



*EXTRAORDINARY*  
**OFFICIAL GAZETTE**  
**THE BAHAMAS**  
PUBLISHED BY AUTHORITY

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NASSAU

5<sup>th</sup> April, 2023

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# PUBLIC FINANCE MANAGEMENT ACT, 2023

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No. 4 of 2023

## **PUBLIC FINANCE MANAGEMENT ACT, 2023**

**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.**

[Date of Assent - 5<sup>th</sup> April, 2023]

**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, 2023.
- (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—

“**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 *Seventh Schedule* pursuant to section 100;

“**annual budget**” means the annual estimates of revenue, expenditure, financing and other documents required by section 35, the *Fourth Schedule*, Article 129 of the Constitution 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 43, 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 41;

“**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 —

- (a) 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
- (b) 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 grant”** means a grant or donation of money or real property but does not include grants or donations of goods services or other property;

**“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 97;

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

**“fiscal balance”** means unless otherwise explicitly stated, the balance of revenues and expenditure;

**“fiscal objectives”** means the measurable fiscal indicators for the fiscal policy to achieve the fiscal responsibility principles formulated in accordance with the *First Schedule* and stated in the fiscal strategy report;

**“fiscal policy”** means decisions or actions undertaken by public authorities regarding public revenue, expenditure, assets and liabilities to influence the economy and achieve public policy objectives;

**“fiscal procedures”** means the preparation, submission and publication of the reports, forecasts, assessments and statements required under this Act;

**“Fiscal Responsibility Council”** means the council established pursuant to section 26;

**“fiscal responsibility principles”** means the specific principles of responsible fiscal management in section 20;

- "fiscal risks"** means the exposure of the government short-term and medium-term deviations in fiscal variables compared to what was anticipated in the budget, the financial accounts, the fiscal strategy report or other statements or projections of public finances;
- "fiscal strategy report"** has the meaning given in section 22;
- "fiscal sustainability"** means the ability to conduct a given fiscal policy for a significant period of time in a manner that does not breach the general principles in section 19 and specific principles of responsible fiscal management in section 20;
- "general principles"** means the principles referred to in section 19;
- "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 *Eighth Schedule* pursuant to section 100;
- "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*);
- "Local Government District"** shall have the meaning assigned to the term in the Local Government Act (*Ch. 37*);
- "medium-term"** means a minimum of three to five consecutive years;
- "mid-term budget"** means the mid-year updated estimates of revenue, expenditure, financing and other documents required by section 36 and the *Fifth Schedule*, and any other documents the Minister considers necessary;
- "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;
- "owned or controlled"** in relation to a Government Business Enterprise means holding the majority of the entity's subscribed capital,

controlling the majority of the votes attaching to shares issued by the entity, or having the ability to appoint more than half of the entity's administrative, management or supervisory body;

**“permanent secretary”** means a public officer charged pursuant to Article 88 of the Constitution with the supervision of a Government department or Ministry;

**“primary balance”** means overall fiscal balance excluding interest expenses;

**“primary expenditure”** means expenditure excluding interest expenses;

**“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 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”** 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, Utilities Regulatory Competition Authority, the

Gaming Board for 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”** mean those departments responsible for the collection and enforcement of Government revenue and taxes and shall include the Department of Inland Revenue, Bahamas Customs and Excise Department, the Department of Immigration, the Registrar General's Department and the Department of Road Traffic;

**“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;

**“settlement”** means an agreement made by the Attorney General with a claimant or respondent to settle a claim, whether or not the

settlement amount is less than the amount of the claim, in full satisfaction thereof;

**“significant unforeseeable event”** means a sudden and unexpected event resulting in a significant economic downturn, a threat to national security or a natural disaster;

**“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 54;

**“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;

**“Treasurer”** means the position set out in section 9;

**“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 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.

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

### **5. General requirement.**

The Minister, responsible Ministers, Financial Secretary, Treasurer, Auditor General, chief executive officers, permanent secretaries, 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.

## **6. 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 and 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.

## **7. 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 Treasurer;
  - (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) All senior officials of Government with direct responsibilities in the areas specific in subsection (1) including but not limited to:—
  - (a) senior officials of the Ministry responsible for finance;



- (b) Treasurer;
  - (c) Comptroller of Customs;
  - (d) Comptroller of VAT;
- shall report to the Financial Secretary.

- (3) 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 conferred under this Act to the Treasurer or a senior public officer not below the rank of Director in the Ministry responsible for finance.
- (4) 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.

## **8. 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 VIII of this Act.

## **9. Role of the Treasurer**

- (1) The Treasurer 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;
  - (k) ensuring each public entity has in place a proper system of accounts, and financial control mechanisms in accordance with this Act;
  - (l) 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;
  - (m) 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;
  - (n) 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;
  - (o) managing all finance and accounting officers in the Public Treasury Department and those assigned to other public entities;
  - (p) providing technical advice on accounting and related matters to the Financial Secretary;
  - (q) preparing and providing to the Financial Secretary a cash plan for each public entity based on their final procurement plans submitted pursuant to section 25 of the Public Procurement Act; and
  - (r) other responsibilities as are assigned to him by law or by the Minister.
- (2) The Treasurer—
- (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 Treasurer 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 Treasurer may delegate any of his responsibilities or powers to a public officer or public office holder not below the rank of Deputy Treasurer or Financial Controller I.
- (4) The Treasurer and any person delegated by the Treasurer 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.

## **10. Role of Auditor General.**

- (1) The Auditor-General shall carry out examinations into the economy, efficiency and effectiveness with which any department, authority or other body to which this section applies, has used its resources in discharging its functions.
- (2) Subsection (1) shall not be construed as entitling the Auditor-General to question the merits of the policy objectives of any department, authority or body in respect of which an examination is carried out.
- (3) Subject to subsections (4) and (5), this section applies to Ministries, Agencies and Government Business Enterprises.
- (4) Any examination under this section by the Auditor-General in respect of an Agency or Government Business Enterprise shall, where the functions of the Auditor-General are by the relevant law or agreement restricted to particular activities of the authority or body, be correspondingly restricted to such particular activities.
- (5) Subject to subsection (6), no examination shall be carried out under this section by the Auditor-General in respect of a Government Business Enterprise unless the carrying out of such an examination is included, expressly or by implication, in the functions exercisable by him under an agreement in subsection (6).
- (6) Subject to subsection (7), the responsible Minister shall use his best endeavours to secure from a Government Business Enterprise such rights as will enable examinations under this section to be carried out in respect of that Government Business Enterprise in any case where —
  - (a) an agreement was made by a responsible Minister before the coming into force of this section and the agreement does not expressly or by implication allow such an examination; or
  - (b) a responsible Minister makes an agreement after the coming into force of this section for the exercise by the Auditor-General in respect of the relevant authority or body any of the functions as are mentioned in paragraph (c) of subsection (3).
- (7) Subsection (6) shall not oblige a responsible Minister to seek to obtain any rights except at the request of the Auditor-General and the obligations of a responsible Minister under that subsection do not apply to any organisation which is the subject of an Order under section 3 of the International Organisations (Immunities and Privileges) Act (*Ch. 14*).

## **11. Role of 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 Public Sector 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 Public Sector Audit Committee.

## **12. Treasurer power to conduct examinations.**

The Treasurer is entitled to inspect such offices and to have access to such official books, documents, and other records as may be necessary for the performance of his functions under this or any other Act.

## **13. Role of permanent secretaries and principal accounting officers.**

Every permanent secretary and 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.

## **14. 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 Treasurer or the Auditor-General of his responsibilities as the acceptance for deposit of public money by the Treasurer 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.

**15. Responsibilities of public officers and public office holders.**

- (1) 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 Treasurer.
- (2) A public officer or public office holder shall not expend public money, create debt, enter into any commitments or otherwise create liabilities for the Government without lawful authority.

## 16. Objection to direction.

- (1) A public officer or public office holder who is directed by any public officer or public office holder to take any action or to refrain from taking any action shall, if he objects to such direction —
  - (a) object in writing to 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 the Financial Secretary or the Minister of Finance, if the Financial Secretary gave the direction.
- (2) Where the objection is made to any direction given by a public officer or a public office holder, the Financial Secretary who receives the objection under subsection (1) shall make a decision on the objection.
- (3) Where the objection is made to any direction given by the Financial Secretary under subsection (1), the Minister of Finance receiving the objection shall make a decision on the objection.
- (4) 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.
- (5) A public officer or public office holder who objects to a direction in accordance with subsection (1) shall not be subject to any disciplinary proceeding or 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 - PRINCIPLES AND PROCEDURES FOR RESPONSIBLE FISCAL MANAGEMENT

### 17. Interpretation and Application of Parts II and III.

- (1) In this Part and Part III—

“**public body**” means a ministry, department, the senate, the house of assembly, a constitutional body, non-profit making statutory body, public corporation, any commission, authority, committee or other body, whether paid or unpaid, appointed by the Governor-General or a Minister of the Government, or any other governmental entity;

“**medium term**” means a period of three consecutive financial years;

- (2) This Part and Part III shall apply to all public entities, public bodies, and Government Business Enterprises.

## **18. Management of public finances and resources.**

- (1) The Government shall be responsible for conducting its fiscal policy and the management of the public finances and resources of the Government in accordance with the principles and procedures in this Act.
- (2) The Government shall manage the public finances and determine the fiscal policy in accordance with—
  - (a) the general principles in section 19;
  - (b) the fiscal responsibility principles in section 20; and
  - (c) the fiscal objectives and other requirements of this Act.
- (3) The Minister, all other Ministers and chief executive officers of all public bodies, local government and government owned or controlled companies shall be responsible for the management of public resources and public moneys in a manner consistent with this Act.

## **19. General principles of responsible fiscal management.**

The general principals of responsible fiscal management are—

- (a) accountability, which means the Prime Minister, the Minister, all other Ministers, the heads of local governments and Chief Executive Officers are accountable to Parliament for the way the Government and local government authorities, respectively, carry out their responsibilities with respect to managing fiscal policies;
- (b) intergenerational equity, which means the management of fiscal policies of the Government shall be conducted in a manner that takes into account the impact on the welfare of the current population and future generations;
- (c) responsibility, which means the management of public assets and liabilities, including natural resources and fiscal risks shall be conducted to maintain fiscal and environmental sustainability;
- (d) stability, which means fiscal policy shall be conducted in a manner that does not cause destabilizing changes in the macroeconomic and fiscal indicators;
- (e) transparency, which means —
  - (i) the roles and responsibilities of all government entities, public officials and public office holders with respect to the management of fiscal policy are clearly established and defined;



- (ii) timely financial and non-financial information related to the management of fiscal policy is made available so as to permit effective public scrutiny of the conduct of fiscal policy and the state of the public finances; and
- (iii) public officials and public office holders should, when lawfully required, provide financial or other performance information; and
- (f) inclusive growth, which means economic growth that benefits the whole population.

## **20. Fiscal responsibility principles.**

The fiscal responsibility principles are—

- (a) achieving and maintaining a sustainable fiscal balance;
- (b) achieving and maintaining prudent levels of public debt; and
- (c) prudently managing fiscal risks.

## **21. Fiscal objectives.**

- (1) The Government shall set fiscal objectives for the fiscal responsibility principles in the fiscal strategy report in accordance with the *First Schedule* which shall include information pertaining to setting fiscal objectives in the fiscal strategy report and shall include one or more medium term fiscal objectives.
- (2) The Government shall set fiscal objectives for the fiscal responsibility principles in the fiscal strategy report to ensure the proportions of capital and recurrent expenditure support compliance with the fiscal responsibility principles.

## **22. Preparation of fiscal strategy report.**

The Ministry responsible for finance shall be responsible for preparing and submitting a fiscal strategy report on behalf of the Government in accordance with section 23 to the Fiscal Responsibility Council and Parliament which is consistent with the principles and procedures in this Part.

## **23. Submission and publication of fiscal strategy report.**

- (1) Immediately after laying the annual budget, the Minister shall lay the fiscal strategy report in Parliament for information and shall cause the fiscal strategy report to be published on an official website of the Government.
- (2) Each financial year the Minister shall prepare and implement the annual budget of the Government in accordance with this Act and the fiscal

objectives in the fiscal strategy report, such report to include the information specified in the *Second Schedule*.

**24. Pre-election economic and fiscal update.**

The Minister shall, not earlier than thirty working days, nor later than twenty working days, before the day appointed as polling day in relation to any general election of members of Parliament, arrange to be published on an official website of the Government, a Pre-election Economic and Fiscal Update which shall include the information specified in the *Third Schedule*.

**25. Deviation from fiscal objectives.**

- (1) The Government may deviate from the fiscal objectives where that deviation is due to a significant unforeseeable event that cannot be accommodated through the use of other measures provided for in this Act or prudent fiscal policy adjustments.
- (2) If the deviation referred to in subsection (1) has not been cured prior to the mid-year review or the annual budget, the Government shall outline in the mid-year review or annual budget as appropriate, the measures the Government intends to take to return to compliance with the fiscal objectives.

## **PART IV - ESTABLISHMENT, FUNCTIONS AND CONSTITUTION OF FISCAL RESPONSIBILITY COUNCIL**

**26. Establishment of Fiscal Responsibility Council.**

There is hereby established an independent body corporate to be known as the Fiscal Responsibility Council (hereinafter referred to as "the Council").

**27. Functions of Council.**

- (1) The Council shall have responsibility to assess compliance with the general principles, fiscal responsibility principles and fiscal objectives and to advise on fiscal and budgetary matters of the Government including reviewing the —
  - (a) fiscal strategy report;
  - (b) annual budget;
  - (c) mid-year review;
  - (d) pre-election economic and fiscal update;
  - (e) Government annual accounts; and
  - (f) reports on deviations from the fiscal responsibility requirements.

- (2) The Council may, with the approval of the Minister, hire experts on contract to assist the Council in carrying out its functions.
- (3) The Ministry responsible for finance shall provide secretariat support for the Fiscal Responsibility Council.
- (4) The Council shall meet as often as necessary to discharge its functions but at a minimum of three times in a financial year.

## **28. Power of Council to request information.**

The Ministry responsible for finance shall provide information and documentation requested in writing by the Council within thirty days of receipt thereof to comply with its functions and responsibilities under this Act.

## **29. Confidential information.**

- (1) A person shall not, without the relevant consent or as required by law, disclose confidential information obtained by that person in any capacity, or while performing functions, as—
  - (a) a member of the Council, or
  - (b) a member of the staff of the Council.
- (2) A person who contravenes subparagraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$50,000.
- (3) Nothing in subparagraph (1) shall prevent the disclosure of information to the Council or by or on behalf of the Council to the Minister.
- (4) In this section—

**“confidential information”** means information that is expressed by the Council or, in the case of information supplied to the Council by the Minister, by the Minister to be confidential either as regards particular information or as regards information of a particular class or description;

**“relevant consent”** means—

- (a) in the case of information expressed to be confidential by the Council, the consent in writing of the Council, and
- (b) in the case of information expressed to be confidential by the Minister, the consent in writing of the Minister.

## **30. Constitution of Council.**

- (1) The Council shall consist of five members appointed by the Minister subject to paragraph (2).
- (2) In appointing members of the Council, the Minister shall—

- (a) have regard to the desirability of their having competence and experience in domestic or international macroeconomic or fiscal matters, and
  - (b) to the extent practicable, ensure an appropriate balance between men and women in the membership of the Council.
- (3) Where there is a vacancy (however occasioned) in the membership of the Council the Minister shall, if it is reasonably practicable to do so, appoint a replacement before the end of the period of 6 months beginning on the day on which the vacancy arose.
- (4) The chairperson of the Fiscal Council shall be such one of its members as is for the time being designated as such by the Minister.

### **31. Tenure of Council members.**

- (1) A member of the Council shall hold office for such period, not exceeding three years, as the Governor-General may direct in the instrument appointing such member, but such member shall be eligible for re-appointment.
- (2) In making the initial appointments to the Council the Governor-General on the advice of the Speaker shall vary the length of the term of appointment for Council members so the end of the period of appointment does not occur in the same year for all members.
- (3) The Governor-General acting on the advice of the Minister shall in determining a term of appointment or reappointment, seek to ensure that no more than three of the existing members' terms of appointment expire in any one year.

### **32. Removal and resignation of Council members.**

- (1) A member of the Council may be removed from office by the Governor-General on the advice of the Minister if the member —
- (a) is incapable of performing the functions of office by reason of mental or physical incapacity;
  - (b) is guilty of misconduct under any Act, or regulations governing the public service;
  - (c) has committed a financial offence;
  - (d) has committed an offence punishable by imprisonment;
  - (e) has been absent from three consecutive meetings of the Council without acceptance of an apology by the Council; or
  - (f) the removal of the member appears to be necessary for the effective performance by the Fiscal Council of its functions.

- (2) The removal of a member of the Council under this section shall take effect immediately upon the decision of the Governor-General and the member shall be advised in writing of the removal.
- (3) A member of the Council may at any time resign from office by notice in writing to the Governor-General which shall take effect on the date specified by the notice.

### **33. Reports of the Council.**

- (1) The Council shall—
  - (a) submit to the Parliament by the 31st day of July in every financial year:
    - (i) a report containing an assessment of the fiscal strategy report of the Government against the general principles, fiscal responsibility principles and fiscal objectives; and
    - (ii) a report containing an assessment of the annual budget for that budget year of the Government against the general principles, fiscal responsibility principles and fiscal objectives;
  - (b) submit to the Parliament by the 31st day of March in every year a report containing an assessment of the mid-year review against the general principles, fiscal responsibility principles and fiscal objectives;
  - (c) submit to the Parliament a report containing an assessment of the Government's pre-election report against the general principles, fiscal responsibility principles and fiscal objectives within six months preceding the fifth anniversary of the election to which it relates;
- (2) The report of the Council referred to in subsection (1)(a) to (c) shall be published on an official website of the Council on the same day as the report was provided to the Government or to the Parliament.
- (3) The Council may provide at any time, at its own initiative or upon request, advice to the Government on matters related to its functions under this Act.

## **PART- V ANNUAL BUDGET, MID-YEAR BUDGET AND AUTHORIZATION OF EXPENDITURE**

### **34. 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 of 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 earlier than the last Wednesday in March and no later than the last Wednesday of May of the financial year prior to the financial year to which the annual budget relates.
- (5) The Minister shall table the mid-term review documents in the House of Assembly no later than the last Wednesday of February of each financial year.

### **35. 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 *Fourth Schedule* of this Act.
- (2) The Government shall ensure that the annual budget is consistent with the, the fiscal responsibility principles 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;
  - (d) the annual plans for public entities and the statement of corporate intent for Government Business Enterprises as required by this Act; and
  - (e) the fiscal strategy report.

### **36. Contents of the Mid-Term Review**

- (1) The mid-term review shall have updated estimates of revenue, expenditure and financing in the annual budget to which it relates and shall include the information in the *Fifth Schedule* of this Act and be published on an official website of the Government within one week of tabling.
- (2) The mid-term review shall measure progress against-
  - (a) the fiscal responsibility principles and fiscal objectives; and
  - (b) the fiscal strategy report.
- (3) The Minister may by order subject to affirmative resolution of the House of Assembly amend the *Fifth Schedule*.
- (4) The Fiscal Responsibility Council shall provide an opinion on any proposed amendment to the *Fifth Schedule*, to the Minister who shall table the opinion along with the amendments for consideration by Parliament.

### **37. 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 financial year.

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

- (1) The Parliament shall approve the annual budget for the forthcoming financial year no later than the 30th 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.

### **39. 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.

#### **40. 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 summary 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.

#### **41. 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 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 five 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.
- (5) 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.
- (6) 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.

#### **42. Contingencies Fund.**

- (1) Pursuant to Article 133 of the Constitution, Parliament may provide for the establishment of a Contingencies Fund to be maintained in a separate account from the Consolidated Fund and 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 by Contingencies Warrant 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.

**43. 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.
- (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.

#### **44. 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 41 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 42;
- (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).

#### **45. 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.

#### **46. 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 41;
  - (b) from the Contingencies Fund under section 42;
  - (c) by reallocating funds within or between heads of expenditure under section 49;
  - (d) from any other fund having a purpose of financing disaster expenditure; or
  - (e) from any other financing source authorised by law.
- (2) 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 under (1) above or remove or amend the limitation specified in sections 49 and 50 of this Act; and
  - (b) direct public entities regarding the reallocation of their budgets.
- (3) 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.
- (4) Any changes to the annual budget made under subsection (3) shall be authorised under section 49, section 50 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 VI - FINANCIAL MANAGEMENT AUTHORIZATION OF EXPENDITURE**

### **47. Control of expenditure.**

- (1) The Chief Procurement Officer shall provide a final procurement plan pursuant to section 25 of the Public Procurement Act to the Financial Secretary no later than 30th September or any other date as specified by the Financial Secretary.
- (2) If a principal accounting officer fails to supply the information as required by subsection (3) the Financial Secretary shall suspend the warrant or part of the warrant to authorize commitments for which there are no procurement plans or cash plans.
- (3) The Financial Secretary may limit or suspend any appropriation charged under any Appropriation Act if, in the opinion of the Financial Secretary, the exigencies of the financial situation render the limitation or suspension necessary.

### **48. 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, permanent secretary, 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, permanent secretary, 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, permanent secretary, other public officer or public office holder makes a commitment in contravention of the procedures to control commitments, section 138 regarding a surcharge shall apply.

#### **49. 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.
- (3) For the purposes of this section an unforeseen need for expenditure shall have the meaning assigned to such term in section 41(2) of this Act.

#### **50. 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 recurrent economic items as specified in regulations; or
    - (b) capital funds within an expenditure head between projects.
  - (2) The Financial Secretary shall not issue a virement warrant under subsection (1) 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 expenditure categories 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 Financial Secretary may require a principal accounting officer to 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..
  - (6) The Minister may 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

### 51. Cash planning and management.

- (1) The Treasurer 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 Treasurer 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 Treasurer are consistent with the timing of planned purchases and are regularly updated.

## CONSOLIDATED FUND, SPECIAL FUNDS, TRUST ASSETS

### 52. 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 Treasurer directs.
- (4) Revenues derived from real property tax collected under the Real Property Tax Act (*Ch. 375*) in respect of property located on a Family Island all taxes and fees collected on a Family Island under the Road Traffic Act

(Ch. 220), shall be utilized to defray expenses and fund expenditures of that Family Island as follows —

- (a) for the financial year commencing July 1, 2022, not less than ten percent;
  - (b) for the financial year commencing July 1, 2023, not less than seventeen percent; and
  - (c) for the financial year commencing July 1, 2024 and for subsequent financial years, not less than twenty-five percent.
- (5) All moneys received in error into the Consolidated Fund shall be refunded by the Treasurer 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.

**53. 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.

**54. 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.



## 55. Deposit Fund.

- (1) There shall be continued a Deposits Fund into which shall, pending repayment or application to the purposes for which they were deposited, be paid –
  - (a) the balances held on deposit in respect of any funds established by law or otherwise or any other deposits not being either trust funds or the balances of the Consolidated Fund;
  - (b) notwithstanding the provisions of paragraph (a), such amounts not exceeding the sums not required for early withdrawal as the Minister authorises to be issued from the Consolidated Fund.
- (2) The Minister may authorise the making of advances from the Deposits Fund not exceeding in the aggregate five million dollars or such greater sum as the House of Assembly may by resolution direct—
  - (a) on behalf of, and recoverable from, other Governments;
  - (b) to officers, where such advances are in the public interest and are made in accordance with the regulations;
  - (c) subject to subsection (3), to any Ministry for the purpose of facilitating the purchase of public stores;
  - (d) to or on account of trusts or other funds administered by the Government or to, or on behalf of statutory corporations, institutions, or individuals, where such advances are in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances were made.
- (3) The Minister shall ensure that advances made to a Ministry pursuant to paragraph (c) of subsection (2) shall not exceed in the aggregate the sum of five hundred thousand dollars or such greater sum as the House of Assembly may by resolution direct.
- (4) The Minister shall, where any advance or overpayment or any portion of such made to any officer pursuant to paragraph (b) of subsection (2) has not been repaid, accounted for or recovered in accordance with the prescribed regulations, recover such advance, overpayment or portion—
  - (a) out of any moneys, including salaries, payable by the Government to the officer to whom the advance, overpayment or portion was made; or
  - (b) where the officer is deceased, out of any moneys payable by the Government to the estate of that officer.
- (5) Money at the credit of the Deposits Fund shall continue to be kept in an account styled "the Deposits Fund Account" with such bank or banks as the Financial Secretary may from time to time direct.

**56. Sinking Funds.**

- (1) The Minister may establish sinking funds for payment of the amount due at maturity on any government security and loan issued under the Public Debt Management Act.
- (2) The Minister shall, as part of the annual budget, disclose the particulars of government securities and loans to be redeemed from the sinking funds.
- (3) The Minister shall appoint trustees to administer the sinking funds in accordance with the provisions of the Public Debt Management Act.

**57. 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 Treasurer shall be responsible for, and shall manage or arrange for the management of, the trust assets.
- (3) The Treasurer 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 Treasurer 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.

**58. Unclaimed trust assets and deposit fund assets**

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

**BANKING ARRANGEMENTS**

**59. 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 Treasurer.

- (2) The Financial Secretary shall designate a bank with which the Treasury account shall be established and shall authorize the opening of subaccounts 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.
- (3) The Treasurer 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.
- (4) The Treasurer 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.

**60. General banking arrangements.**

- (1) Subject to the provisions of this Act and any regulations, the Treasurer 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 Treasurer.
- (2) 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.
- (3) No public entity shall incur an overdraft unless authorized in writing by the Financial Secretary.
- (4) Every bank holding public money shall provide information to the Minister, Financial Secretary or Treasurer in the form and timeframe requested.
- (5) 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.
- (6) The Financial Secretary may issue a direction regarding the bank accounts of a Government Business Enterprise if the Financial Secretary or the Treasurer considers it necessary in the public interest to issue a direction.

## FINANCIAL ASSET MANAGEMENT

**61. 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.

**62. Deposit of excess moneys.**

The Treasurer 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 Treasurer may determine, public moneys as may not be immediately required to meet current transactions.

**63. 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.

**64. Crediting interest from investments.**

The interest or dividends received from an investment authorized under section 63 shall be credited to the fund or trust from which the public moneys originated to make the investment.

**65. 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 shares held by the Government in an Agency or Government Business Enterprise shall be held in the name of the Treasurer on behalf of the Government.
- (3) 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.

**FINANCIAL GRANTS**

**66. Requirements for financial grants.**

- (1) The Government shall not accept a financial 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.
- (2) A responsible Minister who proposes to recommend to the Cabinet that a financial grant be accepted shall provide Cabinet 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 financial grants made to the Government by a foreign Government or any other entity or person and shall ensure that the financial 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 financial grant shall immediately transfer the funds to the Treasurer 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 financial 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

### **67. 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 97.
- (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 any beneficiary of the proposed remission receiving more than one thousand dollars 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.

**68. 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 Treasurer, in writing, to pay the amount in settlement of the claim out of the Consolidated Fund.

**69. Write-offs.**

- (1) The Treasurer 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 Treasurer considers to be uncollectible or the collection of which the Treasurer considers not to be cost effective and such write-off shall be subject to this Act and in accordance with procedures determined by the Treasurer.
- (2) The Minister may approve a write-off proposed by the Treasurer of a debt over \$250,000.00 or other sum set by regulations.
- (3) The Cabinet may approve a write-off proposed by the Treasurer and recommended by the Minister of a debt over \$1,000,000.00.
- (4) The Treasurer 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 Treasurer shall include a summary of write-offs in the Financial Statements of the Government.

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

- (1) A summary statement of—
  - (a) remissions under section 67, settlements under section 68 and write-offs under section 69; 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 above \$1,000 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 above \$1,000; 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 Treasurer 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**

**71. Public investment projects.**

- (1) Sections 72 to 75 apply to an Agency or Government Business Enterprise that ordinarily receives fifty percent or more of its operating budget from subventions from the Government.
- (2) Sections 72 to 75 shall not apply to an Agency or Government Business Enterprise that receives fifty percent or more of its operating budget from a subvention of the Government in extraordinary circumstances.

**72. 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.

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

The chief executive officer of an Agency of Government Business Enterprise shall ensure that the requirements for the approval, management and reporting of public investment projects comply with regulations and directions.

**74. Publication.**

- (1) The Minister shall submit a statement of public investment projects selected for inclusion in the Fiscal Strategy Report.
- (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.

**75. Directions on public investment projects.**

The Financial Secretary may issue directions on public investment projects.

## INTERNAL AND EXTERNAL AUDIT

**76. Internal Audit Department.**

- (1) There is continued 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 of 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 or permanent secretary that operations are being carried out economically, efficiently, effectively and in compliance with this and other Acts;
  - (e) providing the chief executive officer or permanent secretary 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.

**77. Access to Records and Communications by Director of Internal Audit.**

- (1) 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.
- (2) The Director of Internal Audit shall provide a copy of each audit report to the Financial Secretary, the Public Sector Audit Committee, and the chief

executive officer or permanent secretary of the Ministry or department audited.

**78. 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.

**79. 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, Public Sector 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.

**80. 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.

## **81. Public Sector Audit Committee.**

- (1) There shall be a Public Sector Audit Committee to perform the functions referenced in subsection (4).
- (2) The Public Sector Audit Committee members shall be—
  - (a) a Chairperson who shall be a public officer with experience in financial accounting or commercial matters appointed by the Minister;
  - (b) the Financial Secretary;
  - (c) the Auditor General;
  - (d) the Director of Internal Audit;
  - (e) the Treasurer;
  - (f) one chief executive officer or permanent secretary from an Agency selected by the Minister; and
  - (g) one chief executive officer or permanent secretary of a Ministry selected by the Minister.
- (3) The provisions of the *Sixth Schedule* shall have effect with respect to the procedures of the Committee and otherwise in relation thereto.
- (4) The Public Sector Audit Committee shall—
  - (a) provide advice to the Minister on the sufficiency of resources of the Internal Audit Department and Auditor General;
  - (b) recommend and periodically review an internal audit charter for the Government for approval by the Auditor General;
  - (c) provide advice to the Financial Secretary on the sufficiency of resources of the Internal Audit Department;
  - (d) review and make recommendations to the Minister and/or the Financial Secretary on the internal audit reports, Auditor General reports, and corresponding management action plans;
  - (e) 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;
  - (f) 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; and
  - (g) refer matters for consideration by appropriate authorities.

## **82. Secretariat for Public Sector Audit Committee.**

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

**83. 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) Financial Secretary;
  - (b) Treasurer;
  - (c) Public Sector Audit Committee; and
  - (d) Auditor-General.

**84. Directions to ministries and departments on internal and external audit.**

The Financial Secretary may, after consulting with the Public Sector Audit Committee, issue directions with respect to the audit function consistent with this Act to Ministries, Agencies, Departments and Government Business Enterprises.

## EXTERNAL AUDIT

**85. Further duties of Auditor-General.**

- (1) Subject to section 86, the Auditor-General shall satisfy himself that—
  - (a) all reasonable precautions have been taken to safeguard the collection of public moneys and all related laws, directions and instructions have been duly observed;
  - (b) all issues and payments have been made in accordance with proper authority and all payments were properly chargeable and supported by sufficient vouchers or proof of payment;
  - (c) all public moneys expended or charged to an appropriation account have been applied to the purpose or purposes for which the grants made by the House of Assembly were intended to provide and the expenditure conformed to the authority which governed it.
- (2) The Auditor-General shall forthwith bring to the notice of the Minister any irregularity, loss, or damage which at any time appears to him to have, occurred and which does not appear to him to have been reported to the Minister, including the occurrence of—
  - (a) any irregularity in the collection, custody or expenditure of public moneys or in accounting for the same;

- (b) any irregularity in the receipt, custody, issue, sale, transfer or delivery of any public stores or in accounting for the same;
- (c) any loss of or damage to Government property; or
- (d) any irregularity or improper utilization of the Budget Reserve Appropriation.

**86. Discretionary powers of Auditor-General.**

The Auditor-General may, in his discretion—

- (a) make a test audit in any particular case but he shall state in his annual report the cases in which he has made test audits;
- (b) after satisfying himself that the vouchers or proof of payment relating to any sum have been examined and certified as correct by the accounting department, and after having had regard to the character of the departmental examination, admit and allow the sum to which the vouchers or proof of payment so certified relate without further examination;
- (c) in the examination of any account, admit and allow in cases where it appears to him to be reasonable and expedient vouchers for any moneys expressed therein although such vouchers or proof of payment are not stamped according to law;
- (d) at any time consult with the auditors of any Agency or Government Business Enterprise regarding its financial affairs and, if not satisfied with the result of such consultation, report to the Minister the nature of his dissatisfaction;
- (e) audit all accounts on a current basis in order to expedite the finalisation of his audit at the end of the financial year; and
- (f) initiate audits without prior notification.

**87. Auditor-General may dispense with vouchers.**

The Auditor-General may, where a voucher has been lost or destroyed or where an existing voucher is defective in any respect, dispense with the production of a voucher or accept a defective voucher if he is satisfied with the explanation given by the officer responsible and with any other evidence of the transaction.

**88. Auditor-General to have access to books, etc.**

- (1) The Auditor-General, or any person authorised by him, shall be entitled for the purpose of the examination of any accounts at all reasonable times to—
  - (a) have access to all books, records, vouchers, documents, returns, cash, stamps, securities, stores, or other Government property, in the custody of any officer;

- (b) require production to him of any books, accounts, vouchers or papers, under the control of any officer relating to or in any way concerning the public accounts and to keep such books, accounts, vouchers and papers for such time as he may require them;
  - (c) call upon any officer for any explanation and information he may require in order to enable him to discharge his duty;
  - (d) raise any audit query addressed to the appropriate principal accounting officer or permanent secretary, and copied to the Financial Secretary, and Treasurer, and require the principal accounting officer or permanent secretary to respond in writing within seven working days of receipt of the communication;
  - (e) require any department concerned to furnish him from time to time or at regular periods with accounts of the transactions of such department up to such date as he may specify;
  - (f) without payment of any fee cause a search to be made in, and extracts to be taken from, any book, document or record in any department;
  - (g) summon and examine upon oath, declaration or affirmation, whenever necessary for the due performance and exercise of powers vested in him, all persons whom he thinks fit to examine respecting the receipt or expenditure of money, the receipt or issue of any stores, or all other matters and things, to which this Act applies;
  - (h) lay before the Attorney-General a case in writing as to any question regarding the interpretation of any Act or regulation concerning the powers of the Auditor-General, or the discharge of his duties, and to require from the Attorney-General a written opinion on such case.
- (2) Any person summoned under the provisions of paragraph (g) of subsection (1)-
- (a) who is not an officer, shall be entitled to payment for his attendance as if he were a witness attending a legal proceeding in obedience to a summons issued by the Supreme Court;
  - (b) who without reasonable excuse makes default in obeying such summons, shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or to a term of imprisonment not exceeding three months.

### **89. Power of Auditor-General to administer oaths, etc.**

The Auditor-General may, in the exercise of his duties under section 88, administer oaths, declarations or affirmations.

**90. Auditor-General to certify statements and accounts.**

- (1) The Auditor-General shall—
  - (a) examine and certify, in accordance with the outcome of his examinations, the several statements and accounts which are required to be submitted to him in accordance with this Act;
  - (b) submit his reports on the said statements and accounts without undue delay —
    - (i) to the Speaker of the House of Assembly; or
    - (ii) if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker.
- (2) The Speaker or Deputy Speaker, as the case may be, shall cause the said statements and accounts to be laid before the House of Assembly without undue delay.

**91. Power of Minister to call for external audits.**

The Minister may in his discretion instruct independent external auditors to undertake, as directed by the Minister, audits of any public body.

**92. 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 (5) years.

## **PART VII - ACCOUNTS AND REPORTS ACCOUNTING**

**93. Principal accounting officers and permanent secretaries.**

- (1) A principal accounting officer or permanent secretary 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 or permanent secretary shall be required to keep or maintain a schedule of capital assets of the relevant Ministry Agency Department or Government Business Enterprise and such other records as directed pursuant to section 94.



- (3) A principal accounting officer or permanent secretary 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 or permanent secretary of his accountability under this Act.

**94. Directions to principal accounting officers and permanent secretaries.**

- (1) The Financial Secretary may issue directions to principal accounting officers or permanent secretaries 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 Treasurer may issue directions to principal accounting officers or permanent secretaries 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;
  - (e) any other purpose necessary for the efficient administration of the financial business of the Government consistent with the roles and responsibilities of the Treasurer.

## REPORTING AND TRANSPARENCY REQUIREMENTS

**95. 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 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 four weeks after the end of the month or as soon as reasonably practicable thereafter.

**96. 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 or as soon as reasonably practicable thereafter 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 or as soon as reasonably practicable thereafter.

**97. 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 or permanent secretaries shall prepare, sign, and transmit to the Financial Secretary and the Treasurer 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 Treasurer 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 Treasurer under this Act.
- (4) In respect of each financial year and within a period of three months after the close of each financial year or as soon as reasonably practicable

thereafter, the Treasurer 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.

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

- (1) The Minister may after the end of every financial year prepare an annual report on the non-financial performance of the Government for the year.
- (2) The annual report on the non-financial performance of the Government, if prepared, 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.

**99. 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.

**PART VIII - ENTITY ACCOUNTABILITY GENERAL MATTERS**

**100. Classification of entities.**

- (1) An Agency is an entity listed in the *Seventh 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;
  - (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; and
  - (d) is not otherwise listed in the Part II of the *Eighth Schedule* as an excluded entity.
- (4) Every Government Business Enterprise shall be listed in Part I of the *Eighth Schedule*.

- (5) After the commencement of this Act, a Government Business Enterprise shall be incorporated under the Companies Act unless the Cabinet determines otherwise and an Agency shall be established by statute.
- (6) 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.
- (7) 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.

### **101. Fees and charges.**

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

### **102. 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.

### **103. Code of Corporate Governance.**

An Agency or Government Business Enterprise shall comply with the code of corporate governance in the *Ninth Schedule* of this Act.

**104. 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—
  - (a) have been approved by the Minister responsible for that Agency or Government Business Enterprise prior to commencement of such contract;
  - (b) if for a fixed term, not contain any provision requiring the Government Business Enterprise or Agency pay an amount representing the balance of the contract.
- (3) The chief executive officer shall not be removed by the board without the approval of the responsible Minister.
- (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.

**105. Accounting standards.**

- (1) A public entity shall implement international accounting standards and practices in accordance with the accounting standards and directions issued by the Treasurer 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.

**106. Synchronization of financial years.**

- (1) Every public entity and Government Business Enterprise shall have the same financial year as the Government.
- (2) Every public entity, Agency and Government Business Enterprise who before the commencement of this Act had an accounting year other than the financial year shall on the expiry of its accounting year submit a stub report up to June 30th 2023.

## AGENCY ACCOUNTABILITY

### **107. Agency annual plan.**

- (1) Each Agency specified in the *Seventh Schedule* shall have an annual plan that shall include the information specified in the *Tenth 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) 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.

### **108. 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.

### **109. 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 Financial Secretary 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 direct the Financial Secretary to 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.

### **110. 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 *Eleventh 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 responsible 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.

### **111. 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 30th 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

### **112. 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.

**113. Statement of corporate intent and business plan.**

- (1) The board of each Government Business Enterprise shall within twelve months after the commencement of this Act provide a statement of corporate intent and business plan for the Government Business Enterprise and its subsidiaries covering a five year period to the Minister and the responsible Minister for their approval.
- (2) The statement of corporate intent and business plan referred to in (1) shall be reviewed annually and any amendments proposed to be made thereto shall be submitted to the responsible Minister for their approval by 31st March.

**114. 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 *Twelfth Schedule*.

**115. Contents of business plan.**

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

**116. Tabling and publication of statement of corporate intent.**

- (1) The responsible Minister shall table the statement of corporate intent for each Government Business Enterprise.
- (2) The chief executive officer of each Government Business Enterprise shall publish the statement of corporate intent on the website.

**117. 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.

**118. 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 Financial Secretary 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) The Minister may by regulations prescribe the form and content for the monthly and quarterly financial statements and reports.
- (5) The Minister may direct the Financial Secretary to 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.

**119. 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.
- (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 *Fourteenth 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 responsible 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.

#### **120. Government shareholding.**

- (1) If the Government is a minority shareholder in a company, sections 112 to 119 shall not apply and the shareholding shall be subject to the provisions of the Companies Act (*Ch. 308*) and any other written law.
- (2) Except for those entities listed in Part II of the *Eighth Schedule* as excluded entities, if the Government holds more than fifty percent but less than one hundred percent of the shares in a company, sections 112 to 119 shall apply.
- (3) The shares of a company referred to in subsections (1) and (2) shall be held in the name of the Treasurer on behalf of the Government.

#### **121. 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 30th 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

### **122. Annual plan for Ministry.**

- (1) Each Ministry shall produce an annual plan which shall contain the information in the *Tenth 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.

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

- (1) Each Permanent Secretary shall cause to be provided to the responsible Minister 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 with 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 information in the *Eleventh 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.

### **124. 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) 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**

### **125. 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 *Tenth 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 to be approved by the Minister responsible for Local Government; and
  - (b) submit the consolidated draft annual plan and budget to the Ministry responsible for finance by the 31st March each year.
- (5) 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.

#### **126. 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 to the permanent secretary of the Ministry responsible for Local Government and the Minister responsible for Local Government that shall include the information in the *Eleventh Schedule*.
- (3) The annual report for Local Government shall be—
  - (a) audited by the Auditor-General or his agents for the financial statements within in four months of the end of the financial year and, from a date to be determined by the Minister shall be audited for service performance against the annual plan; and
  - (b) published on the official website of the Local Government.

#### **127. 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 IX - COLLECTION OF REVENUE**

### **128. 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 *Fifteenth Schedule* in the priority in which the enactments are there set out.

## **TAX COMPLIANCE CERTIFICATE**

### **129. 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 to the *Fifteenth 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.

### **130. 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 *Fifteenth 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 this Act shall be valid for —
  - (a) one month, where the applicant has accrued arrears under any tax legislation but can provide evidence to the Financial Secretary of a plan to satisfy the arrears;
  - (b) six months, where the Financial Secretary is satisfied that the applicant has satisfied its tax obligations under the enactments in the *Sixteenth Schedule* for not less than three consecutive months immediately preceding the application;
  - (c) three months, in every other case.

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

The Financial Secretary may revoke a Tax Compliance Certificate issued under section 130 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.

### 132. 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 a 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.

### **133. Outsourcing of receipt and collection of taxes.**

- (1) The Financial Secretary may, with the approval of the Minister, engage a third party on such terms and conditions as may be specified by agreement –
  - (a) to receive taxes on behalf of the Government;
  - (b) to collect arrears of taxes due and owing to the Government by any person liable to pay the tax.
- (2) An agreement made pursuant to subsection (1) shall specify that the third party can demonstrate that there exists within its institution key features of internal systems of control to enable –
  - (a) efficient systems for managing receipts;
  - (b) the confidentiality and security of personal information;
  - (c) adequate records to enable receipts to be recorded and pursued in full;
  - (d) credit management systems to pursue amounts outstanding;
  - (e) controls to prevent diversion of funds and other frauds.
- (3) Any fees incurred for the services rendered pursuant to subsection 1(b) shall become a debt due from the person who is liable to pay the arrears of tax.
- (4) A report shall be made in respect of all sums received, and taxes collected on behalf of the Government and a copy of such report shall be included in the annual report in accordance with section 123(4).

### **134. Collection of arrears of taxes.**

- (1) Where any revenue due and payable to the Government has not been paid for one year or more, the Ministry or revenue and taxing agency to which the arrears of revenue is payable shall advise the Department of Inland Revenue and shall transfer all relevant information in respect of the

arrears to the Department of Inland Revenue which shall be responsible for the collection of the arrears.

- (2) All taxes and fees collected by the Department of Inland Revenue for debt in excess of one year, shall be deposited into the sinking fund established for such purpose.

## **PART X - MEASURES**

### **135. 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 materially incomplete, false and 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.

### **136. Conflict of interest.**

- (1) A public officer or other person with responsibility for public resources who is employed in a revenue and taxing agency shall not, without written authorization from the principal accounting officer act as an agent for any person seeking to transact with any revenue and taxing agency.
- (2) A public officer or other person with responsibility for public resources, who performs an act under subsection (1) may be subject to disciplinary action.

### **137. 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 110(2) and 119(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.

### **138. 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 monies not collected;
  - (b) the improper payment;
  - (c) the monies 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.

### **139. 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 138.
- (2) The chief executive officer, on being notified under subsection (1), shall notify the person surcharged and shall, subject to sections 140 and 141, recover in accordance with section 144 the amount surcharged from that person.

### **140. 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 Treasurer and the chief executive officer of the entity concerned of the withdrawal of the imposition of the surcharge.

### **141. Right of appeal.**

- (1) Any person who is dissatisfied with any surcharge made against him under section 138 may appeal in writing to the appropriate authority within a period of one month immediately after he has been notified of the surcharge and the appropriate authority acting in its discretion, may extend the period within which an appeal may be made.
- (2) The appropriate authority 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 appropriate authority 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 Treasurer.
- (5) For the purposes of this section, the “appropriate authority” means –
  - (a) where the appellant was appointed under Article 117 of the Constitution, the Judicial and Legal Service Commission;
  - (b) where the appellant was appointed under Article 119 of the Constitution, the Police Service Commission; and,
  - (c) in every other case, the Public Service Commission.

#### **142. Recovery of loss.**

- (1) Subject to sections 140 and 141, the amount of any surcharge made under section 138 may be sued for and recovered as a debt due to the Government by action at the suit of the Attorney General in the Supreme Court, or in a Magistrates Court, as may be appropriate having regard to the amount of the surcharge.
- (2) Notwithstanding the power of recovery pursuant to subsection (1), 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) 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.

### **PART XI - REGULATIONS, RULES AND DIRECTIONS**

#### **143. 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 Treasurer 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.

#### **144. Amendment of Schedules.**

The Minister may, by order, amend the Schedules hereto.

**145. Power to make rules.**

The Minister may make rules generally providing for any matter necessary to give effect to the objectives of this Act and without prejudice to the generality of this section may make rules for all or any of the following matters -- —

- (a) prescribing the additional duties of the Financial Secretary or the Treasurer;
- (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.

**146. 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.

**147. 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.

**148. Treasurer may issue Treasury directions.**

The Treasurer may issue Treasury directions as specified in this Act.

**PART XII - IMPLEMENTATION DATES, REPEALS,  
TRANSITIONAL PROVISIONS AND CONSEQUENTIAL  
AMENDMENTS**

**149. Repeal.**

- (1) The Public Finance Management Act, 2021 (*No. 8 of 2021*) is repealed.
- (2) The Fiscal Responsibility Act, 2018 (*No. 29 of 2018*) is repealed.
- (3) Sections 36 to 44 of the Financial Administration and Audit Act 2010 (*No. 26 of 2010*) are repealed.

## **150. Savings.**

Notwithstanding the repealed Public Finance Management Act, 2021 and the remaining provisions of the Financial Administration and Audit Act, 2010, anything done or any action taken in exercise of any power conferred by or under those enactments shall continue to be valid.

## **151. Consequential Amendments.**

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

## **152. 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 amend an implementation date specified in the table below.

| SECTION  | REQUIREMENT DATE |
|--|------------------|
| 41 Budget Reserve Appropriation                          | 1 July, 2023     |
| 42 Contingencies Fund                                    | 1 July, 2023     |
| 49 Reallocations   | 1 July, 2023     |
| 50 Virements effect on budget and annual plan            | 1 July, 2023     |
| 51 Cash Planning and Management                          | 1 July, 2023     |
| 54 Special Fund  | 1 July, 2023     |
| 57 Trust Assets  | 1 July, 2023     |
| 61 Financial asset management strategy                   | 1 July, 2023     |
| 67 Remissions  | 1 July, 2023     |
| 68 Settlements   | 1 July, 2023     |
| 69 Write-offs  | 1 July, 2023     |
| 70 Accounting for remissions, settlements and write-offs | 1 July, 2023     |
| 95 Monthly summary report                                | 1 July, 2023     |
| 96 (1)(c) Schedule of capital assets                     | 1 July, 2027     |
| 98 Annual Report of non-financial performance            | 1 July, 2024     |
| 106 Synchronization of financial years                   | 1 July, 2024     |
| 107 Agency annual plan                                   | 1 July, 2024     |

|     |   |              |
|-----|---|--------------|
| 109 | Monthly and quarterly reporting by an Agency            | 1 July, 2024 |
| 113 | Statement of corporate intent and annual plan           | 1 July, 2024 |
| 119 | Annual Report Government Business Enterprises           | 1 July, 2024 |
| 122 | Annual plan for Ministry                                | 1 July, 2024 |
| 123 | Mid-year and annual report of a Ministry                | 1 July, 2024 |
| 125 | Local Government annual plans and budgets and reports   | 1 July, 2024 |
| 126 | Reporting by a Local Government and auditing of reports | 1 July, 2024 |

## SCHEDULES

### First Schedule

(section 21)

#### Fiscal Objectives

#### **Fiscal objectives in the Fiscal Strategy Report.**

1. The Government shall state the fiscal objectives to achieve the fiscal responsibility principles in the Fiscal Strategy Report.
2. The fiscal objectives shall be set in accordance with the fiscal responsibility principles and this Schedule.

#### **Fiscal objectives for debt.**

3. The long term debt fiscal objective is to reduce the level of Central Government Debt from 89.0 percent of GDP in FY2021/22 to a debt level of no more than 50 percent of GDP and the Government shall state the financial year by which this long term debt objective is intended to be achieved in the Fiscal Strategy Report.
4. The fiscal objectives for debt shall be expressed as a percentage of GDP and as a nominal debt limit in the Fiscal Strategy Report and shall be included in the Annual Budget each year consistent with this Act.

#### **Fiscal balance.**

5. Revenue – The fiscal objective for revenue is an increase in the gross revenue to GDP ratio from 21.0 percent in FY2021/22 to a target of 25 percent by FY2025/26.
6. Recurrent expenditure - The fiscal objective for recurrent expenditure is a reduction in the recurrent expenditure to GDP ratio from 23.8 percent in FY2021/22 to a target of 20.0 percent by FY2025/26.

7. Capital expenditure - The fiscal objective for capital expenditure is an increase in the capital expenditure to GDP ratio from 2.1 percent in FY2021/22 to a target of 3.5 percent by FY2025/26.
8. Overall Balance – The fiscal objective for the fiscal balance (Overall Balance) will reduce it from a deficit of 6.1 percent of GDP in FY2021/2022 to a fiscal balance that does not exceed a deficit of 0.5 percent of GDP from FY2024/25 onwards.
9. The fiscal objectives for revenue and expenditure shall be expressed as a nominal value in the Fiscal Strategy Report and the Annual Budget each year consistent with this Act.

**Transition.**

10. As achieving the fiscal objectives for the debt and fiscal balance requires significant fiscal adjustments in the FY2021/23 to FY2024/25 period, a gradual adjustment towards these objectives would allow time for the public sector and the economy to achieve the fiscal objective in an orderly manner.

**Compliance Margin.**

11. Fiscal measures, being based on estimates and forecasts, are subject to some degree of uncertainty about their impact on the fiscal balance. When assessing the achievement of the fiscal objectives, a compliance margin is necessary to accommodate this uncertainty, which shall not exceed 0.5% of GDP for the fiscal balance objective.

**Review.**

12. The Government shall review the requirements in this Schedule from time to time.

**Interpretation.**

13. For the purposes of this Schedule—  
    **"debt"** means all direct charge on the central government that require payments of interest and principal to both resident and non-resident creditor;  
    **"fiscal balance"** means total revenues and grants minus total expenditure where revenues and grants are computed as total revenues less borrowings, refunds, and sales of financial assets.

**Second Schedule**

(section 23)

**Contents of a Fiscal Strategy Report**

1. The fiscal strategy report shall contain a report for the recently concluded financial year which shall include—
  - (a) analysis of any difference in results from the macroeconomic forecasts and fiscal forecasts in the previous fiscal strategy report;
  - (b) a summary of budget execution compared to the appropriations and statutory expenditure;
  - (c) summary of the performance compared to the general principles in section 19, the fiscal responsibility principles in section 20, and the fiscal objectives in the previous fiscal strategy report;
  - (d) reasons for any deviations from the general principles, fiscal responsibility principles and fiscal objectives in the previous fiscal strategy report;
  - (e) report on the extent to which the risks identified in the previous fiscal strategy report were realised and the effect on fiscal performance; and
  - (f) other matters on performance the Minister considers relevant.
2. The fiscal strategy report shall contain medium-term macroeconomic forecasts setting out actual, estimated and projected values of the following economic variables for no less than the previous two years, the current year, and the next three years including—
  - (a) gross domestic product and its components;
  - (b) inflation;
  - (c) employment and unemployment;
  - (d) exchange rates with major trading partners;
  - (e) interest rates; and
  - (f) money supply and monetary conditions including credit to the private sector,and for (a) to (f) the source of the data shall be identified, and for historical information, a statement provided of whether it is official or estimated in cases where official data are not available.
3. The fiscal strategy report shall contain information on the longer term macroeconomic forecasts.
4. The fiscal strategy report shall contain a statement of assumptions and methodologies underpinning the economic forecasts.
5. The fiscal strategy report shall contain medium-term fiscal forecasts setting out actual, estimated, and projected values of the following fiscal variables for no less than the previous two years, the current year, and the next three years including—
  - (a) revenues by type;

- (b) aggregate expenditures by economic, administrative, and functional classifications;
  - (c) fiscal balance for the overall budget;
  - (d) a summary of the sources of budget financing;
  - (e) the level of debt by external source, domestic source and total;
  - (f) level of financial and performance guarantees;
  - (g) the accounting principles and methods used in the fiscal strategy report and key assumptions on which the above numbers are based;
  - (h) sensitivity analysis taking account of possible changes in macroeconomic conditions; and
  - (i) any other information the Minister determines is material to the fiscal forecasts.
6. The fiscal strategy report shall contain fiscal forecasts for the longer term that have been used in formulating the fiscal policies in the fiscal strategy report and such forecasts shall take account of the impacts of changes in demographics and other factors.
  7. The fiscal strategy report shall contain a statement of intention with regard to the general principles in section 19 of this Act.
  8. The fiscal strategy report shall contain a statement of intention with regard to the fiscal responsibility principles in section 20 of this Act.
  9. The fiscal strategy report shall contain a description of the fiscal policy including—
    - (1) a table containing the fiscal information for the previous two years, the current year and the forthcoming three years and longer term where relevant including —
      - (a) aggregate Government expenditure as a percentage of GDP and in nominal terms;
      - (b) recurrent Government expenditure as a percentage of GDP and in nominal terms;
      - (c) primary Government expenditure as a percentage of GDP and in nominal terms;
      - (d) capital Government expenditure as a percentage of aggregate Government expenditure, as a percentage of GDP and in nominal terms;
      - (e) Government expenditure on wages and benefits as a percentage of GDP and in nominal terms for all positions funded from the annual budget including all positions funded by direct charge on the Consolidated Fund and all positions funded by appropriation;

- (f) Government revenues as a percentage of GDP and in nominal terms;) overall fiscal balance as a percentage of GOP and in nominal terms;
  - (h) Government debt as a percentage of GDP and in nominal terms;
  - (i) Government arrears as percentage of budget expenditure and in nominal terms;
  - (j) Government guarantees as a percentage of GDP and in nominal terms; and
  - (k) Government net worth as a percentage of GOP and in nominal terms when net worth can be measured.
- (2) Table of fiscal objectives to measure the fiscal position of the government against the fiscal responsibility principles for the forthcoming year and each of the next three years which shall at a minimum include measurable fiscal objectives for the fiscal balance, debt, guarantees, expenditure growth rate, wage expenditure limit, proposition of proposed capital Government expenditure as a percentage of aggregate Government expenditure and any measures for an adjustment plan if in force;
- (3) information on the fiscal policies for medium-term including—
- (a) the revenue policy with planned changes to taxes and policies affecting other revenues and intentions regarding revenue collection activities;
  - (b) policy on the fiscal balance;
  - (c) debt policy with a summary of the debt management strategy, a summary of the debt sustainability analysis, debt ceilings, and guarantee ceilings; and
  - (d) expenditure policy including expenditure priorities linked to ceilings.
- (4) an assessment of the consistency of the planned fiscal policy aggregates and measurable fiscal objectives in paragraph 9(2) of this Schedule with the fiscal responsibility principles and the requirements of section 20(2);
- (5) a medium-term expenditure framework stating the Government's annual and medium-term expenditure intentions and an explanation of any changes in the proposed ceilings from the previous fiscal strategy report including—
- (a) the aggregate expenditure ceiling to be used in the preparation of the annual budget which shall include indicative ceilings for two familiar outer years;



- (b) ceilings for central Government expenditure by Ministry and other budget entity for the budget year and next two years to be used as the basis for the preparation of the annual budget;
  - (c) forecast non-financial performance information at a suitable level of aggregation linked to the budget to show what is planned to be provided and achieved for the proposed expenditure, for strategic changes only; and
  - (d) information on major public investments including priorities and rationale for these and forecast costs for the forthcoming budget year and two outer years related to expenditure ceilings.
- 10. The fiscal strategy report shall contain a fiscal risk statement with quantified risks where practicable including—
  - (a) contingent liabilities;
  - (b) any commitments not included in the fiscal forecasts;
  - (c) all other circumstances which may have a material effect on the fiscal and economic forecasts and which have not already been incorporated into the fiscal forecasts; and
  - (d) risk management intentions.
- 11. The fiscal strategy report shall contain a statement of responsibility signed by the Minister and the Financial Secretary attesting to the reliability and completeness of the information in the fiscal strategy report and its compliance with the law.
- 12. If the Government is unable to provide any of the information required by this Schedule the Ministry shall state in the fiscal strategy report the reasons for any missing information and shall ensure that such information is available as soon as practicable for future fiscal strategy reports.
- 13. For the purposes of this Schedule—
  - “**current expenditure**” means spending for acquisition of all goods and services, personnel cost including salaries, emoluments and other employee benefits, and transfer payments, inclusive of interest payments, subsidies, transfers to non-financial public enterprises, public corporations, to households, abroad and to non-profit institutions which excludes all outlays that result in debt reduction and the acquisition of financial assets;
  - “**debt**” means all direct charge on the central government that require payments of interest and principal to both resident and non-resident creditor;

**“fiscal balance”** means total revenues and grants minus total expenditure where revenues and grants are computed as total revenues less borrowings, refunds, and sales of financial assets;

**“Gross Domestic Product”** means the nominal value of all goods and services produced in the economy within a year, as compiled by the Department of Statistics and in the absence of official statistics, estimates produced by the Ministry of Finance shall be utilized and subsequently updated once the official statistics are available and until quarterly official GDP statistics become available, estimates for the fiscal year shall be derived by taking the average of the current and the preceding calendar year.

**“total expenditure”** means the sum of recurrent and capital expenditure less debt principal repayment and acquisition of financial assets.

### **Third Schedule**

(section 24)

#### **Contents of a Pre-election Update Report**

The pre-election update report shall contain—

- (a) updated macroeconomic forecasts and assumptions from the fiscal strategy report or mid-year review, whichever is the most recent;
- (b) updated fiscal information including—
  - (i) Government revenue outturn and forecasts for the current year and next three years;
  - (ii) Government expenditure outturn and forecasts for the current year and next three years including for expenditure, primary expenditure and expenditure on wages and related personnel costs;
  - (iii) approval of new spending since the annual budget including contracts and service projects and policies;
  - (iv) fiscal balance forecast for the current year, fiscal balance for past two years, and forecast next three years;
  - (v) net and gross debt for the current year and next three years
  - (vi) level of guarantees;
  - (vii) tax relief, remissions, and other waivers;
  - (viii) the outstanding stock of arrears for all government entities including showing separately all new unpaid invoices since the stock of arrears was last reported; and

- (ix) other significant financing matters that have occurred or are planned; and
- (c) an update of the fiscal risk position compared to the fiscal strategy report and the annual budget;
- (d) a statement of responsibility signed by the Minister that the Pre-Election Economic and Fiscal Update includes—
  - (i) all policy decisions with material economic or fiscal implications that the Government has made before the day on which the contents of the Pre-Election Economic and Fiscal Update was finalised and
  - (ii) all other circumstances with material economic or fiscal implications of which the Minister was aware before that day; and
- (e) a statement of responsibility signed by the Financial Secretary that the Pre-Election Economic and Fiscal Update has been prepared by the Ministry—
  - (i) using its best professional judgments; and
  - (ii) on the basis of economic and fiscal information available to it before the week on which the contents of the Pre-Election Economic and Fiscal Update was finalised; and
- (f) a statement of the accounting and other standards applied which shall be the accounting standards adopted for the Government consistent with internationally accepted standards and where such standards are not used, then an explanation of the deviation shall be provided.

#### **Fourth Schedule**

(section 35)

#### **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 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—
  - (a) a list of all public investment projects proposed in the annual budget;
  - (b) 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;
  - (c) 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;
  - (d) an explanation of differences in estimates from previous budgets for existing public investment projects;
  - (e) a summary of the annual expenditures and revenues of all existing public investment projects and all new public investment projects;
  - (f) a summary of the results of monitoring and evaluation of all existing public investment projects; and
  - (g) 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 and the amount of tax relief and exemptions for the current financial year;
- (10) the aggregate number of employees;
- (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 principles and fiscal strategy.

### **Fifth Schedule**

(section 36)

#### **Contents of Mid-Term Review**

The mid-year review shall provide an update to the fiscal strategy report and the annual budget and shall include the following information—

- (1) updated macroeconomic forecasts and assumptions from the fiscal strategy report and annual budget;
- (2) updated fiscal information from the annual budget including-
  - (a) Government revenue outlook and forecasts for the current year and next three years;
  - (b) Government expenditure outlook and forecasts for the current year and next three years including for expenditure, primary expenditure and expenditure on wages and related personnel costs;
  - (c) approval of new spending since the annual budget including major investment and service projects and policies;
  - (d) fiscal balance forecast for the current year, fiscal balance for past two (2) years, and forecast next three years;
  - (e) net and gross debt for the current year and next three years;
  - (f) level of guarantees;
  - (g) tax relief, remissions, and other waivers;
  - (h) the outstanding stock of arrears for all government entities including showing separately all new unpaid invoices since the stock of arrears was last reported; and
  - (i) other significant financing matters that have occurred or are planned; and
- (3) information on virements, reallocations, use of the Contingency Fund, use of the Reserve Appropriation, use of the Supplementary Estimates and any other matters required to be reported by this Act; and
- (4) an update of the fiscal risk position compared to the fiscal strategy report and the annual budget.

## **Sixth Schedule**

(section 81)

### **Public Sector 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 Public Sector Audit Committee.

**3. Meetings and quorum.**

- (1) The Public Sector 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 Public Sector Audit Committee.
- (2) At each meeting of the Public Sector 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 Public Sector Audit Committee shall be three members.

**4. Voting.**

Each Committee member shall have one vote but the Chairperson shall, where there is an equality of votes, have a casting vote.

**5. Conflict of interest.**

A member of the Public Sector Audit Committee who is directly or indirectly interested in a matter being considered or dealt with by the Public Sector Audit Committee shall disclose the nature of the interest at a meeting of the Public Sector Audit Committee and shall not take part in any deliberation or decision of the Public Sector Audit Committee with respect to the matter.

**6. Procedure.**

The Public Sector Audit Committee shall determine its meeting and other procedures subject to the requirements of the Act.

**7. Stipends.**

The stipends for the members of the Public Sector 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.

**Seventh Schedule**

(Section 100)

**Agencies**

- 1 Airport Authority
- 2 Antiquities, Monuments and Museum Corporation
- 3 Bahamas Agricultural & Industrial Corporation
- 4 Bahamas Agricultural Health and Food Safety Authority
- 6 Bahamas Public Parks and Public Beaches Authority
- 7 Bahamas Technical & Vocational Institute
- 9 Disaster Reconstruction Authority
- 10 Education Loan Authority
- 11 Fiscal Responsibility Council
- 12 Hotel Corporation of The Bahamas
- 13 National Health Insurance Authority
- 14 The National Insurance Board
- 15 National Sports Authority
- 16 National Training Agency
- 17 Post Office Savings Bank
- 18 Public Hospitals Authority
- 19 Straw Market Authority
- 20 University of The Bahamas

### **Eighth Schedule**

(Section 100)

### **Government Business Enterprises and Excluded Entities**

#### **Part I**

#### **Government Business Enterprises**

- 1 Arawak Port Development
- 2 Bahamas Development Bank
- 3 Bahamas Maritime Authority
- 4 Bahamas Mortgage Corporation
- 5 Bahamas Power and Light Company Ltd.
- 6 Bahamas Resolve Limited
- 7 Bahamasair Holdings Limited
- 8 Bank of The Bahamas



- 9 The Bridge Authority
- 10 Broadcasting Corporation of the Bahamas
- 11 Holding Co. Ltd.
- 12 Lucayan Renewal Holding Ltd.
- 13 Nassau Airport Development Company
- 14 Nassau Cruise Port
- 15 Nassau Flight Services Ltd.
- 16 National Art Gallery of The Bahamas
- 17 Poinciana SRV Ltd.
- 18 Tourism Development Corporation
- 19 Water and Sewerage Corporation

## **Part II**

### **Excluded Entities**

- 1 Be Aliv Limited
- 2 Cable Bahamas Limited
- 3 Bahamas Telecommunications Company

## **Ninth Schedule**

(Section 103)

### **Code of Corporate Governance**

#### **1. Interpretation.**

For the purposes of this Code:

“**Board**” means the board of directors or other governing body of the Government Business Enterprise; and

“**constitutive documents**” means the principal documents governing the formation of a company, an investment fund, or other legal entity.

#### **2. Board of directors.**

(1) Every Government Business Enterprise shall be led by a Board made up of directors who are—

(a) either—

(i) elected by the shareholders or members; or

- (ii) appointed in accordance with the provision of any applicable legislation or contractual engagement; and
  - (b) suitably qualified to act as director having the requisite range of skills, competence, knowledge and experience for the role of director.
- (2) A director shall act in the best interest of the company consistent with the company's constitutive documents and the laws of The Bahamas.
- (3) Every Government Business Enterprise shall ensure that —
- (a) there is transparency in the selection of potential candidates for Board membership; and
  - (b) where the Board has delegated responsibility for the selection of potential candidates to a nominating committee that the committee performs its role consistent with clearly defined procedures.
- (4) The Board of a Government Business Enterprise shall comply with any legislation addressing the composition of a board of directors.

### **3. Board responsibilities and duties.**

- (1) The Board shall ensure that the Government Business Enterprise is properly managed in order to protect and enhance shareholder value and to meet the company's obligations to its employees creditors, and other stakeholders.
- (2) Directors shall —
- (a) encourage the reporting of unlawful and unethical behaviour and actively promote ethical behaviour and protection for those who report violations in good faith;
  - (b) not improperly use information acquired as directors and officers of the company;
  - (c) not disclose non-public information except where the disclosure is authorised or required by law;
  - (d) keep confidential any information received in the course of the exercise of their duties unless disclosure is required by law or has been authorised by the person from whom the information is provided;
  - (e) not take improper advantage of his position as director or use the position for personal gain or to compete with the company;
  - (f) not take advantage of company property or use such property for personal gain or to compete with the company;

- (g) not allow personal interests or the interest of any associated person to conflict with the interests of the company; and
  - (h) not engage in conduct likely to bring discredit upon the company.
- (3) In exercising the powers of the company, the Board shall ensure the effective performance of the company by —
- (a) directing the management and conduct of the affairs of the company ensuring that ethical standards are maintained;
  - (b) defining the company's strategic goals and ensuring that its human and financial resources are effectively deployed towards attaining those goals;
  - (c) defining a framework for the delegation of its authority or duties to Management specifying matters that may be delegated and those reserved for the Board;
  - (d) formulating the company's policies on risk management, communication and information dissemination;
  - (e) overseeing the effectiveness and adequacy of internal control systems, ensuring the integrity of the company's accounting and financial reporting systems, including the independent audit;
  - (f) formulating the requisite Board procedures and rules to be followed for the scheduling and place of meetings, for the conduct of meetings and attendance of members, the term of board appointments, and the appointment, training, remuneration and replacement of board members and senior executives;
  - (g) formulate plans for Board succession, and effective communication with shareholders;
  - (h) reviewing and approving financial reports; and
  - (i) ensuring compliance with this Corporate Governance Policy.
- (4) The Board shall appoint individuals to be officers of the company, and two or more offices may be held by the same person, except where —
- (a) the Board has delegated the power to appoint; or
  - (b) applicable legislation, the constitutive documents or any unanimous shareholder agreement specifically restricts the power to appoint.
- (5) Where the Board determines that certain of its powers, duties and responsibilities must be undertaken through committees, it shall ensure that each committee operates under terms of reference approved by the Board.

- (6) The Board shall —
  - (a) establish a code of conduct to guide the directors and Chief Executive Officer and other key persons within the company;
  - (b) monitor the company's compliance with governance by consistent review of the board's processes and the internal structure of the company to ensure that standards of accountability are met by engagement; and
  - (c) perform self-assessments of its performance as well as the performance of key persons within the company's governance requirements, and make the necessary changes to those requirements based on the results of such assessments.

**4. Orientation and training of directors.**

- (1) The Board must establish a formal orientation programme to familiarize new directors with the company's operations, strategic plan, senior management and its business environment, and to advise them of their fiduciary duties and responsibilities.
- (2) The Board shall require the participation of all directors in appropriate annual professional continuing education programmes to ensure that directors remain current in their skills and knowledge and with new developments in the company's business and operating environment.

**5. Board meetings and attendance.**

- (1) Board members shall attend the majority of all Board meetings and meetings may be held within or outside of The Bahamas.
- (2) Except where the Chairman excuses an absence, attendance at board meetings shall be mandatory for every director, who shall attend in person, or, where all directors consent, attend by means of conference call.

**6. Conflicts of interest.**

- (1) Every company must adopt a policy to guide the Board and individual directors on conflict of interest situations and what types of disclosures shall be made in the event of a conflict of interest.
- (2) Every director, officer, and external auditor of a company shall make a written disclosure to the Board of all conflicts which arise or may arise, and such disclosure shall specify—
  - (a) the value of every material contract and payments made under such contract with the company of which he is a beneficiary; and

- (b) whether he is a director or an officer of any other company that is party to a material contract or any proposed material contract with the company.
- (3) Disclosures shall be made on an annual basis and directors and officers must disclose any conflict of interest as soon as it is discovered.
- (4) The company shall keep and maintain a register setting out the interests of directors and officers, and the register shall be available for inspection at any time, upon five days' written notice to the Chairman, by any shareholder of the company.

**7. Remuneration.**

- (1) Except where the remuneration of a director is set out in legislation, or is subject to the company's Articles of Association or a contractual arrangement, the Board must develop a comprehensive policy on remuneration for company directors, executives, and senior management.
  - (2) The remuneration policy must —
    - (a) define the criteria and mechanism for determining levels of remuneration and the frequency for review of such criteria and mechanism;
    - (b) define a process, if necessary, with the assistance of external advisers, for determining the compensation of an executive or non-executive director; and
    - (c) specify how and to what extent the remuneration of an executive directors is linked to corporate and individual performance.
  - (3) The Board must —
    - (a) undertake a periodic peer review of its compensation and remuneration levels to ensure that the company remains competitive; and
    - (b) ensure that the company's remuneration policy and any material benefits and compensation paid to directors are published in the annual report of the company.
8. Performance evaluation of board.
- (1) The Board of every company to which these Rules apply must establish an annual performance review policy with respect to its own performance, and the performance of its committees, the Chairman and individual directors.
  - (2) The annual performance evaluation established by the Board shall —

- (a) include the criteria, key performance indicators and targets for the Board as a whole, its committees, the Chairman and each individual committee member; and
  - (b) be ratified by shareholders before implementation.
- (3) The Board may engage the services of external consultants to conduct an annual performance evaluation.
- (4) Upon the completion of an annual performance evaluation, the Board shall review and discuss the overall results of its own performance evaluation.

**9. Risk management.**

- (1) The Board shall determine the nature and extent of the risks which may have a significant effect on the company and ensure that a thorough enterprise-wide risk assessment, which covers all aspects of the company's business, is performed on an annual basis as determined by the Board.
- (2) The Board must oversee the establishment of a management framework that defines the company's risk policy, risk appetite and risk limits, that —
  - (a) formally approve the framework for its integration into the day-to-day operations of the company; and
  - (b) provide guidelines and standards for administering the ongoing management of key risks such as operational, reputational, financial, market, technology and compliance risk.
- (3) The management framework established is accountable to the Board for implementing and monitoring the process of risk management and integrating it into the day-to-day activities of the company.
- (4) The Board must ensure —
  - (a) that the results of the enterprise-wide risk assessment is used to update the risk management framework of the company; and
  - (b) that the company's risk management policies and practices are disclosed in the risk management report.
- (5) The Board shall implement whistle-blowing policy and procedures, which creates a whistle-blowing mechanism.
- (6) Once implemented, the Board shall ensure that the whistle-blowing policy and mechanism is communicated to employees and stakeholders including contractors, shareholders, job applicants, and the general public.

## **Tenth Schedule**

(Sections, 107 122 and 125)

### **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.

## **Eleventh Schedule**

(Sections 110, 123 and 126)

### **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 for the annual report and unaudited financial statements for the mid-year report;
- (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.

### **Twelfth Schedule**

(section 114)

#### **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.

### **Thirteenth Schedule**

(section 115)

#### **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.

### **Fourteenth Schedule**

(Section 119)

#### **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) for the annual report 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.

## **Fifteenth Schedule**

(Section 128)

### **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)
2. Real Property Tax Act (Ch. 375)

## **Sixteenth Schedule**

(Sections 129 and 130)

### **Tax Compliance Certificate**

1. Business Licence Act (Ch. 329)
2. Customs Management Act (Ch. 293)
3. Immigration (Fees) Regulations (Ch. 91)
4. National Insurance Act (Ch. 350)
5. Real Property Tax Act (Ch. 375)
6. Road Traffic Act (Ch. 220)
7. Valued Added Tax Act (Ch. 370A).