



ORDINANCE NO. 39 OF 1961.

FINANCIAL ADMINISTRATION AND AUDIT ORDINANCE, 1961.



I assent.

Governor.

30 November, 1961.

BRITISH GUIANA.

Arrangement of Sections.

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

A.D. 1961.

Enacted by the Legislature of British Guiana:—

PART I — PRELIMINARY

Short title and commencement.

1. This Ordinance may be cited as the Financial Administration and Audit Ordinance, 1961, and shall come into operation on a day to be appointed by the Governor by Order published in the Gazette.

2.(1) In this Ordinance —

Interpretation.

“accounting officer” means any person designated as such pursuant to section 4 of this Ordinance and charged with the duty of accounting for expenditure on any service in respect of which moneys have been appropriated under any Ordinance;

“appropriate Minister” means, in relation to a statutory body, the Minister exercising authority under any law as respects such statutory body;

“Appropriation Ordinance” means any Ordinance appropriating revenue in relation to a financial year for such services as are specified in such Ordinance;

“officer” means any person in the employ of the Government;

“principal receiver of revenue” means an officer designated as such pursuant to section 4 of this Ordinance and charged with the duty of collecting and accounting for revenue;

“public moneys” include —

(a) the revenues;

(b) any trust or other moneys held, whether temporarily or otherwise, by an officer in his official capacity either alone or jointly with any other person whether an officer or not;

“revenue” means all tolls, taxes, imposts, rates, duties, fees, fines, penalties, forfeitures, rents and dues, proceeds of sale and all other receipts of the Government from whatever sources arising, over which the Legislature has the power of appropriation;

“the Minister” means the Minister responsible for finance;

“the revenues” means the revenues of British Guiana or moneys arising therefrom.

(2) References in this Ordinance to a department include references to a Ministry.

PART II — ADMINISTRATION

3. The Governor may appoint a fit and proper person to be Secretary to the Treasury who shall hold office in the public service of British Guiana.

Appointment of Secretary to the Treasury.

4. The Secretary to the Treasury shall designate in writing the officers who shall be accounting officers or principal receivers of revenue and he may in writing, revoke any such designation.

Accounting officers and principal receivers of revenue.

5.(1) The Minister may issue instructions and make regulations —

Powers of Minister.

(a) respecting the preparation of estimates;

(b) respecting the collection, management and administration of, and the accounting for, public moneys;

- (c) respecting the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property;
- (d) respecting the keeping of the financial records of the Government;
- (e) respecting the exercise of any powers conferred by the preceding section;
- (f) prescribing forms or any other matter required to be prescribed under this Ordinance;
- (g) for any other purpose necessary for the efficient administration of the financial business of the Government.

(2) All regulations made under this section shall, as soon after they are made as is practicable, be laid before the Legislative Assembly.

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

Control of
expenditure
and revenue.

6.(1) Save as may otherwise be provided by any law for the time being in force, no expenditure involving a charge on the revenues shall be incurred, and no sums due to the revenues shall be remitted, without the general or specific authority of the Minister.

(2) It shall be within the discretion of the Minister to limit or suspend any expenditure charged under any Appropriation Ordinance, or authorised by any resolution of the Legislative Assembly or by virtue of the provisions of section 19 of this Ordinance, if in his opinion the exigencies of the financial situation render such limitation or suspension necessary.

Annual
statements.

7.(1) In respect of each financial year and as soon as possible after the close of such financial year, the Minister shall cause to be laid before both chambers of the Legislature —

- (a) an annual abstract account;
- (b) a statement of revenue, showing the sums estimated to be received and the sums actually so received;
- (c) a statement of expenditure, showing the sums estimated to be disbursed and the sums actually disbursed;
- (d) a statement of current assets and liabilities;
- (e) a statement of the surplus or deficit for the financial year;
- (f) a statement of the General Revenue Balance;
- (g) a statement of cash distribution;
- (h) a statement of public debt and loan sinking funds;

- (i) a statement of special funds, trust funds, **unspent** loan moneys, and other moneys deposited with the Accountant General;
- (j) a statement of investments;
- (k) a statement of the outstanding loans or credits guaranteed by the Government;
- (l) a statement of all outstanding loans financed from the revenues;
- (m) a statement of the balances held on deposit and advances outstanding at the close of the financial year;
- (n) a statement of the Unallocated Stores Account;
- (o) a statement of arrears of revenue;
- (p) a statement of losses charged to expenditure;
- (q) a statement of revenue remitted in accordance with subsection (1) of the preceding section;
- (r) such other statements as the Legislative Assembly may from time to time require.

(2) In respect of each financial year and within a period of six months after the close of such financial year —

- (a) the Accountant General shall prepare, sign and transmit to the Director of Audit statements showing the matters specified in paragraphs (a) to (r) of the preceding subsection;
- (b) any officer administering a fund to which moneys have been appropriated by the Legislature shall prepare, sign and transmit to the Director of Audit financial statements in respect of such fund in such form as the Minister may from time to time direct.

(3) The statements and accounts mentioned in subsection (2) of this section when certified and reported on by the Director of Audit shall be laid before both chambers of the Legislature.

(4) In respect of each financial year and within a period of six months after the close of such financial year or within such longer period as the Minister may in any particular case approve, any officer administering any industrial, trading or commercial undertaking or any trust or other fund or account not provided for in this section shall, if so directed by the Minister, prepare, sign and transmit to the Director of Audit a balance sheet or statement of account, of such fund or account, together with such other statements of account relating thereto as the Minister may deem appropriate.

(5) The statements and accounts mentioned in subsection (4) of this section shall, when certified and reported upon, be submitted to the Minister.

8.(1) If it appears to the Secretary to the Treasury upon a report by the Director of Audit that any person who is or was an officer —

SurchARGE by
Secretary to
the Treasury.

- (a) has failed to collect any moneys owing to the Government for the collection of which such per-

son is or was at the time of such employment responsible;

- (b) is or was responsible for any improper payment of public moneys or for any payment of such moneys which is not duly vouched; or
- (c) is or was responsible for any deficiency in, or for the loss or destruction of, any public moneys, stamps, securities, stores, or other Government property,

and if, within a period specified by the Secretary to the Treasury, an explanation satisfactory to him is not furnished with regard to such failure to collect, improper payment, payment not duly vouched, deficiency, loss or destruction, as the case may be, the Secretary to the Treasury may surcharge against the said person the amount not collected or such improper payment, payment not duly vouched, deficiency, loss or the value of the property destroyed, as the case may be, or such lesser amount as the Secretary to the Treasury may determine.

(2) No such surcharge shall be made after the expiration of a period of three years from the date of such failure to collect, improper payment, payment not duly vouched, deficiency, loss or destruction, as the case may be.

Notification of surcharge.

9.(1) The Secretary to the Treasury shall cause the Director of Audit and the accounting officer of the department concerned to be notified of any surcharge made under section 8 of this Ordinance.

(2) The accounting officer on being notified as aforesaid shall notify the person surcharged and shall, subject to the provisions of sections 10 and 11 of this Ordinance, recover the amount surcharged from such person.

Withdrawal of surcharge.

10. The Secretary to the Treasury may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and in any such event the Secretary to the Treasury shall notify the Director of Audit and the accounting officer of the department concerned of the withdrawal of any such surcharge.

Remedy of person aggrieved by surcharge.

11.(1) Any person who is dissatisfied with any surcharge made against him under section 8 of this Ordinance shall have the right to appeal to the Governor within a period of one month immediately after he has been notified of the surcharge:

Provided that the Governor, acting in his discretion, may authorise an appeal to be made after the expiration of such period of one month.

(2) After such further investigation as may be directed by him, the Governor may make such order confirming the surcharge or directing that the appellant be released wholly or in part from the surcharge as may appear just and reasonable.

(3) A copy of every order made by the Governor under the preceding subsection shall be transmitted to the Secretary to the

Treasury, to the accounting officer of the department concerned and to the Director of Audit.

(4) The powers conferred on the Governor by subsection (2) of this section shall be exercised in accordance with the recommendation of the Judicial Service Commission or the Police Service Commission, as the case may be, where the appellant holds or is acting in any office to which article 91 of the Constitution of British Guiana applies or is a member of the Police Force; and, in every other case, shall be exercised in accordance with the recommendation of the Public Service Commission.

12. The amount of any surcharge made under section 8 of this Ordinance may, subject to the provisions of sections 10 and 11 of this Ordinance, be sued for and recovered as a debt due to the Government by action at the suit of the Attorney General; or the Secretary to the Treasury may direct that the amount of any such surcharge which may be due from an officer shall be recovered by monthly deductions from the salary of such officer in such amounts, not exceeding one-sixth of the amount payable monthly to such officer in respect of salary, as the Secretary to the Treasury shall authorise.

Recovery of surcharge.

PART III — PUBLIC FINANCES

13.(1) Public moneys may be deposited with such bank or banks as the Minister may approve.

Banking and investment of public moneys

(2) The Minister may authorise the investment from the revenues of sums not required for early disbursement, with a bank either at call or subject to notice not exceeding twelve months or with the Joint Consolidated Fund operated by the Crown Agents for Oversea Governments and Administrations or in any of the investments authorised by the provisions of section 11 of the Civil Law of British Guiana Ordinance relating to the investment of trust funds, as amended from time to time.

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(3) An account in respect of public moneys shall not be opened with any bank without the written approval of the Minister or of an officer of his department who is authorised in writing in that behalf by the Minister; and the Government shall not be held liable for any overdraft on any such account otherwise than by virtue of section 16 of this Ordinance.

14. Principal receivers of revenue shall cause the gross revenue collected by their departments to be paid into the revenues at such times as the Minister may direct and in accordance with the regulations prescribed:

Revenue collected to be paid into the revenues.

Provided that, where the Minister so directs —

- (a) principal receivers of revenue may deduct such sums as may be required for drawbacks, repayments or discounts before paying the gross revenue of their departments into the revenues;
- (b) principal receivers of revenue may defray out of revenue collected by them, payments authorised in accordance with any law or regulation.

Charges
against the
revenues.

15. Subject to the provisions of sections 18 and 19 of this Ordinance —

- (a) no sums shall be charged against the revenues except under the authority of a warrant addressed to the Accountant General under the hand of the Governor or the Minister;
- (b) no such warrant shall be issued except in respect of expenditure authorised by an Appropriation Ordinance for the financial year during which the payment is to be made, or by inclusion in estimates laid before the Legislative Assembly and approved by resolution of the Assembly, or for services otherwise lawfully charged on the revenues.

Advances to
Government.

16.(1) The Legislative Assembly may from time to time by resolution authorise the Minister to borrow, by means of advances from a bank, money to an amount not exceeding in the aggregate the sum specified in that behalf in the resolution to meet current requirements.

(2) The principal and interest of all such advances shall be charged on and shall be payable out of the revenues.

(3) Where by resolution in accordance with this section or in pursuance of any Ordinance, power to borrow money by means of advances from a bank is conferred on the Minister, such power may be exercised by means of a fluctuating overdraft.

Advances from
the revenues.

17. The Minister may make advances not exceeding in the aggregate seven million dollars, or such greater sum as the Legislative Assembly may by resolution direct, from the revenues —

- (a) to, or on account of, trusts or other funds or to, or on behalf of, statutory bodies, public authorities, institutions or individuals where such advances are in the public interest; or
- (b) with the approval of the Governor, on behalf of, and recoverable from, other Governments.

Issue of
moneys before
promulgation
of Appropriation
Ordinance.

18.(1) It shall be lawful for the Governor or the Minister to issue warrants for the disbursement from the revenues of such sums as may be necessary for the carrying on of the Government during any period not exceeding four months between the end of a financial year and the coming into force of the Ordinance authorising the appropriation for the ensuing financial year:

Provided that no expenditure shall be deemed to be authorised by any such warrant in respect of any service for which no provision had been made during the previous financial year unless the Legislative Assembly by resolution specifically authorises such expenditure.

(2) All sums disbursed in pursuance of warrants issued under subsection (1) of this section shall be deemed to have been disbursed in anticipation of grants of the Legislature in an Appropriation Ordinance for the financial year in which the sums were disbursed and upon

the commencement of such Ordinance the said warrants shall cease to have effect and disbursements thereunder shall be deemed to have been made for the purposes of such Ordinance and shall be accounted for in accordance with the provisions thereof.

19. If at any time it appears to the Governor or the Minister to be necessary that a disbursement shall be made from the revenues for the purpose of meeting unforeseen expenditure upon any service by virtue of the fact that —

Issues of moneys to meet unforeseen expenditure.

- (a) certain expenditure is likely to be incurred in a financial year upon such service —
 - (i) thereby causing an excess on the sum provided for that service by the Appropriation Ordinance for that year; or
 - (ii) which being in respect of a new service, was not provided for by the Appropriation Ordinance relating to that year; and
- (b) the circumstances are such that the expenditure cannot without injury to the public interest be postponed until adequate provision is made by the Legislature,

the Governor or the Minister, as the case may be, may, by special warrant under his hand directed to the Accountant General, and in anticipation of grants being made by the Legislature, authorise the disbursement from the revenues of the sums which may be required from time to time for the purpose of meeting such expenditure:

Provided that —

- (a) the total sum authorised to be disbursed under this section and not covered by an Appropriation Ordinance or by a resolution of the Legislative Assembly approving such expenditure shall not at any time exceed five hundred thousand dollars or such greater sum as the Legislative Assembly may by resolution direct; and
- (b) any sum disbursed under this section shall be submitted for appropriation by a law of the Legislature or be included in estimates submitted for approval by the Legislative Assembly at the next sitting of the Legislative Assembly occurring after the expiration of a period of one month from the date of the warrant authorising the disbursement of that sum.

PART IV — AUDIT

20.(1) The Director of Audit shall examine in such manner as he deems necessary the accounts of all accounting officers and principal receivers of revenue and of all persons entrusted with the collection, receipt, custody, issue or payment of public moneys or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property.

Duties of Director of Audit.

(2) In the conduct of his examination the Director of Audit shall ascertain whether in his opinion —

- (a) the accounts have been faithfully and properly kept;
- (b) the rules and procedures framed and applied are sufficient to secure effective control on the assessment, collection and proper allocation of the revenues;
- (c) all money expended and charged to an appropriation account has been applied to the purpose or purposes for which the grants made by the Legislature were intended to provide and the expenditure conforms to the authority which governs it, and has been incurred with due regard to the avoidance of waste and extravagance; and
- (d) essential records are maintained and the rules and procedures framed and applied are sufficient to safeguard the control of stores and other public property.

Test audits,
defective
vouchers.

21.(1) Notwithstanding the provisions of section 20 of this Ordinance the Director of Audit may, after satisfying himself that the vouchers have been examined and certified as correct by the accounting department, in his discretion and having regard to the character of the departmental examination, in any particular case admit the sums so certified in support of the charges to which they relate without further examination.

(2) Where a voucher has been lost or destroyed, or where an existing voucher is defective in any respect, the Director of Audit, if satisfied with the explanation given by the responsible officer or with other evidence of the transaction, may dispense with the production of a voucher, or in the case of a defective voucher, accept such voucher.

Powers of
Director of
Audit.

22.(1) For the purpose of the examination of any account the Director of Audit shall be entitled at all reasonable times —

- (a) to have access to all books, records, vouchers, documents, returns, cash, stamps, securities, stores or other Government property in the possession of any officer;
- (b) to send for and have the custody of any books, accounts, vouchers or papers under the control of any officer relating to or in anywise concerning the public accounts, and to keep such books, accounts, vouchers or papers for such time as he may require them;
- (c) to call upon any officer for any explanation and information the Director of Audit may require in order to enable him to discharge his duties;

- (d) to require any department concerned to furnish him from time to time or at regular periods with accounts of the transactions of such department up to such date as he may specify;
- (e) without payment of any fee, to cause search to be made in and extracts to be taken from any book, document or record in any public office;
- (f) to summon and examine all persons whom he shall think fit to examine respecting the receipt or expenditure of money or the receipt or issue of any stores affected by the provisions of this Ordinance and respecting all other matters and things whatever necessary for the due performance and exercise of the duties and powers vested in him; and if any person summoned as aforesaid is not a public officer he shall be entitled to payment for his attendance as if he were a witness attending a legal proceeding in obedience to a summons issued at the instance of the Crown;
- (g) to lay before the Attorney General a case in writing as to any question regarding the interpretation of any Ordinance or regulation concerning the powers of the Director of Audit or the discharge of his duties, and the Attorney General shall give a written opinion on such case.

(2) Any person summoned under the provisions of paragraph (f) of subsection (1) of this section who without reasonable excuse makes default in obeying such summons shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty dollars or, in default of payment, to imprisonment for a period not exceeding one month.

23.(1) There shall be employed in the department of the Director of Audit such number and grades of officers as the Legislative Assembly may, by resolution, direct.

Audit
Department
officers.

(2) The Director of Audit may authorise any officer of his department to perform on his behalf any of his duties or functions under this Ordinance or any other Ordinance other than the certifying and reporting of accounts for the Legislature.

24. If at any time it appears to the Director of Audit that—

- (a) any irregularities have occurred in the collection, custody or expenditure of public moneys, or in the accounting for the same; or
- (b) any irregularities have occurred in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities stores, or other Government property, or in the accounting for the same; or

Notification of
irregularities
to Minister.

(c) any loss of or damage to Government property has not been duly reported to the Minister,

he shall immediately bring the matter to the notice of the Minister.

Certification
by Director
of Audit.

25. The Director of Audit shall examine and certify in accordance with the outcome of his examinations the several statements and accounts which are required to be submitted to him in accordance with this Ordinance.

Annual report
by Director
of Audit.

26. The Director of Audit shall report annually as soon as possible and not later than the 30th day of September following the close of each financial year the results of his examinations:

Provided that the Director of Audit may at any time if it appears to him to be desirable, transmit a special report on any matter incidental to his powers and duties under this Ordinance.

Audit of
accounts of
statutory
bodies.

27.(1) If the Legislative Assembly by resolution so directs, the accounts of any statutory body, being a public authority or other body administering public funds, shall, notwithstanding anything to the contrary contained in any other Ordinance, be audited by the Director of Audit.

(2) The Director of Audit shall report on his examination and audit of the accounts referred to in subsection (1) of this section and shall transmit such report to the appropriate Minister for presentation to both chambers of the Legislature:

Provided that the appropriate Minister shall obtain the observations of the statutory body concerned on any matter to which attention has been called by the Director of Audit in his report and such observations shall be presented to both chambers of the Legislature with such report.

(3) In the exercise of his duties under this section the Director of Audit may, with the concurrence of the appropriate Minister, authorise any person publicly carrying on the profession of accountant to inspect, examine or audit the books and accounts of any statutory body which the Director of Audit may be required to examine and audit in terms of this section and such person shall report thereon to the Director of Audit in such manner as the Director of Audit may direct.

Audit of
accounts at
Minister's
request.

28. The Director of Audit may, if so requested by the Minister, examine and report to the Minister the results of his examination of the accounts of any public authority or other body administering public funds; and the provisions of subsection (3) of the preceding section shall, *mutatis mutandis*, apply for the purpose of this section as they apply for the purpose of the preceding section.

Powers of
Director of
Audit in
auditing
accounts of
statutory and
other bodies.

29. In the exercise of his duties under sections 27 and 28 of this Ordinance in relation to statutory bodies, public authorities, bodies administering public funds and their employees, the Director of Audit shall have like powers as are vested in him for the purpose of examining accounts under sections 21 and 22 of this Ordinance, and the provisions of subsection (2) of the said section 22 shall have effect accordingly.

PART V -- GENERAL

30. The authority for expenditure conferred by an Appropriation Ordinance in respect of services during any financial year shall lapse after the close of that year. Duration of Appropriation Ordinance.

31. Nothing in this Ordinance shall extend to abridge or alter the rights and powers of Her Majesty to control, suspend or prevent the execution of any process or proceedings for recovering money due to the Government. Saving.

32. The Audit Department Ordinance is hereby repealed : Repeal. Cap. 69.
 Provided that any rules or regulations made thereunder and in operation at the commencement of this Ordinance shall, in so far as they are not inconsistent with the provisions of this Ordinance, continue in operation until revoked by regulations made under this Ordinance.

Passed by the Legislative Assembly on the 1st November, 1961.

Passed by the Senate, on the 14th November, 1961.

Clerk of the Legislature.

(L.A. Bill No. 2/1961).

F.S.-G 389/1953.