



Adamawa State House of Assembly Proposed Bill

Public Finance (Management and Control) Bill

A Law to Provide for the Control, Regulation and Management of
Public Finances of the Government of Adamawa State and for
Connected Matters.

ADAMAWA STATE HOUSE OF ASSEMBLY

A BILL
FOR

A LAW TO PROVIDE FOR THE CONTROL, REGULATION AND
MANAGEMENT OF PUBLIC FINANCES OF THE GOVERNMENT OF
ADAMAWA STATE AND OTHER MATTERS INCIDENTAL THERETO

Date of commencement ()

BE IT ENACTED by the House of Assembly of Adamawa State of Nigeria and by the Authority of same as follows:-

PART I - PRELIMINARIES

Short title and
Commencement

1. This Law may be cited as the Adamawa State Public Finances (Control and Management) Law, 2016 and shall come into operation on the ----- day of -----, 2016.

Interpretation

2. In this law, unless the context otherwise requires:-
“Accountant General” means the person designated under Section 11 of this Law and any other person acting on his authority;
“Accounting Officer” means the Vote Controller, the Head of Department, Permanent Secretary, Chief Executive or the most senior Administrative Head of a Ministry, Department or Agency;
“Appropriation Law” means a Law to apply a sum of money out of the Consolidated Fund or any other fund of the State to the service of a financial year;
“Auditor-General” means the Person appointed or deemed to have been appointed Auditor-General of the State under the Constitution;
“Bond” means a bond issued under Section 24 of this Law;

“Chief Executive” means the person who has responsibility for managing the affairs of a Public Organization;

“Commitment” means a contract or other legal commitment that results in expenditure;

“Commissioner” means the Commissioner for the time being responsible for matters relating to finance;

“Consolidated Fund” means the Consolidated Revenue Fund of the State established under the Constitution;

“Constitution” means the Constitution of the Federal Republic of Nigeria, 1999 as amended;

“Contingencies Fund” means all money appropriated by the House of Assembly for contingencies;

“Earmarked Fund” means money received by or on behalf of government for a special purpose and paid into the Consolidated Fund;

“Expenditure Vote” means a group of estimates for which an appropriation is made by an Appropriation Law or Supplementary Appropriation Law;

“Financial Year” means a period of twelve months ending on 31st December;

“Generally Accepted Public Accounting Practice” means accounting practices and procedures approved by the Accountant-General and financial information relating to the Government, a Ministry or Department, a Fund, an Agency or other reporting unit, and which are consistent with this Law and any relevant appropriation Law;

“General Revenue Balance” means funds received at the State and Local Government level of government that may be utilized for any purpose;

“Government” means the Government of Adamawa State of Nigeria;

“Head of Department” means the Accounting Officer, Permanent secretary, Chief Executive or the Senior Administrative Head of a Ministry, Department or Agency;

“House of Assembly” means the House of Assembly of Adamawa State;

“Information” includes accounts;

“Internal Audit” means an independent, objective assurance and consulting activity designed to add value, improve an organization’s operations, help an organization accomplish its objectives by bringing a

systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes;

“Internal Control” means a process, effected by management, designed to provide reasonable assurance regarding the achievement of objectives in the following categories;

- (a) Effectiveness and efficiency of operations (basic operational objectives, performance goals and safeguarding resources);
- (b) Reliability of financial reporting;
- (c) Compliance with applicable laws and regulations;

“Loan” means amount of money or moneys worth, borrowed by the Government or any Public sector Institution to be repaid out of any Public Funds or public Moneys;

“Local Government Council” means the Local Government Councils in the State;

“Outputs” means goods produced or services provided;

“Propriety” means the requirement that expenditure and receipts must be dealt with in accordance with the intentions of the House of Assembly and in particular, those expressed through an appropriate Committee of the House of Assembly;

“Public Moneys” means

- (a) the Public Revenue of the State; and
- (b) any trust or other moneys held, whether temporarily or otherwise, by an officer who may or may not be a public Officer, in his official capacity, either alone or jointly with any other person;

“Public Officer” means a person holding or acting in an office in the public service of the State of the Federation;

“Public Organization” means an enterprise, authority, body or entity to which Section 40 applies;

“Public Property” means resources owned by the Government or in the custody or care of the Government;

“Regularity” means the requirement for all items of expenditure and receipts to be dealt with in accordance with the legislation authorizing them, including this Law and any applicable delegated authority, regulations, directives and instructions issued under this Law;

“Resources” includes moneys, stores, property, assets, loans and investments;

“State Enterprise” means any public organization which is:-

- (a) notwithstanding paragraph (b); a body corporate established under any Law other than the Companies Act, or a Local Government Council;
- (b) a company registered under the Companies Act in which the government or a state enterprise is able to:-
 - (i) control the composition of the board of directors of the company;
 - (ii) cast, or control the casting of more than fifty percent of the maximum number of votes that might be cast at a general meeting of the company; or
 - (iii) control more than fifty percent of the issued share capital of the company, excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital;

“Statutory expenditure” means expenditure charged on the Consolidated Fund by the Constitution or a Law of the House of Assembly including this Law, but does not include the expenditure of moneys appropriated or granted by an appropriation law or Supplementary Appropriation Law;

“Supplementary Appropriation Law” means any law, the purpose of which is to supplement the appropriation already granted by an Appropriation law;

“Trust Funds” means a fund comprised of a variety of assets intended to provide benefits to an individual or organization;

“Vote Controller” means an Accounting Officer, the Head of a Department, a Permanent Secretary, a Chief Executive or the most Senior Administrative Head of a Ministry, Department or an Agency;

PART II – PUBLIC FUNDS

Composition
of Public
Funds

3. (1) Subject to the provisions of the Constitution, the Public funds of the state shall consist of the Consolidated Fund and such other funds as may be established for the state by the Constitution or any Law;

(2) Except as otherwise provided in the Law establishing a particular public fund, all public funds shall be governed by the provisions of this Law.

Consolidated
Fund

4. (1) Subject to the provisions of the Constitution, the Consolidated Fund of the State shall consist of:-

- (a) all revenues or other moneys raised or received for the purpose of, or on behalf of the Government;
- (b) any other moneys raised or received in trust for or on behalf of the Government; and
- (c) all revenues and moneys payable by or under any bilateral or multilateral arrangement.

(2) The revenue and other moneys referred to in sub-section (1) of this Section exclude revenue or other moneys:

- (a) payable under the Constitution or any Law into some other fund established for a specific purpose; or
- (b) that may under a Law be retained by the Department of Government that received them for the purpose of defraying expenses of that Department.

(3) Where under Sub-Section (2) of this Section provision is made in any enactment for a Department of Government to retain its internally generated funds for the purpose of defraying its expenses, the Department shall make full remittance of all internally generated funds to the Office of the Accountant-General at the end of every month. And the Accountant General shall immediately transfer the funds to the generating Agency for its use.

(4) Notwithstanding any provision to the contrary in any enactment in existence immediately before the coming into force of this Law, no investment in government securities shall be made up of internally

generated funds by a government department without prior approval in writing of the Commissioner.

Contingency
Fund

5. (1) There shall be a Contingencies Fund for the State into which shall be paid all sums appropriated by the House of Assembly for the purposes of the Fund.

(2) The Governor may, if satisfied that an urgent need has arisen for expenditure which could not have been foreseen such as flood, fire outbreak and communal clash, and which cannot be postponed without detriment to the public interest, authorize by warrant under his hand, addressed to the Accountant General, advances from the Contingencies Fund for the purposes of meeting such expenditure.

(3) Where an advance is made under Sub-Section (2) of this Section, a Supplementary Estimate for the purpose of replacing the amount advanced shall be laid before the House of Assembly.

Payment into
the Consolidated
Fund

6. (1) Moneys received by or on behalf of Government for a special purpose shall be paid into the Consolidated Fund and classified as earmarked funds.

(2) Earmarked funds shall not be utilized for any other purpose apart from the purpose for which the money was received.

(3) Subject to any enactment, interest may be allowed in respect of money to which Sub-Section (1) of this Section applies at rates fixed by the Commissioner in regulations or administratively.

(4) Any public fund estimated under the Public Finances (Control and Management) Law No. 8 of 1983, repealed by this law in existence at the commencement of this Law, shall be deemed to be established under this Law and shall continue in effect, be operational and be binding in the manner and to the same extent as if they were established under this Law.

(5) Unless otherwise provided in any other law establishing a public fund or regulating it, the balance remaining in any fund at the close of each financial year shall be carried forward to the credit of that fund at the beginning of the next financial year.

- (6) (a) the funds specified in the First Schedule (other than the Capital Development Fund) shall be operated in accordance with directions of the Commissioner approved by Resolution of the House of Assembly.
- (b) directions made under this Section may provide that investments held for any fund shall be so held in a separate account and in that event such directions shall specify whether:-
- (i) the interest earned on such investments shall accrue to the fund itself or to the Consolidated Revenue Fund; and
 - (ii) any depreciation or appreciation in the value of such investments and any profits or loss from the sale or redemption of such investments shall be debited or credited to the fund in question or to the Consolidated Revenue Fund.
- (7) Directions made under this Section in respect of any fund shall be consistent with the terms of any request providing monies contained in that fund and of any Law establishing or regulating that Fund.
- (8) Subject to the provisions of Sub-Section (7) of this Section, the Commissioner may:-
- (a) limit or suspend expenditure from any fund notwithstanding that authority for such expenditure has been given if, in his opinion, financial exigencies or the public interest so required provided that this paragraph shall not convey authority to withhold payments required to be made under the Constitution; and
 - (b) by warrant authorize repayment from any fund of sums received in error by that fund and any such repayment shall be a charge on that fund.
- (9) The Capital Development Fund shall be operated in accordance with the rules set out in the Second Schedule and the provisions of such Schedule may be

amended from time to time by a resolution of the House of Assembly.

PART III -CONTROL AND MANAGEMENT OF PUBLIC FINANCE

Powers, Duties and responsibilities of Ministry responsible for Finance

7. (1) The Ministry shall develop the Government's recurrent revenue and expenditure framework in the medium term for recurrent budget preparation and shall ensure that systems are established throughout the public sector to:-

- (a) manage the recurrent budget execution and monitoring process;
- (b) coordinate the management of external grants and loans;
- (c) carry out cash management and current year financial planning, management of Government banking arrangement, accounting and reporting, and management of public debt;
- (d) exercise control over the implementation of the recurrent budget including any adjustments to the current year's budget;
- (e) inspect the financial operations and proper management of budget agencies; and
- (f) prepare and submit statement of government accounts to the Auditor-General, and publish them for the interest of the general public, as prescribed by this law;

(2) The Ministry shall, for the purpose of Sub-Section (1) of this Section:-

- (a) prescribe appropriate instruments including circulars, technical manuals on financial norms and standards and comply with financial instructions issued by the Accountant-General;
- (b) enforce this Law and any prescribed norms and standards including internationally recognized accounting practice and classification systems for Government revenues and expenditures; and
- (c) examine and inspect any system of financial

management, books and accounts in any budget agency;

Powers, Duties and responsibility of the Commissioner

8. (1) The Commissioner is responsible to the Governor and the House of Assembly for the advice and other decisions of the Ministry;
- (2) Subject to the provisions of the Constitution, and this Law, the Commissioner shall undertake the management of the Ministry, and the supervision, and direction of all matters relating to the financial and economic affairs of the State;
- (3) The Commissioner may delegate or assign, in writing to any Public Officers in the Ministry, any portion of his responsibilities appropriate for the performance of his duties and responsibilities of the Ministry;
- (4) A delegation or assignment under Section (3) of this Section does not preclude the Commissioner from performing the duty or carrying out the responsibility delegated or assigned.
- (5) The Commissioner may confirm, suspend, vary, or revoke any duty or responsibility delegated or assigned to, or any decision taken by officer of the Ministry.

Powers of Permanent Secretary

9. (1) Subject to any other enactment, the Permanent Secretary is accountable to the Commissioner, and derives his power and duties by delegation or assignment from the Commissioner and provisions of this Law;
- (2) The Permanent Secretary shall, under the general direction of the Commissioner, take regularly an overall charge of the duties and responsibilities of the Commissioner mentioned in Section 7 of this Law.
- (3) The Permanent Secretary may delegate or assign in writing, any portion of his responsibilities; except those relating to issuing instructions to relevant Public Officers in charge of Internal Audit Units of the Ministry.
- (4) Without prejudice to the generality of Sub-Section (3) of this Section, the Accountant-General shall:-
- (a) specify for every Ministry, Department, and, Agency, Local Government or other reporting unit required to produce accounts under Section 31:-

- (i) the basis of the accounting to be adopted;
 - (ii) the classification system to be used; and
 - (iii) the accounting standards to be applied.
- (b) prepare in conjunction with each Accounting Officer, and the consolidation required by Sub-Section (3) of Section 21, a cash flow forecast for each financial year which is updated each quarter on the basis of the actual cash inflows and outflows;
- (c) on the basis of the cash flow forecast, inform the Accounting Officer of each Ministry, Department or Agency of the level of resources which will be made available to them during the following quarter;
- (d) refuse payment on any voucher which is wrong or deficient in content, or that contravenes the provisions of the Constitutions or any regulations, directives or instructions properly made or given under Section 13 of this Law or any other Law for the management of public money, or that is in any way unacceptable in support of a charge on public funds;
- (e) ensure that an appropriate system of account is established in each government Ministry, Department, and, Agency, or reporting unit which is compatible with the requirements of Section 36 of this Law and which ensures that all monies received and paid by the Government is brought promptly and properly to account;
- (f) report to the Commissioner in writing any apparent defect in departmental control of revenue, expenditure, cash, stores and other property of the Government and any breach or non-observance of any regulations, directives or instructions which may come or be brought to his notice;
- (g) ensure, as far as practicable, that adequate provisions exist for the safe custody of

public money, property, securities and accountable documents; and

- (h) take precautions, by the maintenance of efficient checks, including surprise inspections against the occurrence of fraud, embezzlement or mismanagement.

(5) The Accountant General may issue directives to Accounting Officers to authorize the opening of a bank account under Section 21 of this Law.

General responsibilities of a Commissioner

10. (1) Every Commissioner including the Commissioner responsible for Finance is responsible to the Governor and the House of Assembly for ensuring that Accounting Officers under them comply with their responsibilities under this Law for the effective and efficient financial management of all public resources under their control.

(2) Such Commissioner shall ensure that all estimates of revenue and expenditure provided from entities that comprise the assigned responsibilities of the Commissioner are realistic, practical and fully consistent with the budget policy statement of the Government.

(3) Such Commissioner shall ensure that the financial management of the public money and public resources that are allocated to the assigned responsibilities of the Commissioner in an Appropriation Law achieves the objectives and output approved for each vote.

(4) Such Commissioner shall ensure compliance with all reporting responsibilities coming within the assigned area of responsibility of the Commissioner under this Law.

Appointment, Powers and Duties of the Accountant-General

11. (1) There shall be appointed an Accountant-General for the State to be appointed in the same manner and under such terms and conditions as are applicable to the appointment of a Permanent Secretary.

(2) A person to be so appointed shall be a professional in Accountancy with a minimum of 15 years post qualification and cognate experience in the Public Service.

(3) The Accountant-General is accountable to the Commissioner and drives his power and duties by delegation or assignment from the Commissioner and provisions of this Law.

- (4) The Accountant-General shall have the rank of Permanent Secretary.
- (5) Subject to the provision of this Law, the Accountant-General shall be responsible for the:-
- (a) compilation and management of the accounts of the government;
 - (b) custody and safety of public money;
 - (c) resources of the Government;
 - (d) conduct of the treasury functions of the Government; and
 - (e) establishment of treasury offices in Ministries, Departments and Agencies for the receipt, custody, and disbursement of public money in executing approved budget.
- (6) For the purpose of Sub-Section 5 of this Section, the Accountant-General may give general instructions to Accounting Officers which are consistent with this Law or any financial instructions or directives issued under Section 5 of this Law.
- (7) The Accountant-General may inspect all offices of the Government and shall be given:-
- (a) access at all reasonable times of the day to those offices; and
 - (b) given all available information he may require or consider necessary for the purpose of enforcing compliance with paragraphs (a), (c), (d), and (e) of Sub-Section 5 of this Section.
- (8) The powers of the Accountant-General under this Law shall be without prejudice to any other powers and functions conferred on the Accountant-General by any other Law.

Openness and
Accountability

12. The Accountant-General shall ensure that the Public is provided with full access to all appropriate information concerning the financial affairs of the Government.

Regulations and
Directives

13. (1) The Accountant-General shall by statutory instrument issue Financial Instructions for the better carrying into effect the intent and purpose of this Law, such Financial Instructions shall be subject to a formal review process; at least once every five years.

(2) The Accountant-General may give instructions or directives that may appear to be necessary and expedient for the proper carrying out of the intent and purposes of this Law and of the safety, economy and advantage of the public revenue and public property.

(3) The Accountant-General shall take all proper steps to ensure that any instructions or directives given under this Section are brought to the notice of persons directly affected by them, but it shall not be necessary to publish the instructions and directives in the Gazette.

(4) Every Accounting Officer or Public Officer shall comply with any regulations issued under Sub-Section (1) of this Section, any directives or instructions given under them and all instructions that may from time to time be given by the Accountant-General under Sub-Section (2) of this Section.

Duties of
Accounting
Officer

14. (1) An Accounting Officer shall have control and be personally accountable to the House of Assembly for the regularity and propriety of the expenditure of monies applied by an expenditure vote or any other provision to any Ministry, Department, Agency, and Local Government or other entity funded wholly through the Consolidated Fund, and for all resources received, held or disposed of, by or on account of that Ministry, Department, Agency and Local Government or other entity.

(2) In the exercise of his duties under Sub-Section (1) of this Section, an Accounting Officer shall ensure in particular:-

- (a) that adequate control is exercised over the incurring of commitments;
- (b) that effective systems of internal control and internal audit are in place in respect of all systems, transactions and resources under his control; and
- (c) in respect of paragraphs (a) and (b), that he complies with any regulations, instructions or directives issued under Sub-Section (5) of this Law.

(3) An Accounting Officer shall take all proper steps to ensure that any instructions or directives given under this Section are brought to the notice of the person

directly affected by them, but it shall not be necessary to publish the instructions and directives in the Gazette.

(4) Every Accounting Officer or Public Officer shall comply with any regulations issued under Sub-Section (1) of this Section, any directives or instructions given under them and all instructions that may from time to time be given by the Accountant-General under Sub-Section (2) of Section 13 of this Law.

(5) An Accounting Officer may, and shall, if so required by any regulations, instructions or directives issued under this Law, state in writing the extent to which the powers conferred and duties imposed on him, may be exercised or performed on his behalf by any Public Officer under his control, and shall give such directives as may be necessary to ensure the proper exercise or performance of those powers and duties.

(6) An Accounting Officer shall:-

(a) whenever the necessity arises, consult the Accountant-General on the applicability of this Law, any regulations, instructions or directives issued under Section 13 of this Law; and

(b) bring to the immediate attention of the Accountant-General any defect in the application of this Law, any regulations, instructions, or directives issued under this Law that may result in a diminution of control over any public moneys or resources under their control.

(7) Any delegation of the powers and duties of an Accounting Officer under Sub-Section (4) of this Law shall not affect the personal accountability of the Accounting Officer.

(8) The responsibility of the Auditor-General to examine and verify public accounts or to audit other government accounts under any Law does not relieve an Accounting Officer of responsibility for keeping or rendering accounts, from the duty to comply with and to ensure the compliance of subordinate staff with the provisions of this or any other enactment or with any Financial Instructions or directions issued.

Audit Queries Register

15. (1) The Auditor-General shall maintain and cause to be maintained by each Accounting Officer, a register of all audit queries and inspection reports.

(2) The register shall contain:-

- (a) the reference and date of the audit query or report;
- (b) the date on which the audit query or report was expected to be answered or otherwise dealt with; and
- (c) the date on which the audit query or report was answered or otherwise dealt with.

(3) The Accounting Officer shall examine and initial the register at the end of every month.

Failure to answer Audit Queries

16. Without prejudice to any other provision of this Law, every person who fails or refuses to reply to an audit query or observation within the period specified in Section 15 (2) (b) of this Law shall, if the Auditor-General so directs in writing, have his emoluments and allowances withheld for so long as the person fails to reply.

Internal Audit

17. (1) There shall be an Internal Audit Department under the Accountant-General.

(2) The Internal Audit Department shall have the following functions:-

- (a) coordinate, facilitate and provide quality assurance for internal audit activities within internal audit units in Government Ministries, Departments, Agencies and Local Governments bodies;
- (b) set standards and procedures for the conduct of internal audit to ensure that the internal audit unit in every Ministry, Department, Agency or Local Government is appropriate to the needs of the organization concerned and conforms to the appropriate standards;
- (c) ensure personnel required for effective and efficient internal auditing of the organization are appointed; and
- (d) monitor, undertake inspection, and evaluate the internal auditing of Internal Audit Units of Ministries, Departments and Agencies.

(3) There shall be established in each Government Ministry, Department, Agency, and Local Government body, an Internal Audit Unit which shall be part of the organization.

(4) An Internal Audit Department, Division or other Unit shall have the following duties in the performance of its functions:-

- (a) ensure that internal control and risk management systems are continually being improved and optimized;
- (b) provide reasonable assurance to the relevant Accounting Officer and Audit Committee that significant risks are being appropriately managed;
- (c) monitor the implementation of the budget as approved by parliament and report promptly on any irregularity discovered;
- (d) continuously review systems and procedures to ensure adequacy, effectiveness and efficiency;
- (e) make periodic audit reports on audits completed;
- (f) review management response to Auditor-General's report; and
- (g) provide annual internal audit programme.

(5) Internal Auditors shall have unrestricted access to all relevant official records, data and other information the head of internal audit considers necessary for undertaking their internal audit functions.

(6) An Internal Audit Unit established under Sub-Section 3 of this Section shall in accordance with this Law and standards and procedures provided by the internal Audit Department carry out internal audit of its organization and shall submit reports on the internal audit it carried out to the head of Internal Audit Department.

(7) The Internal Audit Unit shall submit a copy of its internal audit report to its management, Accountant-General, Auditor-General and such other persons as it is required to submit the report.

Issues from
the
Consolidated
Fund

18. (1) No money shall be withdrawn from the Consolidated Fund except upon the authority of a warrant signed by the Commissioner and addressed to the Accountant-General.

(2) A warrant shall not be issued by the Commissioner for the purpose of meeting any expenditure unless the expenditure:-

(a) has been authorized for the financial year during which the withdrawal is to take place by:

(i) an Appropriation Law; or

(ii) a Supplementary Appropriation Law;
or

(iii) a warrant issued under Section 5 of this Law;

(b) is a statutory expenditure;

(c) is for the purpose of repaying any moneys that are received in error by the Consolidated Fund; or

(d) is for the purpose of paying sums required for any advance, refund, rebate or drawback where the payment of the advance, refund, rebate or drawback is provided for in this or any other Law.

(3) The Commissioner may suspend, withdraw, limit or place conditions on any warrant or other authority issued by him if the Commissioner is satisfied that such action is required by reason of a financial exigency or is in the public interest, provided that this Section shall not convey authority to withhold payments which are required to be made under the Constitution.

(4) Any sums standing to the credit of the Consolidated Fund may be invested by the Accountant-General:-

(a) with a bank or joint Consolidated Fund at call; or

(b) subject to notice not exceeding twelve months; or

(c) in an investment authorized by Law for the investment of trustee funds and approved by the Commissioner.

(5) Subject to the issue of a grant of credit under Section 5 of this Law, the Commissioner may, by warrant

signed by him and addressed to the Accountant- General, authorized temporary advances from the Consolidated Funds:-

- (a) to special funds; and
 - (b) to Public Officers for the purpose of funding expenditure approved under an Appropriation Law or a Supplementary Appropriation Law, and those advances shall be repaid before the end of the financial year in which they are issued.
- (6) Any investment or advance made under this Section shall not constitute withdrawal of funds from the Consolidated Fund.
- (7) Subject to Sub-Section (2), (3) or any other related provisions of this Law, whenever the Office of the Commissioner is vacant, the Governor may exercise the powers of the Commissioner under this Law to sign and issue warrant.
- (8) No public money shall be deposited or invested otherwise than in accordance with Sub-Section (4) of this Section or except as may be specified in any written Law or in approved estimates of expenditure.

Development
project contract

19. (1) All contracts shall be awarded in conformity to the provisions of the Public Procurement Law.
- (2) Where a contract is entered into on behalf of the Government and it is required in the contract that payment shall be made on or after the first day of January next following the end of the Financial Year in which the contract was made, the Commissioner Shall as soon as possible after making of such contract give notice thereof to the House of Assembly and such notice shall specify the details of such contract.

Budget tracking

20. (1) Details of the release of funds to Ministries, Departments, Agencies and Local government shall be published promptly each month on the website of the Ministry of Finance or any other media.
- (2) Each Ministry, Department, Agency, Local Government, or local service unit shall hold meetings at least once a quarter to discuss the execution of the budget and proposals for the following year with employees.

Bank Accounts

21. (1) A public or official Bank account shall not be opened with any Bank without the prior authority of the Accountant-General in writing; and the continued operation of that account shall be subject to the terms and conditions the Accountant-General may, from time to time, determined;

(2) An Accounting Officer shall be responsible for the management of all Bank accounts which they maintain including formal reconciliations between periodic bank statements and the cash book at least once a month, before the end of the following month.

(3) The Accountant-General shall prepare, or cause to be prepared, a quarterly consolidation of the cash and Bank balances of all Ministries, Departments and Agencies.

PART IV – ESTIMATES OF REVENUE AND EXPENDITURE

Excess expenditure

22. (1) Where at the close of accounts for any Financial Year, it is found that moneys have been expended:-

- (a) on any expenditure vote in excess of the amount, appropriated for it by an Appropriation Law;
- (b) for a purpose for which no moneys have been voted and appropriated; or
- (c) in excess of the sum assigned to an estimate forming part of an expenditure vote in the estimates of expenditure approved by the House of Assembly for the Financial Year, and to which no further sum has been applied under this Law or any regulations issued under it, the amount of the excess expended or not appropriated, as the case may be, shall be included in a statement of expenditure in excess which shall be laid before the House of Assembly and referred to the Appropriation Committee of the House of Assembly.

(2) The Appropriation Committee in Sub-Section (1) of this Section shall report to the House of Assembly a statement of expenditure in excess referred to it under sub-section (1) of this section within three months after it is referred to it.

(3) Where on receiving the report of the Committee mentioned in Sub-Section (1) of this Section, the House of Assembly by means of a motion, allows the excess or the amount expended but not appropriated, to stand charged to public funds, the sum required to meet that excess or that amount as shall be allowed shall be included in a Supplementary Appropriation Law for appropriation.

(4) Any excess or any amount expended but not appropriated and which is not allowed in terms of Sub-Section (3) of this Section shall be treated as a loss of public moneys and dealt with in accordance with Section 44 of this Law.

Duration of
Appropriation
and warrants

23. Every Appropriation by the House of Assembly of public moneys for the service of a Financial Year, and every warrant or other authority issued under this Law in respect of a Financial Year, shall lapse and cease to have any effect at the close of that year and the unexpected balance of any moneys withdrawn from the Consolidated Fund shall be disclosed in the budget for the subsequent Financial Year.

PART V – LOANS, GUARANTEES AND GRANTS

Government
borrowing

24. (1) Subject to the provisions of the Constitution or any other Law, the authority to raise money by loan, to issue guarantees and to accept grants for and on behalf of the Government shall vest solely in the Ministry of Finance and no other person, public organization or Local Government Council shall, without the prior approval of the Ministry of Finance, raise any loan or issue any guarantee, or take any other action which may in any way either directly or indirectly result in a liability being incurred by the Government.

(2) Loans may be raised upon such terms and conditions as to interest, repayment or otherwise as may be negotiated by the Commissioner of Finance or his representative but, only for the purpose of:-

- (a) capital development project;
- (b) financing budget deficit;
- (c) obtaining foreign currency for international transactions;

- (d) on-lending to an approved institution; or
- (e) otherwise defraying expenditure which may lawfully be defrayed.

(3) With the exception of any loans raised for the Purpose of paragraph (b) of Sub-Section (2) of this Section, the terms and conditions of any loan shall be laid before the House of Assembly and shall not come into operation unless they have been approved by resolution of the House of Assembly.

(4) All moneys raised under this Section shall be paid into the Consolidated Fund and shall form part of it and be available in the manner in which that Fund is available.

(5) Where a loan has been raised for a purpose for which a special Fund has been established under Sub-Section (1) of Section 6, the Ministry of Finance shall direct that the whole amount of the loan shall be paid into the Consolidated Fund and earmarked for the special purpose and not be used to finance other expenditures.

(6) Loans may be raised by:-

- (a) the issue of bonds or stock by the Ministry of Finance, of Government;
- (b) any other method the Ministry of Finance may deem expedient, including a fluctuating overdraft.

Repayment,
conversion
and
Consolidation
of Loans

25. The Ministry of Finance may on terms and conditions, determine where necessary, with the approval of the lenders:-

- (a) repay any loan prior to the redemption date of that loan;
- (b) convert the loan into any other loan; or
- (c) consolidate two or more loans into an existing or new loan.

Expenses of
Loans

26. (1) All expenses of and incidental to the raising of loans and the issue or management of any moneys raised under Section 24 of this Law shall be paid out of the Consolidated Fund.

(2) Any sum of money due from the Government:-

- (a) in respect of any loan either by way of repayment or payment of interest; or
- (b) by way of interest or otherwise in respect of

any bond or stock issued under Section 24 of this Law; or

- (c) in respect of any guarantee given under Section 27 of this Law; shall be paid out of the Consolidated Fund after Appropriation, or under Section 122 of the Constitution.

Authority to
guarantee
Loans

27. (1) Where the Commissioner of Finance is satisfied that it is in the public interest, he may, with the approval of the House of Assembly and on behalf of the Government, guarantee the repayment of the principal money and the payment of the interest and other charges on any loan raised either within or outside the country in the manner and on conditions he may think fit by:-

- (a) a State enterprise;
- (b) a Local Government Council; or
- (c) any other authority or body to which Section 33 applies.

(2) Where a guarantee is given under Sub-Section (1) of this Section above, the state enterprise, local government or other authority or body, for whose benefit that guarantee is given, shall reimburse the Government in the manner the Ministry of Finance may direct:-

- (a) all sums of moneys which the Government has paid to fulfill the guarantee; and
- (b) all the expenses which the Government incurs in relation to the guarantee and, in addition, shall pay the Government the interest or service charge in relation to that sum or money paid by the Government or expenses incurred by the Government, as the Commissioner may direct;

(3) All moneys received under Sub-Section (2) of this Law shall be paid into the Consolidated Fund.

Authority to
receive Grants

28. (1) Subject to any conditions attached to a grant, grants made to the Government by a foreign government or any other person shall be received by the Ministry of Finance on behalf of the Government;

(2) Section 24 of this Law, shall apply to any sum of money received by the Government by way of a grant.

Commissioner
to specify loan
particulars in
Annual Estimates

29. The Commissioner shall in the annual estimates of public revenue and expenditure submitted to the House of Assembly specify the amount required to meet the cost of servicing all loans raised under this Law whether by repayment of capital or payment of interest or other charges incurred on the loan for the Financial Year to which these estimates relate, and the amount expected to be raised from loans and grants during that Year.

Delegate of
functions

30. The Commissioner may, by order signed by him delegate to Public Officers:-

- (a) his functions under this Law relating to the negotiation of a loan, guarantee or grants; and
- (b) the authority to execute on behalf of the Government any agreement or other instrument relating to a loan or guarantee raised or given under this Law.

PART VI – ACCOUNTING AND REPORTING

Public Accounts
and other
Government
Accounts

31. (1) The documents and records pertaining to public and trust moneys received into, held in and paid from the Consolidated Fund shall be termed the public accounts and shall be kept by the Accountant-General in accordance with this Law.

(2) The documents and records pertaining to the collection of revenue, the control of expenditure, the administration of trust funds, the management of Government stores and such other financial business as may be made the responsibility of Government Departments shall be termed other Government accounts and shall be kept by Heads of Department.

Basis of
Accounting

32. All accounts submitted under Section 31 of this Law, shall:-

- (a) be prepared in accordance with the generally accepted public accounting practice and in all cases in accordance with any instructions issued by the Accountant-General;

- (b) identify any significant departures from the generally accepted public accounting practice and approved by the Accountant-General for use in Government and shall state the reasons for those Departures; and
- (c) state the basis of accounting used in their preparation, identify any significant departures from it and the reasons for the departure.

Classification of Public Accounts

33. (1) Except as provided for by a regulation issued by the Commissioner, the public accounts shall be classified and arranged in the same form as the Budget approved by the House of Assembly.

(2) No business shall be transacted within any classification of the public accounts until the Accountant-General has first assigned an account number/code to that classification.

Monthly statement of Public Accounts

34. (1) When the transactions of each month have been duly recorded in the public accounts, the Accountant-General shall draw up and sign a monthly statement of the public accounts and publish such statement in the Gazette.

(2) The content of the monthly statement of accounts shall be specified in the regulations.

Closing of the Public Accounts

35. (1) At the close of business of the last working day of each Financial Year, and after cash survey for that year all treasury cash accounts shall be balanced off and no further cash disbursement may be made against the expenditure authorities of that Year.

(2) All subsequent cash transactions shall form part of the public accounts of the new Financial Year.

(3) Except as provided for in any enactment, no moneys shall be transferred from an Appropriation to a deposit account or to any other Agency for the purpose of meeting payments after the close of a Financial Year.

(4) Where any payment has been properly charged to an advance account before the end of the Financial Year, or has been incorrectly charged to an Appropriation account, the Accountant-General may adjust such

payments to the correct Appropriation account after the end of the Financial Year as if the expenditure authorities had not lapsed.

(5) As soon as possible after the end of the Financial Year, the Accountant-General shall inform Heads of Department of the date of the final closure of the accounts and the heads of departments shall ensure that their own accounts are in agreement with the public accounts before the date of the closure.

(6) On the date of the final closure of the public accounts the Accountant-General shall close all revenue and expenditure accounts for the Financial Year by transferring the balances of those accounts to the General Revenue Balance of the Consolidated Fund.

Annual statement
of Public Accounts

36.(1) As soon as the public accounts of any Financial Year Statement have been closed and not later than six months after the end of such Financial Year, the Accountant-General shall draw up and sign an annual statement of public accounts and submit such statement, together with his annual report on the public accounts to the Auditor-General.

(2) The report shall review the transactions of the Financial Year, drawing attention to significant features and making comparisons with previous years, and shall include information as may be required by this or any other enactment.

Financial
Information

37. (1) The Accountant-General shall include in any report prepared under section 38 of this Law any information known to him that materially affects the significance of the figures presented in the annual statement of public accounts and which is not otherwise required to be recorded in the public accounts.

(2) Where such financial information is required to be furnished to him by Heads of Department by or under this or any other enactment, the Accountant-General shall not delay the presentation of his report by reason of their failure to do so.

(3) Where such financial information is not complete by reason of the failure of the Heads of Department to furnish information the Accountant-General shall state

this fact in his report and inform the Commissioner of the names of such Heads of Department.

Disclaimer on
the Public
Accounts

38.(1) The report and annual statements of the public accounts drawn up and signed by the Accountant-General shall state that the report and annual statements were presented for audit examination which was completed and issued subject to any observations contained in the report of the Auditor - General for the Financial Year.

(2) When the audit of the annual statements have been completed, the Auditor-General shall certify not later than ninety(90)days upon receipt of a copy of the statement of financial statements.

Responsibility
of Accounting
Officers

39. The responsibility of the Auditor-General for examining and certifying the public and other accounts does not relieve the Accountant-General or any Accounting Officer responsible for keeping or rendering such accounts from his duty to comply and to ensure the compliance of his subordinates, with the provisions of this or any other enactment or with any regulations or directions issued there under.

PART VII – CONTROL OF THE FINANCES OF STATE ENTERPRISES

Control of
Accounts of
Public organizations

40. (1) This report applies to:-

- (a) any state enterprise;
- (b) any authority established by a Law other than a Local Government Council which receives contributions from the operations of the authority, which may, under the Law establishing it or any law relating to it, impose or create a liability upon public funds;
- (c) any public body, which has in its financial year received more than half its income from public funds; or
- (d) any entity other than a Local Government Council, which is audited by the Auditor-General under any Law, all of which are (hereafter referred to as state enterprise)

(2) All subsidies, subventions and other monies proposed to be provided to support any state enterprise shall be included in the annual and any supplementary estimates provided to the House of Assembly by the Commissioner responsible for that state enterprise.

(3) Details of any guarantees provided or proposed to be provided to any state enterprise, shall be included in the annual and any Supplementary Estimates provided to the House of Assembly by the Commissioner.

(4) Such Commissioner or the Ministry of Finance may give general directions in writing to the enterprise, on matters of policy which may include regulations on the award of contracts; and the application of surplus funds including investment of such moneys or payment to the Government as state revenue.

(5) The Board of Directors of each organization to which this section applies shall ensure the efficient management of the financial resources of the organization including the collection and receipt of moneys due to the organization.

(6) A state enterprise shall keep proper books of accounts and proper records in relation to them and the books of accounts and records shall be in such form as the Accountant-General may approve.

(7) A state enterprise may with the approval of the Accountant-General, maintain in its own name, one or more accounts in such banks in the Country as the Accountant-General may approve.

Account of
State Enterprises

41. (1) The Board of Directors of a State enterprise shall ensure that proper accounts are prepared and submitted to the Board not later than three months after the end of the Financial Year of the State enterprise.

(2) Notwithstanding anything to the contrary in any Law in force, a state enterprise shall within six months of the end of its Financial Year, prepare and submit to the Auditor-General an audited annual financial statement relating to its operations during its Financial Year.

(3) The account submitted under this section shall:-

- (a) be prepared in accordance with generally Accepted Public Accounting Principles and in accordance with any instructions issued by the Accountant-General; and

(b) state the basis of accounting used in preparation and identify significant departures from the principles and reasons for the departures;

(4) On publication, each Ministry, Departments or Agencies regulated by this Law shall send a copy of their annual report to the Auditor-General.

(5) If it appears to the Auditor-General from any examination, audit or inspection that a state enterprise has willfully or negligently omitted to ensure the collection or receipt of moneys due to the organization, the sector Commissioner may withdraw or suspend the emoluments of the Board of Directors, either jointly or severally, upon the recommendation of the Auditor-General.

Annual Report
of State
Enterprises

42. (1) The Board of Directors of each public organization shall as soon as possible after the expiry of each Financial Year but within nine months after the end of the Financial Year, submit an annual report to the Ministry dealing generally with its activities and operations within that year.

(2) The annual report shall include:-

(a) a copy of the audited accounts of the organization together with the Auditor-General's report on them;

(b) a statement of any directions given by its Commissioner or the Ministry of Finance to the Board within that year in accordance with this Law or the enactment under which the organization exists; and

(c) such other information as its Commissioner or the Ministry of Finance may reasonably request in writing;

(3) The Board of Directors of each public organization shall send a copy of their annual report to:-

(a) the Commissioner responsible for Finance;

(b) any other person that the Ministry of Finance may direct;

(4) The Commissioner shall, as soon as practicable, and in any event within one month after receiving the annual report of the Board, cause the report to be laid before the House of Assembly.

PART VIII – MISCELLANEOUS

Government property

43. (1) Books, papers, accounts and documents kept or used by, or received or taken into the possession by any person, who is has been employed in the collection or management of revenue by virtue of that employment, is the property of the Government.

(2) The moneys or valuable securities received, or taken into the possession, of an Officer or a person in the cause of employment; such monies or valuable securities belong to the Government.

Abandonment of claims etc. and write off of public money and stores

44. (1) The Ministry of Finance may, if so authorized by a Resolution of the House of Assembly and to the extent specified in the Resolution, abandon and remit any claims for or on behalf of the Government, or any service to Government and write off losses of or deficiencies in public moneys or public resources.

(2) A Resolution referred to in Sub-Section (1) of this Section, may specify the maximum amount authorized for each write off or abandonment and the total sum authorized to be written off or abandoned in a Financial Year.

(3) All sums approved by the Ministry of Finance under this Section shall be included in a Supplementary Appropriation Law to be introduced in the House of Assembly to provide for the Appropriation of those sums.

(4) Where at any instance, loss or an abandonment or a remittance or the total loss, abandonment or remittance exceeds the amount authorized by the Resolution referred to in Sub-Section (1) of this Section, the amount involved shall be treated as excess expenditure in accordance with Section 22 of this Law.

Offences

45. (1) A person commits an offence if that person:-

- (a) without reasonable excuse, fails to provide on the due date, any information the Ministry of Finance may reasonably require for the purpose of Section 7 of this Law;
- (b) without reasonable excuse hinders or obstructs the Ministry of Finance, the Accountant-General or a person authorized by him;

- (c) opens or causes to be opened any Bank account for public or official without the permission of the Accountant-General or in any other way contravenes the provisions of this Law in respect of any Bank account;
- (d) being an Accounting Officer, without reasonable excuse fails to comply with any regulations, directives or instructions under this Law or any other Law, or fails to execute the duties and functions imposed on him under this or any other Law;
- (e) accepts or receives sums of money or valuable consideration for the performance of his official duties;
- (f) conspire with another person to defraud the Government, or creates an opportunity for another person to defraud the Government;
- (g) deliberately permits the contravention of the Law by another person;
- (h) willfully makes or signs a false entry in a book or a certificate or return, or willfully fails to make or sign a book, certificate or return in any case in which it is a duty of the person to make an entry, certificate or return; and
- (i) having knowledge or information of the contravention of a financial legislation by any person, or fraud committed by any person against the Government, or fails to report the contravention of a financial legislation knowledge or fraud or information to his Senior Officer or the Police.

(2) Any person who commits an offence under Sub-Section (1) of this Section shall be liable to a penalty of imprisonment for a term of imprisonment not exceeding five years and shall forfeit all the assets acquired.

Penalties and
Surcharge

46. (1) Where:-

- (a) a loss of or deficiency in public money or other money occurs that has been advanced to or was under the control of a Public Officer; or
- (b) a loss or deficiency of or damage to public property or other property occurs while the property was in the care of a Public Officer, and the Ministry of Finance is satisfied after due enquiry, that the negligence or misconduct of the Public Officer caused or contributed to the loss or deficiency: -
 - (i) the amount of the loss or deficiency;
 - (ii) the value of the property lost or destroyed; or
 - (iii) the cost of replacing or repairing the damage to that property, as the case may be, shall be a debt due to the Government, and may be recovered from the Public Officer either administratively or through a Court of competent jurisdiction.

(2) Where the negligence or misconduct of a Public Officer is not the sole where the cause of any loss, deficiency or destruction was not solely as a result of the negligence or misconduct of a public officer which resulted into action under Sub-Section (2) of this Section, the amount recoverable from the Public Officer may be restricted to only the cost of replacing or repairing the loss, deficiency, damage or destruction that the Commissioner considers , after due enquiry, to be just and equitable, having regard to the contribution made by the Public Officer to that loss, deficiency, damage or destruction;

(3) In this Section a reference to a Public Officer includes a person who has been a Public Officer.

Savings and
Transitional
Provisions

47. (1) Any Loan raised by the Government under any Law and in respect of which any liability is subsisting immediately before the commencement of this Law shall be deemed to be a loan raised under this Law notwithstanding that the amount of the loan or any obligation undertaken by the Government in respect of

the loan exceeds any limitation imposed by this Law or any repeal by this Law;

(2) All loans, bonds and other securities issued under any Law and subsisting immediately before the commencement of this Law shall continue in effect and be binding in the same manner and to the same extent as if they were issued under this Law.

Repeal of
Law No. 8
of 1983

48. The Public Finances (Control and Management) Law No. 8 of 1983 is hereby repealed.