

**SAINT VINCENT AND THE GRENADINES
FINANCE ADMINISTRATION ACT, 2004
ARRANGEMENT OF SECTIONS**

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SAINT VINCENT AND THE GRENADINES

ACT NO. 28 OF 2004

I ASSENT

[L.S.]

DR. FREDERICK BALLANTYNE
Governor-General
5th October, 2004

ANACT to provide for the management and control of public money, for the operation and control of the Consolidated Fund, for the establishment of a Contingencies Fund, for the authorisation of expenditures, for the establishment of special funds and deposit accounts, for the management and control of the public debt and the giving of guarantees, for the investment of public money, for the preparation of the Public Accounts, for the governance of statutory bodies, for the repeal of most of the provisions of the Finance and Audit Act, transitional matters and consequential amendments and to provide for matters connected therewith and incidental thereto.

[12th October, 2004]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows:-

PART I

PRELIMINARY

1. This Act may be cited as the Finance Administration Act, 2004 and shall come into operation on such date appointed by the Governor-General by notice published in the *Gazette*. Short title and commencement

2. In this Act

"Accountant General" means the public officer appointed to the post of Accountant General under the Director General of Finance and Planning and Accountant General (Creation) Act;

- "accounting officer" means a public officer designated as such under section 8(1);
- "advance" means an advance referred to in section 32(1);
- "annual estimates" means the annual estimates of revenue and expenditure, both recurrent and capital;
- "appropriation" means a sum voted to meet the estimates of expenditure in a financial year by an appropriation Act or a supplementary appropriation Act and "appropriate" has a similar meaning;
- "appropriation Act" means an Act to appropriate sums necessary to meet the estimates of expenditure for services in a financial year;
- "Consolidated Fund" means the Consolidated Fund referred to in section 13;
- "Consolidated Fund General Service Account" means the account established under section 14(2);
- "Contingencies Fund" means the fund established under section 29;
- "Constitution" means the Constitution of Saint Vincent and the Grenadines;
- "deposit" means a deposit referred to in section 42;
- "Development Programme Account" means the account established under section 14(2);
- "Director General" means the public officer appointed to the post of Director General of Finance and Planning under the Director General of Finance and Planning and Accountant General (Creation) Act;
- "Director of Audit" means the Director of Audit appointed under section 82(1) of the Constitution;
- "expenditure vote" means a sum appropriated to a service;
- "financial instructions" means the financial instructions issued by the Accountant General under section 7(2)(h);
- "financial year" means the twelve months beginning on the 1st day of January and ending on the 31st day of December in

any year or such other period of twelve months as may be prescribed;

“Government” means the Government of Saint Vincent and the Grenadines;

“government property” includes property in the possession or under the control of the Government;

“imprest” means a sum of money in cash that is held under an imprest warrant;

“imprest warrant” means a warrant referred to in section 33;

“Minister” means the member of Cabinet responsible for finance;

“Ministry” means the ministry with responsibility for finance;

“money” includes negotiable instruments;

“negotiable instrument” means a cheque, draft, traveler’s cheque, bill of exchange, postal note, money order or other similar instrument;

“prescribed” means prescribed by Regulation under section 50(2)(a);

“Public Accounts” means the accounts referred to in section 49;

“Public Accounts Committee” means the committee appointed pursuant to section 76 of the Constitution;

“public money” means money belonging or payable to or received, collected or held by, for or on behalf of the Government and includes

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

“public officer” means a public officer as defined in section 105(1) of the Constitution;

“Regulation” means a regulation made under this Act;

"securities" means bonds, debentures, promissory notes, treasury bills and other documents evidencing debts and includes documents commonly known as securities;

"special fund" means a special fund referred to in section 39(1);

"statutory body" means

(a) a corporation established by an Act, all of the members of which, or all of the members of the board of management, board of directors or governing board of which, are appointed by

(i) an Act,

(ii) the Cabinet,

(iii) a minister, or

(iv) any combination of subparagraphs (i) to (iii);
or

(b) an entity or class of entities controlled by the Government that is prescribed as a statutory body for the purpose of this paragraph;

"supplementary appropriation Act" means an Act to appropriate sums of money necessary to meet the supplementary estimates of expenditure for services in a financial year;

"supplementary estimates" means the supplementary estimates of expenditure, both recurrent and capital.

Interpretation of
power to delegate,
designate, appoint
or authorise

3. When a power to delegate, designate, appoint or authorise a person to do an act or thing is given under this Act or Regulations, the delegation, designation, appointment or authorisation may be made by the person's name, title or office and when a delegation, designation, appointment or authorisation is by title or office, the delegation, designation, appointment or authorisation applies to every person while he holds that office or title.

PART II

CONTROL AND MANAGEMENT OF PUBLIC FINANCE

4. (1) The Minister, the Director General and the Accountant General shall discharge their responsibilities and exercise their powers in accordance with this Act and the Regulations and any other Act relating to matters provided for in this Act and any Regulations made under that other Act.

Interpretation of
this Part

(2) An accounting officer and any delegate of an accounting officer shall discharge his responsibilities and exercise his powers in accordance with this Act and the Regulations and any other Act relating to matters provided for in this Act and any Regulations made under that other Act and the financial instructions.

5. (1) The Minister

Responsibilities
and powers of
Minister

(a) is responsible for

- (i) exercising general direction and control over the Ministry,
- (ii) the preparation of the annual and supplementary estimates,
- (iii) the Government's fiscal management and control, including the management and control of revenue and expenditures and of the Consolidated Fund,
- (iv) ensuring that a full account of the finances of the Government is laid before the House of Assembly in the Public Accounts,
- (v) management of the public debt, of the investment of public money, and of loans and advances made and guarantees given by the Government, and
- (vi) any statutory body for which he is responsible by virtue of being Minister responsible for that statutory body; and

(b) has such responsibilities in relation to procurement and stores and other government property as are assigned to him under the Regulations.

(2) The Minister may give directions as to the form of the annual and supplementary estimates.

(3) The Minister may enter into and execute agreements on behalf of the Government in relation to matters of a financial nature, including, without limitation, agreements for the payment by installments of money owing to the Government.

(4) The Minister may delegate any of his responsibilities or powers to the Director General or any other public officer, other than his power to make regulations.

Responsibilities
and powers of
Director General

6. (1) Subject to the directions of the Minister, the

- (a) is responsible for
- (i) the supervision of the Ministry,
 - (ii) overseeing the preparation of the annual and supplementary estimates on behalf of the Minister,
 - (iii) advising the Minister, and
 - (iv) assisting the Minister in the discharge of his responsibilities in relation to the statutory bodies for which he is responsible by virtue of being Minister responsible for that statutory body; and
- (b) has such responsibilities in relation to procurement and stores and other government property as are assigned to him under the Regulations.

(2) The Director General

- (a) shall at all times have access to all ministries, departments or places where accounting for services takes place or accounting records are kept;
- (b) may require a public officer to furnish any information and provide access to any documents that the Director General considers necessary; and
- (c) may delegate any of his responsibilities or powers to the Accountant General or any other public officer.

Responsibilities
and powers of
Accountant
General

7. (1) In accordance with the directions of the Director General, the Accountant General

- (a) is responsible for
- (i) maintaining the central accounts of the Government so as to show the current state of the Consolidated Fund and the financial condition of the Government,
 - (ii) receiving and banking, or overseeing the receipt and banking, of public money and overseeing its disbursement,

- (iii) preparing the Public Accounts and any other financial statements or reports required by the Minister or the Director General,
 - (iv) maintaining a system for the examination of payments to reasonably ensure that they are made in accordance with this Act or Regulations,
 - (v) ensuring that a proper system of accounts is established in every ministry, department and service, and that all money received and paid by the Government is brought promptly and properly to account,
 - (vi) reporting to the Director General, in writing, any apparent defect in the control of revenue, expenditure or cash, or any breach or non-observance of this Act, the Regulations or financial instructions by a ministry, department or service that may come or be brought to his notice,
 - (vii) evaluating accounting and financial management systems throughout Government, and
 - (viii) exercising supervision over the receipt of revenue and securing its punctual collection;
- (b) has such responsibilities in relation to procurement and stores and other government property as are assigned to him under the Regulations; and
 - (c) has such responsibilities in relation to stamps and securities as are assigned to him under the Regulations.

(2) The Accountant General

- (a) shall at all times have access to all ministries, departments or places where accounting for services takes place or accounting records are kept;
- (b) may require access to records and require any information, records or explanations from a public officer or former public officer necessary for the performance of the responsibilities of the Accountant General;

- (c) may examine and report to the Director General on the financial and accounting operations of a ministry, department or service;
- (d) may provide accounting and other services in connection with the financial management of a ministry, department or service;
- (e) may station a person employed in the Treasury in any ministry, department or place where accounting for a service takes place when the Accountant General considers it necessary to discharge his responsibilities;
- (f) has such powers in relation to procurement and stores and other government property as are assigned to him under the Regulations;
- (g) has such powers in relation to stamps and securities as are assigned to him under the Regulations; and
- (h) within his area of responsibility and his powers, may issue financial instructions in writing to accounting officers and to persons to whom accounting officers have delegated their responsibilities under this Act and the Regulations.

(3) In conducting an audit or examination or carrying out any responsibility under this or any other Act, the Accountant General may by a notice require any person

- (a) to attend before the Accountant General to give evidence under oath or, where permitted by law, on affirmation with respect to any matter related to the audit, examination or other responsibility; and
- (b) to produce any records respecting the matter referred to in the notice.

(4) If a person fails or refuses to comply with a notice under subsection (3), the High Court, on the application of the Accountant General, may issue an order requiring the person to attend before the Accountant General in compliance with the notice.

(5) If a witness refuses

- (a) to give evidence in compliance with a notice under subsection (3);

- (b) to answer any questions before the Accountant General pursuant to the notice; or
- (c) to produce any records referred to in the notice,

the High Court may commit the witness for contempt in accordance with the rules of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 or any other law.

(6) The Accountant General may delegate to a public officer any of his responsibilities or powers other than the power under paragraph (2)(h).

8. (1) A public officer shall be designated as an accounting officer by the House of Assembly in the annual or supplementary estimates, or by resolution, in respect of

Designation and responsibilities of accounting officers

- (a) each expenditure vote or part of an expenditure vote;
- (b) each item or part of an item of expenditure charged on the Consolidated Fund by law and identified in the annual or supplementary estimates; and
- (c) each item of revenue or part of an item of revenue in the annual estimates.

(2) An accounting officer

- (a) is responsible in his role as a public officer and as a public officer accountable to the House of Assembly, through the Public Accounts Committee for
 - (i) the prompt collection and receipt of revenue under an item of revenue or part of an item of revenue in respect of which he has been appointed accounting officer,
 - (ii) the control of, and accurate accounting for expenditure under
 - (A) the expenditure vote or part of a vote,
 - (B) each item or part of an item of expenditure charged on the Consolidated Fund by law and identified in the annual or supplementary estimates, and

- (C) each item of revenue or part of an item of revenue in the annual estimates, in respect of which he is appointed accounting officer,
- (iii) the control of, and accurate accounting for, public money, other than money for public purposes, received by the ministry, department or service for which he is accounting officer, and
- (iv) the control of, and accurate accounting for the disbursement of public money, other than money for public purposes, received by the ministry, department or service for which he is accounting officer,
- in accordance with this Act and Regulations made hereunder and any other Act and in accordance with the financial instructions;
- (b) has such responsibilities in relation to procurement and stores and other government property as are assigned to him by the Regulations; and
- (c) has such responsibilities in relation to stamps and securities as are assigned to him by the Regulations.
- (3) An accounting officer is not absolved of responsibilities by reason of the proper discharge by the Accountant General or the Director of Audit of his responsibilities such as the examination and approval by the Accountant General of payment, the acceptance for deposit of money by the Accountant General or by reason of the auditing of the account by the Director of Audit.
- (4) Notwithstanding anything in this section, an accounting officer who
- (a) is directed by the Accountant General to do a thing that he knows or has reason to believe is contrary to this Act or its Regulations or any other Act or its Regulations or the financial instructions; and
- (b) objects in writing to the Accountant General to do that thing before he does it;
- shall be absolved of his responsibilities in relation to that thing.

(5) An accounting officer is accountable for discharging his responsibilities under this Act, the Regulations and the financial instructions with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

9. (1) An accounting officer may delegate some or all of his responsibilities to a public officer who reports to him and the delegate is responsible, in relation to the responsibilities delegated, for the discharge of the accounting officer's responsibilities and, when he does so, the accounting officer shall set out in writing the extent to which he has delegated his responsibilities to a public officer under his control.

Delegation by
accounting officer

(2) Notwithstanding subsection (1), when a public officer who reports to the accounting officer discharges the responsibilities of the accounting officer, the accounting officer is deemed to have delegated the responsibilities to the public officer.

(3) Delegation of his responsibilities by an accounting officer to a public officer shall not absolve the accounting officer from ensuring that his responsibilities under this Act, the Regulations and the financial instructions are discharged with diligence and honesty.

(4) Subject to subsection (5), a delegate of an accounting officer is not absolved of responsibility for the proper discharge of his responsibilities by reason of the fact that he is discharging the responsibilities of the accounting officer.

(5) Notwithstanding anything in this section, a delegate of an accounting officer who

(a) is directed by the accounting officer to do a thing that he knows or has reason to believe is contrary to this Act or its Regulations or any other Act or its Regulations or the financial instructions; and

(b) objects in writing to the accounting officer to do the thing before he does it;

shall be absolved of his responsibilities in relation to that thing.

(6) The delegate of an accounting officer is accountable for discharging his delegated responsibilities under this Act, the Regulations and the financial instructions with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

10. (1) A public officer, other than an accounting officer or a public officer referred to in section 9, who in the discharge of his responsibilities as a public officer comes into the possession or control of

General
responsibility of
public officers

- (a) public money that he knows or has reason to believe is intended to be paid to or received by the Government; or
- (b) stamps or securities that are Government property and that are intended to be placed on deposit with or entrusted to the Government;

shall without delay deliver the money, stamps or securities into the possession of an accounting officer or delegate of an accounting officer concerned in or responsible for them or to the Accountant General.

(2) A public officer or an accounting officer or delegate of an accounting officer referred to in subsection (1) is accountable for discharging his responsibilities under that subsection with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

PART III

BANKING

Public money to be deposited in bank

11. All public money received by or on behalf of the Government shall be

- (a) payable to the Accountant General; and
- (b) deposited in a bank account referred to in section 12 as directed by the Accountant General.

B a n k i n g arrangements

12. (1) No bank account shall be opened or operated by or on behalf of the Government or in respect of public money except by or under the written authority of the Accountant General with the approval of the Minister.

(2) The Accountant General may close or direct the closure of a bank account and may give directions respecting the banking of the money from the bank account.

PART IV

PAYMENT OF MONEY INTO CONSOLIDATED FUND

Consolidated Fund

13. There is a Consolidated Fund as provided in section 68 of the Constitution.

Payments into Consolidated Fund and crediting to accounts

14. (1) All public money shall be paid into the Consolidated Fund, other than public money

- (a) that is retained as a fee or commission under section 15;
- (b) that has not been paid and is subsequently remitted under section 16 or under section 65(1)(d) of the Constitution;
- (c) that is written off under section 17(1);
- (d) to the extent that the amount of a claim referred to in section 18(1) exceeds the amount for which it is settled;
- (e) that is to be held as a deposit;
- (f) that is to be paid by or under this or any other Act into a special fund; or
- (g) that is not required to be paid into the Consolidated Fund under any other Act.

(2) There shall be established an account designated the Consolidated Fund General Services Account and an account designated the Development Programme Account.

(3) All money required to be credited to the Consolidated Fund, other than money required to be credited to the Development Programme Account, shall be credited to the Consolidated Fund General Services Account.

(4) The following money shall be credited to the Development Programme Account:

- (a) all money appropriated to the Development Programme;
- (b) the proceeds of a grant or loan or part of a grant or loan received for financing the capital development programme of the Government when, according to the terms of the contract or arrangement with the government, agency of a government, regional or international organization or person providing the grant or loan, the proceeds of the grant or loan or part of the grant or loan are transferable to the Consolidated Fund.

15. The Minister may, by directive, authorize a person in possession of money payable to the Consolidated Fund to retain a fee or commission out of that money before paying it into the Consolidated Fund.

Fees and
commissions

Remission of
money paid or
payable

16. (1) When the Minister is satisfied that it is in the public interest to do so or that hardship or injustice has resulted or is likely to result, the Minister may, by Regulation applicable to a class or classes of persons or by certificate in a specific case and subject to subsection (4), remit all or part of any tax, fee or other amount (other than the amount of a penalty or forfeiture due to the Crown on account of an offence within the meaning of section 65(1)(d) of the Constitution) that is imposed, or authorised to be imposed, under this or any other Act.

(2) The remission of money may be conditional or unconditional, and may be granted

- (a) before, after or during the course of, any proceeding for the recovery of the money;
- (b) before or after the payment has been made or enforced by process or execution; or
- (c) in the case of a tax, fee or other amount, before the liability arises.

(3) When a condition of a remission is not performed, the authorisation of the remission has no effect, and all proceedings may be taken as if it had not been made.

(4) A remission of a tax, fee or other amount referred to in subsection (1) shall not exceed \$10,000 in respect of any one transaction or such greater amount as may be prescribed by the Minister with the approval of the House of Assembly.

(5) Money that has been paid and is subsequently remitted under this section or under section 65(1)(d) of the Constitution shall be refunded from the Consolidated Fund.

(6) This section does not apply to any tax, fee or other amount if there is a provision in another Act providing for the remission or waiver of the tax, fee or other amount.

(7) In this section, "tax, fee or other amount" includes any interest or penalty on the tax, fee or other amount.

Write off of debts
and obligations

17. (1) The designated authority may by certificate write off all or part of a debt or obligation due to the Government that the designated authority considers to be uncollectible or the collection of which the designated authority considers not to be cost effective.

(2) The write off of all or part of a debt or obligation does not extinguish the right of the Government to collect it.

(3) In subsection (1), "designated authority" means the Minister except to the extent that he has, by directive in writing, delegated his authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Minister.

(4) A delegation under subsection (3) may be general or may relate to a class or classes of write offs and may be made subject to conditions.

18. (1) Subject to this section, when a claim is made on behalf of the Government, whether or not proceedings have been commenced, and the designated authority is satisfied that it is in the public interest to enter into an agreement to settle the claim for a specified amount, whether or not the amount is less than the amount of the claim, the designated authority may settle the claim for the amount in full satisfaction of the claim.

Settlement of
claims by
Government

(2) In subsection (1), "designated authority" means the Minister except to the extent that he has, by directive, delegated his authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Minister.

(3) A delegation under subsection (2) may be general or may relate to a class or classes of claims and may be made subject to conditions.

(4) No claim shall be settled under subsection (1) except with the advice of the Attorney General if the amount claimed exceeds or may exceed \$10,000 or such other amount as may be prescribed.

Report and
register of
remissions, write
offs and
settlements

19. (1) A summary statement of the remissions by Regulation or certificate under section 16, write offs by certificate under section 17 and settlements under section 18 shall be included in the Public Accounts.

(2) A summary statement is sufficient if it identifies the type of remission, write off or settlement, the number of persons affected and the total value of each type of remission, write off or settlement.

(3) The Accountant General shall ensure that the particulars of the amount of, and the name of the person or persons affected by, each remission by Regulation or certificate under section 16, each write off by certificate under section 17 and each settlement under section 18

(b) continue to be so available until the Public Accounts containing the summary statement of the remission, write off or settlement are laid before the House of Assembly and for one year thereafter.

(4) The register may be in such form as the Accountant General determines.

Recovery of expenditure charged to an appropriation

20. The recovery by the Government of an expenditure charged to an appropriation

(a) that is received before the end of the financial year in which the expenditure was made shall be credited to the appropriation against which the expenditure was charged; and

(b) that is received after the end of the financial year referred to in paragraph (a) shall be credited to the revenue of the financial year in which it is received.

Interest on overdue accounts

21. (1) The Minister may make regulations establishing an interest rate or rates and those regulations may

(a) be of general application or may apply to a class or classes of persons who owe money or are liable to pay money to the Government that is due and owing or to a class or classes of money owed or liable to be paid to the Government that is due and owing; and

(b) determine whether and how the interest rate is to be calculated and compounded.

(2) Interest is recoverable by the same means as the money to which it applies is recoverable or as a civil debt due to the Government.

(3) A Regulation made under subsection (1) does not apply when another Act requires or authorises the imposition of interest on money owed or liable to be paid to the Government.

PART V

PAYMENT OF MONEY OUT OF CONSOLIDATED FUND

Division 1

General Rules

Payment out of Consolidated Fund

except 22. No money shall be paid out of the Consolidated Fund

- (a) to meet an expenditure that is charged on the Consolidated Fund by law;
 - (b) to make a payment authorised by an appropriation;
 - (c) to be deposited in the Contingencies Fund or other fund established by Parliament or in a special fund established by Parliament;
 - (d) to make a payment or advance authorised by this or any other Act; or
 - (e) to pay interest pursuant to a Regulation made under section 54(2)(d).
23. amount that (1) No appropriation shall be charged with an amount that
- (a) is not a lawful charge against the appropriation; or
 - (b) would result in an expenditure in excess of the amount available in that appropriation.
- (2) No expenditure for a service charged on the Consolidated Fund by law shall be paid out of the Consolidated Fund unless it is for the purpose for which it was charged.

Limitation on payments

Division 2

Authorisation of Expenditure

24. (1) The Minister shall cause to be prepared and laid before the House of Assembly, not later than thirty days after the commencement of each financial year, annual estimates of the revenue and expenditure, both current and capital, of the Government for that financial year.

Authorisation of expenditure: annual estimates and appropriation Bills

- (2) The annual estimates shall be in the form that the Minister directs, and
- (a) shall provide for the expenditures that are to be incurred by the Government for services during the financial year and that are required to be voted on by Parliament, and, in relation to each expenditure vote, shall
 - (i) describe the ambit of the vote,
 - (ii) show the amount required to be supplied for the vote by appropriation, and
 - (iii) contain a reference to the accounting officer designated in respect of the expenditure vote or

any part of the expenditure vote or item or any part of the item of revenue; and

(b) shall

- (i) include the estimated amount of the expenditure to be incurred on each service, the expense of which is charged on the Consolidated Fund by law,
- (ii) include a reference to the provision of the law that authorises the expenditure to be charged on the Consolidated Fund, and
- (iii) contain a reference to the accounting officer appointed by the Minister under section 8(1) in respect of each item of expenditure or part of the item of expenditure for each service charged on the Consolidated Fund by law.

(3) When the estimates of expenditure, other than the expenditures referred to in paragraph (2)(b), have been approved by the House of Assembly, a bill, be known as an appropriation Bill, shall be introduced in the House of Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

25. If in respect of any financial year it is found that the amount appropriated by the appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act, a supplementary estimate showing the sums required shall be laid before the House of Assembly and, when the supplementary appropriation bill has been approved by the House, a supplementary appropriation bill shall be introduced in the House of Assembly providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

26. (1) No money shall be expended under an appropriation Act or a supplementary appropriation Act unless the Minister has authorised the Accountant General by general warrant under his hand to pay that money out of the Consolidated Fund.

(2) A general warrant may reserve specified expenditures and may make provision for expending the reservation.

Authorisation of expenditure: supplementary estimates and supplementary appropriation Bills

General warrants

(3) Notwithstanding the issue of a general warrant, if, in his opinion, financial exigencies of the public interest so require, the Minister may in his discretion by written notice reserve at any time any expenditure authorised under an appropriation Act or a supplementary appropriation Act and may in the notice make provision for expending the reservation.

(4) Notice in writing of the reservation of an expenditure under subsection (3) shall be given without delay to the Accountant General and to affected accounting officers.

(5) An expenditure that is reserved by a general warrant or by notice under subsection (3) may be expended

- (a) in accordance with the general warrant or notice; or
- (b) where no provision is made in the general warrant or notice, in accordance with the directions of the Minister.

(6) The Director General shall certify that the general warrant has been issued in accordance with this Act.

27. (1) If the appropriation Act for a financial year has not come into operation at the commencement of the financial year, the Minister may by provisional general warrant under his hand authorise expenditure necessary to carry on the services of Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation Act, whichever is the earlier, but

Authorisation of
expenditure in
advance of
appropriation

- (a) only expenditures upon services in the annual estimates for which there was provision in the appropriation Act in force in the previous financial year are authorised under the provisional general warrant;
- (b) the expenditures shall not in total exceed one-third of the amount voted for that service in those annual estimates; and
- (c) in the case of capital expenditures, only expenditures that in the previous financial year were contemplated to continue are authorised.

(2) The amounts paid pursuant to a provisional general warrant referred to in subsection (1) are deemed to have been paid pursuant to an appropriation until the appropriation Act is passed.

(3) Sections 26(2) to (5) apply with such modifications as the circumstances require to a provisional general warrant under subsection (1).

(4) On the coming into force of the appropriation Act, the provisional general warrant shall lapse, and any money paid under it shall be deemed to have been paid for corresponding services in the estimates for which provision was made under the appropriation Act and shall be accounted for accordingly.

Special warrants

year 28. (1) Subject to subsection (2), when in a financial

(a) it appears to the Minister that

(i) an expenditure for a service not foreseen and not provided for, or not sufficiently provided for, is required for the public good, and

(ii) the circumstances are such that the expenditure cannot, in the opinion of the Minister, be postponed without injury to the public good; and

(b) the appropriation Act for the financial year has come into force;

the Minister may, in anticipation of approval of the expenditure in a supplementary appropriation Act, issue a special warrant under his hand authorising the expenditure to be made out of the Consolidated Fund, but the aggregate of the amounts authorised by special warrants issued under this section in the financial year and not approved in a supplementary appropriation Act shall not exceed the amount fixed by resolution of the House of Assembly.

(2) A special warrant may be issued so long as the amount in the Contingencies Fund does not exceed the amount fixed by resolution of the House of Assembly for the Contingencies Fund.

(3) If in respect of any financial year it is found that any money has been expended for any purpose in excess of the amount appropriated for that purpose by the appropriation Act or for a purpose to which no amount has been appropriated by that Act, a supplementary estimate showing the sums spent shall be laid before the House of Assembly and, when the supplementary estimate has been approved by the House of the Assembly, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

(4) The Minister shall, not less than six months after the date a special warrant was issued, cause to be laid before the House of Assembly a supplementary estimate showing the sums spent.

(5) When a special warrant is issued with respect to an expenditure for a service for which there is an appropriation, the amount provided by the special warrant shall be added to, and deemed to be part of, the appropriation specified in the special warrant for the financial year for which the special warrant is issued until the supplementary appropriation Act is passed.

(6) When a special warrant is issued with respect to an expenditure for a service for which there is no appropriation, the amount provided by the special warrant is deemed to be an appropriation for the service specified in the special warrant for the financial year for which the special warrant is issued until the supplementary appropriation Act is passed.

(7) On the coming into operation of the supplementary appropriation Act that appropriates money for expenditures authorised by a special warrant, the special warrant lapses and the expenditures made under it are deemed to have been made for the corresponding expenditures under the supplementary estimates for which provision is made under the supplementary appropriation Act and shall be accounted for accordingly.

29. (1) There is hereby established a Contingencies Fund into which shall be paid the money appropriated for the purpose by Parliament. Contingencies Fund

(2) The Minister is authorised, by a contingencies warrant under his hand, to make advances out of the Contingencies Fund if he is satisfied that there has arisen an urgent and unforeseen need for expenditures for which no other provision or no other sufficient provision exists.

(3) Where an advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House of Assembly and, when the supplementary estimate has been approved by the House of Assembly, a supplementary appropriation Bill shall be introduced as soon as possible in the House of Assembly for the purpose of replacing the amounts so advanced. Virement warrants

30. (1) Subject to subsection (2), if, in the opinion of the accounting officer, the exigencies of the service render it necessary or expedient to vary the amount assigned to any programme within an expenditure vote as shown in the annual or supplementary estimates of expenditure for a financial year, he may, subject to any order of the Minister under subsection (3), direct by means of a virement warrant under his hand that savings arising from an item in an expenditure vote contained in the annual or supplementary estimates approved by appropriation Act or supplementary appropriation Act be applied in aid of another item in the

expenditure vote contained in the annual or supplementary estimates if the amount of the appropriation is not thereby exceeded.

following: (2) Subsection (1) applies subject to the

- (a) no virement of personal emoluments in an expenditure vote shall occur unless it is to personal emoluments within that expenditure vote;
- (b) no virement shall occur between recurrent and capital expenditures.

Reallocation
warrants

(3) The Minister may by order limit the amount that may be vired under subsection (1) in any transaction or on any other basis.

31. (1) Subject to subsection (2), with the approval by resolution of the House of Assembly, the Minister may, by means of a reallocation warrant under his hand, direct the Accountant General that savings arising from an expenditure vote contained in the annual or supplementary estimates approved by appropriation Act or supplementary appropriation Act be applied in aid of any other expenditure vote or any item in any other expenditure vote in those estimates or in aid of any new programme of expenditure, and the amounts to be applied are deemed to have been appropriated for that purpose.

following: (2) Subsection (1) applies subject to the

- (a) no reallocation of personal emoluments in an expenditure vote shall occur unless it is to personal emoluments within another expenditure vote;
- (b) no reallocation shall occur between recurrent and capital expenditures.

Advance warrant

32. (1) Subject to subsections (2) and (3), the Accountant General may under the authority of an advance warrant issued under the hand of the Minister, from the Consolidated Fund or from money held as deposits, make advances of money

- (a) to, and recoverable from, a government or a regional or international organisation;
- (b) to, or on account of, a special fund referred to in
 - (i) section 39(1)(a), or
 - (ii) section 39(1)(b) if it is composed in whole or in part of appropriated money;

expenditure vote contained in the annual or supplementary estimates if the amount of the appropriation is not thereby exceeded.

(2) Subsection (1) applies subject to the following:

- (a) no virement of personal emoluments in an expenditure vote shall occur unless it is to personal emoluments within that expenditure vote;
- (b) no virement shall occur between recurrent and capital expenditures.

(3) The Minister may by order limit the amount that may be vired under subsection (1) in any transaction or on any other basis.

Reallocation
warrants

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(2) Subsection (1) applies subject to the following:

- (a) no reallocation of personal emoluments in an expenditure vote shall occur unless it is to personal emoluments within another expenditure vote;
- (b) no reallocation shall occur between recurrent and capital expenditures.

Advance warrant

32. (1) Subject to subsections (2) and (3), the Accountant General may under the authority of an advance warrant issued under the hand of the Minister, from the Consolidated Fund or from money held as deposits, make advances of money

- (a) to, and recoverable from, a government or a regional or international organisation;
- (b) to, or on account of, a special fund referred to in
 - (i) section 39(1)(a), or
 - (ii) section 39(1)(b) if it is composed in whole or in part of appropriated money;

- (c) to, or on behalf of, a statutory body, authority of government, public body, institution or individual where the advance is, in the opinion of the Minister, in the public interest;
- (d) to a public or police officer for any purpose; or
- (e) for the purpose of expenditure authorised by a loan Act in anticipation of the raising of the loan.

(2) Subject to this section, the Minister may in the warrant make the advance referred to in subsection (1) subject to any conditions he considers appropriate.

(3) An advance referred to in subsection (1) is recoverable within a period not exceeding twelve months after the end of the financial year in which the advance was made.

(4) The aggregate of the sums committed or disbursed for the purpose of making advances under paragraphs (1)(b), (c) and (d) but not repaid shall not exceed at any one time five percent of the recurrent revenue in the annual estimates for the previous financial year.

33. (1) The Accountant General may on the authority of an imprest warrant issued under the hand of the Minister issue imprests from the Consolidated Fund to public officers for any purpose of making payments of small amounts that cannot conveniently be made through the Treasury.

Imprest warrants

(2) Any officer to whom an imprest has been issued pursuant to subsection (1) shall retire that imprest not later than the end of the financial year in which the imprest was issued or, if some earlier date is specified in the imprest warrant or by the Accountant General, not later than that earlier date.

(3) Where a public officer fails to retire an imprest in accordance with the provisions of subsection (2), the imprest is deemed to be indebtedness of the public officer to the Government and the Accountant General may exercise the right of set off under section 37 in relation to the indebtedness.

34. An accounting officer of a ministry, department or service (the "first accounting officer") may, by departmental warrant under his hand, authorize another accounting officer named in that departmental warrant

Departmental
warrants

(the "second accounting officer") to incur expenditure against a specific vote under the control of the first accounting officer.

Division 3

Specific Cases of Payments out of Consolidated Fund

Refunds of money

35. A refund of all or part of money received by the Government

- (a) that is erroneously paid or collected; or
- (b) that is a drawback, rebate or other amount required or permitted to be refunded under any Act or regulation;

may be paid to the person out of the Consolidated Fund on presentation of proof satisfactory to the Accounting officer that the refund is so payable.

Payment of orders and awards for money and settlement of claims against Government

36. (1) Subject to this section, on the direction of the Minister acting on the advice of the Attorney General, the Accountant General may pay the following claims out of the Consolidated Fund:

- (a) money required to be paid by the Government by order of a court;
- (b) money required to be paid by the Government by order of a tribunal;
- (c) an award by an arbitrator against the Government.

(2) In this section

"arbitrator" means one or more persons to whom the power to make an award requiring the payment of money is conferred by an Act of the Parliament;

"designated authority" means the Minister except to the extent that he has, by directive, delegated his authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Minister;

"order", of a court, includes a judgment, decree or rule;

"order", of a tribunal, means an order, award, decision or determination;

(2) Subject to the directions of the Director General, a debt incurred by the Government before the end of the financial year that remains unpaid at the end of the financial year shall be recorded as a charge against the appropriation to which it relates, but nothing in this section permits the recording of a payment that is in excess of the balance available in the appropriation.

(3) Within 30 days after the end of the financial year or such longer period as may be authorised by the Minister, the debt recorded as a charge under subsection (1) may be discharged or settled.

PART VI

SPECIAL FUNDS AND DEPOSITS

Special funds

39. (1) The following are special funds:
- (a) a fund of public revenues established by or under any other Act for a specific purpose;
 - (b) a fund established under subsection (2);
 - (c) a trust fund held by the Government.

(2) The Minister may by Regulation establish special funds.

(3) Every Regulation made under subsection (2) shall state the purpose of, and the money to be paid into, the special fund established thereby and the public officer responsible for the administration of the fund.

Administration of special funds

40. (1) A special fund shall be administered and expenditures from it shall be authorised in the manner provided by the law or trust instrument establishing the special fund or any other law relating to it.

(2) If there is no provision in the law or trust instrument establishing the special fund or any law relating to it, the Minister may provide for the administration of it.

(3) If, in his opinion, further or better provision should be made for the administration of a special fund, the Minister may provide for the further or better administration of the special fund.

(4) A special fund shall be kept in a separate account by the Accountant General or, where by virtue of any law some other public officer is responsible for the administration of the fund, by that other public officer, but it shall be lawful for the Accountant General to keep the accounts on behalf of the other public officer.

“tribunal” means one or more persons, other than a person acting as a judge, on whom a power to make an award requiring the payment of money is conferred by an Act of Parliament.

(2) A delegation by the Minister under the definition of designated authority may be general or may relate to a class or classes of claims and may be made subject to conditions.

(3) Subject to this section, when a claim is made against the Government, whether or not proceedings have been commenced, and the designated authority is satisfied

- (a) that the claim, if pursued in a court of competent jurisdiction or before a tribunal or an arbitrator, could reasonably be expected to result in an order or award, as the case may be, requiring the Government to pay money; and
- (b) that it is in the public interest to settle the claim for a specified amount of money;

the designated authority may settle the claim and may, in writing, direct the Accountant General to pay the amount in settlement of the claim out of the Consolidated Fund.

(4) No claim shall be settled or paid under subsection (3) except on the recommendation of the Attorney General if the amount of the claim exceeds or may exceed \$5,000 or such other amount as may be prescribed.

(5) No payment shall be made out of the Consolidated Fund in respect of a claim under subsection (1) or (3) that is in excess of the amount available in an appropriation for the purpose.

37. Subject to the Regulations and any other Act, when a person owes money to the Government in a specific amount (in this section referred to as the “indebtedness”) and that person is owed money by the Government in a specific amount, the Accountant General may exercise a right of set off in relation to the indebtedness.

Right of set off

Division 4

Lapse of Appropriations and Warrants

38. (1) The balance in an appropriation that remains unexpended at the end of the financial year, after adjustment for the recording of debts referred to in subsection (2), and any warrant in relation to the balance of the appropriation, shall lapse.

Lapse of
appropriations
and warrants

(5) Within a period of 2 months after the end of the financial year, the public officer administering a special fund shall prepare, sign and submit to the Accountant General statements showing the financial position of the fund at the end of the financial year.

(6) The statements required under subsection (5) shall include

- (a) a statement of assets and liabilities of the special fund;
- (b) a detailed statement of receipts and payment of the special fund; and
- (c) a statement of any investments and any interest or dividends credited to the special fund.

(7) If

- (a) the money in a special fund referred to in section 39(1)(a) or (b) is exhausted and no legal provision exists whereby further money may be paid into that special fund; or
- (b) the objects for which a special fund referred to in section 39(1)(a) or (b) was established have been fulfilled or cease to exist and, in the opinion of the Minister, there is no likelihood that any objects for which that special fund could lawfully be used will arise in the future;

the Minister may dissolve the special fund

- (c) by publishing a notice in the *Gazette* in the case of a special fund referred to in section 39(1)(a);
- (d) by repealing the Regulation establishing the special fund in the case of a special fund established under 39(2).

(8) Any money remaining in any special fund dissolved under subsection (7) shall be paid into the Consolidated Fund.

41. (1) Nothing in this Act shall extend to abridge or alter the terms of any trust or be construed as authorising the making of any regulation or the giving of any direction or instruction requiring any person to obey the regulation, direction or instruction in relation to money held on trust, that contravenes or is inconsistent with the terms of the trust.

Trusts

(2) No public officer shall accept an appointment as a trustee in his capacity as a public officer without the written authority of the Minister and any appointment contrary to this subsection is void.

Deposits

42. (1) A deposit is money other than money that

(a) is required to be deposited in the Consolidated Fund or the Contingencies Fund; or

(b) is to be deposited in a special fund.

(2) Except as provided in subsection (3) and section 43(4), no deposit shall be used for the public purposes of Saint Vincent and the Grenadines.

(3) Every deposit

(a) shall be held by the Accountant General; and

(b) may

(i) with the approval of the Minister, be invested in the manner specified in section 43(1), or

(ii) be used to finance advances in the manner specified in section 32.

(4) Subject to this section, the regulations and the financial instructions, an accounting officer may administer a deposit in such manner as he thinks fit and may, where he is satisfied that it should be refunded, refund a deposit or any part of it to any person entitled to it.

(5) A deposit that is unclaimed for 5 years shall, subject to the provisions of any law, cease to be a deposit and shall accrue to the Consolidated Fund, but the Minister may direct the refund of a deposit or any part of it to a person who subsequently satisfies the Minister that he is entitled to it.

PART VII

INVESTMENTS

Investment of
public money

43. (1) The Minister may authorise the investment of money forming part of the Consolidated Fund, the Contingencies Fund or held as a special fund or deposit

(a) with a bank, whether at call or subject to notice not exceeding twelve months;

- (b) in deposits with the Eastern Caribbean Central Bank;
or
- (c) in a manner authorised for investments of property in the hands of trustees by any law for the time being in force.

(2) The interest or dividends received from the investment of money from the Consolidated Fund, the Contingencies Fund or a trust fund that is a special fund shall be credited to each fund in proportion to the amount of money invested from that fund.

(3) The interest or dividends received in respect of any investment of money in a special fund, other than a trust fund, shall be credited to that special fund unless the Minister directs otherwise.

(4) The interest or dividends received from the investment of a deposit shall be credited to the Consolidated Fund unless

- (a) the Government is obligated by agreement or otherwise to credit interest to the deposit; or
- (b) the Minister directs otherwise.

(5) Interest or dividends credited to the Consolidated Fund, the Contingencies Fund, a special fund or a deposit shall form part of the fund.

(6) Money held in a trust fund that is a special fund by the Government that is invested under subsection (1) may, while invested, be intermingled with other invested money, whether that other money is trust money or otherwise.

PART VIII

PUBLIC DEBT AND GUARANTEES

44. No money shall be raised on the credit of the Government except under the authority of this or another Act of Parliament or of a resolution of the House of Assembly.

Authorisation of
debt

45. (1) The Minister may in a financial year, when authorised by resolution of the House of Assembly, borrow money to meet current requirements from a bank or other financial institution by means of advances to an amount not exceeding in the aggregate the sum specified in the resolution.

Short-term
borrowing

(2) A resolution referred to in subsection (1) shall have effect for a period not exceeding twelve months.

(3) The power to borrow money by means of advances from a bank or other financial institution conferred on the Minister by resolution in accordance with this section or in pursuance of an Act may be exercised by means of a fluctuating overdraft.

Proceeds of loans

46. Subject to the provisions of a general or specific loans Act, any money borrowed by the Government shall be paid into and form part of the Consolidated Fund.

Restriction on
guarantees

47. No guarantee of a financial liability shall be given by the Government unless it is

- (a) given in accordance with the provisions of an Act; or
- (b) authorised by resolution of the House of Assembly.

Debt charges

48. The provisions of section 74 of the Constitution apply in relation to debt charges.

PART IX

PUBLIC ACCOUNTS

Public Accounts

49. (1) All public money shall be accounted for in the Public Accounts of Saint Vincent and the Grenadines.

(2) Subject to subsection (3), the Accountant General shall within four months after the end of every financial year prepare, certify and submit to the Director of Audit as many copies as the Director of Audit may require of the Public Accounts of Saint Vincent and the Grenadines for that financial year accounting for all public money and showing fully the financial position of Saint Vincent and the Grenadines at the end of the financial year.

(3) The Minister may, by direction in writing to the Accountant General, extend the period within which the Public Accounts are required to be submitted to the Director of Audit and any direction so given shall be laid without delay before the House of Assembly if it is sitting and, if it is not sitting, then without delay after it next sits.

(1) shall include (4) The Public Accounts referred to in subsection

- (a) a summary statement of revenue and expenditure of the Consolidated Fund by standard object code;

- (b) a comparative statement of actual and estimated revenue by detailed object code;
- (c) a statement of assets and liabilities;
- (d) a statement of the Contingencies Fund;
- (e) a statement of each special fund;
- (f) a statement of the balance on each deposit account;
- (g) a statement of investments showing the funds on behalf of which the investments were made;
- (h) a statement of public debt and accumulated sinking funds;
- (i) a statement of contingent liabilities of the Government;
- (j) a statement of balances on advance accounts from the Consolidated Fund and deposit accounts analysed under the various categories set out in section 32;
- (k) a statement of arrears of revenue by detailed object code;
- (l) the summary statements referred to in section 19(1); and
- (m) any other statements that the House of Assembly may require.

PART X

REGULATIONS AND MISCELLANEOUS

50. (1) The Minister may make such regulations as appear to him to be necessary and expedient for the proper carrying out of the intent of this Act.

Regulations

(2) Without restricting the generality of subsection (1), the Minister may make regulations

- (a) prescribing anything that under this Act may be prescribed;
- (b) exempting corporations and entities from the definition of statutory body;

- (c) respecting collection, receipt, custody, banking, expenditure, due accounting for, care and management of, and forms of records relating to, public money;
- (d) providing for the payment of interest on late payments by the Government, including permitting a specified person to determine when interest is payable and the rate of that interest;
- (e) respecting the custody, handling and proper accounting for stamps and securities, whether the property of the Government or on deposit with or entrusted to the Government or to a public officer in his official capacity or to any other person;
- (f) respecting the accounts when they are kept electronically including their authentication;
- (g) respecting the procurement of works, goods and services including the designation of persons with authority to award contracts, or the establishment of a board charged with the award of contracts, or classes of contracts, or charged with advising on the award of contracts and the definition of the powers of such a board, or both the designation of persons and the establishment of a board;
- (h) respecting government property including such matters as the responsibility for making and maintaining up-to-date inventories, the form of and the information to be kept in such inventories and writing off government property and declaring government property surplus and disposing of it;
- (i) respecting stores including their classification and operation, the writing off of stores and declaring stores surplus and disposing of them;
- (j) prescribing fees for dishonoured cheques;
- (k) requiring that statutory bodies or a class of statutory bodies submit to the minister responsible for the statutory body for his approval before the commencement of the financial year of the statutory body a business plan of the statutory body, determining the content of the business plan, requiring other information and providing for related matters;

- (l) requiring, in respect of entities or class of entity prescribed as statutory bodies for the purpose of paragraph (b) of the definition of statutory body, the submission of the report of the Director of Audit to the minister responsible for the statutory body for transmission to the House of Assembly;
- (m) prescribing what constitutes control of a corporation by the Government and requiring corporations or class of corporation controlled by the Government, other than entities or class of entity prescribed as statutory bodies for the purpose of paragraph (b) of the definition of statutory body, to submit its audited financial statements to the minister responsible for the corporation or class of corporation controlled by the government for transmission to the House of Assembly;
- (n) providing for the monitoring and oversight of statutory bodies or classes of statutory bodies and corporations or class of corporation controlled by the Government.

51. Regulations made under this Act by the Minister alone shall be subject to a negative resolution of the House of Assembly.

N e g a t i v e
resolution

52. Except as provided in any other Act, the voting rights attached to shares held by the Government in a body corporate may be exercised by the minister responsible for the portfolio under which the body corporate falls or by a person authorised by the Minister to exercise the voting rights.

Voting of shares
held by
Government

53. The Finance and Audit Act, except sections 9 and 10, is repealed.

Repeal of
Cap. 182 except
sections 9 and 10

54. The Minister may make regulations providing for any transitional matter not dealt with or not sufficiently dealt with by this Act.

T r a n s i t i o n a l
regulations

55. (1) In this section, "former Act" means the Finance and Audit Act, Cap. 182.

T r a n s i t i o n a l
provisions

(2) On the coming into force of this Act

- (a) every person acting under the former Act at the time of its repeal shall continue to act under this Act as if he has been authorised to act under this Act;

- (b) the Consolidated Fund, trust funds set out in the Schedule and deposits held by the government at the time of the repeal of the former Act are continued under this Act; and
- (c) any reference in an unrepealed enactment to the former Act shall, with respect to a subsequent transaction, matter or thing, be construed as a reference to the provisions of this Act relating to the same subject matter as the repealed enactment.

(3) For greater certainty, a claim that has been written off or abandoned before this Act comes into operation is deemed not to have extinguished the claim.

Consequential
Amendment Cap.
197

56. (1) The Director of Finance and Planning and Accountant General (Creation) Act is amended by deleting the short title "Director of Finance and Planning and Accountant General (Creation) Act" and substituting "Director General of Finance and Planning and Accountant General (Creation) Act".

(2) Where in any law reference is made to "Director of Finance and Planning" there shall be substituted therefor "Director General of Finance and Planning".

SCHEDULE

(section 58(2)(b))

Trust Funds

- Lady Musgrave Prize Fund
- Haywood X-Ray Fund
- Simmons Bequest
- Brian Gray Fund
- Graham Bequest

Passed in the House of Assembly this 16th day of March, 2004.

NICOLE HERBERT
Clerk of the House of Assembly (Ag.)

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