

NORTH-WEST PROVINCIAL EXCHEQUER ACT**NO. 4 OF 1994**

[ASSENTED TO 24 JUNE, 1994] [DATE OF COMMENCEMENT: 24 JUNE, 1994]

*(English text signed by the Premier)***ACT**

To provide for the regulation of the collection, receipt, control, custody and issue of State moneys and the receipt, custody and control of other State property; the raising and repayment of loans by the Province; the granting of certain loans from the Provincial Revenue Fund and the terms and conditions in regard to the repayment of such loans; the duties and powers of the Provincial Treasury; the granting of guarantees, indemnities and securities; arranging that certain sections of this Act cannot be amended without the concurrence of Parliament and matters connected therewith.

1. Definitions.—(1) In this Act and any Regulation and instruction issued in terms thereof, unless the context otherwise indicates—

"accounting officer" means a person referred to in sections 16 and 17;

"adjustments estimate" means an estimate of expenditure from the Provincial Revenue Fund submitted to the Provincial legislature in respect of expenditure on services of the Province and which are confined to—

(a) the shifting of funds between and within votes;

(b) reappropriation of money which was appropriated by the provincial legislature in the preceding financial year, but was not spent;

(c) appropriation of money for services of the Province in respect of which no or insufficient moneys have been appropriated in the relevant financial year and which may only be appropriated—

(i) from money obtained from the sale of assets of the province;

(ii) as a result of an authorization issued under section 7;

(iii) in respect of expenditure already announced by the responsible Member in his speech during the tabling of the appropriation Act in the Provincial legislature; or

(iv) in respect of expenditure regarded as being unforeseen and unavoidable by the Provincial Treasury; or

(d) any other change or adjustment to an appropriation Act which applies in the relevant financial year and which the Provincial Treasury deems necessary;

(e) additional conditional and unconditional allocations by Parliament;

"appropriation account" means an account mentioned in section 15;

"appropriation Act" means an Act by which the estimates of expenditure or adjustments estimate is appropriated as a charge against the Provincial Revenue Account approved by the Provincial legislature;

"**Auditor-General**" means the person appointed as such in terms of section 191 (2) of the Constitution;

"**Bank**" a deposit-taking institution mentioned in the Deposit-taking Institution Act, 1990 (Act No. 94 of 1990);

"**Constitution**" means the Constitution of the Republic of South Africa Act, 1993 (Act No. 200 of 1993);

"**credit**" means an allocation of an amount of money in the Paymaster-General's Account to an accounting officer;

"**department**" means a department as defined in an act of a province which establishes and arranges executive departments for the relevant province;

"**estimates of expenditure**" means an estimate of expected expenditure from the Provincial Revenue Fund on the services of the Province during a financial year which are submitted to Provincial legislature and which contain particulars of the purposes for which moneys, appropriated in an appropriation Act shall be utilized and includes any estimates of supplementary expenditure on such services during that financial year which it is deemed necessary to provide for after the first mentioned estimate has been submitted to the Provincial legislature, but before it has been approved;

"**Republic**" means the Republic of South Africa as contemplated in section 1 of the Constitution;

"**responsible Member**" means the member of the Executive Council of the Province responsible for finance;

"**this Act**" shall include Regulations made thereunder;

"**Treasury**" means the National financial authority in the Public Service which is vested in the Department of State Expenditure mentioned in the Public Service Act and whose powers in relation to any matter are exercised by the Minister of Finance or an officer in that department who, by virtue of a division of work in that department, deals with that matter;

"**Treasury Instruction**" means an instruction issued in terms of section 39 of the National Exchequer Act, 1994;

"**trust money**" means moneys kept by an accounting officer or other person in the service of the Province on behalf of a person or body, which money is not State money;

"**trust property**" means property kept by an accounting officer or other person in the service of the Province on behalf of a person or body, which property is not State property; and

"**vote**" means a vote shown in a schedule to an appropriation Act.

(2) Any reference in any law to the State Revenue Fund shall be deemed to be a reference to the Provincial Revenue Fund for as far as those powers are imposed on the province.

CHAPTER 1

REVENUE, EXPENDITURE AND ACCOUNTING SYSTEM

2. Accounts of Provincial Revenue Fund.—The Provincial Treasury shall make provision in its books in respect of the Provincial Revenue Fund for a Provincial Revenue Account which shall be credited with all revenue accruing to it in terms of this Act or any other law, and from which shall be defrayed all expenditure and be paid any amounts with which it is charged in terms of this Act or any other law.

3. The Provincial Exchequer Account.—(1) The Provincial Treasury shall maintain at a Bank an account, entitled "the Account of the Exchequer of the Province", into which shall, subject to the provisions of paragraph (a) of subsection (2), be deposited all revenues.

(2) (a) A Provincial Treasury shall appoint principal receivers of revenue in respect of any provincial revenue received by the province.

(b) The principal receivers of revenue contemplated in paragraph (a) shall each cause the revenue of his office received from time to time, less the amount of any drawbacks and other refunds, to be deposited in the Provincial Exchequer Account.

(c) Such deposits shall be made on each appropriate working day.

(3) The Bank shall on each appropriate working day render to the Provincial Treasury, in such form as the Provincial Treasury may determine, returns of revenue deposited in the Provincial Exchequer Account.

(4) The Provincial Treasury may utilize any moneys in the Provincial Exchequer Account for the defrayment of expenditure chargeable to the account mentioned in section 2.

(5) The Provincial Treasury shall, subject to the provisions of this Act, ensure that there shall at all times be sufficient moneys in the Provincial Exchequer Account for transfer in accordance with section 9 (1).

4. Appropriation of moneys in Provincial Revenue Fund, and estimates of expenditure and revenue.—(1) The moneys in the Provincial Revenue Fund shall be appropriated by the provincial legislature as a charge against the Provincial Revenue Account by an appropriation or other Act for the requirements of the Province: Provided that until such time as provision has been made in an appropriation Act for such requirements during a financial year, such moneys shall be deemed to have been appropriated by an Act for such requirements, subject to the following limitations:

(i) in respect of the first four months of the relevant financial year, to not more than 45 percent of; and

(ii) in respect of each of the following months, to not more than 10 percent of; and

(iii) in total, to not more than;

the amount voted by the Provincial legislature, by an appropriation Act for the immediately preceding financial year.

(2) Issues by virtue of the proviso to subsection (1) shall be deemed to be issues by virtue of the appropriation Act for the financial year in question, and as a charge against the Provincial Revenue Account.

(3) Moneys deemed to have been appropriated as contemplated in the proviso to subsection (1) shall only be utilized for services in respect of which expenditure was authorized by an appropriation Act during the immediately preceding financial year, or in respect of which some other authorization by another Act exists.

(4) When applying this section where—

(a) a province could not adopt an appropriation act as it did not yet exist; or

(b) certain functions were imposed on a province after an appropriation act had been passed for the preceding financial year,

in the case of paragraph (a) the total amount on which the relevant percentages are based is determined by the responsible Member, and in the case of paragraph (b) the total amount of the appropriation Act of the preceding financial year is increased by the costs of that function for a full year and such functions are, for the purposes of subsection (3) deemed to be part of the relevant Appropriation Act.

(5) The responsible Member—

(a) shall for every financial year, in a form determined by the Minister responsible for National Financial Matters submit to the Provincial legislature an estimate of revenue and estimate of expenditure to be defrayed from the Provincial Revenue Account; and

(b) may so submit to the Provincial legislature an adjustments estimate to be so defrayed.

5. Duration of appropriation Act, and expenditure in a financial year.—(1) An appropriation Act shall not be construed as authorizing the utilization of moneys appropriated thereby in a financial year other than the financial year to which it expressly relates.

(2) Subject to the provisions of section 5 (3) and 7, expenditure shall in each financial year be incurred in accordance with standing statutory appropriations and, in respect of each vote, in accordance with the main divisions thereof, the particulars of which shall be contained in the estimates of expenditure and the adjustments estimate.

(3) Expenditure on a service in respect of which no or insufficient provisions has been made in an appropriation Act, shall not be brought to account as final debit against a vote, unless—

(a) in the case of insufficient provision, a saving under any main division of the vote concerned being applied towards such expenditure, unless the Provincial Treasury directs otherwise; or

(b) the responsible Member granted a written authority therefor or beforehand in terms of section 7.

6. Column 2-items.—(1) The amounts appearing in "Column 2" of a schedule to an appropriation Act in respect of any vote shall, subject to the provisions of section 7 (1) (b) (ii), not be exceeded, and savings thereon may, with the approval of the responsible Member, be applied towards the defrayment of any other expenditure for which insufficient appropriation has been made under that vote.

(2) An amount appearing in "Column 2" of a schedule to an appropriation Act in respect of any vote, may be increased with such a portion of the moneys appropriated for the Vote: Improvement of conditions of service of the province as the accounting officer of that Vote in consultation with the Provincial Treasury may determine.

7. Authority by the responsible Member for utilization of moneys in certain circumstances.—(1) Notwithstanding the provisions of sections 4 and 6, the responsible Member may grant authority for moneys in the Provincial Revenue Fund to be utilized during a financial year—

(a) to defray expenditure of an exceptional nature which has not been provided for in an appropriation Act and which cannot without serious prejudice to the public interest be postponed until appropriation therefor can be made by the Provincial legislature; or

(b) to defray—

(i) expenditure in connection with an expected excess on a vote which can not without serious prejudice to the public interest be postponed until appropriation therefor can be made by the Provincial legislature; and

(ii) Expenditure in connection with an expected excess of amounts which appear in "Column 2" of a schedule to an appropriation Act:

Provided that the total amount in respect of which authority may be granted in terms of this section shall not at any time exceed an amount equal to two per cent of the total amount appropriated by the then current appropriation Act or which is available by virtue of the proviso to section 4 (1).

(2) Steps shall be taken, not later than during the next ensuing session of the Provincial legislature, for the appropriation of any amounts which have been or will be utilized in terms of subsection (1).

(3) The authority contemplated in subsection (1) is granted only if it complies with the criteria stated in the definition of adjustments estimate of subsection (1) of section 1.

8. Power of Provincial Treasury to limit or suspend incurring of expenditure.—(1) Notwithstanding anything to the contrary contained in any law, including any law whereby money is appropriated for any statutory body, fund or account, the appropriation by an appropriation Act, or an authority granted in terms of section 7, shall be construed as merely indicating the maximum amount which may be utilized for the service or purpose concerned, and the Provincial Treasury may withhold or suspend the disbursement of moneys which have been appropriated or in respect of which authority has been granted in terms of section 7 (1), if in the opinion of the Provincial Treasury circumstances make such withholding or suspension desirable.

(2) The Provincial Treasury shall keep a record of every withholding or suspension in terms of subsection (1) and shall without delay notify the accounting officer concerned and the Auditor-General of every such withholding or suspension.

(3) Any amount of which payment was in terms of subsection (1) withheld or suspended may be utilized during the financial year concerned for a purpose approved by the Provincial Treasury.

(4) The Provincial Treasury shall keep a record, and without delay notify the Auditor-General, of every approval granted in terms of subsection (3).

9. Account of Paymaster-General.—(1) In addition to the Provincial Exchequer Account, the Provincial Treasury shall maintain at the Bank an account entitled the Account of the Paymaster-General and may cause so much of any moneys—

(a) appropriated by law;

(b) which may, by virtue of the provisions of section 7, be utilized for any purpose; or

(c) deemed to be appropriated by law,

as has been requisitioned in terms of subsection (2), to be transferred from the Provincial Exchequer Account to the Paymaster-General's Account.

(2) (a) The Provincial Treasury shall grant to an accounting officer or a Secretary to the Provincial Legislature, on a requisition by him, and out of the moneys in the Provincial Exchequer Account, credits out of which disbursements for the services for which he is responsible, shall be made by him.

(b) The Provincial Treasury may limit the granting of credits referred to in paragraph (a) to the amounts which, in its opinion, are required for current payments in respect of the service or purpose for which it may be utilized.

(3) The Provincial Treasury shall not grant a credit in respect of an amount of which payment was withheld or suspended in terms of section 8 (1), unless an approval has been granted in terms of section 8 (3).

(4) An accounting officer or a Secretary to the Provincial Legislature shall keep account of all credits granted to him in terms of subsection (2) as well as all disbursements therefrom.

(5) An accounting officer may, in addition to State moneys, deposit other moneys for which he is accountable in the Paymaster-General's Account and may make disbursements from that account.

(6) In regard to the Paymaster-General's Account the Provincial Treasury shall maintain for each accounting officer or a Secretary to the Provincial Legislature an account of all credits, deposits, disbursements and withdrawals.

(7) An accounting officer or a Secretary to the Provincial Legislature shall as soon as is practicable after his accounts for any financial year have been closed, surrender to the Provincial Treasury, for redepositing in the Provincial Exchequer Account, any unexpended moneys in respect of which he received credits in terms of subsections (2) and (8), and the Provincial Treasury shall credit therewith the account of the Provincial Fund which was charged with the anticipated

expenditure concerned.

(8) If it appears after 31 March of any financial year that the expenditure by an accounting officer on services in that financial year may possibly exceed the amount of the credits granted to him by the Provincial Treasury in terms of subsection (2), he shall as soon as possible, provided appropriate funds for that financial year are still available under the vote concerned, requisition the Provincial Treasury for a credit to cover such expected excess, and the Provincial Treasury may, in the manner prescribed in subsections (1) and (2), grant the necessary credit and cause the moneys in question to be transferred in the following financial year.

(9) An accounting officer shall limit the amount of his requisition on the Provincial Treasury for credits to the amounts which in his opinion are essential to meet his current monthly disbursements, and the Provincial Treasury shall, subject to the provisions of section 8 (1), grant credits to the extent of such amounts and to such extent only.

(10) A Provincial Treasury limits the amount of its requisitions on the Provincial Treasury for credits in respect of moneys accruing to it in terms of section 155 (2) (e) of the Constitution as a charge against the National Revenue Account, to amounts necessary to defray its current expenditure, and the Treasury, subject to the provisions of section 8 (1) of the National Exchequer Act, 1994, grant credits for such amounts.

(11) Notwithstanding anything to the contrary contained in this section, the Provincial Treasury may, on a requisition by the Secretary to the Provincial legislature, pay to the said Secretary the moneys appropriated for the services of the Provincial legislature, or which, by virtue of the provisions of section 7, may be utilized therefor, or are deemed to be appropriated therefor by law, and the Provincial Treasury shall for that purpose grant the said Secretary credits.

(12) The Provincial Treasury may temporarily utilize moneys in the Paymaster-General's Account which in its opinion are available therefor—

(a) to grant advances to an accounting officer or a Secretary to the Provincial Legislature on such conditions as it may determine;

(b) to make transfers to the Provincial Exchequer Account for the purposes of the financing of anticipated deficits in that account, and moneys so transferred shall be deemed to be moneys borrowed in accordance with the provisions of section 19; and

(c) for temporary investment on such conditions as it may determine.

10. Power of the Provincial Treasury to utilize moneys in the Provincial Exchequer Account for certain purposes.—

(1) The Provincial Treasury may utilize available moneys in the Provincial Exchequer Account—

(a) for temporary investment in the Republic on such conditions as it may determine;

(b) for the payment of legitimate claims arising from a guarantee, an indemnity or a security furnished by or accruing to the Provincial Government; and

(c) for the refund of money inadvertently or incorrectly paid into the Provincial Exchequer Account.

(2) The moneys utilized under subsection (1) for specific purposes, shall be deemed to have been appropriated for such purposes.

(3) The Member of the Executive Council responsible for the Provincial department concerned in a matter referred to in section 30, shall as soon as practicable lay upon the Table in the Provincial legislature a statement reflecting the utilization of moneys in terms of subsection (1) (b).

11. Authority for opening of bank accounts.—(1) An account in respect of provincial revenue may only be opened on the written authority of the Provincial Treasury at a bank and where an account has been so opened, the relevant bank shall not allow the account to be overdrawn subject to section 157 (2) of the Constitution.

(2) The Provincial Treasury shall annually revise the allocation of banking accounts to a bank in respect of the Provincial Exchequer Account and Paymaster-General Account in consultation with the South African Reserve Bank.

12. Establishment of trading and related accounts.—(1) The Provincial Treasury may authorize an accounting officer to establish trading and related accounts in respect of services and goods supplied by his department to itself, to another department or any other institution.

(2) Expenditure in respect of the supply of services and goods referred to in subsection (1), as determined by the Provincial Treasury, shall be financed from moneys in the accounts—

(a) which have been appropriated by the Provincial legislature;

(b) which, notwithstanding anything to the contrary in this Act or any other law contained, have been received in payment of services and goods referred to in subsection (1);

(c) which have been obtained from the sale of redundant and unserviceable supplies related to the supply of the services and goods in question;

(d) which have been obtained with the concurrence of the Provincial Treasury from any other source.

(3) The Provincial Revenue Fund shall be credited with any profit at the end of a financial year and any loss shall be made good from appropriated moneys.

13. Systems of bookkeeping and accounting.—The Provincial Treasury may, after consultation with the Auditor-General—

(a) prescribe particular systems of bookkeeping and accounting which have not been prescribed by the Treasury and in terms of section 12 of the National Exchequer Act, 1994, which accounting officers shall follow; and

(b) give guidance, in such manner as it deems necessary, to Accounting officers in connection with the systems of bookkeeping and accounting prescribed by the Treasury and Provincial Treasury.

14. Accounting for Provincial Exchequer Account, and preparation of statements.—(1) The Provincial Treasury shall account for the Provincial Exchequer Account and shall keep such accounts and records as are necessary to exercise proper control over the Provincial Revenue Fund.

(2) The Provincial Treasury shall as soon as practicable after the end of each month, cause statements to be published in the *Provincial Gazette* showing the receipts into and transfers from the Provincial Exchequer Account during the period from the first day of the relative financial year to the end of that month as well as the balances in the Provincial Exchequer Account at the beginning and at the end of such period.

(3) As soon as practicable after the accounts in respect of any financial year have been closed, but in any case within five months after the close of a financial year, the Provincial Treasury shall prepare statements, as prescribed by the Treasury of—

(a) the Provincial Exchequer Account;

(b) the Provincial Revenue Fund;

(c) the Paymaster-General's Account;

(d) the Provincial debt and the amount of debt created and redeemed during the financial year;

(e) the interest and dividends received in the accounts of the Provincial Revenue Fund and the interest paid on the Provincial debt;

(f) all other moneys controlled by the Provincial Treasury.

(4) The Provincial Treasury shall within the period referred to in subsection (3), also prepare statements, in support of the Provincial Revenue Fund in respect of the financial year in question, of the receipts under the various headings shown in the estimates of revenue and of the transfers from the Provincial Exchequer Account on account of each of the votes shown in any appropriation Act for that year.

(5) The Provincial Treasury shall transmit the statements referred to in subsections (3) and (4) to the Auditor-General for examination as soon as they have been prepared.

15. Appropriation Accounts.—(1) An accounting officer shall as soon as possible, but not later than four months after the close of a financial year, prepare and transmit to the Auditor-General for examination, an appropriation account in respect of such year and in respect of each vote under his control and shall at the same time send a copy thereof to the Provincial Treasury: Provided that the Auditor-General may, in any case where in his opinion it is justifiable, grant extension for the submission of the required account, for such period as in his opinion is necessary for the completion thereof.

(2) In an appropriation account an accounting officer shall in respect of each main division of a vote specify—

(a) on the receipts side thereof the amount appearing for the financial year in question-

(i) in the estimates of expenditure and adjustments estimate; and

(ii) authorizations granted in terms of section 7 which have not been appropriated in terms of subsection (2) of that section: Provided that it is clearly distinguished between the receipts referred to in paragraphs (i) and (ii).

(b) on the expenditure side thereof the amount actually expended during the same period: Provided that the amount of any advance by an accounting officer to defray expected expenditure which is not supported by acceptable expenditure vouchers, shall not be included on the expenditure side.

(3) Each appropriation account rendered to the Auditor-General shall be accompanied by-

(a) explanations of the causes of variation, in excess of two per cent, between expenditure and the amount contemplated in subsection (2) (a);

(b) an indication of the amount of any surplus to be surrendered or of any deficit;

(c) a statement to the effect that the preceding financial year's surplus, if any, has been surrendered;

(d) an indication of the aggregate of any balance in a suspense account which may be chargeable to the vote.

(4) Appropriation account and particulars furnished in terms of this section shall be signed by the accounting officer.

(5) (a) Whenever a person is charged under section 17 (1) with the responsibility of accounting for State moneys and State property in respect of any particular portion of a vote, the particulars relating to that portion shall be dealt with separately in the appropriation account in respect of the vote in question.

(b) A person referred to in paragraph (a) shall furnish the accounting officer concerned with sufficient particulars so as to enable him to comply with the provisions of subsections (1), (2) and (3).

16. Accounting officer.—(1) There shall be an accounting officer for each vote who shall be charged with the responsibility of accounting for all State moneys received, all payments made by him and the acquisition, receipt, custody and disposal of all State property.

(2) An accounting officer shall exercise the powers conferred upon him and perform the duties assigned to him by law, by financial regulation, by Treasury Instructions or by the Provincial Treasury.

(3) Unless otherwise directed by the Provincial Treasury, the accounting officer for—

(a) the vote or votes of a department shall be the head of the department appointed for that department.

(b) a statutory body for which no accounting officer has been designated under the provisions of any other law, the chief executive officer of such statutory body.

(4) During the absence of an accounting officer his powers shall be exercised and his duties performed by the officer acting in his place.

17. Responsibility of accounting for State moneys and State property by a person who is not an accounting officer.—

(1) The Provincial Treasury may notwithstanding the provisions of section 16 charge a person who is not an accounting officer with the responsibility of accounting for—

(a) State moneys received and paid out by that person;

(b) State property acquired, received, kept or disposed of by that person, in connection with a trading and related account, established under section 12 (1), or a particular portion of a vote whereof accounts are kept separately.

(2) Whenever a person is charged under subsection (1) with the responsibility of accounting for State moneys and State property in respect of trading and related account or any particular portion of a vote, the Provincial Treasury may assign to such person any or all of the powers and duties referred to in section 16 (2) which an accounting officer may exercise or is required to perform in respect of such trading and related account or portion of a vote.

(3) A power or duty assigned to a person under subsection (2) shall be exercised or performed by such person in respect of the said trading and related account or portion of a vote to the exclusion of the accounting officer responsible for the vote of which that trading and related account or portion forms part.

(4) Whenever a person referred to in subsection (1) is absent, his powers shall be exercised and his duties performed by the person acting in his place.

CHAPTER II

RAISING AND GRANTING OF PROVINCIAL LOANS

18. Power of responsible Member to borrow moneys on behalf of the Province.—(1) The responsible Member may at any time, subject to the provisions of section 157 of the Constitution—

(a) raise loans redeemable within twelve months to meet current expenditure subject to such reasonable conditions as may be prescribed by an Act of Parliament;

(b) raise loans within the framework of reasonable norms and conditions prescribed by an Act of Parliament to meet capital expenditure.

(2) Subject to the provisions of this Act or any other law, a department shall not borrow any moneys on behalf of the Province and shall not, without the approval of the Provincial Treasury, accept any financial assistance from any person.

19. Method of raising loans.—(1) The responsible Member may, in exercising his borrowing powers terms of section 18, borrow moneys by—

(a) entering into an agreement with banks and financial institutions registered in the Republic or outside; or

(b) making issues of public stock and bonds and issuing treasury bills;

on such terms and conditions as he may deem fit, and may furnish any security required to be lodged therefor or which is considered to be necessary: Provided that the period for currency of any treasury bill shall not exceed twelve months: Provided further that the responsible Member shall not guarantee a loan unless the Financial and Fiscal Commission has verified the need for such a guarantee and has recommended that it be given.

(2) The responsible Member may also borrow moneys in terms of section 17 by accepting from the Bank, at its request, moneys on investment by making available special issues of stock on such conditions regarding interest, period of currency and issue price, as he may determine.

(3) Any amount borrowed in terms of a power conferred by this Act, and the interest on any amount so borrowed, shall be chargeable to and payable from the Provincial revenue and assets of the Province.

(4) Agreements entered into in terms of subsection (1) (a) (i) and the securities issued under such agreements, and securities for loans negotiated in terms of subsections (1) and (2), shall be signed by the responsible Member or any person authorised thereto in writing by that Member.

(5) Agreements entered into in terms of subsection (1) (a) may provide that any moneys borrowed thereunder may at any time during the currency of the agreement be repaid in whole or in part and that any amount so repaid shall again be available for drawing in terms of that agreement.

20. Expenditure in connection with loans.—(1) Whenever, in raising any loan, the gross amount of the moneys borrowed is reduced by any costs, including any discount and commission, such costs shall be deemed to be expenditure chargeable to the Provincial Revenue Account and the net amount so borrowed shall be increased by the amount of such costs.

(2) (a) The interest payable on any Provincial debt, and any exchange rate losses, commission, management charges and other costs incurred in respect of moneys borrowed in terms of this Act, shall be paid by the Provincial Treasury from the Provincial Revenue Account.

(b) Any amounts payable during a financial year in respect of interest and other charges contemplated by paragraph (a) in connection with the debt of the Province and in respect of which a credit was obtained out of the Provincial Exchequer Account, shall be deemed to be amounts of actual expenditure on those services, even if, at the close of the financial year in question, the first mentioned amounts have not actually been paid to the persons to whom they are due.

(3) Moneys required for expenditure and payments as contemplated by subsections (1) and (2), shall be deemed to have been appropriated by law.

21. Provisions applicable to issues of stock.—(1) The public stock which the responsible Member may issue in terms of section 19 (1) (b), shall be either internal stock or external stock, and such internal stock shall be either internal inscribed stock or internal registered stock.

(2) The Provincial Treasury shall keep registers in which shall be entered in respect of each issue of stock—

(a) the name and address of each holder of such stock;

(b) the amount of stock held by each holder; and

(c) the date or dates on which such stock was registered in the name of such holder.

(3) (a) Internal inscribed stock shall be transferable by way of entry, *mutatis mutandis* in accordance with the provisions of subsection (2), in the registers kept in respect of such stock by the Provincial Treasury in terms of that subsection.

(b) Any entry made, by virtue of the provisions of subsection (2) or paragraph (a) of this subsection, in any register kept by the Provincial Treasury in respect of internal inscribed stock, shall be *prima facie* evidence of the title of a person to such inscribed stock as have been entered opposite his name as holder thereof.

(4) Internal registered stock shall be transferable by a securities transfer form in terms of the Companies Act, 1973 (Act 61 of 1973), and the stock certificate which the Treasury issues in respect thereof shall be *prima facie* evidence of the title of the person mentioned therein as the holder of the stock in question, to such stock.

(5) Subject to the provisions of subsection (6), the Provincial Treasury shall issue—

(a) to a person, upon payment to the Provincial Treasury of the full amount of any internal registered stock allocated by the Provincial Treasury to such person on application by him, a stock certificate for the full amount of such stock;

(b) to the transferee a stock certificate for the full amount of any internal registered stock transferred by the Provincial Treasury to his name by means of a securities transfer form lodged with the Provincial Treasury and accompanied by the relevant stock certificate which had been issued in the transferor's name.

(6) External stock may-

(a) be transferred by a written instrument in the acceptable or general form applicable in the country in which the stock is issued;

(b) at the request of a holder of such stock, be converted by the Provincial Treasury, in its discretion, into internal registered stock at such value as the Provincial Treasury may determine and subject to the relevant conditions prescribed at the time of the issue thereof.

22. Repayment of loans and consolidation or repurchase of issued securities.—(1) The Provincial Treasury may prior to the due date, unless it is inconsistent with any conditions of issue or agreement, or on the due date, repay any moneys borrowed in terms of this Act, and any moneys so repaid shall be deemed to have been appropriated by law,

(2) The Provincial Treasury may prior to the due date of a security, notwithstanding the conditions of issue thereof, make an offer to the holders of such securities as may be determined by the Provincial Treasury to exchange such securities on a voluntary basis to the Provincial Treasury for the cancellation and repayment thereof or for the conversion thereof into a new issue, and money so repaid, shall be deemed to be appropriated by law.

(3) Money repayable in terms of subsections (1) and (2) during a financial year and in respect of which a credit was obtained out of the Provincial Exchequer Account shall be deemed to represent actual expenditure during that financial year, even if at the close of that financial year that amount of money has not actually been paid to the persons to whom it is due.

(4) Any moneys borrowed in terms of this Act and not claimed by the person entitled thereto within a period of six years from the date on which he became entitled to claim such moneys, shall be paid into the Provincial Revenue Fund: Provided that moneys so paid into that Fund and subsequently claimed by or on behalf of the person entitled thereto, may be paid by means of a drawback from current revenue accruing to the Provincial Revenue Account.

23. Use of the words "local stock" or "local registered stock".—The words "local stock" and "local registered stock" when used in a law in relation to stock issued by the Province, shall be construed as meaning "internal stock" as contemplated in this Act.

24. Determining of interest rates and other terms and conditions of Provincial loans granted and debts owing to the Province.—(1) The responsible Member shall from time to time determine a standard interest rate which shall be applicable to loans granted by the Province out of the Provincial Revenue Fund, and, subject to any provision to the contrary in any law contained, interest shall be paid at that rate on loans so granted.

(2) The responsible Member may determine that any such loan and debt referred to in subsection (6) shall be subject to such other terms and conditions as may be specified by him, and, subject to any provisions to the contrary in any law contained, such terms and conditions shall apply in respect of such loans and debts.

(3) If the responsible Member is of the opinion that the circumstances warrant it, he may, on such terms and conditions as he or she may determine, approve that interest be paid on a loan at a rate lower than the said standard interest rate and determined by him or her, or that no interest shall be payable thereon, and the said Member may at any time withdraw any such approval or vary any terms and conditions or rate of interest so determined by him or her.

(4) Whenever moneys are paid out of the Provincial Revenue Fund as permanent capital the responsible Member shall determine the rate at which interest shall be paid thereon, or may determine that no interest shall be payable thereon, and subject to any provision to the contrary in any law contained, interest at such rate shall be paid on such capital, or as the case may be, no interest shall be payable thereon.

(5) Whenever a loan granted out of the Provincial Revenue Fund, is paid by means of various drawings on different dates, the interest rate applicable to any particular drawing shall, subject to any provision to the contrary in any law contained, be the standard interest rate or the rate approved in terms of subsection (3), as the case may be, which is in force on the date on which that drawing is effected.

(6) The responsible Member shall from time to time determine a uniform interest rate which shall be applicable to debts to the Province created otherwise than by the granting of a loan out of the Provincial Revenue Fund, and, subject to any provision to the contrary in any law contained, interest shall be paid at that rate on such debts: Provided that the responsible Member may, subject to any provision to the contrary in any law contained, determine that another interest rate or no interest shall be payable in respect of certain categories of such debts.

(7) The rate of interest applicable to a loan or permanent capital granted by the Province before commencement of this Act, or any other debt which arose prior to the said commencement, shall, subject to any provision to the contrary in any law contained, remain in force in respect thereof after the said commencement and, in the case of a loan or debt, until such loan has been redeemed or such debt has been paid.

25. Loans and grants to statutory bodies.—(1) A statutory body may from time to time be paid from the Provincial Revenue Fund such moneys as have been appropriated out of that Fund by Provincial Legislature as a loan or grant to such statutory body for its capital requirements or to meet its operational expenditure.

(2) Moneys appropriated out of the Provincial Revenue Fund to any statutory body, shall be obtained by requisition on the Provincial Treasury, and the Provincial Treasury shall determine in which instalments and on which dates the moneys requisitioned shall be paid to such statutory body and whether it shall be paid—

(a) from moneys obtained by the issue of stock or from loans negotiated in terms of an agreement with the object of obtaining capital for the purposes of such statutory body as well as other purposes; or

(b) from other available moneys, if moneys referred to in paragraph (a) are not available: Provided that if any moneys are so paid, a corresponding amount shall be paid into the account in question when moneys obtained as contemplated by paragraph (a) become available.

(3) A statutory body shall pay such interest on the loans granted to it under subsection (1) as the responsible Member may under section 24 determine.

(4) Save as may be otherwise agreed between any particular statutory body and the Provincial Treasury the total amount of interest due by such statutory body in terms of subsection (3) in respect of a financial year, shall be paid to the

Provincial Treasury in twelve more or less equal monthly instalments.

(5) A statutory body shall be liable for—

(a) such percentage of the Provincial Treasury's direct raising and management costs in respect of any stock or loan out of which an amount has been paid to the statutory body in terms of subsection (2) (a) and (b), as is equal to the percentage which the amount so paid constitutes of the total proceeds of the stock or loan; and

(b) so much of the annual costs of the Provincial Treasury in connection with the administration of loans, as the Provincial Treasury may from time to time determine.

(6) In this section "stock" includes debentures and bonds.

CHAPTER III

GENERAL FINANCIAL CONTROL

26. Other powers of the Provincial Treasury.—(1) Subject to the provisions of this Act and any other law, the Treasury shall have the power to:

(a) give guidance in, and exercise control over, State moneys and other State property to bring about the systematic and orderly management thereof and to promote efficiency and economy in the utilization thereof;

(b) direct that such expenditure of the Provincial Revenue Account as it may determine shall not be incurred without its approval having been obtained;

(c) approve fees or other charges or the rates, scales or tariffs of fees or other charges not fixed or capable of being fixed by or in terms of any law and relating to revenue accruing to or expenditure from the Provincial Revenue Fund, and to direct that no such fee or charge or rate, scale or tariff thereof shall be introduced before the approval of the Provincial Treasury has been obtained;

(d) grant approval for the rendering of a free service;

(e) grant approval for the write-off of a loss of State money and other State property;

(f) grant approval for the variation or cancellation of contracts to the detriment of the State;

(g) require accounting officers to submit particular inputs in respect of budget matters to it, and in respect of such inputs—

(i) to analyze and advise the responsible member on it; or

(ii) make it or processed information thereof available to the Treasury on its request;

(h) require any accounting officer to submit to it information, returns, documents, explanations and motivations in regard to any matter affecting State moneys or other State property of the province;

(i) grant approval for the settlement of a claim by or against the Province or for the waiver of a claim by the Province;

(j) authorize or condone non-compliance by an accounting officer with an instruction or other written request, stipulation or condition of the Provincial Treasury in connection with any matter;

- (k) investigate, and inspect systems for the control over, and administration of, State moneys and other State property of the Province and prescribe additional systems, other than those referred to in section 13;
- (l) determine against which vote or sub-division thereof expenditure on a service should be charges;
- (m) determine the terms and conditions on which revenue due to the Province may be paid and on which State moneys of the Province may be disbursed;
- (n) approve remissions, as an act of grace, of moneys due to the Province;
- (o) approve refunds of revenue to the Province as an act of grace;
- (p) approve payments, as an act of grace, from State money of the Province;
- (q) approve gifts of State moneys of the Province and other movable State property of the Province or the acceptance of gifts to the Province;
- (r) approve the alienation, letting or other disposal of movable State property of the Province;
- (s) afford guidance in the handling of and exercise control over all trust money and trust property temporarily deposited or left in the care of an accounting officer or other person in the service of the Province;
- (t) give guidance in the application of norms and standards prescribed by the Treasury in respect of improvements to immovable property financed in full or in part from the Provincial Revenue Fund;
- (u) approve acceptance of sponsorships to the Province;

Provided that when the amount involved in any case contemplated in paragraph (n), (o), (p) or (q), other than any such case in connection with movable State property, exceeds R100 000 or relates to a tax, other duty or impost imposed by law, such remission, refund, payment or gift shall not be made unless moneys for the purpose have been appropriated by the Provincial legislature: Provided further that if, in the opinion of the Provincial Treasury, the circumstances connected with the payment of any such tax, other duty or impost justify a refund as an act of grace of the whole or a portion of the amount in question, the Provincial Treasury may approve such refund to an amount, not exceeding R100 000, as a charge against the vote concerned.

(2) The Provincial Treasury may in its discretion approve the write-off of the whole or any portion of an amount owing to the Province by a person, if it is satisfied that—

- (a) the amount is irrecoverable;
- (b) recovery of the amount would be uneconomical;
- (c) recovery of the amount would cause undue hardship to the debtor or his dependants because they are deprived of the minimum essential means of livelihood;
- (d) the assets of the debtor or of the estate of the debtor, if he is deceased, (whether or not such assets are pledged to the State) are indispensable to his dependants or are of relatively little value, and the debtor or his estate, as the case may be is unable to pay the amount or any portion thereof, except by the disposal of such assets and such disposal would cause undue hardship; or
- (e) it would be to the advantage of the Province to effect a settlement of its claim in question or to waive such claim.

(3) Whenever a power is conferred by any law to determine any rate, scale, tariff, fee or charge for the purposes of any revenue accruing to, or expenditure from, the Provincial Revenue Fund, such a determination shall, notwithstanding the provisions of such law, not be made before the approval of the Provincial Treasury thereof has been obtained: Provided that the provisions of this subsection shall not apply to any tax or such a determination by the Premier.

(4) Where a voucher or other proof of receipt or payment is in any way defective or has been lost or destroyed and—

(a) the Provincial Treasury in the case of accounts of accounting officers and other persons in the service of the province;

(b) subject to the provisions of any other law, the executive authority of a statutory body, in the case of accounts of such statutory body,

is satisfied with the explanation of the responsible person, the Provincial Treasury, or the executive authority of a statutory body, as the case may be, may make an order dispensing with the production of a voucher or such other proof or may make such other order as may appear just in the circumstances.

27. Delegation of powers of the Provincial Treasury.—(1) The Provincial Treasury may on such conditions as it may determine, delegate to an accounting officer any power conferred upon it by section 26 (1), (2) or 29 (5).

(2) Where the Provincial Treasury has delegated any power under subsection (1), it may authorize the accounting officer concerned to delegate that power to the holder of any post designated by the Provincial Treasury.

(3) An accounting officer shall not be divested of any power delegated by him and may amend or withdraw any decision made in the exercise of that power.

(4) The Provincial Treasury shall not be divested of power delegated by it or under its authority and may amend or withdraw any decision made in the exercise of such power, including a decision of an accounting officer whereby a decision contemplated in subsection (3) is amended or withdrawn.

(5) Where any power has been delegated to the holder of a post, that power may be exercised by the person who for the time being performs the functions attached to such post.

28. Unauthorized expenditure.—(1) An expenditure shall be unauthorized if—

(a) a payment is made by an accounting officer without provision having been made therefor by or by virtue of the provisions of any law;

(b) a payment or part of a payment on a service authorized by an appropriation Act results in—

(i) the total amount appropriated for the vote concerned, regard being had to any increase referred to in section 6 (2), being exceeded;

(ii) a prohibition, by virtue of the provisions of section 5 (3), on the expenditure being brought to account as a final debit; or

(iii) the amount shown in "Column 2" of the schedule to an appropriation Act in respect of an increase referred to in section 6 (2) has not been made therefor;

(c) an accounting officer is unable to produce to the Auditor-General in respect of a payment an appropriate Provincial Treasury authority required in terms of the provisions of this Act or any other law;

(d) an accounting officer makes a payment inconsistent with a provision of any law.

(2) Unauthorized expenditure contemplated in subsection (1) shall not form a charge against the Provincial Revenue Fund until-

(a) in the case of paragraph (a), (b) or (c), of that subsection the expenditure concerned has been authorized by law of the Provincial legislature; or

(b) in the case of paragraph (d) of that subsection, the expenditure concerned has been validated by law of the Provincial legislature.

(3) Unauthorized expenditure or any part thereof determined by the Provincial legislature which has not been authorized or validated as contemplated in subsection (2), shall, if the accounting officer cannot or is unwilling to recover the amount concerned from the beneficiary or the person responsible for the unauthorized expenditure, be recovered by the Provincial Treasury from the accounting officer.

(4) The provisions of paragraphs (a), (c) and (d) of subsection (1) shall *mutatis mutandis* apply in respect of the statutory body unless otherwise provided by law, and for the purposes of paragraph (c) a reference to Provincial Treasury authority shall be construed as a reference also to an authority of a member of the Executive Council, an Administrator or an executive authority or any other applicable authority, as the case may be.

(5) Unauthorized expenditure referred to in subsection (4) or any part thereof determined by the Provincial legislature shall not form a charge against a fund or account concerned until it has been authorized, validated or made available in accordance with the normal budgetary procedure applicable to the fund or account concerned: Provided that any unauthorized expenditure which has not been authorized or validated shall be recovered from the accounting officer if he cannot or is unwilling to recover the amount concerned from the beneficiary or the person responsible for the unauthorized expenditure.

29. Recovery of losses and damages.—(1) If a person who is or was in the employ of the Province and caused the Province a loss or damage because he—

(a) failed to collect State moneys for the collection of which he is or was responsible;

(b) is or was responsible for an irregular payment of State moneys or for a payment of such moneys not supported by a proper voucher;

(c) is or was responsible for fruitless expenditure of State moneys due to an omission to carry out his duties;

(d) is or was responsible for a deficiency in, or for the destruction of, or damage to, State moneys, stamps, face-value documents and forms having a potential value, securities, equipment, stores or any other State property;

(e) due to an omission to carry out his duties or in a manner, is or was responsible for a claim against the Province;

the accounting officer concerned or the holder of a post designated by the Provincial Treasury shall determine the amount of such loss or damage or the amount necessary to replace State property in which there is a deficiency or which was destroyed, as prescribed by Treasury Instruction and, subject to the provisions of subsection (5), order, by notice in writing, the said person to pay to him, within thirty days from the date of such notice, the amount so determined.

(2) If a person who is in the employ of the Province and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the amount shall, subject to the provisions of subsections (4), (6) and (7), be deducted from his monthly salary: Provided that such deduction shall not in any month exceed one-fourth of his monthly salary, unless such a person agrees, in writing, that a larger amount may be deducted.

(3) If a person who was in the employ of the Province and who has, in terms of subsection (1), been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the accounting officer concerned shall subject to the provisions of subsections (4), (6) and (7), recover such amount from the person concerned by legal process.

(4) If a person who has been ordered to pay an amount in terms of subsection (1) makes, within the period stipulated in the notice in question, an offer to pay the amount in instalments, the accounting officer, or the holder of a post designated by the Provincial Treasury, may allow payment in such instalments as he may consider reasonable: Provided that if the redemption of the amount in terms of the offer will not be effected within a period of twelve months calculated from the date on which the first instalment is payable, the approval of the Provincial Treasury shall be obtained for the payment thereof over a period in excess of the period mentioned, and the Provincial Treasury may determine the other terms and conditions subject to which the amount shall be paid.

(5) If for any reason whatsoever, an accounting officer, or the holder of a post designated by the Provincial Treasury, is of the opinion that an amount determined in terms of subsection (1) should not be recovered or should be recovered in part only from the person responsible therefor, he may request the Provincial Treasury to exempt that person from payment of the whole or a portion of such amount, and the Provincial Treasury may in its discretion approve of the whole or a portion of such amount not being recovered.

(6) A person who has in terms of subsection (1) been ordered to pay an amount may, within a period of thirty days from the date of such order, in writing request the accounting officer concerned, stating the grounds for his request, that a request as contemplated in subsection (5), be addressed to the Provincial Treasury, and if the accounting officer concerned refuses to address such a request to the Provincial Treasury or if the Provincial Treasury refuses to approve, as contemplated in the said subsection, of the whole or a portion of the amount in question not being recovered as requested, such person may within thirty days after he has been notified in writing of any such refusal, appeal against such refusal to the responsible member, and the responsible Member may, after such further investigation as he may deem necessary, dismiss the appeal or order that the appellant be exempted either wholly or partly, according as he may consider fair and reasonable, from the payment of such amount.

(7) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the responsible Member under subsection (6), apply within a period of thirty days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is not convinced by the accounting officer concerned on the merits of the case that the order was rightly made or that that amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.

(8) If a person who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, it shall for the purposes of section 24 (6) be deemed that a debt is created to the Province.

30. Guarantees in respect of loans.—(1) If a responsible member in the Executive Council and, if he is not the member of the Executive Council responsible for financial affairs, also the member of the Executive Council responsible for financial affairs are convinced that there is compliance with the provisions of subsection (3), the said responsible member with the concurrence of the member of the Executive Council responsible for financial affairs, if he is not such responsible member, and after the provisions of section 157 (3) of the Constitution have been complied with, can from time to time, subject to the requirements of subsection (3) and the conditions which he may with the concurrence of the member of the Executive Council responsible for financial affairs, if he is not such responsible member, determine, including the waiver of such legal exceptions as he may deem fit, furnish a guarantee in respect of the financial obligations arising from a loan concluded or to be concluded by a local government or by a boards or body established by or under any law, hereinafter referred to as a body corporate situated within the said province.

(2) A guarantee which is to be furnished in terms of subsection (1) can only be considered by the responsible member and if he is not the member of the Executive Council responsible for financial affairs, also the member of the Executive Council responsible for the financial affairs, if the application for such a guarantee is accompanied by a written recommendation for the furnishing of such a guarantee by the executive authority of the local authority or body corporate to which the guarantee is to be furnished, as the case may be.

(3) A guarantee furnished in terms of the provisions of subsection (1) must comply with the condition that—

(a) the proceeds of the loan so guaranteed—

(i) shall be employed in the public interest within the area under its jurisdiction by the local government in respect of whose loan a guarantee is to be furnished or within the area of the province or part thereof, by the body corporate;

(ii) shall not be employed for the financing of current expenditure, as defined for purposes of the Provincial Loans Act, 1994;

(iii) shall, in the case of a guarantee granted in respect of a loan by a local government, be employed in accordance with the provisions of any law passed in the said province covering borrowing by a local government; and

(iv) will be accounted for separately by the local government or body corporate concerned, as the case may be.

(b) the responsible member, on the basis of information supplied to him by the executive authority of the local government or body corporate concerned, as the case may be, satisfied himself as to the fact that-

(i) the funds which are required cannot be obtained by means other than a guaranteed loan;

(ii) no doubt reasonably exists that the local government or body corporate concerned will be able to comply with the conditions and obligations under which the loan will be granted;

(iii) the provisions of the loan agreement concerned—

(aa) complies with the generally accepted principles of loan agreements;

(bb) will be legally and technically correct; and

(cc) will fully enunciate the obligations of the provincial government which will act as guarantor and the manner in which expenditure which the said province may have to make in terms of the guarantee will be recovered;

(iv) taking into account the fact that a guarantee for the loan is required, the cost of the loan will at least be market related;

(v) the availability of the loan proceeds will not be prejudicial to financial discipline within the local government or by the body corporate concerned; and

(vi) if the loan is denominated and payable in rand, the proceeds shall not be expended on imported goods.

(4) The payment by a provincial government which acts as guarantor of legitimate claims arising from a guarantee furnished in terms of the provisions of subsection (1)-

(a) shall be deemed to have been appropriated for such purposes; and

(b) must be reported upon in the legislature of the province by the responsible member as soon as possible, but within six months after the making of such payment, and he shall simultaneously present to the said legislature a report containing the circumstances relating to the payment thus

effected.

(5) The member of the Executive Council responsible for the financial affairs of a province shall as soon as possible, but in any case not later than six months after the closing of the financial year, cause a statement to be published in the *Provincial Gazette* indicating in respect of each guarantee furnished by the province in terms of subsection (1), the name of the local government or body corporate in respect of which a guarantee has been furnished, the amount of the commitments which may ensue from each such guarantee and, if foreign currency is so involved, the relative amount and the financial year in which the relative guarantee will expire.

(6) Notwithstanding anything to the contrary in this or any other law, a guarantee by a provincial government in respect of the financial obligations arising from a loan shall be furnished only in terms of this section and subject to the provisions of section 157 (3) of the Constitution.

(7) An obligation in respect of which a guarantee has been provided in terms of subsection (1) is in itself the unconditional and irrevocable obligation of the provincial government in the event of any non-compliance in respect of the first-mentioned obligation.

(8) The reference to "responsible member" in this section shall be deemed to be a reference to the member in the Executive Council who administers a department which is directly or indirectly involved with the matter underlying the expenditure of the proceeds of the loan in respect of which a guarantee is furnished in terms of subsection (1), and if the member in the Executive Council responsible for financial matters has any doubt as to who the responsible member is, the member of the Executive Council determined by the member of the Executive Council responsible for financial affairs.

31. Application of certain provisions concerning powers of responsible Member and delegation of his powers.—

(1) Whenever a law requires a member of the Executive Council to do anything in or after consultation with or with the concurrence of the responsible Member such requirement shall, unless one of the Members concerned has otherwise directed, be deemed to have been complied with if consultation has taken place between the heads of the departments concerned or their representatives.

(2) Except in a case to which subsection (1) applies, the responsible Member may delegate to an officer in the department in which the provisions of this Act or any other law are administered by him, any power or function conferred on or assigned to him by this Act or such other law, in relation to the revenue, expenditure or property of the Province or a statutory body, with the exception of a power to make regulations and a power or function contemplated in sections 4 (3), 7, 18, 19 (1) and (2), 21, 24, 29 and 32 (3), but shall not thereby be divested of a power or function so delegated, and may amend or withdraw a decision of such an officer by virtue of any such delegation.

32. Regulations.—(1) The responsible member may make regulations which are not contrary to the Financial Regulations made in terms of the National Exchequer Act, 1994, and are applicable to the Province for—

(a) prescribing further duties and responsibilities of accounting officers;

(b) providing for the designation of officers as principal receivers of revenue and prescribing their duties and responsibilities as such;

(c) providing for the refund from current revenue of moneys collected in error;

(d) providing for the designation of officers or other persons as financial managers and of officers as departmental accountants and prescribing their duties and responsibilities as such;

(e) prescribing a system which shall be observed in regard to the collection, receipt, banking, custody, disbursement, disposal and control of, account for, and supervision over State moneys and the accounts kept in connection therewith;

(f) prescribing the conditions under which gifts to the Province may be accepted and utilized;

(g) which in his opinion may be necessary for the administration of Chapter II of this Act;

- (h) providing for the control over and stocktaking of securities, stamps and other State property;
- (i) providing for the manner in which and procedures according to which accounting officers and the Provincial Treasury shall exercise the powers and perform the duties assigned to them by this Act;
- (j) providing for the financial arrangements regarding a service rendered by one department to another;
- (k) providing in general for the administration of the provisions and the achievement of the objects of this Act.

(2) Different regulations may under subsection (1) be made in respect of different categories of State moneys or other State property, or different categories of persons entrusted with the collection, receipt, banking, custody, disbursement, disposal and control of, accounting for and supervision over, State moneys and other State property.

(3) The responsible Member may, if in his opinion circumstances warrant it, provide that a regulation made under subsection (1) need not be complied with or need not be complied with to the extent determined by him.

(4) (a) Financial Regulations made in terms of section 38 (1) of the National Exchequer Act, 1994, which regulate matters in terms of section 41 of that Act applies to provinces, shall be complied with by provincial accounting officers.

(b) The Minister of Finance may, if in his opinion circumstances warrant it, provide that a Financial Regulation made under paragraph (a) need not be complied with by provincial accounting officers of certain provinces to the extent determined by him.

(c) The responsible Member may make additional Regulations on matters referred to in section 41 of the National Exchequer Act, 1994, which are not inconsistent with the Financial Regulations.

33. Instructions.—(1) The Provincial Treasury may from time to time issue instructions and other directives, which shall not be inconsistent with the Regulations, in regard to—

- (a) any matter mentioned in section 26;
- (b) any matter mentioned in section 32;
- (c) the manner in which accounting officers shall make submissions to the Provincial Treasury and the persons by whom such submissions shall be signed;
- (d) the administration in general, of the provisions of this Act and the Regulations and the achievement of the objects

(2) The Provincial Treasury may, if in its opinion circumstances warrant it, approve a departure from an instruction.

(3) (a) Treasury Instructions issued in terms of section 39 of the National Exchequer Act, 1994, which regulate matters contemplated in section 41 of the mentioned Act, further shall be complied with by accounting officers of provinces.

(b) a Provincial Treasury may issue further instructions and other directives to further regulate the matters of section 41 of the National Exchequer Act, 1994, provided that it shall not be inconsistent with the Treasury Instructions contemplated in paragraph (a).

34. Revenue Instructions.—An officer designated as principal receiver of revenue in terms of section 3 (2) (a) and the Regulations may from time to time, and shall whenever required by the Provincial Treasury to do so, issue to all persons who are responsible for the collection, control and disposal of any revenues in respect of which he is the principal receiver, or of such other revenues as the Provincial Treasury may determine, such instructions (entitled Revenue

Instructions) as the Provincial Treasury may approve, or require him to issue in regard to such collection, control and disposal.

CHAPTER IV

MISCELLANEOUS

35. (1) Any action taken under a provision of any law applicable in the Province prior to the date of commencement of this Act which could taken under a provision of this Act, shall be deemed to have been taken under the corresponding provision of this Act.

(2) Until such time that the responsible Member makes new Regulations and Provincial Treasury Instructions under this Act, the Financial Regulations and Treasury Instructions made under sections 38 and 39, respectively, of the Exchequer Act, 1992, shall continue to apply.

(3) On the date of commencement of this Act, the Revenue Account maintained in terms of section 2 of the Exchequer Act, 1992, which was prior to such commencement kept in the Revenue Fund shall be closed and the Provincial Revenue Account credited with any credit balance and debited with any deficit in those accounts, in accordance with the provisions of section 240 (5) of the Constitution.

(4) The account maintained at the Bank in terms of section 3 (1) of the Exchequer Act, 1992, before the commencement of this Act shall continue to exist and shall as from such commencement be called the Provincial Exchequer Account.

36. Short title.—This Act shall be called the North West Provincial Exchequer Act, 1994.