STATUTORY INSTRUMENT

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THE FINANCIAL MANAGEMENT REGULATIONS, 2 007

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THE GOVERNMENT BUDGETING AND ACCOUNTABILITY ACT, 2005
(Act No. 3 of 2005)

THE FINANCIAL MANAGEMENT REGULATIONS, 2007. Short title.

In exercise of the powers conferred upon him by section 82 of the Government Budgeting and Accountability Act, 2005, the Minister of Finance hereby makes the following Regulations.

PART I–APPLICATION

1. These Regulations shall apply to Government Ministries, Departments, Agencies and bodies corporate in which the Government is either the sole shareholder or majority shareholder. Application.

PART II–RESPONSIBILITIES OF OFFICERS

2. In the performance of his functions under the Government Budgeting and Accountability Act, 2005 (hereafter referred to as "the Act") a vote controller shall– Duties of vote controllers Act No. 3 of 2005.

(a) check all cash in his charge and verify the amounts with the balances in the cash books;

(b) bring promptly to account as revenue any cash found in his charge in excess of the balances in the cash book;

(c) promptly make good any deficiency in cash for which he is responsible;

(d) ensure that all books of account under his control are correctly posted and kept up-to-date;

(e) report to the Financial Secretary any apparent defect in the procedure for revenue collection or any apparent waste or extravagance in expenditure which comes to his notice in the course of his accounting duties;

(f) produce, when required by the Accountant-General, Head of the Internal Audit Unit of the Ministry or Auditor-General or by such officers as may be authorised by any of the above, all cash, books, records, vouchers or other items of value in his charge;

(g) put in place such arrangements as may be considered to the public when transacting business with them;

(h) advise his Minister concerning the requirements of the Act or any other enactment relating to financial propriety;

(i) maintain efficient systems of financial management and control;

(j) ensure that value for money is obtained on use of public funds;

(k) ensure effective internal audit and the operation of an audit committee;

(l) operate open, competitive and transparent procurement;

(m) ensure sound evaluation of projects;

(n) promptly settle contractual obligations;

(o) manage departmental assets in accordance with these Regulations;

(p) collect departmental revenues efficiently;

(q) report promptly to his Minister or other appropriate authority or both, instances of fraud and corruption;

(r) initiate the disciplining of staff who contravene the law;

(s) submit timely financial reports;

(t) cooperate with the Accountant-General's staff in compiling annual accounts on time;

(u) promptly answer all audit queries;

(v) chair the budget committee and procurement committee of his ministry, department or agency; and

(w) maintain records to show achievement of budgeted activities and projects.

Limits of delegated powers.

3. (1) Where a vote controller delegates his powers or duties to a public officer under his control, he shall do so in writing and shall set out clearly and unequivocally the limits of such delegation.

(2) Any public officer who makes or allows or directs the disbursement of public moneys or issue of securities, stores or other public property without the requisite delegation shall be personally responsible for the amount or value involved; and any public officer whose duties require him to render accounts shall be responsible for any inaccuracies in those accounts.

Accountant-General to maintain audit register.

4. (1) The Accountant-General shall maintain or cause to be maintained by each vote controller a register of all audit queries and audit inspection reports.

(2) The register shall contain-

(a) the reference and date of the audit query or report; and

(b) the date on which the audit query or report was answered or otherwise dealt with.

(3) The vote controller concerned shall examine and initial the register at the end of every month.

Use of green ink.

5. No public officer except the Minister or the Auditor-General or an officer or employee of the Audit Service or person appointed by the Auditor-General shall, in relation to the audit of public accounts use green ink, pencil or crayon.

Accounting officers in budgetary agencies.

6. (1) Unless directed otherwise by the Accountant-General, each budgetary agency shall have an accounting officer (hereafter called the chief financial officer) serving on the senior management team.

(2) The Accountant-General is responsible for determining the level of qualification, skills, knowledge and experience required by a chief financial officer in a budgetary agency.

(3) The chief financial officer is directly accountable to the vote controller.

(4) Without limiting the right of the vote controller to assign specific responsibilities, the general responsibility of the chief financial officer is to assist the vote controller in discharging the duties prescribed in regulation 1 which relate to the effective financial management of the budgetary agency including the exercise of sound budgeting and budgetary control practices, the operation of internal controls and the timely production of financial reports and include-

(a) supervising and coordinating the preparation of draft annual estimates in accordance with a strategic plan and submitting them to the Budget Committee at the required dates;

(b) ensuring that the authorised estimates of expenditure on votes under his control are not exceeded;

(c) keeping watch on the expenditure of votes controlled by other officers and warn them if there is a danger of those votes being exceeded;

(d) informing the Budget Committee regularly of the expenditure incurred or likely to be incurred under each vote;

(e) preparing supplementary estimates for submission to the Budget Committee where necessary;

(f) ensuring that no expenditure is incurred before it has been authorised;

(g) establishing a proper system of accounting in accordance with these Regulations;

(h) supervising the prompt collection of all revenue due to the budgetary agency and bringing promptly to account, under the proper heads, programmes and items, all revenue or other receipts paid into the budgetary agency's bank account or accounted for to him;

(i) supervising all officers entrusted with the receipt and expenditure of the budgetary agency's funds and taking precautions, by

the maintenance of frequent checks, including surprise audits, against the occurrence of fraud, embezzlement or carelessness;

(j) supervising the expenditure and other disbursements of the budgetary agency and ensuring that no payment is made without proper authority; and in case of any apparent extravagance calling this to the attention of the officer concerned and his superiors;

(k) charging under the proper heads, programmes and items all disbursements of the budgetary agency;

(l) preparing the annual accounts of the budgetary agency for audit and preparing financial statements and returns as required by the Act and these Regulations;

(m) making provision for the secure custody of all receipt books, tickets, licences and other accountable documents in the manner provided for in these Regulations;

(n) after consultation with the vote controller, monitoring the budgetary agency's procedures for the procurement of goods, services and works in accordance with the Public Procurement Act, 2004 and regulations made under it;

Act No. 14 of 2004.

(o) ensuring that proper provision is made for the safe-keeping of the budgetary agency's moneys, securities, valuable documents and account books in accordance with these Regulations;

(p) supervising the operation, maintenance and protection of the budgetary agency's accounting and data processing equipment including the provision of dust and damp-free accommodation and standby facilities in the event of breakdown or power failure;

(q) responsibility for the proper organisation of his office, for a fair allocation of duties among his staff and for their training;

(r) ensuring that all officers with duties of a financial nature are conversant with and comply with these Regulations and any other financial directives;

(s) instituting disciplinary or other action as he thinks necessary against officers contravening these Regulations and any other financial directives;

(t) where necessary, taking action to secure the recovery of losses, or their write-off in accordance with the Act and these Regulations; and

(u) implementing the policies and directives of the budgetary agency as communicated to him by the vote controller; but that if he considers that any directive is not in accordance with the Act and regulations governing financial matters, he shall prepare a written statement of objection to the Auditor-General and copy it to the vote controller and the Minister of the budgetary agency.

PART III – ESTIMATES OF REVENUE AND EXPENDITURE

Budget call circular.

7. (1) The Financial Secretary shall, not later than six months before the start of each financial year, issue a circular called the "budget call circular" to all vote controllers.

(2) The budget call circular shall require every vote controller to submit within a specified time and in a prescribed manner a medium-term budget framework for his budget entity, including-

(a) a medium-term strategy and target outcomes in line with national and sectoral strategies, and key performance indicators for assessing the achievement of the outcomes;

(b) detailed work plans for the implementation of the strategy and the anticipated revenue and recurrent and capital expenditure for the following three years within the financial ceilings prescribed by the Minister;

(c) a procurement plan showing details of the estimated amount of continuing contracts and each contract to be entered into in the following year, item to be purchased, estimated timing and amount of payments, and the modality of each contract; and

(d) revised estimates of revenue and expenditure for the current year.

(3) A vote controller shall, in preparing draft estimates of revenue and expenditure, set up and chair a budget committee in his budget entity to ensure that the estimates are realistic and accurate in all respects and are prepared with the involvement of the relevant programme officers, civil society organisations and District Budget Oversight Committees, and in accordance with any other instructions or guidelines given by the Minister.

(4) A vote controller shall brief his Minister on the preparation of the budget and, during the year, on budget performance.

(5) Proposals for any new establishment or expansion of an existing one including an increase or upgrading in the establishment, shall be included in the draft estimates only after the approval of the Minister has been obtained.

(6) The Cabinet Budget Committee shall review and approve the financial ceilings and other instructions issued to budgetary agencies and, before the estimates are presented to Parliament.

Estimates of revenue.

8. (1) The estimates of revenue shall comprise moneys from these classes-

(a) the gross receipts of the Government other than repayments of advances;

(b) receipts from deposits and remittances;

(c) the sale of investments forming part of the Consolidated Fund; and

(d) fees, dues and fines payable into the Consolidated Fund.

(2) Each class of estimates may comprise several heads but no head shall contain items coming under different classes.

(3) Receipts which cannot properly be placed under any head may be classified as "miscellaneous".

(4) Where there is need for the opening of new programmes under any head, authority shall be sought from the Financial Secretary before the opening.

Classification of revenue and expenditure.

9. All estimates of revenue and expenditure shall be classified and coded in accordance with the chart of accounts as maintained by the Accountant-General.

New codes.

10. No new codes shall be opened except with the written approval of the Accountant-General.

Estimates of expenditure.

11. (1) The estimates of expenditure shall show as nearly as can be predicted the amounts expected to be spent during the financial year.

(2) The estimates shall be divided into heads of expenditure in accordance with the structure determined by the Financial Secretary acting on the advice of the Budget Bureau and conveyed to vote controllers through the budget call circular.

Ambit of vote.

12. (1) The purposes of expenditure and the services to be provided under each head shall be outlined in a preamble to the head to be called 'the ambit of the vote'.

(2) No expenditure shall be charged to the head unless it falls within the ambit of the vote.

Division into programmes.

13. (1) The estimates of expenditure within the heads of expenditure, whether of a capital or recurrent nature, shall be divided into such programmes as are considered necessary for the efficient running of the services to be provided.

(2) Each programme shall include, as far as possible, all the items relating to the particular service to be provided under that programme so as to show clearly the total estimated cost of that service.

(3) Expenditure within each programme shall be classified into the following groups:–

(a) personnel emoluments;

(b) other recurrent expenditure (excluding current transfers);

(c) current transfers; and

(d) capital expenditure.

Personnel emoluments.

14. (1) Personnel emoluments shall contain-

(a) basic salaries;

(b) personnel allowances such as allowances for special duty, overtime, acting, entertainment, housing, medical, fuel, light, clothing or allowances in lieu of accommodation;

(c) pensions, gratuities and other retiring benefits; and

(d) Government contribution to social security.

(2) Each allowance shall be described in a separate line and shall not be included with the salary.

(3) Transport and travelling allowances granted in consideration of expenditure incurred during service shall not be regarded as items of personnel emoluments.

Receipt of emoluments.

15. (1) Where an officer receives emoluments under more than one head it shall be indicated by cross-references or footnotes.

(2) Any pension or compensation allowance or other emoluments during service, including the provision of official residence shall be indicated as in sub-regulation (1).

Other recurrent expenditure.

16. (1) The Financial Secretary, on the advice of the Budget Bureau, shall determine the standard nomenclature for all items of revenue and expenditure which are common to all or most Government Departments.

(2) Such items shall have the same accounts codes within the respective heads and programmes and shall appear first within the "other recurrent expenditure (excluding current transfers)" group.

(3) Where an annually recurrent vote is provided for maintenance or upkeep from which purchases of stores, instruments or equipment are to be made, the amount entered shall not be more than sufficient to provide for normal requirements for the replacement or repair of existing articles.

Identification of non-recurrent capital expenditure.

17. (1) When capital expenditures are being presented to Parliament through an Appropriation Bill they shall contain sufficient detail as to enable Parliament to identify them.

(2) Savings on total estimated cost shall not be used to finance increases in another.

Capital works.

18. Estimates of capital works which extend over one year shall show the following:-

(a) the anticipated expenditure for the next financial year;

(b) the revised estimates (if any) for the works;

(c) the total amount actually expended so far as the accounts are complete; and

(d) the total amount likely to be expended up to the beginning of the next financial year.

Capital estimates.

19. (1) Estimates of capital expenditure shall detail expenditure by project.

(2) The estimates shall show the following:-

(a) the anticipated expenditure for the next financial year;

(b) the original total estimated cost of the project;

(c) the revised total estimated cost of the project;

(d) the total amount actually expended so far as the accounts are complete; and

(e) the total amount likely to be expended up to the beginning of the next financial year.

Placement of capital works.

20. The source of funds and the anticipated year of receipt of the funds for each capital works shall be shown in the estimates.

PART IV – AUTHORITIES FOR EXPENDITURE

Accounting warrants.

21. (1) The Financial Secretary shall, after receiving a general warrant from the Minister, issue quarterly budget warrants to vote controllers.

(2) The budget warrants shall exclude any expenditure reserved by the Minister in accordance with subsection (4) of section 25 of the Act.

(3) Budget warrants may, if necessary, be numbered consecutively within the financial year to which they relate.

Scope of general warrants.

22. (1) A general warrant shall cover services for which provision has been made in the estimates but shall not include any expenditure reserved by the Minister under the Act.

(2) Provision of services of any expenditure reserved by the Minister shall be listed in a schedule attached to a general warrant and commitment for expenditure on those services shall only be entered into the expenditure incurred when the relevant funds have been released by means of a Requisition to Incur Expenditure signed by the Minister and a budget warrant issued by the Financial Secretary for the amount authorised.

(4) Requisitions to Incur Expenditure shall be numbered consecutively within the financial year to which they relate.

Departmental control of expenditure.

23. (1) A vote controller shall be responsible for so controlling the expenditure in respect of any service under his control that the provision authorised for that service by a budget warrant is not exceeded.

(2) A vote controller shall be personally and pecuniarily responsible for any excess expenditure which is incurred without proper authority.

Disbursement for unforeseen services.

24. (1) Where further disbursements are required in respect of a service which–

(a) could not have been foreseen;

(b) cannot be postponed without detriment to the public service; or

(c) cannot appropriately be charged to an existing appropriation or which can cause an excess on such estimates,

a vote controller shall seek approval or authority from the Minister before an expenditure is incurred.

(2) Where expenditure for such service cannot be met by virement from a programme with savings, provision for supplementary estimates shall be sought.

Suppementary provisions.

25. (1) Where a supplementary provision is required as an addition to the original estimates, an application for supplementary funds shall be made by the vote controller concerned to the Financial Secretary in order to seek the approval of the Minister.

(2) The application shall include all necessary information to enable a decision on the application to be taken without further reference to the Department or office concerned and shall include-

(a) in the case of supplements to existing personnel emoluments and other charges-

(i) the head and programme which it is desired to supplement, the original sum voted thereon and any supplements which may have since been added;

(ii) the actual expenditure and the outstanding liabilities against the programme on the date the application is made;

(iii) the amount of the supplement required, the reasons why the supplement is necessary and why it has not been possible to keep within the voted provision;

(iv) the basis on which the supplement is calculated; and

(v) whether savings are available in other programmes within the head and if so, of what amount;

(b) in the case of a supplement to create a new programme under the recurrent expenditure (personnel emoluments) group –

(i) the reason why the supplement is necessary;

(ii) the basis on which the supplement is calculated;

(iii) the reasons why the need for the service was not foreseen when the estimates were made and why it cannot be postponed and included in the following year's estimates; and

(iv) whether savings are available in other programmes within the head and, if so, of what amount.

Supplementary estimates for capital expenditure.

26. (1) Where a vote controller thinks that there is a need to vary the amount authorised between financial years but within the total estimated cost for an item of capital expenditure, he shall submit an application for a supplementary appropriation on a Variation of Estimates Form, to the Financial Secretary for consideration by the Minister.

(2) The application shall state–

(a) the reason for the submission;

(b) the amount involved and the revised schedule of expenditure;

(c) the original and revised (if any) total estimated cost; and

(d) the amount of expenditure incurred to date.

(3) If the Minister is satisfied that the application is in order and in the public interest, he may authorise an advance of funds from the Consolidated Fund to meet any additional expenditure in the current financial year.

(4) The amount involved in any advance shall be included in any Appropriation Bill to be submitted by the Minister to Parliament at its next sitting.

Variation of total estimated cost.

27. (1) Where a vote controller thinks that an increase in the amount of the total estimated cost is justified, he shall submit an application on a Variation of Total Estimated Cost Form through the Financial Secretary for consideration by the Minister.

(2) The application shall state –

(a) the reason for the submission;

(b) the original or revised (if any) total estimated cost; and

(c) the amount involved and the source of available funds.

(3) If the Minister is satisfied that –

(a) the application is in order and in the public interest; and

(b) funds are available,

he shall include the amount involved in a supplementary estimate to be submitted by him to Parliament at its next sitting.

(4) No expenditure shall be incurred beyond the existing total estimated cost until a variation of total estimated warrant is received from the Minister.

Procedure for approval of supplementary provisions.

28. (1) An application for supplementary provisions submitted by a vote controller shall be received by the Financial Secretary and sent to the Minister for consideration.

(2) The Minister shall, if after examination of the application and consultation with the vote controller, where necessary, he thinks that there is the need for the supplement, include the amounts of such provisions in the supplementary estimates and eventually in the supplementary Appropriation Bill to Parliament.

(3) A vote controller shall not take any action which incurs a commitment on public funds notwithstanding that amounts have been submitted to Parliament for approval.

(4) The Financial Secretary shall notify vote controllers by means of a budget warrant when he receives the supplementary appropriation warrant from the Minister.

(5) The Financial Secretary shall ensure that the amount authorised by the budget warrant does not include any expenditure reserved by the Minister under the Act.

Variation of amounts by Minister.

29. (1) The Minister may, where he considers necessary, vary an amount allocated to a programme of a head provided the total amount approved by Parliament for that head is not exceeded.

(2) No vote controller shall increase any amount in any programme from which virement has been made either by further virement or supplementary estimate; and no virement shall be used to meet unauthorised expenditure already incurred.

Use of virements.

30. (1) No virement shall be allowed between programmes.

(2) Virements may be permitted within programmes but transfer from non-pay to pay budgets shall not be allowed.

(3) Virements shall not be allowed to or from the travelling (overseas) item and shall only be permitted *into* any item defined by the Budget Bureau as being a utility.

(4) No virement shall be allowed between projects.

(5) No virement shall be used to create a new programme unless it is approved by Parliament.

(6) Budget holders or vote controllers may change patterns of expenditure significantly without seeking approval for budget lines from the Minister.

(7) Only budget holders or vote controllers shall propose virement between budgets, using a standard Application for Virement form (or other form approved by the Minister).

(8) For all state-owned institutions and other government-assisted institutions, the standard *pro forma* shall be approved by the Chief Executive and the Chief Financial Officer.

(9) Any change in the content should be authorised and approved.

(10) Decisions on virement proposals shall be reached within a maximum of two months from the date of application to the Budget Bureau.

Application for virements.

31. (1) An application for virement shall be submitted by the vote controller through the Financial Secretary for the approval of the Minister, on an application for virement form.

(2) The application shall state the amounts involved, identify the item where extra provision is required and give an appropriate explanation for the availability of the savings.

(3) No approval shall be given to the application where the amount involved is less than 10 percent of the annual provision on the line item.

(4) In order to ensure that savings identified are genuine, items from which funds have been transferred shall no longer be eligible for the provision of additional funds by supplementary appropriation.

(5) For a virement proposal to be approved, the following additional conditions shall be met:-

(a) sufficient funds must exist in the budget from which they will be transferred to cover the cost of the increased expenditure in the receiving budget, after recognition of planned expenditure and future commitments;

(b) the transfer should clearly state whether it is recurring or non-recurring;

(c) controls must be in place to restrain expenditure in the reduced budget to the new level;

(d) if more than one budget holder is involved, all budget holders must agree to the proposed virement;

(e) the expenditure for the proposed activity or event must not conflict with the priorities and objectives of the institution;

(f) the vote controller must maintain a register of all budget virements;

(g) the Minister of the budgetary agency must be notified of all budget virements.

Minister to authorise Financial Secretary.

32. The Minister may, in writing, authorise the Financial Secretary to approve on his behalf any virement application which complies with these Regulations and any other relevant enactment and does not exceed 40 percent of the annual budget provision of the line item.

Virement warrant.

33. (1) On approval of a virement application by the Minister or Financial Secretary as the case may be, a signed virement warrant shall be issued.

(2) Virement warrants shall be numbered consecutively within the year of issue and shall be laid before Parliament at its next sitting.

Excess expenditure.

34. (1) The Financial Secretary shall, as soon as possible after the end of each financial year, cause to be prepared schedules showing the net excess expenditure incurred on each item of the estimates and the revenue under-collected during the financial year.

(2) The schedules so prepared shall be laid before Parliament.

Departmental warrants.

35. (1) Payments may be made by one vote controller on behalf of another vote controller if the requisite authority has been conveyed by the vote controller on whose account the payments are to be made, by means of a departmental warrant under his signature.

(2) The departmental warrant shall state clearly the head, programme and item (if any) to be charged and the maximum expenditure which may be incurred.

(3) Departmental warrant shall be numbered consecutively in the financial year to which they relate.

(4) On receipt of a departmental warrant the prime responsibility for the expenditure of funds covered by the warrant devolves on the vote controller to whom the warrant is issued but the vote controller who issues the warrant shall ensure that the moneys covered by the authority of the warrant are properly spent for the purpose for which they were granted by Parliament.

Termination of authority for expenditure.

36. (1) The authority for expenditure conveyed by an Appropriation Act or a Supplementary Appropriation Act shall lapse at the end of the financial year to which it relates.

(2) The authority conveyed by all warrants of whatever nature shall lapse on the last day of the financial year to which they relate and no payments shall be made after that date on the authority of these warrants.

PART V–BASIS OF ACCOUNTING AND THE PREPARATION OF ANNUAL ACCOUNTS

Entry in Government accounts.

37. (1) No vote controller shall make any entry in the accounts of Government which anticipates the receipt of revenue or the payment of moneys by Government.

(2) Where it is discovered that a vote controller has taken any action which anticipates the approval of expenditure by Parliament, then any payment made as a result of such action shall be treated as unauthorised expenditure, a new programme entitled "Unauthorised Expenditure" shall be opened for the head in question, and such unauthorised expenditure shall be the responsibility of the vote controller.

(3) For the purpose of this regulation, "unauthorised expenditure" means—

(a) overspending of a head of expenditure or a main division within a head;

(b) expenditure not in accordance with the purpose of a head or, in the case of a main division, not in accordance with the purpose of the main division.

Opening of suspense accounts.

38. (1) Where in the course of transactions, difficulties are met in immediately allocating receipts or payments to the correct programme, a suspense account may be opened into which amounts may be temporarily posted.

(2) Suspense accounts shall be opened only by the Accountant-General and in only the following circumstances:–

(a) in the case of payments, such accounts shall be brought to nil balance before the accounts for the financial year are closed;

(b) in the case of receipts, such accounts may be carried forward to the following year if the Accountant-General has reason to believe that a third party may be involved;

(c) such accounts shall be converted to deposit accounts under an appropriate title before the accounts for the financial year are closed.

(3) No suspense accounts shall be used to transfer expenditure from one financial year to another and no vote controller shall take any action which shall have that effect.

(4) Suspense accounts used in contravention of sub-regulation (3) shall be treated as unauthorised expenditure and shall be dealt with in accordance with sub-regulation (2) of regulation 37.

Closure of departmental or public accounts.

39. (1) The closure of departmental and the public accounts shall not be delayed for the clearance of suspense accounts.

(2) Accounts which are intended for use during the financial year shall not delay the reporting of any unauthorised expenditure to Parliament.

(3) If the appropriate authority of Parliament cannot be identified by the time of the closure of the accounts, then such payments shall be treated as unauthorised expenditure and shall be dealt with in accordance with sub-regulation (2) of regulation 37.

(4) If no appropriate head of expenditure can be identified, such expenditure shall be included in a programme for which the Financial Secretary is responsible, as an unauthorised expenditure and shall be dealt with in accordance with sub-regulation (2) of regulation 37.

(5) Departmental financial statements shall include statements of assets and liabilities.

(6) All budgetary agencies shall use uniform generally acceptable accounting practices approved by the Auditor- General, to aid comparisons of financial performance across all public sector reporting entities.

PART VI – RECEIPTS

Responsibility for revenue collection.

40. (1) The vote controller is personally responsible for ensuring that adequate safeguards exist and are applied for the assessment, collection of and accounting for such revenues and other public moneys relating to their departments or offices.

(2) A vote controller responsible for departmental revenue shall ensure that all persons liable to pay revenue are informed by bills, demand notes or other appropriate notices, of debts which are due and that adequate measures are taken to obtain payment.

Difficulty in collection of moneys to be reported.

41. The vote controller shall report any case in which he considers, after due inquiry, that the payment of departmental revenue is falling unduly into arrears.

Payment of moneys by revenue collectors.

42. (1) Departmental revenue collectors who receive duties, taxes, fees, rents or other public moneys, whether of a revenue nature or otherwise, shall pay such moneys daily or at the earliest opportunity either into a bank authorised by the Accountant-General, for the credit of the Consolidated Fund.

(2) The revenue collectors shall give receipts for moneys paid under sub-regulation (1).

Prohibition of public offficers to collect revenue.

43. (1) No public officer shall collect public moneys unless he is specifically authorised to do so.

(2) Where a public officer receives public moneys he shall pay them promptly to a regular revenue collector within his Ministry or into the Treasury or other public office designated by the Accountant-General; and the public officer shall obtain receipts for moneys so paid.

(3) Except with the specific authority of the Accountant-General, no public officer whose duty involves the posting of assessment registers, rent rolls and similar documents shall be authorised to collect public moneys nor to post collections into a cash book.

Pubic moneys not to be used.

44. (1) No use of any public money shall be made by any public officer in any manner between the time of its receipt and payment into the bank, Treasury or other public office designated by the Accountant-General; and no public money shall be lent or borrowed in any manner or for any purpose by any person.

(2) No money received shall be used by a public officer or any other person to cash any cheque other than a Government cheque; and no public officer shall convert public moneys received in local currency into foreign currency.

Date of transaction in accounts.

45. (1) The date of receipt of any sum of money determines the date of record of the transaction in the accounts.

(2) No outstanding item of departmental revenue shall be carried to a revenue item as a charge to an advance account pending the collection of the amount.

(3) Departmental revenue collected in any year shall not be placed on deposit or held in suspense with the object of transferring it to revenue in the following year.

(4) A register in the form prescribed by the Accountant-General shall be kept in each Department or office for departmental revenues as the Accountant-General may direct.

(5) The register shall be in the charge of an officer to be designated by the vote controller and such officer shall ensure that details of receipt books are fully and correctly entered in it as soon as they are received.

(6) All issues of receipt books shall be acknowledged in writing by the officer to whom the issue is made.

Receipt books to be checked.

46. (1) On receipt of receipt books and before being entered in a register, all receipt books shall be checked by the officer-in-charge to ensure that they are correct and consecutively numbered.

(2) The officer-in-charge shall write on the inside front cover of each receipt book a certificate in the following form:–

"Examined by me this day and found to contain
..... forms correctly numbered".
Date Signature"

(3) Any receipt book found by the officer to be defective shall immediately be returned to the Treasury or to the printer with a report of the defect.

(3) On a change of an officer-in-charge, the stock of all receipt documents shall be checked against the register by both the officer handing over and the one taking over; and a statement of the number, type and serial numbers of all the receipt books on hand signed by both officers shall be sent to the Accountant-General and the Auditor-General.

Safe custody of receipt books.

47. (1) The officer-in-charge of departmental revenues shall keep all unused receipt books under lock and key and shall keep the key himself and issue only such books as are required for immediate use.

(2) The officer-in-charge shall lock up at the close of each working day all receipt books actually in use.

(3) Any officer-in-charge who makes collections outside the office shall return to his office before the close of business so that his receipt books and collections can be lodged in safe custody.

(4) No receipt books shall be kept on private premises overnight.

(5) The vote controller may, when the needs of the Department or office so require, and with the prior approval of the Accountant-General, make exemptions to sub-regulation (4).

Vouching of receipts.

48. (1) All receipt entries in the accounts shall be vouched for on the form or in the manner prescribed by the Accountant-General.

(2) Except when it is otherwise provided for in accounting instructions issued by the Accountant-General or when receipts are not required, for example when tickets which must be serially numbered are sold, receipts shall be given from the official books or forms bearing printed consecutive numbers for every sum paid to the Government.

(3) No receipts shall be issued for payments by public officers which are effected by means of deduction on payment vouchers.

Act No. 8 of 2000.

(4) If a deduction is in respect of withholding tax in accordance with the Income Tax Act, 2000, the withholding agent shall issue a withholding certificate to the taxpayer in the following form:–

From:

TO:

.....

.....

.....

DATE:

TAX WITHHOLDING CERTIFICATE

In accordance with the provisions of Section 127 (1) of the Income Tax Act 2000,

I/We hereby certify that we have withheld a total amount of ..... representing 5% or 10% withholding tax on total payment of Le..... made to you/your entity in settlement of your invoice (s) as per attached list.

I/We further certify that the withheld amount has been paid to the National Revenue Authority by our cheque no..... of..... so that your tax account will be credited.

Signed:

Copy:Commissioner-General

Responsibility for control of receipts.

49. (1) A vote controller shall be responsible for ensuring that a proper system exists for the safe custody, recording and proper use of all departmental revenue receipts, licences and other documents issued for the receipt of public moneys, in his department or office.

(2) A departmental revenue collector shall return early enough to his office to enable him to lodge the receipt books and collections safely in the office.

(3) No monies collected shall be kept on private premises overnight.

(4) The vote controller concerned shall, when the needs of the department so require and with the prior approval of the Accountant-General, make exemptions to sub-regulation (3).

Insurance of receipts, licences, etc.

50. (1) When departmental receipts, licences or other accountable books are issued from counterfoil books, the officer signing the original of the receipts, licences or accountable books shall initial the counterfoil and shall ensure that it contains all the necessary detail including the amount received, the particulars of the payment and date of payment, and that it accords with the original.

(2) When such documents are issued from books which make provision for duplicates and other copies to be reproduced by carbon paper, the officer issuing the document shall ensure that the carbon copies are clear and legible in every respect.

(3) The original and counterfoil or copy of every licence or similar document which of itself is not a receipt but evidence of the payment of the prescribed fee, shall on issue be endorsed with the number and date of the receipt issued in respect of the payment of the fee and the amount of the fee and the details of the licence or similar document issued shall be entered on the receipt.

(4) All revenues of Government shall be documented on receipts on specially pre-printed and serially numbered forms printed by the Government Printer.

(5) All arrangements for printing reports, pamphlets and similar documents at Government expense shall be made by the Government Printer.

(6) The departmental revenue collecting agent shall request permission for any exemption to sub-regulation (4) or (5) from the Government Printer who may recommend final approval from the Accountant-General..

No alteration on receipts etc.

51. (1) No alterations shall be made to any departmental receipts, licences or other accountable documents.

(2) When such documents are issued from books which have duplicates and other copies to be reproduced by carbon paper, the officer issuing the documents shall ensure that the carbon copies are clear and legible in every respect.

(3) No original, counterfoil or copy of a receipt shall be destroyed; they shall be retained and produced for inspection when required.

Receipts to be issued immediately.

52. (1) A receipt in the proper form shall be issued immediately after public money is received.

(2) Where the payer pays in person, the original receipt shall be handed to him immediately; but where moneys are received by post the original receipt shall be sent on the same day of receiving the payment.

Opening of mail.

53. (1) Incoming mail shall be opened by a senior officer of the Department or office in the presence of another officer of the Department or office but neither of them shall have any direct responsibility for the collection of revenue.

(2) The officer opening the mail shall maintain a register in which he shall record full details of any cheques, cash or documents received, including the date, name of the sender, registered package number and the amount or description of the articles.

(3) In the case of uncrossed cheques they shall be crossed immediately by the senior officer.

(4) Items received in the mail shall be handed to the officers responsible for dealing with them who, if the items have been recorded in the register, shall sign the register in acknowledgement of their receipt.

Foreign moneys not to be accepted.

54. (1) No foreign currency, notes or coins, foreign stamps or cheques drawn in foreign currency shall be accepted in payment of any moneys due to the Government unless specifically approved by the Accountant-General.

(2) No payment of moneys due to the Government shall be made by credit cards or promissory notes unless specifically approved by the Accountant-General.

Acceptance of cheques.

55. (1) A cheque drawn in the local currency shall be accepted in payment of moneys due to the Government if the officer receiving it has no reasonable grounds for believing that the cheque will not be honoured.

(2) All cheques received shall be made payable to the Government and shall be crossed "Account Payee only" and any cheque not so crossed on receipt shall immediately thereafter be crossed.

(3) Post-dated cheques shall not be accepted in payment of moneys due to the Government.

(4) Officers accepting cheques in payment of moneys due to the Government shall ensure that-

(a) the cheque is correctly dated (that it is neither time-expired nor post-dated);

(b) the amounts in words and figures agree;

(c) the cheque is signed; and

(d) all alterations to any details of the cheque are validated by the full signature of the drawer,

and shall not accept any cheque which contravenes any of these conditions.

(5) When payment is made by cheque, the officer receiving it shall write the cheque number on all copies of the receipt book or document and record the serial number of the book or document on the back of the cheque.

Dishonoured cheques.

56. (1) If a cheque received by an officer is dishonoured by the bank and cannot be immediately corrected and re-presented, the officer shall–

(a) if the cheque has been received in payment of a departmental licence or similar pre-paid item (for example a motor vehicle licence), debit the appropriate revenue item by the entry of a debit item in the revenue cash book and inform the vote controller concerned or relevant authority in order that appropriate action can be taken (such as the revocation of the licence);

(b) if the cheque has been received in settlement of a debt owed to Government (for example, the settlement of an imprest), debit the appropriate advance account by entering a debit item in the revenue cash book and informing the vote controller in order that appropriate action can be taken; or

(c) if the cheque has been received as a condition for services to be performed by the Government (for example, the clearance of goods for custom purposes), initially debit the amount involved to the advance account, in the name of the person concerned.

(2) Without prejudice to sub-regulation (1), all necessary steps shall be taken to obtain the revenue including where appropriate, legal actions, in respect of the dishonoured cheque.

(3) In the case of paragraph (c) of sub-regulation (1), all outstanding balances in the advance account shall be closed at the end of the financial year by crediting that account and debiting the revenue item.

(4) All amounts involved with dishonoured cheques shall be included in the Register of Losses.

(5) No dishonoured cheque shall be held as part of a cash balance.

(6) The name of the drawer and the amount of a dishonoured cheque shall be included in a schedule to be maintained by the Accountant-General and when the revenue is collected from the debtor the entry shall removed.

Accountant-General to be informed of dishonoured cheques.

57. The Accountant-General shall be informed immediately of any instance of a dishonoured cheque.

Postings of receipts.

58. Receipt of departmental moneys shall be posted into the cash book at the time of the actual transaction or as soon as possible thereafter on the day of the transaction.

Surplus collection.

59. (1) The vote controller or other person doing a spot check shall investigate any surplus moneys found when balancing the cash book with the collections.

(2) If no explanation of the surplus is discovered which will enable the matter to be corrected immediately, the cash shall be credited to miscellaneous receipts (surplus cash) and a report made to the Accountant-General.

Revenue collectors to keep records.

60. (1) Departmental revenue collectors shall keep records of moneys collected in such form as the Accountant-General may determine.

(2) The records shall show the persons from whom revenue is due, the amount payable, the date, location, receipt number and amount of the collections made.

(3) The records shall, wherever possible, be self-balancing and shall be reconciled with the cash collections monthly.

Assessment registers.

61. The officer who posts departmental revenue assessment registers, rent rolls, ledgers and similar documents shall inform the officer-in-charge of revenue collection whenever the amount collected differs from the amount due and such difference shall immediately be investigated and appropriate action taken.

Payment of receipts into banks or Treasury

62. (1) All departmental revenue or other public moneys collected shall be paid into a bank account authorised by the Accountant-General or into the Treasury daily or if it is not possible, at the earliest opportunity.

(2) When moneys are being paid into a bank by cheque, the amount and serial number of the cheque and the name of the bank shall be recorded and retained with the departmental copy of the bank lodgement slip.

(3) After paying collections into the Consolidated Fund, the officer doing so shall submit to the Accountant-General–

(a) the serially numbered bank lodgement slip stamped by the receiving bank;

(b) the completed receipt vouchers; and

(c) the duplicate receipts.

(4) The treasury officer receiving the collections shall, where appropriate verify that all receipts issued have been entered in the receipt vouchers and that the totals in the vouchers are correct and correspond with the amount acknowledged in the serially numbered bank lodgement slip.

(5) If the treasury officer is satisfied in relation to sub-regulation (4) with the accuracy of the records and documents he shall stamp and sign the receipt voucher.

(6) The treasury officer shall issue a treasury receipt for the collections paid in and post details of the receipt into the Department's cash book in support of the payment.

Checking of records.

63. (1) A vote controller shall ensure that his accounts are properly maintained and are correct at all times.

(2) A vote controller shall, in relation to sub-regulation (1) appoint an officer who shall examine and check daily, all entries in cash books and other books of account, the counterfoils or copies of receipts or original documents to verify the correctness of the transactions.

(3) The officer appointed under sub-regulation (1) shall not have taken part in the work to be checked.

(4) The checking officer shall, after checking the cash books and receipt books initial and date them in such a way that the period and items covered by the check may be clearly identified.

Surprise checks.

64. (1) A vote controller shall arrange that from time to time and at least every three months, a surprise check is carried out by an officer more senior to the checking officer.

(2) The surprise check shall verify that-

(a) the cash in hand is correct;

(b) the cash books and ledgers have been posted up to date;

(c) effective controls and safeguards are applied; and

(d) arrears of departmental revenue are not being allowed to accumulate.

(3) The officer doing the surprise check shall enter the results of his check in the Register of Surprise Inspections which shall contain–

(a) the results of the check;

(b) the name and signature of the officer performing the check; and

(c) the date of the check.

Refund of revenue.

65. (1) Refund of departmental revenue may become necessary because of over-collection made in error, or where properly collected in accordance with any enactment or instruction, provision exists in the enactment or instruction for the revenue to be reclaimed in given circumstances, in the form of a rebate or drawback.

(2) Where the collection, over-collection, rebate or drawback is made in the same financial year as that in which the revenue was originally collected, it shall be authorised by the vote controller concerned to be charged as a debit item in the appropriate revenue head.

(3) A rebate or drawback made in the financial year subsequent to that in which the revenue was collected shall be made with prior approval of the Accountant-General who shall debit it to an expenditure item called "Refunds of Revenue of Previous Years".

(4) A rebate or drawback made in accordance with an enactment or instruction shall be authorised by the officers prescribed in the enactment or instruction and charged against the appropriate expenditure programme.

Recovery of over-payment.

66. (1) When an overpayment charged to an expenditure item is charged in the same financial year as that in which the expenditure occurred, it shall be treated as an expenditure credit to the same programme but when recovery is made in a subsequent year, the recovery shall be treated as a revenue and credited to the revenue programme called "recovery of overpayment".

(2) Recovery of an overpayment made from an advance or suspense account shall be credited to that account irrespective of the financial year in which the original payment is made.

Vouchers to be cross referenced.

67. Where departmental revenue is refunded or overpayment is recovered, the original receipts or vouchers on which the over-collection or overpayment occurred shall be fully cross-referenced and copies attached to the vouchers or receipts by which the adjustments are made or otherwise.

Returns on revenue arrears.

68. (1) Within thirty days of the end of the financial year, each vote controller shall submit to the Accountant-General in the form prescribed by the Accountant-General, a return of all arrears of the departmental revenue for which he is responsible.

(2) The return shall state for each revenue head and item the arrears outstanding at the end of the current financial year.

(3) The Accountant-General shall, on receiving the individual returns consolidate them into a statement showing all the revenue outstanding under each revenue item as at the end of that financial year.

(4) The statement shall form part of the Government's annual statements of accounts.

Donor funds.

69. (1) Where a Government project receives from a donor an advance or a reimbursement of earlier expenditure, whether by way of grant or loan, the actual amount received shall be classified and brought to account in accordance with the chart of accounts and where the amount is in foreign currency, it shall be brought to account at the equivalent amount in leones at the official exchange rate on the date of receipt.