



PUBLIC FINANCIAL MANAGEMENT ACT 2013

(NO. 9 OF 2013)



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PASSED by the National Parliament this twelveth day of September 2013.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true copy of the Bill)

(Ms) Taeasi Sanga
Clerk to National Parliament

ASSENTED to in Her Majesty's name and on Her Majesty's behalf this 10th day of October 2013

Sir Frank Utu Ofagioro Kabui
Governor-General

Date of commencement: (see section 1)

AN ACT TO PROVIDE A FRAMEWORK FOR EXERCISING SOUND PUBLIC FINANCIAL MANAGEMENT BY THE GOVERNMENT OF SOLOMON ISLANDS, FOR ENHANCING TRANSPARENCY AND ACCOUNTABILITY IN THE CONTROL OF PUBLIC RESOURCES, TO REPEAL CERTAIN PARTS OF THE PUBLIC FINANCE AND AUDIT ACT (Cap. 120) AND FOR RELATED MATTERS.

ENACTED by the National Parliament of Solomon Islands.

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PUBLIC FINANCIAL MANAGEMENT ACT 2013

PART 1 – PRELIMINARY

Short title and commencement

1. This Act may be cited as the Public Financial Management Act 2013 and shall commence on January 1, 2014.

Interpretation

2. In this Act, unless the context otherwise requires -

“accountable officer” means -

- (a) the Permanent Secretary of a Ministry or a person appointed to act for the Permanent Secretary; or
- (b) a person in charge of the day to day operations of a Government agency;

“Accountant General” means the officer appointed under section 10;

“accounting officer” means -

- (a) a public officer, including a financial controller, who is charged under any Act or by virtue of his appointment with -
 - (i) rendering an account for any public monies;
 - (ii) collecting, receiving or disbursing public or trust money;
 - (iii) the purchase, receipt, custody or disposal of, or accounting for, any public resources;
- (b) a person appointed or engaged by a Government agency under contract who is charged with a responsibility referred to in paragraph (a);

“accounting warrant” means a warrant issued by the Secretary (pursuant to a general warrant issued by the Minister) to authorise an accountable officer to make any appropriated expenditure for the financial year;

“Appropriation Act” means the Act enacted on passage of an Appropriation Bill referred to in section 102(2) of the Constitution, allowing the Minister to apply a sum out of the Consolidated Fund to the service of the financial year, and includes Supplementary Appropriation Acts, if any;

“Consolidated Fund” means the Consolidated Fund for Solomon Islands established by section 100(1) of the Constitution;

“departmental warrant” means a warrant issued by an accountable officer (pursuant to an accounting warrant) to authorise another accountable officer to make some of the expenditure authorised by the accounting warrant;

“financial controller” means the accounting officer who is assigned responsibility for the financial management operations of a Government agency;

“financial year” means –

- (a) in relation to the National Government, a period of twelve months ending on 31 December, as defined in section 109 of the Constitution;
- (b) in relation to a provincial government, the twelve months ending 31 March in any year;
- (c) in relation to a Government agency not mentioned in paragraphs (a) or (b), the period specified under the Act, law or instrument relating to that agency or as determined by its relevant authority;

“Government” means Her Majesty's Government of Solomon Islands;

“Government agency” means -

- (a) a Government ministry;

- (b) an office or body established by the Constitution, where the holders of the office or members of the body receive their remuneration from the Consolidated Fund; and
- (c) a body or manager authorised to manage a special fund;

“head”, in relation to the Government’s budget, means a head of expenditure for a Government agency that is appropriated by an allocation from Consolidated Funds in an Appropriation Act or other appropriation;

“Minister” means the Minister responsible for the Ministry of Finance;

“officially publish” means to publish on a government website, by issue of a Gazette notice or a notice in a widely read nationally published newspaper;

“prescribed” means prescribed by regulations made under section 82;

“prudent” means the effective, efficient and ethical expenditure or use of public resources;

“public money” means any money raised, received or held on behalf of the Government, including any money required by this Act or another law to be paid into or form part of the Consolidated Fund or any special fund;

“public officer” has the meaning given to that term in section 144 of the Constitution;

“public property” means any property held or controlled by the Government or an accountable or accounting officer acting on behalf of the Government (whether or not the property is held or controlled for the purposes or benefit of the Government) and includes -

- (a) real, personal and intellectual property;
- (b) property of a virtual or non-consumable nature; and
- (c) inventory assets such as a plant, machinery, buildings, vehicles, office and house furniture, equipment,

computers and accessories, chattels and other personal property;

"public resources" means public money, public stores and public property;

"public stores" means all articles in possession or under the control of an accountable or accounting officer acting on behalf of the Government of a consumable nature, including books, cheque forms, other forms, postage stamps, stationery, office requisites, implements, fuel and livestock;

"Secretary" means the Permanent Secretary for the Ministry of Finance;

"state owned enterprise" means an organisation named in the Schedule to the *State Owned Enterprises Act 2007*;

"subsidiary legislation" means a legislative provision made in exercise of a power conferred by this Act, by way of by-law, notice, order, proclamation, regulation, rule of court or other instrument; and

"subject to affirmative resolution", when used in relation to subsidiary legislation, means that the subsidiary legislation is not to come into operation unless and until affirmed by the National Parliament.

3. This Act binds the Crown.

Act binds the Crown

4. In the event of any inconsistency between a provision of this Act and a provision of any other legislation, the provision of this Act prevails.

Act prevails over inconsistent Acts

PART 2 - PURPOSE AND PRINCIPLES OF THE ACT

5. The purpose of this Act is to promote sound public financial management, including through the administration of the Consolidated Fund and other public resources, according to budgeted priorities, monitoring and reporting and to ensure Government accountability to Parliament in respect thereof.

Purpose of the Act

6. In achieving the purpose in Section 5, the following principles apply-

Principles of the Act

- (a) the Minister shall ensure that the use of public resources contributes to the ongoing economic prosperity and welfare of the people of the Solomon Islands; and
- (b) accountable and accounting officers shall -
 - (i) be prudent in the use of public resources to ensure sustainability and stability for the benefit of future generations;
 - (ii) be transparent in making decisions about allocating and using public resources; and
 - (iii) be accountable to the National Parliament and the people of Solomon Islands for their economic, fiscal and financial management decisions and their performance on behalf of the Government.

**PART 3 – ROLES AND RESPONSIBILITIES OF THE
MINISTER AND ACCOUNTABLE AND ACCOUNTING
OFFICERS IN THE MANAGEMENT OF PUBLIC FINANCE**

Responsibilities
of the Minister

7. The Minister shall -

- (a) promote sound fiscal and macroeconomic policies by developing and implementing policy frameworks, supervising and monitoring Government finances and coordinating inter-governmental financial and fiscal resources;
- (b) ensure appropriate financial management and review of proposals with fiscal and economic implications prior to their consideration by the Cabinet;
- (c) establish standards of good governance and define the roles of key stakeholders;
- (d) establish internal control mechanisms that accord with the principles referred to in section 6(b); and

- (e) provide a full account of the finances of the Government to the Cabinet and the National Parliament.

8. The Minister shall exercise the powers and functions given to him under this Act, including the power to make regulations under section 82, so as to ensure the effective application and enforcement of the Act.

Exercise of
Minister's powers
and functions

9. (1) The Secretary is responsible for supervision of the Ministry as provided in section 40 of the Constitution and shall support the Minister in meeting his responsibilities to the Government under section 7.

Responsibilities
of the Secretary

(2) The Secretary shall promptly apprise the Minister of any defect in the Act or subsidiary legislation which might result in a diminution of control over the public resources of the Government.

(3) The Secretary shall exercise his powers and functions under this Act to ensure its effective application and enforcement.

10. There shall be established within the Ministry of Finance the Office of the Accountant General, to be directed by the Accountant-General, who shall be a professionally qualified accountant appointed by the Public Service Commission in consultation with the Secretary.

Establishment
of Office and
Appointment of
Accountant
General.

11. (1) The Accountant-General shall support the Secretary in meeting his responsibilities under section 9 and is responsible for the use, custody and safety of public resources and the compilation and management of the public accounts.

Responsibilities
of Accountant
General

(2) In addition, the Accountant General shall –

- (a) manage, assess and recommend improvements to systems and processes related to public financial management within the Government;
- (b) advise the Minister on the basis of the accounting to be adopted by the Government and the classification system to be used and ensure that –
- (i) a proper system of accounting is established and operational; and
- (ii) appropriate systems of control are in place to ensure that all money

received by and paid to the Government is promptly and properly brought to account in the prescribed manner; and

- (c) take necessary measures to prevent or reduce the risk of fraud, embezzlement, abuse or mismanagement of the public resources by ensuring that appropriate and prescribed systems of control are in place,

Responsibilities
of Accountable
Officers

12. Accountable officers are responsible for the agency head in respect of which they are appointed, for the proper management and control of expenditures and for all revenues and other public resources received, held or disposed of by that agency, in accordance with the requirements of this Act and the subsidiary legislation.

Responsibilities
of Accounting
Officers

13. Accounting officers, appointed by the Public Service Commission in consultation with the Accountant-General, are responsible to their accountable officers and the Accountant-General for carrying out the duties assigned to them under this Act and the subsidiary legislation in respect of the custody and handling of, and accounting for public money, stores or property.

Responsibilities
of Financial
Controllers

14. Financial controllers are –

- (a) accounting officers appointed by the Public Service Commission in consultation with the Accountant-General;
- (b) responsible for a Government agency's financial management operations; and
- (c) accountable to their Permanent Secretaries and the Accountant-General for carrying out the duties assigned to them under this Act and the subsidiary legislation.

Delegation by
the Minister

15. (1) The Minister may, by signed notice, delegate any of his powers or functions under this Act to an accountable or accounting officer within a Government agency if the Minister is satisfied that the officer and the agency have the financial management capabilities, systems and processes needed to exercise the power or perform the function in accordance with this Act and the subsidiary legislation.

- (2) Despite subsection (1), the Minister may not delegate any of the following powers or functions-

- (a) the revocation or amendment of a warrant issued by the Minister under this Act;
- (b) the investment of public money or the exercise of powers under Part 8 respecting Government borrowing, on-lending or guarantees; or
- (c) the making of regulations under this Act.

(3) The Minister may, by signed notice, revoke or vary any delegation made under this section.

(4) The Minister shall officially publish a notice of any delegation made under this section before the delegation takes effect.

(5) The delegation of a power or function under this section does not absolve or relieve the Minister from his responsibility to exercise the power or function.

16. (1) Subject to this section, an accountable or accounting officer may, by signed notice, delegate any of his powers or functions under this Act or the subsidiary legislation to another accountable or accounting officer.

Delegation by
accountable,
accounting or
public officers

(2) An accountable or accounting officer may not further delegate a power or function delegated to him by the Minister or by another accountable or accounting officer, unless authorised to do so by the subsidiary legislation.

(3) Any directions given, or conditions included, in the delegation of a power or function are deemed to be included in any further delegation of that power or function.

(4) The delegation of a power or function by an accountable or accounting officer under this section does not absolve or relieve that officer from his responsibility to ensure that proper capabilities, controls and oversight are in place to ensure the proper exercise of that power or function.

17. In exercising his powers and carrying out his duties under this Act, every accountable and accounting officer shall –

- (a) ensure that he understands, to the best of his ability, the content, intent and applicability of

Duties of
accountable and
accounting
officers

Chapter X of the Constitution, this Act and the subsidiary legislation in respect of all matters for which he is responsible; and

- (b) enforce and comply with the provisions of this Act in respect of all matters for which he is responsible.

Duty to ensure proper conduct in office

18. (1) Every accountable and accounting officer, shall –
- (a) refrain from committing any offence under Part X of the Penal Code (corruption and the abuse of office) while carrying out his duties under this Act;
- (b) carry out his duties under the Leadership Code in Chapter VIII of the Constitution;
- (c) meet his responsibilities under the *Leadership Code (Further Provisions) Act 1999*, by –
- (i) disclosing his financial affairs as required by Part II of that Act; and
- (ii) avoiding any misconduct or conflict of interest under Part III of that Act; and
- (d) avoid misconduct under the Public Service Commission Regulations 1998, as that term is defined in Regulation 44.

(2) An accountable or accounting officer who contravenes the Penal Code, the Leadership Code, the *Leadership Code (Further Provisions) Act 1999* or the Public Service Commission Regulations is guilty of an offence or misconduct as provided in that law and is subject to the penalties imposed under it.

PART 4 – INTERNAL AUDIT

Establishment of Internal Audit Office and appointment of Director

19. (1) The Minister may establish an Internal Audit Office with such roles and functions as are prescribed.

(2) The Public Service Commission, in consultation with the Minister, shall appoint a Director of Internal Audit to be the head of the Office and to carry out such duties as are prescribed.

(3) The Director of Internal Audit shall report to the Secretary.

(4) The Director of Internal Audit shall be responsible for assessing and advising accountable officers on proper financial controls that should be in operation and adhered to by all Government agencies.

(5) Upon instruction from the Minister or Secretary, the Director of Internal Audit may investigate and report on allegations of any misconduct, as defined under this Act and the subsidiary legislation.

20. (1) The Director of Internal Audit and any officer authorized by him shall in the performance of their duties have the right, at all reasonable times-

Powers of
Director of
Internal Audit

- (a) to enter any Government premises;
- (b) to access all records, documents and correspondence relating to financial and other transactions of the Government;
- (c) to obtain such information and explanations as necessary concerning any matter under examination; and
- (d) to require any accountable or accounting officer to produce all information concerning cash or other public resources under his control.

(2) If an irregularity arises or material loss of cash or any other public resource occurs, or is reasonably likely, the Director of Internal Audit shall immediately advise the responsible accountable officer and the Secretary, who shall take the necessary steps to avoid or recover the loss or investigate and report on the irregularity to the relevant authorities, as provided under this Act and the subsidiary legislation.

(3) The Secretary may refer any matter mentioned in subsection (2) to the Auditor-General for audit advice and opinion.

Audit
Committee

21. The Minister shall appoint an Audit Committee, which shall be responsible for advice and oversight of the Internal Audit functions for the Government, as may be prescribed.

PART 5 – MANAGEMENT OF CONSOLIDATED FUND AND OTHER FUNDS

DIVISION 1 – CONSOLIDATED AND SPECIAL FUNDS

Payments into
Consolidated
Fund

22. (1) Subject to section 100(1) of the Constitution, all public monies raised or received for the purposes of the Government, including borrowed monies, shall be paid into the Consolidated Fund.

(2) All public monies that are -

- (a) paid into a designated government bank account;
- (b) invested as provided under section 42; or
- (c) advanced in accordance with section 60,

out of or on behalf of the Consolidated Fund are deemed to be part of the fund, unless deposited into a Special Fund.

References to
Monies raised
or received by
the Government

23. Any reference in this Part to monies raised or received by or for the purpose of the Government does not include monies -

- (a) received on deposit;
- (b) held in trust by or under the control of any court, officer of a court, the Public Trustees, the Attorney General or the Official Receiver; or
- (c) held in trust by an accountable or accounting officer for purposes other than the purposes of the Government.

Establishment
of special funds

24. (1) Pursuant to section 100(2) of the Constitution, the Minister may, with the approval of Cabinet, make financial provision for and prescribe the establishment of special funds -

- (a) which do not form part of the Consolidated Fund; and
 - (b) the receipts, earnings and accruals of which at the end of the financial year are retained by the funds for the purposes for which they were established and not repaid into the Consolidated Fund.
- (2) Regulations made pursuant to subsection (1) shall –
- (a) state the purposes for which the special fund is being established; and
 - (b) identify the accountable officers responsible for their operation.
- (3) The Minister shall table the Regulations at the next meeting of National Parliament after they are made.
- (4) The Regulation shall cease to have effect if annulled by the National Parliament as described in section 62(2) of the Interpretation and General Provisions Act (Cap.85) but without prejudice to the validity of anything previously done under them.
- (5) The special funds set out in the Schedule are deemed to have been established in accordance with the provisions of subsection (1) and the balance standing to the credit of each special fund at the close of account on the coming into operation of this Act is deemed to have been provided by the Minister for the purposes specified in respect of each special fund.

25. No expenditure shall be incurred from a special fund unless estimates of the income and expenditure of the special fund for that financial year, approved by the Minister, have been tabled before the National Parliament.

Management of special funds

26. (1) The Minister may at any time, subject to affirmative resolution by the National Parliament, wind up any fund established or deemed to have been established under section 24 and the Constitution, and any balance of such funds at the time of winding up shall-

Winding up of special funds

- (a) be paid into the Consolidated Fund; or

- (b) be treated in accordance with the terms and conditions set forth at the time of establishing the special fund.

(2) The Minister shall recommend the wind up of a special fund if he determines that-

- (a) there is no continuing need to achieve the purpose of the fund; or
- (b) there is a more prudent way to achieve the purposes of the fund.

(3) The Minister shall officially publish a determination made under this section within 30 days after it is made.

Meaning of
"targeted
balances"

27. In sections 28 to 31, "targeted balances" means budget support financing allocated from the Consolidated Fund to a Government agency, intended to finance targeted services, programs and projects or pre-conditioned on certain policies and actions of Government, where the recipient accountable officer does not have the discretionary power on how to spend those funds.

Establishment
of targeted
balances

28. (1) The Minister may, by Order establish each targeted balance for targeted budgetary allocations as part of the Consolidated Fund.

(2) The Minister shall determine the operation of each targeted balance, including the procedures, guidelines and criteria that shall be applied to allocate money to the targeted program or project beneficiaries.

(3) A determination under subsection (2) shall specify-

- (a) the predetermined total amount of the targeted balance that shall be appropriated annually;
- (b) the method that shall be applied in determining the targeted balance;
- (c) the amount of donor or other externally sourced funds that are also expected to fund any targeted balance; and
- (d) the purposes for which amounts may be withdrawn from the targeted balances account.

(4) The Minister shall table the Order in the next session of National Parliament after it is made and the Order shall cease to have effect if it is annulled by the National Parliament.

(5) The Minister shall officially publish all orders and determinations he makes under this section.

29. The Minister may establish a designated government bank account to be known as the targeted balances account.

Targeted
balances
account

30. (1) The Minister shall approve any spending of money from the targeted balances account by a general warrant, in accordance with the Appropriation Act for the relevant financial year.

Issues from
targeted
balances
account

(2) The Minister may approve the spending of funds received into targeted balances accounts only for the purposes for which it was established or on particular terms that are in accordance with those purposes.

31. (1) The amount of targeted balances that is unexpended at the end of the financial year shall lapse at the end of the financial year.

Lapsing of
unexpended
amounts in
targeted
balances

(2) Subsection (1) does not apply in the case of targeted balances used to fund contractual obligations due for multiyear development projects, as may be prescribed.

DIVISION 2 – MONEY IN DEPOSITS, SUSPENSE ACCOUNTS AND FOR SPECIFIC PURPOSES

32. In this Division, “deposits” means money that is deposited with the Government but not raised or received for the purposes of the Government.

Meaning of
“deposits”

33. (1) The Secretary shall administer deposits and in appropriate cases refund them to the person entitled to them.

Secretary to
administer
deposits

(2) Deposits do not form part of the Consolidated Fund and, except as provided in this Division, may not be applied in any way for the purposes of the Government.

34. The Minister may authorize the Secretary to invest deposits and any interest or dividend received in respect of such invested deposits shall be paid into the Consolidated Fund.

Investment of
deposits

35. The Minister may authorize the Secretary to use deposits for making advances under section 60 for a purpose specified in that section.

Deposits may be
used to finance
advances

Unclaimed
Deposits

36. (1) A deposit that is unclaimed for five years or more shall be paid into the Consolidated Fund for the purposes of the Government.

(2) If a person proves his claim to an unclaimed deposit to the satisfaction of the Secretary after the deposit has been paid into the Consolidated Fund, the Permanent Secretary shall refund the deposit to him.

Money for
Specific
Purposes

37. (1) Pursuant to section 100(2) of the Constitution, any monies received by the Government on specific terms and conditions or for a specific purpose of Government shall be credited to such an account.

(2) When funds are disbursed to fulfil a purpose referred to in subsection (1), a like amount shall be withdrawn from the account and paid into the Consolidated Fund.

Suspense
Accounts

38. (1) When sums are received by the Government from overseas agents or other sources are insufficiently documented to enable immediate allocation to the correct service, they may be lodged in a suspense account pending receipt of adequate information.

(2) The Secretary shall clear suspense accounts and transfer the charges to the correct service for the purpose of reporting of the accounts for the financial year in which they are received.

DIVISION 3 - CUSTODY, BANKING AND INVESTING OF PUBLIC MONEY

Custody of
public money

39. (1) Every accountable, accounting or public officer who receives public money shall keep it in safe custody under his supervision and deposit it, as soon as practicable, in the manner prescribed -

- (a) in an official government bank account; or
- (b) in a cash safe or strong-room.

(2) This section does not apply to public money invested in accordance with section 42.

Designated
government
bank accounts

40. (1) Every accountable, accounting or public officer who receives public money shall, except as otherwise provided in this Act, the subsidiary legislation or another Act, pay it into a government bank account designated by the Minister for that purpose.

(2) No government bank account may be opened in any bank for the purpose of receipting, paying or safe keeping of public money without the written authority of the Minister.

(3) The Minister shall open and maintain designated government bank accounts with the Central Bank of Solomon Islands, or with a commercial bank, on the prescribed terms and conditions.

(4) Designated government bank accounts must have a name that includes the words "Solomon Islands Government", form part of the Consolidated Fund and be recorded on the official register of bank accounts.

41. (1) No accountable or accounting officer to whom the Minister has delegated his power to operate a designated government bank account shall use the account for a private or personal purpose.

Use of
Government
Bank Accounts

(2) No accounting, accountable or public officer shall at any time, except in accordance with the provisions of this Act and the subsidiary legislation –

- (a) cash cheques written for the purpose of government for a personal use or deposit them into a personal bank account;
- (b) use public money collected in cash for personal purposes or deposit it in a private bank accounts; or
- (c) pay public money intended for public use to any private or individual person in cash disbursements or directly deposit it into a private or personal bank account in any form including –
 - (i) cash deposits;
 - (ii) telegraphic money transfers;
 - (iii) any form of cheque;
 - (iv) electronic or mobile transfers; or
 - (v) any form of debit or credit card payments.

Investment of
public money

42. (1) The Minister may invest public money on behalf of the Government.

(2) Provincial governments, state owned enterprises, and the Honiara City Council shall consult the Minister before investing public money.

(3) Money in special funds shall not be invested without the prior consent of the Minister.

Permitted
investments

43. (1) The Minister shall invest public monies in the following investments only -

(a) a deposit with a bank, including a deposit evidenced by a certificate of deposit; and

(b) debt instruments with an investment grade credit rating that are -

(i) issued or guaranteed by the government of a foreign country; or

(iii) issued or guaranteed by a financial institution whose members consist of foreign countries, or of Solomon Islands and foreign countries.

(2) At any time before an investment matures, the Minister may, on behalf of the Government, authorise reinvestment of the proceeds on maturity in an investment authorised under subsection (1) with the same or another entity.

(3) The Minister may invest public money from the Consolidated Fund with a bank -

(a) at call or subject to notice not exceeding twelve months; or

(b) in an investment authorized by law for the investment of trust funds.

PART 6- PREPARATION OF THE ANNUAL BUDGET

DIVISION 1 – THE BUDGETING PROCESS AND THE ESTIMATES

44. (1) The Ministry of Finance shall be responsible for the preparation, management and monitoring of the annual budget.

Institutional
arrangements

(2) The Ministry of Finance shall manage the budget process and procedures in accordance with this Act and the subsidiary legislation.

45. (1) The Minister shall, with the approval of Cabinet, table in the National Parliament and officially publish at the following times the following information -

Strategy reports
prior to budget

(a) at least five months before the start of the financial year, the prescribed information **outlining the Government's** budget strategy; and

(b) at least three months before the start of the financial year, such information relating to its fiscal and debt management strategies, and as may be prescribed for each of these documents.

(2) At least three months before the start of the financial year, the Minister for Development Planning and Aid Coordination shall table in the National Parliament and officially publish the prescribed details with respect to the **Government's medium term development plan.**

46. (1) Before the start of each financial year, every accountable and accounting officer shall prepare for the Secretary budget estimates of the resources required by their Government agency (including for any special funds and targeted balances if any) and estimates of revenue received by their Ministry, for -

Budget
estimates to be
prepared by
accountable
officers

(a) the financial year; and

(b) up to the following three financial years.

(2) The accountable officer shall provide the budget estimates according to the prescribed procedures and time

frames, in the prescribed manner and including the prescribed information.

Contents of the
Government
budget

47. The national budget shall be prepared in the prescribed format and include the following -

- (a) the Financial Policy Objectives and Strategies Statement;
- (b) estimates (by heads) of expenditure and of revenues for the financial year and up to the following three financial years;
- (c) an allocation of the estimates among the sub-heads and programs for each head for the financial year and up to the following three financial years; and
- (d) any other prescribed information.

Annual budget
presentation

48. (1) Subject to section 102(1) of the Constitution, the Minister shall cause the national budget for a financial year to be laid before the National Parliament at least two months before the commencement of each financial year.

(2) The Minister shall also lay before the National Parliament a statement, for each head of expenditure, of the classes of outputs expected to be provided from that head during the year and the performance criteria to be met in providing those outputs.

(3) The national budget, together with the information referred to in subsection (2) shall be included in the Appropriation Bill for the financial year.

DIVISION 2 - BUDGETARY APPROPRIATIONS

Annual
Appropriation
Bills

49. (1) In this section, "statutory expenditures" means expenditures charged by an Act on the Consolidated Fund, but does not include monies, the expenditure of which is debated by the National Parliament and appropriated by an Appropriation Act.

(2) The Minister shall introduce the Appropriation Bill for the financial year in the National Parliament, to provide for the issue from the Consolidated Fund of the sums

necessary to meet Government expenditures, not including statutory expenditures, and for the appropriation of those sums to the purposes specified in the Bill.

50. Any sum authorised, pursuant to a resolution by the National Parliament under section 103(1) of the Constitution, for carrying on the services of the Government in advance of the Appropriation Act for a financial year shall be set off against the amounts provided for in the Appropriation Act upon its coming into operation.

Advance
appropriation
set off against
Appropriation
Act

51 Pursuant to Section 102 (3) of the Constitution, the Minister with the prior approval of Cabinet, may seek supplementary appropriations from Parliament (in addition to the Annual Appropriation Act) for -

Supplementary

- (a) expenditures in excess of the sum appropriated for a purpose by an Appropriation Act; or
- (b) a purpose for which no sum has been appropriated,

if the Minister is satisfied that an urgent and unforeseen need has arisen and that issues must be authorised from the Consolidated Fund to meet that need.

52. (1) The Minister shall table in the National Parliament and officially publish the following national budget review reports at the following times -

Budget review
reports

- (a) not later than seven months after the start of the financial year, a review of the budget's execution for the first six months of the financial year; and
- (b) within four months after the end of the financial year, a report giving an overview of the budget's execution for the whole financial year

(2) The budget review reports shall be based on the same reporting formats as the annual budget and provide the prescribed details, contents, scope and coverage.

(3) The Minister shall identify and explain in Cabinet and the National Parliament any departure from the standards referred to in subsection (2).

DIVISION 3 - VARIATION OF APPROPRIATED AMOUNTS

Meaning of
"virements"

53. In this Division, "virements" means the simultaneous reduction in one subhead of a Government agency's budget and a corresponding increase in another subhead of the same agency's budget.

Virements
within sub-
heads or
programs

54. (1) The Minister may, on application by an accountable officer of a Government agency, approve a virement within a head of expenditure of the agency's budget.

(2) The Minister may, if satisfied that it is in the public interest to do so, determine in writing that an amount allocated to a sub-head or program for a head of expenditure included in an Appropriation Act be reallocated -

- (a) to another sub-head or program for that head; or
- (b) to a new sub-head or program for that head.

(3) The determination shall not -

- (a) Result in a change to the total amount appropriated for the relevant head of expenditure by the Appropriation and any other Supplementary Acts; and
- (b) Extend any time limit that applies to appropriations under the Appropriation and any other Supplementary Acts.

(4) The Minister shall not approve virements between personal emoluments, the development budget and other charges within the head of a Government agency's budget.

(5) The Minister shall not approve virements between development expenditure budget provisions within the development budget of any Government agency.

(6) The Minister shall table in the National Parliament every determination made under this section and officially publish it within 30 days after it is made.

PART 7 – AUTHORISATION TO EXPEND PUBLIC MONEY

55. No money shall be withdrawn from the Consolidated Fund except under the authority of a general warrant issued by the Minister to authorize the Secretary -

Issues from
Consolidated
Fund

- (a) to make issues from the Consolidated Fund; or
- (b) to make a statutory expenditure authorised by an Act.

56. (1) The Minister may issue a general warrant for the following purposes, in addition to the purposes set out in section 101 of the Constitution -

Issuance of
general warrant

- (a) To repay monies received in error into the Consolidated Fund; or
- (b) To pay such sums as may be required for any advance, refund, rebate or drawback where such payment is provided for in this Act or the subsidiary legislation.

(2) The Minister may suspend, withdraw or limit any warrant or any other authority issued by the Secretary if he is satisfied that such action is required by reason of financial exigencies or in the public interest.

57. (1) The Secretary may issue an accounting warrant authorizing an accountable officer to incur expenditures for the purposes, up to the limit, and subject to the conditions contained therein.

Issuance of
accounting
warrant

(2) Despite subsection (1), the Secretary may only issue an accounting warrant that states the purposes and amounts as appropriated and reflected in the general warrant and any contingency warrant issued by the Minister.

(3) The Accountant-General may not make any payment or accept any charge in his accounts, and an accountable officer may not incur any commitment or expenditure, unless authorized by -

- (a) an accounting warrant; or

- (b) any contingency warrant issued by the Minister.

Considerations
for issue of
contingency
warrant

58. (1) The Minister may only consider an application for a contingency warrant if the following conditions are met-

- (a) an urgent and unforeseen need has arisen to authorize an issue from the Consolidated Fund;
- (b) no such issue has been authorised by an Appropriation Act or Supplementary Appropriation Act for the relevant financial year; and
- (c) the issue cannot be delayed without detrimental effects to the public interest.

(2) Subject to subsection (1) and subsequent approval by Cabinet, the Minister may, in accordance with section 103(2) of the Constitution, issue a contingency warrant to the Secretary authorizing him to issue an advance from the Consolidated Fund in anticipation of the introduction of a Supplementary Appropriation Bill.

(3) Upon receipt of a contingency warrant, the Secretary may authorize the expenditure of the additional funds by the issue of an accounting warrant.

(4) The Minister shall table in the next sitting of National Parliament every contingency warrant issued under this section and officially publish it within 30 days after it is tabled.

Departmental
warrant

59. (1) With the approval of the Secretary, an accountable officer to whom authority has been given under an accounting warrant may authorize another accountable officer to incur expenditure on his behalf, within the head of expenditure under his control, if such authority is necessary for the efficient and effective performance of any of the purposes for which the expenditure has been approved.

(2) An accountable officer shall make an authorisation under subsection (1) by issuing a departmental warrant to the accountable officer, subject to the prior approval of the Secretary.

(3) The departmental warrant must contain full details of the authorised purpose of the expenditure, the maximum amount of expenditure that may be incurred, and the account codes which serve the purpose for which the warrant is being issued.

(4) Departmental warrants shall not be issued to incur expenditures that can conveniently be incurred by the issuing accountable officer himself under normal payment procedures.

(5) An accountable officer to whom a departmental warrant is issued shall not re-allocate or sub-allocate any part of the authority of the warrant.

(6) An accountable officer may not authorise a departmental warrant that is inconsistent with the purpose and amounts authorised for expenditure by an accounting warrant.

(7) Copies of all departmental warrants shall be forwarded by accountable officers to the Secretary, the Accountant General and the Auditor-General.

60. (1) Subject to this section, the Minister may by warrant under his hand authorize the Secretary to make disbursements of monies forming part of the Consolidated Fund, or other public funds, for the purpose of making an advance -

- (a) on behalf of and recoverable from other Governments;
- (b) to or on behalf of a Government agency where in the opinion of the Minister such advance is in the public interest and will be repaid within twelve months from the date on which it is made;
- (c) to or on account of any special fund, where such advances are recoverable before the close of the financial year in which they are made;

Minister may
authorize
advances

- (d) to an accountable or accounting officer for prescribed purposes or under the prescribed terms, conditions and limitations; and
- (e) to meet expenditure against an authorized loan in accordance with Part 8 in anticipation of the receipt of any instalment of such a loan.

(2) The total of the sums disbursed for the purpose of making advances shall not exceed in aggregate at any one time, after deducting repayments and monies on deposit, an amount approved by an Appropriation Act.

(3) Where the Minister exercises his power to issue an advance warrant under this Act, he shall officially publish a notice not later than 30 days after the issuing of the warrant to the Secretary, specifying the details of the warrant.

Duration of appropriations and warrants.

61. Every appropriation by the National Parliament of public monies for a financial year and every warrant or other authority issued under this Act or the subsidiary legislation in respect of such financial year shall lapse and cease to have effect at the close of the financial year, unless stated otherwise by this Act or the subsidiary legislation.

Notice of revocation or amendment of warrant

62. Where the Minister exercises his power to revoke or amend a warrant issued under this Act, he shall officially publish a notice not later than 30 days after the revocation or amendment, specifying the amount and the head or sub-head or any program that is affected.

PART 8 – GOVERNMENT BORROWING, ON-LENDING AND GUARANTEES

Definitions in this Part

63. In this Part,

“Government borrowing” means borrowing by a Government agency, a provincial government, Honiara City Council or a state owned enterprise that includes the contracting or guaranteeing of domestic and foreign debt through loans, financial leasing, on-lending or any other type of borrowing, including concessional and non-concessional borrowing, whatever the source;

“Government guarantee” means a commitment by the Government to repay the financial liabilities of another entity should that entity default;

“Government on-lending” means a loan issued by or on behalf of the Government to an entity in the private or public sector, using public money or funded by Government borrowing.

64. (1) Before exercising his powers under this Part to approve any Government borrowing, on-lending or guarantee, the Minister shall seek the advice of the debt management advisory committee established under section 65.

Minister to seek advice before exercising powers under this Part

(2) The Minister may also seek such advice on borrowing from such persons or authorities as he deems appropriate, including advice on as to the viability of a particular borrowing undertaking.

(3) Before approving any borrowing, the Minister shall be satisfied that arrangements are in place and provision has been made to ensure that the loan will be used in the most prudent manner and for the intended purpose.

65. (1) The Minister shall establish a debt management advisory committee, comprising executives from the Ministry of Finance, the Central Bank of Solomon Islands, the Ministry of Development Planning and Aid Coordination and other Government Agencies as are prescribed.

Establishment of debt management advisory committee

(2) The debt management advisory committee shall have such other roles and functions as are prescribed.

66. (1) The Minister may borrow money on behalf of the Government.

Minister's authority to borrow

(2) The Minister shall, having regard to the Government's medium term fiscal strategy and public debt management strategy, determine the borrowing limit as part of the Annual Appropriation Act for any financial year, including any Government borrowing, on-lending or guarantee.

(3) Provincial governments, state owned enterprises and the Honiara City Council shall require the consent of the Minister before undertaking Government borrowing.

(4) The Minister may for a specified period delegate to an accountable officer in writing the technical and other preliminary tasks involved in preparing for specifically named borrowings or other arrangements.

(5) The Minister shall report, in the budget statement presented in the National Parliament in the following financial year, all Government borrowings in the financial year and the terms and conditions thereof.

Government
on-lending

67. (1) On application by an accountable officer, the Minister may, after consultation with the debt management advisory committee established under section 65, approve any Government on-lending that meets the prescribed terms and conditions.

(2) The terms and conditions for on-lending shall be specified in the on-lending agreement to be signed by the parties, including any additional fees or charges that may be imposed as part of the cost and risk of administering and processing the on-lending.

(3) The Minister shall report, in the budget statement presented in the National Parliament in the following financial year, all Government on-lending activities in the financial year and the terms and conditions thereof.

Government
guarantees

68. (1) The Minister may, after consultation with the debt management advisory committee established under section 65, guarantee the repayment of the principal of, and the payment of interest and other charges on, any loan raised either within or outside Solomon Islands.

(2) The Minister may only guarantee the borrowing if -

(a) he approves the purpose of the loan and is satisfied that the servicing of the loan is within the capacity of the borrower; and

(b) he is satisfied that provision has been made-

- (i) for appropriating and duly applying the loan for the purpose referred to in paragraph (a);
- (ii) the risk involved and the capability of the borrower to repay the principal and interest under the agreement;
- (iii) to ensure that any part of the loan which cannot be applied for such purpose shall either not be drawn or shall be applied to such other purposes as the Minister may approve;
- (iv) for charging on the income and assets of the borrower, or any other income which may be made available for the purpose, the principal of and the interest and other charges on the loan, or if such charging is not in the opinion of the Minister practicable, otherwise to ensure the repayment of the said principal, interest and charges;
- (v) for charging on the income and assets of the borrower the repayment to the Government of any sum paid out of the general revenues under subsection (3) with such interest on the said sum as may be specified by the Minister, or if such charging is not in the opinion of the Minister practicable, otherwise to ensure the repayment of the said sum and interest; and
- (vi) for raising or securing the raising of sufficient money to meet all the charges referred to in this subsection.

(3) The Minister may impose such fees and charges on a Government guarantee as he deems necessary to cover the cost of administering it.

(4) Any sum required for fulfilling a Government guarantee given under this section shall be charged on and

paid out of the Consolidated Fund and any sum received by way of any repayment of any sum so paid shall be paid into and form part of the Consolidated Fund.

Debt servicing
account

69. (1) The Minister shall maintain and prescribe signatories for a debt servicing account, being part of the Consolidated Fund, for the purpose of discharging legally incurred financial obligations.

(2) The Minister shall set aside a predetermined proportion of the Government's domestic own source revenue to be transferred into the debt service account for the purpose of discharging statutory debt and that proportion shall be included in the annual Appropriation Bill for the financial year.

(3) Withdrawals or transfer from the debt servicing account shall be for the purpose of discharging statutory debt, as may be prescribed.

Prohibitions on
Government
borrowing,
guarantee, or
on-lending

70. (1) The Minister shall not approve any Government borrowing, guarantee or on-lending unless -

(a) The relevant Government agency, state owned enterprise, provincial government or the Honiara City Council or other relevant entity has provided evidence that-

(i) its audited financial statements are current and of good standing;

(ii) its membership subscription and contributions for employees to the National Provident Fund are up to-date; and

(iii) it complies with the tax laws and regulations in force and has no outstanding unpaid tax liabilities during the period in consideration; and

(b) the proposing Government agency, state owned enterprise, provincial government or the Honiara City Council or other proposing entity has provided such additional information and met such additional

requirements as the Minister may impose from time to time.

71. (1) The Minister shall not borrow money except in accordance with the provisions of an Act or a resolution of the National Parliament.

Restrictions on Minister's authority to borrow

(2) The Minister shall not borrow to finance planned budget deficits in the recurrent expenditure.

(3) The Minister shall only enter into new borrowing for high priority infrastructure and development initiatives in line with the Government's development and debt policies.

(4) Subsection (3) does not apply where short term borrowing is necessary to deal with exceptional circumstances like a major economic shock or a natural disaster.

PART 9 — PROCUREMENT AND USE OF PUBLIC RESOURCES

72. (1) The Minister of Finance shall prepare rules and regulations for procurement that are consistent with the principles of this Act and internationally accepted best practices.

Regulation, planning, prioritising and methods of procurement

(2) Accountable officers shall plan and prioritise their procurement activities with a view to achieving maximum value for public expenditure so that procurement transactions are carried out within the Appropriation Act and subsidiary legislation, given the scarcity of financial resources, other limitations and at the most favourable time.

(3) Accountable officers shall comply with the prescribed procurement planning, tendering and contracting processes.

73. (1) Every accountable and accounting officer shall conduct Government procurement activities in a way that ensures prudent spending and use of public resources and in accordance with the prescribed procedures.

Public procurement responsibilities

(2) No accountable or accounting officer shall conduct any Government procurement activity so as to—

- (a) undermine competitive purchasing or do anything else to undermine such purchasing;
- (b) give unfair advantage to any bidder;
- (c) falsify a quotation to bidders; or
- (d) apportion a procurement transaction into parts to avoid the procurement rules.

Compliance
with prescribed
procedures

74. Every accountable and accounting officer shall comply with the prescribed procedures for Government procurement activities, including procedures respecting -

- (a) publication of procurement notices;
- (b) invitations to bid, bid submissions, minimum bidding periods and standard bidding documents;
- (c) bid opening and bid evaluation; and
- (d) publication of the bid award.

Use of public
resources

75. Every accountable and accounting officer shall -

- (a) manage, use and account for all public resources under his custody with a high degree of care and in the prescribed manner;
- (b) record all public stores and public property under his custody in proper books of accounts and maintain an Asset Register in the prescribed format; and
- (c) comply with the prescribed procedures related to the handling of public resources in terms of requisition, ordering, accounting, custody and disposal.

PART 10 - PREPARATION OF PUBLIC ACCOUNTS

Monthly
financial reports

76. (1) Every accountable officer for a Government agency shall submit monthly financial reports to the Accountant-General as soon as practicable but no later than the end of the period specified in, or prescribed by this Act.

(2) The Accountant-General shall prepare monthly consolidated reports based on the financial reports referred to in subsection (1) and submit them to the Secretary, including such additional information as the Secretary directs.

(3) The Accountant-General shall submit his monthly consolidated expenditure reports in such form as may be specified by the Minister.

77. (1) The Accountant-General shall, within a period of six months after the end of each financial year, or such longer period as the National Parliament may by resolution appoint, prepare and transmit to the Minister and the Auditor-General annual financial statements according to standards set by the Minister and as may be prescribed, including:

Submission of
annual
Accounts and
financial reports:

- (a) a balance sheet showing the assets and liabilities of the Government;
- (b) a statement of the source and application of funds for the Consolidated Fund showing the revenues, expenditures and financing of the fund for the financial year;
- (c) a statement of revenue and expenditure, being a summary of all the statements signed by accountable officers under subsection (2)(a) and (2)(c);
- (d) a statement of the amounts outstanding at the end of the financial year in respect of the public debt;
- (e) a statement of the amounts guaranteed by the Government at the end of the financial year in respect of bank overdrafts, loans, public loan issues and other contingent liabilities;
- (f) a statement of the amount outstanding at the end of the financial year in respect of loans issued by the Government;
- (g) a statement of arrears of revenue for each revenue head, being a summary of the statements of arrears of revenue signed by accountable officers under subsection (2)(d);

- (h) a statement of commitments outstanding for the supply of goods and services for each head at the end of the financial year, being a summary of the amount included for such commitments in the statement signed by accountable officers under subsection (2)(b);
- (i) a statement of public stores and other assets for each head, being a summary of the Statement of assets signed by the accountable officers under subsection (2)(e); and
- (j) such other statements and in such form as the Minister may from time to time require.

(2) Every accountable officer for a Government agency shall, within a period of four months after the end of each financial year, prepare, sign and transmit to the Accountant-General and the Auditor-General in respect of the past financial year and in respect of the heads, revenues and monies for which the accountable officer is responsible, annual financial statements according to standards set by the Minister and as may be prescribed, including:

- (a) an appropriation account, showing the services for which the monies expended were appropriated for each head, the sums actually expended on each service, and the state of each head compared with the amount appropriated for that head by the National Parliament;
- (b) a statement, in the prescribed form, containing the amount of commitments outstanding for the supply of goods and services at the end of the financial year and such other information as the Minister may require;
- (c) a statement of revenues received, in the prescribed form, showing the amount contained in the estimates of revenue for each source of revenue and the amount actually collected, and containing an explanation, for any variation, between the revenues actually collected and the amount estimated;

- (d) a statement of arrears of revenue showing the amount outstanding at the end of the financial year for each source of revenue and containing such information, in the prescribed form, or a nil return if appropriate;
- (e) a statement of assets containing details and values of all unallocated public stores under the accountable officer's control at the end of the financial year together with the details and values of such other classes of assets under the accountable officer's control as are prescribed;
- (f) a statement of performance in providing each class of outputs provided during the year, being a statement that-
 - (i) compares that performance with the forecast of the performance contained in the Estimates laid before the National Parliament under subsection (1)(b); and
 - (ii) gives particulars of the extent to which the performance criteria specified in that Estimates in relation to the Provision of those outputs were satisfied.

(3) Every accountable and accounting officer administering a fund or balances established or deemed to have been established under Part 5 or under section 100 of the Constitution, and any officer administering any agency, trust or other fund or account not provided for in this section, shall prepare, sign and transmit to the Accountant-General and Auditor-General an account of that agency, fund or account in the prescribed form.

- (4) All accounts submitted under this section shall -
- (a) be prepared in accordance with standards set by the Minister; and
 - (b) state the bases of accounting used in their preparation and identify any significant

departures from them and the reason for such departures.

PART 11 - MISCELLANEOUS PROVISIONS

Managing future
commitments

78. No accountable or accounting officer may enter into obligations that will hinder future government revenue streams, or dispose of assets or create a future liability without the prior approval of the Minister.

Recovery of
Government
debt

79. (1) Every accountable and accounting officer shall pursue recovery of all debts or other amounts owing to the Government for which he is responsible and remit them to the Consolidated Fund.

(2) Despite subsection (1), an accountable or accounting officer may abandon recovery if the Minister has agreed in writing that the debt should not be recovered because-

- (a) it is not legally recoverable; or
- (b) is not economical to pursue recovery.

(3) The accountable or accounting officer shall ensure that he follows the prescribed procedures in recovering a debt or other amount from a debtor who is an accountable, accounting or public officer.

Abandonment
of claims and
write-off of
public resources

80. (1) The National Parliament may, by resolution, authorize the Minister to abandon and remit any claims by or on behalf of the Government and to write-off losses of public resources, to the extent specified in the resolution.

(2) The Minister may, by signed notice, delegate to any accountable or accounting officer any power that the Minister is authorized to exercise by a resolution made under subsection (1).

Government
gifts and
donations

81. (1) The Government may receive (as recipient or grantee) or give (as donor or grantor) public gifts either in material, monetary value or in kind from or to any person, public entity, a foreign government, private enterprise, not for profit organization or religious institution, in the manner consistent with and according to prescribed procedures.

(2) The Minister or an accountable or accounting officer to whom the Minister delegates in writing his power under this section may only exercise a power under this section if the purposes and conditions for giving or receiving-

- (a) are consistent with the development goals of the people of Solomon Islands;
- (b) do not interfere with national security and internal affairs of the government;
- (c) promote the social, economic and financial benefits that outweigh the costs of making the commitment; and
- (d) generally promote the principles of transparency and accountability.

(3) The accountable or accounting officer of a Government agency that receives or makes a donation under this section shall enter the amount of the donation in the proper books of accounts, valued at the time of the donation in Solomon Island dollars.

82. The Minister may, in consultation with the Secretary and the Accountant General, make regulations respecting-

- (a) public procurement; (b) public accounts;
- (c) public stores; (d) public funds;
- (e) the national budget; and
- (f) any other matter in respect of which regulations are necessary or expedient, in the Minister's **opinion**, for carrying out the objects, purposes and provisions of this Act.

83. The Minister may make regulations, as provided in section 66 of the *Interpretation and General Provisions Act* (Cap,SS) constituting offences for breach of a provision of this Act or the subsidiary legislation and imposing penalties for the commission of such offences.

PART 12 - MISCONDUCT IN OFFICE AND SURCHARGES

Misconduct in
Office

84. (1) An accountable, accounting or public officer who, in return for any personal material or immaterial gain, or for that of any other person -

- (a) fails to collect any monies owing to the Government, the collection of which he is or was responsible;
- (b) is responsible for any improper payment of public monies or for any payment of public monies which is not duly vouched;
- (c) is negligent in relation to, or responsible for any deficiency in, the destruction, damage or loss of any public monies, stamps, securities, public stores or other public property; or
- (d) is responsible for any financial loss to the Government through failure to obey any order or instructions properly given to him,

is guilty of misconduct in office.

(2) An accountable, accounting or public officer who, in return for any personal material or immaterial gain, or for that of any other person-

- (a) fails to carry out a duty set out in section 17;
- (b) uses a government bank account or uses, keeps or pays public money contrary to section 39, 40 or 41;
- (c) conducts a Government procurement activity contrary to section 72 or 73 or fails to comply with the prescribed procedures for Government procurement contrary to section 74; or

- (d) fails to carry out his duties in respect of public resources or to comply with the prescribed procedures contrary to section 75 or to pursue recovery of a Government debt under section 79;

is guilty of misconduct in office.

85. (1) An accountable, accounting or public officer who is guilty of misconduct in office under section 84 is deemed to be guilty of an act of misconduct under Part III of the *Leadership Code (Further Provisions) Act 1999* and Parts IV (Complaints and Investigation) and V (Proceedings in the High Court) of that Act apply in respect of such misconduct.

Sanctions for
misconduct in
office

(2) A public officer who is guilty of misconduct in office under section 84 is, in addition to any penalty to which he may be subject by virtue of subsection (1), subject to disciplinary sanctions under the Public Service Regulations 1998.

86. (1) If it appears to the Minister that any accountable, accounting or public officer has committed an act or omission that would constitute misconduct in office under section 84, the Minister shall send a written notice to the officer giving particulars respecting the act or omission and requesting an explanation.

Surcharge and
notification

(2) If, within 30 days from the date of the notice, the officer has not provided an explanation satisfactory to the Minister with regard to the act or omission referred to in the notice, the Minister shall –

- (a) assess a surcharge against the officer in an amount not exceeding-
- (i) the amount not collected, improperly paid or not duly vouched;
 - (ii) the amount of deficiency or loss, the value of the property destroyed or lost, the cost of damage or the amount of the financial loss, resulting from the act or omission; and
- (b) notify the officer of the surcharge.

(3) No officer may be surcharged under this section unless the Minister has notified him of the conduct in respect of which the surcharge is intended to be made and requested the officer to furnish an explanation with regard to the conduct.

(4) The Minister may withdraw the surcharge if it appears to him that the surcharge has been made by mistake or that the circumstances do not justify the surcharge.

Appeal against
surcharge

87. (1) Any officer aggrieved by a surcharge assessed against him under section 86 may appeal to the High Court within 30 days from the date that he was notified of the surcharge under that section.

(2) On any appeal under subsection (1), the High Court may confirm, vary or quash the surcharge.

Recovery of
amount
surcharged

88. (1) The amount of any surcharge which has not been withdrawn by the Minister or quashed by the High Court is a debt due to the Crown and, despite any law to the contrary, the Minister may –

- (a) if the amount of the surcharge is greater than the annual salary of the accounting, accountable or public officer, direct the Attorney General to sue for and recover the the surcharge in a court of competent jurisdiction; or
- (b) if the amount of the surcharge is less than the annual salary of the accounting, accountable or public officer, direct that the amount be recovered by the Government from the salary, allowance or pension payable to the officer surcharged.

(2) Where the Minister directs that the amount surcharged be recovered under subsection (1)(b), the recovery shall be made-

- (a) by deducting from the officer's salary or allowance in equal monthly instalments an amount not exceeding one-third of his net monthly salary or allowance; and
- (b) by withholding an amount from the officer's pension, or deducting such part thereof, as is

sufficient to satisfy the amount of the surcharge that remains unrecovered.

(3) Where the officer surcharged ceases to be an accountable, accounting or public officer, the Attorney General may recover the amount surcharged from the officer in any court of competent jurisdiction.

(4) In an action under subsection (1)(a) or (3), the Attorney General need only prove, in the absence of proof to the contrary, that the officer was an accountable, accounting or public officer and that-

- (a) in the case of an action in respect of a loss or deficiency in public monies -
 - (i) the officer was guilty of misconduct in office under section 84, in relation to the loss or deficiency of the monies; and
 - (ii) the amount of the loss or deficiency;
or
- (b) in the case of an action in respect of economic loss or of loss or destruction of, or damage to, public property-
 - (i) the property was at the material time in the charge of the officer;
 - (ii) the officer was guilty of negligence or misconduct which caused or contributed to the loss, or the loss of, destruction of, or damage to the property; and
 - (iii) the value of the property or amount of the loss or damage, as the case may be.

(5) Where, in an action referred to in subsection 4(b), the officer proves that his negligence or misconduct was not the sole cause of the loss, destruction or damage, the Government shall be entitled to judgement for so much only of the cost of the loss, destruction or damage as is just and

equitable having regard to the contribution made by the officer to that loss, destruction or damage.

PART 13 – REPEAL AND SAVING PROVISIONS

Repeal of Parts
of *Public
Finance and
Audit Act*

89. Subject to section 90, the following parts of the *Public Finance and Audit Act* (Cap. 120) are repealed -

- (a) Parts II to V;
- (b) Parts IX and X; and
- (c) the Schedule.

Saving
provisions

90. (1) Any acts performed or agreements entered into under the repealed Parts of the *Public Finance and Audit Act* (Cap. 120) shall continue to have force and effect as if they had been performed or entered into under this Act.

(2) The following shall continue to apply until such time as new Orders and regulations are made under the Act-

- (a) the Audit (Application of Part VIII) Order;
- (b) the Examination and Audit (Application of Part VIII) Order;
- (c) the financial instructions made under the repealed Act, subject to such modifications and adaptations as may be necessary for conformity with this Act.

SCHEDULE
(Section 24(5))

SPECIAL FUNDS

Noro Fuel Depot Sinking Fund
Civil Aviation Fund
National Disaster Fund
Correctional Fund
Telecommunications Fund
National Transport Fund
Educational Rehabilitation Fund



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