

Public Finances (Management)

PART III. - PUBLIC ACCOUNT.

10. PUBLIC ACCOUNTS.

- (1) There shall be a Public Account for each of –
 - (a) the National Government; and
 - (b) a Provincial Government or a Local-level Government established under the ***Organic Law on Provincial Governments and Local-level Governments***.
- (2) A Public Account established by Subsection (1) shall consist of –
 - (a) in the case of the National Government –
 - (i) the Consolidated Revenue Fund; and
 - (ii) the Trust Fund; and
 - (b) in the case of a Provincial Government or a Local-level Government –
 - (i) a General Revenue Fund; and
 - (ii) a Trust Fund.

(Section 10 repealed and replaced by No 12 of 2003)

11. KEEPING OF PUBLIC ACCOUNT.

(1) Subject to this Act, public moneys shall be kept in such bank or banks as the Departmental Head of the Department responsible for financial management (subject to any specific directions of the Minister) directs, but where banking facilities do not exist public moneys shall be kept in such manner as the Departmental Head of the Department responsible for financial management (subject to any specific directions from the Minister) directs.

(2) No bank account may be opened or operated without the consent in writing of the Departmental Head of the Department responsible for financial management.

12. INVESTMENT OF PUBLIC ACCOUNT.

(1) The Departmental Head of the Department responsible for financial management (subject to any specific directions from the Minister) may invest moneys forming part of the Public Account and not immediately required -

- (a) in the securities of any money market towards which the Central Bank acts as lender of last resort; or
- (b) on deposit in a bank; or
- (c) in any securities of, or guaranteed by, the State; or
- (d) in the case of any moneys standing to the credit of the Trust Fund, in accordance with any trust instrument relating to the investment of those moneys; or
- (e) in any other manner approved by the Head of State, acting on advice.

(2) Investment of moneys out of the Trust Fund shall be deemed to be part of the Trust Fund, but subject to anything to the contrary in any law or in a trust instrument relating to any such moneys, the interest on any such investments shall be paid into the Consolidated Revenue Fund.

(3) Investment of moneys out of the Consolidated Revenue Fund, and the interest on any such investments, form part of the Fund.

(4) Investment of any moneys standing to the credit of the Trust Fund or of the Consolidated Revenue Fund shall be made only on the authority of the Departmental Head of the Department responsible for financial management.

13. PAYMENTS INTO THE CONSOLIDATED REVENUE FUND.

(1) All public moneys including loan moneys but not including -
(a) moneys payable under any law into or on account of the Trust Fund; or
(b) amounts advanced to a Trust Account by an overseas agency, by way of either loan or grant, for the purpose of funding an agreed project,
shall be paid into the Consolidated Revenue Fund.

(2) All moneys that are -
(a) deposited with a bank; or
(b) invested under Section 12; or
(c) advanced in accordance with this Act,
out of or on behalf of the Consolidated Revenue Fund shall be deemed to be part of that fund for the purposes of this Act.

(3) There shall be paid to the Consolidated Revenue Fund all amounts payable to it under this Act or any other law.

14. PAYMENTS OUT OF CONSOLIDATED REVENUE FUND.

(1) No moneys shall be paid out of the Consolidated Revenue Fund except -
(a) moneys appropriated under an Act; or
(b) moneys deemed to have been appropriated under an Act; or
(c) to meet expenditure that is charged on the Consolidated Revenue Fund by a law; or
(d) for the payment of a refund of revenue required or permitted by any law where specific authority for the payment does not exist; or
(e) for the payment of revenue refunds provided for under any income tax, customs, stamp duty or other revenue law; or
(f) subject to Subsection (2), if at the beginning of a fiscal year the Parliament has not made provision for public expenditure or expenditure by the Parliament or the Judiciary for their respective services for that year and -
(i) in the case of the National Executive - the Head of State, acting on advice; or
(ii) in the case of the Parliament - the Speaker; or
(iii) in the case of the Judiciary - the Chief Justice,
has authorized the issue and expenditure of moneys out of the Consolidated Revenue Fund for the purposes of government services, the services of the Parliament or the services of the Judiciary respectively.

(2) The amounts which may be authorized for the National Executive, the Parliament or the Judiciary respectively under Subsection (1)(f) shall not exceed in total one third of the budgeted expenditure during the immediately preceding fiscal year by the National Executive, the Parliament or the Judiciary respectively.

15. ESTABLISHMENT OF TRUST ACCOUNTS.

Within the Trust Fund, Trust Accounts may be established as directed by the Minister or prescribed by any other law -

- (a) to receive moneys held by the State as trustee; or
- (b) to receive the proceeds of commercial or trading activities carried on by any arm, agents or instrumentality of the State; or
- (c) for such other purpose as may be approved by the Minister.

16. PAYMENTS INTO TRUST ACCOUNTS.

(1) There shall be paid to the credit of a Trust Account -

- (a) all moneys appropriated for the purpose of the Account; and
- (b) all moneys received from any dealing with any articles purchased or produced, or for work paid for, with moneys standing to the credit of the Account; and
- (c) all moneys paid by any person for the purposes of the Account; and
- (d) amounts appropriated as Government contribution to a project which is partly funded by an international agency, whether by way of loan or grant.

(2) Subject to Subsection (1), transfers of funds from Consolidated Revenue Fund to Trust Fund are prohibited unless a special transfer is authorized by an Appropriation Act.

(Subsection (2) repealed and replaced by No.14 of 1998).

17. PAYMENTS OUT OF TRUST ACCOUNTS.

Moneys may be paid out of a Trust Account only -

- (a) for the purposes of the Account or as authorized by law; and
- (b) if a sufficient credit is available in the Account.

18. MONEYS AT CREDIT OF TRUST ACCOUNT NOT TO LAPSE.

Moneys standing to the credit of a Trust Account at the end of a fiscal year shall not lapse at the end of that fiscal year.

19. MANAGEMENT OF TRUST ACCOUNT.

(1) The Departmental Head of the Department responsible for financial management shall notify each Departmental Head of the Trust Accounts for which he is responsible.

(2) A Departmental Head of a Department responsible for a Trust Account shall ensure the proper management and operation of that account.

(3) In relation to a Trust Account for which he is responsible, the Departmental Head of the Department shall, before the commencement of each fiscal year, submit to the Departmental Head of the Department responsible for financial management, in the prescribed form, an estimate of receipts and payments expected to be made into and withdrawn from that Account.

(4) A Departmental Head of a Department responsible for a Trust Account -

- (a) may authorize payment out of that Account in accordance with the estimate of receipts and payments submitted under Subsection (3) and agreed by the Departmental Head of the Department responsible for financial management; and
- (b) may delegate, either conditionally or unconditionally, the power to authorize withdrawals under Paragraph (a); and
- (c) shall maintain such records pertaining to the Account as are required by the Departmental Head of the Department responsible for financial management and shall submit to him within seven days after the end of each month, details of transactions on the account; and
- (d) shall, at the end of each fiscal year, submit to the Departmental Head of the Department responsible for financial management, a statement of the account for the preceding year.

(5) The Departmental Head of the Department responsible for financial management may -

- (a) suspend the operation of a Trust Account where the provisions of this Part are not complied with; and
- (b) take over the responsibility for the Account.

(6) The Departmental Head of the Department responsible for financial management may, at such intervals as he determines and after consultation with the Departmental Head of the Department responsible for a Trust Account, authorize the transfer of the surplus in that Trust Account to the Consolidated Revenue Fund.

20. UNCLAIMED TRUST FUND MONEYS.

(1) All moneys standing to the credit of the Trust Fund that have remained unclaimed for not less than two years after they have become payable from the Fund shall be paid to the Consolidated Revenue Fund.

(2) For the purposes of Subsection (1), a sum that is payable on application or on demand shall be deemed to become payable when a right to apply or to make a demand accrues.

(3) The preceding provisions of this section do not affect the liability of the State to pay the amount of any sum to which those provisions apply.

21. CLOSING OF TRUST ACCOUNTS.

(1) The Minister may direct that any Trust Account be closed.

(2) After all liabilities of the Account have been met, the balance shall be dealt with in accordance with any trust instrument governing dealings with the moneys on the failure or expiration of the trust, and if there is no such instrument or if the trust instrument makes no provision for dealing with the trust moneys on the failure or expiration of the trust the balance shall be paid to the Consolidated Revenue Fund.