

JAMAICA

No. 3 2015

I assent,

[L.S.]


Governor-General.



AN ACT to Amend the Public Bodies Management and
Accountability Act.

[Sections 2, 5 and 21 – 13th day of March, 2015]
[All other sections – 1st day of April, 2017 . . .]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Public Bodies Management and Accountability (Amendment) Act, 2015, and shall be read and construed as one with the Public Bodies Management and Accountability Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Short title,
construction
and
commence-
ment.

(2) Subject to subsection (3), this Act shall come into operation on the 1st day of April, 2017.

(3) Sections 2, 5 and 21 of this Act shall come into operation on the day of the publication of the notification of assent in the *Gazette*.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended—

(a) in the definition of “public investment” by deleting the words “any public entity on its own or by one or more public entities” and substituting the words “any public entity within the specified public sector on its own or by one or more such public entities”; and

(b) by inserting the following definitions in the appropriate alphabetical sequence—

“public investment project”, means public investment requiring planning, execution, monitoring and evaluation carried out as an integrated set of activities aimed at meeting a development objective, at a specific cost and within a defined timeframe;

“public sector” means the Government and all public bodies;

“specified public sector” means the public sector not including any public body certified by the Auditor-General, in the manner specified in regulations made under section 50(1) of the *Financial Administration and Audit Act*, as primarily carrying out functions that are of a commercial nature that satisfy such criteria as may be specified in such regulations;”.

Amendment
of section 2A
of principal
Act.

3. Section 2A(2) of the principal Act is amended—

(a) in paragraph (a), by inserting immediately after the word “approval” the words “, except that the estimates of a public body that is not part of the specified public sector shall be tabled for information only”; and

(b) in paragraph (b), by deleting the words “the Minister shall”.

4. Section 4 of the principal Act is amended—

Amendment
of section 4
of principal
Act.

(a) in subsection (4), by deleting the words “a self-financed statutory body or authority” and substituting the words “a public body”; and

(b) in subsection (5), by inserting immediately after the words “public body” the words “within the specified public sector”.

5. Section 5 of the principal Act is amended, in subsection (4), by deleting the words “or (4)”.

Amendment
of section 5
of principal
Act.

6. Section 5A(1) of the principal Act is amended by inserting immediately after the words “any public body” the words “within the specified public sector”.

Amendment
of section 5A
of principal
Act.

7. Section 5B(2) of the principal Act is amended by deleting the word “principal”.

Amendment
of section 5B
of principal
Act.

8. Section 5C of the principal Act is amended—

Amendment
of section 5C
of principal
Act.

(a) in subsection (1), by inserting immediately after the words “by a public body” the words “within the specified public sector”;

(b) in subsection (2), by deleting the word “principal”.

9. Section 6 of the principal Act is amended in subsection (1)(e) by deleting the words “approved by the responsible Minister and the Minister.” and substituting the following—

Amendment
of section 6
of principal
Act.

“approved—

(i) in the case of a public body that is within the specified public sector, by the responsible Minister and by the Minister; and

(ii) in the case of a public body that is not part of the specified public sector, by the board of that public body.”.

10. Section 6A of the principal Act is amended by inserting immediately after the words “public body” the words “within the specified public sector”.

Amendment
of section 6A
of principal
Act.

Amendment
of section 6B
of principal
Act.

11. Section 6B(10) of the principal Act is amended by deleting the definitions of “public sector” and “specified public sector”.

Amendment
of section 6C
of principal
Act.

12. Section 6C of the principal Act is amended by inserting immediately after the words “public entity” the words “, except a public body that is not part of the specified public sector,”.

Amendment
of section 7
of principal
Act.

13. Section 7 of the principal Act is amended—

- (a) in subsection (3), by inserting immediately after the words “The board” the words “of a public body that is within the specified public sector”;
- (b) in subsection (4), by inserting immediately after the words “the board” the words “of a public body that is within the specified public sector”;
- (c) in subsection (5), by deleting the words “a board” and substituting the words “the board of a public body that is within the specified public sector”;
- (d) in subsection (6), by deleting the words “The Minister” and substituting the words “In the case of a public body that is within the specified public sector, the Minister”; and
- (e) by inserting the following next after subsection (6) as subsection (7)—

“ (7) In the case of a public body that is not part of the specified public sector, the Minister shall, as soon as possible after endorsing any final corporate plan, or any modification of a corporate plan, pursuant to this section, cause a summary of the corporate plan, or the modification of the corporate plan (as the case may be), to be tabled in the House of Representatives and the Senate for information purposes.”

Amendment
of section 12
of principal
Act.

14. Section 12(1) of the principal Act is amended by deleting the words “in any particular case” and substituting the words “in the case of a public body within the specified public sector”.

15. The principal Act is amended by inserting the following next after section 12 as section 12A—

Insertion of new section 12A into principal Act.

“ Minister may direct special audit.

12A.—(1) Where, in the case of a public body that is not part of the specified public sector, the responsible Minister has reasonable cause to believe that a special audit of the public body should be conducted by an auditor other than the public body’s auditor, the responsible Minister may, in writing, direct the board of that public body to appoint an auditor to conduct such audit.

(2) Upon receiving a direction under subsection (1), the board shall appoint an auditor to conduct the special audit.

(3) The auditor appointed shall carry out—

- (a) such examination of the public body’s procedures as the board or the responsible Minister may specify in order to determine whether or not those procedures are adequate for securing economy, efficiency and effectiveness in the use of the public body’s financial, human, physical and other resources; or
- (b) such other examination of the public body as, in the opinion of the board or the responsible Minister, is necessary in the public interest.

(4) The auditor responsible for conducting the audit shall submit a written report on the audit to the board of the public body concerned and to the responsible Minister.

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(5) The expenses of an audit conducted under this section shall be paid by the public body concerned.”

Amendment
of section 14
of principal
Act.

16. Section 14(3) of the principal Act is amended by deleting the full stop at the end of paragraph (c) and substituting the words “; or”, and by inserting the following next after paragraph (c) as paragraph (d)—

“(d) becomes aware, in the case of a public body that is not part of the specified public sector, that the Auditor-General has, in accordance with regulations made under the *Financial Administration and Audit Act*, determined that the public body is no longer primarily carrying out functions that are of a commercial nature and has withdrawn the certification of that public body as a self-financing body under the regulations.”

Amendment
of section 20
of principal
Act.

17. Section 20 of the principal Act is amended by renumbering the section as subsection (1) and by inserting next after the renumbered subsection (1) the following as subsection (2)—

“(2) Subsection (1) does not apply in the case of a public body that is not part of the specified public sector.”

Insertion of
new section
20A in
principal Act.

18. The principal Act is amended by inserting the following next after section 20 as section 20A—

“ Public
Bodies
Human
Resources
Committee.

20A.—(1) The Minister may appoint a committee, to be known as the Public Bodies Human Resources Committee (hereinafter called the “Human Resources Committee”) to perform the functions set out in subsection (3) with respect to public bodies that are not part of the specified public sector.

Third
Schedule.

(2) The provisions of the Third Schedule shall have effect as to the constitution and procedure of the Human Resources Committee and otherwise in relation thereto.

(3) The functions of the Human Resources Committee shall include the following—

- (a) providing advice to public bodies that are not part of the specified public sector with regard to human resource matters;
- (b) monitoring the performance of such public bodies with regard to human resource matters;
- (c) providing reports to the Minister with regard to human resource matters relating to such public bodies;
- (d) promoting best practices with regard to human resource matters relating to such public bodies; and
- (e) performing such other functions, with regard to human resource matters relating to such public bodies, as may be assigned to the Committee by the Minister.

(4) In this section, “human resource matters” includes matters concerning hiring, separation, salaries and other terms and conditions of employment.”

19. Section 21(1) of the principal Act is amended by inserting immediately after the words “public body” the words “within the specified public sector”.

Amendment of section 21 of principal Act.

20. The principal Act is amended by inserting next after section 21 the following as section 21A—

Insertion of new section 21A in principal Act.

“ New company formed by public body not part of specified public sector.

21A. If a public body that is not part of the specified public sector (hereinafter called the “holding company”) forms a new company, the new company shall be deemed to be a public body that is not part of the specified public sector for so long as the holding

company remains a public body that is not part of the specified public sector, except that the new company shall not be required to be certified under the Financial Administration and Audit (Fiscal Responsibility Framework) Regulations, 2012, as a public body that is not part of the specified public sector.”.

Amendment
of section 24
of principal
Act.

21. Section 24(1) of the principal Act is amended—

- (a) by deleting paragraph (iii); and
- (b) by re-lettering paragraphs (i), (ii), (iv) and (v) as paragraphs (a), (b), (c) and (d), respectively.

Insertion of
new Third
Schedule in
principal Act.

22. The principal Act is amended by inserting next after the Second Schedule the following as the Third Schedule—

THIRD SCHEDULE

(Section 20A)

The Public Bodies Human Resources Committee

1. The Minister shall determine the number of members of the Public Bodies Human Resources Committee.
2. The members of the Human Resources Committee shall be persons who are, in the opinion, of the Minister, representative of the public sector and the private sector.
3. The members of the Human Resources Committee shall be appointed by the Minister by instrument in writing.
4. The members of the Human Resources Committee shall, subject to the provisions of this Schedule, hold office for such a period as may be specified in the instrument of appointment and shall be eligible for re-appointment.
5. The Minister shall appoint a chairperson and vice-chairperson of the Human Resources Committee from the members of the Committee.
6. The Minister may, at any time, revoke the appointment of a person as member of the Human Resources Committee or as chairperson or vice-chairperson.
7. Subject to the provisions of this Act, the Human Resources Committee may make rules regulating its own proceedings.

8. The Minister shall assign technical and administrative support to the Human Resources Committee."

23. Section 6B(5), (6)(b), (7) and (9) and section 6C of the principal Act shall be deemed not to have come into operation on the 1st day of April, 2014 and shall come into operation on the 1st day of April, 2017.

Deferred commencement provision.

Passed in the House of Representatives this 27th day of January, 2015 with three (3) amendments.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 5th day of February, 2015 with one (1) amendment.

FLOYD E. MORRIS
President.

On the 10th day of February, 2015 the House of Representatives agreed to the amendment made by the Senate.

MICHAEL A. PEART
Speaker.

This printed impression has been carefully compared by me with the Bill which has passed the House of Representatives and Senate, and has been found by me to be a true and correct printed copy of the said Bill.

(Sgt.) H. E. COOKE
Clerk to the Houses of Parliament.

