

M O N T S E R R A T
STATUTORY RULES AND ORDERS
NO. 35 OF 2009
PUBLIC FINANCE (MANAGEMENT AND ACCOUNTABILITY) REGULATIONS, 2009
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MONTSERRAT
STATUTORY RULES AND ORDERS
NO. 35 OF 2009

THE PUBLIC FINANCE (MANAGEMENT AND ACCOUNTABILITY) REGULATIONS, 2009 MADE BY THE GOVERNOR-IN-COUNCIL UNDER SECTION 58 PUBLIC FINANCE (MANAGEMENT AND ACCOUNTABILITY) ACT, 2008 (NO. 7 OF 2008).

PART I
PRELIMINARY

Short title, commencement and application

1. (1) These Regulations may be cited as the Public Finance (Management and Accountability) Regulations 2009 and shall come into force on the 1st September, 2009.

(2) These Regulations apply to all financial transactions and business of the Government, and to the management of all public moneys and public property.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“**Accountant General**” means the person designated as such under section 8 of the Act;

“**Accounting officer**” means a person designated as such under section 9 of the Act;

“**Act**” means the Public Finance (Management and Accountability) Act, 2008;

“**Appropriation Act**” means any Act applying a sum of money out of the Consolidated Fund and Development Fund for the service and development programme for a financial year;

“**assets**” means any item of economic value owned by a Ministry, department or agency of the Government especially that which could be converted to cash;

“**Audit Committee**” means a committee of non-executive status established with the primary function of assisting an accounting officer in his oversight responsibilities by reviewing the financial information to be provided to the various stakeholders, systems of internal control which have been established, and the audit process;

“**Auditor General**” means the person appointed or deemed to have been appointed Auditor General under section 3 of the Audit Act;

“**bid**” means an offer to provide or to acquire works, services or supplies or any combination thereof, and shall include pre-qualification where applicable;

“**Consolidated Fund**” means the Consolidated Fund of the Government of Montserrat and includes the Development Fund;

“**corrupt practice**” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.

“**Department**” means one of the several units in an organization, such as sections or units for financial management purposes;

“**financial year**” means a period of twelve months ending on 31st March;

“**Financial Secretary**” means a person appointed under the Constitution of Montserrat;

- "fraudulent practice"** means any action or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial benefit or to avoid an obligation;
- "generally accepted accounting practice"** means accounting practices and procedures recognised by the accounting profession in Montserrat, and approved by the Accountant General as appropriate for reporting financial information relating to the Government, a Ministry or department, a fund, an agency or other reporting unit, and which are consistent with the Act and any relevant Appropriation Act;
- "general warrant"** means a warrant issued by the Minister under section 25 of the Act;
- "Government"** means the Government of Montserrat;
- "Head of Department"** means the head of one of the departments or units in a Ministry or Institution, and includes any head of a unit which is regarded by the Financial Secretary or Legislative Council as having departmental status;
- "instruction"** means any written directive or order issued under the authority of the Act;
- "internal audit"** means an independent process to measure, evaluate and report to the management of a Ministry, department or other agency of the Government on the efficacy of the system of internal control used to ensure the validity of financial and other information;
- "internal control"** means a set of systems to ensure that financial and other records are accurate, reliable, complete and ensure adherence to the management policies of a Ministry, department or other agency of the Government, the orderly and efficient conduct of the Ministry, department or agency, and the proper recording and safeguarding of its assets and resources;
- "inventories"** are assets in the form of materials or supplies to be consumed in the production process; or in the form of materials or supplies to be consumed or distributed in the rendering of services; or held for sale or distribution in the ordinary course of operations; or in the process of production for sale or distribution;
- "item"** means a thing or unit included in a list or collection;
- "liabilities"** are obligations of a Ministry, department, or agency of the Government arising from events or action, the settlement of which is expected to result in an outflow from that Ministry, agency or department of resources with an economic benefit or service potential;
- "Minister"** means the Minister responsible for finance;
- "outputs"** means goods produced or services provided;
- "pre-qualification"** means a screening process designed to ensure that invitations to bid are confined to capable providers;
- "procurement process"** means the successive stages in the procurement cycle of goods and services including planning, choice of procedure, measures to solicit offers from bidders, examination and evaluation of those offers, award of contract, and contract management as carried out under the Procurement Regulations;
- "programme"** means a collection of activities funded by an appropriation with the aim of creating the impact or impacts set forth in the programmes stated in the economic and fiscal management plan;
- "propriety"** means the requirement that expenditure and receipts must be dealt with in accordance with the intentions of Legislative Council and in particular those expressed through the Public Accounts Committee of Legislative Council;
- "provider"** means a natural person or an incorporated body including a consultant, contractor or supplier who provides services in the normal course of business;
- "public moneys"** and **"public funds"** means money that is—
- (a) received or receivable by an Agency;
 - (b) raised by an instrument that is issued from an Agency from which it can be reasonably inferred that the Government accepts liability in the case of default;

(c) spent by an Agency;

(d) distributed by an Agency to a person for a public purpose.

In this definition “Agency” includes ministries, departments, statutory bodies, public organisation and government companies.

“**public officer**” means a person holding or acting in an office in the public service;

“**public organisation**” means an enterprise, authority, body or entity to which section 45 (7) of the Act applies;

“**public property**” means resources owned by the Government or in the custody or care of the Government;

“**public service**” means service in any civil capacity of the Government the emoluments for which are payable directly from the Consolidated Fund or directly out of moneys provided by Legislative Council;

“**regularity**” means the requirement for all items of expenditure and receipts to be dealt with in accordance with the legislation authorising them, including the Act and any applicable delegated authority, regulations, directives and instructions issued under the Act;

“**resources**” means moneys, stores, property, assets, loans and investments;

“**revenue**” means the total amount of money received by the Government for goods sold or services provided during a certain time period;

“**statutory expenditure**” means expenditure charged on the Consolidated Fund by the Constitution, an Act of Legislative Council or Statute, but does not include the expenditure of moneys appropriated or granted by an Appropriation Act or Supplementary Appropriation Act;

“**Supplementary Appropriation Act**” means any Act, the purpose of which is to supplement the appropriation already granted by an Appropriation Act;

“**surcharge**” means a monetary penalty that may be imposed for causing loss to the Government;

“**tender**” means “bid”;

“**value for money**” means the economic, efficient and effective utilisation of resources;

“**vote**” means a group of estimates of expenditure, including statutory expenditure, for which an appropriation has been made by an Appropriation Act or a Supplementary Appropriation Act.

PART II

FINANCIAL MANAGEMENT AND CONTROL

Compliance with and availability of Regulations

3. It is the duty of all Permanent Secretaries, heads of departments and accounting officers to ensure that all public officers under their control—

(a) have access to copies of these Regulations; and

(b) comply, and are otherwise fully conversant, with the procedures and requirements embodied in these Regulations.

Power to authorise expenditure

4. (1) In accordance with section 12 of the Act, all public moneys shall be paid into the Consolidated Fund, unless an Act of Legislative Council provides for such moneys to be paid into another special fund or to be retained by a department of the Government that received them for the purposes of defraying expenses of that department.

(2) In accordance with section 19 of the Act, the right to authorise public expenditure is vested solely in Legislative Council through the enactment of Appropriation Acts.

(3) In accordance with the Constitution and the provisions of the Act, three types of issues may be made from the Consolidated Fund as follows—

- (i) statutory expenditure (for “Consolidated Fund Services”);
- (ii) voted expenditure (for “Supply Services”); and
- (iii) expenditure in advance of the Appropriation Act.

Voted expenditure

5. (1) The Appropriation Act, incorporating the approved estimates of expenditure, constitutes the means by which Legislative Council exercises control over the expenditure of public moneys by the Government during the year to which the expenditure relates.

(2) Upon the approval of the estimates and the enactment of the relevant Appropriation Act, the expenditure for the year is held to be definitely arranged in accordance with the Votes and account classifications; and such expenditure—

- (a) is to be limited by the provision in each item shown in the estimates of expenditure; and
- (b) can only be increased or varied by Legislative Council or in accordance with the provisions of the Act or under general or specific authority delegated by Legislative Council.

(3) The allocation of funds under a vote is controlled by the Minister under the authority of section 19 of the Act, and any variation in the amount allocated shall have the prior approval of the Minister.

Expenditure in Advance of Appropriation

6. Where the Appropriation Act has not come into force at the commencement of any financial year, the Minister may, by provisional warrant under his hand, addressed to the Accountant General, authorise a withdrawal from the Consolidated Fund for the purposes of meeting the expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year, or the coming into operation of that Act, whichever is earlier.

Legislative control of revenue

7. Public revenue is subject to control by Legislative Council in the sense that the revenues from any source and the circumstances in which they are required to be paid are controlled by Legislative Council by the enactment of the relevant Acts and promulgation of appropriate statutory instruments.

Expenditure in respect of public debt

8. For the avoidance of doubt, in no circumstances may public moneys be spent if their expenditure would contravene—

- (a) the terms and conditions attached to any grant or loan received or accepted by the Government from any other Government, Institution or authority; or
- (b) any instructions regulating the issue of money from that Government, Institution or authority’s funds;

and where the terms of any grant or loan prescribe that specified procedures should be followed, those procedures shall take precedence over the procedures prescribed in these Regulations for the expenditure of such moneys.

PART III

DUTIES AND RESPONSIBILITIES OF
THE MINISTER, MINISTRIES, ETC.**Duties and responsibilities of the Minister**

9. (1) The Minister is responsible for—
- (a) the development and implementation of the macroeconomic and fiscal policies and plans of the Government as outlined in the directions or instructions;
 - (b) ensuring Legislative Council is kept fully informed of the state of the economy of Montserrat;
 - (c) enhancing the control of Legislative Council over public moneys, public property and public resources; and
 - (d) the supervision, control and direction of all matters relating to the financial affairs of the Government.
- (2) Without limiting the generality of sub-regulation (1) of this Regulation, the Minister is responsible for—
- (a) the co-ordination of international and inter-governmental financial and fiscal relations;
 - (b) advising the Government on the total of resources to be allocated to the public sector in the light of the Government's economic objectives and the economic and financial environment of Montserrat;
 - (c) advising the Government on the level of resources appropriate for individual programmes, taking account of the Government's policies and commitments;
 - (d) management of the Consolidated Fund and the supervision and control of all matters relating to the financial affairs of the Government;
 - (e) ensuring the maintenance of systems both centrally and in Ministries, and departments for the planning, allocation, budgeting and control of resources;
 - (f) ensuring that goods and services procured by the Government are done in a fair, equitable and cost effective manner;
 - (g) supervising the use of resources by the Government to ensure that they are used economically, efficiently and effectively and that value for money is achieved; and
 - (h) approving the estimates of revenue and expenditure for presentation to Legislative Council.

(3) For the purposes of discharging the responsibilities specified in sub-regulations (1) and (2) of this Regulation, the Minister is empowered under section 6 of the Act to give instructions or directives that may appear to him to be necessary and expedient.

Duties and responsibilities of Ministries, Departments, Agencies, etc

10. (1) The primary responsibility of a Ministry, department or agency of the Government is to execute the policies of the Government and its statutory functions in the most economic, efficient and effective manner within its overall financial allocation and any cash or other financial limits imposed by the Minister.

- (2) A Ministry, department or agency referred to in sub-regulation (1) of this Regulation shall ensure that—
- (a) all resources, including money, human capital and capital assets are allocated and deployed to best effect;
 - (b) steps are taken to minimize—
 - (i) risks;

(ii) liabilities; and

(c) all control totals such as those contained in the approved estimates and warrants are strictly observed.

(3) It is the responsibility of a Ministry, department or agency of the Government to co-operate with the Ministry responsible for finance regarding the provision of information to enable proper and effective advice to be given to the Minister on the effective discharge of his duties and responsibilities as specified in the Act and Regulation 9 of these Regulations.

(4) For the purposes of sub-regulation (3) of this Regulation, Ministries, departments and agencies of the Government shall, in particular—

(a) consult with the Financial Secretary for his approval on any new proposals which would commit the Government to find additional resources, before submitting an Executive Council Memorandum to the Governor in Council.

(b) consult with the Financial Secretary at a formative stage in policy discussions which could have substantial implications on public resources.

(5) In accordance with section 9 of the Act, responsibility for the discharge of the duties specified in this Regulation rests on accounting officers designated by the Financial Secretary with the prior approval of the Minister.

PART IV

DUTIES AND RESPONSIBILITIES OF FINANCIAL SECRETARY, ACCOUNTANT GENERAL, ACCOUNTING OFFICERS AND AUDITOR GENERAL

The Financial Secretary

11. (1) The Financial Secretary is responsible —

(a) to the Minister for the effective application of the provisions of the Act, these Regulations and any instructions or directives issued under the Act;

(b) for ensuring that the needs of the Minister in the discharge of his responsibilities are responded to and in particular that prompt and effective advice is made available to the Minister.

(2) For the purpose of discharging his duties under the Act and these Regulations and to ensure compliance with any instruction or direction issued under the Act, the Financial Secretary or any person authorised by him may at all times —

(a) inspect any offices of the Government and have access to all books, records and other information;

(b) require any accounting officer to provide any information, document or records relating to public moneys or public property he may require;

(c) require any accounting officer or head of any entity which manages any assets of the Government to supply information necessary to enable the Minister to meet his obligations under section 9 of these Regulations;

(d) within the limitations imposed by the Act and these Regulations, give such directions and instructions as he may consider necessary for the advantage, economy and safety of public resources.

(3) An accounting officer shall consult the Financial Secretary on any matter concerning the application of the Act and these Regulations, and bring to his attention any defect in the Act or these Regulations which may result in a diminution of control over the assets and finances of the Government.

(4) The Financial Secretary is particularly responsible for ensuring that—

(a) an effective system is in place for the collection of information to ensure the timely and effective preparation of the annual estimates of revenue and expenditure for consideration and approval by the Minister and submission to Legislative Council; and

- (b) the annual estimates are prepared in accordance with any general or specific direction of the Minister and that they reflect, as can best be ascertained at the material time, value for money in the use of Government's resources.

(5) Subject to section 7 (5) of the Act, these Regulations and any directives or instructions issued under the Act, the Financial Secretary may give directives and instructions he considers necessary for the effective and efficient discharge of the intents and purposes of the Act.

The Accountant General

12. (1) The Accountant General is responsible for the compilation and management of the accounts of the Government and the safety of the public moneys, property and resources, and is the chief adviser to the Financial Secretary and the Minister on accounting matters.

(2) For the purposes of discharging his duties and responsibilities under sub-regulation (1) of this Regulation, the Accountant General shall—

- (a) define and approve the basis of accounting and the system of accounts to be established in each Ministry, department and agency of the Government, and to issue written orders and instructions and to provide the guidance necessary to ensure the application of the basis of accounts and the maintenance of those systems of accounts;
- (b) ensure that a classification system, compatible with an internationally recognised system of national accounts and these Regulations, is established and maintained and ensure that all moneys paid or received by the Government are fully, promptly and properly brought to account in accordance with that system;
- (c) supervise the expenditure and other disbursements of the Government to ensure compliance with the provisions of any law, regulation or instruction in respect of that expenditure and for this purpose he shall—
 - (i) ensure that effective systems are established in the Ministries, departments and agencies of the Government which record all commitments and transactions entered into by accounting officers;
 - (ii) ensure that effective systems are established which facilitate the prompt settlement of any commitment properly incurred by accounting officers;
 - (iii) ensure that the system of internal control in every Ministry, department, fund, agency or other reporting unit required to produce accounts under section 41 of the Act is appropriate to the needs of the Ministry, department, fund, agency or reporting unit concerned and conforms to internationally recognised standards;
 - (iv) ensure that the internal audit function in each Ministry, Department, fund, agency or other reporting unit required to produce accounts under section 41 of the Act, is appropriate to the needs of the Ministry, department, fund, agency or other reporting unit concerned and such a function conforms to internationally recognised standards;
 - (v) reject any payment which he considers wrong or deficient in content, or that contravenes the provisions of the Constitution, the Act, these Regulations or any directives or instructions properly made or given under the Act, or that is in any way unacceptable in support of a charge on public funds;
 - (vi) report to the Financial Secretary in writing, any expenditure or disbursement which after due enquiry appears to him to be excessive, extravagant or unauthorised;
- (d) ensure that adequate provision is made for the safe custody of public moneys, stamps, securities, revenue receipt books, licenses and other documents of value;
- (e) exercise supervision over the collection of public revenue by accounting officers to ensure that it is promptly collected and accounted for; and in the performance of this duty the Accountant General shall ensure that he obtains regular returns of revenue from accounting officers;

- (f) carry out sufficient checks, including surprise inspections in all Ministries, departments and other offices, to ensure that all regulations, orders, directions and instructions relating to the receipt, disbursement, safety, custody and control of public moneys, stamps, securities, stores and other public property are being complied with, and to ensure that the accounts and controls provide full and effective protection against losses or irregularities;
- (g) report to the Financial Secretary in writing any defects in the custody, control or collection of public moneys, stamps, securities, stores and other public property;
- (h) ensure that the financial terms and conditions of any trust, loan, grant or grant-in-aid are fully complied with;
- (i) prepare promptly and accurately all financial statements and returns for which he is responsible and to render the accounts promptly for audit;
- (j) report annually to the Financial Secretary, copied to Auditor General, on the discharge of his duties under the Act, together with the reports required under section 41 of the Act, and identifying—
 - (i) the basis of the standards required by section 8 (3)(a) of the Act; and
 - (ii) any defect, shortcoming or other factor which in his opinion has affected materially the Minister's responsibility under section 4 of the Act.
- (k) in accordance with section 8 (2)(a) of the Act, issue instructions in respect of compilation and management of the accounts of the Government;

Accounting officer

13. (1) Pursuant to section 9 of the Act, the Financial Secretary shall designate an accounting officer in writing with the prior approval of the Minister, to be personally and pecuniary responsible for each vote of revenue and expenditure; and the accounting officer shall have overall responsibility and accountability for the collection and receipt of all revenue or for all disbursements of expenditure under his control.

(2) Without limiting the generality of sub-regulation (1) of this Regulation, an accounting officer shall prepare in consultation with the Minister, economic and fiscal programmes and work plans for his Ministry, department or agency for such periods as may be specified by the Minister—

- (a) prepare and sign the appropriation and other accounts assigned to him, and in doing so accepts personal responsibility for their proper presentation in accordance with the provisions of the Act or as approved by the Accountant General;
- (b) ensure that the financial procedures established by the Act, these Regulations and any instructions issued under the Act and these Regulations are followed and that accounting records are maintained in a form approved for accounting purposes;
- (c) ensure that the public moneys, property and resources for which he is responsible as accounting officer are properly managed and safeguarded;
- (d) ensure effective systems of internal control are in place in respect of all transactions and resources under his control;
- (e) ensure that, in the consideration of policy proposals relating to the income or expenditure for which he is accounting officer, all relevant financial considerations are taken into account, and where necessary brought to the attention of his Minister;
- (f) report to the Financial Secretary with a copy to the Accountant General and the Auditor General, any cases of apparent waste or extravagant administration or failure to achieve value for money in addition to any weakness in financial procedures;
- (g) produce when required by the Financial Secretary, or the Auditor General or Accountant General or by such public officers as may be authorised by them, all cash, stamps, books, records or vouchers in his charge;

- (h) reply substantively to any queries addressed to him by the Auditor General and Accountant General and within any time period prescribed or specified in the Act;
- (i) ensure that there are efficient and effective arrangements for revenue collection from the public;
- (j) ensure steps are taken to minimize—
 - (i) risk;
 - (ii) liabilities.
- (k) keep the Financial Secretary, the Auditor General and the Accountant General suitably informed of any new financial procedures, or other aspects of the administration of his Ministry, department or agencies, that may assist him in carrying out his statutory duties.

(3) An accounting officer may authorise in writing other public officers under his control to exercise or perform such part of his powers and duties as he may think fit; and the limits of any such delegation shall be set out sufficiently clearly and unequivocally to avoid dispute or misunderstanding.

(4) A delegation under sub-regulation (3) of this Regulation shall not relieve the accounting officer of any of his responsibility under the Act and these Regulations.

The Auditor General

14. The appointment, powers and duties of the Auditor General are specified in the Audit Act (Cap. 17.08).

PART V

LOSSES

Register of losses in Ministries, departments, etc

15. (1) All losses incurred by or in any Ministry, department or agency of the Government shall be brought to the attention of the Accountant General who, as the chief accountant of the Government, shall keep a register of such losses; and the Accountant General shall soon after the end of each financial year, prepare a statement of the losses for submission to the Auditor General as part of the accounts for each financial year concerned.

(2) A register of all losses incurred by or in any Ministry, department, or agency of the Government, showing the nature of the loss and action taken, shall be maintained by each Ministry, department or agency.

Nature of losses

16. Loss of public stores and property will include damage and deterioration which cannot be attributed to fair wear and tear.

Cash and store losses

17. (1) Cash losses may take the form of—

- (a) losses of cash by fraud, theft, errors, omissions, un-collectable arrears of revenue, or other irregularities, including unauthorised or excess payments; and
- (b) losses of cash through fire, caused deliberately or otherwise and other natural disasters.

(2) Store loss may take the form of—

- (a) losses of stores by fraud, theft, arson, errors, omissions, sabotage or other irregularities;
- (b) losses from fire caused deliberately or otherwise, stress of weather or accident beyond the reasonable control of any responsible person;
- (c) losses due to deterioration in store, arising from a defect in administration; and
- (d) losses due to natural causes such as evaporation.

Losses through claims waived or abandoned

18. Losses of public moneys or resources through claims waived or abandoned may occur where—

- (a) a claim either for services rendered by the Government or for an actual contractual or other legal obligation of a contractor or other person to the Government is not made or pursued or is waived or abandoned by the Ministry, department or agency of the Government concerned;
- (b) a claim such as is described in paragraph (a) of this Regulation is made but payment is not received.

Losses through nugatory payments

19. Losses of public moneys may also occur through nugatory payments if the payment is unavoidable and there is no benefit to the Government, such as a payment of a retainer for professional services where these services are not in fact used, a payment for accommodation rented but not used or a payment for goods wrongly ordered or accepted through irregularity or negligence other than an error of judgment.

Unauthorised or excess payment

20. Any payment which has not been properly authorised under an Appropriation Act shall be treated as a large or unusual loss and shall be referred to the Board of Enquiry established under these Regulations; and any such referral shall not affect the opinion of the Auditor General and his obligation to report that loss to Legislative Council.

Loss of accountable documents

21. Loss of accountable documents such as stamps, fixed fee receipts or licenses, should be treated as a loss of cash and dealt with under these Regulations; however in the case of the loss of accountable documents such as miscellaneous receipts, invoices and orders, which do not have a predetermined value but which nevertheless might be misused if they fell into the wrong hands—

- (a) the loss shall be reported immediately to the Accountant General and the Auditor General; and
- (b) a notice in a form approved by the Attorney General shall be placed in the local print and electronic media, advising the public not to accept documents bearing the serial numbers of the documents in question.

Action by public officers on discovery of losses

22. (1) It is the duty of every accounting officer to ensure that there is a mechanism in place for prompt detection and reporting of losses.

(2) Any public officer who becomes aware of any loss shall at once report the loss to the appropriate accounting officer, and in the report describe the nature, amount and circumstances of the loss, shortage, damage or destruction.

(3) The accounting officer shall report the losses, in writing, to the Financial Secretary, copied to the Accountant General and Auditor General.

(4) Any loss whether restituted or not shall be reported promptly, and no report may be deferred on grounds of conducting an investigation.

(5) Immediately on receipt of the report of any loss, the accounting officer shall investigate the loss; and where he has reason to suspect that a crime has been committed such as misappropriation, theft or fraud, he shall also make an immediate report to the Police.

(6) After investigating the loss, the accounting officer shall submit a full report to the Financial Secretary with copies to the Accountant General and the Auditor General.

(7) The report referred to in sub-regulation (6) of this Regulation shall be signed personally by the accounting officer concerned and shall state the following—

- (a) the nature of the loss;

- (b) the amount involved;
- (c) the place, and, if known, date on which the loss occurred;
- (d) the date and if applicable, time of discovery of the loss;
- (e) the exact circumstances in which the loss arose;
- (f) whether the loss was the result of a failure to observe current regulations or accounting instructions;
- (g) whether the loss was due to a fault in the accounting system;
- (h) whether the loss was discovered as the result of the internal control and if not, why the internal control failed to reveal it;
- (i) whether misappropriation, fraud, negligence or other irregularity was involved;
- (j) the name and designation of the public officer considered to be responsible for the loss;
- (k) whether that public officer has made good the loss;
- (l) whether that public officer's suspension or interdiction from duty is recommended;
- (m) whether disciplinary or surcharge action in accordance with Part X of the Act is recommended and against whom and, if not, why not;
- (n) whether the loss was reported to the police, if so, a police report should be attached; and
- (o) the measures taken or recommended to prevent the recurrence of a similar loss or shortage.

(8) In any other case of loss such as when an overpayment occurs which cannot be recovered or in which revenue or other debt due to the Government is deemed un-collectable, the accounting officer shall submit a full report to the Financial Secretary, with a copy to the Accountant General and to the Auditor General.

(9) The report referred to in sub-regulation (8) of this Regulation shall be signed personally by the accounting officer and shall state the following—

- (a) the nature of the overpayment, revenue or other debt;
- (b) the name and designation of the public officer who made the overpayment or is responsible for the failure to collect the revenue or debt;
- (c) the amount involved, supported where appropriate by detailed lists showing the names of the defaulters, the amounts outstanding in each case, and in the case of revenue the year in which it was due, and the dates on which demands and reminders were dispatched;
- (d) the reasons why the overpayment occurred or the revenue or other debt cannot be recovered;
- (e) the action taken to recover the overpayment, revenue or debt, including any legal means taken, whether this is considered to have been adequate, and the action taken by the accounting officer personally;
- (f) whether the overpayment or failure to collect arose from a failure to observe current accounting instructions or from a fault in those instructions or in the accounting system;
- (g) whether the amount involved has been made good by the public officer responsible;
- (h) whether disciplinary or surcharge action in accordance with Part X of the Act is recommended and against whom and, if not, why not; and
- (i) the measures taken or recommended to prevent the recurrence of a similar overpayment or failure to recover revenue or debts.

Establishment of a Board of Enquiry

23. (1) The Financial Secretary may establish a Board of Enquiry to investigate the circumstances of any large or unusual losses referred to it by the accounting officer.

(2) The Board of Enquiry shall comprise at least three members, who shall not be employees of the same Ministry or department, appointed by the Financial Secretary.

(3) With respect to cases which have been reported to the Police and in respect of which criminal action is pending, action by the Board of Enquiry shall, subject to any written law, be deferred until such proceedings have been completed or discontinued.

(4) The Financial Secretary shall maintain a register showing details of all cases referred to Boards of Enquiry and their disposal, and shall circulate copies of all referrals as necessary.

(5) The Board of Enquiry may meet at the time and place most suitable for the purpose of its enquiry; but it shall hold its first meeting within seven working days of any referral.

(6) The Board may regulate its own procedure and take evidence from such persons as it may consider appropriate, either orally or in writing, except that such evidence shall not be taken on oath.

(7) On completion of its enquiries the Board shall, without delay, report its findings to the Financial Secretary with copies to any accounting officer concerned, and circulate as necessary.

(8) The report referred to in sub-regulation (7) of this Regulation shall include—

- (a) a statement of the amount and nature of the shortage; and if the amount cannot be established precisely, the Board shall estimate it, giving the basis on which the calculation has been made;
- (b) an opinion on whether the system or its application was at fault, together with recommendations for any corrective action which should be taken to prevent the recurrence of a similar loss or shortage;
- (c) whether police or legal action was taken in respect of the loss or shortage and, if so, the details and outcome of the action;
- (d) an opinion on who, if any, was responsible for the loss or shortage, the degree of that responsibility and if more than one person was responsible, the apportionment of the loss;
- (e) whether disciplinary or surcharge action is recommended and against whom and, if not, why not; and
- (f) any other matters which the Board considers should be brought to the attention of the Financial Secretary.

(9) In the case of any loss, overpayment or failure to collect monies due to Government in which defects in systems, procedures, or instructions appear to have been either wholly or partially responsible, action to correct the fault shall be taken immediately by the relevant accounting officer, Accountant General or Financial Secretary as appropriate; and such action should not be deferred pending the decision on whether to write-off the amount or recover it from the public officer responsible.

Action to be taken by Minister in respect of losses

24. (1) In the light of the reports submitted under Regulation 23 (7) and (8) of these Regulations and any report of the Board of Enquiry under Regulation 23 of these Regulations and the results of any Police or legal action, the Financial Secretary shall make recommendations to the Minister who shall decide whether—

- (a) the amount involved in any loss should be written off; or if outside his powers, be recommended for write-off; or
- (b) disciplinary or surcharge action should be taken against the public officer considered to be responsible for the loss.

(2) The Minister's decision or recommendation under sub-regulation (1) of this Regulation shall be in writing and communicated by the Financial Secretary to the accounting officer concerned, the public officer considered to be responsible for the loss or shortage, the Accountant General, the Auditor-General and, where appropriate, the Secretary to the Board of Enquiry.

(3) Where it is decided that disciplinary action should be taken against the public officer considered to be responsible for the loss, the matter shall be referred to the Public Service Commission. However if a surcharge is the sanction to be applied, the Financial Secretary shall determine the amount of the surcharge—

- (a) bearing in mind the amount of the loss sustained by the Government; and
- (b) in accordance with Part X of the Act.

(4) The Financial Secretary shall, in writing, notify the public officer concerned of the Minister's decision, and send a copy of the notification to the relevant accounting officer, the Accountant General and the Auditor General.

(5) The notification shall call upon the public officer concerned, within such period as the Financial Secretary may determine, being not less than thirty days from the date the notification is received by the public officer, to show cause why he should not be surcharged with the amount determined under sub-regulation (3) of this Regulation.

(6) On receipt of the reply by the public officer, the Financial Secretary shall confirm, reduce or remit the surcharge and advise the Minister who shall review the decision of the Financial Secretary, and no action shall be taken to implement the decision of the Financial Secretary until such review is completed and the decision confirmed, varied or set aside or reversed by the Minister.

(7) The decision of the Minister shall be communicated by the Financial Secretary to the public officer concerned, the relevant accounting officer, the Accountant General and the Auditor General.

(8) The amount of any surcharge imposed by the Financial Secretary and confirmed by the Minister shall—

- (a) subject to any counterclaim by the public officer in the courts, or any judicial review by the courts; and
- (b) subject to the provisions of Part X of the Act,

be recovered as a civil debt due to the Government, and may be deducted from any salary or other amount due by the Government to the public officer concerned.

(9) The Minister's powers under sub-regulation (1) of this Regulation may be delegated by the Minister to the Financial Secretary in writing.

PART VI

INTERNAL AUDIT AND AUDIT COMMITTEES

Internal Auditing

25. (1) In order to discharge his responsibilities under these Regulations, an accounting officer shall engage the services of the Internal Audit Unit to carry out an effective internal audit function throughout the Ministry, department or agency or other reporting unit of the Government for which he is responsible.

(2) The Accountant General shall ensure that the internal audit function in each Government Ministry, agency, or other reporting unit required to produce accounts under section 41 of the Act is appropriate to the needs of the organisation concerned and conforms to internationally recognised standards in respect of its status and procedures;

(3) The Accountant General shall seek to ensure that the internal audit function is capable of operating independently from the management of a Ministry, department or agency, and that no limitation is placed on its access to information.

(4) As far as practical, an accounting officer shall ensure that all such recommendations of the internal auditor are enforced and/or implemented.

Duties of the internal audit function

26. (1) The duty of the internal audit function in a Ministry, department, agency or unit of the Government is to appraise the soundness and application of accounting, financial and operational controls and in particular review and report on—

- (a) proper control over the receipt, custody and utilisation of all financial resources of that unit;
- (b) conformity with financial and operational procedures laid down in any legislation or any regulation or instruction issued under such legislation and good accounting practice as from time to time defined by the Accountant General for incurring obligations and authorising payments and which ensure effective control over the expenditure of the unit;
- (c) the correct classification and allocation of revenue and expenditure accounts;
- (d) the reliability and integrity of financial and operating data so that information provided allows for the preparation of accurate financial statements and other reports for the information of the unit and the general public and as required by legislation;
- (e) the systems in place used to safeguard assets, and, as appropriate, the verification of the existence of such assets;
- (f) operations or programs to ascertain whether results are consistent with established objectives and goals and on the attainment of value for money;
- (g) the adequacy of action by management in response to internal audit reports, and assisting management in the implementation of recommendations made by those reports and also, where appropriate, recommendations made by the Auditor General;
- (h) achievement of approved Ministry, departmental and agency objectives outlined in their work plans along with their implications and consisting with the government of Montserrat overall macro-economic and fiscal programme;
- (i) identifying risks to systems, procedures and programmes undertaken by any public organisation;
- (j) the adequacy of controls built into computerised systems in place in the unit; and
- (k) any other matters as assigned by the accounting officer.

(2) The responsibility of the internal auditor for checking and reporting risk, shortcomings in connection with the accounts, finances and related operations of the Ministry, department or agency, does not absolve any public officer from responsibility for complying, or securing compliance with instructions within the scope of his own authority.

(3) The prevention, detection and investigation of fraud are the responsibility of management, although in conducting audit assignments the internal auditor shall be alert to opportunities, such as control weaknesses that could allow fraud; and where fraud is suspected, the appropriate authorities within the department shall be informed.

Audit Committees

27. (1) In accordance with section 9 of the Act, an accounting officer may, and shall if so required by the Minister or in the case of a person responsible for a non-ministerial department, establish and maintain an Audit Committee, which shall have such composition, powers and duties as may be determined by the Minister.

(2) Without prejudice to sub-regulation (1) of this Regulation—

- (a) the scope, purpose, powers and constitution of an Audit Committee shall be in accordance with guidelines approved in the Charter for Audit Committees as approved by the Minister; and
- (b) the Audit Committee shall assist the accounting officer in carrying out his oversight responsibilities relating to financial practices, internal controls, corporate governance issues, compliance with laws, regulations and ethics and all audit matters.

Duties and responsibilities of Audit Committee

28. (1) The Audit Committee shall function in an advisory capacity to the accounting officer, but its powers shall not be limited in any way which would prevent it from properly performing its advisory duties, and for this purpose, the Audit Committee shall have unrestricted access to records and employees to obtain information needed to perform its duties.

(2) Without limiting the generality of Regulation 27 and sub-regulation (1) of this Regulation, the duties of an Audit Committee are to—

- (a) advise on strategic and operational plans of the internal audit function;
- (b) liaise and work closely with the Office of the Auditor General, the Attorney General, the Police and the Board of Enquiry established under Regulation 23 of these Regulations;
- (c) discuss with accounting officers, audit findings and recommendations, and to review and monitor implementation of the recommendations;
- (d) through the Chairperson of the Audit Committee, represent concerns of the internal audit to the relevant accounting officer, the Accountant General, the Financial Secretary or the Minister;
- (e) facilitate risk assessment to determine the amount of risk exposure of the entity's assets and the probability of loss occurring with a view to mitigating the risks;
- (f) review arrangements established by the accounting officers for compliance with regulatory and financial reporting requirements; and
- (g) review the financial statements prepared by the accounting officers to ensure that disclosure is adequate and fair presentation is achieved.

(3) The Audit Committee shall comprise of a minimum of three persons, all of whom shall be appointed as outlined in Regulation 27 and shall have relevant qualifications, knowledge and competence and moral integrity required to carry out their duties.

(4) The scope, purpose, constitution and authority of the Audit Committee shall be in accordance with guidelines issued and approved by the Financial Secretary.

PART VII

CONSOLIDATED FUND

Annual estimates and macro-economic and fiscal policy

29. (1) For the purpose of discharging his duties and responsibilities under section 3 of the Act, the Minister shall provide the information to Legislative Council which includes —

- (a) a statement of macro-economic policy;
- (b) estimates of all revenue to be raised during the financial year to which the budget relates;
- (c) estimates of total recurrent expenditure for the financial year;
- (d) estimates of interest and debt servicing charges, and any repayments on loans;
- (e) estimates of capital expenditure for the financial year and future financial years broken down by project or categories, and the recurrent operating or maintenance costs arising from such projects;
- (f) proposals for financing any anticipated deficit;
- (g) intentions regarding borrowing and other forms of public liability; as allowed and that will increase public debt during that financial year and for three financial years;

- (h) the projected revenue, expenditure and any borrowing for the financial year that will be ending shortly after the budget is tabled; and
- (i) such other details as are necessary to ensure that the comprehensiveness and transparency of the information supplied enables Legislative Council to arrive at informed decisions.

(2) In respect of proposed issues from the Consolidated Fund and other public moneys or funds, the Financial Secretary shall, each year, at an appropriate time, issue a budget call circular requiring all accounting officers to submit by specified dates detailed proposals, applications, requirements and all other explanations relevant to their staff establishment, their anticipated revenue, anticipated expenditure and the anticipated outputs of the following year and to prepare and submit draft estimates in the required form for the revenue and expenditure and outputs for which they are responsible.

(3) The budget call circular shall also communicate to accounting officers ceilings of proposed expenditure as approved by the Minister.

(4) To ensure that the budgetary processes are not delayed and, in particular, that the Legislative Council has sufficient time to complete its scrutiny of the proposals and to ensure that the Minister can lay the annual estimates before Legislative Council before the commencement of each financial year, accounting officers shall comply strictly with the timings set out in the budget call circular.

(5) Accounting officers shall comply strictly with the timings set out in the budget call circular to ensure that the budgetary processes are not delayed and, that Legislative Council has sufficient time to complete its scrutiny of the proposals and the annual estimates before the commencement of each financial year.

(6) Any proposals submitted by an accounting officer outside the deadlines set in the budget call circular may be referred to the Head of the Public Service for disciplinary action.

Corrections

30. (1) Accounting officers shall have an opportunity to make corrections to the draft estimates when they are being considered by Legislative Council at the Committee stage; and accounting officers who wish to make such corrections shall seek the approval of the Speaker and the appropriate Minister to do so in writing or in person.

(2) This Regulation shall apply to the correction of minor errors or omissions in the budget submissions, and it is not intended to accommodate significant reallocations or adjustments within the budget of votes.

Estimates of revenue and expenditure

31. Estimates of revenue and expenditure shall be prepared in accordance with budget instructions issued by the Financial Secretary after consultation with the Minister and shall be arranged according to an accounts classification system approved by the Accountant General.

Ambit of vote

32. (1) The purposes of expenditure under each head and the services to be provided under it must be outlined in a preamble to the head, which forms the ambit of the relevant vote.

(2) The ambit of a vote sets out a formal description of the nature of the transactions to be financed from the vote, and the wording of the ambit is incorporated in the annual Appropriation Act and therefore provides the statutory description in that Act of the purpose for which the funds sought in the estimate are granted.

(3) By virtue of sub-regulation (2) of this Regulation—

- (a) no expenditure may be charged to a head which does not fall within the ambit of a vote;
- (b) the Appropriation Act shall not be used to extend the statutory functions of a Ministry, department or agency of the government; and
- (c) expenditure on a new transaction which is outside the ambit of a vote shall not proceed unless the approval of Legislative Council is obtained through a Supplementary Estimate which proposes to change the ambit as necessary.

(4) Each estimate shall state the Ministry or department and the accounting officer responsible for accounting for the Vote and set out the gross provision sought in the estimates by item; this is because although Legislative Council approves expenditure by vote it controls it by item.

PART VIII

DEVELOPMENT FUND

Definition

33. (1) In this Part—

“Development Programme” means a programme of economic and social development and approved by the Governor in Council and laid in the Legislative Council:

Provided that in the absence of a Development Programme the annual estimates of expenditure from the Development Fund as passed by the Legislative Council shall constitute the Development Programme for the financial year to which such estimates relate;

“development project” means a project, scheme or programme of work contained in a Development Programme or a project of the Government for economic or social development which is not contained in a Development Programme but which has received the approval as such of the Governor in Council;

“Fund” means the Development Fund established by section 13 of the Act.

(2) The terms and expressions set out in section 2 of the Act shall, where they occur in this Part, have the meanings assigned to them by that section and shall be construed accordingly.

Use of the Fund

34. No provision shall be made for expenditure to be charged on the Fund other than for the purpose of a development project.

Payments out of the Fund

35. (1) No moneys shall be paid out of the Fund except where the payment of those moneys has been authorized by an Appropriation Act or by a warrant under the hand of the Minister given in accordance with the provisions of the Act or this Part.

(2) No expenditure chargeable on the Fund shall be incurred in anticipation of the receipt of any grant or loan, other than a loan authorized by law, without the consent of the grantor or lender as the case may be.

Fund not to be overdrawn

36. (1) The liabilities of the Fund shall at no time exceed the assets.

(2) Without prejudice to the generality of the powers and duties conferred and imposed upon the Accountant General by section 8 of the Act, the Accountant General shall refuse payment on any voucher the encashment of which would cause the unspent balance of the Fund to become overdrawn.

Conditions attached to grants or loans to be observed

37. Any conditions which may be attached to any grant or loan of moneys which by virtue of section 13 of the Act are paid into the Fund shall be observed and shall have effect in relation to the moneys so granted or loaned as if the same were prescribed under this Part.

Annual Estimates

38. (1) The Minister shall cause to be prepared before the commencement of each financial year estimates of the revenue and expenditure of the Fund and such estimates shall form part of the annual estimates of revenue and expenditure of the Government to be laid before the Legislative Council as required by section 19 (1) of the Act.

- (2)** The estimates of expenditure from the Fund shall—
- (a)* conform with the requirements of section 19 of the Act; and
 - (b)* assign a separate subhead of expenditure (which may contain one or more items) for each development project provided for therein and the various subheads shall be grouped under development fund votes according to the Ministries and departments responsible for carrying out the development projects concerned; and
 - (c)* in respect of each development project provided for therein show—
 - (i)* the estimates of total cost;
 - (ii)* the total actual expenditure to the end of the previous financial year;
 - (iii)* the approved estimate for the current financial year;
 - (iv)* the sum required for the following financial year.
- (3)** The estimates shall be accompanied by a statement showing—
- (a)* the estimated assets and liabilities of the Fund and the estimated balance at the commencement of the following financial year; and
 - (b)* the estimated total revenue accruing to and the estimated total expenditure from the Fund during such financial year.

Supplementary Estimates

- 39.** If in the course of any financial year it is found—
- (a)* that the sum appropriated for that financial year for any development project by an Appropriation Act is insufficient; or
 - (b)* that a need has arisen to proceed with a development project for which no sum has been appropriated in that financial year, a supplementary estimate (substantially in the form prescribed by section 20 (2) of the Act of the sum required to meet such deficiency or such need as the case may be, shall be prepared and shall be laid before the Legislative Council in accordance with the provisions of section 20 (1) of the Act.

Development Fund warrant

40. (1) Subject to Regulations 34 and 35 and paragraph (1) of Regulation 36, if in the course of any financial year the circumstances described in paragraphs (a) and (b) of Regulation 39 arise, and in the judgment of the Minister expenditure from the Fund is so urgently required that it cannot, or cannot without serious detriment to the public interest, be delayed until adequate financial provision can be made for it by the Legislative Council, the Minister may by a Development Fund Warrant under his hand and in anticipation of the grant of an appropriation by the Legislative Council authorize an advance from the Fund to meet such expenditure and shall forthwith report his action to the Governor in Council:

Provided that the total of the sums so authorized to be advanced in anticipation of the grant of an appropriation shall not exceed the amount of any grant or loan of moneys received by or pledged to the Government for the carrying out of the Development Project in respect of which the advance is made.

(2) Where any advance is made from the Fund under this Regulation, a supplementary estimate, substantially in the form prescribed by Regulation 39, of the sum required for the development project for the purpose of which the

advance was made, shall be prepared and laid before the Legislative Council at its meeting next following the date on which the Development Fund Warrant was issued and shall be included in a Supplementary Appropriation Bill for appropriation.

(3) Upon the grant of an appropriation to meet the expenditure in respect of which an advance was made under this Regulation, the Development Fund Warrant shall lapse and shall cease to have effect and the advance shall be deemed to have been made for the purpose of the grant and shall be accounted for accordingly.

Re-allocation of funds

41. (1) No surplus arising from under-expenditure on any development project shall be applied in aid of any other development project unless the supplementary expenditure on such other development project has been authorized under Regulation 39 or Regulation 40.

(2) Subject to Regulation 40, if the requirements of a development project for which a sum has been appropriated in an Appropriation Act for any financial year, render it expedient so to do, the Minister may direct by means of a Development Re-allocation Warrant that any surplus arising from under-expenditure on any item contained in the sub-head of expenditure assigned to such development project shall be applied in aid of any other item therein or in aid of any new item therein to be created:

Provided that the sum appropriated for that sub-head is not thereby exceeded.

(3) Any Development Re-allocation Warrant issued in accordance with paragraph (2) shall be laid before the Legislative Council at its meeting next following the date on which such warrant was signed.

(4) The Minister may by writing under his hand delegate to the Financial Secretary the powers conferred upon him by paragraph (2) of this Regulation.

Accounts and audit

42. (1) The accounts of the Fund shall be audited, certified and reported on annually by the Auditor General in accordance with the provisions of the Audit Act.

(2) If in the course of audit it is found that moneys have been expended on any development project in excess of the total amount made available to the Government for the carrying out of that development project by way of a grant or loan, the excess shall be included in a statement of Expenditure in Excess and shall be dealt with in the manner approved for Votes in Excess by section 21 of the Act.

PART IX

AUTHORITY FOR EXPENDITURE

General Warrant

43. (1) The authority for the expenditure of public moneys is contained in an Appropriation Act, which vests authority in the Minister to issue out of the Consolidated Fund the total sum shown in the approved estimates, and therefore an accounting officer shall identify, for all expenditure to be incurred by him, the appropriate authority in that Act before committing Government to any expenditure.

(2) No accounting officer shall take any action which in any way anticipates the approval of Legislative Council for expenditure.

(3) Authority to make payments and accept charges is conveyed to the Accountant General by a warrant signed by the Minister.

(4) On receipt of the warrant, the Accountant General shall issue a warrant under his signature to accounting officers authorising them to incur expenditure for the purposes and up to the amount specified in the warrant; and the amount authorised by such warrant shall not exceed the amount specified in the warrant issued by the Minister.

Departmental Warrant

44. (1) Where it becomes necessary for work to be done by one department on behalf of another, the accounting officer of the department on whose behalf the work is to be done may authorize the accounting officer of the department undertaking the work, by means of a departmental warrant, to incur expenditure against a vote under his control.

(2) An accounting officer to whom such authority is given shall maintain an account of all expenditures incurred against the vote stated in the warrant and shall submit monthly reports in respect thereof to the accounting officer from whom authority has been received.

(3) An accounting officer to whom a warrant is issued shall be personally responsible for all expenditure incurred in excess of the amount stated in the warrant.

Departmental control of expenditure

45. An accounting officer shall—

- (a) control and oversee the expenditure in respect of any service under his control;
- (b) ensure that the provision for that service as authorised by a warrant is not exceeded, and he shall be held personally and pecuniary responsible for any excess expenditure which is incurred without proper authority.

Supplementary provision

46. (1) Where any further disbursements are required in respect of a service which—

- (a) could not have been foreseen;
- (b) may not be postponed without detriment to the public interest;
- (c) cannot appropriately be charged to an existing item of the estimates; or
- (d) would cause an excess on the estimates,

prior approval for authority to incur such expenditure shall be sought.

(2) Where expenditure cannot be met by virements within the vote from items with savings, then provision for supplementary funds shall be sought, in which case an application for supplementary funds may be made to the Financial Secretary.

(3) Applications for supplementary provision shall be reviewed by the Financial Secretary and submitted to the Minister for consideration; and if after examination and, where necessary, consultation with the accounting officer concerned, the need for the supplementary provision is agreed, the amounts of such provision shall be included by the Minister in supplementary estimates to be submitted to Legislative Council for appropriation by a Supplementary Appropriation Act.

(4) Notwithstanding that supplementary estimates may have been submitted to Legislative Council for approval, no action shall be taken by any accounting officer which creates a commitment on public funds before Legislative Council approval is obtained.

Virements or re-allocations within a vote

47. (1) The Financial Secretary has discretionary powers to vary the amount allocated within a vote, provided that—

- (a) the total amount authorised by Legislative Council for that vote in an Appropriation Act is not exceeded;

- (b) the variation is not so large or important as to represent a change in policy;
- (c) the changes made are not novel or contentious; and
- (d) any virements made will from the outset not involve heavy liabilities in future years.

(2) All virements within a Vote shall be the subject of an application for virements addressed to the Financial Secretary—

- (a) showing the amounts involved;
- (b) identifying the items where extra provision is required;
- (c) identifying, where appropriate, any delegated authority for the re-allocation;
- (d) giving appropriate explanation for the shortfall in the original provision;
- (e) clearly identifying the items with the anticipated savings; and
- (f) giving appropriate explanations and the reasons for the savings being available.

(3) In order to ensure that the savings identified are genuine, items from which funds have been transferred will no longer be eligible for the provision of additional funds by a Supplementary Appropriation Act or subsequent virements.

(4) On approval of an application by the Financial Secretary under this Regulation, a warrant for virements within a vote shall be issued to the Accountant General and copied to the Accountant Officer and Auditor General.

(5) Expenditure on the item which has had its available funds increased by the warrant shall at all times remain within the limits of any warrant currently in force.

(6) A schedule of all virements approved under this Regulation shall be laid before the Legislative Council not less than two times during the financial year.

Excess and unauthorised expenditure

48. (1) The Legislative Council has the ultimate right to approve expenditure of public moneys prior to its being incurred, and has an equal right to investigate the reasons behind any failure of an accounting officer to comply with this legal requirement, and it is the duty of each accounting officer to attend personally before Legislative Council when required to do so and provide explanations to the issues raised.

(2) Any failure by an accounting officer to attend before Legislative Council without a reason acceptable to Legislative Council shall be subject to disciplinary action; and expenditure without adequate supporting documents shall be treated as unauthorised expenditure under these Regulations.

(3) Within three months after the close of each financial year, the Accountant General shall cause to be prepared schedules showing the net excess expenditure incurred on each item of the estimates during that financial year; and the schedules shall be laid before Legislative Council at its next meeting for consideration.

PART X

BASIS OF ACCOUNTING AND PREPARATION OF
ANNUAL ACCOUNTS**Basis of accounting**

49. (1) Legislative Council votes funds for “the service of the financial year” on the basis of the amounts expected to be available in the course of the year; and therefore only actual receipts and expenditure during a financial year can be recorded in the Appropriation Accounts.

(2) By virtue of sub-regulation (1) of this Regulation, no entry shall be made in the accounts of government by any accounting officer which anticipates the receipt of revenue or the expenditure by Government.

(3) In accordance with section 41 of the Act, the Accountant General shall submit to the Auditor General and the Minister, within four months of the end of the financial year, the statements set out in paragraph 1 of the Schedule to the Act.

(4) The approved estimates form the basis of the accounts for the year to which they relate and the classification and sub-division of the statements of revenue and expenditure shall accord with those estimates.

(5) The statements to be provided include but are not necessarily restricted to those contained in the Schedule to the Act; and this is because the fundamental requirement is to ensure that the financial position of the Government is fully disclosed to Legislative Council; and therefore the Accountant General shall provide such other accounts or provide such additional information as he considers necessary to achieve this objective.

Accounting in respect of commercial Government activities

50. (1) It is essential that costing of the services offered by any Government commercial activity is done properly to avoid hidden subsidies.

(2) In order to achieve the objective mentioned in sub-regulation (1) of this Regulation, it is essential that all costs are captured, including those of a non-cash nature such as depreciation; consequently, the management of such commercial Government activities may run the activities on commercial principles in order that they can achieve the objective, and its attempts to do so can be properly measured by an appropriate accounting system.

(3) In order to achieve the objective set out in sub-regulations (1) and (2) of this Regulation, such activities shall not be subject to the prior authorisation requirements of the Consolidated Fund, but may be established with funds provided in Special Funds established under section 14 of the Act, and separate accounting instructions shall be issued for each special Fund by the Accountant General.

(4) The establishment of each Special Fund shall require the following initial action—

(a) the purposes for which the Fund is being established are to be defined by the accounting officer responsible for the facilities to be used by the Special Fund, as agreed by the Minister; and

(b) such definition shall include details and values of all fixed and current assets and all liabilities to be transferred to the Special Fund from the Consolidated Fund to form the initial capital of the Special Fund, and shall be recorded on its balance sheet as an asset with a corresponding liability to the Consolidated Fund being entered in the books of account.

(5) The assets and any other things accruing to the Special Fund after its establishment shall be returned to Consolidated Fund on the winding up, for whatever reason, of the Special Fund.

(6) While a Special Fund may have its own peculiarities requiring individual procedures to be included, the statutory instrument setting up each such Fund shall contain provisions relating to the following—

(a) no expenditure may be incurred by the Fund except as authorised by the Minister;

- (b) day-to-day management of the activities falling under the Fund shall be the responsibility of the accounting officer referred to in sub-regulation (4) (a) of this Regulation;
- (c) proper books of account must be kept by the accounting officer responsible for the Fund, and in this respect the accounting officer shall comply with all instructions issued or except otherwise agreed by the Accountant General;
- (d) the financial year for all the Funds shall coincide with that of Government;
- (e) the relevant accounting officer shall, within three months of the end of the financial year, forward to the Minister and the Auditor General, with a copy to the Accountant General, statements of account in such form as the Accountant General may, from time to time, determine;
- (f) the accounting officer shall forward to the Minister by the end of the financial year in accordance with a timetable set by the Financial Secretary, estimates of income and expenditure of the Fund for the following financial year;
- (g) the estimates referred to in paragraph (f) shall, if approved by the Minister, be laid before Legislative Council; and, with the exception of statutory expenditure, no warrant shall be issued by the Minister for any issues from the Fund until such estimates have been appropriated;
- (h) subject to the power of the Minister under section 14 of the Act to wind up the Fund at any time, the Fund shall cease operations when the balance of the Fund is exhausted.

Administration of trust funds

51. (1) A trust shall be administered and the payment of moneys therefrom shall be governed by the terms of the law, deed of trust, trust instrument or agreement, as the case may be, creating that trust.

(2) If, in relation to any trust, no law, deed of trust, trust instrument or agreement exists or, in the opinion of the Financial Secretary a law, deed of trust, trust instrument or agreement is inadequate for its proper administration, the Financial Secretary shall give directions in respect of matters in relation to the trust as he considers appropriate.

PART XI

RECEIPTS

Responsibility for revenue collection

52. (1) An accounting officer is personally responsible for ensuring that—

- (a) all revenue invoiced is paid;
- (b) adequate safeguards exist and are applied for the prompt collection and deposit of, and proper accounting for, all Government revenue and other public moneys relating to their Ministries, departments or agencies;
- (c) all persons liable to pay revenue are informed by bills, demand notes or other appropriate notices of debts due, and that they are reminded promptly and frequently of revenue which is in arrears; and
- (d) adequate measures, including legal action where appropriate, are taken to obtain payment;
- (e) official receipts are issued for all moneys paid to Government of Montserrat.

(2) An accounting officer who experiences difficulty in collecting moneys due to the Government must report the circumstances to the Accountant General without delay, and copy such reports to the Financial Secretary.

(3) The Accountant General shall report to the Financial Secretary—

- (a) any failure on the part of any accounting officer to receive and duly account for any sums receivable by him; and

(b) any case in relation to which he considers, after due enquiry, that the revenue is unduly falling into arrears.

(4) All regular collectors of revenue who receive any duties, taxes, fees, rents or other public moneys, whether of a revenue nature or otherwise, shall pay the whole amount of such moneys daily or at the earliest opportunity, into a bank account authorised by the Accountant General or a public officer designated by the Accountant General, and obtain a receipt for the moneys so paid in.

(5) Except with the authority of the Accountant General, no public officer may convert public moneys received in local currency into foreign currency and vice versa.

Revenue collectors

53. (1) No public officer may collect public moneys unless he is specifically authorised to do so.

(2) Except with the specific authority of the Accountant General, in no case may a public officer whose duty involves the posting of assessment registers, rent rolls and similar documents be authorised to collect public moneys or to post collections into a cash book.

Revenue to be accounted in gross

54. In all cases, the gross amounts of moneys received shall be accounted for; and any charges against revenue received shall require appropriate authority as expenditure incurred by the Government and shall appear as a charge on public funds in the books of account, duly supported by proper vouchers.

Restriction on method of payment

55. No payment of moneys due to the Government may be made by electronic funds transfer, credit card or promissory notes, without the prior approval of the Accountant General.

Responsibility for control of receipts

56. (1) Accounting officers are responsible for ensuring that a proper system exists for the safe custody, recording and proper use of all receipts, licences and other documents issued for the receipt of public moneys.

(2) All receipt books issued shall on completion be returned to the Accountant General.

Receipts to be issued immediately

57. (1) A receipt in the approved form must be issued immediately for any public moneys received; and when the payer presents himself or herself in person, the receipt must be handed to him at once.

(2) Where moneys are received by post, the receipt must be sent by mail on the same day.

Foreign currency receipts

58. Except with the prior approval of the Accountant General, no foreign currency notes or coins, and no foreign stamps or cheques drawn in foreign currency may be accepted in payment of any moneys due to government.

Acceptance of cheques

59. (1) A cheque may be accepted in payment of moneys due to the Government; however the relevant receipt will be recognised and acknowledged only after that cheque has been cleared or credited on Account.

(2) A cheque referred to in sub-regulation (1) of this Regulation shall be made payable to the authorized Government of Montserrat bank account and crossed "Account Payee only"; any cheque received which is not so crossed shall be crossed by the receiver immediately on receipt, and in no circumstance may a post dated cheque be accepted.

(3) In any case where a cheque is dishonoured, recovery measures shall be instituted immediately by the accounting officer; and all instances of dishonoured cheques shall be brought to the immediate attention of the Accountant General.

(4) All original dishonoured cheques shall be retained and kept in safe custody; this is because such cheques represent important *prima facie* evidence of a debt due to Government and may be used in any legal action which may be taken to recover the amount due and any incidental expenses that may have been incurred.

Recording of receipts

60. All public officers responsible for revenue collection shall ensure that the relevant records are kept in such form as approved by the Accountant General.

Refunds of revenue and drawbacks

61. (1) Refunds of revenue may become necessary because of collections or over-collections made in error or because, although properly collected in accordance with an Act or regulation, provision exists under the Act or regulation for the revenue to be reclaimed under certain circumstances in the form of a rebate or drawback.

(2) Refunds of revenue and drawbacks shall be in accordance with instructions issued by the Accountant General.

Arrears of revenue returns

62. Within 60 days after the close of the financial year, each accounting officer shall submit to the Accountant General in a form approved by the Accountant General with a copy to the Auditor General, a return of all arrears of the revenue for which he is responsible.

PART XII

LOANS, GUARANTEES AND GRANTS

Authority to raise loans, issue guarantees and accept grants

63. (1) Subject to section 30 of the Act, the authority to raise money by loan, to issue guarantees and accept grants is vested solely in the Minister.

(2) The Minister may, if he considers it necessary or expedient in the public interest to do so, with the approval of Legislative Council, raise a loan on such terms and conditions as he may think fit; and the proceeds of any loan raised shall be paid into the Consolidated Fund, except where a loan has been raised for a purpose for which a Special Fund has been established under section 14 of the Act, in which case the Minister may direct that the whole or part of the amount of the loan shall be paid into and form part of that Fund.

(3) Borrowing under sub-regulation (2) of this Regulation shall be by way of the issue of treasury bills, bonds, development bonds, a fluctuating overdraft or any other method the Minister may think fit.

(4) The Minister may at any time, on such terms and conditions as he considers fit and where necessary, with the consent of the lender, repay any loan by Government or convert any loan into any other such loan or loans provided it does not substantially change the terms approved by the Legislative Council:

(5) All principal, interest, and other moneys payable by the Government under this Regulation shall be a charge upon, and be payable out of the Consolidated Fund without further appropriation.

Power to give guarantees

64. (1) The Minister, on behalf of Government and with the approval of Legislative Council, may, if it is considered necessary or expedient in the public interest, give a guarantee for the repayment of the principal money and the payment of the interest and other charges on any loan raised either within or outside Montserrat by—

- (a) a statutory body;
- (b) any authority established by an Act which is in receipt of a contribution from, or the operations of which may, under the Act establishing it or any Act relating to it, impose or create a liability upon the public funds of Montserrat; and
- (c) any public organisation which has in any of its financial years received a loan from public funds.

(2) Any money required to be paid by virtue of any guarantee given by the Minister under the provisions of the Act shall be charged on and paid out of the Consolidated Fund.

(3) Any money paid in respect of any guarantee given shall constitute a debt due to Government by any public organisation or statutory body in respect of which the guarantee was given shall be recoverable as such in a manner the Minister may direct; and in addition, any collateral or security for the liability guaranteed shall form a collateral or security to the Government immediately on payment, without prejudice to any additional security or collateral that the Minister considers necessary.

Acceptance and receipt of grants

65. Any grants made to the Government shall be received by the Minister on behalf of Government and shall be paid into and form part of the Consolidated Fund or a Special Fund established for a specific purpose.

PART XIII

PAYMENTS

Authority for payment

66. No payment shall be made out of the Consolidated Fund except with the specific authority of the Minister. Authority shall be given by the Minister under his hand by the issue of any one of the following—

- (a) Provisional General Warrant;
- (b) General Warrant;
- (c) Advance Warrant;
- (d) Imprest Warrant;
- (e) Development Fund Warrant.

Control and method of payments

67 (1) Payments of public moneys to persons outside Montserrat shall be made by direct payment to such persons by banker's draft or otherwise through the banking system; and where direct payment is considered to be inappropriate, payment shall be made on the authority of the Accountant General through agents duly appointed for the purpose with the approval of the Financial Secretary.

(2) To avoid a conflict of interest purchases of goods and services can only be made directly from public officers where it can be demonstrated there is no other supplier in the private sector.

(3) Goods and services should only be purchased through a business or person registered under the relevant legislation or approved by the Accountant General.

Charging to year of account

68. (1) The date of payment of any amount governs the date of the record of the transaction in the accounts; and therefore in no circumstance may payments be made before they are due for the purpose of utilising an anticipated saving on an item; nor may the unexpended portion of any item be retained for the purpose of setting it in reserve to meet impending payments or to be carried to a deposit or other account.

(2) Expenditure properly chargeable to the account of a given year must, as far as possible, be met within that year and must not be deferred for the purpose of avoiding an excess on the amount provided in the estimates.

Payment vouchers or electronic documentation

69. (1) All disbursements of public moneys shall be properly vouched on payment vouchers or electronic documentation approved by the Accountant General.

(2) An accounting officer may designate in writing and by name, specific persons who have the authority to sign payment vouchers on his behalf, and prescribe the financial limits and other conditions within which the authority may be exercised.

(3) The Accountant General and the Auditor General shall be—

- (a) advised of the names of the public officers so designated and the financial limits within which they may exercise their authority,
- (b) provided with the specimen signatures of those public officers; and
- (c) advised when the authority of any public officer to sign payment vouchers or an electronic documentation is withdrawn.

(4) A public officer who signed an incorrect certificate in consequence of an unauthorised or irregular payment shall be required to explain the circumstances, and if found to have been negligent may be subject to disciplinary action.

(5) All payments due shall be made as soon as possible to the persons entitled to receive them.

(6) Each accounting officer shall keep a Vote Control Register in the form approved by the Accountant General, showing separately each estimate for which he is responsible.

Payments in advance

70. Except in the case of a payment in advance duly authorised under the provisions of section 26 of the Act, no money shall be paid to any person other than the amount due for the value of work certified to have been done or services certified to have been performed by such person.

Payment process

71. (1) All payments shall be made in accordance with instructions issued by the Accountant General.

(2) The instructions referred to in sub-regulation (1) shall establish payment points which shall be staffed by public officers authorised by the Accountant General to make payments, and accounting officers shall submit payment vouchers or approved electronic documentation to a payment point designated by the Accountant General.

(3) When payments are made to persons other than those named in a payment voucher or approved electronic documentation, the authorities under which such payments are made, such as powers of attorney or letters of administration, shall be attached to the vouchers themselves or shall be registered in the Treasury and notified on the payment vouchers or approved electronic documentation.

Missing vouchers or supporting documents

72. (1) If any voucher on which payment has been made is lost, misplaced or inadvertently destroyed, the accounting officer shall notify the Accountant General immediately, and the Accountant General shall in turn report the full circumstances to the Financial Secretary, with a copy to the Auditor General.

(2) Where after due enquiry, the Financial Secretary is satisfied as to the circumstances of such loss, mislaying or destruction and that payment has been properly and correctly made, he may recommend to the Minister to authorise the payment to stand charged in the accounts.

(3) Where the Financial Secretary is not satisfied as to the circumstances of the loss, mislaying or destruction, he shall recommend an appropriate remedy or penalty.

(4) For the purposes of this Regulation, a payment voucher or approved electronic documentation which is incomplete because its supporting documents are missing, shall be regarded as a missing voucher.

PART XIV

IMPRESTS

Authorisation of imprests

73. (1) The Accountant General is authorised, under the advances warrant issued to him by the Minister under the authority of section 26 of the Act, to issue imprests to public officers who require cash to be readily available to meet immediate payments for authorised expenditure.

(2) Imprests referred to in sub-regulation (1) of this Regulation shall include standing imprests issued to accounting officers to meet payments during the financial year and temporary imprests or advances issued to public officers for specific purposes.

(3) Lists of standing imprests required by accounting officers in the next or forthcoming financial year shall be submitted to the Accountant General at least 14 days before the beginning of the financial year.

(4) Requests for temporary imprests or advances shall be made as the need arises and shall be submitted to the Accountant General at least 14 days before the money is required.

(5) An imprest shall be restricted to the minimum amount required for the purpose for which it is issued.

(6) All imprests of whatever nature shall be issued in the names of the public officers who will hold them, and they shall remain their personal responsibility until they are refunded or discharged by the submission of properly completed payment vouchers or approved electronic documentation or properly handed over to another authorised public officer unless approved by the Financial Secretary.

(7) An imprest holder shall not be relieved of any part of his responsibility by delegating the custody or operation of an imprest to another public officer.

Retirement of imprests

74. (1) All imprests shall be retired as soon as the necessity for their use ceases to exist and in any event, except as provided in sub-regulation (4) of this Regulation, by the close of business on the last working day of the financial year in which they were issued.

(2) Except as provided in sub-regulation (4) of this Regulation, where a public officer to whom an imprest of whatever nature has been issued fails to retire it in full within thirty days after the close of the financial year, or otherwise on the demand of the Accountant General—

(a) the amount outstanding may forthwith be recovered from any salary or other emoluments or from any other amounts due to the public officer; and

(b) where no such salary, emoluments or amounts are available from which to recover the imprest, the amount may be charged as a personal advance in the name of the imprest holder, and may be recovered as a civil debt due to the Government.

(3) Imprest holders are not relieved of their responsibilities under this Regulation until payment vouchers or approved electronic documentation submitted have been examined and found to be correct.

(4) Notwithstanding the general rule that all imprests must be retired by the close of the financial year, a temporary imprest advance issued in one financial year in respect of a duty journey which has not been completed by the end of that financial year may be retained by the public officer; but it shall be accounted for as soon as the public officer returns to his normal place of work.

(5) Where the duty may not have been completed, so far as is practicable, the public officer shall submit a voucher or electronic documentation for the expenditure incurred by him against the imprest before the end of the financial year, so that the expenditure can be included in the accounts of that year.

(6) No further imprest advances shall be issued to a public officer for the purposes of a duty journey if he is still in possession of an un-retired imprest previously issued to him for a similar purpose unless approved by the Financial Secretary.

PART XV

LOANS, ADVANCES AND INVESTMENTS

Authority for loans and advances

75. (1) The grant of loans and advances from public moneys or funds is strictly limited and such loans and advances may only be made by the Accountant General under the authority of an advance warrant under the hand of the Minister and for the purposes stated in the Act.

(2) All such advances shall be retired in the financial year in which they are made, and no advance account or loan account shall be opened, nor will any action be taken by any public officer, which will result in the issue of an advance or loan without the prior approval of the Accountant General.

(3) Any public officer taking action prohibited under sub-paragraph (2) shall be liable to a surcharge under Part X of the Act.

Loans and advances to be secured by agreements

76. (1) All loans and advances, other than those for Standing or Temporary imprests and those in respect of staff advances shall be secured by legally enforceable agreements in a form approved by the Attorney General.

(2) The agreements, which must clearly specify the full details of the advance, including the amount, the terms of repayment or recovery, the collateral security (if any) and the rates of interest, shall be properly executed by all parties, and shall be retained in safe custody in a strong room or safe.

Accountant General to control issues and repayments

77. (1) The Accountant General shall be responsible for ensuring that repayments of advances are made strictly in accordance with the terms and conditions attached to the advances.

(2) Without limiting the generality of sub-regulation (1) of this Regulation, the Accountant General shall, in particular ensure that—

- (a) payments are made only to persons entitled to them;
- (b) suitable terms and conditions have been approved to safeguard the repayment or recovery of the advance;
- (c) interest is charged where applicable;
- (d) recovery of the advance is not overlooked or delayed;
- (e) where appropriate, collateral security is held by the Government; and
- (f) proper accounts and controls are kept and the necessary recoveries effected.

Investments of public moneys

78. (1) Subject to section 16 of the Act, any money held to the credit of the Consolidated Fund may be invested with a bank at call, or subject to notice not exceeding twelve months, or in an investment authorised by law for the investment of trustee funds and approved by the Minister.

(2) All interest received and recoveries made from any such investment shall be paid into the Consolidated Fund.

(3) All costs, charges and expenses incurred in connection with negotiating, placing, managing, servicing or converting any investment made in accordance with these Regulations may be paid out of the Consolidated Fund without further appropriation.

(4) The costs, charges and expenses referred to in paragraph (3) shall not exceed the income earned over the life of the investment.

(5) Public and private organizations that receive public funds must present financial statements upon request prepare monthly and annual financial statements as are required for audit and management purposes.

PART XVI

SALARIES AND WAGES

Payment of salaries, etc in the Public Service

79. (1) Subject to the Public Service Regulations, this Regulation shall apply to payment of salaries and wages.

(2) It is a fundamental principle for the management of personal emoluments that activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments may not be performed by the same person.

(3) Accounting officers are responsible for ensuring that personal emolument records maintained for all of the permanent staff within their Ministries, departments and other agencies of the government are correct, and that all changes and variations in applicable rates are duly notified to the Accountant General.

(4) The rates of salary and other personal emoluments for members of the established service are as authorised in the salary scales published in the estimates, except in the case of contract public officers where the scale is as stated in the relevant contract.

(5) Notification of changes shall be sent to the Accountant General to be issued at an appropriate date by the Accountant General in consultation with Department of Human Resources Management prior to the implementation of the change.

(6) No employee shall be included on the payroll until a copy of the letter of appointment and a copy of the letter of acceptance of the appointment have been received by the accounting officer; and no action will be taken which would result in changes of salary or allowance to any public officer until proper authority has been received.

(7) Any balance of salary or allowance due to a public officer who has been convicted for misappropriation of public moneys or Government funds, or theft of Government property, or dismissed, or whose appointment has been terminated leaving sums due to the Government, shall not be paid without the prior authority of the Accountant General on the advice of the Attorney General.

(8) An Accounting officer is responsible for ensuring that an appropriate record is maintained in respect of persons employed on a daily wage basis, and ensuring that payment is made only for days actually worked.

(9) Any unpaid wages shall be repaid to the Accountant General, and in no case shall money be paid to any public officer, sub-contractor, foreman or any other person for distribution unless authorised by the Accountant General on the advice of the Attorney General.

PART XVII

PENSION

Records of retiring benefits

80. (1) The Accountant General shall maintain a record of all approved retiring benefits showing in respect of each retired officer —

- (a) the name of the officer;
- (b) the office held on the date of his retirement;
- (c) the date of birth and date of retirement;
- (d) the cause of retirement;
- (e) the date from which pension is payable;
- (f) the amount of gratuity;
- (g) the rate of pension;
- (h) the file reference number;
- (i) the address of the pensioner.

Notice of retirement

81. (1) Accounting officers shall submit to the Permanent Secretary, Human Resources Management not later than four months before the end of each financial year the names and pensionable emoluments of all officers in their department who will be retiring from the public service during the following financial year.

(2) An officer shall not later than six months before the end of a financial year give notice to the accounting officer in his department of intention to retire from the service during the following financial year.

Deferred payments of retiring officer

82. Any failure on the part of an officer to give the required amount of notice of his intention to retire from the public service may result in the deferment of the payment of any retiring benefits due to him in respect of his service with government for not more than one year after such payment is due.

PART XVIII

ACCOUNTING AND BOOK KEEPING

Accounting and book keeping in the Public Service

83. (1) The approved estimates form the basis of the accounts for the year to which they relate and the analysis and classification of the accounts of revenue and expenditure shall accord with those estimates.

(2) Every entry in the books of accounts shall be supported by a voucher and other approved documents containing the full details and particulars of the item or items to which it relates.

(3) A book, account or record that is required to be kept under the provisions of the Act or these Regulations may be kept or prepared—

- (a) by making entries in a bound or loose-leaf book;
- (b) by recording or storing the data concerned on electronic or other media by means of a mechanical, electronic or other device; or
- (c) in any other manner approved by the Accountant General.

(4) Notwithstanding sub-regulation (3) of this Regulation, where a book, account or record is to be kept or prepared by a mechanical, electronic or other device or to be stored on electronic or other media—

- (a) the data recorded or stored shall be capable, at any time, of being reproduced in a hard copy or any other form approved by the Accountant General; or
- (b) a reproduction of the data shall be kept in a hard copy approved by the Accountant General,

and the provisions of the Act and these regulation with respect to written records shall, with necessary changes, apply.

Use of computer based accounting systems

84. (1) Where the data recorded or stored on electronic or other material by a mechanical or electronic device forms part of a system of account under the control of an Accounting officer, the prior approval of the Accountant General shall be obtained and any changes to the system shall similarly be approved.

(2) An accounting officer shall take all reasonable precautions to guard against damage to, destruction of, or falsification of or in, and for discovery of falsification of or in, any book, account, record or part of a book, account or record required to be kept by the Act or these Regulations; and in particular shall ensure that all instructions issued by the Accountant General in this respect are implemented and enforced.

(3) An accounting officer shall, in particular, satisfy himself that where the system involves the authorisation, approval, deletion or alteration of any transaction or data by electronic means, or any means other than in writing, an audit trail is provided, which enables the person giving such authorisation or approval or deleting or altering a transaction to be identified beyond reasonable doubt and the nature and, if applicable, the amount of the authorisation, approval, deletion or alteration to be ascertained.

(4) An accounting officer shall also satisfy himself as to—

- (a)* the security of the means of storage and the method of processing of electronic media and its data;
- (b)* the proper documentation of any software involved,

and shall implement and enforce any instructions issued by the Accountant General in this respect.

(5) In particular access to data and data processing areas shall be controlled and the method of control documented.

(6) Where passwords are used as a security check for accessing data in a computer based accounting system for whatever purpose, including the authorisation or approval of transactions by electronic means or the alteration or deletion of any data, the passwords shall be kept secret by the person to whom they are allocated.

(7) Any public officer who communicates a password to another public officer and causes loss or damage to the Government shall be liable to disciplinary action.

(8) Proper technical support shall be readily available for both hardware and software; and effective backup and disaster recovery procedures shall be instituted to cater for a partial or complete breakdown or loss of the storage media or processing equipment.

(9) The objective of the requirements of sub-regulation (8) of this Regulation is to ensure that the administration of the Government, and in particular the collection of revenue, is not adversely affected.

Treasury cash books

85. The Accountant General and any public officer appointed by him, shall keep in his office a cash book, batch sheets or other records including electronic copies showing the allocation of receipts and payments, journals and ledgers together with such other books and registers as may be necessary for the proper maintenance and production of the accounts.

Deposit Accounts

86. Deposit accounts may only be opened with the specific approval of the Accountant General and for the purpose of accounting for moneys owed to a third party.

(2) The responsibility for keeping proper accounts for deposits which relate solely to the Accountant General or which otherwise do not fall within the responsibility of any other Ministry, department or other agency of the government, rests with the Accountant General.

(3) With respect to deposits other than those referred to in sub-regulation (2) of this Regulation, the prime responsibility for keeping proper accounts for such deposits lies with the Accounting officer concerned; and in such cases, the Accountant General also has a responsibility to investigate and take any necessary action to deal with a

deposit account which becomes overdrawn or which has been dormant for any considerable period of time or which has not been reconciled with the Treasury accounts.

(4) Any deposit which has remained unclaimed for a period of five years may, with the approval of the Accountant General, be paid into the Consolidated Fund; thereafter the Accountant General may refund the deposit to any person entitled to it where he is satisfied that the claim is authentic.

(5) Any refunds after the deposit has been transferred to the Consolidated Fund shall be paid from voted expenditure.

Public debt

87. The Accountant General shall maintain a register or such records as shall be sufficient to show details of all loans raised by the Government and other forms of public debt.

Standard forms

88. Standard forms and vouchers required for accounting procedures shall be approved by the Accountant General; and the prior authority of the Accountant General shall be obtained before the introduction of any special forms or vouchers for use in individual Ministries, departments or agencies.

Preservation of accounting records

89. The Accountant General shall—

- (a) issue instructions to Accounting officers specifying the precautions to be taken in particular cases to safeguard accounting records and documents and, in particular, those which have been stored on electronic or other media;
- (b) ensure that all receipts and payment vouchers or approved electronic documentation lodged with him are properly secured, and that they and all other accounting documents are kept in an orderly manner so that they are available when required.

Destruction of accounting records

90. (1) All classes of books of account and records shall be carefully preserved and shall not be destroyed without the prior written approval of the Accountant General and the concurrence of the Auditor General.

(2) An accounting officer is responsible for the care and safe-keeping of receipts, payments instruments and other accounting records in his custody and shall retain them until they are destroyed.

(3) Accounting records may be destroyed with the approval of the Accountant General after the expiry of the following periods—

- | | |
|---|----------|
| • Principal Treasury ledgers, cash ledgers and journals | 20 years |
| • Abstract, subsidiary journals, cheques, receipt forms and counterfoil | 7 years |
| • Payment instruments, and subsidiary records | 5 years |
| • Special ledgers and records e.g. Savings Bank records | 20 years |
| • Salaries and wages | 35 years |
| • Procurement contracts | 15 years |

(4) Where in the opinion of the Accountant General, a receipt, payment instrument or other accounting record is required for purpose of any litigation, inquiry, investigation or other examination, he may direct an accounting officer as the case may be to delay destruction of the receipt, payment instrument or other accounting record until it is no longer needed for that purpose.

PART XIX

CUSTODY AND SECURITY OF PUBLIC MONEYS

Provision of security facilities

91 (1) Strong-rooms, safes and cash boxes shall be provided for the safe custody of public moneys and valuables in all Government premises in which public moneys and other valuables are received and retained either temporarily or permanently.

(2) The cost of such strong rooms, safes and cash boxes shall be met from the vote of the relevant accounting officer unless otherwise approved by the Minister of Finance.

(3) The necessity and specifications for a strong-room, safe or cash-box shall be determined by the Accountant General; however it is the responsibility of an accounting officer to report to the Accountant General where he is not satisfied that adequate facilities are available within the premises for the proper and safe custody of public moneys and valuables.

(4) The Accountant General shall give guidelines relating to the maximum amount of public moneys and, where appropriate, the limitation on valuables which may be retained in a strong-room, safe or cash box overnight.

(5) Where the maximum amount of public moneys referred to in sub-regulation (4) of this Regulation is likely to be exceeded, the excess will be placed in a locked or sealed secure container and temporarily deposited in a strong-room or safe of higher security grading, and a receipt obtained from the key holder of that strong-room or safe or deposited into a bank account authorised by the Accountant General.

(6) In exceptional circumstances where large amounts are involved, the matter should be reported to the accounting officer, who in his discretion may arrange for the strong-room or safe to be placed under armed escort.

PART XX

BANK ACCOUNTS AND CHEQUES

Operation of bank accounts

92. (1) The Minister may designate any bank in Montserrat to be bankers to the Government for the custody of public moneys and other official funds and for the transaction of official banking business.

(2) Except with the prior authority of the Accountant General no public officer shall open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he is responsible in his official capacity or for the transaction of official banking business; and where given, such authority shall be conveyed in writing to the accounting officer concerned and copied to the Financial Secretary.

(3) No public officer, statutory body or public organisation shall overdraw an official bank account or obtain any advance or loan from a bank for official purposes, without the prior authority of the Minister.

(4) Accounting officers may nominate senior public officers who may sign cheques drawn on bank accounts for which they are responsible; and at least two signatures, one of which shall be of the accounting officer shall be required for the operation of any such bank account.

(5) The names and designations of the public officers referred to in sub-regulation (4) of this Regulation and their specimen signatures shall be advised to the bank where the account is held, and copies of the advice shall be sent to the Accountant General and the Auditor General.

(6) Any change in the specimen signatures referred to in sub-regulation (5) of this Regulation shall be similarly advised to the bank and copied to the Accountant General and Auditor General.

(7) The Accountant General may—

- (a) give directions as to the terms and conditions under which any bank account may operate; and
- (b) close or suspend the operation of a Bank Account at any time.

(8) Accounting officers may not cause the closure or suspension of any bank account without the prior approval of the Accountant General.

(9) The Auditor General may request from any person or organisation any information in relation to any bank account and such information shall be supplied.

(10) In order that a bank account may continue to operate regardless of any circumstances that may arise in respect of the authorised signatories, arrangements shall be made by the accounting officer for the account to be capable of being operated by the Accountant General in an emergency; and sub-regulation (4) of this Regulation relating to the number and status of the signatories shall apply to such arrangements.

(11) The balance of every bank account as shown in the bank statement shall be reconciled with the corresponding cash book balance at intervals determined by the Accountant General, but in any case at least monthly; and the reconciliation statement, where appropriate, shall be either filed or recorded in the cash book.

(12) A reconciliation similar to the one described in sub-regulation (11) of this Regulation shall be carried out when responsibility for any bank account or cheque book is handed over from one public officer to another and on the occasion of any surprise inspection or survey.

(13) Copies of reconciliation statements approved by the accounting officer shall be sent to the Accountant General, and copies of the reconciliation of any account operated by the Accountant General shall be sent to the Financial Secretary.

Issue of cheques

93. Unless authority is given by the Accountant General for a cheque to be opened, all cheques drawn on official Government accounts shall be crossed.

Computerized Cheques

94. (1) Cheques may be issued by the use of mechanical or electronic equipment.

(2) Adequate security measures shall be taken to restrict entry to mechanical or electronic cheque-writing devices to persons specifically authorized by the Accountant General.

(3) The Accountant General may authorize the signing of cheques by the use of mechanical or electronic equipment capable of reproducing facsimiles of signature or signatures of the person or persons duly authorized by him to sign cheques.

Cheque books to be secured

95. (1) Cheque books issued for use of an officer shall be secured when not in use..

(2) The counterfoil of used cheques and machine copy of each cheque shall be initialled by each signing officer and shall be secured for audit checking and verification.

Spoilt cheques

96. (1) Spoilt cheques shall be retained and clipped to the matching counterfoil.

(2) Each spoilt cheque shall be marked or stamped across its face "Cancelled" and initialled by a designated officer.

Cheques not to be cashed

97. In no circumstances should collector or receiver of revenue convert into cash, cheques received by him or cheques presented to him by any person whether or not that person is an officer.

PART XXI

BOARDS OF SURVEY

Boards of survey of cash and bank balances, etc

98. (1) The Financial Secretary may appoint a Board of Survey for each Ministry, department or other agency of the Government after the close of business on the last working day of each financial year, or before the start of business on the first working day of the new financial year, to survey the cash, bank balances and stores held by the accounting officer of each such Ministry, department or other agency of the Government for statutory reporting purposes except for the Treasury at the end of the financial year.

(2) The Financial Secretary shall appoint a Board of Survey, for the write off and condemnation of cash, stocks and inventory at any time during the year after the close of business on the last working day of each financial year or before the start of business on the first working day of the new financial year to survey the cash, bank balances and stores held by the Accountant General at the end of the financial year.

(3) The Accountant General or the Financial Secretary may appoint Boards of Survey at any other time in each year to conduct surprise surveys on the balances referred to in sub-regulations (1) and (2) of this Regulation.

(4) Accounting officers may at their discretion, appoint Boards of Survey to conduct surprise surveys on cash and bank balances and stamp stocks held by public officers of their Ministries, departments or agencies.

Composition and reporting by Board of Survey

99. (1) A Board of Survey shall comprise at least two public officers, one of whom shall be designated as Chairman by the Financial Secretary, the Accountant General or accounting officer as appropriate; however no public officer so appointed shall have any direct responsibility for the balances or stocks which he is required to check.

(2) The Accountant General, the Financial Secretary or accounting officer who appoints a Board of Survey shall notify the public officers concerned in writing of their appointment as Chairman and member or members respectively of the Board of Survey, and send a copy of the letter of appointment to the Auditor General and where appropriate, to the Accountant General or the Financial Secretary.

(3) Where a public officer is unable to serve on a Board of Survey, he shall notify the person that appointed him forthwith stating the reason for his inability to serve; and if the reason is acceptable to person, a replacement public officer shall be appointed.

(4) Each Board of Survey, whether appointed by the Financial Secretary or not, shall at the conclusion of the survey, submit a report to the Financial Secretary in the form specified by the Accountant General and in accordance with the terms of reference of the Board.

(5) The Financial Secretary shall be responsible for ensuring that the duties assigned to the Board of Survey are effectively discharged, and appropriate action taken for any failure on the part of the Board to discharge its duties properly.

(6) Accounting officers shall follow up and implement the recommendations of the Boards of Survey as they apply to their respective Ministries, departments or agencies with the authority of Financial Secretary; and the Accountant General shall ensure that accounting officers implement those recommendations.

(7) The Financial Secretary shall follow up the implementation of the recommendations of the Board of Survey carried out in respect of the Accountant General.

PART XXII

HANDING OVER PROCEDURES

Duties of public officer handing over

100. (1) Accounting officers shall ensure that on every occasion on which cash, receipt books, keys, are handed-over from one public officer to another, the hand-over shall be evidenced in writing, and shall be conducted in such a manner as to leave no doubt or ambiguity as to the items handed over and taken over.

(2) A handing over statement shall be prepared and submitted to the Accountant General and the Auditor General.

(3) Every handing over statement shall be endorsed by the accounting officer concerned.

Items handed over to be checked

101. (1) Every item to be handed over shall be checked in the presence of the officer handing over and the officer taking over and recorded in detail in the handing over statement.

(2) The handing over of keys of strong rooms, safes and cash boxes shall be recorded on the handing over statement.

(3) Copies of all orders, circulars, books, regulations and instructions issued to the officer handing over shall be handed over to the officer taking over.

(4) Cash ledgers, stamp registers and other accounting records shall be balanced as at the date of the handing over and signed by both officers.

Shortages and discrepancies found during hand-over

102. (1) Where, during a hand-over, shortages or discrepancies are noted between the balances or stocks of cash, receipt books, being handed over and those recorded in the relevant cash books and registers, the full facts relating to the shortage or discrepancies shall be recorded in detail in the handing-over statement, together with an explanation of the shortage or discrepancy given by the public officer who is handing-over.

(2) Where the shortage or discrepancy is other than of a very minor nature, the public officer taking over shall make an immediate report to the accounting officer who shall forthwith investigate the shortage or discrepancy and submit his report to the Accountant General with a copy to the Auditor General.

(3) In the case of a hand-over between outgoing and incoming accounting officers, the report shall be made to the Accountant General who shall forthwith investigate the shortage or discrepancy and submit his report to the Financial Secretary with a copy to the Auditor General.

Procedure in case of illness or absence of public officer

103. (1) Where because of illness or for any other reason an outgoing public officer is unable to hand-over his duties and responsibilities in person, he will forward the keys of the strong-rooms, safes, cash-boxes, in his custody to his accounting officer by hand under sealed personal cover.

(2) The accounting officer shall then appoint at least two public officers who shall, on behalf of the outgoing public officer, jointly perform the hand-over duties approved in Regulations 101 and 102 and sign the handing-over statement in place of the outgoing public officer.

(3) A procedure similar to that approved in sub-regulation (2) of this Regulation shall be followed if a key-holder is unexpectedly absent from a duty, which cannot be held in abeyance until his return.

(4) Where for any reason an incoming public officer considers that the state of the records, balances, security, is such that he cannot conscientiously take them over, he must immediately seek instructions from his accounting officer and promptly submit to the accounting officer, a full written report of the circumstances of the case.

PART XXIII

INVENTORIES

Purchase and receipt of inventories

104. (1) Accounting officers are responsible for purchase and safe custody of inventories under their control.

(2) Every public officer is personally and pecuniary responsible for Government inventories under his control.

(3) Care must be taken to ensure that the inventories received are in good condition and conform to order requirements, and the procedures governing the receipt of inventories from suppliers into any Government store shall aim at ensuring that payment is made only for the quantities actually received in good order and condition and meeting the required specification.

(4) So far as is possible the task of receiving and checking inventories shall be carried out by a public officer other than the one who places the orders and authorises payment for the supplies, and the documentation should permit the various elements of the transaction, including ordering, receipt and payment, to be identified with and checked against each other.

Deliveries

105. (1) In order that investigations may be carried out and any claims supported, it is essential that—

(a) a clear signature indicating that all the goods have been received intact and in good order, be given only when this fact has been ascertained;

(b) intimation of any loss shall be given to the supplier and to the carrier without delay.

(2) Where any dispute is likely to arise, the storekeeper shall report the matter immediately in writing to his superior public officer so that an enquiry may be instituted to determine any responsibility; and in the event of loss to the Government, any failure to comply with this procedure shall be taken into account in determining responsibility for the loss.

Recording of inventories

106. The Accountant General shall issue instruction on the format to be kept in respect of every inventory received and the procedure for the issuing of inventories.

Accountability for inventories

107. (1) Inventories are accounted for by value as well as by quantity, and it is necessary to keep records so as to determine the unit cost of each inventory item and the reconciliation of the total value of the stocks of inventories with the financial records.

(2) All vouchers and ledger entries for inventories shall show the value as well as the quantity of the items concerned.

(3) All purchases of inventories shall be charged directly to the relevant expenditure lines immediately on purchase, and the records referred to in sub-regulation (1) of this Regulation shall not form part of the general ledger.

Inspection of inventories

108. (1) Accounting officers shall arrange for the inventories for which they are responsible to be inspected regularly and for written reports to be made to them on the sufficiency of the storage accommodation and on the general condition of inventories and storage facilities.

(2) The inspecting public officer shall report to the accounting officer promptly and in writing, any case of loss, shortage, leakage, damage, waste, deterioration or irregularity observed in the course of his inspection and the Accounting officer shall take prompt and appropriate action to correct any defects or deficiencies reported.

(3) In addition to the departmental internal inspections, which are designed to satisfy Accounting officers that they are adequately discharging their own responsibilities for the correctness of inventories and stores records, the inventory holdings of all public stores shall be verified at least once a year by continuous stocktaking by an independent Stock Verifier or by Boards of Survey appointed by the Accountant General.

Boards of survey of inventories, etc

109. (1) In cases where inventories have not been fully checked during a financial year by a Stock Verifier, and in stores where, even though such a check has been made, exceptionally valuable or attractive items are held, a Board of Survey shall be appointed by the close of the financial year to check the stock holdings to such extent as specified in the terms of appointment.

(2) The appointment and composition of such Boards of Survey shall be similar to those approved in Regulation 99 of these Regulations in respect of Boards of Survey of cash, bank balances and stamps.

Hand-over of duties in respect of inventories by public officers

110. (1) Accounting officers shall ensure that whenever one public officer relinquishes to another the whole or part of his responsibilities for any store, the inventories and stores ledgers are properly examined and the hand-over conducted in such a manner that there can be no doubt or ambiguity as to the items handed over and taken over.

(2) The procedure for handing over and taking over shall be similar to that approved in Regulations 101, 102 and 103 for the hand-over of cash, bank balances and stamps.

Losses of inventories

111. (1) The procedure to be taken on the discovery of any loss or shortage of inventories or other Government property, the manner in which enquiries into the loss or shortage are to be conducted, and the procedure for surcharging or otherwise disciplining any public officers held to be responsible are approved in Regulations 22, 23 and 24.

(2) In the context of inventories and other property, losses shall include any damage or deterioration which cannot be attributed to fair wear and tear.

Write-off of inventories

112. (1) Accounting officers may, with the authority of the Financial Secretary, write-off minor items of inventories which have been accidentally lost or broken beyond repair such as glassware and small tools, or perishable items which have become unserviceable, provided that no question of fraud, theft or negligence is involved and the value does not exceed the maximum value determined by the Minister from time to time.

(2) In each case of minor articles lost or broken, the Accounting officer may order that the cost of the article shall be recovered from the public officer concerned.

(3) All write-offs shall be compiled and reported to the Financial Secretary for inclusion in a resolution to be introduced in Legislative Council.

Condemnation of unserviceable inventories, etc

113. (1) Where it is considered that inventories, vehicles, plant, equipment, have reached the end of their useful life, are beyond economical repair or are unserviceable for any other reason, or have become redundant through

obsolescence, they shall be retained until a sufficient quantity has accumulated to merit the convening of a Board of Survey to inspect them; and it shall be the duty of such Board to determine the action to take.

(2) The Financial Secretary, if he thinks fit, appoint in writing a Board of Survey, comprising at least two public officers, one of whom shall be designated as Chairman, to inspect and report on the items referred to in sub-regulation (1) of this Regulation; and where the items are of a mechanical or technical nature, at least one of the public officers appointed must be suitably qualified to express a technical opinion on the state of the items.

(3) Except where this consideration makes it unavoidable, no public officer concerned with the custody or use of the items should be appointed to the Board.

Unwanted serviceable inventories, etc

114. Where inventories or items which, although serviceable, are no longer required by the Government are to be sold, they shall be disposed of by public auction or by tender after public advertisement; except where the specific approval of the Financial Secretary has been obtained for them to be sold through other means.

PART XXIV

STOCK VERIFICATION

Appointment of stock verifier

115. The Financial Secretary shall have the power to appoint a stock verifier whenever it becomes necessary to verify stock holdings in any department.

Duties of stock verifier

116. The duties of a stock verifier shall include —

- (a) the detailed comparison of stores ledger balances, bin card balances and inventory balances with the physical stock on hand;
- (b) the initial investigations into the reasons for any discrepancies;
- (c) an assessment of the security and storage arrangements and safeguards against loss, fraud and other irregularities;
- (d) an assessment of the management of stocks with special regard to overstocking, wastage and obsolescence;
- (e) checking and evaluating inventory holdings;
- (f) the identification of unserviceable or obsolete stores;
- (g) supervising the disposal of condemned stores;
- (h) any other duties assigned by the Financial Secretary.

Stock to be verified

117. The Financial Secretary may at any time arrange for stores held in any department to be verified by a stock verifier.

Report of stock verifier

118. (1) The stock verifier shall report to the Financial Secretary on any discrepancy, defects, obsolescence or damage or any deficiency in the arrangements for accounting, storage, security and other safeguards which have come to his notice during the stock verification.

(2) The Financial Secretary, on receipt of the stock verifier's report, may require the accounting officer concerned to answer to any discrepancy, defect, damage or deficiency discovered by the stock verifier.

PART XXV

NON-CURRENT ASSETS

Nature of non-current assets

119. (1) Non-current assets are assets that, by their nature, have useful lives extending over more than one fiscal year, and include all major items of furniture and equipment for either Government offices, quarters, plant, equipment, and larger tools for Government works, vehicles and launches, owned by the Government of Montserrat.

(2) Such assets are required to be retained until they are finally written-off and disposed of because they are either unserviceable or are of no further use to the Government; and while the overall responsibility for such assets or equipment rests with the relevant Accounting officer, the public officers to whom the assets are issued have the primary responsibility over their custody, maintenance, safeguarding and proper use until they are returned to store.

(3) When the occupant of an office, quarter or location, or other person having charge or use of the equipment or furniture changes, there shall be an appropriate hand-over to the incoming public officer.

Recording of assets

120. A register, in a form approved by the Accountant General shall be maintained for all assets, and all such assets shall also be appropriately marked or engraved to ensure that they are easily identifiable as Government assets.

Use of Government vehicles or conveyances

121. (1) Journeys may only be made in Government vehicles, launches or other conveyances when use of such vehicle, launch or conveyance has been approved by the relevant accounting officer or other public officer designated by the accounting officer to give such approval.

(2) The approval referred to in sub-regulation (1) of this Regulation shall be conveyed to the public officer in writing, with copies to the Accountant General.

(3) The public officer approving the journey shall ensure that the most economical vehicle or conveyance is used, commensurate with the duty to be performed, and shall satisfy himself that the distances travelled, time taken, are reasonable having regard to the conditions under which the work is executed or performed.

(4) Except with the express prior approval of the Financial Secretary, relevant accounting officer or appointing authority, no Government vehicle, launch or other conveyance may be used by any person for travel from home to place of work or for any other private purpose.

Hire or loan of assets

122. (1) Except where an authorised procedure exists and standard hire charges are in operation, Government property, plant or equipment may only be loaned or hired out to public officers or to the public in very exceptional circumstances.

(2) The loaning or hiring of Government property, plant or equipment under sub-regulation (1) of this Regulation shall—

(a) be with the prior written approval of the relevant accounting officer; and

(b) be supported by an agreement signed by the hirer on a form approved by the Attorney General,

and the hire charges must be paid before the plant, equipment or other non-current asset is released.

Maintenance and security of assets

123. Accounting officers are responsible to keep secure and maintain assets under their control in a reasonable state of repair in order to keep them suitable for purposes for which they were purchased.

Sale of assets

124. (1) No uniforms and equipment of a uniformed service which has become unserviceable or which are no longer required for public purposes shall be sold to any person, public officer or to the public.

(2) Where assets have become unserviceable or which no longer require for public purpose, no assets shall be sold to any person, public officer or to the public.

(3) Such a sale may only be made where the sale—

- (a)** falls within the terms of a formal government contract, such as the sale of materials to a government workers contractor;
- (b)** it mad in accordance with a standing arrangement;
- (c)** it otherwise made with the prior written authority of the Accountant General, which shall be given only in exceptional circumstances when no other source of supply is readily available, and the accounting officer concern is satisfy that the items can be spared; and
- (d)** complies with the Procurement Regulations, and any Regulations made under it or any other written law for the disposals of assets.

(4) Where authority has been duly obtained for the sale of any assets or non-current assets other than within the terms of a contract or in accordance with a standing arrangement, the assets shall not be supplied to the purchaser until payment in full has been received.

(5) Any Government mark or crest appearing on such assets shall be obliterated before the property is sold.

(6) In this Regulation, “uniformed services” means the Montserrat Police Force, the Montserrat Defence Forces and such other institution or body as may be specified in general instructions issued by the Accountant General under section 8 (2) of the Act.

Boards of Survey of Assets

125. (1) At the end of each financial year, Boards of Survey of Assets may be appointed to check the assets held by Ministries, departments and agencies of the Government.

(2) The appointment, composition and reporting of the Boards of Survey of Assets shall be as detailed in Regulation 99 of these Regulations.

PART XXVI

ACCIDENTS

Appointment of Accident Investigation Board

126 The Financial Secretary may appoint an Accident Investigation Board to inquire into the causes and costs of any accidents reported to him and to assess the extent of any responsible or negligence on the part of any driver or operator responsible for or in control of the vehicle or plant involved.

Accident reports

127. Whenever an accident involving a government vehicle or plant occurs, the driver or operator as the case may be shall immediately notify the police and complete an accident report and submit such report to the accounting officer.

Assessment of damage

128. The accounting officer, on receiving an accident report, shall immediately refer the reports to the officer in charge of the mechanical workshop or garage for an assessment of the damage or damages sustained and an estimate of the cost of repair, or, in the case where the vehicle or plant is beyond repairs, the cost of replacement.

Report to be submitted to Accident Investigation Board

129. Except where the accident is referred to the Court by the Police, the accounting officer shall submit the accident report together with the assessment made by the officer in charge of the mechanical workshop or garage and police report, if any, to the Accident Investigation Board. Where the matter has been referred to the Court, the Accounting Officer is obliged to await the decision of the Court and at that time all the documents including the Court decision shall be submitted to the Accident Investigations Board.

Proceedings by the Accident Investigation Board

130. (1) The Accident Investigation Board may summon any person to give any evidence or explanation concerning the accident which it may consider to be necessary.

(2) The Accident Investigation Board shall submit a report on its findings together with any recommendations as to the action to be taken against the driver or operator responsible for the accident, to the accounting officer.

Action to be taken

131. (1) The accounting officer shall submit the accident report and the Accident Investigation Board's report together with his recommendations on the extent of any surcharge against the driver or operator responsible for the accident, to the Financial Secretary after consultation with the Attorney General's Chambers.

(2) Any surcharge imposed on the driver or operator by the Minister shall be recovered in accordance with any directions given by the Financial Secretary.

Claims by government

132. Where the Accident Investigation Board recommends that a claim be made against any person or insurance company in respect of any liability for an accident, the accounting officer shall prepare the claim and submit it to the Attorney General for his approval before it is issued.

Claims against government

133. In the event of a **claim** being made against the government for liability in respect of an accident, the claim shall be investigated by the Accounting Officer and both his report and the claim referred immediately to the Attorney General for his advice on the action to be taken.

Repairs to damaged plant or vehicle

134. As soon as possible after an assessment has been made by the officer in charge of the mechanical workshop or garage and except as may be advised by the Accident Investigation Board or Attorney General, the accounting officer shall proceed to carry out repairs to the vehicle or plant involved in the accident. An Accounting Officer must ensure that cost to Government is minimised.

PART XXVII

MISCELLANEOUS

Penalties

135. In accordance with section 52 of the Act a public officer who—

- (a) without reasonable excuse fails to provide by the due date any information that the Financial Secretary required under section 7 of the Act, such matter may be reported by the Financial Secretary to the Public Service Commission for appropriate action;
- (b) causes a loss of or deficiency in public money and damage to public property, the amount of lost or deficiency and the value of the property lost or destroyed and the cost of replacing or repairing the damage to that property as the case may be, shall be a debt due to the Government and may be recovered from the public officer either administratively or through a court of competent jurisdiction.

Surcharge

136. (1) Notwithstanding anything in these Regulations, where, in pursuance of Part X of the Act—

- (a) a loss or deficiency in public moneys or other moneys that has been advanced to or was under the control of a public officer occurs; or
- (b) a loss or deficiency of or damage to public property or other property occurs while in the care of a public officer, and the Minister is satisfied after due enquiry, that the negligence or misconduct of the public officer caused or contributed to the loss or deficiency,

the amount of the loss or deficiency; the value of the property lost or destroyed; the cost of replacing or repairing the damage to that property, as the case may be, shall be a debt due to the Government, and may be recovered from the public officer either administratively or through a court of competent jurisdiction.

(2) Where the negligence or misconduct of the public officer is not the sole cause of the loss, deficiency or destruction resulting in an action under sub-regulation (1) of this Regulation, the amount recoverable from the public officer may be restricted to only the cost of replacing or repairing the loss, deficiency, damage or destruction that the Minister considers, after due enquiry, to be just and equitable, having regard to the contribution made by the public officer to that loss, deficiency, damage or destruction.

(3) In this Regulation, reference to a public officer includes a person who at the time the loss, deficiency or damage was a public officer.

Forms

137. The Accountant General may prescribe such forms as are required for the efficient working of these Regulations.

Revocation

138. (1) The Finance Regulations 2002 (No. 16 of 2002) is hereby repealed.

(2) Notwithstanding the revocation under sub-regulation (1) of this Regulation, any disciplinary or other proceedings or measures commenced under the revoked Instructions shall be continued as if they were instituted under these Regulations.

Made by the Governor-in-Council this 30th day of July, 2009.

J. Jeffers

Clerk of Councils

Published by exhibition at the Clerk of Councils Office, Farara Plaza, Brades, this 11th day of August, 2009.

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