

# PUBLIC FINANCE MANAGEMENT BILL, 2020

## Arrangement of Sections

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23<sup>rd</sup> August, 2020

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## **PUBLIC FINANCE MANAGEMENT BILL, 2020**

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

Enacted by the Parliament of The Bahamas

### **PART 1 PRELIMINARY**

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

- (1) This Act may be cited as the Public Finance Management Act, 2020.
- (2) This Act shall come into operation on the date appointed by the Minister by notice published in the *Gazette*, and different dates may be appointed for different provisions.

## 2. Interpretation.

- (1) In this Act, unless the context otherwise requires—
- “Accountant-General”** means the position set out in section 10;
- “Agency”** means an entity of the Government that is not a Ministry or a Department and is not a Government Business Enterprise and each Agency shall be listed in the *Fourth Schedule* pursuant to section 67;
- “annual budget”** means the revenue estimates, expenditure estimates, financing estimates and other documents required by section 17 and the *Third Schedule*, and any other documents the Minister considers necessary;
- “annual estimates”** means the annual estimates of revenue, expenditure and financing referred to in section 17 and the *Third Schedule*;
- “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; and appropriation does not include statutory expenditure authorized as a charge on the Consolidated Fund or on the general revenues and assets of The Bahamas under an Act, pursuant to Article 130 of the Constitution;
- “Appropriation Act”** means an Act to appropriate sums necessary to meet the annual estimates of expenditure in a financial year;
- “audit opinion”** means a certification by an auditor that accompanies financial statements based on an audit of an accountant's opinion on the procedures and records used to produce the statements, regardless of whether material misstatements exist in the financial statements;
- “Auditor-General”** means the position established by Article 136 of the Constitution;
- “board”** means a board of directors and if an Agency does not have a board, then “board” means the public officer or public office holder or group of public officers or public office holders to whom the chief executive officer reports;
- “Budget Reserve Appropriation”** means the Budget Reserve Appropriation referred to in section 22;
- “chief executive officer”** means the officer holding the most senior management position in a public entity and includes permanent secretaries, heads of department with the status of a ministry, chief executives of public entities, management heads of constitutional bodies, family island administrators, and chief executives of Government Business Enterprises;

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

“**conflict of interest**” means —

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

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

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

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

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

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

“**financial statements**” means the financial statements of the Government referred to in section 63;

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

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

“**Government Business Enterprise**” means an entity owned or controlled by the Government that provides services in the market or undertakes commercial activities and is specified in the *Fifth Schedule* pursuant to section 67;

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

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

“**Local Government**” means the district councils, town committees and family island administrators defined in the Local Government Act (Ch. 37);



- “medium term”** means a minimum of three to five consecutive years;
- “Minister”** means the Minister of Finance;
- “Ministry”** means a Ministry of the Government and includes departments that have direct responsibility for a head of expenditure;
- “negotiable instrument”** means a cheque, draft, traveller’s cheque, bill of exchange, postal note, money order, or other similar instrument and any electronic instrument that has the same effect;
- “Permanent Secretary”** includes a head of a department with direct responsibility for a head of expenditure;
- “principal accounting officer”** means the position set out in section 57;
- “Public Accounts Committee”** means the committee appointed by the Speaker of the House of Assembly;
- “public debt”** means all liabilities that require payment of interest or principal by the public sector to a resident or non-resident creditor, currently or in the future and includes the public debt specified in Article 134 of the Constitution;
- “public entity”** means a ministry or department of the Government or an Agency and shall not include an entity classified as a Government Business Enterprise;
- “public money”** means revenues; moneys borrowed by the Government through any means including through the issue or sale of security; grants received by the Government; money in the custody or under the control of the Government; and resources and receipts of any kind in cash or cash equivalent, including financial assets of the Government;
- “public office holder”** means a member of the Parliament of The Bahamas, the Judiciary, a member of a board or commission or other advisory or governance position, and includes Ministers, constitutional office holders, members of Government advisory bodies, boards of public entities and the staff supporting the public office holder;
- “public officer”** means a person holding or acting in any public office as defined in article 137 of the Constitution;
- “public sector”** means the government entities consistent with international standards for financial statistics, except as stated otherwise and for the purposes of “public debt” in this Act, includes a public entity, but does not include the Central Bank of The Bahamas, Insurance Commission of The Bahamas, Securities Commission of The Bahamas, non-government guaranteed debt of local government and Government Business Enterprises, 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;

**“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;

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

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

**“special fund”** means a special fund referred to in section 34;

**“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 of 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;

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

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

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

### **4. Application.**

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

### **5. Delegations.**

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

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

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

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

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

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

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

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

(1) The Minister is responsible for—

- (a) ensuring that the Government's plans are fully consistent with the fiscal responsibility principles in the Fiscal Responsibility Act, 2018, the fiscal objectives in the fiscal strategy reports and the requirements of this Act;
- (b) managing the fiscal performance, fiscal risks and reporting on the financial position of the Government and all public entities and Government Business Enterprises;
- (c) overseeing the preparation of the fiscal strategy report, the annual budget, the annual estimates, 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's assets and liabilities as required by this Act;
- (f) exercising general direction and control over the Ministry responsible for finance;
- (g) supervising any public entity or Government Business Enterprise for which he is responsible by virtue of being the Minister responsible for that entity;
- (h) overseeing fiscal policy and policy development for the financial management of public entities and Government Business Enterprises;
- (i) other matters assigned to the Minister by the Governor-General.

- (2) Subject to the requirements of this Act, the Minister shall, from time to time, issue directions with respect to the format, contents, timing and quality of information to be provided in the budgets, plans, reports and other documents required under this Act.
- (3) The Minister may enter into and execute agreements on behalf of the Government in relation to matters of a financial nature.
- (4) The Minister may delegate any of his responsibilities or powers to the Financial Secretary or any other public officer, other than the power to make regulations, table documents in the House of Assembly, appear before the House of Assembly and other responsibilities that are in the exclusive domain of a Minister.

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

- (1) The Financial Secretary shall be responsible for assisting the Minister in the discharge of his responsibilities and shall manage the Ministry responsible for finance to provide the following functions—
  - (a) ensuring the implementation of and adherence to this Act and other Acts regarding public finances;
  - (b) advising on economic and fiscal policy;
  - (c) preparing the fiscal strategy report and annual budget for consideration by the Minister;
  - (d) managing the annual budget process;
  - (e) setting standards for the financial management systems and processes and monitoring the performance of the financial management systems and processes;
  - (f) overseeing treasury services, including banking and cash management;
  - (g) managing the Government's assets and liabilities;
  - (h) advising and monitoring project assessment;
  - (i) setting the financial statistical reporting standards for the Government;
  - (j) overseeing the adoption of the accounting standards by the Accountant-General;
  - (k) ensuring that information systems are designed in accordance with accounting and reporting standards;
  - (l) ensuring that the Government, public entities and Government Business Enterprises report on their true and fair 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 and managing the fiscal risks of the Government;
  - (p) designating the public officer or public office holder with responsibility for an expenditure head; and
  - (q) carrying out other functions as determined by the Minister;
- (2) The Financial Secretary—
- (a) shall at all times have access to all public entities and Government Business Enterprises and places where accounting for services takes place or accounting records are kept;
  - (b) may require a public officer or public office holder to furnish any information and provide access to any documents or information that the Financial Secretary considers necessary; and
  - (c) may delegate any of his responsibilities or powers to the Accountant-General or a senior public officer not below the rank of Director in the Ministry responsible for finance.
- (3) The Financial Secretary and any person delegated by the Financial Secretary is accountable for discharging his responsibilities and exercising his powers under this Act with diligence and honesty and is subject to discipline for failing to do so.

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

- (1) The Accountant-General shall be responsible for—
- (a) setting the financial reporting standards consistent with generally accepted accounting principles;
  - (b) publishing the accounting standards on the official website of the Government;
  - (c) maintaining and reporting on the accounts of the Government to show the current state of the Consolidated Fund and other funds, and the financial position of the Government;
  - (d) preparing the financial statement 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) managing the cash received by the Government;
  - (j) ensuring payments are processed within the agreed time;
  - (k) ensuring payments are made in accordance with protections and priorities in the law when there is less public money available than is necessary to meet all payments due;
  - (l) ensuring each public entity has in place proper financial control mechanisms in accordance with this Act;
  - (m) ensuring each public entity adopts a proper system of accounts and all public money, received and paid by the Government, is brought promptly and properly to account;
  - (n) verifying that payments are processed in accordance with this Act and refusing a payment which is incorrect or which contravenes this Act or any other Act, or that is, in his opinion, in any other way unacceptable in support of a charge on public moneys;
  - (o) exercising supervision over the receipt of revenue and securing its punctual collection, except where those responsibilities are by law assigned to Comptroller of Customs, Controller of Inland Revenue and other public officers or public office holders;
  - (p) reporting to the Financial Secretary, in writing, any apparent defect in the controls of revenue, expenditure, or public money, or any breach or non-observance of this Act or other Act, by a public entity, or service that may come to, or be brought to, his attention;
  - (q) the responsibilities as are assigned to him by law or by the Minister; and
  - (r) managing all finance and accounting officers in the Public Treasury Department and those assigned to other public entities; and
  - (s) providing technical advice on accounting and related matters to the Financial Secretary.
- (2) The Accountant-General—
- (a) shall enforce the accounting standards for the Government and for public entities;
  - (b) shall at all times have access to all public entities or places where accounting for services takes place or accounting records are kept;
  - (c) may require access to records and require any information, records or explanations from a public officer or public office holder or former public officer or public office holder, necessary for the performance of his responsibilities;
  - (d) may examine and report to the Financial Secretary on the financial and accounting operations of a public entity;

- (e) may provide accounting and other services in connection with the financial management of a public entity;
  - (f) may assign a finance and accounting officer employed in the Treasury or with the agreement of the Financial Secretary a person employed in the Ministry responsible for finance in any public entity when the Accountant-General considers it necessary to discharge his responsibilities; and
  - (g) may issue directions to chief executive officers of public entities and to persons to whom chief executive officers have delegated their responsibilities under this Act.
- (7) The Accountant-General may delegate any of his responsibilities or powers to a public officer or public office holder not below the rank of Deputy Accountant-General or Financial Controller I.
- (8) The Accountant-General and any person delegated by the Accountant-General shall be accountable for discharging his responsibilities and exercising his powers under this Act with diligence and honesty and is subject to discipline.
- (9) 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 specific accounting principles are not is 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 specific accounting principles are not provided by the IPSASB or the IASB, in paragraphs (a) and (b) respectively, accounting principles that are generally accepted within the accounting profession in The Bahamas for financial reporting by public entities.

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

- (1) For the purposes of this section the Accountant-General shall have the power to administer oaths when conducting an examination requiring a public officer or public office holder to give evidence under subsection (2).



- (2) In conducting an examination or carrying out any responsibility under this or any other Act, the Accountant-General may by notice require any public officer or public office holder—
  - (a) to attend before the Accountant-General to give evidence under oath or, on solemn affirmation or declaration with respect to any matter related to the audit, examination or other responsibility; and
  - (b) to produce any records or information respecting the matter referred to in the notice.
- (3) If a public officer or public office holder fails or refuses to comply with a notice under subsection (2), Accountant-General may apply to the Supreme Court for an order requiring the public officer or public office holder to attend before the Accountant-General in compliance with the notice.
- (4) If a public officer or public office holder refuses—
  - (a) to give evidence in compliance with a notice under subsection (2);
  - (b) to answer any questions before the Accountant-General pursuant to the notice; or
  - (c) to produce any records referred to in the notice,the Supreme Court may commit the public officer or public office holder for contempt in accordance with law.

## **12. Role of Permanent Secretaries.**

Every Permanent Secretary, if designated a principal accounting officer under this Act, shall be responsible for —

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

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

- (1) Every chief executive officer shall manage the assets and liabilities of the public entity or Government Business Enterprise —
  - (a) in accordance with this Act and other Acts; and

- (b) to achieve the performance required in the annual budget and the approved annual plan, and for a Government Business Enterprise, the approved statement of corporate intent and the business plan.
- (2) Every chief executive officer shall be responsible for—
- (a) promptly collecting and receiving revenue under his responsibility;
  - (b) producing the documents to support the annual budget process;
  - (c) delivering the performance required by the annual budget, appropriation, statutory expenditure, and annual plan or business plan;
  - (d) ensuring valid claims on public moneys under his responsibility are paid;
  - (e) ensuring proper financial controls and processes are maintained;
  - (f) ensuring the proper management of assets and liabilities under his responsibility;
  - (g) ensuring the control of, and accurate and timely accounting and reporting for, expenditure, revenues, assets and liabilities of the entity; and
  - (h) discharging other financial responsibilities assigned to him under this Act or any other Act.
- (3) Every chief executive officer shall ensure that the plans, budgets and reports are provided as required by this Act.
- (4) A chief executive officer is not absolved of responsibilities by reason of the proper discharge by the Accountant-General or the Auditor-General of his responsibilities as the acceptance for deposit of public money by the Accountant-General or by reason of the auditing of the accounts by the Auditor-General.
- (5) A chief executive officer and any person delegated by the chief executive officer is accountable for discharging his responsibilities under this Act with diligence and honesty and is subject to discipline for failing to do so.

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

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

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

- (c) electronic instruments relating to public money or property that are intended to be controlled by the Government,

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

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

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

## PART III ANNUAL BUDGET AND AUTHORIZATION OF EXPENDITURE

### 16. Budget process requirements.

- (1) A chief executive officer shall produce the documents to support the annual budget process in the format and by the date required by the Financial Secretary.
- (2) The Financial Secretary shall manage the Government budget process and shall issue directions that shall include a calendar of dates to public entities and Government Business Enterprises.
- (3) The Minister shall determine the method and extent of the consultation by the Ministry responsible for finance during the budget process with public entities, Government Business Enterprises and civil society.
- (4) The Minister shall table the annual budget documents in the House of Assembly no later than the last Wednesday of May of the year prior to the year to which the annual budget relates.

### 17. Contents of the annual budget.

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

### 18. Appropriations.

- (1) The appropriations shall be presented by expenditure heads which shall be expenditure to be administered by a specified Ministry or other public entity.

- (2) The appropriations shall be authorized in the Appropriation Act and shall be made for one year.

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

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

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

- (1) Where 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 consistent with any resolution of the House of Assembly in accordance with Article 132 of the Constitution and the authority to issue warrants shall apply for up to four months 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 month 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; and
- (c) upon the commencement of an Appropriation Act referred to in paragraphs (a) and (b) a warrant issued under subsections (1) and (2) shall cease to have effect and issues made under this authority shall be—
  - (i) deemed to have been made for the purposes of the Appropriation Act; and
  - (ii) accounted for in accordance with the provisions of the warrant.

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

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

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

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

- (1) The Minister may include a Budget Reserve Appropriation in the annual budget which shall have the objective of providing for an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation Act.
- (2) For the purposes of this section an unforeseen need pursuant to subsection (1) shall —
  - (a) be a significant need that cannot be delayed until future financial years without harming the public interest;
  - (b) be unable to be funded using the virement provisions under this Act, or other flexibilities for managing expenditure available to a public entity;
  - (c) have not been adequately provided for in the annual budget; and
  - (d) not relate to an increase in salaries or in the numbers of permanent public officers or public office holders.

- (3) The Budget Reserve Appropriation in the proposed expenditure estimates presented to Parliament shall be not more than three percent of the recurrent expenditures in the proposed expenditure estimates.
- (4) The Budget Reserve Appropriation shall be administered by the Minister through the Ministry responsible for finance and the Minister shall seek the prior approval of the Cabinet for each withdrawal from the Budget Reserve Appropriation.
- (5) The Cabinet shall not authorize a charge on the Consolidated Fund for the purpose of the Budget Reserve Appropriation unless Cabinet has received from the Minister a written statement containing—
  - (a) the amount of the expenditure, the recipient, and the purpose;
  - (b) the reason that delaying the expenditure until future financial years will harm the public interest;
  - (c) confirmation that the expenditure cannot be accommodated under the virement powers in this Act or other flexibilities for managing expenditure; and
  - (d) a statement of the impact on the finances of the Government for future financial years including the impact on the fiscal objectives in the fiscal strategy report.
- (6) The Ministry responsible for finance shall ensure that all expenditures paid from the Budget Reserve Appropriation are allocated to the relevant budgets of the recipient public entities and are subject to the same requirements for the management and reporting of other expenditures.
- (7) The Financial Secretary shall report on the Budget Reserve Appropriation in the Mid-Year Review and the financial statements of the Government required under this Act, including information on the date and amount of withdrawal, the public entity receiving the funds, and the purpose of the withdrawal.
- (8) The Auditor-General, in scrutinizing the utilization of the Budget Reserve Appropriation, shall assess whether the funds have been allocated and utilized in the manner consistent with this Act and shall report to the Parliament on any improper utilization of the Budget Reserve Appropriation.

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

- (1) Pursuant to Article 133 of the Constitution, Parliament may provide for the establishment of a Contingencies Fund consisting of issues from the Consolidated Fund not exceeding in the aggregate five per cent of recurrent expenditure, or a greater sum as the House of Assembly may by resolution approve.

- (2) The Minister may authorise expenditure to be met by an advance from the Contingencies Fund whenever the Minister is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation Act.
- (3) Supplementary estimates of expenditure to be met by advances from the Contingencies Fund shall be submitted for the approval of the House of Assembly as soon as possible.
- (4) Issues from the Consolidated Fund may be made and the sums advanced from the Contingencies Fund repaid out of the issues upon the approval by the House of Assembly of the supplementary estimates and pending the provision for the relevant services under appropriate heads by an Appropriation Act.
- (5) The balance of the Contingencies Fund shall not be paid into the Consolidated Fund at the close of each financial year.

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

- (1) Any expenditure proposed during the year by a public entity that is not 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 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 procedures set out in this Act;
  - (e) deferred until future financial years if this can be done without substantially harming the public interest; or
  - (f) if funding by the ways set out in subsection (1)(a) to (c) is not possible then supplementary estimates and Supplementary Appropriation Bill shall be presented to the House of Assembly as required by Article 130 of the Constitution and this section.
- (2) 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.

- (3) The Supplementary Appropriation Bill shall be accompanied by a statement from the Minister as to the impact of the additional expenditure or financing on the performance of the Government against the fiscal objectives in the fiscal strategy report and other requirements of the Fiscal Responsibility Act 2018.
- (4) 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.
- (5) 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.
- (6) The Government shall as soon as possible after the end of each financial year introduce a Final Appropriation Bill containing any sum that was not included in an Appropriation Bill as required by Article 130 of the Constitution.

## **25. 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 incurred for the appropriation to which it 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 movements of funds for a financial year after the end of the financial year to which the warrant relates.

## PART IV FINANCIAL MANAGEMENT

### AUTHORIZATION OF EXPENDITURE

#### **26. Authorization of expenditure.**

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

#### **27. Control of expenditure.**

- (1) The issue of public moneys from bank accounts of the Consolidated Fund shall be authorized by a warrant under the hand of the Minister or the Financial Secretary authorized in writing by the Minister.
- (2) Any financial warrants made, endorsed or approved under this Act may be made, endorsed or approved by electronic means.
- (3) Every principal accounting officer shall provide a procurement plan and a cash plan to the Ministry responsible for finance no later than three weeks after the approval by Parliament of the Appropriation Bill or any other date as specified by the Financial Secretary.
- (4) If a principal accounting officer fails to supply the information as required by subsection (2) the Minister may suspend the warrant or part of the warrant to authorize commitments for which there are no procurement plan or cash plan.
- (5) The Minister may limit or suspend any appropriation charged under any Appropriation Act if, in the opinion of the Minister, the exigencies of the financial situation render the limitation or suspension necessary.

#### **28. 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 Act or any other Act.
- (2) A principal accounting officer and the chief executive officer of a public entity shall maintain arrangements to ensure that any commitment made—
  - (a) is authorized under this Act or any other Act;
  - (b) does not exceed the approved warrant; and
  - (c) is made in accordance with the procedures of the Ministry responsible for finance to control commitments and requirements in regulations, rules or directions.

- (3) A principal accounting officer and the chief executive officer of a public entity shall maintain a proper record of all financial commitments chargeable to each appropriation and item of expenditure.
- (4) If a principal accounting officer, other public officer or public office holder makes a commitment in contravention of the procedures to control commitments, section 99 regarding a surcharge shall apply.

## **29. Reallocations.**

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

## **30. Virements.**

- (1) The Financial Secretary may authorize a principal accounting officer by way of a warrant to vire—
  - (a) funds within an expenditure head between non-salary recurrent economic items as specified in regulations; or
  - (b) capital funds within an expenditure head between projects if the projects have the same source of funding.
- (2) The Financial Secretary shall not issue a warrant to authorize the movement of funds—
  - (a) from an amount for a transfer to an public entity or transfer to an individual, or benefits for a class of persons, to any other economic classification of expenditure; or
  - (b) from an amount for capital expenditure to non-capital expenditure; or
  - (c) from a transfer for a public entity or Government Business Enterprise for the purposes of expenditure on wages and related benefits.
- (3) Subject to the restrictions in this section, virements within and between programmes and within and between sub-programmes in the same expenditure head shall be made in accordance with regulations.
- (4) When making virements of expenditure, the principal accounting officer shall have regard to obligation to deliver the performance in the annual budget and annual plan in relation to the funds appropriated, and the Financial Secretary shall have regard to this obligation in issuing a warrant.

- (5) The principal accounting officer shall submit a report on the details of any virements made under this section and the performance of the service affected, to the Ministry responsible for Finance in the form and within the time frame set.
- (6) The Minister shall report twice yearly to the Parliament on all virements made under this section and the performance of the appropriations affected in the Mid-Year Review and financial statements.

## CASH MANAGEMENT

### **31. Cash planning and management.**

- (1) The Accountant-General shall—
  - (a) establish effective procedures for the planning and management of cash which may include establishing a cash management committee;
  - (b) inform the Ministers, and chief executive officers of public entities of the approved annual estimates to be administered by the public entity;
  - (c) require Ministries and departments to prepare an annual cash plan specified by month for revenues, expenditures and financing and to periodically update the cash plan; and
  - (d) review the revenue, expenditure and financing plans and cash forecasts each month against actual results, and adjust the financing plans and cash forecasts as necessary.
- (2) The chief executive officer shall ensure that —
  - (a) the Accountant-General is notified as soon as practicable if a public entity forecasts a change, or wishes to make a change affecting the cash plan; and
  - (b) the cash plans provided to the Accountant-General are consistent with the timing of planned purchases and are regularly updated.

## CONSOLIDATED FUND, SPECIAL FUNDS, TRUST ASSETS

### **32. 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 account as the Accountant-General directs.
- (4) Revenues collected in offices of Government in foreign territories may be utilized to defray expenses of the offices and shall be accounted for as revenues and expenditures as required by accounting standards.
- (5) All moneys received in error into the Consolidated Fund shall be refunded by the Accountant-General before the end of the financial year in which they were received, where possible, and shall not be accounted for as revenue.
- (6) The repayment of money received in error in previous years or of any money refundable under any law shall be a charge on the Consolidated Fund.

### **33. Charges on the Consolidated Fund.**

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

### **34. Special fund.**

- (1) A special fund may be established by an Act for a specific purpose and the fund shall be held or 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.

**35. Trust assets.**

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

**36. Unclaimed trust assets**

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

## BANKING ARRANGEMENTS

**37. Treasury Account.**

- (1) The bank account of the Government, to be known as "the Treasury Account" shall be the principal bank account of the Government and shall be opened, maintained, and operated by the Accountant-General.
- (2) Subject to the provisions of this Act and any regulations, the Accountant-General shall be responsible for the general management and supervision of the cash transactions and accounting operations of the Government and shall be accountable for all public moneys received by the Accountant-General.

- (3) No public entity shall open a bank account in respect of public money, whether in or outside the country, without the prior written authorization of the Financial Secretary.
- (4) No public entity shall incur an overdraft unless authorized in writing by the Financial Secretary.
- (5) The Financial Secretary shall designate a bank with which the Treasury account shall be established and shall authorize the opening of sub-accounts in domestic and foreign commercial banks, to act as transitory bank accounts to facilitate the collection of public money including revenues of public entities, grants, and loan funds and for processing payments.
- (6) Every bank holding public money shall provide information to the Minister, Financial Secretary or Accountant-General in the form and timeframe requested.
- (7) The Financial Secretary may close or direct the closure of a bank account of a public entity and may issue directions in writing respecting the deposit of the money from the bank account and the bank shall comply with the directions.
- (8) The Financial Secretary may issue a direction regarding the bank accounts of a Government Business Enterprise if the Accountant-General considers it necessary in the public interest to issue a direction.
- (9) The Accountant-General may determine the accounts in the names of public entities, public officers or public office holders or their offices in any bank which shall be included in the Treasury Account and the financial statements of the Government.
- (10) The Accountant-General shall maintain an up-to-date list of the public entities required to use the Treasury Account and shall ensure that the list is published on an official website of the Government.

## FEES AND CHARGES

### **38. Fees and charges.**

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

## GRANTS

### **39. Requirements for grants.**

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

### **40. 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, under the authority of the Minister; and



- (b) in the case of sums exceeding \$20,000, 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 63.
- (3) A recommendation by the Minister to Cabinet for a remission under this section shall include a report that contains—
  - (a) a description of the proposed remission including the full value of the remission;
  - (b) the names and addresses of all beneficiaries of the proposed remissions and if the beneficiary is a company, the names and addresses of the shareholders;
  - (c) a statement of the reasons the Minister considers the proposed remission to be in the public interest or that a hardship or injustice has or is likely to result;
  - (d) an analysis of the costs and benefits of the proposed remission;
  - (e) the conditions to which the remission is subject; and
  - (f) a list of the value of all remissions that have been granted to each beneficiary of the proposed remission in the past ten years.
- (4) The Minister or 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.

#### **41. Settlements.**

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.

#### **42. Write-offs.**

- (1) The Accountant-General may by certificate write-off all or part of a debt due to the Government that the Accountant-General considers to be uncollectible or the collection of which the Accountant-General considers not to be cost effective.
- (2) The write-off of all or part of a debt does not extinguish the right of the Government to collect it.
- (3) The Accountant-General may delegate the authority to make write-offs and the delegation may be general or may relate to a class or classes of write-offs and may be made subject to conditions specified in Directions.

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

- (1) A summary statement of—
  - (a) remissions under section 40, settlements under section 41 and write-offs under section 42; and
  - (b) remissions, settlements and write-offs made under the authority of any other Act,shall be included in the financial statements.
- (2) A summary statement shall identify the type of remission, the type of settlement or the type of write-off and the names of the persons affected, and if a company is involved the names of the shareholders, and the total value of each remission, settlement or write-off and, in the case of a remission, settlement or write-off made under the authority of any other law, the authority for it.
- (3) The Accountant-General shall ensure that the summary statement—
  - (a) is available for inspection by the public in a register on the official website of the Government; and
  - (b) continues to be so available until the financial statements containing the summary statement are tabled in Parliament and for ten years thereafter.
- (4) The register may be in the form as the Accountant-General determines and shall contain the information required by this section.

## FINANCIAL ASSET MANAGEMENT

**44. 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.

**45. Deposit of excess moneys.**

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

**46. 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 one week 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.

**47. Crediting interest from investments.**

The interest or dividends received from an investment authorized under section 46 shall be credited to the fund or trust from which the public moneys came to make the investment.

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

- (1) Subject to the provisions of any other Act and consistent with the medium term financial asset management strategy, the Minister may invest public money by way of capital injection in an Agency or Government Business Enterprise only by way of a capital contribution appropriated by Parliament.
- (2) All shares held by the Government in an Agency or Government Business Enterprise shall be held in the name of the Accountant-General on behalf of the Government.

- (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.

## INTERNAL AUDIT

### 49. Internal Audit Department.

- (1) There is established for the purposes of enhancing efficiency, accountability and transparency in the management of Government resources an Internal Audit Department within the Ministry responsible for finance.
- (2) The Internal Audit Department shall operate in a manner consistent with international standards for the professional practice of internal auditors to evaluate and improve risk management, control, and governance processes in public entities.
- (3) The responsibilities for the Internal Audit Department shall include —
- (a) publishing on an official website the standards and procedures consistent with international standards that are the basis for the internal auditing function;
  - (b) preparing the annual audit plan that shall provide coverage of major risks and exposures;
  - (c) assessing the risk management, control, and governance processes including whether—
    - (i) risks are appropriately identified and managed;
    - (ii) public resources are adequately safeguarded and used as intended;
    - (iii) financial and operating information is accurate, complete, reliable, and timely;
    - (iv) ethical standards and values are established and followed;
    - (v) applicable laws, policies, and procedures are complied with; and
    - (vi) resources are applied to achieve the strategic objectives of the entity and the Government;
  - (d) providing assurance to the chief executive officer that operations are being carried out economically, efficiently, effectively and in compliance with this and other Acts;

- (e) providing the chief executive officer with professional and impartial opinions and advice on systems of risk management, control, and governance with recommendations concerning activities reviewed; and
  - (f) monitoring and reporting on the implementation of recommendations arising from audit reports.
- (4) This section shall apply to Ministries, and departments, responsible for a head of expenditure and their units.
  - (5) The Financial Secretary shall, as he determines to be necessary, direct the establishment of internal audit functions within Ministries and departments to which this section applies.

**50. Director of internal audit.**

- (1) The Internal Audit Department of the Government shall be managed by a Director of Internal Audit or other designated official appointed by the Minister.
- (2) The Director of Internal Audit shall report for management purposes to the Financial Secretary and for functional purposes to the Internal Audit Committee.
- (3) The Director of Internal Audit shall manage the Internal Audit Department having regard to the technical and professional advice from the Internal Audit Committee.
- (4) The Director of Internal Audit and officers assigned to the Internal Audit Department of the Ministry responsible for finance shall have access to all Ministries and departments including their premises, property, information, and records in any form, and shall have access to public officers and public office holders to seek explanations necessary to conduct an audit.
- (5) The Director of Internal Audit shall provide a copy of each audit report to the Financial Secretary, the Internal Audit Committee, and the chief executive officer of the Ministry or department audited.

**51. Relationship between internal audit and Auditor-General.**

- (1) The Auditor-General may request a copy of any internal audit report to assist with an external audit and the Director of Internal Audit shall provide the copy in a timely manner.
- (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 understating shall be consistent with the roles and responsibilities in law.

## 52. Internal Audit Committee.

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

public officers or public office holders for advice, audit of projects, or other assistance;

- (h) assess and make recommendations to improve the performance of the internal auditors of the Government;
- (i) provide advice to the Financial Secretary on the recruitment, appointment, and performance management of the Director of Internal Audit;
- (j) provide the Director of Internal Audit with direct access to the Internal Audit Committee; and
- (k) refer matters for consideration by appropriate authorities.

**53. Secretariat for Internal Audit Committee.**

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

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

Where an Agency or a Government Business Enterprise has an internal audit function, that Agency or Government Business Enterprise shall submit a copy of the internal audit report of that Agency or Government Business Enterprise to the—

- (a) Accountant-General;
- (b) Internal Audit Committee; and
- (c) Auditor-General,

when requested to do so by the Financial Secretary.

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

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

## EXTERNAL AUDIT OF PENSION PLANS

**56. Pension plan audit.**

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

## PART V ACCOUNTS AND REPORTS

### ACCOUNTING

#### 57. Principal accounting officers.

- (1) The Financial Secretary may designate, in writing, persons who shall be principal accounting officers for heads of expenditure or forecasted revenues or parts of heads of expenditure or forecast revenues in the annual budget estimates and the Financial Secretary may revoke and change the appointments.
- (2) A principal accounting officer designated under subsection (1) 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 entity under his responsibility.
- (3) A principal accounting officer may, in writing, delegate to an officer on the conditions as he determines, any of his functions arising under or by virtue of this Act, but the delegation does not relieve a principal accounting officer of his accountability under this Act.

#### 58. Directions to principal accounting officers.

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



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

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

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

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

## REPORTING AND TRANSPARENCY REQUIREMENTS

**60. Monthly Reports.**

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

**61. 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 no later than four weeks after the end of the quarter, except for the fourth quarter which shall be no later than eight weeks after the end of the quarter.
- (3) The Auditor-General or the Director of Internal Audit may audit the quarterly reports referred to in this section.
- (4) The Financial Secretary shall provide the information required by the Auditor-General or the Director of Internal Audit to conduct the audit.
- (5) The Financial Secretary shall provide other periodic reports on financial or non-financial matters to the Minister as required by the Minister.

## **62. Mid-Year Review.**

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

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

- (1) In respect of each financial year and within a period of three months after the close of each financial year, the Accountant-General shall prepare, sign and transmit to the Auditor-General 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 for the year;
  - (f) a statement of arrears of the Government with each public entity;
  - (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.
- (2) In respect of each financial year and within a period of two months after the close of the financial year principal accounting officers shall prepare, sign and transmit to the Financial Secretary and the Auditor-General, in the manner as the Financial Secretary may approve,—
  - (a) appropriation accounts in respect of the heads for which they are responsible;
  - (b) a statement of performance for each programme of the Ministry including the results achieved by the Ministry during the year as compared with the programmes budgeted for that year;
  - (c) a schedule of capital assets at the balance sheet date;
  - (d) a statement of the commitments and any other liabilities in relation to the activities of the Ministry as at the balance sheet date;
  - (e) other statements as are necessary to fairly reflect the financial operations of the Ministry; and
  - (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.
- (3) 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 Auditor-General, the Financial Secretary and the Accountant-General financial statements in respect of the fund.
- (4) The annual financial statements shall be prepared in accordance with accounting standards and practices required by the Accountant-General under this Act.
- (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.

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

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

**65. 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 no later than one week after these documents have been tabled in the House of Assembly.

**66. Public Accounts Committee.**

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

- (c) debate the recommendations in the reports referred to in this subsection.
- (4) The House of Assembly shall complete the reviews and debates on the recommendations in the reports in this section no later than the end of the ninth month after the end of the financial year to which the reports and reviews in this section relate.

## **PART VI ENTITY ACCOUNTABILITY**

### **GENERAL MATTERS**

#### **67. Classification of entities.**

- (1) Every public entity that is not a ministry or department shall be classified as an Agency and listed in the *Fourth Schedule*.
- (2) A public entity shall be classified as an Agency if the entity—
  - (a) is not or is not suited to be a ministry, a department, a part of a ministry, or Government Business Enterprise;
  - (b) is owned or controlled by the Government;
  - (c) has a mandate that requires—
    - (i) a greater degree of flexibility to manage resources than is possible for a ministry; and
    - (ii) a greater degree of autonomy in fulfilling its mandate than is the case for a ministry.
- (3) An entity shall be classified as a Government Business Enterprise if the entity—
  - (a) is owned or controlled by the Government;
  - (b) provides or will provide services in the market or undertakes commercial activities that are or could be carried out by a private sector operator; and
  - (c) does or has potential to operate successfully with the primary objective to operate as a successful business and to earn a similar return on the owners' funds over the medium term as that earned by comparable businesses not owned by the Government.
- (4) Every Government Business Enterprise shall be listed in the *Fifth Schedule*.
- (5) A Government Business Enterprise shall be incorporated under the Companies Act 2000 unless the Cabinet determines otherwise.
- (6) The Central Bank of The Bahamas shall not be classified as an Agency or Government Business Enterprise under this Act.

- (7) Before establishing an Agency or a Government Business Enterprise the Cabinet shall consider the costs, benefits and risks, including the fiscal costs to the Government over the long term and the Minister shall present a report on these matters to Cabinet prior to establishing the entity.
- (8) The Government shall from time to time review the classification and form of an entity or a group of entities to assess whether the classification and form are best suited to the economical, efficient, and effective achievement of the mandate of the entity.

#### **68. Responsible Minister.**

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

#### **69. 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.

**70. Code of Corporate Governance.**

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

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

- (1) The board of the Agency or the board of the Government Business Enterprise shall appoint the chief executive officer who shall be responsible to the board for managing the Agency or Government Business Enterprise.
- (2) The board of the Agency or the board of the Government Business Enterprise shall have an employment contract with the chief executive officer which shall not exceed a period of three years, extendable at the discretion of the board and by agreement with the chief executive officer, provided that an extension shall not exceed two years before either terminating or a formal agreement being made to grant a further extension.
- (3) The employment contract for a chief executive officer of an Agency or a Government Business Enterprise and the law applying to the contract shall form the basis for the employment relationship.

**72. Accounting standards.**

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

**73. Financial year for public entities and Government Business Enterprises.**

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

## AGENCY ACCOUNTABILITY

### **74. Agency annual plan.**

- (1) Each Agency specified in the *Fourth Schedule* shall have an annual plan that shall include the information specified in the *Sixth Schedule*.
- (2) The Agency shall provide the annual plan and budget to the responsible Ministry and to the Ministry responsible for finance by the date set by the Financial Secretary.
- (3) Each responsible Minister shall table the annual plan of the Agency in the House of Assembly on the same day as the annual budget is tabled.
- (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.

### **75. 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.

### **76. Monthly and quarterly reporting.**

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

#### **77. Mid-Year and annual report.**

- (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 two months of the end of the financial year.
- (3) The annual report shall include the information contained in the *Seventh Schedule*.
- (4) The annual report for each Agency shall be—
  - (a) audited as required by law;
  - (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 Agency on the website of the Agency no later than one week after the annual report is tabled in the House of Assembly.

#### **78. Review of an Agency.**

- (1) The Ministry responsible for finance shall monitor and review the performance of an Agency including—
  - (a) compliance with this Act;
  - (b) financial performance;
  - (c) non-financial performance;
  - (d) fiscal risks; and
  - (e) any other matters specified by the Minister.
- (2) The Financial Secretary may review the performance of an Agency against the requirements of this Act, the annual budget and the annual plan of the Agency and may provide a report to the Minister and the responsible Minister on the performance no later than the 30<sup>th</sup> October 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 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 the performance review of the output agreement, the performance compared to the annual plan and the report referred to in subsection (2).
- (8) A chief executive officer of an Agency may have a service agreement and performance review process with an entity providing services funded by the Agency.

## GOVERNMENT BUSINESS ENTERPRISE ACCOUNTABILITY

### **79. 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 owners' 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.

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

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

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

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

**82. Contents of business plan.**

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

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

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

**84. Dividend.**

- (1) The board of a Government Business Enterprise shall agree -the proposed dividend with the responsible Minister and the Minister.
- (2) The responsible Minister shall ensure the dividend requirements are adopted by the management of the Government Business Enterprise.
- (3) Dividends or other profit distribution from a Government Business Enterprise paid to the Government shall be included in the annual budget presented to Parliament and shall be credited to the Consolidated Fund and paid into the Treasury Account.
- (4) Dividend payments owed to Government shall not be set-off against any tax or other obligations the Government Business Enterprise may have to the Government.

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

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

- (4) Where there is a conflict between this section and any other provision in any other law, this section shall prevail.
- (5) The Minister may by regulations prescribe the form and content for the monthly and quarterly financial statements and reports.
- (6) The Minister may withhold any subventions payable to a Government Business Enterprise where there is—
  - (a) a delay in the submission of any of the reports required under this section; or
  - (b) a deficiency in the content of any of the reports required under this section, and the Minister believes that the delay or deficiency is not reasonably justified.

#### **86. Mid-year and annual reports.**

- (1) The board of a Government Business Enterprise shall cause to be prepared a mid-year report and an annual report for the Government Business Enterprise and its subsidiaries including financial statements in accordance with the provisions of this Act, and the Companies Act 2000.
- (2) The board of a Government Business Enterprise shall cause an annual report to be provided to the responsible Minister and the Financial Secretary no later than three months after the end of the financial year.
- (3) The annual report of a Government Business Enterprise shall include the information contained in the *Tenth Schedule*.
- (4) The annual report for each Government Business Enterprise shall be—
  - (a) audited as required by law;
  - (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 on the website of the Government Business Enterprise no later than one week after the annual report is tabled in the House of Assembly.

#### **87. Government shareholding.**

- (1) If the Government is a minority shareholder in a publicly listed company, sections 79 to 86 shall not apply and the shareholding shall be subject to the provisions of the Companies Act 2000 and other law.
- (2) If the Government holds more than 50 percent but less than 100 percent of the shares in a publicly listed company, the Government shall exercise its rights in accordance with the Companies Act 2000 and sections 79 to 86

shall apply only as far as they are consistent with the Companies Act 2000.

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

## **88. Review.**

- (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 shall 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 31<sup>st</sup> October 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 a Government Business Enterprise.
- (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 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 chief executive officer of 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

### 89. Annual plan for Ministry

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

### 90. Mid-Year and annual report of a Ministry.

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

## **91. Review of Ministry.**

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

## **LOCAL GOVERNMENT ACCOUNTABILITY**

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

- (1) The Local Government shall produce an annual plan which shall have a medium term horizon with a focus on the forthcoming financial year and which shall include the information in the *Sixth Schedule*.
- (2) The Ministry responsible for finance, after consultation with the Minister responsible for Local Government, shall specify the format, contents and quality of information for the annual plan, annual budget and annual report.
- (3) During the implementation of the annual plan in the form required by this Act, the Ministry responsible for finance may permit a Local Government to provide less information than required by this section.
- (4) The Director of Local Government shall—
  - (a) ensure that the draft annual plan and draft annual budget comply with the directions issued pursuant to this Act, including adhering to expenditure limits and any other limits;
  - (b) consult in a manner to be determined by the Permanent Secretary of Local Government on any significant changes in the annual plan;
  - (c) agree the draft annual plan and draft annual budget with the Local Government and with regard to funds from the central Government, then also agree this part of the draft annual plan with the Minister responsible for Local Government by [*insert date*];

- (d) submit the annual plan and draft annual budget to the Permanent Secretary for the Ministry responsible for Local Government, who shall forward the documents to the Ministry responsible for finance by [insert date]; and
  - (e) 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.
- (5) The Minister responsible for Local Government shall consult with the Minister on the draft annual plan and draft annual budget and shall present these documents to the Cabinet for discussion and for approval of the aggregate budget figures no later than [insert date- suggest 15 Oct].
- (6) The Minister responsible for Local Government shall table the annual plan in the House of Assembly on the same day as the annual budget.

### **93. 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 Chief Councillor of the Local Government shall produce an annual report that shall include the information in the *Seventh Schedule*.
- (3) The Chief Councillor of the Local Government shall ensure that the annual report is —
  - (a) provided to the Auditor-General within three months of the end of the financial year;
  - (b) presented together with the audit opinion by the Permanent Secretary for Local Government to the Minister responsible for Local Government, and the Minister within six months of the end of the financial year;
  - (c) presented together with the audit opinion by the Minister responsible for Local Government to the House of Assembly within six months from the end of the financial year; and
  - (d) published together with the audit opinion by the Local Government on the website of the Local Government or the official website of the Government within one week of providing the audited annual report to the Local Government.



**94. Review of the Local Government.**

- (1) The Minister responsible for Local Government shall have principal responsibility for the review of the overall performance of a Local Government and may commission a performance review.
- (2) The Minister shall have the principal responsibility for the review of the performance of the financial management of a Local Government and may commission a review of financial performance.
- (3) The activities of the Local Government shall also be audited by the Auditor-General for service performance, by a date to be determined by the Minister.

## **PART VII MEASURES**

**95. Application of measures.**

- (1) A reference in Part VII of this Act to positions and office holders includes current and former positions and office holders.
- (2) This part shall apply to local government officials and office holders consistent with their legal roles and responsibilities under the Local Government Act, this Act and other Acts.
- (3) Part VII shall apply, subject to the Constitution and notwithstanding—
  - (a) any other Act except as explicitly stated; or
  - (b) any codes of ethics or codes of conduct.

**96. Financial misconduct.**

- (1) A public officer, public office holder or other person with responsibility for public resources, commits an offence of financial misconduct if, without lawful authority under this Act or other lawful authority, that person wilfully or negligently—
  - (a) incurs expenditures or makes commitments for expenditure;
  - (b) opens a bank account in the name of the Government or Agencies or Government Business Enterprises;
  - (c) maintains a bank account for a Government purpose outside The Bahamas except in accordance with an Act or other lawful authority;
  - (d) disposes of, pledges, or encumbers property;
  - (e) provides incorrect information to the tax authorities with regard to a Agencies or Government Business Enterprises.

- (2) A public officer, public office holder or other person with responsibility for public resources, commits an offence of financial misconduct if that person wilfully or negligently-
- (a) makes any statement or declaration or gives any information or certificate required by or under this Act knowing it to be false or misleading;
  - (b) resists or obstructs any person acting in the discharge of that person's functions or duties or in the exercise of that person's powers under this Act;
  - (c) divulges data in electronic or other form without authority;
  - (d) diverts funds to unauthorized activities;
  - (e) loses or damages Government property;
  - (f) for a principal accounting officer, does an act that breaches the duties of a principal accounting officer specified under this Act;
  - (g) seeks or accepts a personal loan or benefit in circumstances that compromise the integrity of the public officer or public office holder; or
  - (h) does any act for the purpose of procuring for any person or organization—
    - (i) the improper payment of any public money; or
    - (ii) the improper use of any public resource.
- (3) A public officer or public office holder or other person with responsibility for public resources, commits an offence of financial misconduct if that person wilfully or negligently—
- (a) fails to deliver to the chief executive officer a gift or donation of a value over \$100 made on a public or official occasion unless exempted by law;
  - (b) fails to produce any information in the possession or under the control of that person in relation to the financial management, financial performance, or banking activities of the Government or Agencies or Government Business Enterprises when required to do so under this Act;
  - (c) fails to keep proper records or conceals or wrongfully destroys information that is required to be recorded by this Act;
  - (d) fails to pay public money in a timely manner into the bank account of the public entity;
  - (e) fails to produce the reports, accounts or other information required by this Act;

- (f) fails to transfer funds received from a grant to the Accountant-General;
  - (g) fails to implement a lawful written instruction or direction relating to the management of public finances given under this Act;
  - (h) fails to report to the Financial Secretary an incident of financial misconduct of which the public officer or public office holder has become aware of;
  - (i) fails to declare a conflict of interest when dealing with or making decisions about public resources; or
  - (j) for a principal accounting officer fails to perform a duty of a principal accounting officer specified under this Act.
- (4) A charge of financial misconduct under this Act against any person shall be investigated, heard and disposed of as required by the Constitution, the Public Service Act 1969, other Acts, codes of ethics or codes of conduct and the terms of appointment or employment applicable to that person.

#### **97. Criminal proceedings.**

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

#### **98. Institutional sanctions.**

- (1) The Financial Secretary may apply a sanction to a public entity or Government Business Enterprise which has-
- (a) approved expenditures in excess of an Appropriation under an Appropriation Act or other lawful authority;
  - (b) re-allocated expenditures without lawful authority;
  - (c) created liabilities in excess of its ability to finance these;
  - (d) defaulted on a loan;

- (e) issued a guarantee without the appropriate authorization;
  - (f) failed to provide the annual plan, the business plan, the statement of corporate intent, the reports, the annual accounts or other information as required by this Act;
  - (g) provided inaccurate information to a public officer or public office holder on financial matters;
  - (h) failed to adequately address issues raised by the Auditor-General or other external auditor when the issues are not contested; or
  - (i) failed to manage its finances in accordance with this Act, other Acts, or directions under this Act.
- (2) The Financial Secretary may apply any of the following sanctions to a public entity or Government Business Enterprise that has breached the provisions of this section-
- (a) impose additional reporting requirements to those required by law;
  - (b) require a draft budget or financial plan to be submitted to the Ministry responsible for finance for approval by the Minister prior to its approval by the board of the public entity or the Government Business Enterprise or the Council of the Local Government;
  - (c) place restrictions on the management and use of public resources;
  - (d) place restrictions on the creation of liabilities;
  - (e) withhold funds;
  - (f) treat any debt defaults as a charge on future revenues;
  - (g) temporarily place staff of the Ministry responsible for finance or appointees in the public entity to undertake financial management functions;
  - (h) require the public entity to adhere to a programme of debt reduction; or
  - (i) make representations to the authority responsible for appointing the board and the chief executive officer to take action to dismiss or otherwise discipline any director or the chief executive officer.

## **99. Surcharge by Financial Secretary.**

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

- (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 in breach of the provisions of the Financial Administration and Audit Act.
- (2) Prior to imposing a surcharge the Financial Secretary shall notify the public officer or public office holder, or other person with responsibility for public resources of the particulars of the matters of concern and shall require the public officer or public office holder or other person with responsibility for public resources to provide an explanation within fourteen days.
- (3) If the public officer or public office holder or other person with responsibility for public resources fails to provide an explanation satisfactory to the Financial Secretary within the time notified the Financial Secretary may impose a surcharge against that person.
- (4) The nature of the surcharge imposed by the Financial Secretary may be the amount of—
- (a) the moneys not collected;
  - (b) the improper payment;
  - (c) the moneys not duly vouched;
  - (d) the expenditure in excess of the amount authorized;
  - (e) the deficiency in or for the loss, damage of any public moneys, stamps, securities or goods;
  - (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.

**100. 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 concerned any surcharge made under section 99.

- (2) The chief executive officer, on being notified under subsection (1), shall notify the person surcharged and shall, subject to sections 101 and 102, recover the amount surcharged from that person.

#### **101. Withdrawal of surcharge.**

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

#### **102. Right of appeal.**

- (1) Any person who is dissatisfied with any surcharge made against him under section 99 may appeal in writing to the Public Service Commission within a period of one month immediately after he has been notified of the surcharge and the Public Service Commission acting in its discretion, may extend the period within which an appeal may be made.
- (2) The Public Service Commission may, after any further investigation as considers desirable, make an order confirming the surcharge or directing that the person be released wholly or in part from the surcharge as may appear just and reasonable.
- (3) A copy of every order made under subsection (2) shall be transmitted to the Financial Secretary, the chief executive officer of the entity concerned, the Auditor-General and the Accountant-General.

#### **103. Recovery of loss.**

- (1) The chief executive officer, on being notified of the surcharge under section 100, shall notify the person surcharged and shall, subject to section 101, and section 102 recover the amount surcharged from that person.
- (2) The Financial Secretary may direct that the amount of any surcharge which may be due from a public officer or public office holder 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 public office holder or other person with responsibility for public resources in amounts, not exceeding one-sixth of the salary or other payment due monthly or semi-monthly, as the Financial Secretary may authorize.

- (3) The amount of any surcharge made under section 99 may, subject to sections 101 and 102, be recovered before a magistrate on the complaint of the Financial Secretary or any person authorized to act for the Government.
- (4) Nothing in this Part of the Act shall prevent the Government from recovering the loss through civil proceedings in the Supreme Court.
- (5) In any action for the recovery of a loss, a certificate signed by the Financial Secretary stating the amount of the loss shall be admissible as evidence of the assessment of the loss.

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

Subject to an order of a Court or an agreement between the Government and any person or entity, the Ministry responsible for finance shall publish in the Official Gazette and on an official website of the Government the name, position, offence and sentence for each person found liable of an offence under section 97 no later than one week after the conviction has been entered by the Court.

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

#### **105. 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 matters as the responsibility for making and maintaining up to date inventories or registers, the form of and the information to be kept in inventories

- or registers, writing off Government property and declaring Government property surplus or unserviceable and disposing of it;
- (f) prescribing the roles and responsibilities of the principal accounting officers and the finance and accounting officers;
  - (g) providing for additional public finance requirements for an Agency or a Government Business Enterprise;
  - (h) prescribing charges for payments to the Government made other than in legal tender;
  - (i) prescribing fees and charges for dishonoured cheques and to defray the costs of acceptance by the Accountant-General of voluntary assignments by public officer or public office holders of salaries, wages, pensions, gratuities and other money;
  - (j) respecting security of premises, documents, securities and the financial information system; and
  - (k) amending the budget classifications.
- (3) Regulations made under this Act shall be subject to an affirmative resolution of the House of Assembly.

#### **106. Amendment of Schedules.**

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

#### **107. Power to make rules.**

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

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



**108. 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 intent of this Act.

**109. 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.

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

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

**PART IX IMPLEMENTATION DATES, REPEALS,  
TRANSITIONAL PROVISIONS AND CONSEQUENTIAL  
AMENDMENTS,**

**111. Savings.**

The Financial Regulations (Ch. 359) shall remain in force and shall apply in so far as they are not inconsistent with this Act, until repealed or revoked.

**112. Repeal.**

The Financial Administration and Audit Act 2010 is repealed except the following sections—

- (a) section 1;
- (b) the definition of “tax legislation” in section 2;
- (c) section 8A;
- (d) section 19I to 19N;
- (e) section 35A;
- (f) sections 38 to 43;
- (g) section 43A; and
- (h) the *Schedule*.

**113. Transitional provision.**

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

#### 114. Consequential Amendments.

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

#### 115. Implementation dates.

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

SECTION	REQUIREMENT	DATE
30	Virements effect on budget and annual plan	1 July, 2021
44	Financial asset management strategy	1 July, 2021
52	Internal Audit Committee	1 July, 2021
63	Schedule of capital assets	1 July, 2025
64	Annual Report of non-financial performance	1 July, 2021
73	Synchronization of financial years	1 July, 2023
22, 23, 29, 31, 34, 35, 40, 41, 42, 43	Treasury Changes	1 July, 2021
89	Annual plans Ministries	1 July, 2022
90	Annual report Ministries	1 July, 2022
92	Annual plan local government	1 July, 2022
93	Annual report local government	1 July, 2022
74	Annual plan Agencies	1 July, 2022
76	Annual report Agencies	1 July, 2022
80	Business plan and statement of corporate intent for Government Business Enterprises	1 July, 2022
86	Annual Report Government Business Enterprises	1 July, 2021

66	Public Accounts Committee roles and responsibilities	1 July, 2021
63, 89, 90	External audit Ministry Reports	1 July, 2022

## **SCHEDULES**

### **First Schedule**

#### **(Section 17)**

#### **Contents for the Annual Budget**

1. The annual budget documents shall include revenue estimates 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 expenditure estimates 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 financing estimates 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 public entities;
  - (6) any loans to persons, organizations and foreign governments; n n
  - (7) plans for the approval of new public private partnership contracts; and
  - (8) other financing information that the Minister considers necessary.
4. The annual budget shall have annexes including—
  - (1) updated macroeconomic information and summary of fiscal position compared to the fiscal strategy report;
  - (2) statement of economic assumptions including significant changes from the assumptions in the fiscal strategy report;

- (3) statement of consistency with the fiscal responsibility principles and fiscal objectives referred to in the Fiscal Responsibility Act , 2018 and the most recent fiscal strategy, and where there are deviations, an explanation of deviations; [note that the deviation provisions of the FR Bill would apply if the deviations constituted a breach but not all deviations will be a breach]
- (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) plans for the approval of new major investment projects and a statement of the position with existing major investments;
- (8) statement of all tax arrears for the previous financial year and the current year;
- (9) statement of tax relief and exemptions granted or planned and the amount of tax relief and exemptions for the current financial year and forecasted for the next financial year;
- (10) the establishments register and an aggregate number of posts;
- (11) a statement signed by the Minister and the Financial Secretary attesting to the reliability and completeness of the information in the annual budget documents and conformity with the fiscal responsibility requirements of the Fiscal Responsibility Act 2018;
- (12) particulars of government loans to be redeemed from the sinking funds; and
- (13) other documents as the Minister may determine or may be required by regulation.

## SECOND SCHEDULE

### (Section 52)

#### Internal Audit Committee

1. Tenure.

The Chairperson and other Committee members, shall hold office for a term of three years and shall be eligible for re-appointment.

2. Appointment of Deputy Chairperson.

The Deputy Chairperson shall be elected by the members at the first meeting of the Internal Audit Committee.

3. Meetings and quorum.

(1) The Internal Audit Committee shall—

- (a) meet at the times and places as the Chairperson may determine and no less than four times per year; and
- (b) hold a special meeting on the written request of at least two members of the Internal Audit Committee.

(2) At each meeting of the Internal Audit Committee—

- (a) the Chairperson shall preside; or
- (b) in the absence of the Chairperson, the Deputy Chairperson shall preside; and
- (c) minutes shall be taken that record the topics discussed and decisions taken.

(3) The quorum for a meeting of the Internal Audit Committee shall be three members.

3. Voting

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

4. Conflict of interest.

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

5. Procedure.

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

6. Stipends.

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

### **Third Schedule**

#### **(Section 64)**

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

The annual report for the Government shall include-

- (1) Position with Government priorities.
- (2) Delivery of key services.
- (3) Delivery on public investments in capital and other major projects.
- (4) A report from the Ministry responsible for finance specifying the measures taken by the Government to implement the audit recommendations from the previous year and the response to the findings of the committees of the Parliament with responsibility for examining performance reports and Government financial statements.

### **Fourth Schedule**

#### **(Sections 67 and 74)**

#### **Agencies**

1. Airport Authority
2. Antiquities, Monuments & Museum Corporation
3. Bahamas Agricultural and Industrial Corporation
4. Bahamas Agricultural Health and Food Safety Authority
5. Bahamas Agriculture and Marine Science Institute
6. Bahamas Bureau of Standards & Quality
7. Bahamas Civil Aviation Authority
8. Bahamas Environment Science & Technology Commission
9. Bahamas Investment Authority

10. Bahamas Maritime Authority
11. Bahamas Public Parks & Public Beaches Authority
12. Bahamas Technical & Vocational Institute
13. Consumer Protection Commission
14. The Education Loan Authority
15. Eugene Dupuch Law School
16. Hotel Corporation of The Bahamas
17. National Arts Gallery of The Bahamas
18. National Emergency Management Agency
19. The National Insurance Board
20. National Intelligence Agency
21. National Sports Authority
22. National Training Agency
23. Office of the Data Protection Commission
24. Port Authority of New Providence Board
25. Road Traffic Authority
26. Small Business Development Centre
27. Straw Market Authority
28. University of The Bahamas
29. Urban Renewal Commission
30. Securities Commission of The Bahamas
31. Insurance Commission of The Bahamas

### **Fifth Schedule**

#### **(Section 67)**

#### **Government Business Enterprises**

1. Bahamas Development Bank
2. Bahamas Mortgage Corporation
3. Bahamas Power and Light Company Ltd
4. Bahamas Resolve Limited
5. Bahamas Telecommunications Company Limited

6. Bahamasair Holdings Limited
7. Broadcasting Corporation of The Bahamas
8. Nassau Airport Development Company
9. Nassau Flight Services Limited
10. National Health Insurance Authority
11. Water & Sewerage Corporation

### **Sixth Schedule**

**(Section 74, 89 and 92)**

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

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

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

### **Seventh Schedule**

**(Sections 77, 90 and 93)**

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

Each annual report of a Ministry, Agency or Local Government shall include-

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

## **Eighth Schedule**

### **(Section 81)**

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

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

- (1) the objectives of the group;
- (2) the nature and scope of the activities to be undertaken;
- (3) the ratio of consolidated owners' funds to total assets, and definitions of those terms;
- (4) the accounting policies;

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

## **Ninth Schedule**

### **(Section 82)**

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

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

### **Tenth Schedule**

#### **(Section 86)**

#### **Contents for annual report for Government Business Enterprises**

Each Government Business Enterprise shall have an annual report that shall include—

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

- (9) additional information as is necessary to enable an informed assessment of the activities of the Government Business Enterprise against the statement of corporate intent and business plan.

### **OBJECTS AND REASONS**

The Public Finance Management Bill, 2020 seeks to modernise and public finance activities in the Bahamas.

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

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

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

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

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

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

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

Clause 11 of the Bill seeks to provide that the Accountant-General may conduct an examination under oath of any public officer or public office holder with respect to any matter related to an audit, or the person's responsibilities under

this Bill. The Accountant-General may apply to the Supreme Court to enforce attendance or cooperation of the public officer or public office holder.

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

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

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

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

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

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

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

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

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

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

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

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

Clause 24 of the Bill seeks to provide that whenever the amount appropriated by the Appropriation Act for a specified purpose is insufficient or that a need arises for which no amount has been appropriated by the Appropriation Act they may be funded through virements, an allocation from the Budget Reserve Appropriation, an allocation from the Contingencies Fund, a reallocation or a Supplementary Appropriation Bill shall be tabled in the House of Assembly as required by Article 130 of the Constitution.

Clause 25 of the Bill seeks to provide that the balance in an appropriation that remains unexpended at the end of the financial year after adjustment for the recording of liabilities and any warrant in relation to the balance of the appropriation, shall lapse.

Clause 26 of the Bill seeks to provide that Articles 128 to 136 of the Constitution shall apply to withdrawing money from the Consolidated Fund.

Clause 27 of the Bill seeks to provide that the Minister or the Financial Secretary authorized in writing by the Minister shall by warrant approve the issue of moneys from the Consolidated Fund. This clause further provides that every principal accounting officer shall submit a procurement plan and a cash plan to the Ministry responsible for finance no later than three weeks after the Appropriation Bill has been passed by Parliament and if he fails to do so the Minister may suspend the warrant.

Clause 28 of the Bill seeks to provide that no person shall commit the Government to a financial liability, other than in accordance with this Act.

Clause 29 of the Bill seeks to provide that where there is an unforeseen need for expenditure, the Government shall be authorised to reallocate funds of no more than two percent of the total expenditure estimates for the financial year between

expenditure heads and shall include the reallocation of funds in the next Appropriation Bill.

Clause 30 of the Bill seeks to provide that the Financial Secretary may authorize a principal accounting officer by way of a warrant to vire funds between items within an expenditure head or capital funds between projects that have the same source of funding. The Minister shall report on all virements made and the performance of the appropriations affected twice yearly to the Parliament in the Mid-Year Review and financial statements.

Clause 31 of the Bill seeks to provide that the Accountant-General shall establish procedures for planning and management of cash which may include a cash management committee. The Accountant-General shall require a public entity to prepare an annual cash plan specified by month. He shall review the revenue, expenditure and financing plans and cash forecasts each month against actual results.

Clause 32 of the Bill seeks to provide for the Consolidated Fund in accordance with Article 128 of the Constitution and all public moneys must be credited to it.

Clause 33 of the Bill seeks to provide that no sum shall be charged on the Consolidated Fund or warrant issued except upon the authority of an Appropriation Act, the Constitution, or other Act.

Clause 34 of the Bill seeks to provide for a special fund established by an Act for a specific purpose and administered by the Government.

Clause 35 of the Bill seeks to provide that all trust assets shall be accounted for separately from other public assets and the Accountant-General shall be responsible for and manage the trust assets.

Clause 36 of the Bill seeks to provide that any trust assets that are unclaimed for a period of fifteen years together with any interest, shall be transferred to the Consolidated Fund. If the Accountant-General is satisfied that a person has a claim, on any trust assets which have been transferred to the Consolidated Fund the money shall be paid to that person out of the Treasury Account on the authority of this section and without appropriation.

Clause 37 of the Bill seeks to provide that "the Treasury Account" shall be the principal bank account of the Government managed by the Accountant-General. The Accountant-General shall also supervise all cash transactions and accounting operations of the Government and shall be accountable for all public money received by the Accountant-General.

Clause 38 of the Bill seeks to provide that a public entity may levy fees and charges in accordance with any written law.

Clause 39 of the Bill seeks to provide that a grant shall not be accepted by the Government unless it has been approved in the annual budget or by the Cabinet.

Clause 40 of the Bill seeks to provide that no revenue due to the Government may be remitted without authorization of the Minister in the case of sums not exceeding \$20,000, or authorization of the Cabinet on the recommendation of the Minister in the case of sums exceeding \$20,000 and a detailed statement of all amounts remitted shall be audited by the Auditor-General and included in the financial statements tabled in the House of Assembly.

Clause 41 of the Bill seeks to provide that the Government may enter into an agreement to settle a claim made by the Government for a specified amount, whether or not the amount is less than the amount of the claim, in full satisfaction of the claim.

Clause 42 of the Bill seeks to provide that the Accountant-General may write-off a debt due to the Government that he considers to be uncollectible or the collection of which is not cost effective. The write-off of a debt does not extinguish the right to collect it.

Clause 43 of the Bill seeks to provide that a summary statement of remissions settlements and write-offs shall be included in the financial statements including the names of the persons affected, and if a company is involved the names of the shareholders, and the total value of each remission, settlement or write-off and, the authority for it. The summary statement shall be placed in a register and published for ten years.

Clause 44 of the Bill seeks to provide that the Minister shall table in the House of Assembly, with the annual budget, a medium-term financial asset management strategy which includes the principles applied by the Government in managing the Government's investment portfolio and the acceptable investment instruments having regard to risk.

Clause 45 of the Bill seeks to provide that the Accountant-General may place on deposit at any bank public moneys, that is not needed immediately, on conditions and at the rates of interest approved by the Financial Secretary.

Clause 46 of the Bill seeks to provide that the Minister shall authorize the investment of money that is in the Consolidated Fund, a special fund or other fund with regard to the medium-term financial asset management strategy, and the Minister shall within one week of purchasing the securities table a report in the House of Assembly.

Clause 47 of the Bill seeks to provide that the interest or dividends received from an investment from money in a special fund, sinking fund, or trust account in a sub-account of the Treasury Account shall be credited to the fund or trust from which the moneys came.

Clause 48 of the Bill seeks to provide that the Minister may invest money by way of capital injection in an Agency or a Government Business Enterprise only



by way of a capital contribution appropriated by Parliament in accordance with with the medium term financial asset management strategy.

Clause 49 of the Bill seeks to provide that the Internal Audit Department is established within the Ministry responsible for finance and shall observe international standards for the professional practice of internal auditors.

Clause 50 of the Bill seeks to provide that the Internal Audit Department shall be managed by a Director of Internal Audit who reports to the Financial Secretary for management purposes and to the Internal Audit Committee for functional purposes

Clause 51 of the Bill seeks to provide that the Auditor-General and Internal Audit Department may cooperate and the Financial Secretary and the Auditor-General may make a memorandum of understanding to govern the relationship of the internal audit and external audit roles and responsibilities.

Clauses 52 and 53 of the Bill seeks to provide for an Internal Audit Committee which shall oversee the work of the Internal Audit Department and that secretariat services for the Internal Audit Committee shall be provided by the Ministry responsible for finance.

Clause 54 of the Bill seeks to provide that the Financial Secretary may request an Agency or a Government Business Enterprise that has its own internal audit function, to submit a copy of its the internal audit report to the Accountant-General, the Internal Audit Committee and the Auditor-General.

Clause 55 of the Bill seeks to provide that the Financial Secretary may, after consulting with the Internal Audit Committee, issue directions on the internal audit function.

Clause 56 of the Bill seeks to provide that an independent external audit is undertaken of the Government pension plans at least every five years .

Clause 57 of the Bill seeks to provide that the Financial Secretary may designate in writing persons who shall be principal accounting officers who are responsible for the accounting for all revenues, expenses and expenditure and assets and liabilities relating to the operations of the entity under his responsibility.

Clause 58 of the Bill seeks to provide that the Financial Secretary and the Accountant-General may issue directions to principal accounting officers for the efficient administration of the financial business of the Government consistent with the roles and responsibilities of the Accountant-General and the Financial Secretary respectively.

Clause 59 of the Bill seeks to provide that the recovery by the Government of an expenditure charged to an appropriation for goods or services received before the end of the financial year in which the expenditure was made shall be credited to the appropriation against which the expenditure was charged or after the end

of the financial year shall be credited to the appropriate revenue account of the financial year in which it is received.

Clause 60 of the Bill seeks to provide that the Financial Secretary shall prepare a monthly report on the financial performance of the Government against the annual budget and Appropriation Act which the Minister shall present to Cabinet and thereafter the Financial Secretary shall publish the monthly report on the official website of the Government,

Clause 61 of the Bill seeks to provide that the Financial Secretary shall prepare a quarterly report on the financial performance of the Government against the annual budget and Appropriation Act and publish it on the official website of the Government.

Clause 62 of the Bill seeks to provide that the Minister shall table in Parliament, a Mid-Year Review on progress against the fiscal strategy report and the annual budget not later than the last Wednesday of February.

Clause 63 of the Bill seeks to provide that in respect of each financial year and within a period of three months after the close of each financial year, the Accountant-General shall prepare, sign and transmit to the Auditor-General all of the statements specified in the clause. Similarly within two months after the close of the financial year principal accounting officers shall prepare, sign and transmit to the Financial Secretary and the Auditor-General, all of the statements specified in the clause. Also, within a period of two months after the close of the financial year the officer primarily responsible for a fund to which moneys have been appropriated by Parliament or approved under another Act shall prepare, sign and transmit to the Auditor-General, the Financial Secretary and the Accountant-General financial statements in respect of the fund. The Minister shall table the audited annual financial statements and accounts in the House of Assembly not later than six months after the end of the financial year to which the statements and accounts relate.

Clause 64 of the Bill seeks to provide that the Minister shall prepare an annual report on the non-financial performance of the Government for the year and shall include information specified in the *Third Schedule*, no later than three months after the end of every financial year and shall be tabled in the House of Assembly no later than the day the Minister tables the audited annual financial statements and accounts of the Government.

Clause 65 of the Bill seeks to provide that the Financial Secretary shall publish the audited annual financial statements and accounts, the audit opinion, and the annual report on the non-financial performance of the Government on the official website of the Government no later than one week after these documents have been tabled in the House of Assembly.

Clause 66 of the Bill seeks to provide that the Public Accounts Committee of the House of Assembly shall review the annual audited financial statements of the Government and the annual report on non-financial performance and review the annual reports for each public entity; and report to the House of Assembly on the results of the reviews no later than the first week of the eighth month of the financial year following the financial year under review.

Clause 67 of the Bill seeks to provide that every public entity that is not a Ministry or department shall be classified as an Agency and listed in the *Fourth Schedule* and an entity shall be classified as a Government Business Enterprise and listed in the Fifth Schedule if the entity is owned or controlled by the Government and provides services in the market or undertakes commercial activities that are or could be carried out by a private sector operator.

Clause 68 of the Bill seeks to provide that the responsible Minister for an Agency or Government Business Enterprise shall be the Minister charged with the responsibility for the Agency or the Government Business Enterprise by the Governor-General in accordance with Article 77 of the Constitution.

Clause 69 of the Bill seeks to provide that the Minister shall have the responsibility for financial management for Agencies and Government Business Enterprises'

Clause 70 of the Bill seeks to provide that the Minister shall issue a code of corporate governance that shall be complied with by a board of an Agency or Government Business Enterprise.

Clause 71 of the Bill seeks to provide that the board of the Agency or the board of the Government Business Enterprise shall appoint the chief executive officer who shall be responsible to the board for managing the Agency or Government Business Enterprise .

Clause 72 of the Bill seeks to provide that a public entity shall implement international accounting standards and practices in accordance with the accounting standards and directions issued by the Accountant-General and a Government Business Enterprise shall implement international accounting standards.

Clause 73 of the Bill seeks to provide that every public entity and Government Business Enterprise shall have the same financial year as the Government.

Clause 74 of the Bill seeks to provide that each Agency shall have an annual plan which shall include the information in the *Sixth Schedule* and shall be submitted along with the budget to the responsible Ministry and to the Ministry responsible for finance by the date set by the Financial Secretary; and each responsible Minister shall table the annual plan of the Agency in the House of Assembly on the same day as the annual budget is tabled.

Clause 75 of the Bill seeks to provide that the board and chief executive officer of an Agency shall ensure that the reporting requirements of this Act are complied with.

Clause 76 of the Bill seeks to provide that every Agency that receives fifty percent or more of its operating budget from subventions from the Government shall prepare and submit to the Minister, within thirty days of the end of the reporting period monthly and quarterly financial statements and reports which shall be signed by the chief executive officer or the chief financial officer and where the Agency has a board, reviewed and endorsed by the board and the Minister may withhold any subventions payable to an Agency where there is a delay in the submission of any of the reports required under this section or a deficiency in the content of any of the reports and the Minister believes that the delay or deficiency is not reasonably justified.

Clause 77 of the Bill seeks to provide that the board of an Agency shall submit to the responsible Minister and the Financial Secretary a mid-year report and an annual report which shall include the information contained in the *Seventh Schedule*.

Clause 78 of the Bill seeks to provide that the Ministry responsible for finance shall monitor and review the performance of an Agency including compliance with this Act, financial performance, non-financial performance and fiscal risks and the Financial Secretary may review the performance of an Agency against the requirements of this Act, the annual budget and the annual plan of the Agency and may provide a report to the Minister and the responsible Minister on the performance.

Clause 79 of the Bill seeks to provide that the board of each Government Business Enterprise shall ensure that the Government Business Enterprise achieves the primary objective to operate as a successful business and to earn a return on the owners' funds over the medium term as that earned by comparable businesses not owned by the Government.

Clause 80 of the Bill seeks to provide that the board of each Government Business Enterprise shall provide a statement of corporate intent and business plan for the Government Business Enterprise and all its subsidiaries to the Minister and the responsible Minister, by a date to be set by the Financial Secretary.

Clauses 81 and 82 of the Bill seek to provide that the statement of corporate intent and the business plan shall include the content set out in the *Eighth* and *Ninth Schedule* respectively.

Clause 83 of the Bill seeks to provide that the responsible Minister shall table the statement of corporate intent for each Government Business Enterprise in the House of Assembly on the same day as the annual budget is tabled.

Clause 84 of the Bill seeks to provide that the board of a Government Business Enterprise shall agree the proposed dividend with the responsible Minister and the Minister.

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

Clause 86 of the Bill seeks to provide that the board of a Government Business Enterprise shall cause to be prepared a mid-year report and an annual report, which shall include the information contained in the *Tenth Schedule*, for the Government Business Enterprise and its subsidiaries including financial statements and submit them to the responsible Minister and the Financial Secretary no later than three months after the end of the financial year.

Clause 87 of the Bill seeks to provide that sections 79 to 86 shall not apply if the Government is a minority shareholder in a publicly listed company and if the Government holds more than 50 percent but less than 100 percent of the shares in a publicly listed company sections 79 to 86 shall apply only as far as they are consistent with the Companies Act 2000.

Clause 88 of the Bill seeks to provide that the Ministry responsible for finance shall monitor and review the performance of the Government Business Enterprise and the Financial Secretary shall review the performance of each Government Business Enterprise against the requirements of this Act, the statement of corporate intent and the annual plan and shall provide a report to the Minister on the performance no later than 31<sup>st</sup> October each year.

Clause 89 of the Bill seeks to provide that the each Ministry shall produce an annual plan which shall include the information in the *Sixth Schedule*. The annual plan shall be in compliance with the budget and other instructions from the Ministry responsible for finance. Each Ministry shall submit the annual plan and annual budget to the Ministry responsible for finance by a date to be specified by the Financial Secretary; and publish the annual plan on the official website of the Government no later than one week after the annual budget has been passed by the Parliament.

Clause 90 of the Bill seeks to provide that each Permanent Secretary shall cause to be provided to the responsible Minister and the Financial Secretary a mid-year report no later than one month after the end of the first six months of the financial year and the Permanent Secretary shall provide the responsible Minister, Minister and Financial Secretary with an annual report, which shall include the information contained in the *Seventh Schedule*, no later than two months after the end of the financial year.

Clause 91 of the Bill seeks to provide that the responsible Minister or the Minister may commission a performance review of a Ministry. Also the responsible Minister shall monitor the overall performance of the Ministry and the Financial Secretary may review the performance of each Ministry to ensure compliance with the requirements of this Act and may provide a report to the Minister and the responsible Minister on the performance no later than 30<sup>th</sup> November each year.

Clause 92 of the Bill seeks to provide that the Local Government shall produce an annual plan which shall include the information in the *Sixth Schedule* and the Minister responsible for Local Government shall table the annual plan in the House of Assembly on the same day as the annual budget.

Clause 93 of the Bill seeks to provide that the Director of Local Government shall provide the Minister responsible for Local Government and the Ministry responsible for finance with a mid-year report no later than one month after the end of the first six months of the financial year. The Chief Councillor of the Local Government shall produce an annual report, include the information contained in the *Seventh Schedule*,<sup>F</sup> submit it to the Auditor-General and the Minister responsible for Local Government who shall table it in the House of Assembly. published by the Local Government.

Clause 94 of the Bill seeks to provide that the Minister responsible for Local Government may commission a performance review and the Minister commission a review of financial performance of Local Government and the Auditor General may audit the activities of Local Government for service performance.

Clause 95 of the Bill seeks to provide that a reference in Part VII of this Act to positions and office holders includes current and former positions and office holders and this part shall apply to local government officials and office holders

Clause 96 of the Bill seeks to set out the actions and omissions that amount to financial misconduct and further provides that an offence of financial misconduct shall be investigated, heard and disposed of as required by the Constitution, the Public Service Act 1969, other Acts, codes of ethics or codes of conduct and the terms of appointment or employment applicable to the person charged.

Clause 97 of the Bill seeks to provides for a criminal offence where a person with responsibility for public resources, unlawfully takes possession of public moneys or assets, misappropriates public moneys or assets, provides inaccurate financial information or conceals information on public finances to obtain a benefit for himself or another person or engages in corrupt acts including soliciting or receiving bribes and further provides that a person who commits an offence under this section shall on conviction be liable to imprisonment for a period not exceeding five years or to a fine not exceeding \$100,000.00 or to both.

Clause 98 of the Bill seeks to set out a number of circumstances where the Financial Secretary may apply a sanction to a public entity or Government Business Enterprise and also sets out the sanctions that he may apply.

Clause 99 of the Bill seeks to set out a number of circumstances where the Financial Secretary may apply a sanction against a person who is or was a public officer or public office holder, or other person with responsibilities for public resources and also sets out the nature of the sanctions that he may impose.

Clause 100 of the Bill seeks to provide that the Financial Secretary shall notify the Auditor-General, the Accountant-General and the chief executive officer of the public entity concerned, of any surcharge made and the chief executive officer, shall notify the person surcharged and shall recover the amount surcharged from that person.

Clause 101 of the Bill seeks to provide that the Financial Secretary may at any time withdraw any surcharge and shall notify the Auditor-General, the Accountant-General and the chief executive officer of the entity concerned of the withdrawal of the surcharge.

Clause 102 of the Bill seeks to provide that any person who is dissatisfied with any surcharge made against him may appeal in writing to the Public Service Commission and it may, after any further investigation as considers desirable, make an order confirming the surcharge or directing that the person be released wholly or in part from the surcharge as may appear just and reasonable and a copy of every order shall be transmitted to the Financial Secretary, the chief executive officer of the entity concerned, the Auditor-General and the Accountant-General.

Clause 103 of the Bill seeks to provide that the Financial Secretary may direct that the amount of any surcharge shall be recovered by monthly or semi-monthly deductions from the salary or other payment due to the person surcharged or before a magistrate on the complaint of the Financial Secretary or through civil proceedings in the Supreme Court.

Clause 104 of the Bill seeks to provide that the Ministry responsible for finance shall publish in the Official Gazette and on an official website of the Government the name, position, offence and sentence for each person found liable of a criminal offence under this Bill.

Clause 105 of the Bill seeks to provide that the Minister may make regulations generally and for the matters specified.

Clause 106 of the Bill seeks to provide that the Minister may by order amend the First and Fifth *Schedule* and he may amend all the other schedules by order subject to an affirmative resolution of the House of Assembly.

Clause 107 of the Bill seeks to provide that the Minister may make rules for the matters specified.

Clause 108 of the Bill seeks to provide that the Minister may issue Directions generally.

Clause 109 of the Bill seeks to provide that the Financial Secretary may issue Directions as specified in this Bill or on behalf of and with the approval of the Minister.

Clause 110 of the Bill seeks to provide that the Accountant-General may issue Treasury Directions as specified in this Bill.

Clause 111 of the Bill seeks to provide that the Financial Regulations (Ch. 359) shall remain in force and shall apply in so far as they are not inconsistent with this Act, until repealed or revoked.

Clause 112 of the Bill seeks to provide that the Financial Administration and Audit Act 2010 is repealed except the specified sections.

Clause 113 of the Bill seeks to provide that anything done or any action taken in exercise of any power conferred by or under the repealed sections of the Financial Administration and Audit Act 2010 shall be valid,

Clause 114 of the Bill seeks to provide that a reference in any written law to the Treasurer shall be construed as a reference to the Accountant-General.

Clause 115 of the Bill seeks to provide for the implementation of different sections on different dates