Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Government Trading Act 1990, SCHEDULE 1. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 2.

GOVERNMENT TRADING FUNDS ACT 1973, AS AMENDED

ARRANGEMENT OF SECTIONS

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An Act to enable certain services of the Crown to be financed by means of trading funds established in pursuance of orders made by the responsible Minister with Treasury concurrence; to make consequential provision (in the event of a trading fund being established for the Mint) as to sums received by, or due from, the Treasury in respect of the coinage; and to amend the Coinage Act 1971 in respect of the establishment and operations of the Mint.

[25th October 1973]

(Formal enacting words)

Establishment of trading funds.

1 (1) If it appears to any Minister of the Crown—

(a) that any operations of a department of the government for which he is responsible are suitable to be financed by means of a fund established under this Act (referred to in this Act as a "trading fund") and, in particular, to be so managed that the revenue of the fund would consist principally of receipts in respect of goods or services provided in the course of the operations in question, and

(b) that the financing of the operations in question by means of a trading fund would be in the interests of the improved efficiency and effectiveness of the management of those operations,

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he may by order establish a trading fund for the operations in question as from a day appointed by the order.

(2) The power to make an order under this section is exercisable only with Treasury concurrence.

(3) Where a Minister of the Crown proposes to make an order in respect of any operations (not being operations then financed by means of a trading fund) and considers that—
   (a) the operations in question consist substantially in the provision of goods or services in the United Kingdom otherwise than to departments of the government, and
   (b) an opportunity to make representations to him should be given,

   he shall take such steps as appear to him to be appropriate to give such an opportunity to such persons as appear to him to be appropriate.

(4) An order establishing a trading fund shall designate either—
   (a) the National Loans Fund, or
   (b) the responsible Minister,

   as the source of issues to the fund by way of loan (referred to in this Act as the "authorised lender").

(5) Issues to the fund by way of loan by the responsible Minister shall be made out of money provided by Parliament, and the right to repayment of such issues ranks as an asset of the Consolidated Fund.

(6) An order establishing a trading fund for operations carried on by a person appointed in pursuance of any enactment may provide—
   (a) for the fund to be under the control and management of that person instead of the responsible Minister and, accordingly,
   (b) for this Act to have effect as if—
      (i) the reference to the responsible Minister in section 3(1) of this Act and the first reference to him in section 4(1), and
      (ii) such other references in this Act to the responsible Minister as may be specified in the order, where they are references to him in the exercise of his function of controlling or managing the fund,

   were references to that person.

(7) In this Act—

"the funded operations", in relation to a trading fund, means the operations for which the fund is established,

"liabilities", in relation to a trading fund, does not include liabilities in respect of any amount issued to the fund under section 2B of this Act,

"Minister of the Crown" means the holder of an office in Her Majesty's Government in the United Kingdom, and includes the Treasury,

"order" except in section 2B(8) of this Act means an order under this section,

"originating debt", in relation to a trading fund, means any amount remaining after any repayment or reduction of the amount which, by virtue of section 2(3) and (4) of this Act, is the originating debt of the fund, and

"the responsible Minister", in relation to any operations of a department of the government, means the Minister of the Crown responsible for that department.

(8) References in this Act to the provision of services include—

(a) the provision of any authority required for carrying on any activity or exercising any right, and

(b) the performance of any other functions in connection with the regulation of any activity or right.

(9) References in this Act to a Minister of the Crown include Ministers acting jointly, but an order may not designate more than one Minister as the authorised lender.

Assets and liabilities of funds.

2 (1) Where any Minister of the Crown proposes to make an order establishing a trading fund for any operations or to vary an order by extending the funded operations—

(a) he shall with Treasury concurrence determine what Crown assets and liabilities are properly attributable to the operations for which the fund is to be established or, as the case may be, the additional operations and are suitable to be appropriated to the fund, and

(b) the order shall provide for the assets and liabilities so determined to be appropriated as assets and liabilities of the fund at values or amounts determined by him in accordance with Treasury directions.

(2) The responsible Minister may from time to time, in the case of any trading fund, with Treasury concurrence determine what additional Crown assets and liabilities are properly attributable to the funded operations and suitable to be appropriated to the fund and provide by order for the assets and liabilities in question to be appropriated as assets and liabilities of the fund at values or amounts determined by him in accordance with Treasury directions.

(3) Where an order establishing a trading fund provides for any assets and liabilities to be appropriated as assets and liabilities of the fund—

(a) the amount by which the values of those assets exceed the amounts of those liabilities, less

(b) any amount treated by virtue of the order as public dividend capital,

is originating debt of the fund and is to be treated as having been issued to the fund under section 2B of this Act on the day appointed by the order.

(4) Where, in the case of a trading fund established under a previous order, an order provides for any additional assets and liabilities to be appropriated as assets and liabilities of the fund—

(a) the amount by which the values of those additional assets exceed the amounts of those additional liabilities, less

(b) any amount treated by virtue of the order as public dividend capital,

is to be added to the originating debt of the fund and is to be treated as having been issued to the fund under section 2B of this Act on the day appointed by the order.

(5) The responsible Minister may with Treasury concurrence from time to time by order provide, in the case of any trading fund, for any assets and liabilities to cease to be assets and liabilities of the fund; but the power conferred by this subsection is not exercisable where section 4A of this Act applies.

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(6) Where the responsible Minister exercises the power conferred by subsection (5) above, he may, in the case of any originating debt or public dividend capital which he may with Treasury concurrence determine to be properly attributable to the assets and liabilities in question—

(a) out of money provided by Parliament, repay the whole or part of the debt or make a payment into the Consolidated Fund in reduction or extinguishment of the capital, and

(b) by order made with Treasury concurrence provide for the reduction or extinguishment of any debt or capital remaining after the application of paragraph (a) above.

(7) An order providing for any assets and liabilities to be appropriated as, or to cease to be, assets and liabilities of a trading fund may describe the assets and liabilities in general terms.

Public dividend capital.

2A (1) An order providing for any assets and liabilities to be appropriated as assets and liabilities of a trading fund may provide for any part of the amount by which the values of the assets exceed the amounts of the liabilities to be treated as public dividend capital of the fund.

(2) Where the responsible Minister—

(a) repays out of a trading fund before the due date any amount outstanding in respect of the principal of any sums issued to the fund by the authorised lender by way of loan, or

(b) pays any amount standing in the reserves of a trading fund into the Consolidated Fund,

he may with Treasury concurrence issue out of money provided by Parliament a corresponding amount to the fund as public dividend capital.

(3) Where any sum is issued to a trading fund under section 2B of this Act, the responsible Minister may with Treasury concurrence pay out of the fund into the Consolidated Fund a corresponding sum in reduction or extinguishment of any public dividend capital.

(4) Public dividend capital ranks as an asset of the Consolidated Fund.

(5) For any financial year in which a trading fund has public dividend capital, there shall be paid out of the fund into the Consolidated Fund such sums (if any) by way of return on that capital and its reserves as the responsible Minister may determine, with Treasury concurrence, having regard to any balance in the fund at the end of that year and the amount of the balance which appears to the responsible Minister and the Treasury to be in the nature of distributable profit.

Borrowing by funds.

2B (1) No amount shall be paid into a trading fund by way of loan except in accordance with this section.

(2) Subject to subsection (6) below, the authorised lender may issue by way of loan to a trading fund sums required for the funded operations.

(3) Sums issued under this section shall be repaid out of the fund on such terms, and interest on them shall be paid at such variable or fixed rates and at such times, as the Treasury may determine.

(4) A rate of interest for any amount so issued by the responsible Minister shall be determined as if section 5 of the [M1]National Loans Act 1968 had effect in respect of it and subsections (5A) and (5B) of that section shall apply accordingly.

(5) In the case of any trading fund where the authorised lender is a Minister of the Crown, repayment of any amount outstanding in respect of the principal of any sum issued under this section (other than repayment before the due date) may, with Treasury concurrence, be made to the Minister instead of into the Consolidated Fund and applied by him as money provided by Parliament.

(6) The order establishing a trading fund shall specify the maximum amount that may be issued under this section and the aggregate of amounts issued under this section in respect of the fund (other than originating debt) shall not exceed that amount, or that amount as varied by a subsequent order.

(7) The sum of the maxima in force in respect of all trading funds at any time shall not exceed £2,000 million.

(8) The Treasury may by order made by statutory instrument increase or further increase the limit in subsection (7) above by any amount, not exceeding £1,000 million, specified in the order but not so as to make the limit exceed £4,000 million.

(9) No order under subsection (8) above shall be made unless a draft of a statutory instrument containing it has been laid before the House of Commons and approved by a resolution of that House.

Marginal Citations

M1 1968 c. 13.

Payments into, and out of, a trading fund.

3 (1) There shall be paid into a trading fund all receipts in respect of the funded operations and there shall be paid out of the fund all expenditure incurred by the responsible Minister in respect of those operations, except expenditure in respect of liabilities not appropriated to the fund.

(2) Without prejudice to subsection (1) above, there shall be paid out of the trading fund into the Consolidated Fund such sums as may be appropriate as representing accruing liabilities of the Treasury in respect of pensions (including increases of pensions), gratuities and other similar benefits for persons who have been employed in the funded operations and in respect of the administrative expenses attributable to those liabilities and their discharge; and—

(a) where the Treasury is the responsible Minister for the fund, it shall be for the Treasury to determine the sums payable under this subsection, the amount of any payment and the time at which it is to be made; and

(b) in other cases it shall be for the responsible Minister to determine the sums so payable in agreement with the Treasury, subject to any directions given

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by the Treasury as to the amount of any payment or the time at which it is to be made.

(3) The enactments relating to public receipts, expenditure and accounting shall have effect subject to the foregoing provisions of this section, except as may be directed by the Treasury from time to time; and if any question arises whether any particular sums are required by those provisions to be paid into, or out of, the trading fund, that question shall be determined by the Treasury.

(4) Nothing in this section affects the powers conferred in relation to fees and charges by section 102 of the [M2]Finance (No. 2) Act 1987.

Marginal Citations
M2 1987 c. 51.

Management and accounting.

4 (1) A trading fund established under this Act shall be under the control and management of the responsible Minister; and in the discharge of his functions in relation to the fund it shall be his duty—

(a) to manage the funded operations so that the revenue of the fund—

(i) consists principally of receipts in respect of goods or services provided in the course of the funded operations, and

(ii) is not less than sufficient, taking one year with another, to meet outgoings which are properly chargeable to revenue account; and

(b) to achieve such further financial objectives as the Treasury may from time to time, by minute laid before the House of Commons, indicate as having been determined by the responsible Minister (with Treasury concurrence) to be desirable of achievement.

(2) With Treasury concurrence, the responsible Minister may establish and maintain general, capital and other reserves in the accounts of the trading fund.

(3) If at any time it appears to the responsible Minister that any amount standing in the reserves of the trading fund is surplus to any foreseeable requirements of the funded operations, he may with Treasury concurrence pay that amount out of the fund and into the Consolidated Fund.

(4) If, in the case of a trading fund not having public dividend capital, the revenues of the fund for a financial year exceed the total sums properly chargeable to revenue account for that year, the responsible Minister may with Treasury concurrence—

(a) apply the excess for such purposes of the funded operations as he may determine, or

(b) pay the whole or part of the excess into the Consolidated Fund.

(5) Any money in the fund which appears to the responsible Minister not to be immediately required for the funded operations may be invested by him in such securities of the Government of the United Kingdom or of the Government of Northern Ireland as the Treasury may approve, including Treasury Bills and Ways and Means advances.

(6) The Treasury shall appoint an accounting officer for the fund, with responsibility for keeping its accounts and proper records in relation thereto, and preparing and signing a statement of the accounts in respect of each financial year; and—

(a) the annual statement of accounts shall comply with any directions given by the Treasury as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared and contain such additional information as the Treasury may require to be provided for the information of Parliament; and

(b) the statement in respect of each financial year shall, on or before 30th November next following the end of that year, be transmitted to the Comptroller and Auditor General, who shall examine and certify the statement and lay copies thereof, together with his report thereon, before Parliament.

(6A) The accounting officer shall send to the responsible Minister in respect of each financial year—

(a) the annual statement of accounts, and

(b) a report in such form and containing such information as to the performance of the funded operations as the Treasury may require,

and the responsible Minister shall publish any report received by him under this subsection, together with the annual statement of accounts (unless the Treasury otherwise directs), in such manner as the Treasury may require.

(6B) Where any enactment (other than this Act) requires, in whatever terms, a report to be prepared for any period as to the funded operations and sent to any person, or laid before Parliament, or both or so sent or laid by any time or times, an order may provide for that requirement to be treated as satisfied by preparing the report for the financial year and sending it to that person, or laying it before Parliament, or both or, as the case may be, so sending or laying it by the time or times specified in the order.

(7) As respects any financial year during the whole of which any operations of a department of the government are funded operations of a trading fund, section 5 of the [M3]Exchequer and Audit Departments Act 1921 (preparation and examination of accounts of trading services conducted by government departments) shall not apply to those operations; but otherwise subsection (6) above is without prejudice to anything in that Act or the [M4]Exchequer and Audit Departments Act 1866.

Marginal Citations

M3 1921 c. 52.

M4 1866 c. 39.

Operations ceasing to be funded.

4A (1) This section applies where any operations for which a trading fund is established are to cease to be funded operations (whether the operations ceasing to be funded represent the whole or part of the funded operations or are to cease altogether or be funded operations of another fund or, while continuing to be operations of a department of the government, be financed by other means).

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(2) Where the operations ceasing to be funded represent only part of the funded operations, the responsible Minister shall by order provide for such assets and liabilities of the fund as he may with Treasury concurrence determine to be properly attributable to the operations ceasing to be funded to cease to be assets and liabilities of the fund.

(3) In the following provisions of this section, "debt" means any amount outstanding in respect of the principal of or interest on sums issued under section 2B of this Act and "originating debt" includes any amount outstanding in respect of interest on such debt; and, where the operations ceasing to be funded represent only part of the funded operations—

(a) references to assets and liabilities are to the assets and liabilities ceasing to be assets and liabilities of the fund by virtue of an order under subsection (2) above,

(b) references to debt, originating debt or public dividend capital are to so much of any debt, originating debt or public dividend capital as the responsible Minister may with Treasury concurrence determine to be attributable to the operations ceasing to be funded.

(4) If, in a case where the operations ceasing to be funded are to cease altogether, the values of the assets of the fund exceed the amounts of the liabilities of the fund, the excess shall be applied in accordance with subsection (6) below.

(5) If in any other case—

(a) it appears to the responsible Minister that any amount standing in the reserves of the fund is surplus to any foreseeable requirements of the funded operations, or

(b) the revenues of the fund for the last financial year exceed the total sums properly chargeable to revenue account for that year,

the amount or excess shall be applied in accordance with subsection (6) below.

(6) The amount or excess in question shall be applied towards the following objects (applying paragraph (a) before paragraph (b))—

(a) the repayment of debt, and

(b) payment into the Consolidated Fund in reduction or extinguishment of any public dividend capital,

and if, where the operations ceasing to be funded represent the whole of the funded operations, any balance remains after the amount or excess has been so applied, the responsible Minister shall pay the balance into the Consolidated Fund.

(7) The responsible Minister may out of money provided by Parliament repay any debt remaining after the application of subsection (6) above or make a payment into the Consolidated Fund in reduction or extinguishment of any public dividend capital so remaining.

(8) Where the operations ceasing to be funded represent only part of the funded operations, the responsible Minister may by order made with Treasury concurrence reduce or extinguish any originating debt, or public dividend capital, remaining after the application of the preceding subsections.

Provisions as to the coinage.

5 If a trading fund is established under this Act for the Mint, then as from the day appointed in relation to the fund under section 1(1) of this Act—

(a) any sums received by or on behalf of the Treasury in respect of coin issued for circulation shall be paid into the Consolidated Fund; and

(b) any sums due from the Treasury as payment for coin withdrawn from circulation shall be charged on and issued out of that Fund.

Orders.

6 (1) The power to make an order under section 1 of this Act shall be exercisable by statutory instrument and includes power to vary or revoke such an order, but no such order may alter the authorised lender in relation to any fund.

(2) No order establishing a trading fund, or extending or restricting the funded operations, shall be made unless a draft of a statutory instrument containing it has been laid before the House of Commons and approved by a resolution of that House.

(3) A statutory instrument containing an order under section 1 of this Act, if made without a draft having been approved by a resolution of the House of Commons, shall be subject to annulment in pursuance of a resolution of that House.

(4) Where a Minister of the Crown has taken steps in pursuance of section 1(3) of this Act to give an opportunity for representations to be made about a proposed order, he shall, before laying, in accordance with subsection (2) above, a draft instrument containing the order giving effect to the proposal, lay a report before Parliament about the representations received and his conclusions.

The Mint.

7 (1) For purposes of this Act the Chancellor of the Exchequer is to be regarded as the Minister responsible for the administration of the Mint; and this Act, so far as it requires the concurrence of the Treasury for the making of orders, or for anything to be done under or for the purposes of sections 2, 2A, 4 or 4A, does not apply to him as responsible Minister in relation to the Mint.

(2) In section 4 of the [M5]Coinage Act 1971 (which relates to the constitution and functions of the Mint), the following shall be substituted for subsection (2)—

"(2) There shall be a deputy master of the Mint, appointed by the Treasury";

and subsections (3) and (4) are hereby repealed; and subsections (6) and (7) (expenses and receipts) shall not have effect for so long as any operations of the Mint are funded operations.

(3) Section 5 of the said Act of 1971 (coining of bullion taken by the Mint) is hereby repealed.

(4) In section 9(1) of the said Act of 1971 (prohibition of coins and tokens not issued by authority) for the words "by or with the authority of the Mint" there shall be substituted the words " with the authority of the Treasury ".

Marginal Citations

M5 1971 c. 24.

Citation.

8 This Act may be cited as the Government Trading Funds Act 1973.

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