that a full account is made to Parliament and for such purposes shall, subject to the provisions of 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.
- (2) In the discharge of the duties imposed upon him by subsection (1) the Minister —
  - (a) shall take all proper steps to ensure that any regulations made or directions and instructions given pursuant to the provisions of section 12 are brought to the notice of all persons directly affected thereby but subject as aforesaid and notwithstanding the provisions of section 16 of the Interpretation and General Clauses Ordinance the Minister shall not be bound to cause such regulations to be published by exhibition or to be printed in the *Gazette*;  
*Cap. 1*
  - (b) shall be entitled to inspect all Government 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 specified in section 6 and to all documents and records in respect thereof so far as may be necessary for the purpose of compliance with subsection (1).
- (3) In the discharge of his duties in connection with the management and operation of the Government's accountancy organisation and central treasury, the Minister shall —
  - (a) ensure the maintenance of a system that brings promptly and properly to account all moneys received and paid by the Government;
  - (b) refuse payment on any voucher wrong or insufficient in content, or that contravenes any regulations, directions or instructions properly made or given under this or any other Ordinance for the management of public moneys, or that is in his opinion in any other way unacceptable as a charge on the public moneys;
  - (c) investigate or cause to be investigated any defect in departmental control of revenue, expenditure, cash, stamps and other property of the Government that may be brought to his notice;

- (d) ensure, so far as is practicable, that adequate provision is made for the safe custody of public moneys and stamps and for the control of Government property.

#### **4 Annual estimates**

The estimates of revenue and expenditure presented to Parliament under section 96 (1) of the Constitution shall be in such form as the Minister may determine or as Parliament may direct:

Provided that —

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

#### **5 Power to make regulations**

The Minister may make such regulations and may give such directions and instructions as may appear to him to be necessary and expedient for the proper carrying out of the intent and purposes of this Ordinance and for the safety, economy and advantage of the public revenue and property.

#### **6 Accounting and accountable officers to obey instructions**

Every accounting officer and every accountable officer shall obey all regulations made and directions or instructions given by the Minister or under powers delegated by him 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 either alone or jointly with any other public officer or any other person.

**7 Saving in relation to trusts**

Nothing in this Ordinance shall extend to, abridge or alter the terms of any trust or shall be construed as authorising the Minister to make any regulations or to give 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.

**PART III - THE CONSOLIDATED FUND****8 Repayments from Consolidated Funds**

Without prejudice to any other expenditure which may be authorised by this or any other Ordinance, expenditure by the Minister from the Consolidated Fund is hereby authorised for the purpose of repaying any moneys received in error by the Consolidated Fund or for the purpose of paying such sums as may be hired for drawbacks, rebates or discounts.

**9 Revenues and other moneys to be paid into Consolidated Fund**

- (1) Subject to sections 19 and 20 all revenues and other moneys raised or received for the purpose of the Government of Tuvalu shall be paid into the Consolidated Fund in accordance with the instructions of the Minister.
- (2) For the avoidance of doubt it is hereby declared that the reference to moneys raised or received for the purpose of the Government does not include moneys received on deposit.

**10 Payments**

- (1) The Minister shall from time to time authorise the issue from the Consolidated Fund of sums coming in the course of payment during the financial year for statutory expenditure.
- (2) On the coming into operation of any Appropriation Ordinance or Supplementary Appropriation Ordinance the Minister shall authorise by Warrant under his hand the issue and payment from the Consolidated Fund of such sums as may have been applied to the service of the financial year by such Appropriation Ordinance.
- (3) Notwithstanding the issue of a Warrant, it shall be within the discretion of the Minister to limit or suspend at any time expenditure (not being statutory expenditure) with or without cancelling the Warrant if in his opinion financial exigencies or the public interest so require.

## 11 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 Minister shall from time to time determine:

Provided that this section shall not apply to moneys invested under the provisions of section 12.

## 12 Investments of moneys

- (1) The Minister may authorise the investment of moneys forming part of the Consolidated Fund with a bank either at call or subject to notice not exceeding 12 months or with the Joint Consolidated Fund administered by the Crown Agents or in a manner authorised for the investment of property in the hands of trustees by any law for the time being in force in England.
- (2) All investments made under this section together with any interest received therefrom shall form part of the Consolidated Fund, and the issue of such moneys from the Consolidated Fund for the purpose of such investment shall be deemed to be statutory expenditure.

## 13 Advances

- (1) Subject to the provisions of this section, the Minister may authorise the disbursement 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, any other Government;
  - (b) to, or on account of, any Special Fund where such advances are recoverable before the close of the financial year in which such advances are made;
  - (c) to public officers for such purposes and on such terms and conditions as may be prescribed from time to time;
  - (d) to meet expenditure authorised by a Loan Ordinance in anticipation of the receipt of any instalment of the loan authorised by such Ordinance;
  - (e) in accordance with a specific agreement, to agents appointed by the Government to perform functions on its behalf;
  - (f) for such other purposes and subject to such terms and conditions as Parliament may from time to time approve.
- (2) The total of the sums issued and disbursed for the purpose of making advances shall not exceed in aggregate at any one time after deducting repayments an amount of \$500,000.

**14 Money issued but not spent to be paid to the Consolidated Funds**

Every appropriation by Parliament of public moneys for the service of any financial year shall lapse and cease to have any effect at the close of that financial year, and any moneys issued from the Consolidated Fund but not spent shall be repaid to the Consolidated Fund.

**15 Unforeseen expenditure**

- (1) Where in respect of any financial year the Minister considers it necessary to exercise his power under section 96 (4) of the Constitution, he may authorise an advance by warrant to be known as a Contingencies Warrant:

Provided that —

- (a) the conditions set out in that section are met;
  - (b) funds cannot be provided under section 17 of this Ordinance;
  - (c) the expenditure cannot be deferred without detriment to the public interest.
- (2) The total of sums authorised to be advanced in anticipation of the grant of an appropriation shall not exceed at any one time the sum of \$250,000.
  - (3) the grant of an appropriation to meet the expenditure in respect of which an advance was made from the Consolidated Fund, the Contingencies Warrant authorising such advance shall cease to have effect and the advance shall be deemed to been made for the purpose of the grant and shall be accounted for accordingly.

**16 Accounting officers**

- (1) An accounting officer shall be appointed in respect of each Expenditure Head for any financial year to control and account for the expenditure of moneys applied to that Head by any Appropriation Ordinance.
- (2) An accounting officer shall be personally accountable for all public moneys received, collected or disbursed and for all public stores received, held or disposed of by or on account of the department or service for which the Head for which he is the accounting officer is provided.
- (3) An accounting officer may, and shall if so required by the Minister, define in writing the extent to which the powers and duties conferred or 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 secure the proper exercise or performance of such powers and duties.

## 17 Reallocations within Heads

- (1) If in the opinion of the Minister the exigencies of the public service render it necessary or expedient to vary the sum assigned to any purpose within any Expenditure Head shown in the estimates of expenditure for any financial year, or to make provision for a new purpose within such Head, he may direct by means of a Virement Warrant under his hand 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 Head:

Provided that —

- (i) the sum appropriated to any Head by the Appropriation Ordinance and by any Supplementary Appropriation Ordinance is not thereby exceeded; and
  - (ii) any new purpose to which any sum is assigned shall be within the ambit of the Head.
- (2) Any Virement Warrant issued under subsection (1) shall be laid before Parliament at its sitting next following the date on which such Virement Warrant was signed.

## 18 Restrictions on borrowing

- (1) The Government shall not borrow money except in accordance with the provisions of a written law.
- (2) The powers conferred by any general or 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) Except as otherwise provided by or under any other law for the time being in force any money borrowed by the Government shall be paid into and form part of the Consolidated Fund or such other public fund as the Minister may in each case designate and shall be available in any manner in which the Consolidated Fund or such other public fund, as the case may be, is available.
- (4) An account set up by an advance made in accordance with a specific agreement under section 13(1)(e) may be overdrawn in accordance with that agreement but shall be reimbursed as soon as possible.
- (5) Except as otherwise provided by or under any other law for the time being in force the principal money and all interest and other charges on any money borrowed by the Government, and the interest upon any imprest account overdrawn under subsection (4), shall be charged upon and paid

out of the Consolidated Fund or such other public fund as the Minister may in each case designate without further appropriation than this Ordinance.

## PART IV - OTHER PUBLIC FUNDS

### 19 Development Fund

- (1) There is hereby established a capital fund to be known as the Development Fund, which shall not form part of the Consolidated Fund and which shall not be a Special Fund within the meaning of section 94 (2) of the Constitution.
- (2) The Development Fund shall consist of the following moneys —
  - (a) such moneys as may be appropriated for the purpose by Parliament;
  - (b) moneys received from any other government and any body or person as grants to the Government of Tuvalu for development purposes;
  - (c) moneys received from the proceeds of loans raised for the purpose by or on behalf of the Government;
  - (d) moneys received by way of interest or dividend on any investment or loan of any moneys belonging to the Development Fund;
  - (e) moneys earned by or received in reimbursement of any project financed wholly or in part from the Development Fund:

Provided that the moneys referred to in paragraph (b), (d) or (e) may with the prior approval of Parliament in any case be paid the Consolidated Fund or such other public fund as the Minister may in each case designate.

- (3) The Development Fund shall be operated in accordance with the Rules set out in the Schedule to this Ordinance.
- (4) The Minister may by order amend the Rules set out in the schedule but shall cause a copy of any order so made to be laid before Parliament at its sitting next following the date on which the order comes into operation.
- (5) Subject to the provisions of this section any moneys forming part of the Development Fund which are not required for immediate use for development purposes may be invested in like manner to that permitted by section 12 (1) of this Ordinance in respect of the Consolidated Fund.

## 20 Special Funds

- (1) The Minister may from time to time by order establish special Funds Special Funds which shall not form part of the Consolidated Fund. Any such fund shall be governed by the provisions of section 94 (3) of the Constitution and the moneys of such a fund may only be expended for the purposes for which it was established.
- (2) There shall be paid into any Special Fund all revenue of the Government exclusively relating to or derived from the subject-matter of such a fund together with any moneys appropriated for that purpose by Parliament.
- (3) The Minister shall, subject to the provisions of this section, have the management of any Special Fund established under this section and for such purposes may —
  - (a) authorise the investment of moneys standing to the credit of any Special Fund;
  - (b) by order direct that any Special Fund be wound up;
  - (c) make regulations for the control and operation of any Special Fund.
- (4) Where the Minister directs that any Special Fund shall be wound up, thereupon, after all liabilities of such Fund have been paid, the Fund shall be closed accordingly and the balance of moneys standing to the credit of such Fund shall be paid into the Consolidated Fund.

## PART V - DEPOSITS

### 21 Deposits

Any moneys, not being moneys raised or received for the purposes of the Government, which may be deposited with the Government, (such moneys being hereinafter called “deposits”) shall not form part of the Consolidated Fund and except as provided in this Ordinance shall not be applied in any way for the purposes of the Government.

### 22 Investment of deposits

- (1) The Minister may authorise the investment of deposits in like manner to that provided by section 12 (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.

**23 Deposits may be used to finance advances**

Subject to the provisions of this section, the Minister may authorise the use of deposits for the purpose of making advances for all or any of the purposes specified in Section 13(1):

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

**24 Unclaimed deposits**

Any deposit which is unclaimed for 5 years shall 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 Minister his claim to any such deposit the Minister shall thereupon refund to such person his deposit.

## **PART VI - THE PRINCIPAL AUDITOR**

**25 Duty in respect of accounts**

In exercising his powers of audit and examination of accounts, the Principal Auditor shall satisfy himself —

- (a) that all reasonable precautions have been taken to safeguard the collection and custody of revenue and that the Ordinances, directions and instructions relating thereto have been duly observed;
- (b) that all moneys which have been appropriated and disbursed have been applied to the purposes for which they were appropriated, and that the expenditure conforms to the authority which governs it;
- (c) that all 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.

Notwithstanding the provisions of this section the Principal Auditor shall not be required to examine, inquire into or audit the accounts of any trust or other fund or account not provided for in section 31 unless the officer administering such fund or account has been directed by the Minister as provided in subsection (2) (b) of that section, to prepare, sign and transmit to the Principal Auditor an account of such fund or account.

## **26 Powers of Principal Auditor**

- (1) In the exercise of his duties to audit, inquire into and examine accounts the Principal Auditor may —
  - (a) call upon any officer for any explanation and information which he may require in order to enable him to discharge his duties;
  - (b) authorise any person publicly carrying on the profession of accountant or any public officer to conduct on his behalf any inquiry, examination or audit and such person or officer shall report thereon to the Principal Auditor;
  - (c) without the payment of any fee cause search to be made in and extracts to be taken from any book, document or record pertaining to matters of finance or accounts in any public office;
  - (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 question.
- (2) In the exercise of his duties the Principal Auditor or any person duly authorised by him in writing shall have access to all records, books, vouchers, and documents pertaining to matters of finance and accounts, and to all cash, stamps, securities, stores or other Government property of any kind whatsoever, in the possession of any public officer.

## **27 Discretion with regards to vouchers etc.**

- (1) Notwithstanding the provisions of sections 25 and 26, in the examination of any account it shall be lawful for the Principal Auditor, in cases where it shall appear to him to be reasonable and expedient for the public service and after satisfying himself that the vouchers have been examined and certified as correct by an accounting officer, to admit and allow without further examination the sums so certified in support of the charges to which they relate.
- (2) In his examination of any account the Principal Auditor may, in cases where the accuracy and propriety of the payment is not in doubt, admit

and allow any voucher supporting such payment notwithstanding that such voucher is defective in some particular.

- (3) In the event that any voucher —
  - (a) has been lost or inadvertently destroyed; or
  - (b) is not admitted and allowed by the Director of Audit under subsection (2),

the Minister may, if upon due inquiries he is satisfied as to the accuracy and propriety of the payment and as to the circumstances of such defect, loss or destruction, authorise the payment to stand charged in the accounts and the Principal Auditor shall accept such voucher or dispense with its production as the case may be.

## **28 Limit on duties on Principal Auditor**

- (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.

## **29 Staff**

- (1) The staff required to assist the Principal Auditor in the performance of his duties shall be composed of such officers as the Minister may from time to time determine.
- (2) Anything which, under the authority of this Ordinance, is directed to be done by the Principal Auditor other than the certifying of and reporting on accounts, may be done by any officer of his staff so authorised by him.

## **30 Acting Appointment**

- (1) On any vacancy occurring in the office of Principal Auditor, from death, retirement, resignation or other cause, or if in the opinion of the Minister the Principal Auditor is unlikely to be able to exercise his powers or perform his duties during any period by reason of absence, illness or any other cause, the Minister may appoint in writing a public officer to act as Principal Auditor until such time as a new Principal Auditor may be

appointed under the provisions of section 101 of the Constitution or the substantive holder of the post resumes duty, respectively.

- (2) Every person appointed to act as Principal Auditor under the foregoing subsection shall have and may exercise all the powers and authority and shall perform all the duties conferred on the Principal Auditor by section 101 of the Constitution and by this and shall during the period for which he so acts be paid an allowance equal to the difference between the annual his substantive appointment in the public service and the salary of the Principal Auditor prescribed by the Prescription of Salaries Ordinance.

## **PART VII - THE AUDIT AND EXAMINATION OF PUBLIC ACCOUNTS**

### **31 Annual Accounts**

- (1) Within a period of 6 months (or such longer period as Parliament may appoint) after the end of each financial year there shall be transmitted to the Principal Auditor by the Minister accounts showing fully the financial position of Tuvalu, which shall include —
  - (i) a statement of assets and liabilities;
  - (ii) a statement of receipts and payments, by Heads and other receipts and payments;
  - (iii) a comparative statement of actual and estimated revenue, by sub-heads;
  - (iv) a comparative statement of actual and estimated expenditure, by sub-heads;
  - (v) a statement of Special Funds' balances, by annual and aggregate receipts and payments;
  - (vi) a statement of other ledger balances;
  - (vii) a statement of balances on advances account from the Consolidated Fund, analysed under the several categories set out in section 21;
  - (viii) a statement of balances on advances accounts from deposits;
  - (ix) a statement of balances on deposit account;
  - (x) a statement of contingent liabilities;
  - (xi) a statement of investments, showing the funds on behalf of which such investments have been made;

- (xii) a statement of outstanding loans made from the Consolidated Fund, by annual and aggregate receipts and payments;
  - (xiii) a statement of the Public Debt;
  - (xiv) a statement of arrears of revenue, by sub-head;
  - (xv) tabulated summaries of unallocated stores and manufacturing accounts;
  - (xvi) a statement of the balance on the Development Fund account by annual and aggregate receipts and payments;
  - (xvii) a statement of the balances on clearance account;
  - (xviii) a statement of unauthorised expenditure by sub-head and item showing the provision as at 31st December, the expenditure for the year and the excess of expenditure over provision;
  - (xix) a statement of balances on remittance account.
- (2) Within a period of 6 months after the close of such period of account as may be prescribed by any law relating thereto, or in the absence of such law, such period of account as the Minister may appoint —
- (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, if so directed by the Minister,

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

### 32 Report on accounts

- (1) On receipt of the accounts prescribed by section 31 the Principal Auditor shall cause them to be examined and audited and shall, within a period of 9 months (or such longer period as Parliament may appoint) after the end of the financial year to which the accounts relate, certify in respect of each account the result of the examination and audit and shall within the aforesaid period prepare and sign and transmit to the Minister a report upon the examination and audit of all such accounts, together with copies of the accounts, certified as aforesaid.
- (2) The Minister shall cause the report of the Principal Auditor to be laid before Parliament at its sitting next following the date on which such report was signed, and shall publish a shortened version of the same in the *Gazette*.
- (3) The Principal Auditor may and, if so required by the Minister of Parliament shall, transmit to the Minister, to be laid by him before

Parliament, a report on any Heads in excess and any shortfalls of revenue collected against heads of revenue.

### **33 Powers of Parliament**

- (1) If the Minister makes default in laying any report of the Principal Auditor before Parliament as required by section 32, the Principal Auditor shall transmit a copy of such report to the Speaker to be presented to Parliament.
- (2) Every report of the Principal Auditor laid before or presented to Parliament under this or any other section shall be dealt with by Parliament in the manner prescribed by its rules of procedure.
- (3) In this and the preceding section any reference to Parliament may be construed so as to include a reference to the Public Accounts Committee.

### **34 Irregularities**

If at any time it appears to the Principal Auditor that any 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 to the notice of the accounting officer concerned and the Minister.

## **PART VIII - EXAMINATION AND AUDIT OF ACCOUNTS OF STATUTORY BODIES**

### **35 Accounts of statutory bodies**

- (1) The accounts of any corporation, statutory 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 corporation, statutory board, body or commission and its members, officers and employees, the same powers and discretion as are conferred upon him by sections 25 and 26 in relation to public officers, public moneys, stamps, securities, stores or other Government property;

- (b) may authorise 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, statutory board, body or commission which the Principal Auditor may be required to examine and audit pursuant to the provisions of this section and such person or public officer shall report thereon to the Principal Auditor in such manner as he 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 Minister to be laid before Parliament.
- (4) This section shall apply to any corporate body established by Ordinance and, if Parliament by resolution so directs, to any statutory board, body or commission which is not incorporated —
  - (a) which is in receipt of a contribution from public funds; 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.

### **36 Observations on report of Principal Auditor**

- (1) On receipt of any report of the Principal Auditor as required by section 35 (3), the Minister shall obtain the observations of the corporation, statutory board, body or commission on any matter to which attention has been called by the Principal Auditor in such report and such observations shall be laid before Parliament with the said report.
- (2) If the Minister fails within a reasonable time to lay the report of the Principal Auditor before Parliament the Principal Auditor shall transmit a copy of such report to the Speaker to be presented to Parliament.

### **37 Audit fees to be charged**

Any corporation and any statutory board, body or commission the accounts of which are audited by the Principal Auditor under the provisions of section 35 shall in respect of such audit pay such fee as may, with the concurrence of the Minister, be determined by the Principal Auditor:

Provided that the Minister may, in any case in which it shall appear to him to be in the public interest that no audit fee shall be paid, direct the Principal Auditor to waive the payment of such fee.

## **PART IX - ABANDONMENT OF CLAIMS, ETC., AND WRITE-OFF OF PUBLIC MONEYS AND STORES**

### **38 Abandonment of claims and write-off of public moneys and stores**

- (1) Parliament may, by resolution, authorise the Minister to the extent specified in such resolution to abandon and 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.
- (2) Such resolution may be in general terms and of continuing application and may be made retrospective to any date.
- (3) The Minister may by writing under his hand delegate to any public officer any of the powers which he is authorised to exercise by resolution of Parliament under this section.

### **39 Disposal of serviceable stores or property**

The Minister may authorise the gift of serviceable Government stores or property not required for Government purposes to institutions or organisations in Tuvalu established solely or principally for educational, scientific, cultural or charitable purposes:

Provided that where the value of such stores or property exceeds \$1,000 the prior approval of Parliament shall be required.

**SCHEDULE**

*(Section. 19 (3))*

*Rules for the Operation of the Development Fund*

1.
  - (1) No moneys shall be issued from the Development Fund (hereinafter called “the Fund”) for the purpose of meeting any expenditure except in accordance with a Development Warrant under the hand of the Minister.
  - (2) Subject to rule 3, 4, 5 and 6 no Development Warrant shall be issued unless the expenditure in question has been authorised by Parliament by resolution.
2.
  - (1) The Minister shall cause to be prepared in each financial year estimates of the revenue and expenditure of the Fund for the next following year.
  - (2) The proposals for all expenditure contained in the estimates shall be submitted to Parliament before the end of the financial year to which they relate, together with a statement showing the estimated balance of the Fund at the commencement of the next financial year and the anticipated revenue accruing to and total expenditure from the Fund during the next financial year.
3.
  - (1) If Parliament has not yet authorised for any financial year the expenditure of sums necessary to finance the continued construction and provision of development works for which provision was made from the Fund in the previous financial year the Minister may by warrant authorise the issue from the Fund of such sums as are necessary to finance the continued construction and provision of such works to enable such works to be carried out for a period of 4 months or until the expenditure of sums necessary to finance the continued construction and provision of such works has been approved by Parliament whichever is the shorter period.
  - (2) Notwithstanding paragraph (1) no sum may be issued under this rule in respect of any subhead where such sum would be in excess of 20 per cent of the estimate of the total cost for such subhead as it appears in the development estimates or supplementary development estimates approved by Parliament.
- 4.

(1) When in any financial year the development estimates or supplementary development estimates for that year include an estimate of total cost for any subhead, over any period, which is in excess of the total sum appropriated for that subhead for the current year the Minister may by warrant authorise the expenditure of any sum which, when added to the expenditure incurred on the corresponding subhead in previous years and to the expenditure already authorised for the same subhead for the current year, does not cause to be exceeded the latest estimate of total cost for that subhead included in the development estimates or supplementary development estimates approved by Parliament for that year.

(2) When at the commencement of any financial year the provision included for any subhead in the development estimates or supplementary development estimates of the immediately preceding financial year has been only partially expended the Minister may by warrant authorise the expenditure of the unspent balance of such provision under a corresponding subhead in the current financial year:

Provided that the amount so authorised shall not when added to the expenditure incurred in previous years and to the provision already made in the current year, exceed the latest overall estimate of total cost for the subhead included in any development estimates or supplementary development estimates approved by Parliament.

(3) No warrant under this rule shall authorise the issue of an amount which if it were expended at once would exceed the balance of the Fund remaining after all other expenditure authorised for the year has been provided for.

5. The Minister may by warrant authorise the issue from the Fund of such sum as may be necessary for expenditure under any subhead (of a special character which is not provided for in the expenditure already authorised by Parliament for that year and which cannot or cannot without serious injury to the public interest be postponed until adequate provision can be made by Parliament:

Provided that no such warrant shall authorise the issue of an amount which if it were expended at once would exceed the balance of the Fund remaining after all other expenditure authorised for that year has been provided for.

6.

(1) The Minister may in any year by warrant authorise the issue from the Fund of such additional sum as may be necessary for expenditure under any subhead which has been authorised by Parliament for that year and the issue of which cannot without serious injury to the

public interest be postponed until adequate provision can be made by Parliament:

Provided that no such warrant shall authorise the issue of a sum in excess of 20 per cent of the latest estimate of total cost for that subhead as included in any development estimate except under the provisions of rule 5.

- (2) No warrant under this rule shall authorise the issue of an amount which if ere expended at once would exceed the balance of the fund remaining after other expenditure authorised for the year has been provided for.
7. The Minister shall at .the sitting of Parliament next following the issue of any warrant under rule 4, 5 or 6 present a supplementary estimate covering the expenditure to Parliament for its approval.

**ENDNOTES**

**Table of Legislation History**

Legislation	Year and No	Commencement

**Table of Renumbered Provisions**

Original	Current

**Table of Endnote References**