

STATUTORY INSTRUMENTS

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2003 No. 72.

**THE PUBLIC FINANCE AND ACCOUNTABILITY (CLASSIFIED EXPENDITURE)
REGULATIONS, 2003.**

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2003 No. 72.

The Public Finance and Accountability (Classified Expenditure) Regulations, 2003

(Under section 31 (3) of the Public Finance and Accountability Act 2003, Act No.6 of 2003).

IN EXERCISE of the powers conferred on the Minister by section 31(3) of the Public Finance and Accountability Act 2003, these Regulations are made this 27th day of August, 2003.

1. Citation and commencement

(1) These Regulations may be cited as the Public Finance and Accountability (Classified Expenditure) Regulations, 2003.

(2) These Regulations shall be deemed to have come into force on 1st July, 2003.

2. Application

These Regulations apply to all authorised agencies.

3. Object of Regulations

The objects of these Regulations are—

- (a) to provide for the control and management of classified expenditure;
- (b) to ensure transparency in the system of classified expenditure, while limiting accessibility to the information and reporting in order to preserve the secrecy requirements inherent in classified expenditure;
- (c) to provide for the handling and reporting on classified expenditure by the Auditor General; and
- (d) to provide for the consideration by Parliament of the report of the Auditor General concerning classified expenditure.

4. Interpretation

In these Regulations, unless the context otherwise requires—

“accounting officer” means the accounting officer of an authorised agency;

“Act” means the Public Finance and Accountability Act, 2003;

“authorised agency” means any ministry, department, agency or programme specified in the Schedule, which is authorised by the Minister to incur and manage classified expenditure;

“classified expenditure” means the expenses and commitments incurred by an authorised agency for the collection and dissemination of information related to national security interests;

“Minister” means the minister responsible for finance.

5. Authorised agencies

The institutions or bodies specified in the Schedule to these Regulations are authorised agencies for the purposes of these Regulations.

6. Confidentiality

(1) Any sensitive information relating to the operations of an authorised agency, required to be disclosed under these Regulations, shall be treated, by the recipient, with a high level of confidentiality.

(2) Information shall be regarded as sensitive under subregulation (1) if—

- (a) it might lead to the identification of, or provide details of sources of information, other assistance or operational methods available to the security service, intelligence service or any other organisation handling security issues;
- (b) it is about particular operations which have been, are being or are proposed to be undertaken in pursuance of any of the functions of an authorised agency; or

(c) it is provided by, or by an agent of, the Government of a territory outside Uganda where that Government does not consent to the disclosure of the information.

7. Budgeting and authorisation of classified expenditure

(1) Classified expenditure shall be budgeted for and appropriated by Parliament in accordance with the Public Finance and Accountability Act, 2003.

(2) Notwithstanding subregulation (1), in order to preserve confidentiality, the budget for classified expenditure shall be presented as a single line item for each authorised agency.

(3) An accounting officer shall, in accordance with standards and guidelines issued by the Accountant General, establish an appropriate system of control to assure the Auditor General and Parliament that the funds appropriated for the authorised agency are utilised for the proper purpose.

(4) The accounting officer shall, in accordance with the Public Procurement and Disposal of Public Assets Act, 2003, establish a contracts committee to manage the procurement operations and activities of the authorised agency and to ensure appropriate control over classified spending, and documentation to reflect the authority for the spending.

(5) Where Parliament has appropriated an amount of money for classified expenditure under the Appropriation Act and the amount appropriated is found to be insufficient, any requirement for further funding shall be presented to Parliament for approval in accordance with the Public Finance and Accountability Act, 2003.

8. Application of Financial Regulations and Treasury Accounting Instructions

(1) Classified expenditure shall be subject to the Act and to any instructions or directives issued under the Act, and these Regulations.

(2) Where national security or other interests require that there should be a deviation from the strict application of subregulation (1), that deviation shall be permitted after consultation with the Secretary to the Treasury, and shall be consistent with best practice.

(3) Any deviation under subregulation (2) shall be approved in writing by the Secretary to the Treasury.

9. Accounting records

(1) An accounting officer and any public officer authorised by an accounting officer under regulation 10(3) to exercise powers or perform functions relating to classified expenditure shall maintain appropriate records of all financial transactions of the authorised agency.

(2) The appropriate records referred to in subregulation (1) shall include, at a minimum—

- (a) a cashbook;
- (b) a general ledger and subsidiary ledgers;
- (c) a vote control register;
- (d) an assets register;
- (e) a stores record; and
- (f) vouchers, with all supporting documents.

10. Responsibility of accounting officers

(1) An accounting officer shall carry out his or her responsibilities relating to classified expenditure in accordance with the Constitution and the Public Finance and Accountability Act, 2003.

(2) An accounting officer is personally accountable for classified expenditure under his or her control.

(3) An accounting officer shall—

- (a) state in writing the extent to which the powers conferred and duties imposed on him or her, in relation to classified expenditure, may be exercised or performed on his or her behalf by a public officer under his or her control; and
- (b) give directives as may be necessary to ensure the proper exercise or performance of those powers and duties.

11. Competence of accounting staff

An accounting officer shall ensure that officers responsible for accounting functions relating to classified expenditure have the necessary professional qualifications and technical competence commensurate with their work.

12. Annual financial statements and audit report

(1) Annual financial statements for classified expenditure shall be prepared in the prescribed format and shall be submitted to the Minister, the Auditor General, and the Accountant General as required by section 31(1) and (2) of the Act.

(2) Notwithstanding subregulation (1), copies of financial statements submitted to the Minister and Accountant General shall not include detailed statements.

(3) The Auditor General shall, in accordance with section 32 of the Act, examine and audit the accounts submitted to him or her under subregulation (1) and shall forward them, together with the audit report, to the Speaker of Parliament.

(4) The Speaker of Parliament shall forward the accounts and audit report submitted to him or her under subregulation (3) to the Chairperson of the Public Accounts Committee of Parliament for consideration.

(5) Where the Speaker considers it necessary, he or she may, in addition to the Chairperson of the Public Accounts Committee, nominate not more than two other members of the Public Accounts Committee to receive and consider the accounts and audit report.

(6) The consideration of the accounts and audit report submitted to the Chairperson of the Public Accounts Committee under subregulation (4), or to the subcommittee nominated under subregulation (5) shall be in a closed session.

(7) For purposes of confidentiality, the accounts and audit report in respect of classified expenditure shall not be published.

13. Duties of the Auditor General

(1) The Auditor General shall examine and inquire into all accounts of classified expenditure, and for this purpose, shall have full access to all records and information which he or she considers necessary for the audit.

(2) The Auditor General shall issue guidelines for the audit of classified expenditure in accordance with best practice and these Regulations.

14. Audit teams

(1) The Auditor General shall establish audit teams to audit classified expenditure.

(2) An audit team shall be subject to strict confidentiality regulations, applicable to persons with access to confidential information relating to national security interests.

(3) Members of an audit team shall undergo training and sensitisation considered necessary for a reasonable appreciation of the nature and operations of authorised agencies.

15. Offences and penalties

Any person who contravenes these Regulations commits an offence and in accordance with section 42 and 43 of the Act, is liable, on conviction, to a fine not exceeding two hundred and fifty currency points or to imprisonment for a term not exceeding three years, or both.

SCHEDULE

REGULATION 2, 5

AUTHORISED AGENCIES

1. The Office of the President (including Internal Security Organisation (ISO), External Security Organisation (ESO), Department of Ethics and Integrity, Office of the Minister responsible for Security).

2. The Ministry of Defence (including the Chieftaincy of Military Intelligence (CMI)).

3. State House.

4. The Police Department (Office of the Inspector General of Police, Criminal Investigations Department (CID), Special Branch).

5. The Office of the Inspector General of Government.

GERALD M. SSENDAULA,
Minister of Finance, Planning and Economic Development.