

# PUBLIC FINANCE MANAGEMENT BILL, 2021

## Arrangement of Sections

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## **PUBLIC FINANCE MANAGEMENT BILL, 2021**

**A BILL FOR AN ACT TO PROVIDE FOR THE CONTROL AND MANAGEMENT OF PUBLIC FINANCE, FOR THE OPERATION OF THE CONSOLIDATED FUND, FOR THE AUTHORIZATION OF EXPENDITURES, FOR THE ADMINISTRATION OF SPECIAL FUNDS, FOR THE INVESTMENT OF PUBLIC MONEY, FOR INTERNAL AUDIT, FOR THE MANAGEMENT OF GOVERNMENT PROPERTY, FOR THE PREPARATION OF THE FINANCIAL STATEMENTS AND REPORTS ON PUBLIC FINANCES, FOR THE ACCOUNTABILITY OF PUBLIC ENTITIES AND GOVERNMENT BUSINESS ENTERPRISES, COLLECTION OF REVENUE AND FOR TRANSITIONAL MATTERS AND CONSEQUENTIAL AMENDMENTS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.**

Enacted by the Parliament of The Bahamas

### **PART I PRELIMINARY**

#### **1. Short title and commencement.**

- (1) This Act may be cited as the Public Finance Management Act, 2021.

- (2) This Act shall come into operation on the date appointed by the Minister by notice published in the *Gazette*, and different dates may be appointed for different provisions.

## 2. Interpretation.

- (1) In this Act, unless the context otherwise requires—
- “**Accountant-General**” means the position set out in section 10;
- “**Agency**” means an entity of the Government that is not a Ministry or a Department and is not a Government Business Enterprise and each Agency shall be listed in the *Fourth Schedule* pursuant to section 76;
- “**annual budget**” means the annual estimates of revenue, expenditure, financing and other documents required by section 17 and the *First Schedule*, and any other documents the Minister considers necessary;
- “**appropriation**” means a sum voted by Parliament in the form of the annual estimates or supplementary estimates and authorized as expenditure by an Appropriation Act or Supplementary Appropriation Act referred to in section 18; and appropriation does not include statutory expenditure authorized as a charge on the Consolidated Fund or on the general revenues and assets of The Bahamas under an Act, pursuant to Article 130 of the Constitution;
- “**Appropriation Act**” means an Act to appropriate sums necessary to meet the annual estimates of expenditure in a financial year;
- “**audit opinion**” means a certification by an auditor that accompanies financial statements based on an audit of an accountant's opinion on the procedures and records used to produce the statements, regardless of whether material misstatements exist in the financial statements;
- “**Auditor-General**” means the position established by Article 136 of the Constitution;
- “**board**” means a board of directors and if an Agency does not have a board, then “board” means the public officer or public office holder or group of public officers or public office holders to whom the chief executive officer reports;
- “**Budget Reserve Appropriation**” means the Budget Reserve Appropriation referred to in section 22;
- “**chief executive officer**” means the officer holding the most senior management position in a public entity and includes permanent secretaries, heads of department with the status of a ministry, chief executives of public entities, management heads of constitutional

bodies, family island administrators, and chief executives of Government Business Enterprises;

“**commitment**” means the creation of a legal obligation to purchase goods or services;

“**conflict of interest**” means —

- (i) using an official position, or information or influence from that position, to further the private interests of the public officer, public office holder or another person; or
- (ii) receiving a benefit of any kind that may reasonably be perceived to compromise the public officer, public office holder's judgment, integrity or behaviour in his official capacity;

“**Consolidated Fund**” means the Consolidated Fund referred to in Article 128 of the Constitution;

“**directions**” means directions issued under this Act;

“**estimates**” means annual estimates or supplementary estimates;

“**expenditure head**” means a sum arranged by a head classification and appropriated by an Appropriation Act;

“**Financial Secretary**” means the principal financial advisor to the Minister of Finance and the managerial head of the Ministry responsible for finance;

“**financial statements**” means the financial statements of the Government referred to in section 72;

“**financial year**” means the twelve months beginning on the 1st July in any year;

“**Government**” means the Government of The Bahamas;

“**Government Business Enterprise**” means an entity owned or controlled by the Government that provides services in the market or undertakes commercial activities and is specified in the *Fifth Schedule* pursuant to section 76;

“**Government property**” means all assets whether moveable or immovable or whether tangible or intangible and includes physical assets and financial assets in the possession or under the control of the Government that is not property held in trust;

“**guarantee**” means a legal obligation to pay a loan or other monetary obligation or to perform an act or obligation that is defaulted on by the borrower;



- “Local Government”** means the district councils, town committees and family island administrators defined in the Local Government Act (Ch. 37);
- “medium-term”** means a minimum of three to five consecutive years;
- “Minister”** means the Minister of Finance;
- “Ministry”** means a Ministry of the Government and includes departments that have direct responsibility for a head of expenditure;
- “negotiable instrument”** means a cheque, draft, traveller’s cheque, bill of exchange, postal note, money order, or other similar instrument and any electronic instrument that has the same effect;
- “principal accounting officer”** means a Permanent Secretary or a Head of Department designated in writing by the Financial Secretary to have the responsibility for heads of expenditure or forecasted revenues in the annual budget or parts of head of expenditure or forecasted revenues in the annual budget;
- “Public Accounts Committee”** means the committee appointed by the Speaker of the House of Assembly;
- “public debt”** means all liabilities that require payment of interest or principal by the public sector to a resident or non-resident creditor, currently or in the future and includes the public debt specified in Article 134 of the Constitution;
- “public entity”** means a ministry or department of the Government or an Agency and shall not include an entity classified as a Government Business Enterprise;
- “public investment project”** means a group of activities and associated expenditures to expand or improve public sector fixed assets, with clearly defined objectives and outputs over a fixed time schedule;
- “public money”** means revenues; moneys borrowed by the Government through any means including through the issue or sale of security; grants received by the Government; money in the custody or under the control of the Government; and resources and receipts of any kind in cash or cash equivalent, including financial assets of the Government;
- “public office holder”** means a member of the Parliament of The Bahamas, the Judiciary, a member of a board or commission or other advisory or governance position, and includes Ministers, constitutional office holders, members of Government advisory bodies, boards of public entities and the staff supporting the public office holder;

- “public officer”** means a person holding or acting in any public office as defined in Article 137 of the Constitution;
- “public sector”** means, for the purposes of “public debt” in this Act, includes a public entities and Government Business Enterprises, but does not include the Central Bank of The Bahamas, Insurance Commission of The Bahamas, Securities Commission of The Bahamas, and other entities as may be notified in the *Gazette* by the Minister from time to time;
- “public resources”** means public money and property owned by the Government or property in the custody and care of the Government;
- “public-private partnership”** means a public investment project that is implemented through a contract between a private party and a public entity, for providing or managing a public asset and associated service(s), in which the private party bears significant risk and management responsibility;
- “publish or “published”** means publishing the document on a website administered by the Government or a public entity, in a place on the website that is readily accessible by the public and for a period of not less than five years from the date of making the document available on the website;
- “reallocation”** means the movement of money from one expenditure head to another expenditure head;
- “remission”** includes a waiver of all or part of a payment of a tax, fee, interest, penalty or other sum owed to the government.
- “responsible Minister”** means the Minister with oversight responsibilities for a public entity and a Government Business Enterprise;
- “responsible Ministry”** means the Ministry with oversight responsibilities for a public entity and a Government Business Enterprise;
- “revenue”** means all tolls, taxes, imposts, rates, duties, levies, fees, penalties, royalties, surcharges, forfeitures, rents and dues, proceeds of sale, repayment of loans and all receipts of the Government from whatever sources arising over which Parliament has the power of appropriation;
- “revenue and taxing agency”** means those departments responsible for the collection and enforcement of Government revenue and taxes and shall include the Department of Inland Revenue, the Department of Customs, the Department of Immigration, the Registrar General's Department and the Road Traffic Department.

“**securities**” means bonds, debentures, promissory notes, treasury bills and other documents evidencing debt and includes documents commonly known as securities and electronic instruments that have the same effect;

“**sinking fund**” means a separate account made up of segregated contributions by the Government to accumulate funds for the redemption of public debt;

“**special fund**” means a special fund referred to in section 36;

“**statutory expenditure**” means an expenditure charged on the Consolidated Fund or on the general revenues and assets of The Bahamas by any provision of the Constitution or by any other law for the time being in force in The Bahamas;

“**Supplementary Appropriation Act**” means an Act to appropriate sums of money necessary to meet the supplementary estimates of expenditure for services in a financial year in accordance with Article 130 of the Constitution;

“**supplementary estimates**” means supplementary estimates of expenditure, revenue or financing;

“**Tax Compliance Certificate**” means a document issued to a person as proof that payments of tax liabilities and wage related statutory deductions are current;

“**tax legislation**” includes any enactment relating to the raising of revenue, but does not include the Value Added Tax Act;

“**virement**” means movement of money within an expenditure head.

### **3. Primacy of this Act.**

This Act shall supersede all Acts that are inconsistent with this Act, except for the Constitution and the Fiscal Responsibility Act, 2018 and as specifically stated in this Act.

### **4. Application.**

This Act applies to all public entities, Government Business Enterprises, public officers, public office holders and local government, unless otherwise stated in this Act.

## **5. Delegations.**

- (1) When a power to delegate, designate, appoint or authorize a person to do an act is given under this Act, the delegation, designation, appointment or authorization may be made by the person's name, title or office and when a delegation, designation, appointment or authorization is by title or office, the delegation, designation, appointment or authorization applies to every person while he holds that title or office.
- (2) Power delegated under this Act to any person shall be exercised after that person who delegated is no longer in office by the person who next holds that office.
- (3) A person who receives a delegation shall obtain the prior written authority of the original delegator before making a further delegation.
- (4) A public office holder may delegate to a public office holder or public officer and a public officer may delegate to a public officer or a public office holder.

## **PART II - ROLES AND RESPONSIBILITIES**

### **6. General requirement.**

The Minister, responsible Ministers, Financial Secretary, Accountant-General, chief executive officers, public officers, public office holders and all persons appointed to act shall undertake their roles and responsibilities and exercise their powers in accordance with this Act.

### **7. Role of responsible Minister.**

Each responsible Minister shall, in accordance with this Act,—

- (a) oversee and direct the public entity or Government Business Enterprise under his responsibility to achieve the performance specified in the annual budget and the annual plan;
- (b) oversee and direct the Government Business Enterprise under his responsibility to achieve, the performance specified in the statement of corporate intent and the business plan; and
- (c) have the responsibilities with regard to public entities and Government Business Enterprises, as set out in Part VI of this Act.

### **8. Role of Minister of Finance.**

- (1) The Minister is responsible for—
-

- (a) ensuring that the Government's plans are fully consistent with the fiscal responsibility principles in the Fiscal Responsibility Act, 2018, the fiscal objectives in the fiscal strategy reports and the requirements of this Act;
  - (b) managing the fiscal performance, fiscal risks and reporting on the financial position of the Government and all public entities and Government Business Enterprises;
  - (c) overseeing the preparation of the fiscal strategy report, the annual budget, the Mid-Year Review, the financial statements and other Government financial reports required to be produced for Cabinet and presentation to the Parliament;
  - (d) ensuring that the annual budget is executed as appropriated by Parliament and as authorized for statutory expenditure, and managed so as to comply with this Act;
  - (e) overseeing the management of the Government property;
  - (f) exercising general direction and control over the Ministry responsible for finance;
  - (g) overseeing the management of Government liabilities;
  - (h) overseeing the management of public investment projects;
  - (i) overseeing the financial response to significant environmental events to facilitate recovery;
  - (j) other matters assigned to the Minister by the Governor-General.
- (2) Subject to the requirements of this Act, the Minister shall, from time to time, issue directions with respect to the format, contents, timing and quality of information to be provided in the budgets, plans, reports and other documents required under this Act.
- (3) The Minister may enter into and execute agreements on behalf of the Government in relation to matters of a financial nature.
- (4) The Minister may delegate any of his responsibilities or powers to the Financial Secretary or any other public officer, other than the power to make regulations, table documents in the House of Assembly, appear before the House of Assembly and other responsibilities that are in the exclusive domain of a Minister.

## **9. Role of the Financial Secretary.**

- (1) The Financial Secretary shall be responsible for assisting the Minister in the discharge of his responsibilities and shall manage the Ministry responsible for finance to provide the following functions—
- (a) ensuring the implementation of and adherence to this Act and other Acts regarding public finances;

- (b) advising on economic and fiscal policy;
  - (c) preparing the fiscal strategy report and annual budget for consideration by the Minister;
  - (d) managing the annual budget process;
  - (e) setting standards for the financial management systems and processes and monitoring the performance of the financial management systems and processes;
  - (f) overseeing treasury services, including banking and cash management;
  - (g) managing Government property;
  - (h) managing the process for public investment project appraisal, approval, reporting and monitoring;
  - (i) managing Government liabilities;
  - (j) overseeing the adoption of the accounting standards by the Accountant-General;
  - (k) ensuring that information systems are designed in accordance with accounting and reporting standards;
  - (l) ensuring that the Government, public entities and Government Business Enterprises report on their financial position;
  - (m) overseeing Government financial reporting and the publication of the financial statements and Government financial reports required by this Act;
  - (n) monitoring the Government's financial interests in Agencies and Government Business Enterprises;
  - (o) monitoring the fiscal risks of the Government;
  - (p) designating the public officer or public office holder with responsibility for an expenditure head;
  - (q) managing the financial response to significant environmental events to facilitate recovery; and
  - (r) carrying out other functions as determined by the Minister.
- (2) The Financial Secretary—
- (a) shall at all times have access to all public entities and Government Business Enterprises and places where accounting for services takes place or accounting records are kept;
  - (b) may require a public officer or public office holder to furnish any information and provide access to any documents or information that the Financial Secretary considers necessary; and

- (c) may delegate any of his responsibilities or powers to the Accountant-General or a senior public officer not below the rank of Director in the Ministry responsible for finance.
- (3) The Financial Secretary and any person delegated by the Financial Secretary shall discharge his responsibilities and exercise his powers under this Act with diligence and honesty and is subject to discipline for failing to do so.

## **10. Role of the Accountant-General.**

- (1) The Accountant-General shall be responsible for—
  - (a) setting the financial reporting standards consistent with generally accepted accounting principles;
  - (b) publishing the accounting standards on the official website of the Government;
  - (c) maintaining and reporting on the accounts of the Government to show the current state of the Consolidated Fund and other funds, and the financial position of the Government;
  - (d) preparing the financial statements of the Government and other reports required by law, the Minister or the Financial Secretary;
  - (e) supervising and maintaining the Government's accounting system and the financial and accounting records;
  - (f) overseeing the receipt, banking and disbursement of public money;
  - (g) overseeing the opening and closing of bank accounts;
  - (h) implementing and maintaining the computerized financial management system;
  - (i) overseeing the management of the cash received by the Government;
  - (j) overseeing payments to ensure that the payments are processed within the agreed time;
  - (k) overseeing payments to ensure that the payments are made in accordance with protections and priorities in the law when there is less public money available than is necessary to meet all payments due;
  - (l) ensuring each public entity has in place proper financial control mechanisms in accordance with this Act;
  - (m) ensuring each public entity adopts a proper system of accounts and all public moneys, received and paid by the Government, is brought promptly and properly to account;
  - (n) verifying that payments are processed in accordance with this Act and refusing a payment which is incorrect or which contravenes this

- Act or any other Act, or that is, in his opinion, in any other way unacceptable in support of a charge on public moneys;
- (o) exercising supervision over the receipt of revenue and securing its punctual collection, except where those responsibilities are by law assigned to the Comptroller of Customs, the Controller of Inland Revenue and other public officers or public office holders;
  - (p) reporting to the Financial Secretary, in writing, any apparent defect in the controls of revenue, expenditure, or public money, or any breach or non-observance of this Act or other Act, by a public entity, or service that may come to, or be brought to, his attention;
  - (q) managing all finance and accounting officers in the Public Treasury Department and those assigned to other public entities;
  - (r) providing technical advice on accounting and related matters to the Financial Secretary; and
  - (s) other responsibilities as are assigned to him by law or by the Minister.
- (2) The Accountant-General—
- (a) shall enforce the accounting standards for the Government and for public entities;
  - (b) shall at all times have access to all public entities or places where accounting for services takes place or accounting records are kept;
  - (c) may require access to records and require any information, records or explanations from a public officer or public office holder or former public officer or public office holder, necessary for the performance of his responsibilities;
  - (d) may examine and report to the Financial Secretary on the financial and accounting operations of a public entity;
  - (e) may provide accounting and other services in connection with the financial management of a public entity;
  - (f) may assign a finance and accounting officer employed in the Treasury or with the agreement of the Financial Secretary a person employed in the Ministry responsible for finance to any public entity when the Accountant-General considers it necessary to discharge his responsibilities; and
  - (g) may issue directions to chief executive officers of public entities and to persons to whom chief executive officers have delegated their responsibilities under this Act.



- (3) The Accountant-General may delegate any of his responsibilities or powers to a public officer or public office holder not below the rank of Deputy Accountant-General or Financial Controller I.
- (4) The Accountant-General and any person delegated by the Accountant-General shall discharge his responsibilities and exercise his powers under this Act with diligence and honesty and is subject to discipline.
- (5) For the purposes of subsection (1)(a) “generally accepted accounting principles” means—
  - (a) the International Public Sector Accounting Standards (“IPSAS”) issued by the International Public Sector Accounting Standards Board (“IPSASB”);
  - (b) where no specific accounting principles are provided by the IPSASB in paragraph (a), the financial reporting standards issued by the International Accounting Standards Board (“IASB”), including International Financial Reporting Standards (“IFRS”); or
  - (c) where no specific accounting principles are provided by the IPSASB or the IASB, in paragraphs (a) or (b) respectively, accounting principles that are generally accepted within the accounting profession in The Bahamas for financial reporting by public entities.

#### **11. Accountant-General power to conduct examinations.**

- (1) The Accountant-General may conduct examinations into any matter for which he has responsibility under this or any other Act.
- (2) For the purposes of conducting an examination under this section the Accountant-General shall have the power to administer oaths when conducting an examination requiring a public officer to give evidence under subsection (3).
- (3) In conducting an examination or carrying out any responsibility under this or any other Act, the Accountant-General may, by notice, require any public officer—
  - (a) to attend before the Accountant-General to give evidence under oath or, on solemn affirmation or declaration with respect to any matter related to the audit, examination or other responsibility; and
  - (b) to produce any records or information respecting the matter referred to in the notice.
- (4) If a public officer fails or refuses to comply with a notice under subsection (3), the Accountant-General may apply to the Supreme Court for an order requiring the public officer to attend before the Accountant-General in compliance with the notice.
- (5) If a public officer refuses—

- (a) to give evidence in compliance with a notice under subsection (3);
  - (b) to answer any questions before the Accountant-General pursuant to the notice; or
  - (c) to produce any records referred to in the notice,
- the Supreme Court may hold the public officer in contempt and shall punish him in accordance with the law.

## **12. Role of principal accounting officers.**

Every principal accounting officer shall be responsible for —

- (a) administering the expenditure head or part of an expenditure head in the annual budget that is under the control of the public entity;
- (b) administering each item or part of an item of statutory expenditure in the annual budget or under an Act that is under the control of the public entity;
- (c) administering each item of revenue or part of an item of revenue in the annual budget that is under the control of the public entity;
- (d) providing policy advice to the responsible Minister;
- (e) assisting the responsible Minister to oversee the public entities in his portfolio; and
- (f) other functions as defined in regulations, rules or directions.

## **13. Role of chief executive officers.**

- (1) Every chief executive officer shall manage the assets and liabilities of the public entity or Government Business Enterprise —
  - (a) in accordance with this Act and other Acts; and
  - (b) to achieve the performance required in the annual budget and the approved annual plan and, for a Government Business Enterprise, the approved statement of corporate intent and the business plan.
- (2) Every chief executive officer shall be responsible for—
  - (a) promptly collecting and receiving revenue under his responsibility;
  - (b) producing the documents to support the annual budget process;
  - (c) delivering the performance required by the annual budget, appropriation, statutory expenditure, and annual plan or business plan;
  - (d) ensuring valid claims on public moneys under his responsibility are paid;
  - (e) ensuring proper financial controls and processes are maintained;

- (f) ensuring the proper management of assets and liabilities under his responsibility;
  - (g) ensuring the control of, and accurate and timely accounting and reporting of, expenditures, expenses, revenues, assets and liabilities of the entity; and
  - (h) discharging other financial responsibilities assigned to him under this Act or any other Act.
- (3) Every chief executive officer shall ensure that the plans, budgets and reports are provided, as required by this Act.
  - (4) A chief executive officer is not absolved of responsibilities by reason of the proper discharge by the Accountant-General or the Auditor-General of his responsibilities as the acceptance for deposit of public money by the Accountant-General or by reason of the auditing of the accounts by the Auditor-General.
  - (5) A chief executive officer and any person delegated by the chief executive officer shall discharge his responsibilities under this Act with diligence and honesty and is subject to discipline for failing to do so.

#### **14. Responsibilities of public officers and public office holders.**

A public officer or public office holder who in the discharge of his responsibilities as a public officer or public office holder, comes into the possession or control of—

- (a) public money that he knows or has reason to believe is intended to be paid to or received by the Government;
- (b) securities that are Government property and that are intended to be placed on deposit with or entrusted to the Government; or
- (c) electronic instruments relating to public money or property that are intended to be controlled by the Government,

shall without delay deliver the public money, securities, or control of the electronic instruments relating to public money or Government property, to the public officer or public entity responsible for them or to the Accountant-General.

#### **15. Objection to direction.**

- (1) A public officer or public office holder who is directed by any Minister of the Government or any public officer or public office holder to do any thing that he knows or has reason to believe is contrary to this Act or any other Act, shall—
  - (a) object in writing to the Minister giving the direction, or the public officer or public office holder giving the direction;

- (b) provide a copy of the objection to the Permanent Secretary if the Permanent Secretary is not the public officer or public office holder who gave the direction; and
  - (c) provide a copy of the objection to two of the following persons—
    - (i) the Chairperson of the Public Service Commission;
    - (ii) the Attorney-General; or
    - (iii) the Financial Secretary.
- (2) Where the objection is made to any direction given by any Minister of the Government, the Minister of the Government who receives the objection under subsection (1) shall refer the objection to the Prime Minister who shall make a decision on the objection.
- (3) Where the objection is made to any direction given by a public officer or a public office holder, the Chairman of the Public Service Commission, the Attorney-General or the Financial Secretary who receives the objection under subsection (1) shall make a decision on the objection.
- (4) A public officer or public office holder who objects to a direction in accordance with subsection (1) shall be absolved of his responsibilities and shall not be liable to any civil or criminal proceeding, or to a disciplinary proceeding, or to any retaliatory action or measure, by reason of having made or referred the objection and this subsection shall apply, despite any prohibition of, or restriction on, the disclosure of information under any Act, rule of law, contract, oath, or practice, except that the indemnity shall not apply to disclosure of official secrets.

## **PART III ANNUAL BUDGET AND AUTHORIZATION OF EXPENDITURE**

### **16. Budget process requirements.**

- (1) A chief executive officer shall produce the documents in support of the annual budget process in the format and by the date required by the Financial Secretary.
- (2) The Financial Secretary shall manage the Government budget process and shall issue directions that shall include a calendar of dates to public entities and Government Business Enterprises.
- (3) The Minister shall determine the method and extent of the consultation by the Ministry responsible for finance during the budget process with public entities, Government Business Enterprises and civil society.

- (4) The Minister shall table the annual budget documents in the House of Assembly no later than the last Wednesday of May of the year prior to the year to which the annual budget relates.

#### **17. Contents of the annual budget.**

- (1) The annual budget shall have estimates of revenue, expenditure and financing and annexes and shall include the information in the *First Schedule* of this Act.
- (2) The Government shall ensure that the annual budget is consistent with the Fiscal Responsibility Act, 2018 and the fiscal strategy report.
- (3) The annual budget shall present the financial information on a gross basis.
- (4) The annual budget documents shall be accompanied by—
  - (a) the budget speech;
  - (b) the Appropriation Bill as the basis for approving expenditure;
  - (c) other bills to implement the annual budget; and
  - (d) the annual plans for public entities and the statement of corporate intent for Government Business Enterprises as required by this Act.

#### **18. Appropriations.**

- (1) Appropriations shall be presented by expenditure heads and shall comprise expenditure to be administered by a specified Ministry or other public entity.
- (2) The appropriations shall be authorized in the Appropriation Act and shall be made for one year.

#### **19. Parliament approval of annual budget.**

- (1) The Parliament shall approve the annual budget for the forthcoming financial year no later than the 30<sup>th</sup> June of the financial year prior to the year to which the annual budget relates.
- (2) The Ministry responsible for finance shall be responsible for—
  - (a) preparing the Bills to implement the annual budget;
  - (b) the technical preparation of any proposal from the Parliament to amend the annual budget; and
  - (c) ensuring that the financial information contained in the annual budget and proposals from the Parliament to amend the annual budget are accurate.

**20. Delay in passing the annual budget.**

- (1) Where, for any justifiable reason other than the dissolution of Parliament under section (2), the Appropriation Bill in respect of any financial year has not come into force by the beginning of the financial year to which it relates, the Minister may issue warrants for the withdrawal of sums from bank accounts of the Consolidated Fund or other public funds for the continuance of the public service and the authority to issue warrants shall apply for up to four months or for such other period as may be authorised by any resolution of the House of Assembly in accordance with Article 132 of the Constitution, from the beginning of the financial year or upon the coming into force of the Appropriation Act, whichever is earlier.
- (2) The Minister may, where the Governor-General dissolves Parliament before provision has been made for carrying on the Government, authorize by warrant the withdrawal of moneys from bank accounts of the Consolidated Fund or other public fund, of the sums as he may consider necessary for the continuance of the public service until the expiry of a period of four months from the date on which the House of Assembly first meets after that dissolution or upon the coming into force of the Appropriation Act, whichever is earlier and the sums shall not in aggregate exceed the expenditure for the first four months of the previous financial year.
- (3) Subject to Article 132 of the Constitution—
  - (a) all sums withdrawn pursuant to warrants issued under subsections (1) and (2) shall be deemed to have been issued in anticipation of the grants of Parliament in an Appropriation Act for the financial year in which the sums were issued;
  - (b) a statement of the sums authorized by the Minister's warrant under this section shall be laid before and voted on by the House of Assembly and the aggregate sums so voted shall be included in the next Appropriation Bill immediately following; and
  - (c) upon the commencement of an Appropriation Act referred to in paragraphs (a) and (b) a warrant issued under subsections (1) and (2) shall cease to have effect and issues made under this authority shall be—
    - (i) deemed to have been made for the purposes of the Appropriation Act; and
    - (ii) accounted for in accordance with the provisions of the warrant.

## **21. Publication of annual budget.**

The Minister shall publish on the official website of the Government—

- (a) the proposed annual budget on the same day the annual budget documents are tabled in House of Assembly;
- (b) the annual budget no later than one week after approval by the Parliament; and
- (c) a less technical version of the annual budget that presents key information on the annual budget to the public within one month after the date the annual budget was approved.

## **22. Budget Reserve Appropriation.**

- (1) The Minister may include a Budget Reserve Appropriation in the annual budget which shall have the objective of providing for an unforeseen need for expenditure for which no provision or insufficient provision has been made by an Appropriation Act.
- (2) For the purposes of this section an unforeseen need pursuant to subsection (1) shall —
  - (a) be a significant need that cannot be delayed until future financial years without harming the public interest;
  - (b) be unable to be funded using the virement provisions under this Act, or other flexibilities for managing expenditure available to a public entity;
  - (c) have not been adequately provided for in the annual budget; and
  - (d) not relate to an increase in salaries or in the numbers of permanent public officers or public office holders.
- (3) The Budget Reserve Appropriation in the proposed expenditure estimates presented to Parliament shall be not more than three percent of the recurrent expenditures in the proposed expenditure estimates.
- (4) The Budget Reserve Appropriation shall be administered by the Minister through the Ministry responsible for finance and the Minister shall seek the prior approval of the Cabinet for each withdrawal from the Budget Reserve Appropriation.
- (5) The Cabinet shall not authorize a charge on the Consolidated Fund for the purpose of the Budget Reserve Appropriation unless Cabinet has received from the Minister a written statement containing—
  - (a) the amount of the expenditure, the recipient, and the purpose;
  - (b) the reason that delaying the expenditure until future financial years will harm the public interest;

- (c) confirmation that the expenditure cannot be accommodated under the virement powers in this Act or other flexibilities for managing expenditure; and
  - (d) a statement of the impact on the finances of the Government for future financial years including the impact on the fiscal objectives in the fiscal strategy report.
- (6) The Ministry responsible for finance shall ensure that all expenditures paid from the Budget Reserve Appropriation are allocated to the relevant budgets of the recipient public entities and are subject to the same requirements for the management and reporting of other expenditures.
- (7) The Financial Secretary shall report on the Budget Reserve Appropriation in the Mid-Year Review and the financial statements of the Government required under this Act, including information on the date and amount of withdrawal, the public entity receiving the funds, and the purpose of the withdrawal.
- (8) The Auditor-General, in scrutinizing the utilization of the Budget Reserve Appropriation, shall assess whether the funds have been allocated and utilized in the manner consistent with this Act and shall report to the Parliament on any improper utilization of the Budget Reserve Appropriation.

### **23. Contingencies Fund.**

- (1) Pursuant to Article 133 of the Constitution, Parliament may provide for the establishment of a Contingencies Fund consisting of issues from the Consolidated Fund not exceeding in the aggregate five per cent of recurrent expenditure, or a greater sum as the House of Assembly may by resolution approve.
- (2) The Minister may authorise expenditure to be met by an advance from the Contingencies Fund whenever the Minister is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation Act.
- (3) Supplementary estimates of expenditure to be met by advances from the Contingencies Fund shall be submitted for the approval of the House of Assembly as soon as possible.
- (4) Issues from the Consolidated Fund may be made and the sums advanced from the Contingencies Fund repaid out of the issues upon the approval by the House of Assembly of the supplementary estimates and pending the provision for the relevant services under appropriate heads by an Appropriation Act.



- (5) The balance of the Contingencies Fund shall not be paid into the Consolidated Fund at the close of each financial year.

**24. Supplementary estimates, Supplementary Appropriation Bill and Final Appropriation Bill.**

- (1) If, in respect of any financial year, it is found that—
  - (a) the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Appropriation Act; or
  - (b) any public moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose to which no amount has been appropriated by the Appropriation Act,

a Supplementary Appropriations Bill shall be tabled in the House of Assembly as required by Article 130 of the Constitution, providing for a charge on the Consolidated Fund for the sums and appropriating them to purposes specified therein.
- (2) The Supplementary Appropriation Bill shall be accompanied by a statement from the Minister as to the impact of the additional expenditure or financing on the performance of the Government against the fiscal objectives in the fiscal strategy report and other requirements of the Fiscal Responsibility Act, 2018.
- (3) The Government may propose a Supplementary Appropriation Bill to reduce expenditure or reallocate expenditure when the reallocation is not within the power of the Government to make without an appropriation.
- (4) The Government shall present no more than two Supplementary Appropriation Bills to Parliament relating to a financial year and shall present the Supplementary Appropriation Bill as soon as practicable and no later than the end of the financial year to which the estimates and Bill relate.
- (5) The Government shall, as soon as possible after the end of each financial year, introduce a Final Appropriation Bill containing any sum that was not included in an Appropriation Bill as required by Article 130 of the Constitution.

**25. Expenditure in excess of the Appropriations approved by Parliament.**

Any expenditure proposed during the year by a public entity that is not within or not sufficiently provided for within the Appropriations approved by the Parliament in the annual budget shall be—

- (a) funded through the virements authorized under this Act;
- (b) funded through an allocation from the Budget Reserve Appropriation consistent with the provisions under section 22 procedures set out in this Act;
- (c) funded through a reallocation authorized under this Act;
- (d) funded through an allocation from the Contingencies Fund consistent with the provisions under section 23;
- (e) deferred until future financial years if this can be done without substantially harming the public interest; or
- (f) presented to the House of Assembly in supplementary estimates and a Supplementary Appropriation Bill as required by Article 130 of the Constitution where funding is not possible pursuant to paragraphs (a) to (c).

## **26. Lapse of appropriations and warrants.**

- (1) The balance in an appropriation that remains unexpended at the end of the financial year after adjustment for the recording of liabilities referred to in subsection (2), and any warrant in relation to the balance of the appropriation, shall lapse.
- (2) A liability incurred by the Government before the end of the financial year that remains unpaid at the end of the financial year shall be included in the accounts for the financial year in which the liability was incurred for the appropriation to which the liability relates.
- (3) All settlements of liabilities shall be in accordance with this Act but nothing in this section permits the recording of a payment that is in excess of the balance available in the appropriation.
- (4) No warrant shall be issued by the Minister for movement of funds for a financial year after the end of the financial year to which the warrant relates.

## **27. Expenditure for national emergencies.**

- (1) If a state of public emergency is declared by the Governor-General pursuant to Article 29 of the Constitution or an order that a disaster emergency exist is made by the Prime Minister pursuant to section 27 of the Disaster Preparedness and Response Act (*Ch. 34A*), the Minister may approve the necessary expenditure for dealing with the emergencies—
  - (a) from the budget reserve appropriation under section 22;
  - (b) from the Contingencies Fund under section 23;

- (c) by reallocating funds within or between heads of expenditure under section 31;
  - (d) from any other fund having a purpose of financing disaster expenditure; or
  - (e) from any other financing source authorised by law.
- (2) If the funds available under subsection (1) are not sufficient to meet the emergency expenditures, the Minister with the approval of Cabinet may issue a warrant for emergency expenditures and shall prepare Supplementary Estimates and table in Parliament a Supplementary Appropriation Bill with regard to this expenditure.
- (3) The Minister may in the event of a declaration of a state of public emergency or an order declaring that disaster emergency exists -
- (a) suspend existing procedures to accelerate allocation or reallocation of funds; and
  - (b) direct public entities regarding the reallocation of their budgets.
- (4) Any changes to the annual budget made under subsection (3) shall be authorised under section 31, section 32 or through supplementary estimates and a Supplementary Appropriation Bill, unless already permitted under the scope of the current Appropriation Act or other law authorising statutory expenditure.
- (5) The Financial Secretary may issue directions on the financial management of responses to an emergency under subsection (1).

## **PART IV FINANCIAL MANAGEMENT**

### **AUTHORIZATION OF EXPENDITURE**

#### **28. Authorization of expenditure.**

Articles 128 to 136 of the Constitution shall apply in respect of the authorization of expenditure of public money.

#### **29. Control of expenditure.**

- (1) The issue of public moneys from bank accounts of the Consolidated Fund shall be authorized by a warrant under the hand of the Minister or the Financial Secretary authorized in writing by the Minister.
- (2) Any financial warrants made, endorsed or approved under this Act may be made, endorsed or approved by electronic means.
- (3) Every principal accounting officer shall provide a procurement plan and a cash plan to the Ministry responsible for finance no later than six weeks

after the approval by Parliament of the Appropriation Bill or any other date as specified by the Financial Secretary.

- (4) If a principal accounting officer fails to supply the information as required by subsection (3) the Minister may suspend the warrant or part of the warrant to authorize commitments for which there are no procurement plans or cash plans.
- (5) The Minister may limit or suspend any appropriation charged under any Appropriation Act if, in the opinion of the Minister, the exigencies of the financial situation render the limitation or suspension necessary.

### **30. Commitments.**

- (1) No public officer or public office holder shall commit the Government to a financial liability, including a contingent liability, unless specifically authorized to do so under this or any other Act.
- (2) A principal accounting officer and the chief executive officer of a public entity shall maintain arrangements to ensure that any commitment made—
  - (a) is authorized under this or any other Act;
  - (b) does not exceed the approved warrant; and
  - (c) is made in accordance with the procedures of the Ministry responsible for finance to control commitments and requirements in regulations, rules or directions.
- (3) A principal accounting officer and the chief executive officer of a public entity shall maintain a proper record of all financial commitments chargeable to each appropriation and item of expenditure.
- (4) If a principal accounting officer, other public officer or public office holder makes a commitment in contravention of the procedures to control commitments, section 117 regarding a surcharge shall apply.

### **31. Reallocations.**

- (1) Where there is an unforeseen need for expenditure, the Minister shall be authorised to reallocate funds of no more than two percent of the total expenditure estimates for the financial year between expenditure heads.
- (2) The Minister shall include the reallocation of funds in the next Appropriation Bill.

### **32. Virements.**

- (1) The Financial Secretary may authorize a principal accounting officer by way of a warrant to vire—

- (a) funds within an expenditure head between non-salary recurrent economic items as specified in regulations; or
  - (b) capital funds within an expenditure head between projects if the projects have the same source of funding.
- (2) The Financial Secretary shall not issue a warrant to authorize the movement of funds—
- (a) from an amount for a transfer to a public entity or transfer to an individual, or benefits for a class of persons, to any other economic classification of expenditure; or
  - (b) from an amount for capital expenditure to non-capital expenditure; or
  - (c) from a transfer for a public entity or Government Business Enterprise for the purposes of expenditure on wages and related benefits.
- (3) Subject to the restrictions in this section, virements within and between programmes and within and between sub-programmes in the same expenditure head shall be made in accordance with regulations.
- (4) When making virements of expenditure, the principal accounting officer shall have regard to the obligation to deliver the performance in the annual budget and annual plan in relation to the funds appropriated, and the Financial Secretary shall have regard to this obligation in issuing a warrant.
- (5) The principal accounting officer shall submit a report on the details of any virements made under this section and the performance of the service affected, to the Ministry responsible for Finance in the form and within the time frame set.
- (6) The Minister shall report to the Parliament in the Mid-Year Review and financial statements on all virements made under this section and the performance of the appropriations affected.

## CASH MANAGEMENT

### **33. Cash planning and management.**

- (1) The Accountant-General shall—
- (a) establish effective procedures for the planning and management of cash which may include establishing a cash management committee;
  - (b) inform the Ministers and chief executive officers of public entities of the approved annual estimates to be administered by the public entity;

- (c) require Ministries and departments to prepare an annual cash plan specified by month for revenues, expenditures and financing and to periodically update the cash plan; and
  - (d) review the revenue, expenditure and financing plans and cash forecasts each month against actual results, and adjust the financing plans and cash forecasts as necessary.
- (2) The chief executive officer shall ensure that —
- (a) the Accountant-General is notified, as soon as practicable, if a public entity forecasts a change, or wishes to make a change affecting the cash plan; and
  - (b) the cash plans provided to the Accountant-General are consistent with the timing of planned purchases and are regularly updated.

## CONSOLIDATED FUND, SPECIAL FUNDS, TRUST ASSETS

### **34. Consolidated Fund.**

- (1) There is a Consolidated Fund as provided for in Article 128 of the Constitution.
- (2) Subject to the provisions of this or any other Act for the time being in force, all public moneys shall be credited to the Consolidated Fund and deposited into the Treasury account or a sub-account of the Treasury Account.
- (3) All public moneys withdrawn from the Treasury Account shall be paid into other bank accounts as the Accountant-General directs.
- (4) Revenues collected in offices of the Government in foreign territories may be utilized to defray expenses of the offices and shall be accounted for as revenues and expenditures as required by accounting standards.
- (5) All moneys received in error into the Consolidated Fund shall be refunded by the Accountant-General before the end of the financial year in which they were received, where possible, and shall not be accounted for as revenue.
- (6) The repayment of money received in error in previous years or of any money refundable under any law shall be a charge on the Consolidated Fund.

**35. Charges on the Consolidated Fund.**

- (1) No sum shall be charged on the Consolidated Fund or warrant issued, except upon the authority of the Constitution, an Appropriation Act, this or any other Act.
- (2) Any sums charged in accordance with subsection (1) shall be for the purpose of meeting the cost of the public services specified in the Appropriation Act for the financial year during which the withdrawal takes place or for statutory expenditure and for other services lawfully charged on the Consolidated Fund.

**36. Special fund.**

- (1) A special fund may be established by an Act of Parliament for a specific purpose and the fund shall be held and administered by the Government.
- (2) The Act establishing the special fund shall specify—
  - (a) the purpose of the fund;
  - (b) the public money to be credited to the special fund; and
  - (c) the public officer or public office holder responsible for the accounting, management, monitoring and reporting of the special fund.
- (3) If the termination of a special fund is not provided for in an Act, the Minister may by order terminate a special fund that has fulfilled its objectives and is not required for a public purpose and all public moneys of the special fund shall be credited to the Consolidated Fund.

**37. Trust assets.**

- (1) All trust assets shall be accounted for separately from other public resources.
- (2) Subject to any other Act and the trust instrument, the Accountant-General shall be responsible for, and shall manage or arrange for the management of, the trust assets.
- (3) The Accountant-General may charge an administration fee which shall be deducted from the trust assets or from income from those assets and the fee shall not exceed one percent of the income earned on those trust assets.
- (4) The Accountant-General may invest any trust assets for periods and on terms and conditions as are beneficial to the trust and in accordance with the trust instrument and any Act applying to the trust assets.

### **38. Unclaimed trust assets**

- (1) Any trust assets that are unclaimed for a period of fifteen years after having become payable to any person entitled to the trust assets, together with any interest, shall be transferred to the Consolidated Fund.
- (2) Where a person claims any trust assets which have been transferred to the Consolidated Fund and establishes a claim to the satisfaction of the Accountant-General, the trust assets shall be paid to that person out of the Treasury Account on the authority of this section and without appropriation.

## **BANKING ARRANGEMENTS**

### **39. Treasury Account.**

- (1) The bank account of the Government, to be known as "the Treasury Account" shall be the principal bank account of the Government and shall be opened, maintained, and operated by the Accountant-General.
- (2) Subject to the provisions of this Act and any regulations, the Accountant-General shall be responsible for the general management and supervision of the cash transactions and accounting operations of the Government and shall be accountable for all public moneys received by the Accountant-General.
- (3) No public entity shall open a bank account in respect of public money, whether in or outside the country, without the prior written authorization of the Financial Secretary.
- (4) No public entity shall incur an overdraft unless authorized in writing by the Financial Secretary.
- (5) The Financial Secretary shall designate a bank with which the Treasury account shall be established and shall authorize the opening of sub-accounts in domestic and foreign commercial banks, to act as transitory bank accounts to facilitate the collection of public money including revenues of public entities, grants, and loan funds and for processing payments.
- (6) Every bank holding public money shall provide information to the Minister, Financial Secretary or Accountant-General in the form and timeframe requested.
- (7) The Financial Secretary may close or direct the closure of a bank account of a public entity and may issue directions in writing respecting the



deposit of the money from the bank account and the bank shall comply with the directions.

- (8) The Financial Secretary may issue a direction regarding the bank accounts of a Government Business Enterprise if the Financial Secretary or the Accountant-General considers it necessary in the public interest to issue a direction.
- (9) The Accountant-General may determine the accounts in the names of public entities, public officers or public office holders or their offices in any bank which shall be included in the Treasury Account and the financial statements of the Government.
- (10) The Accountant-General shall maintain an up-to-date list of the public entities required to use the Treasury Account and shall ensure that the list is published on an official website of the Government.

## FEES AND CHARGES

### **40. Fees and charges.**

A public entity shall levy fees and charges in accordance with any written law.

## GRANTS

### **41. Requirements for grants.**

- (1) The Government shall not accept a grant made to the Government by a foreign Government or any other entity or person unless it has been approved in the annual budget or by the Cabinet after considering the advice of the Minister and the responsible Minister.
- (2) A responsible Minister who proposes to recommend to the Cabinet that a grant be accepted shall provide the Minister with full information on the grant, including the projected amount, any counterpart funding and implications for recurrent costs.
- (3) The Financial Secretary, on behalf of the Government, shall receive all grants made to the Government by a foreign Government or any other entity or person and shall ensure that the grants are credited to the Consolidated Fund or a special fund and deposited in the Treasury Account.
- (4) Any public officer or public office holder who receives a grant shall immediately transfer the funds to the Accountant-General to be credited to the Consolidated Fund or a special fund and deposited in the Treasury Account and failure to do so shall be financial misconduct under this Act

or the matter shall be referred to the Attorney-General to consider instigating a criminal prosecution.

- (5) Each public entity that administers a grant funded project shall use the accounting and auditing procedures prescribed by this Act.
- (6) The Ministry responsible for finance shall not release funding for projects funded by grants to a public entity unless the funding is accounted for as grant revenue in the Government's accounting system authorized under this Act.
- (7) The public entity responsible for an agreement with a donor shall ensure that the agreement requires the donor to provide information to the Ministry responsible for finance on all payments made by the donor under the agreement.

## REMISSIONS, WRITE-OFFS AND SETTLEMENTS

### **42. Remissions.**

- (1) Subject to this Act and any other Act, no sums due to the Government by way of revenue and no other public moneys may be remitted except—
  - (a) in the case of sums not exceeding \$20,000.00, under the authority of the Minister; and
  - (b) in the case of sums exceeding \$20,000.00, under the authority of the Cabinet on the recommendation of the Minister.
- (2) A detailed statement of all amounts remitted under subsection (1) shall be audited by the Auditor-General and included in the financial statements tabled in the House of Assembly in accordance with section 72.
- (3) A recommendation by the Minister to the Cabinet for a remission under this section shall include a report that contains—
  - (a) a description of the proposed remission, including the full value of the remission;
  - (b) the names and addresses of all beneficiaries of the proposed remissions and, if the beneficiary is a company, the names and addresses of the shareholders;
  - (c) a statement of the reasons the Minister considers the proposed remission to be in the public interest or that a hardship or injustice has or is likely to result;
  - (d) an analysis of the costs and benefits of the proposed remission;
  - (e) the conditions to which the remission is subject; and

- (f) a list of the value of all remissions that have been granted to each beneficiary of the proposed remission in the past ten years.
- (4) The Minister or the Cabinet may grant a remission if satisfied that it is in the public interest or that a hardship or injustice has or is likely to result.

#### **43. Settlements.**

- (1) When a claim is made by the Government, whether or not proceedings have been commenced, and the Cabinet is satisfied that it is in the public interest to enter into an agreement to settle the claim for a specified amount, whether or not the amount is less than the amount of the claim, the Attorney-General may settle the claim for the amount in full satisfaction of the claim.
- (2) The Minister may, on the advice of the Attorney General, with the approval of Cabinet, settle a claim where money is required to be paid by the Government —
  - (a) by an order of a court;
  - (b) by an award of the Public Service Board of Appeal;
  - (c) by an arbitration award pursuant to arbitration proceedings; or
  - (d) by a claim against the Government, which has not been heard by a court, Public Service Board of Appeal, or arbitrator and the claim could reasonably be expected to result in an order or award against the Government,

direct the Accountant-General, in writing, to pay the amount in settlement of the claim out of the Consolidated Fund.

#### **44. Write-offs.**

- (1) The Accountant-General may write-off of all or part of a debt due to the Government, up to the value of \$250,000.00 or other sum set by regulations, that the Accountant-General considers to be uncollectible or the collection of which the Accountant-General considers not to be cost effective and such write-off shall be subject to this Act and in accordance with procedures determined by the Accountant-General.
- (2) The Minister may approve a write-off proposed by the Accountant-General of a debt over \$250,000.00 or other sum set by regulations.
- (3) The Cabinet may approve a write-off proposed by the Accountant-General and recommended by the Minister of a debt over \$1,000,000.00.
- (4) The Accountant-General shall execute a certificate for all approved write-offs.
- (5) The write-off of all or part of a debt does not extinguish the right of the Government to collect the debt.

- (6) The Accountant-General shall include a summary of write-offs in the Financial Statements of the Government.

**45. Accounting for remissions, settlements and write-offs.**

- (1) A summary statement of—
- (a) remissions under section 42, settlements under section 43 and write-offs under section 44; and
  - (b) remissions, settlements and write-offs made under the authority of any other Act,
- shall be included in the financial statements.
- (2) The summary statement shall include—
- (a) an itemized list of every remission, settlement or write-off without the names of the persons affected;
  - (b) the type of remission, settlement or write-off;
  - (c) the total value of each remission, settlement or write-off; and,
  - (d) in the case of a remission, settlement or write-off made under the authority of any other law, the authority for the remission, settlement or write-off.
- (3) The Accountant-General shall maintain the record of all remissions, settlements and write-offs including the names of the persons affected and if a company, the names of the shareholders, and shall make the record available for inspection by the Auditor-General or his agents.

## PUBLIC INVESTMENT MANAGEMENT

**46. Public investment projects.**

- (1) For the purpose of public investment projects in sections 47 to 50 “public entity” shall mean an Agency that ordinarily receives fifty percent or more of its operating budget from subventions from the Government and a Government Business Enterprise that ordinarily receives fifty percent or more of its operating budget from subventions from the Government.
- (2) Subsection (1) shall not apply if an Agency or Government Business Enterprise receives fifty percent or more of its operating budget from a subvention of the Government in extraordinary circumstances.

**47. Responsibility of Minister for public investment projects.**

The Minister shall ensure that public investment projects—

- (a) support the government's priorities or are necessary to maintain usual services;
- (b) take account of the effects of climate change on the public investment projects and are designed to manage climate change risks to be resilient to environmental and other challenges; and
- (c) are managed to -
  - (i) achieve efficient, economical and effective delivery of public investment projects;
  - (ii) achieve transparency in procurement and contracting procedures;
  - (iii) maintain assets and ensure funds are available to cover all on-going operating and maintenance costs; and
  - (iv) produce public reports of progress and results.

**48. Public investment project proposals from public entities.**

The chief executive officer of a public entity shall ensure that the requirements for the approval, management and reporting of public investment projects comply with regulations and directions.

**49. Publication.**

- (1) The Minister shall submit, by order of priority, a statement of public investment projects selected for inclusion in the Fiscal Strategy Report under the Fiscal Responsibility Act, 2018 and the annual budget to the Cabinet for approval.
- (2) The Ministry responsible for finance shall evaluate public investment projects that have been included in the annual budget and shall publish the evaluations on an official website of the government.

**50. Directions on public investment projects.**

The Financial Secretary may issue directions on public investment projects.

## FINANCIAL ASSET MANAGEMENT

**51. Financial asset management strategy.**

- (1) The Minister shall table the medium-term financial asset management strategy with the annual budget.
- (2) The medium-term financial asset management strategy shall include the principles applied by the Government in managing the Government's

investment portfolio and in selecting the investment instruments having regard to risk.

**52. Deposit of excess moneys.**

The Accountant-General may, in a manner and at the rates of interest as the Financial Secretary may approve, place on deposit at a bank or banks as the Accountant-General may determine, public moneys as may not be immediately required to meet current transactions.

**53. Authorized investments.**

- (1) The Minister shall, with regard to the medium-term financial asset management strategy, authorize the investment of public moneys forming part of the Consolidated Fund or held in a special fund, sinking fund, or trust account for which provision is made by or under an Act—
  - (a) with a registered bank;
  - (b) in deposits with the Central Bank;
  - (c) in securities approved in accordance with subsection (2); or
  - (d) in a manner authorized by law for the investment of money administered by a trustee.
- (2) The Minister may, if he is satisfied that it is in the public interest and with the prior approval of Parliament, authorize the Financial Secretary to purchase securities, consistent with the medium-term financial asset management strategy, with public money credited to the Consolidated Fund.
- (3) Within two weeks of purchasing securities under subsection (2) the Minister shall—
  - (a) table a report in the House of Assembly containing full details of the securities purchased and any investment grade rating; and
  - (b) table in the House of Assembly a copy of the agreement made in relation to the purchase and, where the securities were purchased from either domestic or foreign companies, a copy of the most recent financial statement of the company shall be attached.
- (4) Where there is no sitting of the House of Assembly within two weeks as provided for in subsection (3) the Minister shall table the report and the copy of the agreement at the next sitting of the House of Assembly after the purchase of the securities.

**54. Crediting interest from investments.**

The interest or dividends received from an investment authorized under section 53 shall be credited to the fund or trust from which the public moneys originated to make the investment.

**55. Investment in an Agency or Government Business Enterprise.**

- (1) Subject to the provisions of any other Act and having regard to the medium-term financial asset management strategy, the Minister may invest in an Agency or a Government Business Enterprise by way of-
  - (a) a loan;
  - (b) a capital contribution in exchange for shares; or
  - (c) an advance to be repaid within the financial year that the advance is made.
- (2) All investments under subsection (1) shall be made under an appropriation.
- (3) All shares held by the Government in an Agency or Government Business Enterprise shall be held in the name of the Accountant-General on behalf of the Government.
- (4) All rights and powers attaching to the shares held by the Government in an Agency or Government Business Enterprise shall be exercised by the Government in accordance with the laws of The Bahamas.

**INTERNAL AUDIT**

**56. Internal Audit Department.**

- (1) There is established for the purposes of enhancing efficiency, accountability and transparency in the management of Government resources an Internal Audit Department within the Ministry responsible for finance.
- (2) The Internal Audit Department shall operate in a manner consistent with international standards for the professional practice of internal auditors to evaluate and improve risk management, control, and governance processes in public entities.
- (3) The responsibilities for the Internal Audit Department shall include —
  - (a) publishing on an official website the standards and procedures consistent with international standards that are the basis for the internal audit function;
  - (b) preparing the annual audit plan that shall provide coverage of major risks and exposures;

- (c) assessing the risk management, control, and governance processes including whether—
    - (i) risks are appropriately identified and managed;
    - (ii) public resources are adequately safeguarded and used as intended;
    - (iii) financial and operating information is accurate, complete, reliable, and timely;
    - (iv) ethical standards and values are established and followed;
    - (v) applicable laws, policies, and procedures are complied with; and
    - (vi) resources are applied to achieve the strategic objectives of the entity and the Government;
  - (d) providing assurance to the chief executive officer that operations are being carried out economically, efficiently, effectively and in compliance with this and other Acts;
  - (e) providing the chief executive officer with professional and impartial opinions and advice on systems of risk management, control and governance, with recommendations concerning activities reviewed; and
  - (f) monitoring and reporting on the implementation of recommendations arising from audit reports.
- (4) This section shall apply to Ministries and departments responsible for a head of expenditure and their units.
- (5) The Financial Secretary shall, as he determines to be necessary, direct the establishment of internal audit functions within Ministries and departments to which this section applies.

#### **57. Director of internal audit.**

- (1) The Internal Audit Department of the Government shall be managed by a Director of Internal Audit or other designated official appointed by the Minister.
- (2) The Director of Internal Audit shall report for management purposes to the Financial Secretary and for functional purposes to the Internal Audit Committee.
- (3) The Director of Internal Audit shall in managing the Internal Audit Department have regard to the technical and professional advice from the Internal Audit Committee.



- (4) The Director of Internal Audit and officers assigned to the Internal Audit Department of the Ministry responsible for finance shall have access to all Ministries and departments, including their premises, property, information, and records in any form, and shall have access to public officers and public office holders to seek explanations necessary to conduct an audit.
- (5) The Director of Internal Audit shall provide a copy of each audit report to the Financial Secretary, the Internal Audit Committee, and the chief executive officer of the Ministry or department audited.

#### **58. Protection from liability.**

No action shall lie against the Department of Internal Audit, the Director of Internal Audit or any officer of his staff, in respect of any act done or omitted to be done by the Department of Internal Audit or by the Director of Internal Audit or any officer of his staff, in the execution in good faith, of its or his functions under the Act.

#### **59. Losses and irregularities or fraud.**

- (1) Where it appears to the Director of Internal Audit that a fraud, serious loss or serious irregularity has occurred in the receipt, custody or expenditure of public money or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property, or in the accounting of the same, he shall immediately bring the matter to the notice of the Auditor-General, Internal Audit Committee and Financial Secretary who shall forthwith report such matter to the Minister who in turn would refer it to the appropriate authorities.
- (2) If a public entity has reason to suspect an irregularity or fraud of public funds, it shall refer the matter forthwith to the Director of Internal Audit, and shall supply to the Director of Internal Audit all information, in its possession relating to the suspected irregularity or fraud.
- (3) If the Director of Internal Audit establishes the existence of a suspected case of irregularity or fraud in the public entity under review, the Director of Internal Audit shall immediately inform—
  - (a) the Permanent Secretary of the public entity, the Financial Secretary and the Auditor-General; or
  - (b) the Secretary to the Cabinet and the Auditor-General, if the Director of Internal Audit deems it more appropriate to do so.

#### **60. Relationship between internal audit and Auditor-General.**

- (1) The Director of Internal Audit shall provide copies of all internal audit reports to the Auditor-General to assist with external audits.

- (2) The Financial Secretary and the Auditor-General may have a memorandum of understanding to facilitate the effective functioning of the internal audit and external audit roles and responsibilities and the memorandum of understanding shall be consistent with the roles and responsibilities in law.

## **61. Internal Audit Committee.**

- (1) There shall be an Internal Audit Committee to oversee the work of the Internal Audit Department.
- (2) The Internal Audit Committee members shall be—
- (a) a Chairperson who shall be appointed by the Minister;
  - (b) the Financial Secretary;
  - (c) two representatives outside of the Government who have qualifications and experience in financial accounting appointed by the Minister;
  - (d) one chief executive officer from an Agency selected by the Minister; and
  - (e) one chief executive officer of a Ministry selected by the Minister.
- (3) The provisions of the *Second Schedule* shall have effect with respect to the procedures of the Committee and otherwise in relation thereto.
- (4) The Internal Audit Committee shall—
- (a) recommend and periodically review an internal audit charter for the Government for approval by the Financial Secretary;
  - (b) provide advice to the Financial Secretary on the sufficiency of resources of the Internal Audit Department;
  - (c) review and recommend, for approval by the Financial Secretary, an annual internal audit plan which shall include the resources for the Internal Audit Department, the scope of work, and planned activities;
  - (d) adopt standards consistent with international standards for the professional practice of internal auditors and set requirements for the internal audit function, including the content, timing and circulation of internal audit reports, and shall communicate the standards and requirements to public officers and public office holders, including internal auditors;
  - (e) review and recommend, for approval, internal audit reports and corresponding management action plans to address recommendations;

- (f) require public officers or public office holders to attend meetings to explain the reasons for deficiencies in internal audit reports and the plans and actions to correct the deficiencies;
- (g) review reports on progress against the annual audit plan and requests from chief executive officers, public officers or public office holders for advice, audit of projects, or other assistance;
- (h) assess and make recommendations to improve the performance of the internal auditors of the Government;
- (i) provide advice to the Financial Secretary on the recruitment, appointment, and performance management of the Director of Internal Audit;
- (j) provide the Director of Internal Audit with direct access to the Internal Audit Committee; and
- (k) refer matters for consideration by appropriate authorities.

**62. Secretariat for Internal Audit Committee.**

The Ministry responsible for finance shall provide secretariat services for the Internal Audit Committee.

**63. Internal audit function in an Agency or a Government Business Enterprise.**

- (1) An Agency or a Government Business Enterprise shall have an internal audit function.
- (2) An Agency or Government Business Enterprise shall submit a copy of an internal audit report of that Agency or Government Business Enterprise to the—
  - (a) Accountant-General;
  - (b) Internal Audit Committee; and
  - (c) Auditor-General,when requested to do so by the Financial Secretary.

**64. Directions to ministries and departments on internal audit.**

The Financial Secretary may, after consulting with the Internal Audit Committee, issue directions with respect to the internal audit function consistent with this Act to ministries and departments.

## EXTERNAL AUDIT OF PENSION PLANS

### **65. Pension plan audit.**

The Government shall ensure that an independent external audit is undertaken of the various liabilities of the Government pension plans at least every five years.

## **PART V ACCOUNTS AND REPORTS**

### ACCOUNTING

### **66. Principal accounting officers.**

- (1) A principal accounting officer shall be responsible for the accounting for —
  - (a) all revenues;
  - (b) all expenses and expenditure; and
  - (c) all assets and liabilities relating to the operations of the Ministry or Department under his responsibility.
- (2) A principal accounting officer may, in writing, delegate to an officer on the conditions as he determines, any of his functions arising under or by virtue of this Act, but the delegation does not relieve a principal accounting officer of his accountability under this Act.

### **67. Directions to principal accounting officers.**

- (1) The Financial Secretary may issue directions to principal accounting officers with respect to—
  - (a) the preparation of estimates in the form of a budget; or
  - (b) other matters to ensure the proper functioning of the public finance management arrangements consistent with this Act.
- (2) The Accountant-General may issue directions to principal accounting officers with respect to —
  - (a) the collection, payment, management and administration of, and the accounting for, public moneys;
  - (b) banking arrangements;
  - (c) the purchase, receipt, custody, issue, sale, transfer or delivery of any stamps, securities, goods or other Government property;
  - (d) the keeping of records of the Government; or

- (e) any other purpose necessary for the efficient administration of the financial business of the Government consistent with the roles and responsibilities of the Accountant-General.

**68. Timing of accounting for moneys recovered.**

The recovery by the Government of an expenditure charged to an appropriation for goods or services received—

- (a) before the end of the financial year in which the expenditure was made shall be credited to the appropriation against which the expenditure was charged; or
- (b) after the end of the financial year shall be credited to the appropriate revenue account of the financial year in which it is received.

## REPORTING AND TRANSPARENCY REQUIREMENTS

**69. Monthly summary reports.**

- (1) The Financial Secretary shall prepare a monthly summary report on the performance of the Government's revenue, expenditure and borrowings against the annual budget and Appropriation Act and the monthly summary report shall include key developments impacting the public finances.
- (2) The Minister shall provide the monthly summary report to the Cabinet no later than four weeks after the end of each month to which the report relates, except for the June report which shall be no later than eight weeks after the end of the month.
- (3) The Financial Secretary shall publish the monthly summary report on the official website of the Government or other website established by the Ministry responsible for finance no later than one week after the report is provided to Cabinet.
- (4) The Auditor-General or the Director of Internal Audit may audit the monthly summary reports referred to in this section.
- (5) The Financial Secretary shall provide the information required by the Director of Internal Audit to conduct the audit.
- (6) The Financial Secretary shall provide other periodic reports on financial or non-financial matters to the Minister as required by the Minister.

## **70. Quarterly report.**

- (1) The Financial Secretary shall prepare a quarterly report on the financial performance of the Government against the annual budget and Appropriation Act.
- (2) The Financial Secretary shall publish the quarterly report on the official website of the Government or other website established by the Ministry responsible for finance no later than four weeks after the end of the quarter, except for the fourth quarter which shall be no later than eight weeks after the end of the quarter.
- (3) The Auditor-General or the Director of Internal Audit may audit the quarterly reports referred to in this section.
- (4) The Financial Secretary shall provide the information required by the Auditor-General or the Director of Internal Audit to conduct the audit.
- (5) The Financial Secretary shall provide other periodic reports on financial or non-financial matters to the Minister as required by the Minister.

## **71. Mid-Year Review.**

The Minister shall table in Parliament, no later than the last Wednesday of February, a Mid-Year Review on progress as measured against the fiscal strategy report and the annual budget, and the report shall include the contents described in the *Fourth Schedule* of the Fiscal Responsibility Act, 2018.

## **72. Financial statements of the Government.**

- (1) In respect of each financial year and within a period of two months after the close of the financial year principal accounting officers shall prepare, sign and transmit to the Financial Secretary and the Accountant-General, in the manner as the Financial Secretary may approve,—
  - (a) appropriation accounts in respect of the heads for which they are responsible;
  - (b) a statement of performance for each programme of the Ministry including the results achieved by the Ministry during the year as compared with the programmes budgeted for that year;
  - (c) a schedule of capital assets at the balance sheet date;
  - (d) a statement of the commitments and any other liabilities in relation to the activities of the Ministry as at the balance sheet date;
  - (e) other statements as are necessary to fairly reflect the financial operations of the Ministry;

- (f) budgeted figures for the financial year and comparative actual and budgeted figures for the previous financial year; and
  - (g) statements of commitments, receipts, revenue, receivables, refunds, and waivers.
- (2) In respect of each financial year and within a period of two months after the close of the financial year the officer primarily responsible for a fund to which moneys have been appropriated by Parliament or approved under another Act shall prepare, sign and transmit to the Financial Secretary and the Accountant-General financial statements in respect of the fund.
- (3) The annual financial statements shall be prepared in accordance with accounting standards and practices required by the Accountant-General under this Act.
- (4) In respect of each financial year and within a period of three months after the close of each financial year, the Accountant-General shall prepare, sign and transmit to the Auditor-General, to be audited, the following statements in respect of the Government—
- (a) a statement of the financial position at the balance sheet date;
  - (b) a statement of financial performance;
  - (c) a statement of cash flows;
  - (d) a statement of borrowings;
  - (e) a statement of sinking fund and sinking fund assets;
  - (f) a statement of arrears of the Government with each public entity and Government Business Enterprises;
  - (g) a statement of contingent liabilities of the Government as at the balance sheet date including any Government guarantees or indemnities;
  - (h) a statement of all amounts remitted, settled and written-off;
  - (i) a statement of accounting policies;
  - (j) any other statements as are necessary to fairly reflect the financial operations of the Government for that year and its financial position at the end of the financial year; and
  - (k) in relation to each statement required by paragraphs (a) to (h) of this subsection and, where appropriate, paragraph (j) of this subsection—
    - (i) comparative budgeted and actual figures for the financial year; and
    - (ii) comparative budgeted and actual figures for the previous financial year.

- (5) The Minister shall table the audited annual financial statements and accounts in the House of Assembly not later than six months after the end of the financial year to which the statements and accounts relate.

**73. Annual report on non-financial performance.**

- (1) The Minister shall no later than three months after the end of every financial year prepare an annual report on the non-financial performance of the Government for the year and shall include information specified in the *Third Schedule*.
- (2) The annual report on the non-financial performance of the Government shall be tabled in the House of Assembly no later than the day the Minister tables the audited annual financial statements and accounts of the Government.

**74. Publication of financial statements, audit opinions and annual reports.**

The Financial Secretary shall publish the audited annual financial statements and accounts, the audit opinion, and the annual report on the non-financial performance of the Government on the official website of the Government or other website established by the Ministry responsible for finance no later than one week after these documents have been tabled in the House of Assembly.

**75. Public Accounts Committee.**

- (1) The Public Accounts Committee of the House of Assembly shall—
- (a) review the annual audited financial statements of the Government and the annual report on non-financial performance;
  - (b) review the annual reports including the non-financial performance achieved and the audited financial statements for each public entity and Government Business Enterprise; and
  - (c) report to the House of Assembly on the results of the reviews no later than the first week of the eighth month of the financial year following the financial year under review and the report shall include recommendations on actions to be taken.
- (2) The chairperson of the Public Accounts Committee shall ensure that the Public Accounts Committee meets as often as is necessary to perform the functions required by this Act.
- (3) The House of Assembly shall—
- (a) consider the report of the Public Accounts Committee on the reviews set out in subsection (1);



- (b) review the report of the Auditor-General on the accounts and other performance of the Government; and
  - (c) debate the recommendations in the reports referred to in this subsection.
- (4) The House of Assembly shall complete the reviews and debates on the recommendations in the reports in this section no later than the end of the ninth month after the end of the financial year to which the reports and reviews in this section relate.

## **PART VI ENTITY ACCOUNTABILITY**

### **GENERAL MATTERS**

#### **76. Classification of entities.**

- (1) An Agency is an entity listed in the *Fourth Schedule*.
- (2) A public entity shall be classified as an Agency if the entity—
  - (a) is not or is not suited to be a ministry, a department, a part of a ministry, or Government Business Enterprise;
  - (b) is owned or controlled by the Government;
  - (c) has a mandate that requires—
    - (i) a greater degree of flexibility to manage resources than is possible for a ministry; and
    - (ii) a greater degree of autonomy in fulfilling its mandate than is the case for a ministry.
- (3) An entity shall be classified as a Government Business Enterprise if the entity—
  - (a) is owned or controlled by the Government;
  - (b) provides or will provide services in the market or undertakes commercial activities that are or could be carried out by a private sector operator; and
  - (c) does or has potential to operate successfully with the primary objective to operate as a successful business and to earn a similar return on the owners' funds over the medium-term as that earned by comparable businesses not owned by the Government.
- (4) Every Government Business Enterprise shall be listed in the *Fifth Schedule*.
- (5) The Central Bank of The Bahamas, the Compliance Commission of The Bahamas, the Financial Intelligence Unit, the Gaming Board of The Bahamas, the Utilities Regulation and Competition Authority (URCA),

the Insurance Commission of The Bahamas and the Securities Commission of The Bahamas shall not be classified as an Agency or Government Business Enterprise under this Act.

- (6) Before establishing an Agency or a Government Business Enterprise the Cabinet shall consider the costs, benefits and risks, including the fiscal costs to the Government over the long term and the Minister shall present a report on these matters to Cabinet prior to establishing the entity.
- (7) After the commencement of this Act, a Government Business Enterprise shall be incorporated under the Companies Act, 2000 unless the Cabinet determines otherwise and an Agency shall be established by written law.
- (8) The Government shall from time to time review the classification and form of an entity or a group of entities to assess whether the classification and form are best suited to the economical, efficient, and effective achievement of the mandate of the entity.

#### **77. Responsible Minister.**

- (1) The Minister responsible for an Agency or Government Business Enterprise shall be the Minister charged with the responsibility for the Agency or the Government Business Enterprise by the Governor-General in accordance with Article 77 of the Constitution.
- (2) The Minister responsible for an Agency or a Government Business Enterprise shall be responsible to the House of Assembly for the performance of the functions given to him by this Act and other Acts, including the requirement to oversee and direct in accordance with this Act, the Agency or Government Business Enterprise under his responsibility to achieve the performance specified in the annual budget and the annual plan of the Agency and the performance specified in the statement of corporate intent and business plan for a Government Business Enterprise.

#### **78. Specific responsibilities of the Minister.**

The Minister shall have the responsibility for financial management for Agencies and Government Business Enterprises including—

- (a) reviewing the financing intentions including the forecast financial statements and dividend proposal in the business plan of a Government Business Enterprise;
- (b) approving Government loans and guarantees for Agencies and Government Business Enterprises;

- (c) approving significant financing proposals for Agencies and Government Business Enterprises;
- (d) setting and enforcing the Government's ownership expectations for Government Business Enterprises;
- (e) monitoring the financial performance and risks of Agencies and Government Business Enterprises;
- (f) approving the code of corporate governance to be applied by Agencies and Government Business Enterprises; and
- (g) other responsibilities in this and other Acts.

**79. Code of Corporate Governance.**

The Minister shall issue a code of corporate governance that shall be complied with by a board of an Agency or Government Business Enterprise.

**80. Chief executive officers of Agencies and Government Business Enterprises.**

- (1) The board of the Agency or the board of the Government Business Enterprise shall appoint the chief executive officer who shall be responsible to the board for managing the Agency or Government Business Enterprise.
- (2) The board of the Agency or the board of the Government Business Enterprise shall have an employment contract with the chief executive officer which shall not exceed a period of three years, extendable at the discretion of the board and by agreement with the chief executive officer, provided that an extension shall not exceed two years before either terminating or a formal agreement being made to grant a further extension.
- (3) The employment contract for a chief executive officer of an Agency or a Government Business Enterprise and the law applying to the contract shall form the basis for the employment relationship.
- (4) Any employment contract for a chief executive officer or an appointment of a chief executive officer by the Minister in existence at the commencement of this Act shall remain in place until the appointment expires and any new appointment shall be made in accordance with this section.

**81. Accounting standards.**

- (1) A public entity shall implement international accounting standards and practices in accordance with the accounting standards and directions issued by the Accountant-General under this Act and shall keep proper books of account of its revenues, expenditures assets and liabilities.

- (2) A Government Business Enterprise shall implement international accounting standards and shall keep proper books of account of the revenues, expenditures, assets and liabilities.

**82. Synchronization of financial years.**

Every public entity and Government Business Enterprise shall have the same financial year as the Government.

## AGENCY ACCOUNTABILITY

**83. Agency annual plan.**

- (1) Each Agency specified in the *Fourth Schedule* shall have an annual plan that shall include the information specified in the *Sixth Schedule*.
- (2) The Agency shall provide the annual plan and budget to the responsible Ministry and to the Ministry responsible for finance by the date set by the Financial Secretary.
- (3) The budget of the Agency shall be incorporated in the annual budget.
- (4) Each responsible Minister shall table the annual plan of the Agency in the House of Assembly on the same day as the annual budget is tabled.
- (5) The Agency shall publish the annual plan on the official website of the Agency and on the official website of the Government no later than one week after the annual budget has been approved by the Parliament.

**84. Reporting by an Agency.**

The board and chief executive officer of an Agency shall ensure that the reporting requirements of this Act are complied with.

**85. Monthly and quarterly reporting by an Agency.**

- (1) Every Agency that receives fifty percent or more of its operating budget from subventions from the Government shall prepare and submit to the Minister monthly and quarterly financial statements and reports within thirty days of the end of the reporting period.
- (2) The financial statements and reports referred to in subsection (1), shall be signed by the chief executive officer or the chief financial officer.
- (3) Where an Agency has a board, the financial statements and reports referred to in subsection (1) shall be reviewed and endorsed by the board, or by a subcommittee or a member of the board designated by the board to

review and endorse the financial statements and reports referred to in subsection (1).

- (4) The Minister may, by regulations, prescribe the form and content for the monthly and quarterly financial statements and reports.
- (5) The Minister may withhold any subventions payable to an Agency where there is—
  - (a) a delay in the submission of any of the reports required under this section; or
  - (b) a deficiency in the content of any of the reports required under this section, and the Minister believes that the delay or deficiency is not reasonably justified.

#### **86. Mid-Year and annual report by an Agency.**

- (1) The board of an Agency shall cause to be provided to the responsible Minister and the Financial Secretary a mid-year report no later than one month after the end of the first six months of the financial year.
- (2) The board of an Agency shall cause to be provided to the responsible Minister and the Financial Secretary an annual report no later than four months after the end of the financial year.
- (3) The mid-year report and annual report shall include the information contained in the *Seventh Schedule*.
- (4) The annual report for each Agency shall be—
  - (a) audited for the financial statements, by an independent auditor appointed by the board with the approval of the Minister;
  - (b) shall be audited by the Auditor-General or his agents, for service performance measured against the annual plan, from a date to be determined by the Minister by order;
  - (c) tabled in the House of Assembly by the responsible Minister no later than six months after the end of the financial year; and
  - (d) published by the Agency on the website of the Agency no later than one week after the annual report is tabled in the House of Assembly.
- (5) The Auditor-General shall, at any time, be entitled to inspect and audit the accounts and records of financial transactions of the Agency and records relating to assets of, or in the custody of, the Agency.
- (6) Notwithstanding subsection (2), the board of the National Insurance Board shall cause to be provided to the responsible Minister and the Financial Secretary an annual report no later six months after the end of the financial year and the responsible Minister shall table the annual report in the House of Assembly no later than eight months after the end of the financial year.

## **87. Review of an Agency.**

- (1) The Ministry responsible for finance shall monitor and review the performance of an Agency including—
  - (a) compliance with this Act;
  - (b) financial performance;
  - (c) non-financial performance;
  - (d) fiscal risks; and
  - (e) any other matters specified by the Minister.
- (2) The Financial Secretary may review the performance of an Agency against the requirements of this Act, the annual budget and the annual plan of the Agency and may provide a report to the Minister and the responsible Minister on the performance no later than the 30<sup>th</sup> November each year.
- (3) A responsible Minister shall have responsibility to monitor and review the overall performance of an Agency in his portfolio and the role of the Minister in this Act shall not absolve the responsible Minister from his responsibility.
- (4) A responsible Minister or the Minister may commission a formal review of an Agency.
- (5) The board, chief executive officer and staff of an Agency shall cooperate with a review under this Act and shall supply to the responsible Minister, the Minister and the Ministry responsible for finance, or their agents, with the information relating to the affairs of the Agency.
- (6) A Minister may have an output agreement and performance review process with an Agency providing public services funded from the budget of the responsible Minister.
- (7) The board of an Agency, when reviewing the annual performance of the chief executive officer, shall consider—
  - (a) the performance review of the output agreement with the Agency;
  - (b) the performance of the Agency measured against the annual plan; and
  - (c) the report referred to in subsection (2).
- (8) An Agency may have a service agreement and performance review process with an entity providing services funded by the Agency.

## GOVERNMENT BUSINESS ENTERPRISE ACCOUNTABILITY

### **88. Objective of a Government Business Enterprise.**

The board of each Government Business Enterprise shall ensure that the Government Business Enterprise—

- (a) achieves the primary objective to operate as a successful business and to earn a return on the Government's funds over the medium-term as that earned by comparable businesses not owned by the Government; and
- (b) achieves additional objectives contained in the statement of corporate intent and business plan.

### **89. Statement of corporate intent and business plan.**

The board of each Government Business Enterprise shall, by the 15<sup>th</sup> December of each year, provide a statement of corporate intent and business plan for the Government Business Enterprise and its subsidiaries to the Minister and the responsible Minister for their approval.

### **90. Contents of statement of corporate intent.**

The statement of corporate intent for the Government Business Enterprise and its subsidiaries shall include the information in the *Eighth Schedule*.

### **91. Contents of business plan.**

The business plan for the Government Business Enterprise and its subsidiaries shall include the information contained in the *Ninth Schedule*.

### **92. Tabling and publication of statement of corporate intent.**

- (1) The responsible Minister shall table the statement of corporate intent for each Government Business Enterprise in the House of Assembly on the same day as the annual budget is tabled.
- (2) The chief executive officer of each Government Business Enterprise shall publish the statement of corporate intent on the website of the Government Business Enterprise no later than one week after the annual budget has been approved by the Parliament.

### **93. Dividend.**

- (1) The board of a Government Business Enterprise shall establish a general policy on dividends in consultation with the responsible Minister and the Minister.

- (2) The responsible Minister shall ensure that the dividend policy is adopted by the management of the Government Business Enterprise, taking due consideration of the financial well being of the Government Business Enterprise.
- (3) Dividends or other profit distribution from a Government Business Enterprise paid to the Government shall be included in the annual budget presented to Parliament and shall be credited to the Consolidated Fund and paid into the Treasury Account.
- (4) Dividend payments owed to the Government by a Government Business Enterprise shall not be set-off against any moneys owed by the Government to the Government Business Enterprise.

**94. Monthly and quarterly reporting by a Government Business Enterprise.**

- (1) Every Government Business Enterprise that receives fifty percent or more of its operating budget from subventions from the Government shall prepare and submit to the Minister monthly and quarterly financial statements and reports within thirty days of the end of the reporting period.
- (2) The financial statements and reports referred to in subsection (1), shall be signed by the chief executive officer or the chief financial officer.
- (3) Where a Government Business Enterprise has a board, the financial statements and reports referred to in subsection (1) shall be reviewed and endorsed by the board, or by a subcommittee or a member of the board designated by the board to review and endorse the financial statements and reports referred to in subsection (1).
- (4) Where there is a conflict between this section and any other provision in any other law, this section shall prevail.
- (5) The Minister may by regulations prescribe the form and content for the monthly and quarterly financial statements and reports.
- (6) The Minister may withhold any subventions payable to a Government Business Enterprise where there is—
  - (a) a delay in the submission of any of the reports required under this section; or
  - (b) a deficiency in the content of any of the reports required under this section, and the Minister believes that the delay or deficiency is not reasonably justified.



**95. Mid-year and annual reports of a Government Business Enterprise.**

- (1) The board of a Government Business Enterprise shall cause to be prepared a mid-year report and an annual report for the Government Business Enterprise and its subsidiaries, including financial statements in accordance with the provisions of this Act, and the Companies Act 2000.
- (2) The board of a Government Business Enterprise shall cause a mid-year report to be provided to the responsible Minister and the Financial Secretary no later than one month after the end of the first six months of the financial year.
- (3) The board of a Government Business Enterprise shall cause an annual report to be provided to the responsible Minister and the Financial Secretary no later than four months after the end of the financial year.
- (4) The mid-year report and the annual report of a Government Business Enterprise shall include the information contained in the *Tenth Schedule*.
- (5) The annual report for each Government Business Enterprise shall be—
  - (a) audited for the financial statements, by an independent auditor appointed by the board with the approval of the Minister;
  - (b) shall be audited by the Auditor-General or his agents, for service performance measured against the business plan, from a date to be determined by the Minister by order;
  - (c) tabled in the House of Assembly by the responsible Minister no later than six months after the end of the financial year; and
  - (d) published on the website of the Government Business Enterprise no later than one week after the annual report is tabled in the House of Assembly.
- (6) The Auditor-General shall, at any time, be entitled to inspect and audit the accounts and records of financial transactions of the Government Business Enterprise and records relating to assets of, or in the custody of, the Government Business Enterprise.

**96. Government shareholding.**

- (1) If the Government is a minority shareholder in a publicly listed company, sections 88 to 95 shall not apply and the shareholding shall be subject to the provisions of the Companies Act 2000 and other written law.
- (2) If the Government holds more than fifty percent but less than one hundred percent of the shares in a publicly listed company, the Government shall exercise its rights in accordance with the Companies Act 2000 and sections 88 to 95 shall apply only so far as they are consistent with the Companies Act 2000.

- (3) The shares of a company referred to in subsections (1) and (2) shall be held in the name of the Accountant-General on behalf of the Government.

**97. Review of a Government Business Enterprise.**

- (1) The Ministry responsible for finance shall monitor and review the performance of the Government Business Enterprise including—
- (a) compliance with this Act;
  - (b) financial performance;
  - (c) non-financial performance;
  - (d) fiscal risks; and
  - (e) other matters specified by the Minister.
- (2) The Financial Secretary may review the performance of each Government Business Enterprise against the requirements of this Act, the statement of corporate intent and the business plan and shall provide a report to the Minister on the performance no later than the 30<sup>th</sup> November of each year.
- (3) A responsible Minister who is not the Minister, shall have responsibility to monitor and review the overall performance of a Government Business Enterprise in his portfolio and the role of the Minister in this Act shall not absolve the responsible Minister from his responsibility.
- (4) A responsible Minister may commission a formal review of the overall performance of a Government Business Enterprise in his portfolio.
- (5) The board, chief executive officer and staff of a Government Business Enterprise shall cooperate with a review under this Act and shall supply to the responsible Minister, the Minister and the Ministry responsible for finance, or their agent, the information relating to the affairs of the Government Business Enterprise or any of its subsidiaries.
- (6) The board shall consider the performance of the Government Business Enterprise compared to the statement of corporate intent, the business plan and the report referred to in subsection (2) when reviewing the performance each year for the chief executive officer of the Government Business Enterprise.
- (7) A Government Business Enterprise may have a service agreement and performance review process with an entity providing services funded by the Government Business Enterprise.

## MINISTRY ACCOUNTABILITY

### **98. Annual plan for Ministry.**

- (1) Each Ministry shall produce an annual plan which shall contain the information in the *Sixth Schedule*.
- (2) The Permanent Secretary of the Ministry shall—
  - (a) ensure that the annual plan and its budget comply with the annual budget and other instructions from the Ministry responsible for finance;
  - (b) agree the annual plan with the responsible Minister;
  - (c) submit the annual plan and its budget to the Ministry responsible for finance by a date to be specified by the Financial Secretary; and
  - (d) publish the annual plan on the official website of the Government no later than one week after the annual budget has been approved by the Parliament.
- (3) Each responsible Minister shall table the annual plan in the House of Assembly on the same day as the annual budget.

### **99. Mid-Year and annual report of a Ministry.**

- (1) Each Permanent Secretary shall cause to be provided to the responsible Minister and the Financial Secretary a mid-year report no later than one month after the end of the first six months of the financial year.
- (2) The Permanent Secretary shall provide the responsible Minister, the Minister and Financial Secretary with an annual report no later than two months after the end of the financial year.
- (3) The mid-year report and annual report shall include information in the *Seventh Schedule*.
- (4) The annual report for each Ministry shall be—
  - (a) audited by the Auditor-General or his agents for the financial statements and from a date to be determined by the Minister shall be audited for service performance against the annual plan;
  - (b) tabled in the House of Assembly by the responsible Minister no later than six months after the end of the financial year; and
  - (c) published by the Ministry on the official website of the Government no later than one week after the annual report has been tabled in the House of Assembly.

#### **100. Review of Ministry.**

- (1) The responsible Minister or the Minister may commission a performance review of a Ministry.
- (2) The responsible Minister shall monitor the overall performance of the Ministry and may have an output agreement and performance review process with the Permanent Secretary of the Ministry he is responsible for or with any other Ministry providing services funded from the budget the Minister is responsible for.
- (3) The Financial Secretary may review the performance of each Ministry to ensure compliance with the requirements of this Act and may provide a report to the Minister and the responsible Minister on the performance no later than the 30<sup>th</sup> November each year.
- (4) A Permanent Secretary may have a service agreement and performance review process with an entity providing services funded from the budget of the Ministry.

### **LOCAL GOVERNMENT ACCOUNTABILITY**

#### **101. Local Government annual plans and budgets and reports.**

- (1) The Council of every Local Government District shall produce a draft annual plan and budget which shall have a range of goals over the medium-term with a focus on the forthcoming financial year and which shall include the information in the *Sixth Schedule*.
- (2) The Ministry responsible for finance, after consultation with the Minister responsible for Local Government, shall specify the format, contents and quality of information for the annual plan, budget and annual report.
- (3) During the preparation of the draft annual plan and budget in the form required by this Act, the Ministry responsible for finance may permit a Council of a Local Government District to provide less information than required by this section.
- (4) The Director of Local Government shall—
  - (a) produce a consolidated draft annual plan and budget;
  - (b) ensure that the consolidated draft annual plan and budget comply with the directions issued pursuant to this Act, including adhering to expenditure limits and any other limits;

- (c) consult with the Council of each Local Government District in a manner to be determined by the Permanent Secretary of Local Government on any significant changes in the annual plan;
  - (d) agree the consolidated draft annual plan and budget with regard to funds from the central Government and with the Minister responsible for Local Government by the 31<sup>st</sup> December each year;
  - (e) submit the consolidated draft annual plan and budget to the Permanent Secretary for the Ministry responsible for Local Government, who shall forward the documents to the Ministry responsible for finance by the 31<sup>st</sup> January each year; and
- (5) The Minister responsible for Local Government shall consult with the Minister on the draft annual plan and budget and shall present these documents to the Cabinet for discussion and for approval of the aggregate budget figures no later than the 1<sup>st</sup> March each year.
  - (6) The Minister responsible for Local Government shall table the annual plan in the House of Assembly on the same day as the annual budget.
  - (7) The Director of Local Government shall publish the annual plan on an official website of the Local Government or on the official website of the Government or on both websites no later than one month after the approval of the annual budget and approval of the annual plan.

## **102. Reporting by a Local Government and auditing of reports.**

- (1) The Director of Local Government shall provide the Minister responsible for Local Government and the Ministry responsible for finance with a mid-year report no later than one month after the end of the first six months of the financial year in a form specified by the Ministry responsible for finance and determined after consultation with the Ministry responsible for Local Government.
- (2) The Director of Local Government shall produce an annual report that shall include the information in the *Seventh Schedule*.
- (3) The Director of Local Government shall ensure that the annual report is —
  - (a) provided to the Auditor-General within three months of the end of the financial year;
  - (b) presented together with the audit opinion, by the Permanent Secretary for Local Government to the Minister responsible for Local Government, and the Minister within six months of the end of the financial year;
  - (c) presented together with the audit opinion of the Auditor-General by the Minister responsible for Local Government to the House of Assembly within six months from the end of the financial year; and

- (d) published together with the audit opinion by the Local Government on the website of the Local Government or the official website of the Government within one week of providing the audited annual report to the Local Government.

### **103. Review of Local Government.**

- (1) The Minister responsible for Local Government shall have principal responsibility for the review of the overall performance of a Local Government District and may commission a performance review measured against the annual plan of each Local Government District.
- (2) The Minister shall have the principal responsibility for the review of the performance of the financial management of a Local Government District and may commission a review of financial performance.

## **PART VII COLLECTION OF REVENUE**

### **104. Priority of tax payments.**

- (1) Where interest, a penalty or fine is payable by any person in respect of a tax payable by him, the Financial Secretary shall apply any payment made by that person in the following order of priority —
  - (a) the penalty;
  - (b) where payment exceeds the amount of the penalty; the fine;
  - (c) where payment exceeds the amount of the penalty and the fine; the interest;
  - (d) where payment exceeds the amount of the penalty, fine and interest; the tax.
- (2) The Financial Secretary shall lodge payments made in satisfaction of taxes imposed by the enactments set out in the *Eleventh Schedule* in the priority in which the enactments are there set out.

## **TAX COMPLIANCE CERTIFICATE**

### **105. Requirement for Tax Compliance Certificate.**

- (1) A Tax Compliance Certificate is required for the purpose of —
  - (a) submitting a tender for the award of a contract with the Government or an agency or Government Business Enterprise;

- (b) collecting payment for services rendered under a contract awarded by the Government or a or an agency or Government Business Enterprise where the value of the contract is \$10,000 or more;
  - (c) receiving a concession in accordance with the provisions of any legislation conveying a concession;
  - (d) registering the ownership of or changing the ownership in any registerable good on which the tax is required to be paid.
- (2) Notwithstanding subsection (1), the Minister may permit the award of a contract to a person who does not possess a Tax Compliance Certificate where it is in the public interest to do so.
- (3) Where an applicant for a Tax Compliance Certificate is a company, the Financial Secretary may require any other —
- (a) company with similar shareholding; or
  - (b) business with similar ownership,
- to satisfy its tax obligations under the enactments in the *Twelveth Schedule* before issuing a Tax Compliance Certificate to the applicant company, where the Financial Secretary has reasonable cause to believe that the company with similar shareholding or similar ownership was established to evade the payment of taxes due by the applicant company.
- (4) For the purposes of subsection (3) “**similar shareholding**” means where the significant shareholders are represented in the same proportion in another company.
- (5) In this section, “**registerable goods**” has the same meaning as defined in section 2 of the Value Added Tax Act.

#### **106. Issuance of Tax Compliance Certificate.**

- (1) A Tax Compliance Certificate shall be issued by the Financial Secretary to an applicant where the applicant has satisfied the Financial Secretary that he has fulfilled the relevant obligations to pay moneys due to the Government under the enactments specified in the *Twelveth Schedule*.
- (2) A person shall make an application to the Financial Secretary for a Tax Compliance Certificate in the form prescribed.
- (3) A Tax Compliance Certificate issued in accordance with the Act shall be valid for six months.

#### **107. Revocation of Tax Compliance Certificate.**

The Financial Secretary may revoke a Tax Compliance Certificate issued under section 106 upon finding that at the time of making the application, the applicant knowingly furnished particulars that are found to be —

- (a) materially incomplete;

- (b) false; or
- (c) likely or calculated to deceive.

#### **108. Report on contracts awarded.**

- (1) Every public entity and Government Business Enterprise shall produce to the Financial Secretary on or before the 30th day of March in every year a report of the persons to whom it has awarded contracts.
- (2) Notwithstanding subsection (1), where a public entity is required to produce an annual report under section 86, and a Government Business Enterprise is required to produce an annual report under section 95 the report required under subsection (1) may form a part of that annual report.

#### **109. Revenue collectors.**

- (1) The Minister may, after consultation with the revenue and taxing agencies, assign public officers and engage contract workers for specific periods (“revenue collectors”) —
  - (a) to investigate all matters related to revenue collection, management, and actual and potential revenue fraud; and
  - (b) to focus on the collection of outstanding revenue and taxes, subject to the provisions of any law with respect to the collection of revenue and taxes.
- (2) A revenue collector shall —
  - (a) be under the management and administrative control of the Financial Secretary;
  - (b) have access to all revenue related information, files and information systems as may be incidental to the performance of their investigative and analytical duties.
- (3) Any revenue and taxing agency shall cooperate with revenue collectors with respect to investigations undertaken by revenue collectors including but not limited to access to facilities, access to and interaction with officers of the revenue and taxing agency, and receipt of actionable information.
- (4) Notwithstanding any other law, any revenue and taxing agency in receipt of actionable information from a revenue collector must report to the Financial Secretary within twenty-one days—
  - (a) on the status or the outcome of the actionable information; and
  - (b) on the final outcome of any actionable information indicating any action taken.



- (5) No request for information in connection with any investigation may be made directly to a revenue collector, except for a lawful request made by —
- (a) the Attorney-General;
  - (b) the Director of Public Prosecutions;
  - (c) the Royal Bahamas Police Force;
  - (d) the Ministry of Public Service or the Public Service Commission;
  - (e) the Department of Internal Audit;
  - (f) the Department of the Auditor-General;
  - (g) any appointed Commission of Inquiry;
  - (h) any committee of Parliament; or
  - (i) any other person required to do so by law.
- (6) Any person who obstructs a revenue collector in the exercise of —
- (a) any investigation carried out under this section; or
  - (b) any power conferred under this section,
- commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding five years.
- (7) For the purposes of this section,
- "actionable information"** means any intelligence, evidence or data that would be provided to an revenue and taxing agency by a revenue collector that the revenue collector has reason to believe to represent outstanding revenue, actual or potential revenue fraud, or deficiency in the administration of revenue measures that would require the agency to take action under any prevailing law.

## **110. Outsourcing of tax collection.**

Where the Financial Secretary has engaged the services of any person to collect sums due and owing to the Government by any person liable to pay the tax, the fee charged by that person for services shall become a debt due from the person who is liable to pay the tax.

## **PART VIII MEASURES**

### **111. Financial misconduct.**

- (1) A public officer, or other person with responsibility for public resources, commits an offence of financial misconduct if, without lawful authority, that person wilfully or recklessly—

- (a) incurs expenditures or makes commitments for expenditure of public money;
  - (b) opens a bank account in the name of the Ministry or Department of Government or Agencies or Government Business Enterprises;
  - (c) maintains a bank account for a Government purpose outside The Bahamas;
  - (d) disposes of, pledges, or encumbers public property;
  - (e) provides incorrect information to the revenue and taxing agencies with regard to Agencies or Government Business Enterprises.
- (2) A public officer, or other person with responsibility for public resources, commits an offence of financial misconduct if that person wilfully or recklessly—
- (a) makes any statement or declaration or gives any information or certificate required by or under this Act knowing it to be false or misleading;
  - (b) resists or obstructs any person acting in the discharge of that person's functions or duties or in the exercise of that person's powers under this Act;
  - (c) divulges data in electronic or other form without authority;
  - (d) diverts funds to unauthorized activities;
  - (e) loses or damages public property;
  - (f) as a principal accounting officer, does an act that breaches the duties of a principal accounting officer specified under this Act;
  - (g) seeks or accepts a personal loan or benefit in circumstances that compromise the integrity of the public officer or public office holder; or
  - (h) does any act for the purpose of procuring for any person or organization—
    - (i) the improper payment of any public money; or
    - (ii) the improper use of any public resource.
- (3) A public officer or other person with responsibility for public resources, commits an offence of financial misconduct if that person wilfully or recklessly—
- (a) fails to deliver to the chief executive officer a gift or donation of a value over \$100.00 made on a public or official occasion unless exempted by law;

- (b) fails to produce any information in the possession or under the control of that person in relation to the financial management, financial performance, or banking activities of the Ministries or Departments of the Government or Agencies or Government Business Enterprises when required to do so under this Act;
  - (c) fails to keep proper records or conceals or wrongfully destroys information that is required to be recorded and kept by this Act;
  - (d) fails to pay public money in a timely manner into the bank account of the public entity or Government Business Enterprise;
  - (e) fails to produce the reports, accounts or other information required by this Act;
  - (f) fails to transfer funds received from a grant to the Accountant-General;
  - (g) fails to implement a lawful written instruction or direction relating to the management of public finances given under this Act;
  - (h) fails to report to the Financial Secretary an incident of financial misconduct of which the public officer or public office holder has become aware of;
  - (i) fails to declare a conflict of interest when dealing with or making decisions about public resources; or
  - (j) as a principal accounting officer fails to perform a duty of a principal accounting officer specified under this Act.
- (4) A charge of financial misconduct under this Act—
- (a) against any public officer shall be investigated, heard and disposed of as required by the Constitution and the Public Service Commission Regulations;
  - (b) against any officer of an Agency or Government Business Enterprise shall be investigated, heard and disposed of as required by other Acts, codes of ethics or codes of conduct and the terms of appointment or employment applicable to that person.
- (5) Any person found guilty of financial misconduct under this section may be liable to —
- (a) dismissal;
  - (b) reduction in rank;
  - (c) reduction in salary;
  - (d) deferment of increment;
  - (e) withholding of increment;
  - (f) reprimand;
  - (g) forfeiture of any part of any emoluments.

## **112. Criminal proceedings.**

- (1) A public officer, public office holder, or other person with responsibility for public resources, commits a criminal offence if without lawful authority that person wilfully —
  - (a) takes possession of public resources, including electronic data;
  - (b) dishonestly appropriates public resources;
  - (c) provides inaccurate financial information or conceals information on public resources to obtain a benefit for that person or another person; or
  - (d) engages in corrupt acts including soliciting or receiving bribes.
- (2) A person who commits an offence under this section shall on summary conviction be liable to imprisonment for a period not exceeding five years or to a fine not exceeding \$100,000.00 or to both.

## **113. Offence relating to Tax Compliance Certificate.**

Any person who —

- (a) in relation to an application for a Tax Compliance Certificate, knowingly furnishes particulars that are found to be materially incomplete, false or intended to deceive;
- (b) forges or is in possession of a forged Tax Compliance Certificate,

commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.00 or to a term of imprisonment not exceeding two years.

## **114. Conflict of interest.**

- (1) A public officer or other person with responsibility for public resources shall not, without the permission in writing from the principal accounting officer—
  - (a) act as an agent for any person seeking to transact with any revenue and taxing agency;
  - (b) directly or indirectly ask for, or take —
    - (i) a payment or reward, pecuniary or otherwise, which is not a payment or reward which the public officer or contract officer is lawfully entitled to receive;
    - (ii) a promise or security for a payment or reward referred to in subparagraph (i);
  - (c) enter into, or acquiesce in, an agreement to do, abstain from doing, permit, conceal, or connive at any act or thing —

- (i) whereby the tax or other revenue is or may be defrauded; or
  - (ii) which is contrary to the provisions of this Act and the regulations or to the proper exercise of the duty of the public officer or other person with responsibility for public resources,.
- (2) A public officer or other person with responsibility for public resources, who performs an act under subsection (1) —
  - (a) commits an offence and is liable to a fine not exceeding \$50,000.00; and
  - (b) may be subject to disciplinary action.

### **115. Institutional sanctions.**

- (1) The Financial Secretary may apply a sanction under subsection (2) to a Local Government Council, public entity or Government Business Enterprise which has-
  - (a) approved expenditures in excess of an appropriation under an Appropriation Act or other lawful authority;
  - (b) re-allocated expenditures without lawful authority;
  - (c) created liabilities in excess of its ability to finance the liabilities;
  - (d) defaulted on a loan;
  - (e) issued a guarantee without the appropriate authorization;
  - (f) failed to provide the annual plan, the business plan, the statement of corporate intent, the mid-year reports, the annual reports, the annual accounts or other information as required by this Act;
  - (g) provided inaccurate information to a public officer or public office holder on financial matters;
  - (h) failed to adequately address issues raised by the Auditor-General or other external auditor when the issues are not contested; or
  - (i) failed to manage its finances in accordance with this Act, or any other law.
- (2) The Financial Secretary may apply any of the following sanctions to a Local Government Council, public entity or Government Business Enterprise that has breached the provisions of this section-
  - (a) impose additional reporting requirements to those required by law;
  - (b) require a draft budget or financial plan to be submitted to the Ministry responsible for finance for approval by the Minister prior to its approval by the board of the public entity or the Government Business Enterprise or the Council of the Local Government;
  - (c) place restrictions on the management and use of public resources;

- (d) place restrictions on the creation of liabilities;
  - (e) withhold subventions;
  - (f) treat any debt defaults as a charge on future revenues;
  - (g) make representations to the authority responsible for appointing the board and the chief executive officer to take action to dismiss or otherwise discipline any director or the chief executive officer.
- (3) In addition to subsection (2) the Financial Secretary may apply any of the following sanctions to a public entity or a Government Business Enterprise that has breached the provisions of this section—
- (a) temporarily place staff of the Ministry responsible for finance or appoint a public accountant or a firm of public accountants in the public entity or a Government Business Enterprise to undertake financial management functions; or
  - (b) require the public entity or a Government Business Enterprise to adhere to a programme of debt reduction.

**116. Failure of an Agency or a Government Business Enterprise to provide annual report.**

- (1) Where the board of an Agency or the board of a Government Business Enterprise fails to provide the annual report to the responsible Minister and the Financial Secretary in accordance with sections 86(2) and 95(3), the board of the Agency or the board of the Government Business Enterprise shall provide a written explanation to the responsible Minister and the Financial Secretary setting out the reasons why the annual report was not provided.
- (2) The responsible Minister shall provide the written explanation from the board of the Agency or the board of the Government Business Enterprise to Cabinet.
- (3) The responsible Minister shall table in the House of Assembly the written explanation referred to in subsection (1) no later than six months after the end of the financial year.

**117. Surcharge by Financial Secretary.**

- (1) The Financial Secretary may impose a surcharge against a person who is or was a public officer or other person with responsibilities for public resources where the Financial Secretary is satisfied, that the public officer —

- (a) has failed to collect any moneys owing to the Government for the collection of which that person is or was at the time of his employment or engagement responsible;
  - (b) has made a commitment that exceeds the authorized authority to commit or spend;
  - (c) is or was responsible for any improper payment of public moneys or for any payment of public moneys which is not duly vouched or for any expenses in excess of the amount authorized;
  - (d) is or was responsible for any deficiency in, or for the loss, damage or destruction of, any public moneys, stamps, securities, goods, or other property of the Government; or
  - (e) has knowingly conducted business with a person without a Tax Compliance Certificate.
- (2) Prior to imposing a surcharge the Financial Secretary shall notify the public officer or other person with responsibility for public resources of the particulars of the matters of concern and shall require the public officer or other person with responsibility for public resources to provide an explanation within fourteen days.
- (3) If the public officer or other person with responsibility for public resources fails to provide an explanation satisfactory to the Financial Secretary within the time notified the Financial Secretary may impose a surcharge against that person.
- (4) The nature of the surcharge imposed by the Financial Secretary may be the amount of—
- (a) the moneys not collected;
  - (b) the improper payment;
  - (c) the moneys not duly vouched;
  - (d) the expenditure in excess of the amount authorized;
  - (e) the deficiency in or for the loss, damage of any public, resources;
  - (f) the full value of the property destroyed; or
  - (g) moneys determined by the Financial Secretary to cover a lesser amount than that in paragraphs (a) to (f) above.

**118. Notification of surcharge to officials.**

- (1) The Financial Secretary shall notify the Auditor-General, the Accountant-General and the chief executive officer of the public entity which employs the public officer concerned of any surcharge made under section 117.
- (2) The chief executive officer, on being notified under subsection (1), shall notify the person surcharged and shall, subject to sections 119 and 120,

recover in accordance with section 121 the amount surcharged from that person.

### **119. Withdrawal of surcharge.**

The Financial Secretary may at any time withdraw the imposition of any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that a surcharge should not have been made and in that event the Financial Secretary shall notify the Auditor-General, the Accountant-General and the chief executive officer of the entity concerned of the withdrawal of the imposition of the surcharge.

### **120. Right of appeal.**

- (1) Any who is dissatisfied with any surcharge made against him under section 117 may appeal in writing to the Public Service Commission within a period of one month immediately after he has been notified of the surcharge and the Public Service Commission acting in its discretion, may extend the period within which an appeal may be made.
- (2) The Public Service Commission may hear the appeal against the surcharge and shall make a determination of the appeal within two months after receipt of the appeal.
- (3) The Public Service Commission may make an order confirming the surcharge or directing that the person be released wholly or in part from the surcharge as may appear just and reasonable.
- (4) A copy of every order made under subsection (3) shall be transmitted to the Financial Secretary, the chief executive officer of the entity concerned, the Auditor-General and the Accountant-General.

### **121. Recovery of loss.**

- (1) The chief executive officer, on being notified of the surcharge under section 118, shall notify the person surcharged and shall, subject to sections 119 and 120 recover the amount surcharged from that person.
- (2) The Financial Secretary may direct that the amount of any surcharge which may be due from a public officer or other person with responsibility for public resources shall be recovered by monthly or semi-monthly deductions from the salary or other payment due to that public officer or other person with responsibility for public resources in amounts, not exceeding one-sixth of the salary or other payment due monthly or semi-monthly, as the Financial Secretary may authorize.



- (3) The amount of any surcharge made under section 117 may, subject to sections 119 and 120, be recovered before a magistrate on the complaint of the Financial Secretary or any person authorized to act for the Government.
- (4) Nothing in this Part of the Act shall prevent the Government from recovering the loss through civil proceedings in the Supreme Court.
- (5) In any action for the recovery of a loss, a certificate signed by the Financial Secretary stating the amount of the loss shall be admissible in court as evidence of the assessment of the loss.

## **122. Publication of offences and sanctions.**

Subject to an order of a Court or an agreement between the Government and any person or entity, the Ministry responsible for finance shall publish in the Official Gazette and on an official website of the Government the name, position, offence and sentence for each person found guilty of an offence under section 112 no later than one week after the conviction has been entered by the Court.

## **PART IX REGULATIONS, RULES AND DIRECTIONS**

### **123. Regulations.**

- (1) The Minister may make Regulations as appear to him to be necessary and expedient for the proper carrying out of the intent of this Act.
- (2) Without restricting the generality of subsection (1), the Minister may make Regulations—
  - (a) prescribing anything that under this Act may be prescribed;
  - (b) respecting accounting for public money including the collection, receipt, custody, banking, expenditure, proper accounting for, care and management and forms of records of public money;
  - (c) respecting the reports and accounts required by this Act including the electronic financial information system;
  - (d) respecting the custody, handling and proper accounting for Government property including financial and non-financial assets in physical or electronic forms, whether the property of the Government or on deposit with or entrusted to the Government or to a public officer or public office holder in his official capacity or to any other person;
  - (e) respecting Government property including —

- (i) setting standards and requirements for the management of Government property to maintain the quality and achieve the expected life of assets;
- (ii) the responsibility for making and maintaining up to date inventories or registers;
- (iii) the form of and the information to be kept in inventories or registers;
- (iv) the assessments of exposure and vulnerability of assets to environmental and other damage;
- (v) the requirements for resilience to environmental events for essential public sector infrastructure and other assets;
- (vi) the writing-off of Government property;
- (vii) declaring Government property as surplus or unserviceable and disposing of Government property;
- (f) prescribing the roles and responsibilities of the principal accounting officers and the finance and accounting officers;
- (g) providing for additional public finance requirements for an Agency or a Government Business Enterprise;
- (h) prescribing charges for payments to the Government made other than in legal tender;
- (i) prescribing fees and charges for dishonoured cheques and to defray the costs of acceptance by the Accountant-General of voluntary assignments by public officer or public office holders of salaries, wages, pensions, gratuities and other money;
- (j) respecting security of premises, documents, securities and the financial information system;
- (k) amending the budget classifications; and
- (l) respecting the management of public investment projects including —
  - (i) the regulatory and institutional framework for management of public investment projects;
  - (ii) the criteria and procedures for selection and prioritisation of public investment projects;
  - (ii) approving public investment project development and analysis;
  - (iii) evaluating and approving public investment project appraisal;
  - (iv) assessing and approving financing, including financing for on-going operating and maintenance costs;

- (v) reporting and monitoring the public investment projects; and
    - (vi) asset management;
  - (m) subject to any other Act, respecting the financial arrangements for disaster mitigation, response and management;
  - (n) respecting the specification and management of contingent liabilities associated with environmental events;
  - (o) analysis of expenditure on adverse environmental events;
  - (p) respecting disaster management for assets including—
    - (i) disaster risk and climate change requirements to be considered when planning investments, including for project identification, appraisal, and selection;
    - (ii) arrangements to fast-track urgent public investments for disaster recovery; and
    - (iii) requirements for understanding disaster and environmental risks in asset management including through relevant information systems; and
  - (q) respecting the management of finances during a proclamation of a national emergency declared by the Governor-General pursuant to Article 29 of the Constitution or an order by the Prime Minister pursuant to section 27 of the Disaster Preparedness and Response Act (*Ch. 34A*) and in response to the emergency, including—
    - (i) the processes for planning, mobilizing, approving and executing financial resources to support disaster risk reduction, response, and recovery;
    - (ii) the powers the Ministry responsible for finance may exercise in the event of a national emergency, and the authorities to flexibly manage the annual budget and resource allocations during such events;
    - (iii) the development and use of disaster risk financing instruments;
    - (iv) the requirements to identify and review the contingent liabilities from disasters;
    - (v) requirements to review the annual budget and expenditures for climate and disaster-related activities; and
  - (r) respecting the collection of revenue.
- (3) Regulations made under this Act shall be subject to an affirmative resolution of the House of Assembly.

**124. Amendment of Schedules.**

- (1) The Minister may, by order, amend the *Fourth, Fifth, Eleventh and Twelveth Schedules*.
- (2) The Minister may, by order, amend the *First, Second, Third, Sixth, Seventh, Eighth, Ninth, and Tenth Schedules* and the order shall be subject to an affirmative resolution of the House of Assembly.

**125. Power to make rules.**

The Minister may make rules for all or any of the following matters—

- (a) prescribing the additional duties of the Financial Secretary or the Accountant-General;
- (b) prescribing the form and manner in which any of the financial statements are to be kept;
- (c) prescribing generally for the proper and efficient keeping of the financial statements, for any other matter required to be prescribed under this Act;
- (d) prescribing the procedure for the reporting by the Auditor-General of delays and irregularities; and
- (e) generally for the proper carrying out of the provisions of this Act.

**126. Minister may issue directions.**

The Minister may issue directions as appear to him to be necessary and expedient for the proper carrying out of the purposes of this Act.

**127. Financial Secretary may issue directions.**

The Financial Secretary may issue directions as specified in this Act or on behalf of and with the approval of the Minister.

**128. Accountant-General may issue Treasury directions.**

The Accountant-General may issue Treasury directions as specified in this Act.

## **PART X IMPLEMENTATION DATES, REPEALS, TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS,**

### **129. Repeal.**

The Financial Administration and Audit Act 2010 is repealed except section 1 and sections 36 to 44.

### **130. Savings.**

Notwithstanding the repealed sections of the Financial Administration and Audit Act 2010, anything done or any action taken in exercise of any power conferred by or under those provisions shall continue to be valid.

### **131. Consequential Amendments.**

A reference in any written law to the Treasurer shall be construed as a reference to the Accountant-General.

### **132. Implementation dates.**

- (1) The section numbers in the table in this section shall come into force on the dates specified in the table and no further authority other than this section shall be necessary.
- (2) The Minister may by Regulation subject to affirmative resolution of the House of Assembly amend an implementation date specified in the table below.

| <b>SECTION</b> | <b>REQUIREMENT</b>                         | <b>DATE</b>     |
|----------------|--|-----------------|
| 22             | Budget Reserve Appropriation               | 1 July, 2021    |
| 23             | Contingencies Fund                         | 1 July, 2021    |
| 31             | Reallocations                              | 1 July, 2021    |
| 32             | Virements effect on budget and annual plan | 1 July, 2021    |
| 33             | Cash Planning and Management               | 1 January, 2022 |
| 36             | Special Fund                               | 1 July, 2021    |
| 37             | Trust Assets                               | 1 July, 2021    |
| 42             | Remissions                                 | 1 July, 2021    |
| 43             | Settlements                                | 1 July, 2021    |

|           |   |                   |
|-----------|---|-------------------|
| 44        | Write-offs  | 1 July, 2021      |
| 45        | Accounting for remissions, settlements and write-offs   | 1 July, 2021      |
| 51        | Financial asset management strategy                     | 1 January, 2022   |
| 61        | Internal Audit Committee                                | 1 September, 2021 |
| 95        | Annual Report Government Business Enterprises           | 1 July, 2022      |
| 69        | Monthly summary report                                  | 31 January, 2022  |
| 73        | Annual Report of non-financial performance              | 1 July, 2022      |
| 83        | Agency annual plan                                      | 1 July, 2022      |
| 85        | Monthly and quarterly reporting by an Agency            | 1 July, 2022      |
| 89        | Statement of corporate intent and annual plan           | 1 July, 2022      |
| 98        | Annual plan for Ministry                                | 1 July, 2022      |
| 99        | Mid-year and annual report of a Ministry                | 1 July, 2022      |
| 101       | Local Government annual plans and budgets and reports   | 1 July, 2022      |
| 102       | Reporting by a Local Government and auditing of reports | 1 July, 2022      |
| 82        | Synchronization of financial years                      | 1 July, 2023      |
| 72 (2)(c) | Schedule of capital assets                              | 1 July, 2025      |

## SCHEDULES

### First Schedule

#### (Section 17)

#### Contents for the Annual Budget

1. The annual budget documents shall include estimates of revenue with revenue information (both budget and actual) for the previous two years and the projected revenues for the current year and the next three financial years and the revenue estimates shall be at a level of detail as set by regulation and if no regulation then as the Minister determines.

2. The annual budget shall have estimates of expenditure with expenditure information for the previous two years (both budget and actual) and the projected expenditure for the current year and the next three financial years and the expenditure estimates shall be at a level of detail as set by regulation and if no regulation then as the Minister determines.
3. The annual budget shall have estimates of financing with financing information for the previous two years (both budget and actual) and projected financing for the current year and the next three years including-
  - (1) plans for external financing in the form of borrowing and grants;
  - (2) plans for domestic issuance of Government bills and notes and any other financial liabilities;
  - (3) plans for issuance of guarantees to public or private entities;
  - (4) plans for divestment of Government assets;
  - (5) new loans to Agencies and Government Business Enterprises;
  - (6) any loans to persons, organizations and foreign governments;
  - (7) plans for the approval of new public private partnership contracts; and
  - (8) other financing information that the Minister considers necessary.
4. The annual budget shall have annexes including—
  - (1) updated macroeconomic information and summary of fiscal position compared to the fiscal strategy report;
  - (2) statement of economic assumptions including significant changes from the assumptions in the fiscal strategy report;
  - (3) statement of consistency with the fiscal responsibility principles and fiscal objectives referred to in the Fiscal Responsibility Act, 2018 and the most recent fiscal strategy, and where there are deviations, an explanation of deviations;
  - (4) information on projected statutory expenditure for the previous two years (budget and actual), the current year, the next financial year and the following two years with a reference to the specific law that authorizes the statutory expenditure;
  - (5) any limits for-
    - (a) external, domestic and total borrowing during the forthcoming year;
    - (b) external, domestic and total borrowing for the medium and longer term;
    - (c) issuing guarantees; and
    - (d) incurring other financial liabilities,

- and the limit shall be ceilings for the forthcoming financial year proposed for Parliament to approve by resolution;
- (6) medium-term financial asset management strategy including any restrictions placed on its composition;
  - (7) information on public investment projects including—
    - (i) a list of all public investment projects proposed in the annual budget;
    - (ii) estimates of annual expenditures and revenues in the annual budget for each public investment project which is newly proposed to be included in the annual budget (“new public investment project”) over the entire period of the public investment project implementation;
    - (iii) updates of estimates of annual expenditures and revenues in respect of all existing public investment projects which have been approved in previous budget years over the entire period of the public investment project implementation;
    - (iv) an explanation of differences in estimates from previous budgets for existing public investment projects;
    - (v) a summary of the annual expenditures and revenues of all existing public investment projects and all new public investment projects;
    - (vi) a summary of the results of monitoring and evaluation of all existing public investment projects; and
    - (vii) any other matters as may be specified by the Minister;
  - (8) statement of all tax arrears for the previous financial year and the current year;
  - (9) statement of tax relief and exemptions granted or planned and the amount of tax relief and exemptions for the current financial year and forecasted for the next financial year;
  - (10) the establishments register and an aggregate number of posts;
  - (11) particulars of Government loans to be redeemed from the sinking funds;
  - (12) other documents as the Minister may determine or may be required by regulation; and
  - (13) a statement signed by the Minister and the Financial Secretary attesting to the reliability and completeness of the information in the annual budget documents and conformity with the fiscal responsibility requirements of the Fiscal Responsibility Act 2018.



## SECOND SCHEDULE

### (Section 61)

#### Internal Audit Committee

1. Tenure.  
The Chairperson and other Committee members, shall hold office for a term of three years and shall be eligible for re-appointment.
2. Appointment of Deputy Chairperson.  
The Deputy Chairperson shall be elected by the members at the first meeting of the Internal Audit Committee.
3. Meetings and quorum.
  - (1) The Internal Audit Committee shall—
    - (a) meet at the times and places as the Chairperson may determine and no less than four times per year; and
    - (b) hold a special meeting on the written request of at least two members of the Internal Audit Committee.
  - (2) At each meeting of the Internal Audit Committee—
    - (a) the Chairperson shall preside; or
    - (b) in the absence of the Chairperson, the Deputy Chairperson shall preside; and
    - (c) minutes shall be taken that record the topics discussed and decisions taken.
  - (3) The quorum for a meeting of the Internal Audit Committee shall be three members.
3. Voting.  
Each Committee member shall have one vote but the Chairperson shall, where there is an equality of votes, have a casting vote.
4. Conflict of interest.  
A member of the Internal Audit Committee who is directly or indirectly interested in a matter being considered or dealt with by the Internal Audit Committee shall disclose the nature of the interest at a meeting of the Internal Audit Committee and shall not take part in any deliberation or decision of the Internal Audit Committee with respect to the matter.
5. Procedure.  
The Internal Audit Committee shall determine its meeting and other procedures subject to the requirements of the Act.
6. Stipends.

The stipends for the members of the Internal Audit Committee shall be at a level comparable to the stipend for members of parliamentary and government bodies undertaking work of a similar nature, complexity and amount.

### **Third Schedule**

#### **(Section 73)**

#### **Contents for the annual report on the non-financial performance of the Government**

The annual report for the Government shall include information with respect to—

- (1) The position with Government priorities.
- (2) The delivery of key services.
- (3) The delivery on public investment projects with sufficient information to report on the financial and delivery performance expected for public investment projects in paragraph 4 (7) of the *First Schedule* including explanations of variances.
- (4) A report from the Ministry responsible for finance specifying the measures taken by the Government to implement the audit recommendations from the previous year and the response to the findings of the committees of the Parliament with responsibility for examining performance reports and Government financial statements.

### **Fourth Schedule**

#### **(Sections 76 and 83)**

#### **Agencies**

1. Airport Authority
2. Antiquities, Monuments & Museum Corporation
3. Bahamas Agricultural and Industrial Corporation
4. Bahamas Agricultural Health and Food Safety Authority
5. Bahamas Bureau of Standards & Quality
6. Bahamas Maritime Authority
7. Bahamas Public Parks & Public Beaches Authority

8. Bahamas Technical & Vocational Institute
9. Disaster Reconstruction Authority
10. The Education Loan Authority
11. Hotel Corporation of The Bahamas
12. National Arts Gallery of The Bahamas
13. The National Insurance Board
14. National Sports Authority
15. National Training Agency
16. Public Hospital Authority
17. Road Traffic Authority
18. Straw Market Authority
19. University of The Bahamas

### **Fifth Schedule**

#### **(Section 76)**

#### **Government Business Enterprises**

1. Bahamas Development Bank
2. Bahamas Maritime Authority
3. Bahamas Mortgage Corporation
4. Bahamas Power and Light Company Ltd
5. Bahamas Resolve Limited
6. Bahamasair Holdings Limited
7. Broadcasting Corporation of The Bahamas
8. Civil Aviation Authority of The Bahamas
9. Nassau Airport Development Company
10. Nassau Flight Services Limited
11. National Health Insurance Authority
12. The Bridge Authority
13. Water & Sewerage Corporation

## **Sixth Schedule**

### **(Section 83, 98 and 101)**

#### **Contents for annual plan for a Ministry, Agency or Local Government**

Each annual plan of a Ministry, Agency or Local Government shall include—

- (1) strategic priorities for the medium-term that reflect the priorities and plans;
- (2) description of how the entity is responding to the changing environment including description of significant changes from previous annual plan;
- (3) non-financial performance including measurable indicators;
- (4) payments on behalf of Government or Local Government including grants, benefits and subsidies to be paid;
- (5) significant capital developments;
- (6) description of intentions to develop capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (7) summary budget which shall include forecast financial statements;
- (8) financial and other assumptions;
- (9) statement of fiscal risks; and
- (10) other matters required by the Minister, or the responsible Minister with the agreement of the Minister.

## **Seventh Schedule**

### **(Sections 86, 99 and 102)**

#### **Contents for mid-year report and annual report for a Ministry, Agency or Local Government**

Every mid-year report and annual report of a Ministry, Agency or Local Government shall include-

- (1) strategic priorities and outcomes in the annual plan;
- (2) non-financial performance delivered including measurable indicators;
- (3) significant variations in performance from the annual plan;

- (4) payments made on behalf of Government or Local Government including grants, benefits and subsidies to be paid;
- (5) progress with significant capital developments;
- (6) advances or issues in capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (8) financial performance which shall include audited financial statements;
- (9) financial and other assumptions;
- (10) the auditor's report on the financial statements and from a date to be determined by the Auditor-General audit of service performance;
- (11) report on fiscal risks;
- (12) the remuneration paid to each director including value of benefits in kind for the Agency (not applicable to Ministry or Local Government);
- (13) the remuneration paid to senior management including all benefits in kind presented in the form of number of employees within salary bands for the Agency (not applicable to Ministry or Local Government); and
- (14) other matters required by the Minister, or the responsible Minister with the agreement of the Minister.

## **Eighth Schedule**

### **(Section 90)**

#### **Contents for statement of corporate intent of a Government Business Enterprise**

Every Government Business Enterprise shall have a statement of corporate intent for the entity and its subsidiaries with a medium-term scope and a focus on the forthcoming financial year and shall include—

- (1) the objectives of the group;
- (2) the nature and scope of the activities to be undertaken;
- (3) the ratio of consolidated owners' funds to total assets, and definitions of those terms;
- (4) the accounting policies;
- (5) the expected performance for the medium-term of the group in relation to its objectives;
- (6) a statement of the principles adopted in determining the annual dividend together with an estimate of the amount or proportion of

- annual earnings after tax (from both capital and revenue sources) that is intended to be distributed to the Government;
- (7) the information to be provided to the responsible Minister by the Government Business Enterprise during the course of those financial years, including the information to be included in the in-year reports;
  - (8) the procedures to be followed before any member of the group subscribes for, purchases, or otherwise acquires shares in any company or other organisation;
  - (9) any activities for which the board seeks compensation from the Government (whether or not the Government has agreed to provide the compensation);
  - (10) a statement of social responsibility; and
  - (11) other matters as are agreed by the responsible Minister and the board.

## **Ninth Schedule**

### **(Section 91)**

#### **Contents for business plan for Government Business Enterprise**

Every Government Business Enterprise shall have a business plan that shall include—

- (1) detail for the forthcoming financial year of the expected performance targets and other measures by which the performance of the group may be judged in relation to its objectives in the statement of corporate intent which shall include the performance indicators required by the Minister;
- (2) explanation of variations in performance from the previous business plan;
- (3) forecast financial statements including an estimate of the anticipated profit for each of the three forthcoming years and the dividend to be paid to the Government, with sufficient detail for the forthcoming financial year to enable meaningful assessment against those expectations after the end of that financial year;
- (4) any proposed major financing transactions;
- (5) a statement of any arrangements or proposed arrangements to provide goods or services for less than the cost of those services or

- to receive services from a public entity for less than the cost to provide the goods or services;
- (6) a statement of risks and intended management of these;
  - (7) other matters as are agreed by the responsible Minister and the board; and
  - (8) additional information prescribed for a plan in the establishment law for the Government Business Enterprise.

## **Tenth Schedule**

### **(Section 95)**

#### **Contents for mid-year report and annual report for Government Business Enterprises**

Every Government Business Enterprise shall have a mid-year report and an annual report that shall include—

- (1) a report of the operations of the Government Business Enterprise and those of its subsidiaries during that financial year with information as is necessary to enable an informed assessment of the operations of the entity, including a comparison of the performance of the entity with the statement of corporate intent and business plan;
- (2) the dividend payable to the Government by the Government Business Enterprise for the financial year to which the report relates;
- (3) audited consolidated financial statements for that financial year consisting of statements of financial position, profit and loss, changes in financial position, and the other statements as may be necessary to show the financial position of the Government Business Enterprise and its subsidiaries and the financial results of their operations during that financial year;
- (4) the auditor's report on the financial statements;
- (5) report on fiscal risks;
- (6) report on compliance with the statement of social responsibility;
- (7) the remuneration paid to each board Director including the value of benefits in kind;
- (8) the remuneration paid to senior management including all benefits in kind presented in the form of number of employees within salary bands; and
- (9) additional information as is necessary to enable an informed assessment of the activities of the Government Business Enterprise against the statement of corporate intent and business plan.

### **Eleventh Schedule**

#### **(Section 106)**

#### **Priority List of Tax Enactments**

1. Business Licence Act (Ch. 329)
2. Value Added Tax Act (Ch. 370A)
3. Stamp Act (Ch. 370)
4. Customs Management (Ch. 293)
5. Real Property Tax Act (Ch. 375)

### **Twelveth Schedule**

#### **(Sections 107 and 108)**

- Business Licence Act (Ch. 329)
- Customs Management Act (Ch. 293)
- Immigration (Fees) Regulations (Ch. 91)
- National Insurance Act (Ch. 350)
- Real Property Tax Act (Ch. 375)
- Road Traffic Act (Ch. 220)
- Valued Added Tax Act (Ch. 370A).

### **OBJECTS AND REASONS**

The Public Finance Management Bill, 2021 seeks to modernise public finance activities in The Bahamas.

Clauses 1 and 2 of the Bill seek to provide for the short title, the commencement which may occur on different dates for different parts of the Act and interpretation.

Clauses 3 and 4 of the Bill seek to provide that, except for the Constitution and the Fiscal Responsibility Act, 2018, this Bill shall prevail where there is any inconsistency with this Act and any other law and the application

Clauses 5 and 6 of the Bill seek to provide that, when a delegation, designation, appointment or authorization is made under this Act it may be made to the person's name, title or office and all persons involved in public finance must perform their roles and responsibilities in accordance with this Act.



Clause 7 of the Bill seeks to provide for the role of the responsible Minister which includes overseeing any public entity or Government Business Enterprise that is in his portfolio.

Clause 8 of the Bill seeks to provide for the role of the Minister which includes ensuring that the Government's plans are fully consistent with the fiscal responsibility principles in the Fiscal Responsibility Act, 2018, the fiscal objectives in the fiscal strategy reports and the requirements of this Act; managing the fiscal performance, fiscal risks and reporting on the financial position of the Government, and all public entities and Government Business Enterprises and ensuring that the annual budget is executed as appropriated by Parliament.

Clause 9 of the Bill seeks to provide for the role of the Financial Secretary which includes assisting the Minister in the discharge of his responsibilities and managing the Ministry responsible for finance and sets out other responsibilities.

Clause 10 of the Bill seeks to provide for the role of the Accountant-General formerly called the Treasurer which includes among other responsibilities maintaining and reporting on the accounts of the Government, and preparing the financial statement of the Government

Clause 11 of the Bill seeks to provide that the Accountant-General may conduct an examination under oath of any public officer or public office holder with respect to any matter related to an audit, or the person's responsibilities under this Bill. The Accountant-General may apply to the Supreme Court to enforce attendance or cooperation of the public officer or public office holder.

Clause 12 of the Bill seeks to provide for the role of a Permanent Secretary if designated a principal accounting officer which includes administering the expenditure head and item of revenue in the annual budget that is under the control of the public entity he is responsible for.

Clause 13 of the Bill seeks to provide that every chief executive officer shall manage the assets and liabilities of the public entity or Government Business Enterprise that he is in charge of in accordance with this Act and to carry out the annual budget and the approved annual plan.

Clause 14 of the Bill seeks to provide that a public officer or public office holder who comes into the possession or control of public money, securities or electronic instruments relating to money or property shall without delay deliver them to the public officer or public entity responsible for them or to the Accountant-General.

Clause 15 of the Bill seeks to provide that a public officer or public office holder may object in writing to directions given to him by any Minister of the Government or any public officer or public office holder, to do any thing that he knows or has reason to believe is contrary to this Act or any other Act and he shall be absolved of his responsibilities and shall not be liable to any civil or

criminal proceeding, or to a disciplinary proceeding, or to any retaliatory action or measure, because he made the objection.

Clause 16 of the Bill seeks to provide that the Financial Secretary shall manage the Government budget process and the Minister shall table the annual budget in the House of Assembly no later than the last Wednesday of May of the year prior to the year to which the annual budget relates.

Clause 17 of the Bill seeks to provide that the annual budget shall include revenue estimates, expenditure estimates, financing estimates and information specified in the First Schedule which should be consistent with the Fiscal Responsibility Act, 2018 and the fiscal strategy report.

Clause 18 of the Bill seeks to provide that the appropriations shall be presented by expenditure heads in the Appropriation Act which shall be the expenditure to be administered by a specified Ministry or other public entity for one year.

Clause 19 of the Bill seeks to provide that Parliament shall approve the annual budget for the upcoming financial year no later than 30th June of the prior financial year.

Clause 20 of the Bill seeks to provide that where the Appropriation Act does not come into force by the beginning of the financial year, the Minister may issue warrants for the withdrawal of sums from the Consolidated Fund for the continuance of public service in accordance with Article 132 of the Constitution for up to four months.

Clause 21 of the Bill seeks to provide that the Minister shall publish the proposed annual budget on the same day the annual budget is tabled in House of Assembly, the approved annual budget no later than one week after it is passed by the Parliament and additionally a less technical version of the annual budget within one month after the annual budget was passed.

Clause 22 of the Bill seeks to provide that a Budget Reserve Appropriation may be included in the annual budget which shall be not more than three percent of the recurrent expenditures in the proposed expenditure estimates. The use of this reserve shall be reported on in the Mid-Year Review and the financial statements of the Government.

Clause 23 of the Bill seeks to provide for the establishment of a Contingencies Fund which is funded by issues from the Consolidated Fund not exceeding in the aggregate two per cent of recurrent expenditure, or a greater sum as the House of Assembly may by resolution approve.

Clause 24 of the Bill seeks to provide that whenever the amount appropriated by the Appropriation Act for a specified purpose is insufficient or that a need arises for which no amount has been appropriated by the Appropriation Act they may be funded through virements, an allocation from the Budget Reserve

Appropriation, an allocation from the Contingencies Fund, a reallocation or a Supplementary Appropriation Bill shall be tabled in the House of Assembly as required by Article 130 of the Constitution.

Clause 26 of the Bill seeks to provide that the balance in an appropriation that remains unexpended at the end of the financial year after adjustment for the recording of liabilities and any warrant in relation to the balance of the appropriation, shall lapse.

Clause 27 of the Bill seeks to provide that when a public emergency is declared under Article 29 of the Constitution or the Disaster Preparedness and Response Act (Ch.34A) the Minister may approve expenditure that is necessary and in the public interest from the budget reserve appropriation, the Contingencies Fund, any fund for the purpose of financing disaster expenditure, any other financing source authorised by law or by reallocating funds within or between heads of expenditure.

Clause 28 of the Bill seeks to provide that Articles 128 to 136 of the Constitution shall apply to withdrawing money from the Consolidated Fund.

Clause 29 of the Bill seeks to provide that the Minister or the Financial Secretary authorized in writing by the Minister shall by warrant approve the issue of moneys from the Consolidated Fund. This clause further provides that every principal accounting officer shall submit a procurement plan and a cash plan to the Ministry responsible for finance no later than three weeks after the Appropriation Bill has been passed by Parliament and if he fails to do so the Minister may suspend the warrant.

Clause 30 of the Bill seeks to provide that no person shall commit the Government to a financial liability, other than in accordance with this Act.

Clause 31 of the Bill seeks to provide that where there is an unforeseen need for expenditure, the Government shall be authorised to reallocate funds of no more than two percent of the total expenditure estimates for the financial year between expenditure heads and shall include the reallocation of funds in the next Appropriation Bill.

Clause 32 of the Bill seeks to provide that the Financial Secretary may authorize a principal accounting officer by way of a warrant to vire funds between items within an expenditure head or capital funds between projects that have the same source of funding. The Minister shall report on all virements made and the performance of the appropriations affected twice yearly to the Parliament in the Mid-Year Review and financial statements.

Clause 33 of the Bill seeks to provide that the Accountant-General shall establish procedures for planning and management of cash which may include a cash management committee. The Accountant-General shall require a public entity to prepare an annual cash plan specified by month. He shall review the revenue,

expenditure and financing plans and cash forecasts each month against actual results.

Clause 34 of the Bill seeks to provide for the Consolidated Fund in accordance with Article 128 of the Constitution and all public moneys must be credited to it.

Clause 35 of the Bill seeks to provide that no sum shall be charged on the Consolidated Fund or warrant issued except upon the authority of an Appropriation Act, the Constitution, or other Act.

Clause 36 of the Bill seeks to provide for a special fund established by an Act for a specific purpose and administered by the Government.

Clause 37 of the Bill seeks to provide that all trust assets shall be accounted for separately from other public assets and the Accountant-General shall be responsible for and manage the trust assets.

Clause 38 of the Bill seeks to provide that any trust assets that are unclaimed for a period of fifteen years together with any interest, shall be transferred to the Consolidated Fund. If the Accountant-General is satisfied that a person has a claim, on any trust assets which have been transferred to the Consolidated Fund the money shall be paid to that person out of the Treasury Account on the authority of this section and without appropriation.

Clause 39 of the Bill seeks to provide that "the Treasury Account" shall be the principal bank account of the Government managed by the Accountant-General. The Accountant-General shall also supervise all cash transactions and accounting operations of the Government and shall be accountable for all public money received by the Accountant-General.

Clause 40 of the Bill seeks to provide that a public entity may levy fees and charges in accordance with any written law.

Clause 41 of the Bill seeks to provide that a grant shall not accepted by the Government unless it has been approved in the annual budget or by the Cabinet.

Clause 42 of the Bill seeks to provide that no revenue due to the Government may be remitted without authorization of the Minister in the case of sums not exceeding \$20,000, or authorization of the Cabinet on the recommendation of the Minister in the case of sums exceeding \$20,000 and a detailed statement of all amounts remitted shall be audited by the Auditor-General and included in the financial statements tabled in the House of Assembly.

Clause 43 of the Bill seeks to provide that the Government may enter into an agreement to settle a claim made by the Government for a specified amount, whether or not the amount is less than the amount of the claim, in full satisfaction of the claim.

Clause 44 of the Bill seeks to provide that the Accountant-General may write-off a debt due to the Government that he considers to be uncollectible or the collection of which is not cost effective. The write-off of a debt does not extinguish the right to collect it.

Clause 45 of the Bill seeks to provide that a summary statement of remissions settlements and write-offs shall be included in the financial statements and the total value of each remission, settlement or write-off and, the authority for it. The record of every remission settlement and write-off shall be kept by the Accountant-General

Clauses 46 47, 48, 49 and 50 of the Bill seeks to provide for the management of project investment projects including that Minister shall ensure that public investment projects ensure that public investment projects support the government's priorities or are necessary to maintain usual services and are designed to manage climate change risks to be resilient to environmental and other challenges and apply transparent procurement and contracting procedures.

Clause 51 of the Bill seeks to provide that the Minister shall table in the House of Assembly, with the annual budget, a medium-term financial asset management strategy which includes the principles applied by the Government in managing the Government's investment portfolio and the acceptable investment instruments having regard to risk.

Clause 52 of the Bill seeks to provide that the Accountant-General may place on deposit at any bank public moneys, that is not needed immediately, on conditions and at the rates of interest approved by the Financial Secretary.

Clause 53 of the Bill seeks to provide that the Minister shall authorize the investment of money that is in the Consolidated Fund, a special fund or other fund with regard to the medium-term financial asset management strategy, and the Minister shall within one week of purchasing the securities table a report in the House of Assembly.

Clause 54 of the Bill seeks to provide that the interest or dividends received from an investment from money in a special fund, sinking fund, or trust account in a sub-account of the Treasury Account shall be credited to the fund or trust from which the moneys came.

Clause 55 of the Bill seeks to provide that the Minister may invest money by way of capital injection in an Agency or a Government Business Enterprise only by way of a capital contribution appropriated by Parliament in accordance with with the medium-term financial asset management strategy.

Clause 56 of the Bill seeks to provide that the Internal Audit Department is established within the Ministry responsible for finance and shall observe international standards for the professional practice of internal auditors.

Clause 57 of the Bill seeks to provide that the Internal Audit Department shall be managed by a Director of Internal Audit who reports to the Financial Secretary

for management purposes and to the Internal Audit Committee for functional purposes.

Clause 58 of the Bill seeks to provide for protection from liability for the Department of Internal Audit, the Director of Internal Audit or any officer of his staff, in respect of any act done or omitted to be done carrying out its or his functions under the Act.

Clause 59 of the Bill seeks to provide that where it appears to the Director of Internal Audit that a fraud, serious loss or serious irregularity has occurred he shall immediately bring the matter to the notice of the Auditor-General, Internal Audit Committee and Financial Secretary who shall forthwith report such matter to the Minister who in turn would refer it to the appropriate authorities.

Clause 60 of the Bill seeks to provide that the Auditor-General and Internal Audit Department may cooperate and the Financial Secretary and the Auditor-General may make a memorandum of understanding to govern the relationship of the internal audit and external audit roles and responsibilities.

Clauses 61 and 62 of the Bill seeks to provide for an Internal Audit Committee which shall oversee the work of the Internal Audit Department and that secretariat services for the Internal Audit Committee shall be provided by the Ministry responsible for finance.

Clause 63 of the Bill seeks to provide that the Financial Secretary may request an Agency or a Government Business Enterprise that has its own internal audit function, to submit a copy of its the internal audit report to the Accountant-General, the Internal Audit Committee and the Auditor-General.

Clause 64 of the Bill seeks to provide that the Financial Secretary may, after consulting with the Internal Audit Committee, issue directions on the internal audit function.

Clause 65 of the Bill seeks to provide that an independent external audit is undertaken of the Government pension plans at least every five years .

Clause 66 of the Bill seeks to provide that the Financial Secretary may designate in writing persons who shall be principal accounting officers who are responsible for the accounting for all revenues, expenses and expenditure and assets and liabilities relating to the operations of the entity under his responsibility.

Clause 67 of the Bill seeks to provide that the Financial Secretary and the Accountant-General may issue directions to principal accounting officers for the efficient administration of the financial business of the Government consistent with the roles and responsibilities of the Accountant-General and the Financial Secretary respectively.

Clause 68 of the Bill seeks to provide that the recovery by the Government of an expenditure charged to an appropriation for goods or services received before the end of the financial year in which the expenditure was made shall be credited to the appropriation against which the expenditure was charged or after the end of the financial year shall be credited to the appropriate revenue account of the financial year in which it is received.

Clause 69 of the Bill seeks to provide that the Financial Secretary shall prepare a monthly report on the financial performance of the Government against the annual budget and Appropriation Act which the Minister shall present to Cabinet and thereafter the Financial Secretary shall publish the monthly report on the official website of the Government,

Clause 70 of the Bill seeks to provide that the Financial Secretary shall prepare a quarterly report on the financial performance of the Government against the annual budget and Appropriation Act and publish it on the official website of the Government.

Clause 71 of the Bill seeks to provide that the Minister shall table in Parliament, a Mid-Year Review on progress against the fiscal strategy report and the annual budget not later than the last Wednesday of February.

Clause 72 of the Bill seeks to provide that in respect of each financial year and within a period of three months after the close of each financial year, the Accountant-General shall prepare, sign and transmit to the Auditor-General all of the statements specified in the clause. Similarly within two months after the close of the financial year principal accounting officers shall prepare, sign and transmit to the Financial Secretary and the Auditor-General, all of the statements specified in the clause. Also, within a period of two months after the close of the financial year the officer primarily responsible for a fund to which moneys have been appropriated by Parliament or approved under another Act shall prepare, sign and transmit to the Auditor-General, the Financial Secretary and the Accountant-General financial statements in respect of the fund. The Minister shall table the audited annual financial statements and accounts in the House of Assembly not later than six months after the end of the financial year to which the statements and accounts relate.

Clause 73 of the Bill seeks to provide that the Minister shall prepare an annual report on the non-financial performance of the Government for the year and shall include information specified in the *Third Schedule*, no later than three months after the end of every financial year and shall be tabled in the House of Assembly no later than the day the Minister tables the audited annual financial statements and accounts of the Government.

Clause 74 of the Bill seeks to provide that the Financial Secretary shall publish the audited annual financial statements and accounts, the audit opinion, and the annual report on the non-financial performance of the Government on the

official website of the Government no later than one week after these documents have been tabled in the House of Assembly.

Clause 75 of the Bill seeks to provide that the Public Accounts Committee of the House of Assembly shall review the annual audited financial statements of the Government and the annual report on non-financial performance and review the annual reports for each public entity; and report to the House of Assembly on the results of the reviews no later than the first week of the eighth month of the financial year following the financial year under review.

Clause 76 of the Bill seeks to provide that every public entity that is not a Ministry or department shall be classified as an Agency and listed in the *Fourth Schedule* and an entity shall be classified as a Government Business Enterprise and listed in the Fifth Schedule if the entity is owned or controlled by the Government and provides services in the market or undertakes commercial activities that are or could be carried out by a private sector operator.

Clause 77 of the Bill seeks to provide that the responsible Minister for an Agency or Government Business Enterprise shall be the Minister charged with the responsibility for the Agency or the Government Business Enterprise by the Governor-General in accordance with Article 77 of the Constitution.

Clause 78 of the Bill seeks to provide that the Minister shall have the responsibility for financial management for Agencies and Government Business Enterprises'

Clause 79 of the Bill seeks to provide that the Minister shall issue a code of corporate governance that shall be complied with by a board of an Agency or Government Business Enterprise.

Clause 80 of the Bill seeks to provide that the board of the Agency or the board of the Government Business Enterprise shall appoint the chief executive officer who shall be responsible to the board for managing the Agency or Government Business Enterprise .

Clause 81 of the Bill seeks to provide that a public entity shall implement international accounting standards and practices in accordance with the accounting standards and directions issued by the Accountant-General and a Government Business Enterprise shall implement international accounting standards.

Clause 82 of the Bill seeks to provide that every public entity and Government Business Enterprise shall have the same financial year as the Government.

Clause 83 of the Bill seeks to provide that each Agency shall have an annual plan which shall include the information in the *Sixth Schedule* and shall be submitted along with the budget to the responsible Ministry and to the Ministry responsible for finance by the date set by the Financial Secretary; and each



responsible Minister shall table the annual plan of the Agency in the House of Assembly on the same day as the annual budget is tabled.

Clause 84 of the Bill seeks to provide that the board and chief executive officer of an Agency shall ensure that the reporting requirements of this Act are complied with.

Clause 85 of the Bill seeks to provide that every Agency that receives fifty percent or more of its operating budget from subventions from the Government shall prepare and submit to the Minister, within thirty days of the end of the reporting period monthly and quarterly financial statements and reports which shall be signed by the chief executive officer or the chief financial officer and where the Agency has a board, reviewed and endorsed by the board and the Minister may withhold any subventions payable to an Agency where there is a delay in the submission of any of the reports required under this section or a deficiency in the content of any of the reports and the Minister believes that the delay or deficiency is not reasonably justified.

Clause 86 of the Bill seeks to provide that the board of an Agency shall submit to the responsible Minister and the Financial Secretary a mid-year report and an annual report which shall include the information contained in the *Seventh Schedule*.

Clause 87 of the Bill seeks to provide that the Ministry responsible for finance shall monitor and review the performance of an Agency including compliance with this Act, financial performance, non-financial performance and fiscal risks and the Financial Secretary may review the performance of an Agency against the requirements of this Act, the annual budget and the annual plan of the Agency and may provide a report to the Minister and the responsible Minister on the performance.

Clause 88 of the Bill seeks to provide that the board of each Government Business Enterprise shall ensure that the Government Business Enterprise achieves the primary objective to operate as a successful business and to earn a return on the owners' funds over the medium-term as that earned by comparable businesses not owned by the Government.

Clause 89 of the Bill seeks to provide that the board of each Government Business Enterprise shall provide a statement of corporate intent and business plan for the Government Business Enterprise and all its subsidiaries to the Minister and the responsible Minister, by a date to be set by the Financial Secretary.

Clauses 90 and 91 of the Bill seek to provide that the statement of corporate intent and the business plan shall include the content set out in the *Eighth* and *Ninth Schedule* respectively.

Clause 92 of the Bill seeks to provide that the responsible Minister shall table the statement of corporate intent for each Government Business Enterprise in the House of Assembly on the same day as the annual budget is tabled.

Clause 93 of the Bill seeks to provide that the board of a Government Business Enterprise shall agree the proposed dividend with the responsible Minister and the Minister.

Clause 94 of the Bill seeks to provide that every Government Business Enterprise that receives fifty percent or more of its operating budget from subventions from the Government shall, within thirty days of the end of the reporting period, prepare and submit to the Minister monthly and quarterly financial statements and reports shall be signed by the chief executive officer or the chief financial officer and shall be reviewed and endorsed by the board. The Minister may withhold any subventions payable to the Government Business Enterprise where there is a delay in the submission of any of the reports required or a deficiency in the content of any of the reports and the Minister believes that the delay or deficiency is not reasonably justified.

Clause 95 of the Bill seeks to provide that the board of a Government Business Enterprise shall cause to be prepared a mid-year report and an annual report, which shall include the information contained in the *Tenth Schedule*, for the Government Business Enterprise and its subsidiaries including financial statements and submit them to the responsible Minister and the Financial Secretary no later than three months after the end of the financial year.

Clause 96 of the Bill seeks to provide that sections 88 to 95 shall not apply if the Government is a minority shareholder in a publicly listed company and if the Government holds more than 50 percent but less than 100 percent of the shares in a publicly listed company sections 88 to 95 shall apply only as far as they are consistent with the Companies Act 2000.

Clause 97 of the Bill seeks to provide that the Ministry responsible for finance shall monitor and review the performance of the Government Business Enterprise and the Financial Secretary shall review the performance of each Government Business Enterprise against the requirements of this Act, the statement of corporate intent and the annual plan and shall provide a report to the Minister on the performance no later than 31<sup>st</sup> October each year.

Clause 98 of the Bill seeks to provide that the each Ministry shall produce an annual plan which shall include the information in the *Sixth Schedule*. The annual plan shall be in compliance with the budget and other instructions from the Ministry responsible for finance. Each Ministry shall submit the annual plan and annual budget to the Ministry responsible for finance by a date to be specified by the Financial Secretary; and publish the annual plan on the official

website of the Government no later than one week after the annual budget has been passed by the Parliament.

Clause 99 of the Bill seeks to provide that each Permanent Secretary shall cause to be provided to the responsible Minister and the Financial Secretary a mid-year report no later than one month after the end of the first six months of the financial year and the Permanent Secretary shall provide the responsible Minister, Minister and Financial Secretary with an annual report, which shall include the information contained in the *Seventh Schedule*, no later than two months after the end of the financial year.

Clause 100 of the Bill seeks to provide that the responsible Minister or the Minister may commission a performance review of a Ministry. Also the responsible Minister shall monitor the overall performance of the Ministry and the Financial Secretary may review the performance of each Ministry to ensure compliance with the requirements of this Act and may provide a report to the Minister and the responsible Minister on the performance no later than 30<sup>th</sup> November each year.

Clause 101 of the Bill seeks to provide that the Local Government shall produce an annual plan which shall include the information in the *Sixth Schedule* and the Minister responsible for Local Government shall table the annual plan in the House of Assembly on the same day as the annual budget.

Clause 102 of the Bill seeks to provide that the Director of Local Government shall provide the Minister responsible for Local Government and the Ministry responsible for finance with a mid-year report no later than one month after the end of the first six months of the financial year. The Chief Councillor of the Local Government shall produce an annual report, include the information contained in the *Seventh Schedule*, submit it to the Auditor-General and the Minister responsible for Local Government who shall table it in the House of Assembly. published by the Local Government.

Clause 103 of the Bill seeks to provide that the Minister responsible for Local Government may commission a performance review and the Minister commission a review of financial performance of Local Government and the Auditor-General may audit the activities of Local Government for service performance.

Clauses 104, 105, 106, 107, 108, 109 and 110 of the Bill seeks to provide for the Tax Compliance Certificate and related matters

Clause 111 of the Bill seeks to set out the actions and omissions that amount to financial misconduct and further provides that an offence of financial misconduct shall be investigated, heard and disposed of as required by the Constitution, the Public Service Act 1969, other Acts, codes of ethics or codes of conduct and the terms of appointment or employment applicable to the person charged.

Clause 112 of the Bill seeks to provides for a criminal offence where a person with responsibility for public resources, unlawfully takes possession of public moneys or assets, misappropriates public moneys or assets, provides inaccurate financial information or conceals information on public finances to obtain a benefit for himself or another person or engages in corrupt acts including soliciting or receiving bribes and further provides that a person who commits an offence under this section shall on conviction be liable to imprisonment for a period not exceeding five years or to a fine not exceeding \$100,000.00 or to both.

Clause 115 of the Bill seeks to set out a number of circumstances where the Financial Secretary may apply a sanction to a public entity or Government Business Enterprise and also sets out the sanctions that he may apply.

Clause 117 of the Bill seeks to set out a number of circumstances where the Financial Secretary may apply a sanction against a person who is or was a public officer or public office holder, or other person with responsibilities for public resources and also sets out the nature of the sanctions that he may impose.

Clause 118 of the Bill seeks to provide that the Financial Secretary shall notify the Auditor-General, the Accountant-General and the chief executive officer of the public entity concerned, of any surcharge made and the chief executive officer, shall notify the person surcharged and shall recover the amount surcharged from that person.

Clause 119 of the Bill seeks to provide that the Financial Secretary may at any time withdraw any surcharge and shall notify the Auditor-General, the Accountant-General and the chief executive officer of the entity concerned of the withdrawal of the surcharge.

Clause 120 of the Bill seeks to provide that any person who is dissatisfied with any surcharge made against him may appeal in writing to the Public Service Commission and it may, after any further investigation as considers desirable, make an order confirming the surcharge or directing that the person be released wholly or in part from the surcharge as may appear just and reasonable and a copy of every order shall be transmitted to the Financial Secretary, the chief executive officer of the entity concerned, the Auditor-General and the Accountant-General.

Clause 121 of the Bill seeks to provide that the Financial Secretary may direct that the amount of any surcharge shall be recovered by monthly or semi-monthly deductions from the salary or other payment due to the person surcharged or before a magistrate on the complaint of the Financial Secretary or through civil proceedings in the Supreme Court.

Clause 122 of the Bill seeks to provide that the Ministry responsible for finance shall publish in the Official Gazette and on an official website of the Government the name, position, offence and sentence for each person found liable of a criminal offence under this Bill.

Clause 123 of the Bill seeks to provide that the Minister may make regulations generally and for the matters specified.

Clause 124 of the Bill seeks to provide that the Minister may by order amend the First and Fifth *Schedule* and he may amend all the other schedules by order subject to an affirmative resolution of the House of Assembly.

Clause 125 of the Bill seeks to provide that the Minister may make rules for the matters specified.

Clause 126 of the Bill seeks to provide that the Minister may issue Directions generally.

Clause 127 of the Bill seeks to provide that the Financial Secretary may issue Directions as specified in this Bill or on behalf of and with the approval of the Minister.

Clause 128 of the Bill seeks to provide that the Accountant-General may issue Treasury Directions as specified in this Bill.

Clause 129 of the Bill seeks to provide that the Financial Administration and Audit Act 2010 is repealed except the specified sections.

Clause 130 of the Bill seeks to provide that anything done or any action taken in exercise of any power conferred by or under the repealed sections of the Financial Administration and Audit Act 2010 shall be valid.

Clause 131 of the Bill seeks to provide that a reference in any written law to the Treasurer shall be construed as a reference to the Accountant-General.

Clause 132 of the Bill seeks to provide for the implementation of different sections on different dates.