



## ANALYSIS

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1969, No. 4

An Act to consolidate and amend the law relating to the Treasury and to public moneys and public securities

(8 October 1969)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

PART I - PRELIMINARY

1. Short Title - This Act may be cited as the Public Moneys Act 1969.
2. Interpretation - In this Act, unless the context otherwise requires -

"Accounting Officer" means any imprecster, receiver, or other person who is required to render an account under this Act and includes any person who by any Act or regulation, or by virtue of any appointment, is charged with the duty of collecting or receiving or who does actually collect or receive any public money, or who is charged with the duty of disbursing or who does actually disburse any public money, or who is charged with the duty of accounting for any public money, or who is charged with the purchase, receipt, custody, or disposal of or the accounting for any public stores:  
"Act" includes Ordinance:

- "Audit Office" means the auditor appointed pursuant to Article 71 of the Constitution:  
"Bank" means any bank in which any public money is kept:  
"Constitution" means the Constitution of the Cook Islands:  
"Department" means any Department of State and includes the Legislative Service:  
"Estimates" means the statement of the proposed public revenues and expenditure during any financial year, as approved by the Legislative Assembly:  
"Financial Year" means a period of twelve months ending with the thirty-first day of December:  
"Government" means the Government of the Cook Islands:  
"Imprestee" means a person in whose hands any public money is placed for expenditure in the public service:  
"Public Account" means the Cook Islands Government Account referred to in Part V of the Constitution:  
"Public Money" means money cheques or securities of any kind (including public securities) for the payment of money received by for or on account of, or payable to, or belonging to, or deposited with the Government or any Department or agency of the Government, or received by any employee of the Government by virtue of his position as such:  
"Public Securities" means securities representing the investment of any public money:  
"Public Stores" or "Stores" include books, buildings, cheque forms, other forms, postage stamps, stationery, office requisites, vehicles, machinery, implements, livestock, all articles of a consumable or non-consumable nature, and all chattels and personal property in the possession or under the control of any Department on account of the Government:  
"Regulations" means regulations made under this Act:  
"Statement of Account" means the statement to be laid before the Legislative Assembly under Part VII of this Act:  
"Treasury" means Treasury established under this Act:  
"Vote" means a sum of money authorised to be spent on the public service by the Constitution, an annual Appropriation Act or any other Act appropriating the expenditure of public money.

PART II - THE TREASURY

3. The Minister - The Premier, pursuant to Article 16 of the Constitution, shall either retain in his charge the responsibility for finance, or charge one of the other Ministers appointed pursuant to Article 13 of the Constitution with that responsibility, and the Minister for the time being bearing that responsibility is herein called the Minister or the Minister of Finance.

4. The Treasury - There is hereby established a Department to be called the Treasury, which, under the control of the Minister, shall be charged with the general administration of this Act and with such other functions as may from time to time be lawfully conferred upon it.

5. The Financial Secretary - There shall from time to time be appointed as a member of the Public Service a Financial Secretary, who shall be the administrative head of the Treasury, and who shall be the principal financial adviser to the Government.

6. The Treasurer - (1) There may from time to time be appointed as a member of the Public Service a Treasurer who, subject to the control of the Financial Secretary, shall have and may exercise all the powers, duties, and functions of the Financial Secretary.

(2) On the occurrence from any cause of a vacancy in the office of Financial Secretary (whether by reason of death, resignation, or otherwise) or in case of the absence from duty of the Financial Secretary (from whatever cause arising), and so long as any such vacancy or absence continues, the Treasurer shall have and may exercise all the powers, duties, and functions of the Financial Secretary.

(3) The fact that the Treasurer exercises any power, duty or function of the Financial Secretary shall be conclusive evidence of his authority to do so.

7. Minister may delegate certain statutory functions -

(1) Except as otherwise provided in this section, the Minister may from time to time, by writing under his hand, delegate to the Financial Secretary all or any of the powers exercisable by him under this or any other Act.

(2) Every delegation by the Minister under this section shall be revocable at will, and no such delegation shall prevent the exercise by the Minister of any power that has been delegated by him.

(3) Any such delegation may be made subject to such restrictions and conditions (if any) as the Minister thinks fit, and may be made either generally or in relation to any particular case.

(4) Every such delegation shall, unless and until revoked, continue in force according to its tenor, notwithstanding the fact that the Minister by whom it was made or the Financial Secretary to whom it was made may have ceased to hold office, and in any such case every such delegation shall continue in force as if made by or to the successor in office of the Minister or the Financial Secretary, as the case may be.

(5) Nothing in the foregoing provisions of this section shall authorise the delegation by the Minister of his authority to borrow money under Section 24 of this Act.

8. Financial Secretary may delegate powers - (1) The Financial Secretary may from time to time, by writing under his hand, either generally or particularly, delegate to such officer or officers of the Treasury as he thinks fit all or any of the powers exercisable by him under this or any other Act, including any powers delegated to him under this or any other Act, but not including this present power of delegation.

(2) Subject to any general or special directions given or conditions attached by the Financial Secretary, the officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or to officers of a specified class, or may be made to the holder or holders for the time being of a specified office or class of office.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Financial Secretary.

(6) Every such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Financial Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Financial Secretary.

9. Financial Secretary may authorise accounting officers to perform certain functions - (1) The Financial Secretary may from time to time, by writing under his hand, either generally or particularly, authorise any accounting officer to receive any public money, and to give receipts or acknowledgments in respect of any such money and to endorse any cheque, draft, bill, or other negotiable document received in respect of any such money.

(2) Any accounting officer receiving any money pursuant to any authority conferred on him by the Financial Secretary shall pay the money into such bank or to the credit of such account as the Financial Secretary may direct.

(3) Subject to any general or special directions given or conditions attached by the Financial Secretary, any accounting officer on whom authority is conferred under this section may exercise that authority in the same manner and with the same effect as if it had been conferred on him directly by this section and not by delegation.

(4) Every person purporting to act pursuant to any authority under this section shall be presumed to be acting in accordance with terms of the authority in absence of proof to the contrary.

(5) Any authority under this section may be given to a specified officer or to officers of a specified class, or may be given to the holder or holders for the time being of a specified office or class of offices.

(6) Every authority given under this section shall be revocable at will, and no such authority shall prevent the exercise of any power by the Financial Secretary.

(7) Every such authority shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Financial Secretary by whom it was given may have ceased to hold office, and shall continue to have the same effect as if made by the successor in office of the Financial Secretary.

10. Substitute may represent Financial Secretary at meeting - In the absence of the Financial Secretary from any meeting of any Board or other body of which he is a member, he may authorise any other officer of the Treasury to attend the meeting in his stead. The fact that any other officer of the Treasury attends and acts as a member of any Board or other body at any meeting shall be conclusive proof of his authority to do so.

### PART III - BANKING

11. Banking business of the Government - (1) The Minister may from time to time agree with any bank upon terms and conditions for the conduct of the banking business of the Government and, in particular, for advances to be made to or by the bank under the authority of this or any other Act and for interest to be payable by or to the bank upon balances or advances respectively.

(2) Without limiting the powers conferred on the Minister by subsection (1) of this section, the Financial Secretary may from time to time make arrangements with any bank for the receipt, custody, payment, and transmission of public money within or outside the Cook Islands.

12. Public Account to be kept at Banks appointed by the Financial Secretary - The Public Account shall be kept at the National Bank of New Zealand Limited at Rarotonga and at such other banks as the Financial Secretary may from time to time direct. The Financial Secretary may transfer money within the Public Account from one bank to another or others.

13. Honouring of drafts - (1) The Financial Secretary may from time to time agree with any bank for the honouring by it of sight drafts drawn in accordance with directions from time to time given by him.

(2) Any amount paid by any bank on any such draft shall be repaid to that bank out of money available for payment for the purposes for which the amount has been applied.

14. Borrowing on overdraft - The Minister may from time to time borrow money from any bank by way of overdraft in anticipation of revenue payable into the Public Account:

Provided that all amounts borrowed under this section shall be repaid, together with interest thereon, not later than the end of the current financial year.

15. Banks to furnish statements - (1) Every bank at which any Government account of any nature is kept, shall send to the Treasury or to the Audit Office statements of such accounts as the Financial Secretary or the Audit Office may from time to time require.

(2) All such statements shall show such particulars of the accounts concerned as the Financial Secretary or the Audit Office may direct.

### PART IV - PUBLIC FUNDS

16. Public money - (1) All public money is the property of the Government, and shall, except as herein otherwise provided, be kept in one account at the National Bank of New Zealand Limited called the Public Account.

(2) All money paid into any bank to the Public Account shall be deemed to be public money, the property of the Government, and to be money lent by the Government to that bank, and may not be removed therefrom except as provided by the Constitution or this Act.

17. Funds in the Public Account - Notwithstanding that all public money shall be kept in one bank account, there shall be maintained such subsidiary accounts and separate funds as are required by this or any Act or which are necessary to make better provision for accounting for money in the Public Account.

18. Balances may be invested - (1) The Minister may from time to time invest any balances of the Public Account, or any part thereof, at call or for such period and on such terms as he thinks fit in such securities as Cabinet may from time to time declare to be securities in which such money may be invested.

(2) Interest earned on investments shall be credited to the several funds with the Public Account in such proportions as the Minister may from time to time determine.

(3) The Minister may from time to time sell and convert into money any such securities, and cause that money to be paid into the Public Account to the credit of the proper fund to which it belongs.

(4) The Minister may from time to time delegate all or any of his powers under the foregoing provisions of this section in respect of any balance in an account outside the Cook Islands to any person or persons authorised to operate on that account.

19. Temporary transfers from one fund to another - (1) The Minister may from time to time transfer any balances or any part thereof of any fund or account within the Public Account to another fund or account within the Public Account for such periods and on such terms as he may authorise.

(2) The money so transferred shall be considered to have been borrowed from the fund into which the transfer has been made, and shall be paid out and restored to the fund or account from which the transfer was made within one year of the date on which the transfer was made.

(3) There may be paid out of any fund or account which has so borrowed interest at such a rate as the Minister may from time to time determine on the amount borrowed or such portion as he may think fit. Any such interest shall be credited to such funds or accounts within the Public Account as the Minister may from time to time determine.

(4) Particulars of every such transfer made in any financial year shall be laid before the Legislative Assembly in the statement of accounts for that year.

20. Hypothecation of securities - (1) The Minister may from time to time, without further authority than this section, borrow by way of hypothecation of any securities in which are invested any balance of the Public Account.

(2) All money so borrowed shall be paid into the appropriate fund in respect of which the investments are held.

(3) All interest payable on the money so borrowed shall be statutory expenditure and shall be paid out of the relative fund.

(4) The repayment of any money borrowed under this section shall be statutory expenditure and shall be repaid out of the relative fund as soon as practicable.

(5) All money borrowed or repaid under this section shall be shown in the statement of accounts.

21. Government loans - (1) The Minister may raise money by way of loan by the invitation of public or private subscription and on such terms as to interest and repayment as he may determine.

(2) Money raised by way of loan shall be paid into the Loan Fund, established as a separate Fund within the Public Account and may be expended for purposes for which money has been appropriated by the Legislative Assembly.

(3) All interest payable and repayment of a loan in accordance with the terms thereof shall be statutory expenditure and is hereby appropriated accordingly.

#### PART V - APPROPRIATION OF PUBLIC REVENUES

22. Estimates - A detailed statement of the estimated receipts and expenditure for every financial year, showing separate amounts for each service, under votes and items, shall accompany each appropriation measure laid before the Legislative Assembly pursuant to Article 70 of the Constitution.

23. Expenditure in anticipation of appropriation - All expenditure in any financial year authorised under Article 70(3) (a) of the Constitution -

- (a) Shall accord with the estimates for that year; and
- (b) Shall be set off against the amount provided for the service on which it has been spent in an Appropriation Act for that financial year when that Act comes into force.

24. Unauthorised expenditure - All sums issued and paid under Article 70(3) (b) shall be charged as unauthorised expenditure to such funds or accounts as the Minister may direct.

25. Overexpenditure of items - Where the administrative head of any department is of the opinion that the amount provided in the estimates for any item will be insufficient to meet expenditure chargeable to that item, he shall report the particulars to the Financial Secretary, and in any such case the Minister, acting on the recommendation of the Minister in charge of the vote which includes that item and having regard to the circumstances of the case, may authorise the overexpenditure of the amount provided for that item. An approval given under this section may require a department to limit expenditure on any item under any vote appropriated by the Legislative Assembly.

26. Power to make contracts in excess of appropriation - (1) It shall be lawful for the High Commissioner, on the recommendation of the Minister of Finance, to enter into any contracts, or to incur any liabilities, in the name and on behalf of the Government, in anticipation or in excess of any appropriation, for carrying on any works and services for which money is appropriated by the Legislative Assembly.

(2) A copy of any such contract entered into by the High Commissioner under the provisions of this section shall be laid before the Legislative Assembly within twenty-eight days after the date of execution of the contract if the Assembly is then in session and if not shall be laid before the Assembly within twenty-eight days after the date of commencement of the next ensuing session.

27. Payments for which no specific appropriation - When any vote specified in any Appropriation Act contains an item for contingencies, that item shall be deemed to be an appropriation for expenditure on purposes other than those of the other items of the vote.

28. Authorisation and certification of expenditure - (1) Upon the passing by the Legislative Assembly of an Appropriation Act, the Minister responsible for a vote there-in may authorise expenditure on any item within that vote, up to but not in excess of the amount for that item in the estimates supporting the vote.

(2) In anticipation of provision to be made in an Appropriation Act, a Minister responsible for the works or services concerned may authorise expenditure on an item which has been approved by Cabinet for inclusion in the estimates in support of such proposed appropriation.

(3) The Financial Secretary may determine that any expenditure within an item is of a recurring nature and in such case the expenditure shall be deemed to have been authorised up to the limit of the item in the estimates supporting an Appropriation Act, or, in anticipation of an Appropriation Act, within the limit prescribed in subclause (3) (a) of Article 70 of the Constitution.

(4) The Financial Secretary shall appoint Certifying Officers who shall examine each account for payment to ensure that it has been properly authorised, the additions and computations are correct and that funds are available according to the provisions of this Act, within the item to be charged for the supplies or services for which payment is to be made.

(5) No money may be withdrawn from the Public Account otherwise than in payment of expenditure that has been duly authorised and certified in accordance with this section.

29. Delegation by a Minister - (1) Any Minister may from time to time, by writing under his hand, delegate to the head of a department for which the Minister is responsible, the powers and functions exercisable by him under section 28 of this Act.

(2) Every delegation by a Minister under this section shall be revocable at will, and no such delegation shall prevent the exercise by the Minister of any power that has been delegated by him.

(3) Any such delegation may be subject to such restrictions and conditions (if any) as the Minister thinks fit, and may be made either generally or in relation to any particular case.

(4) Every such delegation shall, unless and until revoked, continue in force according to its tenor notwithstanding the fact that the Minister by whom it was made or the head of department to whom it was made may have ceased to hold office, and in any such case every such delegation shall continue in force as if made by or to the successor in office of the Minister or the Head of Department, as the case may be.

30. Imprest - (1) Money may be issued by way of imprest from the Public Account for the purpose of effecting payment of amounts payable by the Government to such persons or to such accounts within or outside the Cook Islands, in the name of the Government or of the imprestee, and otherwise in such manner as the Financial Secretary from time to time may authorise.

(2) The Financial Secretary in such cases as he thinks fit may authorise an imprest or official account to be opened at a bank and operated in the name of any person, either personally or by his official designation, or in the name of an office.

(3) With the prior approval in writing of the Financial Secretary, more than one person may be authorised to operate any such account.

(4) Money required to be issued by way of imprest shall as far as practicable be charged against the vote, or other authority for the service for which the imprest is required; but the Financial Secretary may charge money by way of general imprest against the relative fund or account instead of a vote, or other authority, and in any such case the amount so charged shall be issued accordingly. Money so imprested on a charge to general imprest shall in due course be transferred to the several votes or authorities for the purposes of which the money is expended, and the amounts so transferred shall be credited to general imprest in respect of the relative fund or account.

Provided that money issued by way of general imprest shall not at any time exceed ten per cent of the total amount of all sums appropriated by the Appropriation Act then last passed.

31. Passing of payments without receipts - The Financial Secretary, on production of proof to his satisfaction that any receipts or other requisite papers have been lost or destroyed or that it is not possible to obtain or replace them, may order that any payment of public money be allowed as paid without the production of receipts, and the Audit Office may pass the payment accordingly.

32. Refunds - Any permanent head of any department shall at any time within six years of any sum being paid to his department, refund as statutory-expenditure all or so much of such sum as was not properly payable to the Government, whether or not application has been made for a refund.

PART VI - PUBLIC MONEYS 'OUTSIDE COOK ISLANDS

33. Overseas imprest and other special accounts - (1) The Financial Secretary may from time to time direct that any public money received outside the Cook Islands shall be paid into a bank for the credit of such imprest account or other special account as he may determine.

(2) Any such bank account may be operated on by any person appointed for that purpose by the Financial Secretary who may cancel the authority of any person to operate on any bank account, and may remove the money in any account, or such part of it as he thinks fit, from any bank to any other bank.

(3) No money shall be withdrawn from any bank account except in the manner provided by this Act.

(4) Any money in an overseas account may be utilised for expenditure approved under the provisions of the Constitution or this or any other Act and shall be deemed to have been issued by way of imprest under section 30 of this Act, and the provisions of that section shall, with the necessary modification, apply accordingly.

34. Notices of issue of cheques - Notice of the issue of every cheque drawn under section 33 of this Act shall be given by the person issuing it to the Financial Secretary in such form as he may from time to time direct. The Financial Secretary shall record the issue of the amount against the appropriate vote or other authority and fund or account.

PART VII - STATEMENT OF ACCOUNTS

35. Statement of accounts - (1) The Financial Secretary shall as soon as practicable after the end of each financial year, but not later than the end of the third month of the next succeeding financial year, prepare and send to the Audit Office a financial statement of transactions affecting the Public Account, including such separate accounts or funds as may be required to be, or may conveniently be kept within the Public Account under this or any other Act.

(2) The financial statements together with the report thereon by the Audit Office shall be forwarded to the Speaker of the Legislative Assembly.

36. Appropriation Account - The Financial Secretary shall include in the statement of accounts for each year an account to be called "the Appropriation Account" showing the several sums appropriated by the Legislative Assembly for the public service, and the expenditure thereon during the year, with the amount under-expended or over-expended on each vote severally or expended under the authority of Article 70(3) (b) of the Constitution.

37. Payments to be included in statement - (1) Every such statement of accounts and summary shall comprise all payments brought to charge by the Treasury during the period to which the statement or summary relates.

(2) Imprests unaccounted for at the end of any accounting period shall not be included in the payments but shall be shown as balances in hand.

38. Departmental accounts - (1) There shall be prepared after the end of each financial year, in such form and by such Government departments as the Minister may from time to time direct or approve statements of accounts showing the income and expenditure or profit and loss of the activities or operations conducted by the department, together with such balance sheets and particulars of costs as the Minister may require, whether the costs were appropriated by the Legislative Assembly or not. All such accounts shall be examined and reported upon by the Audit Office and laid before the Legislative Assembly.

(2) For the purposes of this section the Minister may determine that the financial year for any particular Department shall end on such date as he thinks fit.

#### PART VIII - REVOLVING FUNDS AND OPERATING ACCOUNTS

39. Revolving funds and operating accounts - (1) The Minister may establish such revolving funds and operating accounts as he considers necessary or desirable and shall define the purposes and limitations thereof.

(2) A statement of the purposes and limitations of any such account or fund shall be included in the estimates supporting any proposed appropriation to provide or increase the working capital of a revolving fund or to make provision for the net result of an operating account.

(3) For the purposes of section 28 of this Act, the receipts of the funds or accounts established under this section shall be deemed to have been appropriated for the purposes of the fund or account.

40. Public moneys - All money paid or payable to any fund that is subject to this Part of this Act shall be deemed to be public money, and the provisions of this Act shall apply accordingly subject to the provisions of this Part of this Act.

#### PART IX - TRUST FUNDS

41. Money collected for private persons - (1) Whenever, by virtue of any agreement made between the Government and any person, money belonging or due to that person is collected by the Government, that money so long as it is held by the Government shall be deemed to be and shall be dealt with as public money within the meaning of this Act; but that money or so much thereof as becomes payable to that person shall be statutory expenditure and shall be issued and paid to that person in such proportions, in such manner, and at such times as may be set forth in any such agreement.

(2) The Government shall not be liable to any such person for any money so payable into the Public Account except for money actually collected under any such agreement.

42. Deposits and trust money - (1) The following shall be deemed to be and shall be dealt with as public money within the meaning of this Act so long as they are held by the Government:-

- (a) Money deposited with any accounting officer pending the completion of a transaction whereby the money may become payable to the Government or repayable to the depositor or any other person;
- (b) Money paid into Court by virtue of any Act, rule or authority whatsoever; and
- (c) Money payable to the Government in trust for any purpose.

(2) Subject to this Act and the regulations all such public money shall be paid into the Public Account or otherwise dealt with and accounted for by the persons having custody thereof as the Minister, may from time to time direct.

43. Investment and payment of deposits and trust money - The Financial Secretary may, without further authority than this section, invest any particular sum or sums of public money subject to section 42 of this Act by way of deposit with any bank. The investment of any such sum or sums and the period of the investment shall be at the absolute discretion of the Financial Secretary, and no person shall have any right of action against him or against the Government in respect of the investment or non-investment of any such money. When any such sum becomes payable or repayable to the depositor or other person entitled thereto there shall be added any amount of interest certified by the Financial Secretary to have been earned thereon and deducted a reasonable charge for the Financial Secretary's service and the balance shall be statutory expenditure.

#### PART X - PUBLIC SECURITIES

44. Custody of public securities - (1) The Minister shall from time to time issue instructions to provide for -

- (a) The manner in which public securities are to be held;
- (b) The appointment of custodians for any public securities;
- (c) The circumstances in which custodians may part with any public securities.

(2) It shall not be lawful for the custodians to part with any public securities except in accordance with the instructions of the Minister:

Provided that nothing herein shall prejudicially affect any person purchasing or acquiring public securities in good faith and without notice.

45. Inspection of public securities - (1) At least once in each year all public securities shall be inspected by the Audit Office.

(2) The Audit Office shall lay before the Legislative Assembly within twenty-eight days after the commencement of its first session in each year or as soon thereafter as is practicable, a return of public securities held in Rarotonga or elsewhere at the end of the immediately preceding financial year. Every such return shall include a full account of all investments made under section 18 of this Act and of all securities redeemed or otherwise disposed of during the immediately preceding financial year.

46. Taking and release of securities to the Government -

(1) Wherever security is taken in respect of an advance of public money, unless the Act authorising the advance provides otherwise, the security shall be given to and taken in the name of the Government.

(2) Where any security is for the time being vested in the Government, whether it has become so vested before or after the commencement of this Act, the Minister may from time to time on behalf of the Government exercise any powers, functions, and rights (including any power of disposal), and undertake and perform any liabilities in respect of or in connection with the security which could be exercised, undertaken, or performed by the Government.

(3) A document purporting to be executed by the Minister under this section shall be deemed to have been duly executed on behalf of and shall bind the Government.

47. Expenditure for protection of public securities - (1)

Subject to Part V of the Constitution and to the provisions of this section, money may from time to time be expended out of any fund in the Public Account for the protection, preservation, and improvement of any real or personal property on the security of which any money in that fund has been lawfully invested, whether before or after the commencement of this Act. The authority conferred by this section may be exercised notwithstanding the prior exercise in respect of the mortgaged property of any power of sale or entry into possession.

(2) The authority conferred by this section shall extend to authorise the expenditure out of any fund in the Public Account of money required for the stocking and cultivation of any land (whether freehold or leasehold), the employment of labour thereon, the making of further advances to mortgagors, the carrying on of any farming business, and for such other purposes as may be considered necessary to prevent or minimise any loss on the realisation of any securities as aforesaid.

(3) No amount shall be expended under this section in respect of any property without the specific approval of the Minister of Finance on the recommendation of the Minister in charge of the vote to which the amount will be charged, if that amount, together with all other amounts advanced or expended in respect of that property and still outstanding, would exceed the amount of the valuation of the property.

(4) This section is in addition to and not in substitution for any powers or authorities conferred otherwise than by or pursuant to this section.

PART XI - OFFENCES

48. False declarations - Every person who makes any declaration or gives any certificate required to be made or given by this Act or by the regulations, knowing it to be false, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred dollars, or to both.

49. Neglect to pay public money into account or to make or furnish returns - (1) Every person holding any public money who refuses or neglects to pay it into the account into which it is payable shall be liable to a fine not exceeding two hundred dollars.

(2) Every person who refuses or neglects to make any return or furnish any account, vouchers, or other papers which he is required to make or furnish under this Act or any regulations made thereunder shall be liable to a fine not exceeding forty dollars.

50. General penalty - Every person who is guilty of any wilful act of commission or omission contrary to any of the provisions of this Act for which no penalty is expressly provided shall be liable to a fine not exceeding one hundred dollars.

51. Who may lay information - All fines incurred under this Act shall, except where it is otherwise expressly provided, be recovered upon the information of any person appointed by the Minister in that behalf either generally or in a particular case.

PART XII - GENERAL PROVISIONS

52. Financial Secretary may inspect Government offices, etc. - The Financial Secretary and any officer deputed by him -

- (a) Shall be entitled at any time to inspect any Government office
- (b) Shall be given all available information he may require with regard to public money and public stores and to all documents and records in respect thereof; and
- (c) Shall be entitled at any time to inspect such moneys, stores, documents and records.

53. Internal Audit - Following any inspection conducted pursuant to the preceding section, the Financial Secretary may make recommendations to the Minister responsible for the administration of the Government office concerned, and to the Public Service Commission, regarding the procedures and staffing required for the exercise of internal audit and control of receipts and payments of public moneys.

54. Departments to maintain records and furnish information - The Financial Secretary may require departments to maintain such records and statistics and to furnish information as he may require for the preparation of functional budgets and economic analysis and financial control of public expenditure.

55. Premiums and cost of exchange on remittance of public money - The premiums earned or the cost of the exchange incurred, as the case may be, on receipts or remittances of public money from or to any country outside the Cook Islands shall be credited or debited to or between such funds, in such manner, and in such proportions as the Minister may direct and any such debit shall be statutory expenditure.

56. Payments on behalf of other Governments - (1) The Minister may from time to time pay out of the Public Account any money required for the purpose of making payments on behalf of -

- (a) Any other Government:



- (b) The United Nations or any specialised agency thereof; or  
 (c) The South Pacific Commission or any agency thereof;

and such payments shall be statutory expenditure.

(2) Payments shall not be made under this section unless the Minister is reasonably satisfied that arrangements have been made for the Government or other body concerned to repay to the Public Account any payments made on its behalf.

57. Advances of salary, allowances and expenses - The following advances may be made from time to time out of the Public Account to or on behalf of any Minister, officer or other Member of the Legislative Assembly or other person in the service of the Government about to travel overseas on behalf of the Government -

- (a) An advance of salary not exceeding any amount of salary already accrued due at the date of advance plus the amount which will accrue due in respect of his expected period of absence overseas; and  
 (b) An advance for travelling allowances and expenses not exceeding the estimated amount which the Government will ultimately be liable to pay or bear.

58. Advances under contracts - The Minister on the recommendation of the Minister in charge of the vote to which the amount will be charged may from time to time make out of the Public Account to any contractor with the Government any advance payable in terms of the contract on account of, or repayable out of, the contract price, notwithstanding that the contractor has not previously performed work to the value of the advance.

59. Guarantee policies in addition to or instead of bond - (1) Wherever by any Act (whether passed before or after the commencement of this Act) any person (whether a public officer or servant or not) is required to give security to the Government for any purpose whatsoever by bond, it shall be lawful for the Minister, Financial Secretary, or other officer whose duty it is to approve of the security tendered, to accept instead of or in addition to any bond or bonds the guarantee, bond, or policy of any company, society, or association approved by him established and carrying on business within or outside the Cook Islands.

(2) Nothing in this section shall apply to any bond, recognisance, or security which is required from any plaintiff, defendant, petitioner, complainant, executor, administrator, curator, receiver, guardian, or other person in the course of any proceedings in any Court.

60. Payments without probate - (1) On the death of any person to whom any sum of money not exceeding four hundred dollars may be payable by the Government, the Financial Secretary, on being satisfied of the expediency of dispensing with probate or letters of administration, may authorise the payment of that sum or any parts thereof to any person or persons whom the Financial Secretary may consider to be entitled thereto without requiring the production of probate or letters of administration.

(2) Any payment made under this section shall be valid against all persons whatsoever, and all persons acting under its provision shall be absolutely discharged from all liability in respect of any money duly paid or applied by them under this section.

61. Succession in case of death, bankruptcy, etc. - On the death, resignation, or removal of any accounting officer the balances remaining at the credit of his public or official account in any bank shall on the appointment of his successor vest in and be transferred to the public or official account of the successor at the said bank, or otherwise dealt with as the Financial Secretary may direct; and on the death, bankruptcy, or insolvency of any such accounting officer those balances shall not constitute assets of his estate or be in any manner subject to the control of his legal representative, assignee, or trustee.

62. Recovery of money due to Government - (1) Every accounting officer or person into whose hands or under whose control any public money or stores come shall be deemed to owe to the Government all such money or the value of all such stores for which he has not accounted in such manner as the Financial Secretary may direct; and all such money or the value of all such stores, together with full costs of suit, shall be recoverable in any Court of competent jurisdiction as money due to the Government.

(2) If it appears to the Financial Secretary and is confirmed by the Audit Office that money is due to the Public Account on account of overpayment to any person due to mistake of fact, failure of any person to pay for any service for which a charge has been lawfully made, or failure to repay any loan or advance in terms of the agreement under which the advance or loan was made or granted, the matter shall be reported to the Minister who may direct that no amount payable to or claimed by that person shall be paid until the overpayment or debt has been recovered:

Provided that the amount withheld under this section shall not exceed one-fifth of the net salary or wage of that person for any pay period.

(3) The exercise by the Minister of the authority contained in the preceding section shall not affect the right of the Government to sue for recovery by process of law.

63. Set off - The Government may set off against the claim of any person against the Government, and of any person claiming by through or under that person, any public money for which the first-mentioned person is indebted to the Government by reason of misappropriation or failure to account, and any debt for which the Government holds his acknowledgment in writing and which is not statute-barred, whether the respective claims and debts concern the same or different Government Departments, and arose before or after this Act came into force.

64. Irrecoverable losses - (1) Any losses of public moneys or stores which appear to the Minister to be irrecoverable may be written off.

(2) A schedule of amounts written off shall be included in the statement of accounts presented to the Audit Office pursuant to section 35 of this Act.

(3) No write off made under this section shall absolve a debtor from honouring a debt to the Government that is not statute barred and any such debt may be revived in connection with any subsequent transactions between the debtor and the Government.

65. Public stores - The provisions of this Act, and of any regulations or instructions made thereunder in their application to public money shall with any necessary modifications apply to public stores.

66. Regulations - (1) The High Commissioner, by Order in Executive Council, may from time to time make all such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Act and for the due administration thereof, and, in particular for all or any of the following purposes -

- (a) For regulating the collection, receipt, custody, banking, issue, expenditure, care, and management of public money, and generally for the guidance of all persons concerned therein;
- (b) For regulating the purchase, receipt, custody, issue, and for the rendering of accounts in respect of public stores and services.

(2) Any such regulations may impose on any accounting officer or other person concerned in the collection, receipt, custody, or expenditure of public money or stores a fine not exceeding twenty dollars for the breach of any regulation, or for any error in any account that he may be liable to render or for the failure to carry out any lawful direction or instruction of the Financial Secretary, and any such fine may be imposed by the order of the Financial Secretary, and may be recovered either as a debt due to the Government or by deducting it from any money due or thereafter becoming due to the person incurring the fine.

(3) All regulations made under this section shall be laid before the Legislative Assembly by the Minister within twenty-eight days of the date of the making thereof if the Assembly is then in session, and, if not, shall be laid before the Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

67. Treasury instructions - All accounting officers and other persons concerned in the collection, receipt, custody, expenditure or issue of public money or stores shall, subject to the provisions of this Act and of any regulations made thereunder observe any instructions issued from time to time by the Financial Secretary with respect to the same.

68. Repeal and revocation - The Public Revenues Ordinance 1958 is hereby repealed and the Treasury Rules made thereunder are hereby revoked.

This Act is administered in the Treasury.