

THE FINANCIAL ADMINISTRATION AND AUDIT ACT

REGULATIONS

(under sections 8, 14(3), 24A(3), 35, 39, 40 and 50(1))

The Financial Management Regulations, 2011

L.N. 44¹¹/A/2011
68/2015

REGULATIONS

(under section 17)

The Financial Administration (Supplies) Regulations, 1963

L.N. 149/63
304/76

REGULATIONS

(under section 50)

The Financial Administration and Audit (Fiscal Responsibility Framework) Regulations, 2012

L.N. 45D/2012
67/2015

THE FINANCIAL ADMINISTRATION AND AUDIT ACT

REGULATIONS

(under sections 8, 14(3), 24A(3), 35, 39, 40 and 50(1))

THE FINANCIAL MANAGEMENT REGULATIONS, 2011

(Made by the Minister on the 17th day of February, 2011)

L.N. 44¹¹/A/2011
68/2015

PART I. Preliminary

1. These Regulations may be cited as the Financial Management Regulations, 2011. Citation.

2. In this Regulations, unless the context otherwise requires— Interpretation.

“automated communications device” means a computer programme or an electronic or other automated device used to initiate or respond to electronic communications in whole or in part, without review or action by an individual;

“budget call” means a written directive issued by the Minister to accounting officers during a financial year for the submission of proposals for their departments,—

(a) operational plans in respect of the ensuing financial year; and

(b) corporate plans and budgets in respect of the ensuing financial year and the three financial years following the ensuing financial year;

“certifying authority” means the public body that issues electronic certificates;

“data” includes—

(a) any material stored, in whatever form, in an electronic communication system;

(b) the whole or part of a computer programme; and

(c) a representation suitable for processing in an electronic communications system;

“electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities, and references to carrying out any act “electronically” shall be similarly construed;

“electronic certificate” means any record that—

(a) identifies the person or body that issues it;

- (b) names or otherwise identifies the signatory or a device (including an automated communications device) under the control of the signatory;
- (c) specifies its operational period;
- (d) is digitally signed by the person or body that issues it;
- (e) contains a public key that corresponds to a private key under the control of the originator of the electronic document to which the certificate relates; and
- (f) specifies any other matter required to be specified under these Regulations;

“electronic document” means information that is created, generated, communicated, stored, displayed or processed by electronic means;

“electronic communications system” means a system for creating, generating, sending, receiving, storing, displaying or otherwise processing electronic documents or data;

“electronic information” includes data, text, images, videos, sounds, codes, computer programmes, software and databases;

“electronic record” means a record created, stored, generated, received, or communicated by electronic means;

“electronic signature” means information that—

- (a) is contained in, attached to or logically associated with an electronic document; and
- (b) is used by a signatory to indicate his adoption of the content of that document, but does not include any signature produced by a facsimile machine or by an electronic scanning device;

“Government property” means land, buildings, furniture, equipment, fixtures, inventory, stores, supplies, artifacts and other assets, both tangible and intangible, owned by the Government;

“official receipt” means a receipt prescribed by the Financial Secretary for the collection of public funds;

“performance reports” means reports designed to provide information on the achievement of performance targets;

“Principal Receiver of Revenue” means any officer charged with the duties and responsibilities for collecting and accounting for revenue;

“private key” means an encryption or decryption value known only to the party or parties that exchange secret messages;

“public key” means a value provided by some authority to enable encrypted messages to be electronically transmitted and exchanged securely when combined with a private key;

“signatory (electronic)” means a person who by means of an encrypted signature creation device has (whether acting himself or through another person, or an automated communications device, acting on his behalf) affix his encrypted signature to an electronic document;

“supplementary estimates” means revision to the original approved budget passed by the Houses of Parliament;

“traffic data” means information about the communication of data using an electronic communications system, including the—

- (a) number and kind of communications;
- (b) origin of the communication;
- (c) destination of the communication;
- (d) time when the communication was sent; and
- (e) time when the communication was received;

“Treasury deposits” means funds held by the Accountant-General pending repayment or application to the purposes for which they were deposited as established by law or otherwise or any other deposits of which the Accountant-General is the custodian (other than Trust Funds or the balances of the Consolidated Fund and the Contingencies Fund).

3.—(1) These Regulations apply to all departments.

Application.

(2) Reference in these Regulations to a department includes a Ministry and, except where the context otherwise requires, a public body which is designated as an Executive Agency pursuant to the Executive Agencies Act and any other public body.

PART II. Management of the Consolidated Fund

4. The establishment or closure of a Consolidated Fund Subsidiary Bank Account shall be approved by the Financial Secretary.

Establishment and closure of Consolidated Fund Subsidiary Bank Accounts.

5.—(1) The books of account of the Consolidated Fund shall be maintained by the Accountant-General on a double entry basis and in accordance with the accounting policies and standards prescribed by the Financial Secretary.

Consolidated Fund Books of Account.

(2) A cash book or ledger account shall be maintained for each Consolidated Fund Bank Account and shall be reconciled at least once per month.

(3) Cash books and ledger accounts for Consolidated Fund External Accounts and Consolidated Fund Foreign Currency Accounts shall be maintained in the relevant foreign currencies along with the Jamaican dollar equivalent based on the daily Bank of Jamaica's weighted average rate of exchange.

(4) Foreign exchange differences incurred between the standard rate of exchange and the actual rate of exchange shall be transferred to a Foreign Exchange Adjustment Account in the books of accounts of the Consolidated Fund.

(5) The Foreign Exchange Adjustment Account shall form a part of the assets and liabilities of the Consolidated Fund and shall be disposed of in a manner approved by the Minister.

Bank and other charges on Consolidated Fund Operations.

6. Bank and other charges on any Consolidated Fund Bank Account shall be paid from an appropriation under the control of the Account-General.

Withdrawal from Consolidated Fund.

7. Withdrawals from the Consolidated Fund shall not exceed the limit set by the warrant.

Treasury Deposits

Accountant-General to maintain a Treasury Deposit Account.

8. The Accountant-General shall maintain a deposit account referred to as "the Treasury Deposits Account" in which shall be deposited all funds which are held for payment to a third party or for purposes stipulated by the depositor or for any other purposes prescribed by law or by the Financial Secretary.

Unclaimed Treasury deposits.

9. Unclaimed funds held on Treasury deposits for a period of six years shall be paid to the Consolidated Fund.

Refund of Treasury deposits paid to Consolidated Fund.

10. Where any person entitled to a deposit which has been paid over to the Consolidated Fund, subsequently proves, to the satisfaction of the Financial Secretary, his claim to that deposit, the Financial Secretary shall thereupon approve a refund by the Accountant-General of the amount to that person.

PART IIA. Preparation and Submission of Annual Estimates

Responsibility for preparing annual estimates of expenditure.

11.—(1) The accounting officer shall ensure that the draft estimates relating to his department are prepared in conformity with these Regulations.

(2) The accounting officer is responsible, in particular, for ensuring that—

- (a) all services which can be reasonably foreseen are included in the estimates and that they are within the capacity of his department during the financial year;

- (b) the estimates have been prepared as completely and accurately as possible;
- (c) the estimates have been framed with due regard to economy and efficiency;
- (d) the requisite authority has been obtained, where necessary, before provision is made in the estimates; and
- (e) estimates are submitted in due time and in proper form.

12.—(1) The Minister shall issue a directive known as a “Budget Call” no later than September 30th of each year. Budget Call.

(2) The Budget Call shall require every department to submit in respect of the upcoming financial year, its—

- (a) corporate plan;
- (b) operation plan;
- (c) procurement plan;
- (d) expenditure and revenue budgets;
- (e) cash flow forecast;
- (f) Permanent Secretary’s memorandum; and
- (g) any other document prescribed by the Minister.

(3) The following matters to be approved by the Cabinet as part of the updated Fiscal Policy Paper shall be set out in the Budget Call issued during a financial year—

- (a) the policy direction of the Government for the ensuing financial year and for the medium term following the ensuing financial year, having regard to development plans, fiscal policy, public investment policy and analysis of the performance of existing policies and programs;
- (b) the priorities of the Government with regard to the budget for the ensuing financial year and for the medium term following the ensuing financial year;
- (c) the economic and fiscal parameters that are to govern the preparation of the estimates of revenue and expenditure for the ensuing financial year and for the medium term following the ensuing financial year; and
- (d) the expenditure ceilings within which public entities are to prepare their budgets for the ensuing financial year and for the medium term following the ensuing financial year.

(4) For the purposes of paragraph (3), “medium term” in relation to an ensuing financial year means the three financial years following that ensuing financial year.

Corporate Plan.

13. The corporate plan shall be—

- (a) realistic;
- (b) guided by the medium term socio-economic plan of the Government;
- (c) aligned within the priority policy objectives of Cabinet; and
- (d) developed within available resources.

Permanent Secretary's budget memorandum.

14. The Permanent Secretary's memorandum on the budget proposal shall include—

- (a) a policy and programme direction for the upcoming year;
- (b) a report on the current year's performance;
- (c) an indication of the priority programmes for the upcoming year;
- (d) an indication of the extent to which the ministry will be able to fulfill its mandate and objectives in the context of the expenditure parameters; and
- (e) priority programmes which might be affected by expenditure limits and the implications on the ministry's performance.

Matters to be taken into consideration when preparing estimates,

15. In preparing the estimates, special attention shall be given to—

- (a) the compensation of employees, which should accurately reflect the minimum staff required to effectively deliver the organization's programmes within the available resources;
- (b) full details of the allocation requested for consultancy payments and contract officers, showing the purpose of these services, contract period and annual cost; and
- (c) unpaid bills at the end of the current year which shall be carried forward to the upcoming year and be a first charge on the approved budget of that year.

16. [Deleted by L.N. 66/2015.]

Draft budget to be signed.

17. Draft budgets and plans submitted to the Financial Secretary by a department shall be prepared and submitted under the signature of the accounting officer.*Introduction of Appropriation Bill*

Time for introduction of Appropriation Bill.

17A. The Minister shall cause the Appropriation Bill in respect of each financial year to be laid in the House of Representatives no later than one week after the Standing Finance Committee has completed its examination of the estimates of revenue and expenditure in respect of that financial year.

Vote-On-Account

Vote-on-Account.

18.—(1) Accounting officers shall upon the passing of the vote-on-account by resolution of the House of Representatives make the necessary entries in their books in respect of the amounts approved.

(2) Upon passing of the Appropriation Bill, accounting officers shall reverse the Vote-On-Account entries in their books and replace the entries with the approved vote.

Supplementary Estimates

19.—(1) In cases where services were not contemplated when the estimates were presented and approved, or where a temporary advance from the Contingencies Fund was sanctioned by the Minister of Finance, Parliamentary approval shall be sought at the earliest opportunity by way of a supplementary estimate.

Supplementary estimates

(2) Notwithstanding the Parliamentary approval of the vote, expenditure shall be controlled by the warrant instrument which regulates such expenditure and by a proper system of commitment planning and control established and maintained by the accounting officer.

20. Accounting officers shall, upon the request of the Financial Secretary, submit proposals for adjustments to the voted provision to be incorporated in supplementary estimates.

Proposals for adjustments

21.—(1) Subject to paragraphs (2) and (3), where the operating requirements of a department make it necessary to reallocate expenditure within the non-wage recurrent component of the approved budget, the accounting officer for the department may authorize the use of savings on expenditure identified under one or more classifications in the budget to offset expenditure under other classifications in the budget.

Reallocation of expenditure.

(2) An accounting officer may not authorize a reallocation in respect of any of the following—

- (a) reallocation of expenditure that is budgeted as compensation for employees of a department;
- (b) reallocation of expenditure that is budgeted for a public investment project;
- (c) reallocation of expenditure to any service, programme or activity that is not provided for by an Appropriation Act.

(3) All reallocations shall be incorporated in the supplementary estimates.

(4) This regulation shall have effect for the financial year beginning on April 1, 2015 and for subsequent financial years.

22. The Minister may delegate to accounting officers the authority to vire under specified terms and conditions.

Minister may delegate authority to vire.

PART III. Administration Accounting Officers

23. Accounting officer upon receipt of a *Letter of Appointment as accounting officer* in the form set out in Schedule B shall signify acceptance of the appointment by signing and submitting a copy of the letter to the Minister

Acceptance of Appointment by accounting officers.

Temporary
appointment of
accounting officers.

24. Acting Permanent Secretaries and designated public officers may be appointed accounting officer by the Minister on a temporary basis.

Accountable Officers

Appointment
of accountable
officers.

25.—(1) Accounting officers shall appoint public officers in their departments as accountable officers based on their functions in accordance with section 24F of the Act.

Schedule C.

(2) An appointment as an accountable officer shall be in writing in the form set out in Schedule C.

Acceptance of
appointment by
accountable
officers.

26.—(1) Accountable officer shall signify acceptance of the appointment by signing and submitting a copy of the appointment letter to the accounting officer.

(2) A copy of the letter shall be submitted to the Financial Secretary.

Register of
accountable
officers.

27.—(1) Accounting officers shall maintain a register of all accountable officers in their departments.

(2) A list of all appointed accountable officers and their positions shall be submitted to the Financial Secretary within thirty days following the end of each financial year.

Official Bank Accounts

Treasury
Single Bank
Account.

28.—(1) Under the Central Treasury Management Systems, Government shall operate a Treasury Single Bank Account for its operations.

(2) Notwithstanding paragraph (1), the Financial Secretary in special circumstances may approve bank accounts to be operated by departments.

Electronic
bank statements.

29. Electronic bank statements may be used to reconcile monthly bank accounts.

Bank recon-
ciliation

30.—(1) Accounting and accountable officers shall ensure that official bank accounts are not overdrawn.

(2) Accounting and accountable officers may be surcharged for—

- (a) any deficiency or loss resulting from failure to reconcile official bank accounts within the prescribed period;
- (b) the interest charges on any overdrawn official bank account where no prior written approval was granted by the Financial Secretary in respect of such overdraft.

(3) The Financial Secretary shall prescribe the procedures for the opening and closing of official bank accounts.

Collection of Public Moneys

Assignment
of officers
to collect
money.

31. An accountable officer shall not assign the duty of collecting public moneys to any person other than a permanently appointed officer, except in exceptional circumstances where written approval is given by the accounting officer.

Issue of official
receipts.

32. Except where otherwise provided, officers collecting public funds shall issue official receipts on the form prescribed or approved by the Financial Secretary for all sums collected.

33.—(1) A public officer shall not issue or print any form of receipt to be used as an official receipt without the prior written approval of the Financial Secretary.

Restriction on issue or printing of receipt forms or books.

(2) A person who contravenes paragraph (1) commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

34. Receipts shall be issued at the time of payment, and in no circumstances, shall the issue of receipts be delayed or unofficial receipts used.

Issue of receipts.

35.—(1) Receipts may be in the form of an electronic document produced by an electronic communications system.

Computer-generated receipts.

(2) Departments shall seek the prior approval of the Financial Secretary for the use of computer-generated receipts.

(3) Principal Receivers of Revenues and other accountable officers shall be responsible for the adequacy of the internal control procedures established for the use of computer generated receipts.

36.—(1) Revenues and other receipt of public funds may be collected through debit and credit cards issued by locally licensed financial institutions provided that the sum to be paid is the minimum amount prescribed by the Financial Secretary.

Receipt of public monies using point of sale machines.

(2) Principal Receivers of Revenues and other accountable officers shall ensure that for all amounts credited directly to the revenue or any other official bank accounts—

- (a) the source and purpose of the amount is identified;
- (b) an electronic document or other appropriate form of advice is submitted promptly to the payer notifying the amount received; and
- (c) the appropriate accounting entries are made in the department's records to reflect the amount received.

37. Heads of departments shall cause to be exhibited in every office where public moneys are received, notices that an official receipt shall be obtained by the payer for any sum of money paid to the Government.

Notices regarding monies paid to Government.

38. Accounting and accountable officers collecting money shall not make any payment from revenues collected without the prior approval of the Financial Secretary except for authorized refunds and drawbacks.

Payment from revenue.

39. The Minister shall authorize the Financial Secretary to issue instructions to Principal Receivers of Revenue regarding refunds and drawbacks from revenues collected.

Drawbacks and refunds.

40. *[Deleted by L.N. 66/2015.]*

41. Principal Receivers of Revenue and accounting officers shall—

Responsibility of Principal Receivers of Revenue.

- (a) collect and account for revenues and other public monies within their control in accordance with such instructions as may be issued by the Financial Secretary; and
- (b) ensure that all revenue is collected without delay and shall inform the Financial Secretary of any significant shortfall in collections or difficulties in collections or, of any important trends in the receipt of revenue which may become apparent.

Revenue
accounting
records.

42.—(1) Principal Receivers of Revenue shall keep such registers and other records manual or electronic as prescribed by the Financial Secretary, which shall enable them to supervise efficiently the collection of revenue for which they are responsible and to provide the relevant financial statements.

(2) Accounting officers and Principal Receivers of Revenue shall ensure that, all revenues due in a financial year is collected within that year and all arrears is collected within the time specified by the Financial Secretary.

(3) Public moneys shall not be used in an unauthorized manner.

(4) A public officer shall not advance, lend, or otherwise use for his own purposes any sum collected for which he is accountable.

Acceptance
of cheques.

43.—(1) An accountable officer shall not accept a cheque as payment of public moneys unless the cheque is certified or drawn by a commercial bank licensed under the Banking Act or a financial institution licensed under the Financial Institution Act.

(2) The Financial Secretary may issue instructions regarding the conditions for the acceptance of uncertified cheques and the treatment of dishonoured cheques.

Lodgement of
revenue.

44.—(1) Subject to regulation 43, an accountable officer who receives public moneys shall lodge the amounts collected daily, or, at the earliest possible opportunity into the relevant official bank account.

(2) The amount lodged shall be in excess of the total costs associated with making the lodgement, except at the close of the month where all amounts received shall be lodged in the month of receipt.

Security and Custody of Public Monies

Responsi-
bility of
accounting
officers.

45. It is the responsibility of every accounting officer to ensure that adequate arrangements are made for the safe custody and preservation of public monies, stamps, tickets, securities, stores, equipment or anything else of value which either belongs to Government or though not belonging to Government is kept in its permanent or temporary custody.

Instructions
on the
security and
custody of
public
moneys.

46.—(1) The Financial Secretary shall issue instructions regarding the security and custody of public moneys.

(2) An accountable officer who fails to perform his functions under regulation 45 is liable to surcharge in the amount of the loss incurred by the Government.

Payment of Public Moneys

47. Unless authorized by law or by resolution of the House of Representatives, no payment of public moneys shall be made as a charge against the Consolidated Fund. Authority for payment of public moneys.

48.—(1) Accounting and accountable officers shall ensure that there exists a proper system of internal control and adequate authority for disbursements of all public funds. Responsibility for payment.

(2) Any officer directing, allowing or making any unauthorized disbursement shall be held personally responsible for the amount, and any officer whose duties require him to prepare, submit or check amounts, shall be similarly held responsible for any inaccuracies in those accounts.

49.—(1) Accounting officers shall settle payments by their departments for all goods and services received from other departments, public bodies, individuals and private institutions out of the monthly warrant issued for the purpose, within a period of thirty days of their receipt. Settlement of payments.

(2) Where the amount authorize by warrant is sufficient and a delay in payment is caused by the negligence of an officer resulting in loss, damage, or the payment of interest or a penalty, the Financial Secretary may impose surcharge in accordance with section 20 of the Act.

50. A public officer shall not commit the Government to any expenditure, unless the officer— Commitment of funds.

(a) is authorized to do so in his letter of appointment as an accountable officer; and

(b) has been advised, in writing, by the relevant accountable officer that funds are available for the specific purpose.

51. A public officer who fails to comply with regulation 50 is liable to a surcharge of a sum equal to the amount of the unauthorized payment. Surcharge for unauthorized payments.

52. Certification and authorization of payment vouchers shall be carried out by an officer other than the officer contracting for the goods or services to which the payment relates. Certification and authorization of payments.

53. Where a service is undertaken by a department, the price and other terms and conditions of the service shall be— Terms and conditions for provision of service to be agreed.

(a) clearly understood and agreed upon prior to implementation; and

(b) in writing.

54. Accountable officers shall, by the 15th day of each month, inform the Accountant General of all statutory deductions to be withheld from employees' earnings. Duty to inform Accountant General of statutory deductions.

Payment of deductions from earnings.

54A.—(1) Every accountable officer shall remit any deduction from the earnings of an employee to the person entitled to receive that deduction within seven working days of the effective date of the deductions.

(2) Each accountable officer shall, within seven days after the end of each month, provide a written report to the Financial Secretary of all deductions made under this regulation by that accountable officer.

Penalty for failure to remit deductions.

55. An accountable officer who contravenes regulation 54 or regulation 54A is liable to surcharge for any penalty or costs accruing to Government as a consequence of such failure or to disciplinary proceedings in accordance with the Public Service Regulations.

Payment of salaries and allowances on expiration of leave.

56. Salaries and allowances shall not be paid beyond the date of expiration of vacation leave. Written resumption letters shall be presented for the continued payment of salaries and allowances.

Electronic payments.

57.—(1) The Accountant-General shall be responsible for making payments electronically for all departments upon their request through the Treasury Single Account.

(2) In special circumstances approved by the Financial Secretary, electronic payments may be done by departments from designated bank accounts.

(3) Electronic transfers shall not be done unless the requisite funds are available in the relevant official bank account.

(4) Officers effecting electronic transfer payments shall be surcharged for any overdraft caused by these payments.

(5) The surcharge shall be for the amount of the interest, fees and any other charges incidental to or arising from the overdraft.

Electronic Payment by Official Credit Card

Government funded credit cards.

58. The acquisition of Government funded credit cards (hereinafter called “official credit cards”) for use both locally and overseas by Permanent Secretaries, Heads of Department and Chief Executive Officers of public bodies, requires the prior written approval of the Financial Secretary.

Procedure for requesting use of official credit card.

59. The request for the use of an official credit card by a public body shall be submitted to the Financial Secretary through the accounting officer of the public body’s portfolio ministry.

Use of official credit cards.

60. Official credit cards shall not be used for private, and personal expenses but shall be used on official business—

(a) to meet unforeseen and unavoidable expenses; and

(b) in circumstances in which credit cards are the preferred method of payment by the vendor.

Official credit card limit.

61.—(1) The limit approved on official credit cards by the Financial Secretary shall not be exceeded unless prior and written approval is given by the Financial Secretary.

(2) The Financial Secretary shall give written instructions on the general use and operation of official credit cards.

(3) Expenses from official credit cards shall be kept at a minimum.

(4) Instances of extravagance or deviation from the approved guidelines for use of official credit cards, shall be brought to the attention of the relevant accounting officer and the Financial Secretary immediately.

(5) Where a public official is found to be extravagant or deviates from the approved guidelines for use of official credit cards, the authorization for the continued use of the card shall be reviewed.

62.—(1) The use of an official credit card shall be suspended when—

Suspension, transfer and termination of card.

(a) the cardholder is on vacation leave for more than five days; or

(b) so directed by the accounting officer.

(2) The credit card company shall be instructed promptly to execute this suspension.

(3) The Financial Secretary shall be informed promptly of all suspensions of the use of official credit cards and the reason for suspension.

(4) An official credit card shall not be transferable.

(5) All official credit cards shall be terminated immediately when the authorized cardholder—

(a) dies;

(b) is declared bankrupt or mentally unsound;

(c) is interdicted by the Public Services Commission;

(d) is convicted of a criminal offence; and

(e) retires, resigns, dismissed, or separated from office in any other way.

Accounting for Public Moneys

63. The Financial Secretary shall prescribe the accounting policies, methods and standards to be used by departments.

Accounting methods and standards.

64. Where the Financial Secretary directs that the accrual accounting system be adopted, this shall be done in accordance with the International Public Sector Accounting Standards (IPSAS) or the International Financial Reporting Standard (IFRS), whichever is relevant.

Accrual accounting.

65.—(1) The Financial Secretary shall authorize the use of a standard accounting software package to be used in the public sector and may, in exceptional cases, authorize specific public bodies to use other accounting software packages that are compatible with the standard requirement for public sector accounting.

Accounting software packages.

(2) The Financial Secretary shall prescribe instructions for the following—

- (a) the operation of the accounting software package or system;
- (b) the operation of the Central Treasury Management System;
- (c) the operation of the Treasury Single Account System; and
- (d) the operation of any other relevant accounting system.

(3) The accounts of Government shall be complete, relevant and current in accordance with the standard and guidelines prescribed by the Financial Secretary.

(4) The accounts shall be maintained to reflect expenditures in accordance with the amounts approved under the respective heads of estimates as embodied by the Appropriation Act.

(5) Accounting officers shall be directly and personally responsible for all expenditure charged under the votes which he administers, and shall be accountable to Parliament.

(6) Accounting officers shall establish a system appropriate to the needs of his department and provide for the assignment of duties and responsibilities by instructions issued under section 24F of the Act.

(7) The Accounting Officer shall have such other functions in connection with the accounting for and control of public money as may be assigned to such accounting officers by, or under the Act or any other enactment.

(8) The Financial Secretary shall be responsible for—

- (a) the continuous improvement of financial and accounting systems in departments; and
- (b) ensuring that the mechanism for the collection of and accounting for public moneys is satisfactory in principles and complied with in practice.

66.—(1) Amounts deducted under a contract and withheld as retention moneys shall be placed in a separate bank account authorized by the Financial Secretary.

(2) Funds held on retention shall not be utilized for any purpose other than refunding the contractor upon certification of satisfactory completion of the work.

67.—(1) Subject to paragraph (2), a transaction in a foreign currency shall be reflected in Jamaican dollars based on the actual exchange rate at the time of the transaction.

(2) Where this is not applicable the exchange rate to be used shall be the weighted average rate of exchange reported by the Bank of Jamaica at the time of the transaction.

(3) The Financial Secretary shall prescribe the treatment of gains and losses arising from the changes in the rate of exchange.

PART IV. *Financial Reports*

68. The Financial Secretary shall prescribe guidelines for preparation and presentation of monthly, quarterly, annual and other financial reports to be submitted by accounting officers to the Auditor-General and the Financial Secretary.

Financial statements by accounting officers.

69. The Financial Secretary shall prescribe guidelines for preparation and presentation of monthly, quarterly, annual and other financial reports to be submitted by Principal Receivers of Revenue to the Auditor-General and the Financial Secretary.

Financial statements by principal receivers of revenue.

70. The deadlines for the submission of financial statements shall be as follows—

Deadlines for submission of financial statements

- (a) annual financial statements, four months following the end of the financial year;
- (b) quarterly financial statements, within fourteen working days of the subsequent quarter; and
- (c) monthly financial statements within fourteen working days of the subsequent month.

71.—(1) Accounting officers, Principal Receivers of Revenue and accountable officers shall take appropriate disciplinary proceedings in accordance with the Public Service Regulations against officers responsible for the delay in the timely submission of financial statements.

Penalties for late statements.

(2) Action shall be immediately reported to the Auditor-General and the Financial Secretary.

(3) The Financial Secretary shall report to the Minister any accounting officer or principal receiver of revenue whose financial statements are consistently late in submission and are in arrears.

(4) A report under paragraph (3) shall include recommendations for measures to be taken to ensure compliance.

72.—(1) Accounting officers and Principal Receivers of Revenue shall sign all annual and quarterly financial statements.

Signing of financial statements.

(2) Accounting officers and Principal Receivers of Revenue may designate accountable officers to sign monthly financial statements.

73. Annual financial statements shall be checked and verified by the relevant Chief Internal Auditor before submission to the Auditor-General.

Certification of financial statements.

74.—(1) Accounting officers and Principal Receivers of Revenue shall not make any adjustment to the accounts and the financial statements after they have been certified by the Auditor-General.

Adjustment after certification.

(2) The Financial Secretary shall issue instructions regarding the procedures for the correction of errors discovered in respect of audited financial statements.

Performance Reports

Quarterly
performance
reports.

75.—(1) Accounting officers and Principal Receivers of Revenue shall submit to the Cabinet Secretary, the Auditor-General and the Financial Secretary, quarterly status reports on the performance of their department in relation to the approved targets stated in their corporate and operational plans.

(2) Performance reports shall be submitted no later than fourteen working days after the end of the appropriate quarter and shall be signed by the accounting officer or Principal Receivers of Revenue.

PART V. Use of Electronic Devices

Automated
communications
devices.

76. The prior approval of the Financial Secretary shall be obtained for the use of electrical, digital, magnetic, wireless, optical or automated communications devices and electronic technology or, similar capabilities used to carry out financial transactions.

Use of public
and private
keys.

77.—(1) Public keys and private keys shall be used to verify and authenticate digital and electronic signatures between senders and receivers of electronic financial transactions.

(2) Encrypted signatures shall form part of the authentication and verification process thereby ensuring the integrity and security of financial transactions.

PART VI. Loss of Public Property

Definitions
of loss.

78. A loss shall be considered to have occurred when the Government is deprived of the use of any public or trust moneys, public property, stores or any other financial or physical asset.

Responsibility
of the accounting
officer.

79. When a loss is discovered, the accounting officer shall cause an investigation into the circumstances of the loss in order to—

- (a) ascertain the extent and amount of the loss;
- (b) determine whether control or operational arrangements need to be improved in order to prevent the occurrence of similar losses in the department or in any other department; and
- (c) determine whether any offence or other fault of a public officer has been revealed by the loss.

Disclosure of
offences.

80. The investigation of a loss does not constitute a disciplinary enquiry and if the investigation reveals that an offence has been committed, it shall be dealt with separately by the—

- (a) Police, if a criminal offence is involved;

- (b) Public Service Commission or the Police Service Commission, Judicial Service Commission, as is appropriate if a breach of discipline is involved.

81. A loss may be revealed by—

Declaration of losses.

- (a) the discovery of any deficiency within the accounts by any public officer;
- (b) a declaration that a loss has occurred by any one of the following—
- (i) the Financial Secretary;
 - (ii) the Auditor-General; or
 - (iii) any other authorized public officers.

82. An accounting officer shall—

Duty of the accounting officer.

- (a) ensure that adequate investigation is made of a loss;
- (b) take prompt action to ensure—
- (i) rectification of weaknesses in the systems;
 - (ii) disciplinary proceedings in accordance with the Public Service Regulations against public officers; and
 - (iii) due process for the recovery of the loss;
- (c) authorize disposal of a case of loss after complying with paragraphs (a) and (b), as the case may be, through—
- (i) recommendation for write-off to the Financial Secretary where necessary;
 - (ii) allowing the transactions to stand charged; or
 - (iii) verifying full recovery and advising the Financial Secretary and the Auditor-General accordingly.

83. The categories of loss shall be as follows—

Categories of losses.

- (a) cash deficiency which is a deficiency of cash or other negotiable instrument, whether it arises from a simple cash shortage or from the use of fictitious entries or vouchers to conceal the existence of a deficiency;
- (b) revenue losses which may arise from—
- (i) uncollectable revenue when debts due to Government cannot be collected by reason that the debtor cannot be traced or is insolvent; and
 - (ii) loss of revenue, arising from failure to assess or collect in circumstances which preclude subsequent assessment or collection;
- (c) expenditure losses which may arise from—

- (i) irrecoverable overpayments, when an excess payment has been made by error and recovery cannot be effected because the recipient cannot be traced or is otherwise incapable of making repayment;
 - (ii) the incurrence of a penalty in which Government has been legally obliged to make payment, but for which no corresponding receipt of goods or services has been derived;
 - (iii) improper payments arising from transactions that are contrary to law, but which do not involve any offence under the criminal code and include cases of gross waste or extravagance;
 - (iv) excess expenditure, which is a special case of improper payment which arises when payments have been made in excess of approved estimates without the prior authority of Parliament; and
 - (v) fraudulent payments which arise from transactions which involves the commission of an offence, by the use of falsified documents or certificates to steal money or other property belonging to the Government;
- (d) store and equipment losses which may arise from—
- (i) deficiencies, including fraudulent issues from stock and issues without proper evidence of use;
 - (ii) damage or deterioration of goods in stock; and
 - (iii) loss by accident in so far as they relate to equipment and stores in use;
- (e) financial losses which may arise from—
- (i) irrecoverable advances and loans when moneys due to Government cannot be recovered by reason of a debtors default and include default on Government guarantees;
 - (ii) irregular advances and loans when money cannot be recovered because Government cannot establish a claim against any person or institution;
 - (iii) reduction of financial asset where the value of any financial asset has to be reduced by reason of failure or capital restructuring of an enterprise;
 - (iv) losses on sale of securities where the losses are aggregated with gains over the financial year, and any net loss is written off at the end of the year;

(f) miscellaneous losses which may arise from—

- (i) loss of Value Books;
- (ii) the loss of keys of any Government safe or the compromise of any combination lock;
- (iii) the cost of altering locks and providing new keys or combinations;
- (iv) the value of any missing items from the safe;
- (v) irrecoverable claims.

84. The following are not losses, and the provisions of PART VI of these Regulations do not apply— Exclusions.

- (a) stores and equipment which have become unserviceable through fair wear and tear and disposed of as laid down in these Regulations;
- (b) arrears of revenue, outstanding claims, outstanding advance or loan recoveries, or over-payments until such time as they are declared to be irrecoverable or uncollectable in accordance with these Regulations;
- (c) *ex-gratia* payments approved by the appropriate authority;
- (d) remission of tax, fee or penalty in accordance with the Act; and
- (e) normal wastage of stores as result of evaporation or loss of weight during storage, or specified limits of normal wastage laid down in Financial Instructions.

85.—(1) Any officer who discovers a loss, or suspects that a loss has occurred shall immediately report the matter to the accounting officer, who shall report the matter forthwith to the Auditor-General and the Financial Secretary.

Discovery of loss.

(2) The format of the report shall be prescribed by instructions issued by the Financial Secretary.

(3) Failure to make a report under paragraph (1) is a breach of financial discipline and may result in disciplinary proceedings in accordance with the Public Service Regulations as deemed appropriate by the Financial Secretary.

86.—(1) An accounting officer shall be responsible for investigating and taking action on any loss.

Initial action by accountable officer.

(2) If an accountable officer is satisfied that a loss has occurred, the head of the body shall—

(a) place any accounts, vouchers and other relevant records into safe custody and make any alternative arrangements necessary for the conduct of further business immediately; and

(b) if the circumstances of the loss indicate that a criminal offence has been committed, report the matter to the police.

(3) Investigation and subsequent actions under paragraph (1) shall be completed within forty-eight hours of the discovery and the loss shall be reported to—

(a) the Financial Secretary;

(b) the Auditor-General; and

(c) the Permanent Secretary in the portfolio Ministry.

Investigation of every case of loss.

87.—(1) Subject to paragraph (2), an accounting officer shall cause an investigation to be conducted into every reported case of loss.

(2) Where an accounting officer is implicated in the loss, the Financial Secretary or the Auditor-General (hereinafter referred to as the “investigating authority”) shall cause an investigation to be so conducted.

Recommendations.

88. On the basis of the findings of the investigation, the investigating authority may make recommendations as to the disposal of the case, including—

(a) the initiation of disciplinary proceedings in accordance with the Public Service Regulations;

(b) the development of remedial administrative or accounting action; and

(c) such action as is appropriate in the circumstances of the case.

Conduct of investigation.

89. An investigating officer shall conduct the enquiry in manner that takes the principles of natural justice into account.

Procedure where criminal offence has been committed.

90.—(1) If the report of an investigating officer shows that a criminal offence, other than the offence already reported under these Regulations has been committed, the facts of the case shall be submitted to the police.

(2) Disciplinary proceedings in accordance with the Public Service Regulations or proceedings for the recovery of a loss shall not be taken against an officer facing criminal charges under paragraph (1) until the court has dealt with the case or the police have formally indicated that they do not intend to proceed against the officer concerned.

Disciplinary offence.

91. Where an officer has committed an offence which is not a criminal offence, disciplinary proceeding shall be instituted by the accounting officer.

Disciplinary proceedings to be completed.

92. Disciplinary proceedings arising from a case of loss, shall be completed before the investigating authority approves the final disposal of the case.

93. If the report of the investigating authority indicates that systems currently in operation, including those for the training of staff are defective, the accounting officer shall consult with the Financial Secretary to consider measures for rectification.

Defective systems.

94.—(1) Recovery of the value of a loss, whether by recovery proceedings under these Regulations or by a surcharge pursuant to PART VII, constitutes a settlement of a civil claim against the officer arising from the loss.

Financial liability of officers.

(2) Recovery of a loss shall not be a substitute for criminal prosecution or disciplinary proceedings in accordance with the Public Service Regulations.

95. If an officer freely accepts, financial responsibility for a loss, the officer may offer to pay the amount back into the Consolidated Fund or the relevant public fund, in which case the department responsible for disposal of the loss may—

Offer to repay.

- (a) accept the offer to repay, if the disciplinary offence is not serious enough to necessitate further proceedings against the officer; or
- (b) accept the offer in mitigation of the offence with the repayment being considered as a partial fulfillment of any penalty, that may be imposed.

96. A public officer may become personally responsible for repaying the value of a loss if—

Liability to repay.

- (a) the loss is one falling within the ambit of regulation 83; or
- (b) the loss has been the subject of disallowance or surcharge.

97. If the report of an investigating officer shows that an officer may have received moneys that has not been paid over, accounted for nor applied for the purpose for which they were received, the accounting officer may on behalf of the Financial Secretary issue a notice to that officer on this matter.

Monetary liability.

98. Where a person to whom a notice has been issued under regulation 97, fails to respond to the notice within the time specified in the notice, the accounting officer shall inform the Financial Secretary and the Auditor-General of this failure in writing who shall take action as required under section 20 of the Act.

Order for recovery.

99.—(1) Where an order for recovery has been made, the amount shall be recovered as a debt due to the Government.

Recovery of amounts.

(2) The Financial Secretary may, if the officer remains in public employment, arrange for payment by installments as laid down in these Regulations or else the documents shall be the basis of a civil claim against the officer or the officer's estate.

Cash liability for loss.

100.—(1) The procedure laid down in regulations 98 and 99 is applicable only to moneys received and held by a public officer.

(2) If losses arise by reason of failure to collect, or by a deficiency occurring after collection, recovery of the amount lost may be ordered if it is established that the loss was occasioned by an officer's misconduct, neglect of duty or negligence.

(3) If a loss occurs under paragraph (2) the accounting officer shall first initiate disciplinary proceedings in accordance with the Public Service Regulations against the officer concerned; and if the officer is found to have committed an offence, the accounting officer shall refer the matter to the Auditor-General for recommendation to the Financial Secretary for surcharge.

Surcharge proceedings.

101. The imposition of a surcharge by the Financial Secretary constitutes a claim against the officer concerned, and the accounting officer shall immediately recover the full amount surcharged from that officer.

Quarterly reports of losses disposed of.

102. Departments shall submit a report on losses incurred during each quarter in the format prescribed by instructions issued by the Financial Secretary. The report for each quarter must be submitted within fourteen working days following the end of the each quarter.

Rulings by Financial Secretary.

103. Where any doubt arises on the correct classification of a loss or the accounting procedure required, the directions of the Financial Secretary shall be sought.

Remittances and transfer.

104. Where a loss occurs in any remittance of cash or transfer of stores, responsibility for dealing with the loss shall rest with the remitting or transferring officer, unless the recipient has formally accepted delivery at the office of remittance or store of issue.

Claims.

105. Goods that are received damaged or incomplete, and are subject to a claim on suppliers, insurers or carriers, shall not constitute a loss until the claim proves irrecoverable.

Investigation of bad debts.

106.—(1) The fact that losses arise from uncollectable revenue, irrecoverable overpayments, or irrecoverable claims at the time of disposal does not preclude the prior investigation of circumstances of the losses.

(2) Applications for write-off shall be accompanied by an investigation report indicating the remedial action and the necessary accounting treatment to be taken.

Power of intervention.

107. The Financial Secretary and the Auditor-General may intervene in the disposal of any case of loss, and may—

(a) call for further information to be supplied; or

(b) put forward opinions as to the action to be taken.

Authority of the Auditor-General.

108. The authorization of disposal of a case of loss does not prejudice the right of the Auditor-General to carry out further investigation.

109. An accounting officer shall ensure that matters of significance arising from the investigation of losses are brought to the notice of the general public.

Publication of significant findings.

PART VII. Surcharge

110. Surcharge is the recovery of an amount overpaid or a recoupment of any loss sustained by the Government for which the public officer is responsible and was found liable.

Definition of surcharge.

111.—(1) The Financial Secretary may surcharge an officer based on recommendation by the Auditor-General where, it is found that there is loss of public funds arising from negligence or recklessness.

Financial Secretary may impose surcharge.

(2) The amount surcharged may be for the full amount of the loss, or part thereof as, determine by the Financial Secretary.

(3) Where the Auditor-General recommends more than one officer to be surcharged in respect of a single loss, the Financial Secretary shall seek to recover the loss on an appropriate and equitable proportional basis as determined by the circumstances.

(4) Upon the retirement, resignation, dismissal or death of a public officer, the outstanding balance of any debt due including amounts surcharged, unless otherwise determined by the Financial Secretary, shall be recovered by the Government, from the officer or from his estate.

(5) Where any amount required to be recovered is not so recovered, the relevant accountable officer may be held liable to a surcharge for that amount.

(6) The Financial Secretary may, at any time, withdraw any surcharge in respect of which a satisfactory explanation has been received.

(7) The Financial Secretary may, in exercising the functions of surcharge prescribed under sections 20 and 49 of the Act, appoint a committee of not less than three persons, one of whom shall be nominated by the Attorney-General to investigate the circumstances of the surcharge case and to submit recommendations to the Financial Secretary.

(8) The committee may adjourn the investigation, from time to time, as the Financial Secretary sees fit.

(9) Any person dissatisfied with any surcharge made against him shall have the right to appeal to the Privy Council within a period of one month immediately after he has been notified of the surcharge.

112. Moneys collected as a surcharge shall be paid over to the Accountant-General for Miscellaneous Revenue.

Money collected as surcharge to be paid to Accountant-General.

PART VIII. Government Property

113. The Financial Secretary shall issue instructions on the management and control of Government property.

Management of other Government property.

Conditions to be satisfied on purchase of Government property.

114. Purchase of Government property shall satisfy the following conditions—

- (a) the process shall be fair and transparent;
- (b) the purchase shall be on the basis of need or to, secure some benefit to the public;
- (c) the intended purpose is the best use of the property;
- (d) the process shall comply with the Government procurement guidelines, where appropriate; and
- (e) all relevant statutory requirements shall be observed.

At least two valuations required for purchase of property.

115.—(1) Where property is purchased, at least two valuations shall be secured, one of which shall be from—

- (a) the office of the Commissioner of Lands or the Commissioner of Lands approved list of valutors; or
- (b) a certified valuator selector by the purchaser.

(2) The valuation report shall not be more than one year old.

Circumstances in which third valuation is required.

116. A third valuation is required where the price agreed by the vendor is fifteen per cent and above the valuation of the Commissioner of Lands or that of a valuator on the certified list of valutors.

Accounting officer to keep inventory of Government property.

117.—(1) Every accounting officer shall keep a complete inventory of all Government property (including property acquired by way of gifts) under his custody or control.

(2) The inventory of Government property shall be kept in the form and manner approved by the Financial Secretary.

Inventory to be reconciled and circulated.

118. The inventory of Government property shall be reconciled with the records of the Commissioner of Lands at least once per year and a copy of the reconciliation report submitted to the Commissioner of Lands, Auditor-General and the Financial Secretary.

Rules for divestment or lease of Government property.

119. The divestment or lease of Government property shall be transparent and shall include the following information—

- (a) the intended use of the property by the purchaser;
- (b) valuation certificate from the Commissioner of Lands and another valuation from an approved chartered valuation surveyor;
- (c) where the two valuations differ by over fifteen per cent, a third valuation will be required;
- (d) the third valuation shall be selected jointly by the Commissioner of Lands and the private investor and the resulting cost shared; and

(e) in the case of lease the valuation certificate shall include the lease price and the total value of the property.

120. The proceeds of sale made under regulation 120 shall be paid into the Consolidated Fund. Proceeds of sale.

121. Every accounting and accountable officer shall, in the form and manner approved by the Financial Secretary, keep a complete inventory of all Government assets (including assets acquired by way of a gift) under the control of that accounting and accountable officer. Inventory of stores and supplies.

122. The Financial Secretary may issue instructions on the form and manner in which inventory records are to be maintained. This shall include the use of appropriate assets management software. Financial Secretary may issue instructions on keeping of inventory records.

123. The Financial Secretary shall ensure that a master list of all inventories for departments is maintained in terms of location, description and value of each asset. Financial Secretary shall maintain master list of inventories.

124. The Financial Secretary may upon request, approve the redeployment of assets in the following circumstances— Financial Secretary may approve the redeployment of assets.

- (a) projects that have ended;
- (b) changes in subject portfolio;
- (c) conversion of department to an executive agency; and
- (d) conversion of department to a public body.

125. The master list of inventories shall be amended based on approval granted pursuant to regulation 124. Amendment of master list of inventories.

126. Accounting officers shall—

- (a) ensure that all inventories are checked at least once annually by a person other than the accountable officer responsible for keeping the records; and
- (b) report forthwith any discrepancies found in the inventories to the Financial Secretary and the Auditor-General.

Duties of accounting officers in relation to inventories.

127. Accountable officers shall ensure that there is no waste, extravagance or abuse in the use of Government property under the custody or control of their department. Duty of accountable officers to prevent waste, *et cetera*.

128. Except with the prior written approval of the Financial Secretary, Government property shall not be transferred from one department to another. No transfer of Government property without approval.

129.—(1) The Financial Secretary shall assign officers to conduct board of surveys to examine public assets to determine whether they are unserviceable and, if so, the manner in which they should be disposed of. Disposal of unserviceable materials, *et cetera*.

(2) The Financial Secretary may authorize the disposal of obsolete and unusable materials, tools and unserviceable equipment by sale, destruction, salvage, gift or by any other means, as he thinks fit.

Handing Over

Handing over of
public property.

130. Where an officer whose duties involves financial and accounting responsibilities—

(a) intends to resign;

(b) is scheduled for transfer or reassignment to new duties,

the officer shall no later than three working days before the date of resignation or the date of transfer or reassignment, formally hand over to his successor or supervisor, all public property in his possession and all records relating thereto.

Handing over to
be in writing.

131. The handing over of public property shall be evidenced in writing by the outgoing, the incoming and a certifying officer.

Certifying officer
in handing over
to be a designated
accountable officer.

132. The certifying officer in the handing over of public property shall be an accountable officer designated by the accounting officer or head of department.

Sale of Government Property

Sale of Govern-
ment property.

133. The Financial Secretary may authorize the sale of Government property by—

(a) public tender or auction, subject, in the case of serviceable materials and equipment, to a minimum price determined by a suitable qualified person independent of the department controlling the items to be sold; or

(b) sale at fixed prices determined by the Financial Secretary.

Assets of public
bodies in which
Government is
major funder to
be paid into
Consolidated Fund.

134. Where the assets of a public body that receives fifty per cent or more of its funds from the Consolidated Fund are disposed of, the net proceeds of sale shall be paid into the Consolidated Fund unless approval is granted by the Financial Secretary for retention of the funds or any portions thereof.

Assets of public
bodies in which
Government is
minor funder to be
retained.

135. A public body that is self-financed or received less than fifty per cent or more of its funds from the Consolidated Fund whose assets are disposed of, may retain the net proceeds of the sale.

Change of title.

136. Where any change of title, whether by sale or otherwise, of Government property requires documentary evidence, authentication of the change of title shall be provided by the Accountant-General who shall endorse the appropriate document with his official seal authenticated by his signature, and deliver the document to the owner.

Conditions
precedent to
endorsement of
change of title.

137. The Accountant-General shall not endorse a change of title, unless he first confirms that—

(a) the necessary authority for the transaction as prescribed has been given; and

(b) any consideration arising out of the change of title and payable into the Consolidated Fund has been received.

138. A receipt shall be issued to owners of private properties lawfully placed in Government's custody.

Receipt to be issued for private properties in Government custody.

139. Private property in the Government's lawful custody shall be safeguarded and kept on a separate inventory which shall include the following details *inter alia*—

Private property to be safeguarded and kept on separate inventory.

(a) the date taken into custody;

(b) the owner of the property; and

(c) the description and condition of the property.

140. The Financial Secretary shall issue instructions in relation to the loss or damage of private property in Government's custody.

Financial Secretary to issue instructions re loss or damage of private property.

141. Where a public property that was lost, damaged or stolen, collect from insurance claims, a sum of money towards the loss, this amount shall be paid over to the Consolidated Fund unless approval is given by the Financial Secretary for the amount to be used to set-off replacement of the property.

Recovery from insurance claim.

PART IX. *Audit*

Internal Audit

142. There shall be established in each department a system of internal audit for examining the accounting systems, internal controls, risk management and governance processes of the department.

Internal audit.

143. The Financial Secretary shall be responsible for the improvement and development of the standards, framework and guidelines of internal audit in the public sector.

Financial Secretary to improve and develop internal audit standards.

144. Accounting officers shall ensure that there is an effective risk management process that determines the material risks to which his department may be exposed.

Risk management and internal control.

145. Accounting officers shall formulate a strategy for risk management which shall include a fraud prevention plan to—

Accounting officers to establish risk management strategy.

(a) guide the internal audit effort and priority; and

(b) determine the skills and resources required to manage these risks.

146. Accounting officers shall ensure that there is an effective system of internal control over the financial and operational processes of the department, including—

Accounting officers to ensure effective system of internal control.

(a) management policies and requirements made by the provisions of the Act and any regulations made thereunder;

- (b) sound practices for the efficient, effective and economical management of each function within the department;
- (c) a system of authorization and recording adequate to provide accounting and related controls in relation to assets, liabilities, receipts and payments of the department;
- (d) proper segregation of functional responsibilities; and
- (e) procedures to review the adequacies of and compliance with the department's internal control system.

Management of the internal audit function.

147. The officer in charge of internal audit shall prepare, in consultation with and for approval by the accounting officer and the audit committee—

- (a) a rolling three-year strategic internal audit plan based on its assessment of key risk areas for the department (having regard to its current operations) including those identified in the department's strategic plan and risk management strategy;
- (b) an annual internal audit plan for the first year of the rolling three year strategic internal audit plan;
- (c) plans indicating the scope of each audit in the annual internal audit plan;
- (d) operating procedures to guide the audit and stakeholders' relationships;
- (e) a quality assurance and improvement programme which allows for evaluation of the unit's performance and implementation of strategies towards the progressive improvement in scope, quality and value of internal audit services provided; and
- (f) a financial budget which supports the programmes and activities of the internal audit function.

Internal auditor's right to information.

148.—(1) Accounting officers or heads of departments shall ensure that internal audit has access to all books, records, documents, files, working papers, reports, plans, whether held physically or electronically and any other relevant material for the purpose of carrying out an audit.

(2) The officer in charge of internal audit shall submit to the accounting officer, the audit committee; and the Financial Secretary, the reports, prescribed under sections 33 and 34(3) of the Act.

Independence of internal audit.

149. Internal audit shall be independent and the officer in charge of the internal audit unit shall report administratively to the accounting officer and functionally to the audit committee.

Auditor-General

Duties of Auditor-General.

150. The Auditor-General shall perform the duties as prescribed by section 122(1) of the Constitution and section 25 of the Act.

Financial Secretary to review Auditor-General's report and take action.

151. Where the Auditor-General makes an annual report pursuant to section 29 of the Act, the Financial Secretary shall review the report and the responses thereto by the respective accounting officers and shall where

necessary, ensure that—

- (a) corrective actions are taken; and
- (b) appropriate sanctions are imposed on officers found in breach of the Act and any regulations made or any instructions given thereunder.

PART X. *Central Treasury Management*

152. The Minister may approve the establishment of a Treasury Single Account at the Bank of Jamaica for the administration of public sector banking arrangements.

Minister may establish Treasury Single Account.

153. The Treasury Single Account may be supported by transit bank accounts at commercial banks subject to the approval of the Financial Secretary.

Treasury Single Account may be supported by transit bank accounts.

154. The Accountant-General shall be the custodian of the Treasury Single Account and its supporting transit accounts.

Custodian of Treasury Single Account.

155.—(1) The Treasury Single Account shall receive warrant funds in respect of departments, which shall be used to meet their budgetary expenditures.

Operation of Treasury Single Account.

(2) The Financial Secretary shall determine the public sector bodies that shall form a part of the Central Treasury Management System.

(3) The Accountant-General shall maintain proper books of accounts for the Treasury Single Account System, including the maintenance of subsidiary ledger accounts in respect of amounts held for each department.

(4) The accounts of the Treasury Single Account shall be maintained on a double entry basis.

(5) The Financial Secretary shall prescribe whether these accounts are kept on a cash or accrual basis.

156.—(1) The Accountant-General shall submit to each department monthly, weekly or daily statements of the activity in respect of funds issued on a warrant on behalf of the department.

Financial statements for Treasury Single Account.

(2) Departments shall do monthly, weekly or daily reconciliation of the statements received from the Accountant-General and report any difference found for resolution.

(3) The Accountant-General shall submit monthly and annual financial reports on the Treasury Single Account to, the Auditor-General and the Financial Secretary in the form and manner prescribed by the Financial Secretary.

157.—(1) Public funds not immediately required by public bodies shall, based on the Minister's order be placed with the Accountant-General in the pool of funds which may be used for—

Central Treasury Management.

- (a) loans to public bodies on terms and conditions approved by the Minister; and
- (b) public sector investment.

(2) The Accountant-General shall be responsible for submitting financial statements to public bodies for which funds are being held on investment or loaned to other public bodies.

(3) The Accountant-General shall be responsible for maintaining proper accounts in respect of all treasury management activities and shall submit to the Auditor-General and the Financial Secretary monthly financial reports in the format and manner prescribed by the Financial Secretary.

PART XI. *General*

Returns. **158.** Tax returns, notices for tax assessment, applications for tax refund and other related transactions or information may be filed or transmitted electronically.

Preservation of Records

Books and records to be preserved. **159.** All classes of books used for the accounting of public money and records thereof, shall be carefully preserved for the minimum period prescribed by the Financial Secretary in accordance with Schedule A of these Regulations after which, they may be destroyed in the manner prescribed by instructions issued by the Financial Secretary.

Schedule A.

Ownership of Electronic records. **160.** All records (including electronic records) that are created, received or stored by a department are the property of the department.

Storage of electronic records. **161.** Electronic records shall be stored under the storage conditions that are appropriate for the specific electronic medium, and these conditions shall be maintained throughout the retention period of the relevant record.

Retention Period. **162.** Accounting officers and other accountable officers are responsible for ensuring that records are kept for the duration of the relevant retention period as set out in Schedule A.

Disasters

Procedures in respect of disasters. **163.** Accounting officers and other accountable officers are responsible for ensuring that adequate procedures are implemented to safeguard departmental files, official documents, computer hardware and software, electronic data and other similar documents from destruction or damage arising from natural or other disasters.

Distribution of Regulations

Distribution of regulations. **164.—**(1) A copy of these Regulations shall be kept in every department.
(2) Accounting officers, receivers of revenue and heads of departments shall ensure that members of their staff are familiar with the provisions of these Regulations.

SCHEDULE A

(Regulation 55)

Documents Retention Schedule

Documents	Retention Period	
	Manual Records	Electronic Records
Purchase Orders	5 years after date of purchase order	10 years after purchase order date
Tenders, bids, proposals	5 years after completion of contract	10 years after completion of contract
Tax refund claims	2 years after refund	5 years after refund
Tax notices	2 years after notice	5 years after Notice
Custom entries	20 years	20 years
Invoices, statements, bills	7 years after payment	7 years after payment
Receipts	7 years	7 years
Journals	5 years	5 years
Vouchers	5 years	5 years
General Ledger	7 years	10 years
Subsidiary Expenditure Ledger	7 years	10 years
Subsidiary Revenue Ledger	7 years	10 years
Bank Statements and Cheques	5 years	5 years
Payroll Cards and Register	45 years	60 years
Payroll support documents (time sheets, deduction order, etc.)	5 years	5 years
Credit Card Statement	3 years	5 years
Registers	7 years	7 years

SCHEDULE B

(Regulation 23)

Accounting Officers Appointment Letter

REF. No. 107/053

Permanent Secretary or Chief Executive Officer

Name of public body

Address of public body

Letter of Appointment—Accounting Officer

In accordance with section 16 of the Financial Administration and Audit Act (FAAA), I hereby appoint you as an accounting officer charged with responsibility for the votes and accounts of the services assigned to _____

(name of public body)

with effect from _____ and until further orders.

(insert date)

1. You are required to—

- (a) sign the appropriation, trading and other accounts for the services assigned to you, and in doing so accept personal responsibility for their proper presentation as prescribed in the Financial Administration and Audit Act, the Public Bodies Management and Accountability Act (PBMA), and other relevant enactments and regulations made under the Acts;
- (b) ensure that proper financial procedures are followed, including specifically those mentioned in paragraphs (h) (i) and (h) (ii) below, and that accounting records are maintained in a form suited to the requirements of management as well as in the form prescribed for vote and accrual accounting purposes;
- (c) ensure that the public funds for which you are responsible as accounting officer are properly and well managed (see paragraph (e) below) and safeguarded, with independent and effective checks of cash balances in the hands of any official; similar care, including checks as appropriate, shall be taken of stores, equipment or property of any kind held by your department;
- (d) ensure that, in consideration of policy proposals relating to the expenditure or income for which you are the accounting officer, all relevant financial considerations are taken into account, and where necessary brought to the attention of your Minister or Board, as the case may be, and the Financial Secretary;
- (e) ensure avoidance of waste and extravagance and seek economy, efficiency and effectiveness in the use of all the resources made available to the respective departments under your control; and
- (f) ensure that your department is organized with appropriate systems in such a way that managers at all levels—
 - (i) have a clear view of their objectives, and the means to assess and, wherever possible, measure outputs or performance in relation to those objectives;
 - (ii) are assigned well defined responsibilities for making the best use of resources (both those consumed by their own demands and any made available to organizations or individuals outside the department) including a critical scrutiny of output and value for money; and

SCHEDULE B, *contd.*

- (iii) have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities affectively.

2. You must take all necessary steps within your power to ensure that the arrangements for delegation in your Ministry support good management and that the Ministry is staffed on sound lines with an appropriate balance of skills. The latter requires careful selection and development of staff and the sufficient provision of special skills and services. Your arrangements for internal audit should accord with objectives, standards and practices set out by the Ministry of Finance and other international standards and best practice.

3. It is the duty of every accounting officer and Board of a public body to establish audit committees, the composition of which shall be in accordance with the FAA Act and the PBMA Act. The operation of each audit committee, shall be in conformity with established procedures.

4. You to ensure that the guidelines and procedures issued, from time to time, by the Ministry of Finance and the Public Service in relation to human resource management—staffing, appointment, promotion, transfer, training, emoluments *etc.* are managed appropriately.

5. Adequate performance management tools shall be institutionalized to ensure continuous assessment and evaluation of staff performance and where necessary, immediate remedial action taken to correct deficiencies.

6. Accounting officers, who have responsibility for departments under their portfolio, in accordance with Section 24F of the FAA Act, are required to appoint Accountable Officers in respect of the departments under their designation and also to other public officers defined under the Act as an accountable officer.

7. You are responsible for ensuring that the person or body's budget is formulated in realistic manner and in conformity with the guidelines issued by the Ministry of Finance, from time to time.

Regularity and Propriety of Expenditure

8. You have a particular responsibility for—

- (a) compliance with Parliamentary requirements in the control of expenditure. A fundamental requirement is that the funds for which you are responsible should be applied only to the extent and for the purposes authorized by Parliament. In the case of voted expenditure, you shall ensure that any payments made are within ambit and amount of the vote and that parliamentary approval has been sought and given;
- (b) intended for departments, in cases not covered by the original Estimate, for example in connection with a service not contemplated when that Estimate was presented, or where a temporary advance from the Contingencies Fund has been sanctioned by the Ministry of Finance, you shall ensure that Parliamentary approval is sought and given at the earliest opportunity by way of a Supplementary Estimate. Notwithstanding the Parliamentary approval of the vote, you shall ensure that *the rate of expenditure is controlled by the warrant instrument which regulates such expenditure and that a proper system of commitment planning and control is established and maintained;*
- (c) ensuring that specific approval of the Ministry responsible for Finance for expenditure has been obtained in all cases where it is required, such as expenditure not covered by any standing authorities delegated by the Ministry of Finance to the department or, required before expenditure incurred on any activity of a vote in excess of the amount specified for that subhead in the estimates even though savings may be available elsewhere and the expenditure itself *falls within the delegated authority of the department.*

Revenue Collections and Cost Recovery

9. You have a particular responsibility for ensuring *that adequate machinery exists for the assessment, collection and bringing to account of all revenues and all other receipts of any kind whatever collectible by your department and the departments under your control.* The procedure laid down in paragraph (h) (i) and (ii) above regarding the making of payments which involve the personal liability of the accounting officer *should be followed in all cases where a Minister intervenes* so as to prevent the due and proper collection of revenues, unless such intervention is by the exercise of the powers of remission granted to the Minister of Finance by virtue of section 18 of the Financial Administration and Audit Act.

10. You are responsible for reviewing, from time to time, the performance (physical and financial) of capital projects and for this purpose ensuring that there is an adequate system for project preparation, implementation, monitoring and evaluation. In particular you should ensure in respect of externally funded projects that all the conditions precedent to the signing of the loan agreements are fully met so as to ensure smooth progress of projects and avoid payment of commitment charges for non-utilization of loans.

Advice to your Minister or Board

11. You have a particular responsibility in seeing that appropriate advice is tendered to your Minister or Board on all matters of financial propriety and regularity and more broadly, as to all considerations of prudent and economical administration. You will need to determine how and in what form such advice terms should be tendered and whether in a particular case to make specific reference to your own duty as accounting officer to justify to the Public Administration and Appropriations Committee and the Public Accounts Committee your Ministry's expenditure.

12. If the Minister in charge of the Ministry is contemplating a course of action involving a payment which you consider would infringe the requirements of propriety or regularity (including where applicable the need for Ministry of Finance (FAA Act) authority) you should set out in writing your objection.

13. If the Minister decides nonetheless to proceed, you should seek a written instruction to make the payment. Having received such an instruction, you must comply with it, and then inform the Financial Secretary and Board of public bodies of what has occurred and should also communicate the papers to the Public Expenditure Policy Coordination Division or the Public Enterprises Division of the Ministry responsible for finance, whichever is relevant and the Auditor-General. Provided that this procedure has been followed, the Public Accounts Committee can be expected to recognize that you bear no personal responsibility for the expenditure. If a course of action is in contemplation which raises an issue not of formal propriety or regularity but more widely of prudent and economical administration, it is your duty as accounting officer to draw the relevant factors to the attention of the Minister and to advise the Minister in whatever way you think appropriate.

Appearance before the PAAC and PAC

14. Under the Financial Administration and Audit Act, the Auditor-General may carry out examinations into the economy, efficiency and effectiveness with which any department, or other authority, or body of a kind specified in the Act, has used its resources in discharging its functions. You will be called upon to appear before the Public Accounts Committee, from time to time, to give evidence on the reports arising from these examinations, and to answer the questions of the Committee concerning expenditure and receipts on the votes and other accounts and related activities for which you are the accounting officer. You may be supported by other officials who may, and commonly do, join in giving evidence.

15. Accounting officers are also required to appear before the Public Administration and Appropriations Committee (PAAC) to answer to or clarify queries that may arise in expenditures pertaining to your approved budget. It is important to have proper documentation and record keeping of all transactions so that these may be presented as evidence where requested.

SCHEDULE B, *contd.*

16. As the accounting officer, you will be expected to furnish the PAC and the PAAC with explanations of any indication of weakness in the matters covered by paragraph (k) above, to which their attention has been drawn by the Auditor-General or the Parliament, about which they may wish to question.

17. In practice, you will have delegated authority, but you cannot on that account disclaim your responsibility. By convention, the incumbent accounting officer does not decline to answer questions where the events took place before assuming appointment; the Committee may be expected not to press personal responsibility in such circumstances.

18. The Committees have emphasized the importance it attaches to accuracy of evidence, and the responsibility of witnesses to ensure this. You should ensure that you are adequately and accurately briefed on matters on which you give evidence. You may ask the respective Committee for leave to supply information not within your immediate knowledge by means of a note at a later date. Should it be discovered subsequently that the evidence provided to the Committee contained errors, these should be made known to the Committee at the earliest possible moment.

19. In general, the rules and conventions governing appearances of officials before Parliamentary Committees apply to the PAC, including the convention that civil servants do not disclose the advice given to Ministers. Nevertheless, in a case where the procedure described in paragraph (l) was used concerning a matter of propriety or regularity of expenditure, the accounting officer's advice, and its overruling by the Minister, would be disclosed to the PAC. In a case where advice of an accounting officer has been overruled in a matter in a manner not of propriety or regularity but of prudent and economical administration, it will be appropriate for an accounting officer questioned about the matter at the PAC, to lay stress on the fact that it was a decision by his Minister. However, you should generally seek to avoid disclosing advice given to the Minister or disassociating yourself from the minister's decision.

20. You should be ready to explain the reasons for the Minister's decision and may be called upon to satisfy the respective Committee that all relevant financial considerations were brought to the Minister's attention before the decision was taken. It will then be for the PAC to pursue the matter further with the Minister, if they so wish.

Absence of Accounting Officer

21. The PAC may be expected to postpone a hearing if the relevant accounting officer is temporarily indisposed. Where the accounting officer is unable by reason of incapacity or absence to sign the Appropriation Account in time to render it to the Ministry of Finance and the Auditor-General the department may render unsigned copies pending his return. If the accounting officer is unable to sign the account in time for printing, the department should ask the Minister of Finance to appoint an interim accounting officer to do so. The public officer, who so acts, should satisfy himself as to the accuracy of those statements before signing.

Accountability in Parastatal Public Bodies

22. In all cases where a department gives a grant or subvention to a non-departmental public body, this should be done on terms which clarify the respective responsibilities of the accounting officer of the department and the senior full-time official (the Chief Executive Officer or equivalent) of the recipient body. In particular, your responsibility is to ensure that—

- (a) the grant or subvention is spent only for the specific purposes for which it was approved and for this purpose arrange to get from the parastatal bodies, monthly and annual statements of expenditure in conformity with the Government's budget structure; and
- (b) the conditions attached to it conform with the terms of the vote; to monitor compliance with those conditions by the body; and to satisfy yourself that the financial and other management controls applied by the department are appropriate

SCHEDULE B, *contd.*

and sufficient to safeguard public funds and, more generally, that those being applied by the body conform with requirements both of propriety and good financial management.

23. It should be made clear in writing to the senior full-time official of the recipient body that he carries a similar responsibility to that of a Departmental accounting officer so far as expenditure out of the grant or subvention is concerned. This includes responsibility for ensuring that the accounts of the body are properly presented, and for good financial management within the recipient body.

24. The senior full-time official of the recipient body will normally be expected to be a signatory of its accounts. The PAC attaches great importance to the responsibilities of the signatories of public accounts prepared by non-departmental public bodies and any of them are liable to be summoned to appear before the Committee, alongside the departmental accounting officer concerned. They should, therefore, be notified by the sponsor department of that liability. The degree of formality attached to such notification is a matter for you as the accounting officer of the department providing the grant or subvention. He may in the case of a large grant or subvention formally designate the senior full-time official as "accountable officer".

Minister of Finance and the Public Service.

Please sign and return duplicate copy.

Terms and conditions accepted by:

.....

C: Name of Portfolio Minister to which
the accounting officer is assigned

SCHEDULE C

(Regulation 66)

Accountable Officers Appointment Letter

Ref. No. 107/053A

Name

<<Job Title>>

Ministry/Department

<<Address 1>>

Dear <<Title>> <<LastName:>>

The Financial Administration and Audit Act defines an "accountable officer" as:

"any public officer, including an accounting officer, concerned in or responsible for the collection, receipt, custody, issue or payment of public moneys or other public property;"

In accordance with section 24F of the Financial Administration and Audit (FAA) Act, I hereby appoint you to be an accountable officer charged with the responsibility for the management of the funds of the _____

(Insert name of the public body)

Accordingly, you are hereby authorized to incur expenditure not exceeding the level of allocations issued to you or for which you are responsible. You are also required to manage the resources in accordance with the following conditions governing the regularity and propriety of expenditure—

- (a) responsibility to plan and control the expenditure within the funds allocated, through establishing and maintaining the prescribed system of commitment planning and control, ensuring that each item of expenditure is supported by the availability of funds for the specific purpose as required by financial instructions;
- (b) compliance with the Public Bodies Management Accountability (PBMA) Act; the FAA Act and any Regulations made thereunder, any Financial Instructions issued by the Financial Secretary under section 51 of the Act, and the prescribed public sector procurement procedures regarding tenders, contracts and payments;
- (c) avoidance of waste and extravagance and seeking of economy, efficiency and effectiveness in the use of resources made available;
- (d) proper management and accounting of assets, including stores, equipment, and transport vehicles;
- (e) maintenance of records to generate timely financial reports and other management information.

Failure to comply will render you liable to disciplinary proceedings under the Public Bodies Management and Accountability Act and the Financial Administration and Audit Act and in accordance with the Public Service Regulations.

Yours faithfully,

Financial Secretary

Please sign and return the duplicate copy:

Terms and conditions accepted in the above letter.

.....
<<Title>> <<First Name> <<Last Name>>

accountable officer

THE FINANCIAL ADMINISTRATION AND AUDIT ACT

REGULATIONS
(under section 17)

THE FINANCIAL ADMINISTRATION (SUPPLIES) REGULATIONS, 1963

(Made by the Minister on the 7th day of June, 1963)

1. These Regulations may be cited as the Financial Administration (Supplies) Regulations, 1963. L.N. 149/63
Amd:
L.N. 304/76

2. In these Regulations—

“Chief Supply Officer” means such government officer as may for the time being be designated by the Minister, by notice in the *Gazette*, to be Chief Supply Officer;

“Government” means the Government of Jamaica;

“supplies” means any articles required for the public service or any services required in connection with such articles.

3.—(1) The Chief Supply Officer shall be the principal agent of Government for the purpose of purchasing supplies and shall pay for all such supplies out of funds provided for the purpose.

(2) The Chief Supply Officer is hereby authorized to issue invitations to tender, accept tenders, enter into contracts and issue purchase orders for supplies on behalf of Government.

(3) Whenever it becomes necessary for any supplies to be imported, the Chief Supply Officer shall obtain such supplies by indents on one or more of the following, that is to say—

- (a) the Crown Agents for Oversea Governments and Administrations in the United Kingdom;
- (b) Messrs. Gillespie & Co. of New York, Inc. in the United States of America;
- (c) Messrs. Drew, Brown Ltd. in Canada; and
- (d) any other persons appointed by Government to purchase supplies abroad.

(4) Notwithstanding the provisions of paragraph (3), the Chief Supply Officer may import supplies through the local agents of oversea suppliers if it appears to be in the public interest to do so.

4.—(1) The Financial Secretary may from time to time in writing authorize any other public officer (as defined by the Constitution of Jamaica) to purchase, on behalf of Government, any particular supplies on the local market, and such authorized officer shall have all the powers of the Chief Supply Officer in relation to the purchase of such supplies.

(2) Notwithstanding anything to the contrary, accounting officers may purchase supplies for cash up to such total value as may be contained in any instructions issued by the Minister from time to time.

5. It shall be the duty of the Chief Supply Officer to manage the purchasing and the storing of supplies so as to ensure, as far as is practicable, that adequate supplies are available at reasonable cost when required for the public service.

6. The Chief Supply Officer shall prepare and maintain a list of approved suppliers for each item of supplies and shall restrict invitations to tender, as well as contracts for the purchase of supplies, to such approved suppliers.

7.—(1) Any person may apply in writing to the Chief Supply Officer to have his name included on the lists of approved suppliers, and shall furnish such information as the Chief Supply Officer may require.

(2) The Chief Supply Officer shall inform each applicant in writing whether his application has been accepted or rejected.

(3) It shall not be necessary for the Chief Supply Officer to state his reasons for rejecting any application, but any person aggrieved by the rejection of his application to have his name entered on the lists of approved suppliers may appeal to the Minister.

(4) All applications made under this regulation and all information given in support of such applications shall be treated as confidential

8.—(1) There shall be established a committee to be named the Supply Advisory Committee (hereinafter referred to as the Committee) which shall consist of—

- (a) the Chief Supply Officer who shall be the chairman;
- (b) a representative of each Ministry to be nominated after consultation with the Financial Secretary; and
- (c) not more than three other persons to be appointed by the Minister on such terms as the Minister may decide.

(2) The Committee shall have power to regulate their own procedure.

(3) The Committee shall advise the Chief Supply Officer generally on the nature and standards of quality of all supplies to be purchased.

9.—(1) Where the Chief Supply Officer proposes—

- (a) to enter into a contract for the purchase of supplies to be delivered in quantities to be specified over a period of three months or more; or
- (b) to enter into a contract for the purchase of supplies of a total value exceeding \$500, except where the contract is to be awarded to the sole approved supplier listed in relation to the particular supplies to be purchased; or
- (c) to enter into a contract for the purchase of supplies of a total value not exceeding \$500, where the contract is to be awarded to an approved supplier whose tender was not the lowest tender submitted in respect of such supplies; or
- (d) to import supplies when such supplies, or acceptable substitutes therefor are manufactured in Jamaica and may be obtained locally,

he shall place such proposals before the Committee for their consideration and the recommendations of the Committee shall be submitted in writing by the Chief Supply Officer to the Minister for his decision.

(2) In submitting the recommendations of the Committee to the Minister the Chief Supply Officer may make such comments and observations as he may wish to offer and shall attach such documents as the Minister may require.

(3) The Minister shall not be obliged to accept the recommendations of the Committee.

10. All contracts for the purchase of supplies shall be subject to the Standard Conditions of Government Contracts for Supplies set out in the Schedule; but the Chief Supply Officer may with the prior approval of the Committee exclude all or any of the conditions contained in paragraphs 26, 27, 28 and 29 of the said Schedule. Schedule.

11.—(1) Whenever the Chief Supply Officer purchases supplies, he shall forward a purchase order together with a payment voucher to the approved supplier. The payment voucher shall be returned to the Chief Supply Officer after the supplies have been delivered to the place

specified in the purchase order, together with a certificate of delivery duly completed.

(2) The payment voucher together with the completed certificate of delivery, or such other proof of delivery as the Chief Supply Officer is willing to accept, shall constitute a claim on Government, and the Chief Supply Officer shall pay all such claims within thirty days of the receipt thereof.

12. No public officer shall accept, or agree to accept any gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or for having done or having forborne to do any act in relation to the obtaining or excuting of any contract for supplies, or for showing or forbearing to show any favour or disfavour to any person in relation to any contract for supplies.

SCHEDULE

(Regulation 10)

STANDARD CONDITIONS OF GOVERNMENT CONTRACTS FOR SUPPLIES

1.—(1) In these Conditions "the contract" means the agreement concluded between the authority and the contractor, including all specifications, plans drawings and other documents which are relevant to the contract and also such of these Conditions as are not expressly excluded in the terms and conditions of the contract. Interpretation.

(2) In the interpretation of the contract except where the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them—

- (a) "supplies" means all articles which the contractor is required under the contract to supply or in connection with which he is required under the contract to carry out any service;
- (b) "the authority" means the person who in the contract is stated to be the authority;
- (c) "the contractor" means the person who by the contract undertakes to supply the articles or to render such other service for the authority as is provided by the contract and, where the contractor is an individual or a firm, the expression shall include the personal representatives of that individual or of the firm, as the case may be, and the expression shall also include any person to whom the benefit of the contract may be assigned by the contractor with the consent of the authority;
- (d) "the contract price" means the price payable to the contractor by the authority under the contract for the full and proper performance by the contractor of his part of the contract as determined under the provisions of the contract but before taking into account the effect of conditions 26, 27, 28 and 29 (Variation of Price) of these Conditions where those conditions, or any of them, are included in the terms and conditions of the contract;
- (e) "loss" includes destruction;
- (f) "representative of the authority" in any provision of the contract means the person duly authorized by the authority to act for the purposes of the provision.

(3) Any notice or other communication whatsoever which the authority is required or authorized by the contract to give or make to the contractor shall, without prejudice to any other method of giving or making it, be sufficiently given or made if it is sent by registered post addressed to the contractor by name at the last known place of abode or business of the contractor and if that letter is not returned through the post office undelivered that notice or communication shall be deemed for the purposes of the contract to have been given or made at the time at which that letter would in the ordinary course of post be delivered.

2. The supplies shall be of the qualities and sorts described and equal in all respects to the specifications, plans, drawings, patterns and samples which form part of the contract or are otherwise relevant for the purposes of the contract. Description.

3.—(1) The authority reserves the right to alter from time to time the said specifications, plans, drawings, patterns and samples and as from the date specified by the authority the supplies shall be in accordance with the specifications, plans, drawings, patterns and samples as so altered. Alteration of specifications, plans, drawings patterns and samples.

(2) Where any such alteration involves an alteration in the cost of, or in the period required for the production of any supplies which are affected by the alteration, such revision of the contract price or of the time for delivery of those supplies shall be made as may be appropriate. Save as aforesaid, the contract shall remain unaltered.

Inspection and
rejection.

4.—(1) The supplies may be inspected on behalf of the authority either after delivery or at the contractor's factory or workshop as may be specified in, or by directions given in accordance with, the contract, and if found defective or inferior in quality to, or differing in form or material from, the requirements of the contract such supplies may be rejected.

(2) The whole of any consignment of the supplies may be rejected if—

- (a) such proportion or percentage of the supplies in that consignment as may be specified in the contract as being the appropriate proportion or percentage for the purposes of this condition, or
- (b) samples of the supplies or of material comprised therein taken at random from that consignment,

are found not to conform in every respect to the requirements of the contract.

(3) Supplies rejected under this condition shall not be considered as having been delivered under the contract, and the contractor shall within the appropriate time for delivery provided by the contract, or such further time as the authority in his discretion may allow, deliver at the contractor's expense satisfactory supplies in the place of those rejected.

(4) Wherever supplies have been rejected after delivery the authority shall immediately notify the contractor of the rejection, and the contractor shall at his own expense remove such rejected supplies within eight days of the receipt of such notification of rejection, or within such other period as may be provided in the contract. If the contractor fails to remove the rejected supplies or any of them within the period aforesaid, the authority may return such rejected supplies at the contractor's risk and recover the cost of carriage from the contractor.

(5) Without prejudice to the authority's right of inspection under clause (1) of this condition, the authority may inspect and reject any of the supplies in course of production.

(6) Where the authority decides that inspection of any of the supplies, whether completed or in course of production, shall be carried out at the contractor's factory or workshop, the contractor shall give to the representative of the authority full and free access to the said premises as and when required for that purpose, and shall at the expense of the contractor afford to such representative all such reasonable accommodation and facilities as may be required by him therefor and all appliances, materials and labour required for inspection purposes.

(7) If any of the supplies whether completed or in course of production, is rejected on inspection by the authority, the same shall, if the authority so requires, be marked in such a manner satisfactory to the authority as to ensure its subsequent identification as a rejected article.

(8) In the event of a rejection of any of the supplies whereby the contractor considers himself aggrieved, he may, within eight days of the receipt of notification of rejection and before such supplies have been removed, give the authority notice of objection. It shall be a condition precedent to consideration by the authority of the contractor's objection and to arbitration in respect of such objection that the contractor shall have given notice of his objection within the said time. If the contractor gives notice of objection the supplies shall not be removed until the authority so directs.

Acceptance
marks.

5. The contractor if so required shall at his own expense mark or permit the representative of the authority to mark all approved materials, supplies or parts thereof with the recognized Government marks. In the case of materials, supplies or parts thereof which cannot be so marked, the same shall, if required by the said representative, be packed in suitable packages or cases, each of which shall be sealed and shall have the Government mark placed on the seals.

6. Unless otherwise provided by the contract all containers (including packing cases, boxes, tins, drums and wrappings) supplied by the contractor shall be considered as non-returnable and their cost as having been included in the contract price. Packages.

7.—(1) Delivery of the supplies properly packed and secured where stipulated, shall be made by the contractor at the time or times and at the place or places and in the manner specified in the contract or in the purchase order. The contractor shall further comply with any instructions with regard to the safe transit of the supplies which the authority may from time to time give for reasons of security. Delivery.

(2) Where the contract or purchase order specifies delivery at a delivered price to a destination named or to be named, the contractor shall effect delivery to that destination at his own expense and shall make all necessary transport arrangements therefor.

(3) All supplies shall be accompanied by a delivery note clearly marked with the reference number of the purchase order in pursuance of which they are supplied.

8. Claims in respect of supplies shall be rendered in the manner specified in these Regulations and payment shall be made accordingly by the authority within thirty days of receipt of claim or as otherwise provided for in the contract. Rendering of claims and payment.

9. Whenever under the contract any sum of money shall be recoverable from or payable by the contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due, to the contractor under the contract or under any other contract with the authority or with any department or office of the Government. Recovery of sums due.

10. The contractor shall render such reports as to the progress of the contract in such form as may be required by the authority. Progress reports.

The submission and acceptance of these reports shall be without prejudice to the rights of the authority under the contract.

11.—(1) All materials, equipment, fittings or things issued in connection with the contract shall remain the property of the authority whether paid for by or charged against the contractor or not and shall be used in the execution of the contract and for no other purpose whatsoever without the prior approval in writing of the authority. Issues of Government property.

(2) All such issues shall be deemed to be in good condition when received by or on behalf of the contractor unless he shall notify the authority to the contrary within seven days or such other time as is specified in the contract.

(3) The contractor undertakes the due return of all such issues and will be responsible for all loss thereof or damage thereto from whatever cause arising to the full amount of such loss or damage.

(4) For the purposes of clause (3), deterioration in such issues resulting from its normal and proper use in the execution of the contract shall not be deemed to be loss or damage, (except in so far as the deterioration is contributed to by the failure of the contractor to protect, maintain or repair the property).

(5) Neither the contractor, nor any sub-contractor, nor any other person, shall have a lien on any such issues for any sum due to the contractor, sub-contractor or other person, and the contractor shall take all such steps as may be reasonably necessary to ensure that the title of the authority, and the exclusion of any such lien, are brought to the notice of all sub-contractors and other persons dealing with any such issues.

Loss of or
damage to the
supplies, etc.

12. Notwithstanding that any of the supplies or any materials, equipment, fittings or things acquired or allocated by the contractor for incorporation into such supplies may have been inspected or approved or that the property therein may have passed to the authority the contractor shall remain and be responsible to make good loss of or damage to such supplies and such materials, equipment, fittings and things howsoever occasioned occurring at any time prior to delivery of the supplies.

If after delivery the authority rejects any of the supplies or any such materials, equipment, fittings or things the same shall, at the expiration of the period specified in clause (4) of condition 4, or at such earlier time as the same shall cease to be in the possession of the authority, be at the risk in all respects of the contractor and he shall have no claim against the authority in respect of any loss thereof or damage thereto from whatever cause:

Provided that, if the supplies shall be retained by the authority after notice of objection given by the contractor in accordance with clause (8) of condition 4, the supplies shall not be at the risk of the contractor until they shall cease to be in the possession of the authority.

Default.

13.—(1) If the contractor fails to deliver the supplies or any portion thereof within the time or times specified in the contract, or in the purchase order, the authority may without prejudice to any other remedies, by notice to the contractor determine the contract either in relation to those supplies which have not been delivered in accordance with the contract at the time of such determination, or in relation to all the supplies to which the contract relates other than those delivered in accordance with the contract before such determination.

(2) Where the authority has determined the contract under clause (1) and without prejudice as aforesaid the authority may replace all or any of the supplies in relation to which the contract is so determined by purchasing or manufacturing other supplies of the same or similar description, or by allocating other supplies of the same or similar description in the possession or control of the authority to the purposes for which the supplies replaced are required and there shall be recoverable from the contractor the amount by which the aggregate of the cost of purchasing and of manufacturing supplies in this way and of the value of any supplies allocated as aforesaid exceeds the amount which would have been payable to the contractor in respect of all the supplies so replaced if they had been delivered in accordance with the contract.

Bankruptcy.

14. The authority may at any time by notice in writing summarily determine the contract without compensation to the contractor in any of the following events—

- (a) if the contractor, being an individual, or, where the contractor is a firm, any partner in that firm, shall at any time be adjudged or otherwise declared bankrupt under any enactment for the time being in force in Jamaica, or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment of his property for the benefit of his creditors, or shall purport to do so; or
- (b) if the contractor, being a company, shall pass a resolution, or the court shall make an order, that the company shall be wound up, or if a receiver or manager on behalf of a creditor shall be appointed, or if circumstances shall arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding up order:

Provided always that such determination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the authority.

Fair wages.

15.—(1) (a) The contractor shall, in the execution of the contract, pay rates of wages and observe hours and conditions of labour not less

favourable than those established for the trade or industry in the district where the work is carried out by machinery of negotiation or arbitration to which the parties are organizations of employers and trade unions representative respectively of substantial proportions of the employers and workers engaged in the trade or industry in the district.

- (b) In the absence of any rates of wages, hours or conditions of labour so established the contractor shall pay rates of wages and observe hours and conditions of labour which are not less favourable than the general level of wages, hours and conditions observed by other employers whose general circumstances in the trade or industry in which the contractor is engaged are similar.

(2) The contractor shall in respect of all persons employed by him (whether in execution of the contract or otherwise) in every factory, workshop or place occupied or used by him for the execution of the contract comply with the general conditions required by the Factories Act, and any regulations made thereunder. The contractor warrants that to the best of his knowledge and belief he has complied with the general conditions required by such Act for at least three months prior to the date of his tender.

(3) In the event of any question arising as to whether the requirements of this condition are being observed, the question shall, if not otherwise disposed of, be referred to the Minister responsible for labour for decision.

(4) The contractor shall recognise the freedom of his work-people to be members of trade unions.

(5) The contractor shall at all times during the continuance of a contract display, for the information of his work-people, in every factory, workshop or place occupied or used by him for the execution of the contract a copy of this condition.

(6) The contractor shall be responsible for the observance of this condition by sub-contractors employed in the execution of the contract, and shall if required notify the authority of the names and addresses of all such sub-contractors.

16. The contractor shall not give, bargain, sell, assign, sub-let (except as is customary in the trade), or otherwise dispose of the contract or any part thereof or the benefit or advantage of the contract or any part thereof without the previous consent in writing of the authority.

Transfer and sub-letting.

17. No Member of Parliament shall be admitted to any share or part of the contract or to any benefit to arise therefrom.

Members of Parliament.

18.—(1) The contractor shall not—

- (a) offer or give or agree to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract for the Government of Jamaica or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract for the Government of Jamaica;
- (b) enter into this or any other contract with the Government of Jamaica or any Government department in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge unless before the contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the authority.

Corrupt gifts and payments of commission.

(2) Any branch of his condition by the contractor or by anyone employed by him or acting on his behalf in relation to this or any other contract

to which the Government is a party, shall entitle the authority to determine the contract and recover from the contractor the amount of any loss resulting from such determination and recover from the contractor the amount or value of any such gift, consideration or commission.

(3) Where the contract has been determined under clause (2) of this condition the powers given by clause (2) of condition 13 shall apply as if there had been a failure in delivery.

Arbitration.

19. All disputes, differences or questions between the parties to the contract with respect to any matter or thing arising out of or relating to the contract, except to the extent to which special provision for arbitration is made elsewhere in the contract, shall be referred to the arbitration of two persons, (one to be appointed by the authority and one by the contractor) or their umpire, in accordance with the provisions of the Arbitration Act.

Use of documents, informations.

20.—(1) Except with the consent in writing of the authority, the contractor shall not disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample or information issued or furnished by or on behalf of the authority in connection therewith to any person, other than a person employed or engaged by the contractor in the carrying-out of the contract or any sub-contractor, supplier or other person concerned with the same.

(2) Any disclosure to any person permitted under clause (1) of this condition shall be made in confidence and shall extend so far only as may be necessary for the purposes of the contract.

(3) Except with the consent in writing of the authority the contractor shall not make use of the contract or any specification or other thing mentioned in clause (1) of this condition otherwise than for the purpose of manufacturing the supplies and the contractor shall not make any similar supply or part thereof for any other purpose.

(4) Any specification, plan, drawing, pattern or sample mentioned in clause (1) of this condition remains the property of the authority and must be returned to the authority on completion of the contract.

Labour-conditions (made-up textiles, equipment).

21.—(1) All supplies shall be made up and the material cut out in the contractor's own factory or workshop as declared in the tender, unless prior sanction has been obtained in writing from the authority for any of such work to be done in some other place. No work shall be done in the homes of the work-people.

(2) All wages earned by work-people engaged on work under the contract shall be paid direct to them, and not to a foreman or other person supervising or taking part in the operations upon which the work-people are engaged.

(3) If there has been any infringement of clause (1) of this condition or the corresponding provision in any other contract, the authority may, forthwith determine the contract, and any other contract between the authority and the contractor, and clause (2) of condition 13 shall apply to any contract so determined as if the contract had been determined under that condition.

(4) The contractor shall cause the provisions of clauses (1) and (2) of this condition to be prominently exhibited for the information of his work-people on the said premises.

22.—(1) As soon as possible after the contract has been made, the contractor shall send a demand to the authority for the full quantity of each description of material scheduled to be issued for the production of the supplies. Issues of such materials will be made at such times and in such quantities as the authority may decide and may be regulated by the contractor's rate of production and delivery of the supplies.

Issue of materials (made-up textiles, equipment, etc.). (See also condition 11 (Issue of Government property)).

- (2) (a) Issues of such materials will be charged against the contractor at the rates specified in the contract. The contract price shall include the full value at the rates so specified of all materials so issued. All other materials necessary shall be provided by the contractor.
- (b) The inclusion in the contract of the specified rates of charge for issued materials shall not prejudice the right of the authority to recover from the contractor the full amount of any loss of or damage to any such materials (as provided by condition 11 (3)) or to charge the contractor with the full cost of any replacement, required by the contractor, of any such materials so lost or damaged, in any case where the full amount of such loss or damage or the full cost of any such replacement exceeds the specified rates of charge for such materials as aforesaid.

(3) Materials will be issued packed up or loose at the option of the authority. The value of all canvas, wrappers and cases in which materials have been issued packed up shall be recoverable from the contractor, unless the authority requires the contractor to return such canvas, wrappers and cases, in which case the contractor shall return them clean and in good condition and shall comply with the instructions of the authority in connection with their disposal. If materials are issued loose, any necessary packing shall be effected by, and at the expense of the contractor.

(4) Unless otherwise provided by the contract, delivery of issued materials will be made carriage paid.

(5) The contractor shall keep a record of all materials issued to him showing what quantities have been consumed under the contract, and shall report to the authority without delay details of any such materials which may be surplus to the contract requirements.

(6) No claim on account of shrinkage that may occur in the making up of any materials issued to the contractor will be entertained, nor will any allowance be made to cover loss by shrinkage.

(7) Until the amount charged against the contractor in respect of materials issued to him has been recovered, payment for any of the supplies delivered shall be limited to a sum per article delivered or a percentage of the contract price appropriate to such articles. Such sum or percentage shall be the sum or percentage as fixed by the authority. The contractor shall, however, if so required by the authority, make pre-payment for any materials issued to him.

(8) Unless issued by the authority, samples of the sewings to be used in the production of the supplies shall be submitted by the contractor for approval of the authority before proceeding with the contract. If the result of actual wear shows that the sewings used were of inferior quality, any expense incurred in re-sewing or making good any of the supplies within twelve months of the delivery of the order shall be recoverable from the contractor.

23.—(1) Where raw material or part wrought material is required by the specifications or otherwise to comply with a given analysis and/or with a given mechanical test at some stage of manufacture, the contractor shall, if required, at his own cost—

Tests

- (a) provide and prepare the necessary samples for analysis;
- (b) provide and prepare the necessary test pieces for testing; and

- (c) carry out in the presence of the representative of the authority the mechanical tests required on approved machines at his own factory or workshop or at other factories or workshops as may be agreed.

(2) The representative of the authority shall for the purpose of inspection under condition 4 (Inspection and Rejection) be at liberty to select for chemical or other analysis any specimen materials, and any of the supplies or parts thereof (hereinafter called samples). The contractor shall, at his own expense, take and label such samples as and when directed by, and in the presence of, the said representative, who shall seal each sample.

(3) The contractor shall at the discretion of the said representative and at his own expense pack efficiently and despatch to the Government Chemist, or other analyst selected by the authority, any of the samples as required, and shall be responsible for compliance with any regulations, etc. governing the carriage of inflammable or dangerous goods which may have been issued by the post office or railway authorities, or other carrier, when samples of such goods are forwarded:

Provided that if the authority is of opinion that tests of an extensive nature under this condition are necessary the contractor shall carry out such tests, or permit the same to be carried out upon terms to be agreed.

Purchase orders.

24. A purchase order and payment voucher shall be issued for each supply requisitioned, and except as may be otherwise provided in the contract, the authority shall not be responsible for any claim arising out of the delivery of any supplies unless the payment voucher and certificate of delivery without any alteration whatever are produced by the contractor, except where other proof of delivery, satisfactory to the authority is accepted.

Materials requirements.

25. The contractor shall furnish to the authority such information as the authority may from time to time require as to the materials and components which the contractor and his sub-contractors will require to purchase in connection with the execution of the contract. This condition shall not, however, relieve the contractor and his sub-contractors from responsibility for obtaining such materials and components.

Variation of price (wages).

26.—(1) (a) If, in relation to any trade to which work-people employed by the contractor in connection with the contract belong, at any time during the period between the date of tender and the date on which the contract should be completed (or such later date as the authority may decide) there is any increase in the rates of wages paid by the contractor and if the contractor satisfies the authority—

- (i) that no provision was made in his tender to cover such increase in rates of wages; and
- (ii) that such increase in the rates of wages is made as a result of an increase in the minimum rates of wages which must be paid in that trade in order to comply with condition 15 (Fair Wages, etc.) and is not greater than the increase in such minimum rates,

the contract price shall, subject to compliance with and in accordance with condition 29, be increased by an amount calculated on the actual increase in the costs incurred by the contractor in carrying out the contract resulting solely from the payment during the said period of wages at such increased rates to work-people so employed as aforesaid.

(b) There shall be excluded from the amount payable under paragraph (a) of this clause—

- (i) any sum in respect of overhead charges, or profits, provided that no sum shall be excluded by reason of the fact that the wages of work-people employed as aforesaid are brought into

account in the cost accounts of the contractor otherwise than as part of the direct cost of labour;

- (ii) any part thereof which is attributable to delay in the execution of any contract within the control of the contractor.

- (2) (a) If, in relation to any trade to which work-people employed by the contractor in connection with the contract belong, at any time during the period between the date of tender and the date on which the contract is completed there is any decrease in the minimum rates of wages which must be paid in that trade in order to comply with condition 15 (Fair Wages, etc.) the contract price shall be reduced by an amount calculated on the decrease in the costs which would be incurred by the contractor in carrying out the contract if during that part of the said period for which such decrease in such minimum rates was in force be reduced the rates of wages paid by him to work-people so employed as aforesaid by an amount equal to such decrease.
- (b) In calculating the amount by which the contract price shall be reduced under paragraph (a) of this clause no sum in respect of profits shall be reduced nor shall any consequential reduction in overhead charges be taken into account, save only where the wages of work-people employed as aforesaid are brought into account in the cost accounts of the contractor otherwise than as part of the direct cost of labour.

27.—(1) The contractor shall furnish such quotations, documents and information as the authority may reasonably require in order to satisfy himself that the basic prices referred to in the Annexure to the tender headed "Variation of Price (Materials)" are fair and reasonable and that the declaration therein is accurate.

Variation of
price
(materials).

(2) If the contractor shall necessarily and properly pay in respect of any material referred to in the said Annexure a price which is in excess of the basic price of that material, and if the said declaration is accurate then the contract price shall, subject to compliance with and in accordance with the provisions of condition 29, be increased by an amount not exceeding the excess price so paid, provided that—

- (a) there may be deducted from the said amount such part thereof as is attributable to delay in the execution of the contract within the control of the contractor;
- (b) in respect of any such material the price of which is controlled there shall not in any event be paid under clause (2) of this condition an amount exceeding the difference between the basic price and the controlled price thereof at the date on which the price to be paid to the supplier became fixed.

(3) If the contractor acquires or is able reasonably to acquire any such material at a price which is less than the basic price for that material the contract price shall be reduced by an amount calculated in accordance with that price.

28. Where conditions 26 and 27 form, or one of those conditions forms, part of the contract, and the contractor includes in any sub-contract or order made or placed for the purposes of the contract provisions or a provision similar to those conditions or that condition, as the case may be, then, subject to compliance with and in accordance with the provisions of condition 29—

Variation of
price (sub-
contracts).

- (a) the authority shall pay to the contractor such sum as the contractor necessarily and properly pays to the sub-contractor or supplier under the condition or conditions so incorporated:

Provided that there may be deducted from the said sum such part thereof as is attributable to unreasonable delay in making the sub-contract or placing the order; and

- (b) the contractor shall pay to the authority such sum as the contractor is entitled to receive from the sub-contractor or supplier through the operation of that condition or those conditions.

Variation of price (general provisions).

29.—(1) The contractor shall keep such books, accounts and other documents and records as are necessary to show the increases in costs incurred and the reductions obtainable under such of conditions 26, 27 and 28 and any other variation of price condition as is or are included in the contract and shall at the request of the authority furnish, verified in such manner as the authority may require, any accounts, documents or records so kept and such other information as the authority may reasonably require.

(2) Unless the parties otherwise agree, any adjustment in the contract price under such of conditions 26, 27 and 28 and any other variation of price condition as may be included in the contract shall be made as soon as possible after completion of the contract. Notwithstanding payment of the contract price or any part thereof, any underpayment or overpayment shall be recoverable by or from the contractor, as the case may be.

(3) Where the contractor includes in any sub-contract or order made or placed for the purposes of the contract provisions or a provision similar to conditions 26 and 27 or any of those conditions, the contractor shall—

- (a) include in any such sub-contract or order provisions similar to clauses (1) and (2) of this condition, subject only to the omission of the reference, in each of the said clauses, to condition 28; and
- (b) if and when required by the authority, take all reasonable steps to secure the observance by the sub-contractor or supplier of the obligations imposed upon him by the provisions of the sub-contract or order included pursuant to paragraph (a) of this clause.

Determination of contract.

30.—(1) The Authority shall in addition to his power under any other of these conditions, have power to determine the contract at any time by giving to the contractor written notice, to expire at the end of such period as may be specified in the contract as the appropriate period for a notice to determine the contract under this condition or, if no period be specified at the end of two weeks and upon the expiration of the notice the contract shall be determined without prejudice to the rights of the parties accrued to the date of determination but subject to the operation of the following provisions of this condition.

(2) In the event of such notice being given the authority shall at any time before the expiration of the notice be entitled to exercise and shall as soon as may be reasonably practicable within that period exercise such of the following powers as he considers expedient—

- (a) to direct the contractor, where production has not been commenced, to refrain from commencing production;
- (b) to direct the contractor to complete in accordance with the contract all or any of the supplies, or any part or component thereof in course of manufacture at the date on which the notice was served and to deliver the same at such time or times as may be mutually agreed on, or in default of agreement, at the time or times provided by the contract. All supplies delivered by the contractor in accordance with such directions and accepted shall be paid for at a fair and reasonable price;
- (c) to direct that the contractor shall as soon as may be reasonably practicable after the receipt of such notice—
 - (i) take such steps as will ensure that the production rate of the supplies and parts and components thereof is reduced as rapidly as possible;
 - (ii) as far as possible consistent with sub-paragraph (i) of this paragraph concentrate work on the completion of parts and components already in a partly manufactured state;

- (iii) determine on the best possible terms such sub-contracts and orders for materials and parts and components bought out in a partly manufactured or wholly manufactured state as have not been completed, observing in this connection any directions given under paragraph (b) and sub-paragraphs (i) and (ii) of this paragraph as far as may be possible.

(3) In the event of such notice being given—

- (a) the authority shall take over from the contractor at a fair and reasonable price all unused and undamaged materials, bought-out parts and components and supplies in course of manufacture in the possession of the contractor at the expiration of the notice and properly provided by or supplied to the contractor for the performance of the contract except such materials, bought-out parts and components and supplies in course of manufacture as the contractor shall, with the concurrence of the authority, elect to retain;
- (b) the contractor shall prepare and deliver to the authority within an agreed period, or in default of agreement within such period as the authority may specify a list of all such unused and undamaged materials, bought-out parts and components and supplies in course of manufacture liable to be taken over by or previously belonging to the authority and shall deliver such materials and things in accordance with the directions of the authority who shall pay to the contractor fair and reasonable handling and delivery charges incurred in complying with such direction;
- (c) the authority shall indemnify the contractor against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the contractor in connection with the contract to the extent to which the said commitments, liabilities or expenditure would otherwise represent an unavoidable loss by the contractor by reason of the determination of the contract:

Provided that in the event of the contractor not having observed any direction given to him under clause (2) of this condition the authority shall not under this clause pay any sums in excess of those which the authority would have paid had the contractor observed that direction.

(4) The authority shall not in any case be liable to pay under the provisions of this condition any sum which, when taken together with any sums paid or due or becoming due to the contractor under the contract, shall exceed the total price of the supplies payable under the contract.

(5) The contractor shall in any sub-contract or order the value of which is \$5,000 or over made or placed by him with any one sub-contractor or supplier in connection with or for the purposes of the contract take power to determine such sub-contract or order in the event of the determination of the contract by the authority under this condition upon the terms of clauses (1) to (4) of this condition save only that—

- (a) the name of the contractor shall be substituted for the authority throughout except in clause (3) paragraph (a) where it last occurs; and
- (b) the period of the notice of determination shall be such period as may be specified in the contract as the appropriate period for a notice to determine a sub-contract or order under this condition or, if no period be specified, two weeks.

31.—(1) The prices stated in the tender shall include all charges for royalties payable in respect of the use of any patent registered design, drawings or technical information which may be involved in the supply of the articles or in the construction or use of any plant material or apparatus supplied by the contractor or constructed under the contract and whether owned by the contractor or any other party. Patents.

(2) The authority on their part warrant that any design, drawings, technical information or instruction furnished or given by them shall not be such as will cause the contractor to infringe any letters patent, registered design, trade-mark or copyright in the performance of the contract.

(3) Subject as aforesaid and except as may be otherwise expressly agreed in writing the contractor shall indemnify the authority against any loss or damage which the authority may suffer and against any liability for damages, costs or otherwise which the authority may incur and against any expense for costs, royalties or otherwise to which the authority may be put by reason of an infringement or allegation of infringement by or in relation to the supplies or the construction or use of any plant material or apparatus supplied by the contractor or construed under the contract.

THE FINANCIAL ADMINISTRATION AND AUDIT ACT

REGULATIONS
(under section 50)THE FINANCIAL ADMINISTRATION AND AUDIT (FISCAL RESPONSIBILITY
FRAMEWORK) REGULATIONS, 2012*(Made by the Minister on the 10th day of April, 2012)*L.N. 45D/2012
67/2015

1. These Regulations may be cited as the Financial Administration and Audit (Fiscal Responsibility Framework) Regulations, 2012.

Citation.

2.—(1) A public entity within the specified public sector shall not enter into a commitment to undertake a public investment project without the written approval of the Cabinet.

Public
Investment
Management
System.

(2) A public entity within the specified public sector that proposes a project for inclusion in the Public Sector Investment Programme (hereinafter called the “PSIP”) shall submit the proposal to the Public Investment Secretariat (hereinafter called the “Secretariat”) for assessment and appraisal.

(3) Upon receipt of the proposal, the Secretariat shall conduct an assessment and appraisal of the project to determine whether the project is—

- (a) consistent with the strategic objectives of the Government;
- (b) technically, financially, economically and environmentally feasible; and
- (c) satisfies the criteria set out in the Fourth Schedule.

Fourth
Schedule.

(4) After assessing and appraising the project in accordance with subsection (3), the Secretariat shall submit a report thereon to the Public Investment Management Committee (hereinafter called the “PIMC”) within the time specified in Financial Instructions issued by the Financial Secretary under section 51 of the Act.

(5) Upon receipt of the report on the project submitted under paragraph (3), the PIMC shall—

- (a) review the report; and
- (b) submit a recommendation to the Cabinet in respect of the project within the time specified in Financial Instructions issued by the Financial Secretary under section 51 of the Act.

(6) A public entity within the specified public sector that is desirous of undertaking a public investment project shall forward such details on the project as may be prescribed or required by the Cabinet and the recommendation of the PIMC under paragraph (4)(b) to the Cabinet for approval.

2A.—(1) Where a public entity within the specified public sector proposes to benefit from a loan or grant from any source in respect of a programme or a project, the accounting officer with responsibility for the public entity shall cause a proposal to be first developed and submitted to the Planning Institute of Jamaica for appraisal and pre-selection.

(2) The proposal shall have regard to any Financial Instructions issued by the Financial Secretary from time to time and shall contain the following information in relation to the loan or grant—

- (a) the rationale for the loan or grant;
- (b) the amount of the loan or grant;
- (c) the potential financing source and cash flow;
- (d) the disbursement schedule;
- (e) the capital and recurrent expenditure associated with the programme or project, including any expenditure after completion of the programme or project;
- (f) the medium term budgetary impact including any additional recurrent costs associated with the programme or project; and
- (g) in the case of a loan, the time profile of amortization and interest.

(3) Selected proposals will be aligned to the strategic priorities of the Government.

(4) Notwithstanding the provisions of paragraphs (2) and (3), instructions issued by the Financial Secretary shall stipulate the criteria for prioritizing programmes or projects financed by loans and grants for inclusion in the Budget.

(5) All proceeds related to loans or grants shall be paid into the Consolidated Fund.

(6) Contravention of the provisions of section 7A of the Act or of this regulation shall be—

- (a) treated as a loss as provided for under section 20 of the Act if such contravention results in a financial loss to the Government;
- (b) sanctioned by a written reprimand from the Financial Secretary for a first offence where the Financial Secretary considers the breach to be administrative and does not result in a financial loss to the Government; or

- (c) the subject of a report to be submitted by the Financial Secretary to the Public Service Commission for appropriate action.

(7) The report submitted by the Financial Secretary under paragraph (6)(c) shall outline the circumstances of the current breach, the history of any previous breach and the action taken.

3.—(1) Where under section 9(2A) of the Act, the Minister proposes to suspend, withdraw, or impose conditions on a warrant under section 117 of the Constitution of Jamaica, he shall provide a report to the Cabinet specifying—

Content of
report to
Cabinet by
Minister re
Warrant.

- (a) whether the decision is for a withdrawal, suspension, or imposition of conditions on the warrant;
- (b) the reasons for the decision, including any specified in paragraph (2) that may apply, and under what conditions it may be reversed; and
- (c) the implications the action may have on other warrants that have been issued under section 9 of the Act.

(2) The reasons referred to in paragraph (1)(b) include there being—

- (a) an insufficiency of cash resources in the Consolidated Fund to honour the warrant, given other current or future obligations;
- (b) a failure to meet the obligations under section 48C of the Act or its supporting regulations as a result of honouring the warrant; or
- (c) a failure to meet agreements with domestic or international partners as a result of honouring the warrant.

4.—(1) Subject to paragraph (2), the consultation with the Financial Secretary of any proposed change as required under section 16(3) of the Act, shall include the following information—

Consultation
with the
Financial
Secretary.

- (a) the rationale for the change; and
- (b) detailed budget information of the impact of this change on expenditure and revenue for the financial year that is then current and for the medium term.

(2) Where the proposed change is anticipated to increase overall expenditures of the ministry, department or agency, the responsible accounting officer in consultation with the Financial Secretary shall indicate an offsetting reduction in expenditure.

(3) The Financial Secretary shall as soon as possible after consultation in accordance with paragraph (1) provide the Minister with an assessment of and recommendation in relation to the proposed change.

(4) Where there is a failure to comply with section 16(3) of the Act and this regulation, the Financial Secretary shall issue directions for a complete roll back or cessation of the change until there is full compliance.

(5) Where directions issued under paragraph (4) are not complied with, the Financial Secretary shall send a report to the Public Service Commission for appropriate action.

Managing
expenditure.

5.—(1) For the purposes of the requirement under section 48D(d) of the Act, the total debt shall be reduced to, and thereafter maintained at a level that is consistent with—

- (a) the fiscal targets set by the Government, in respect of the financial years 2014, 2015 and 2016, respectively; and
- (b) the fiscal targets referred to in section 48C(1) of the Act, in respect of the financial year 2017 and each financial year thereafter.

(2) When, having regard to paragraph (1), the debt has reached a prudent level (60 per cent of Gross Domestic Product or less) the Fiscal Policy Paper shall demonstrate that on average, over the medium term, current revenue should equal or exceed current expenditure.

Corporate
Plan.

6.—(1) Pursuant to section 48E(4) of the Act, each accounting officer shall, not later than November 30 of each year, submit to the Minister a four-year corporate plan in respect of each department for which each accounting officer is responsible.

(2) A corporate plan submitted under paragraph (1) shall—

- (a) indicate the estimates for the following year, and forward-estimates for the succeeding three financial years, in respect of existing recurrent programmes and public investment projects, and any new policy proposals that are to be implemented within the period covered by the corporate plan;
- (b) incorporate into the recurrent budget all recurrent costs associated with public investments projects that are being implemented under the current Public Sector Investment Programme; and
- (c) be consistent with the expenditure ceilings set out in the Budget Call under regulation 12 of the Financial Management Regulations, 2011.

(3) If an accounting officer fails to submit a corporate plan in accordance with this regulation, the Financial Secretary shall provide a report with regard to that failure to the Public Service Commission for appropriate action.

Statement of
Excess and
Supplementary
Estimates.

7.—(1) Before any excess or supplementary expenditure may take place, the Permanent Secretary generating the request for the expenditure shall submit to the Financial Secretary a report detailing—

- (a) the rationale for the excess expenditure and why it was not anticipated at the time the budget was submitted to Parliament;

- (b) the expenditure for the financial year that is then current and the expected expenditure for the following two years related to the excess using the current government accounting system; and
- (c) any corrective action that would minimize these expenditures.

(2) The Financial Secretary shall submit the report under paragraph (1), with his assessment and recommendation to the Minister for submission to the Cabinet for appropriate action.

(3) If the request is supported by the Minister, the Financial Secretary shall prepare an appendix to the Submission that demonstrates how the expenditure will be financed, including possible expenditure offsets, and that the proposed implementation would be consistent with sections 48C and 48D of the Act.

(4) If the Cabinet supports the request, the Financial Secretary shall send a report to the Public Administration and Appropriations Committee of the House of Representatives, and the Financial Secretary shall appear before the Committee as required to discuss the implications of the excess expenditure, having regard to the fiscal targets referred to in regulation 5(1).

(5) The Public Administration and Appropriations Committee in preparing its report to the House in accordance with section 48G of the Act shall have regard to the Financial Secretary's report.

(6) If the Public Administration and Appropriations Committee considers the expenditure requested to be of an urgent nature, then it may make an appropriate recommendation in its Report to the House.

(7) Where an Accounting Officer—

- (a) fails to comply with the requirements of this regulation; or
- (b) exceeds the approved budgeted allocation without the appropriate prior approval,

the Financial Secretary shall cause a report to be sent to the Public Services Commission for appropriate action.

(8) Where the Financial Secretary, upon receipt of a request from an accounting officer for excess or supplemental expenditure fails to take the necessary steps to deal with the request within one month of the request being received, the accounting officer of the ministry concerned may make a report to the Cabinet Secretary who may direct the Financial Secretary to act within a specified time.

(9) Where the Financial Secretary fails to comply with the directives of the Cabinet Secretary, the Cabinet Secretary shall send a report on the matter to the Public Services Commission for appropriate action.

(10) Excess expenditure or supplementary expenditure that is to be funded by grants shall not be included in a report by the Financial Secretary under paragraph (2) unless the proposed expenditure is maintained at a level that is consistent with the fiscal targets referred to in regulation 5(1).

Fiscal Policy
Paper.

8. Upon presentation of the annual Estimates of Revenue and Expenditure, the Minister shall lay before the Houses of Parliament, a Fiscal Policy Paper setting out a Macroeconomic Framework, a Fiscal Responsibility Statement; and a Fiscal Management Strategy.

Fiscal
Responsibility
Statement.

9.—(1) The fiscal policy measures to be set out in the Fiscal Responsibility Statement required under section 48B(4)(b) of the Act shall be such as would facilitate—

- (a) the attainment of the fiscal targets referred to in regulation 5(1);
- (b) a reduction and maintenance of Government debt at prudent levels;
- (c) the making of policy decisions that have due regard to the financial implications for future generations;
- (d) support for adequate levels of national saving;
- (e) promotion of stable and predictable levels of taxation and spending;
- (f) moderation of cyclical fluctuations in economic activity, as appropriate;
- (g) maintenance of the integrity of the tax system by minimizing special incentives, concessions and exemptions;
- (h) pursuit of expenditure policies that would provide impetus for economic growth, poverty reduction, and improvement in human welfare;
- (i) proper maintenance of physical assets of the government; and
- (j) implementation of expenditure policy in a manner consistent with the achievement of desired fiscal outcomes.

(2) For the purposes of the declaration of the Minister required pursuant to section 48B(4)(c) of the Act adherence to principles of prudent fiscal management requires that the declaration of the Minister as to the proposed fiscal policy measures shall—

- (a) explain the broad strategic priorities on which the estimates of revenue and expenditure and longer term fiscal policy are, or will be based, consistent with the Fiscal Management Strategy and Macroeconomic Framework;
- (b) explain the government's long-term fiscal objectives, in both qualitative and quantitative terms, within which shorter-term fiscal policy will be framed;

- (c) specify for the ensuing financial year and the next following two financial years, the key fiscal targets including the fiscal balance, primary balance, domestic and external debt, and contingent liabilities including guarantees;
- (d) explain in sufficient detail why these targets are prudent and consistent with longer term sustainability;
- (e) specify the key and new fiscal measures needed to ensure the achievement of the targets given in sub-paragraph (c) and against which fiscal policy will be assessed;
- (f) quantify and justify fiscal policy actions taken or to be taken by the government that are temporary in nature, adopted for the purpose of moderating cyclical fluctuations in economic activity, or addressing disruptions caused by natural disaster, national emergency, or other severe occurrence as specified in section 48C(2) of the Act, and indicate the process for their reversal;
- (g) explain how the fiscal objectives, strategic priorities, and measures outlined in the preceding paragraphs relate to the principles of sound fiscal management;
- (h) explain any inconsistencies between the priorities, objectives, and policies in this statement and other government policy papers and documents;
- (i) provide a broad assessment of the risks, including those associated with the price of oil and other key natural resources, external and domestic demand, domestic inflation, external and domestic interest rates, natural disaster, contingent liabilities, and guarantees; and
- (j) explain, in accordance with the requirements of section 48E of the Act, the reporting basis on which the Government's fiscal reports will be prepared, and any change in accounting standards or classification that affect any of the targets in this section of the regulation.

10.—(1) For the purposes of section 48B(3)(a) of the Act, the Macroeconomic Framework in providing an overview of the current state of the economy shall—

Macroeconomic
Framework.

- (a) indicate the key assumptions that will inform the development of the estimates of revenue and expenditure, as well as provide an evaluation of the economy's performance, an assessment of the prospects for economic growth, and its interrelationship with fiscal policy;
- (b) include the following information—

- (i) real and nominal Gross Domestic Product and its components;
- (ii) the prevailing exchange rate;
- (iii) the prices of oil, alumina, bauxite, and other key commodity prices that affect the economy and fiscal policy;
- (iv) the external accounts, with emphasis on the current account of the balance of payments and international reserves;
- (v) domestic and international interest rates;
- (vi) domestic consumer prices (inflation);
- (vii) key monetary variables; and
- (viii) unemployment or other labour market developments.

(2) The Macroeconomic Framework shall include—

- (a) an explanation of the consistency of Government policies including the level of Government expenditure, revenue and debt with the projections of the economic variables specified in paragraph (1);
- (b) an explanation of the implications that changes in government policies are likely to have on growth, inflation, and other key domestic variables;
- (c) quantitative information for at least, the financial year that is current, the two financial years preceding the current year and the next two financial years following the current year;
- (d) an explanation of any substantive difference among macroeconomic indicators contained in the Fiscal Policy Paper and those in other documents produced by the Government and key stakeholders, such as the International Monetary Fund, noting any inconsistencies resulting from the timing of when reports are produced and differences in accounting methods.

11.—(1) For the purposes of section 48B(5) of the Act, the Fiscal Management Strategy in-giving an assessment of the current and projected finances of the Government in respect of a specified planning period of not less than three years, and conforming to the Fiscal Responsibility Statement and the Macroeconomic Framework shall provide—

Fiscal
Management
Strategy.

- (a) a comparison of the outcome of the fiscal indicators with the targets for the previous financial year, giving reasons for any deviation, explaining, any significant revision in fiscal data for the two financial years preceding the current year including any explanation for these revisions and the implications of those revisions for current and future fiscal performance;
- (b) an explanation of how these deviations are likely to affect the remainder of the budget year, if applicable, and future outturns of these indicators;
- (c) an explanation of whether corrective actions need to be taken;
- (d) a rationale for all new measures referred to in regulation 9(2)(e);
- (e) a report on any policy change that has been made since the presentation of the previous Fiscal Policy Paper or its update; including an explanation of why the policy changes were made and the estimated fiscal and economic effects from these policies; and
- (f) an explanation of how the information provided in the preceding sub-paragraph 3 is consistent with the objectives in the Fiscal Responsibility Statement.

(2) The Fiscal Management Strategy shall also include the following indicators, namely—

- (a) revenue broken down into the main sources of tax revenue; non tax current revenue, and capital revenue; and in the case of non tax and capital revenue, any item that counts for over fifty per cent of that category or twenty per cent of total revenue shall be shown as a sub-component of the total;
- (b) grants received emphasizing any major year to year change and deviations from the previous forecast;
- (c) expenditure broken down into economic classifications and by sector ministry with—
 - (i) the economic categories including wages and salaries, goods and services, domestic and external interest payments, transfers to and from self financing public bodies, other transfers and capital expenditures;
 - (ii) an explanation of all deviations of outturns relative to the estimates of revenue and expenditure for the current financial year or changes in the forecast for the current or future financial years greater than 10 per cent in nominal terms or greater than 0.2 per cent of GDP;

- (d) for the wage bill, a detailed explanation as to how it is consistent with the targets identified in section 48C of the Act;
- (e) repayment of principal debt, new loans and any other liability needed to finance the recurrent and capital operations of the government with—
 - (i) a statement of the budget deficit and the source of financing, or in the case of a surplus, how the net debt stock will be reduced; and
 - (ii) the consistency between expenditure, revenue, and financing being documented;
- (f) for the purposes of sections 48C(1)(b) and 48D of the Act, the following information—
 - (i) current debt broken down into domestic and external creditors and by ownership;
 - (ii) expected new borrowings and loans, consistent with section 48D of the Act;
 - (iii) the expected trajectory of debt consistent with the medium term macroeconomic framework and fiscal projections contained in the Fiscal Policy Paper and the fiscal targets under section 48C(1)(b) of the Act;
 - (iv) all arrangements that may give rise to future liabilities including guarantees and contingent liabilities; and
 - (v) any other information deemed necessary by the Minister of Finance.

Auditor-General's examination of Fiscal Policy Paper.

12. The Auditor-General shall submit, to both Houses of Parliament, the Auditor General's examination of the Fiscal Policy Paper identified in section 48B(2) of the Act within two weeks of the Paper being laid before the Houses of Parliament.

Confidential information.

13. Where under section 48E (2) of the Act the Minister proposes to reserve any information, he may notify the Auditor-General of his intention.

Certification of public bodies as not part of the public sector.

14.—(1) For the purposes of Part VII of the Act, the Auditor General shall, in accordance with this regulation, certify that a public body primarily carries out functions that are of a commercial nature if the Auditor-General is satisfied that the public body meets the criteria that are set out in the Schedule.

(2) The Minister shall, no later than August 31 in the year 2016, and no later than August 31 in every third year thereafter, provide the Auditor

General with a list of public bodies that the Minister wishes the Auditor General to consider for certification under paragraph (1), together with the audited financial statements and annual reports of those public bodies for the three financial years preceding the year in which the list is provided.

(3) Upon receiving a list and the financial statements and annual reports under paragraph (2), the Auditor General shall—

- (a) no later than September 30 in the year in which the list is received, make a decision on whether or not to certify any of the listed public bodies under paragraph (1); and
- (b) notify the Minister of that decision.

(4) Certification of a public body as not being part of the specified public sector shall take effect on April 1 of the year following the date of the Auditor General's decision under paragraph (3) to certify the public body.

(5) At the time of a recalibration under section 48CA(2) to (4) of the Act, or upon receiving a request from the Minister under paragraph (6), the Auditor General shall, in accordance with paragraph (1), determine—

- (a) whether a public body that is not part of the specified public sector continues to meet the criteria set out in the Schedule, and if the Auditor General is satisfied that it does not do so, the Auditor General shall withdraw the certification of that public body; and
- (b) whether a public body that is within the specified public sector meets the criteria set out in the Schedule, and, if the Auditor General is satisfied that the public body meets the criteria, the Auditor General shall certify that the specified public body primarily carries out functions that are of a commercial nature.

(6) The Minister may request the Auditor General to make a determination under paragraph (5) and take the action required under that paragraph following such determination, if at any time between recalibrations the Minister considers that—

- (a) a public body that is not part of the specified public sector does not meet the criteria set out in the Schedule; or
- (b) a public body that is within the specified public sector meets the criteria set out in the Schedule.

SCHEDULE

(Regulation 14(1))

*Criteria for Public Bodies that are
not part of the Specified Public Sector*

1. In this Schedule—

“audited financial statements”, in relation to a public body, means the audited financial statements of that public body prepared on stand-alone basis and, where the public body has a subsidiary, on a consolidated basis, for the three preceding financial years;

“regulated industry” means an industry in respect of which prices must be approved by an independent regulator acting with statutory authority or legally constituted to act independently; and

“the three preceding financial years” means the three financial years preceding a decision or determination of the Auditor General under regulation 14.

2. The criteria for determining whether a public body primarily carries out functions that are of a commercial nature consist of the four standards (and the respective elements of those standards) set out in paragraphs 3, 4, 5 and 6.

Fiscal Independence

3. The standard of fiscal independence comprises the elements listed below as 3.1 to 3.3.

- 3.1 The price that a public body and each of its subsidiaries, if any, charges for its products or outputs is—

- (a) consistent with full cost recovery for public bodies that operate in a regulated industry, based on the average price over the three financial years preceding a decision or determination by the Auditor General under regulation 14; or
- (b) determined independently without requiring Government approval, in the case of public bodies that do not operate in a regulated industry.

- 3.2 The public body has not in the three preceding years received any subsidy or other financial support from the Government or preferential tax treatment.

- 3.3 The Government has no outstanding financial guarantees in respect of the public body.

Independence of Human Resource Decision-Making

4. The standard of independence of human resource decision-making comprises the elements listed below as 4.1 and 4.2.

- 4.1 Staff positions of the public body are not included on the Civil Service establishment.

- 4.2 The public body exercises legal autonomy with regard to its employment decisions (such as hiring and termination).

SCHEDULE, *cont'd.*

Financial Standards

5. The financial standards comprise the elements listed below as 5.1 to 5.4:
- 5.1 The auditor of the public body has expressed an unqualified opinion on the financial statements of the public body, including an opinion that the accounts comply with the International Financial Reporting Standards (IFRS).
 - 5.2 Annual reports, including audited financial statements of the public body have been submitted in accordance with section 3(2) of the Public Bodies Management and Accountability Act.
 - 5.3 The public body has, on average over the three preceding financial years, recorded a positive net profit after tax, on a stand-alone basis or, if applicable, on a consolidated basis.
 - 5.4 At least one of the following provisions apply in respect of the public body—
 - (a) the average long term debt to equity ratio of the public body (on a stand-alone basis or, if applicable, on a consolidated basis) over the three preceding financial years is no more than 2.5, where long term debt means debt that is due over a period that is longer than one year;
 - (b) the positive working capital and current ratio of the public body (on a stand-alone basis or, if applicable, on a consolidated basis) is at least 1.2, where current ratio means current assets divided by current liabilities.

Transparency and Governance

6. The standard of transparency and governance comprises the elements listed below as 6.1, 6.2 and 6.3:
- 6.1 The public body has a functioning audit committee in accordance with the Public Bodies Management and Accountability Act.
 - 6.2 The annual report of the public body, including audited financial statements, complies with section 22 of the Public Bodies Management and Accountability Act.
 - 6.3 The annual report discloses the information required by the Public Bodies Management and Accountability Act and any regulations made thereunder.