



ANALYSIS

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|---|--|
| 1. Short Title and commencement | 12. Overseas imprest and other special accounts |
| 2. Interpretation | 13. Statement of Accounts |
| 3. Borrowing on overdraft | 14. Revolving funds and operating accounts |
| 4. Estimates | 15. False declarations |
| 5. Expenditure in anticipation of appropriation | 16. Neglect to pay public money into account or to make or furnish returns |
| 6. Overexpenditure | 17. General penalty |
| 7. Section repealed and new section inserted | 18. Who may lay information |
| 8. Authorisation and certification of expenditure | 19. Irrecoverable losses |
| 9. Delegation by Minister | |
| 10. Refunds and corrections | |
| 11. New section added | |
| 32A. Transfer and subsequent expenditure of unexpended appropriations | |

1976, No. 16

An Act to amend the Public Moneys Act 1969

(19 November 1976

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

1. Short Title and commencement - (1) This Act may be cited as the Public Moneys Amendment Act 1976 and shall be read together with and deemed part of the Public Moneys Act 1969 (hereinafter referred to as the "principal Act").

(2) This Act shall be deemed to have come into force on the first day of April 1976.

2. Interpretation - Section 2 of the principal Act is hereby amended by inserting -

- (a) Between the term "Act" and its definition and the term "Audit Office" and its definition the following new terms and definition:

- "Appropriation" and "Appropriation Act" shall include every Supplementary Appropriation for the same financial year;"
- (b) Between the term "Government" and its definition and the term "Imprestee" and its definition the following new term and definition:
- "Government office" means the office, establishment or place of operation of any Department or part of a Department and of any corporation, authority or other ad hoc body established or constituted specifically by Act of the Legislative Assembly and includes all moneys stores and records held at any such office:"
- (c) Between the term "Imprestee" and its definition and the term "Public Account" and its definition the following new term and definition:
- "Ministry" means a grouping of other services that is treated as a single unit for the purpose of determining the portfolios of Ministers of the Cabinet:"
- (d) Between the term "Statement of Account" and its definition and the term "Treasury" and its definition the following new term and definition:
- "Supplementary Appropriation" means any amendment to the Appropriation for any financial year whether by adding new votes, repealing votes or by increasing or reducing any vote or votes and "Supplementary Appropriation Act" shall have a corresponding meaning:"
3. Borrowing on overdraft - Section 14 of the principal Act is hereby amended by repealing the proviso to that section.
4. Estimates - Section 22 of the principal Act is hereby repealed and the following new section substituted:-
- "22.(1) A detailed statement of the estimated receipts and expenditure for every financial year, showing the separate votes for each Ministry by programmes and items, shall accompany each appropriation measure laid before the Legislative Assembly pursuant to Article 70 of the Constitution.
- (2) Where in the course of any financial year a supplementary appropriation is made the following provisions shall have effect unless other provision is made in the Supplementary Appropriation Act:
- (a) Subsection (1) of this section shall be deemed to be complied with if the detailed statement contains the amounts by which votes programmes and items have been increased or reduced or the amounts for any new votes or programmes as the case may require.

- (b) The total appropriation for that financial year shall be deemed to be increased or reduced by the nett amount of the supplementary appropriation.
- (c) The amount of each vote programme and item shall be deemed to be increased or reduced by the amounts shown in the Supplementary Appropriation Act and the detailed statement referred to in paragraph (a) of this subsection.
- (d) Every new vote programme or item contained in a Supplementary Appropriation Act or the detailed statement referred to in paragraph (a) of this subsection shall be deemed to have been incorporated into and have formed part of the appropriation measure for that financial year."

5. Expenditure in anticipation of appropriation - Section 23 of the principal Act is hereby amended by omitting from paragraph (b) the word "service" and substituting the word "Ministry".

6. Over expenditure - Section 25 of the principal Act is hereby repealed and the following section substituted:

- "25. (1) Where the administrative head of any Department is of the opinion that the amount provided in the estimates for any programme will be insufficient to meet expenditure chargeable to items under that programme, he shall report the particulars to the Minister in Charge of the vote which includes that programme and that Minister may authorise the overexpenditure of the amount provided for that programme.
- (2) Before any approval is given under subsection (1) of this section the Minister in charge of the programme which is to be the subject of overexpenditure shall satisfy himself that the vote which includes that programme will not be overexpended as a result of his approval and he shall place such restrictions on expenditure on some other programme or programmes within that vote as are necessary to prevent the vote being overexpended.
- (3) Where in the opinion of the Minister in charge of the vote which contains the programme to be overexpended, the provisions of subsection (2) of this section cannot be complied with, that Minister shall before any such overexpenditure is incurred refer the matter to the Minister of Finance who may authorise the overexpenditure subject to such conditions and restrictions as he may deem expedient.
- (4) Where the administrative head of a Department is of the opinion that the amount shown in the estimates for any item of a programme will be insufficient to meet expenditure chargeable to that item he shall report the matter to the Minister in charge of the vote which includes that programme who may authorise

(3) The Financial Secretary may determine that any expenditure within a programme is of a recurring nature and in such case the expenditure shall be deemed to have been authorised up to the limit for the time being of the item within the programme to which such expenditure is chargeable:

Provided that recurrent expenditure incurred in anticipation of an Appropriation Act shall be deemed to have been authorised by the Minister of Finance within the limit prescribed in sub-clause (3) (a) of Article 70 of the Constitution."
(4) Section 28 of the principal Act is hereby further amended by omitting the word "item" from subsection (4) and substituting the word "programme".

9. Delegation by Minister - Section 29 of the principal Act is hereby amended by adding after subsection (2) the following new subsection (3):-

"(3) Nothing in this section shall be construed as authorising the Minister of Finance to delegate powers vested in him under Article 70 of the Constitution."

10. Refunds and corrections - Section 32 of the principal Act is hereby repealed and the following section substituted:-

"32.(1) The Minister of Finance shall on application being made at any time within six years of any sum being paid to any Ministry or Department, refund as statutory expenditure all or so much of any such sum as was not properly payable to the Government.
(2) Where any person has become indebted to the Government and it is subsequently discovered that the amount of the debt or the identity of the debtor is in error, the Financial Secretary on being satisfied as to the facts, may make or cause to be made all such entries in his records necessary to procure the true position appearing. Cancelling in whole or in part of any debt under the authority of this section shall not be deemed to be expenditure and section 64 of this Act shall have no application."

11. New section added - The principal Act is further amended by inserting after section 32 and before section 33 the following new section:-

"32A. Transfer and subsequent expenditure of unexpended appropriations - (1) Where provision has been made in any Appropriation Act for expenditure in the nature of a grant or for a purpose that does not normally recur, but expenditure cannot be made during the financial year to which that Act relates, the Minister of Finance on being satisfied that it is desirable to do so, may direct that any unexpended balance of the provision shall be transferred during that financial year to a separate fund, account or deposit account to be held there until payment is required, when the amount may be expended without further appropriation than this section for the purpose for which it was originally appropriated.

(2) Any amount transferred under this section and not required for the purpose for which it was provided shall be retransferred to the fund or account from which it was originally appropriated."

12. Overseas imprest and other special accounts - Subsection (1) of section 35 of the principal Act is hereby amended by inserting before the words "The Financial Secretary" the words "Subject to the prior approval of the Minister of Finance".

13. Statement of accounts - Subsection (1) of section 35 of the principal Act is hereby amended by omitting the word "third" and substituting the word "sixth".

14. Revolving funds and operating accounts - Section 39 of the principal Act is hereby repealed and the following section substituted:-

"39.(1) The Minister may, without further appropriation than this section establish such revolving funds and operating accounts as he considers necessary or desirable and shall define the purposes and limitations thereof.

(2) A statement of the purposes and limitations of any such account or fund shall be annexed to the statement of accounts presented to the Audit Office pursuant to section 35 of this Act for the year in which the revolving fund or operating account is established and shall be included in the estimates supporting any proposed appropriation to provide or increase the working capital of a revolving fund or to make provision for the net result of an operating account.

(3) The receipts of the funds or accounts established under this section shall at all times be deemed to have been appropriated for the purposes of the fund or account and expenditure may be authorised in accordance with section 28 of this Act up to the amount of receipts.

(4) All surplus receipts of any fund or account established under this section shall, unless a direction to the contrary is given by the Minister, be transferred to and form part of the revenue received by the Ministry of Finance.

(5) On the winding up or termination of any fund or account established under this section the surplus remaining in the account shall without further appropriation than this section be transferred to and form part of the revenue received by the Ministry of Finance or such other Ministry as the Minister of Finance may direct".

15. False declarations - Section 48 of the principal Act is hereby repealed and the following new section substituted:-

"48. Every person who makes any declaration or gives any certificate required to be made or given by this Act or by regulations made thereunder knowing it to be false commits an offence and shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$500, or to both."

16. Neglect to pay public money into account or to make or to furnish returns - Section 49 of the principal Act is hereby repealed and the following new section substituted:-

- "49. (1) Every person holding any public money who refuses or neglects to pay it into the account into which it is payable commits an offence and shall be liable on conviction to a fine not exceeding \$1,000.
(2) Every person who refuses or neglects to make any return or furnish any account, vouchers, or other papers which he is required to make or furnish under this Act or any regulations made thereunder commits an offence and shall be liable on conviction to a fine not exceeding \$500."

17. General penalty - Section 50 of the principal Act is hereby repealed and the following new section substituted:-

- "50. Every person who wilfully acts whether by commission or omission contrary to any of the provisions of this Act and commits an offence for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$1,000."

18. Who may lay informations - The principal Act is hereby further amended by repealing section 51.

19. Irrecoverable losses - Subsection (2) of section 62 of the principal Act is hereby amended by omitting the words "and is confirmed by the Audit Office."

This Act is administered in the Treasury.