

CAYMAN ISLANDS



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A BILL FOR A LAW TO AMEND THE PUBLIC MANAGEMENT AND FINANCE LAW (2013 REVISION) TO MAKE BETTER PROVISIONS ABOUT TRANSACTIONS FOR WHICH APPROPRIATION IS NOT REQUIRED, TO MORE CLEARLY PROVIDE FOR THE FUNCTIONS OF THE MINISTER OF FINANCE, THE FINANCIAL SECRETARY, THE CHIEF OFFICER OF FINANCE AND OF OTHER CHIEF OFFICERS, THE DIRECTOR OF INTERNAL AUDIT AND OF CHIEF FINANCIAL OFFICERS, TO PROVIDE FOR CLEARER AND SIMPLER PRE-ELECTION AND FINANCIAL UPDATES, TO PROVIDE FOR GOVERNMENT QUARTERLY REPORTS, TO STREAMLINE AND UPDATE PROVISIONS ABOUT ANNUAL REPORTS, TO PROVIDE FOR A MANUAL ABOUT COMPLIANCE WITH GENERALLY ACCEPTED ACCOUNTING PRACTICE BY ENTITIES, TO ALLOW FOR ADDITIONAL AND VOLUNTARY DEBT PRINCIPAL REPAYMENTS WITHOUT INCREASING THE DEBT SERVICING RATIO, TO CHANGE CERTAIN DOCUMENTS FROM ANNUAL TO TWO-YEARLY, TO UPDATE CERTAIN REFERENCES IN THE LAW; AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED MATTERS

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) (NO. 2)
BILL, 2016**

MEMORANDUM OF OBJECTS AND REASONS

This Bill amends the Public Management and Finance Law (2013 Revision).

Clause 1 provides for the short title and commencement of the resulting Law.

Clause 2 amends section 2 to replace the definition “entire public sector” and to insert several new definitions, most notably “Chief Officer of finance”, “Financial Secretary” and “published by notice in the Gazette”. The clause also omits the unnecessary definition “Government”, which is already covered by section 124 of the Constitution and section 3 of the Interpretation Law (1995 Revision). The definition “entire public sector” is to the same effect as the existing one, but is simplified. The clause also amends section 2 consequentially on other amendments.

Clause 3 amends section 7 to include a necessary cross reference previously overlooked.

Clause 4 amends section 11 to provide that supplementary Appropriation Bills for authorisations of transactions in advance of appropriations are to be introduced in the Legislative Assembly before the end of the financial year to which those transactions relate.

Clause 5 amends section 12 to provide that supplementary Appropriation Bills for advance approval of executive expenses and capital expenditure are to be introduced before the end of the financial year to which those expenses relate.

Clause 6 relocates the effect of existing sections 13(3) and (4) (about the Legislative Assembly’s power to extend certain periods under the Law) as a new section 12A, in Part II. Those subsections are currently incorrectly located. Section 12A will also add a power for the Legislative Assembly to extend the period required under the Law to introduce a Bill. The clause also includes changes consequential on other amendments.

Clause 7 amends section 13 to make an amendment consequential on other amendments, require a supplementary Appropriation Bill for emergency expenditure and to repeal subsections (3) and (4) (which are to be relocated, as mentioned for clause 6).

Clause 8 amends section 14 to allow for additional and voluntary debt principal repayments without increasing the debt servicing ratio.

Clause 9 amends section 24 to change the requirement to present a plan and estimates for each financial year to each budget period. This is because, under the Public Management and Finance Amendment Law, 2015, the plan and estimates document were changed from being annual to two-yearly.

Clause 10 amends section 26 to provide that pre-election economic and financial updates are to be for the next financial year, rather than two financial years and that they are to include the most recent Government quarterly report under new section 28.

Clause 11 replaces section 29 with new sections 29 and 29A. New section 29 will require the Chief Officer of finance to prepare unaudited quarterly reports for the core government, provide for Cabinet review of them and for their presentation to the Legislative Assembly. New section 29A will require the Chief Officer of finance to prepare Government annual reports and provide for the auditing of their financial statements and schedule of appropriations, Cabinet review of them and for them to be presented to the Legislative Assembly.

Clause 12 amends section 32 to make amendments consequential on the change in functions under the amendments to section 54 from the ministry of finance to the Chief Officer of finance and for new section 29.

Clause 13 inserts new section 38A, which will require ministries and portfolios to have a chief financial officer. The clause also provides for that officer's functions.

Clause 14 makes amendments to section 41(5) consequential on amendments to section 54.

Clause 15 amends section 42 to clarify that ministry and portfolio budget statements are two-yearly and that the procedures for their making only need to be done once, for the first year of each statement. The clause also omits provisions which will be covered by new sections 82 and 83.

Clause 16 replaces section 44 about ministry and portfolio annual reports. Replacement section 44 will clarify and streamline the procedures and timelines for making the reports.

Clause 17 amends section 49 to change purchase agreements for statutory authorities and Government entities from annual to two-yearly. The clause also omits provisions which will be covered by new sections 82 and 83.

Clause 18 amends section 50 to change ownership agreements for statutory authorities and Government entities from annual to two-yearly. The clause also omits provisions which will be covered by new sections 82 and 83.

Clause 19 replaces section 52 about statutory authority and Government entity annual reports. Replacement section 52 will clarify and streamline the procedures and timelines for making the reports.

Clause 20 replaces the Part heading to Part VI and inserts new sections 53A and 53B. New section 53A will provide for the Financial Secretary's functions (other than for the one already provided for under the Constitution). New section 53B will provide for who is the Chief Officer of finance and for that officer's functions.

Clause 21 amends section 54 to change functions under that section from the ministry of finance to the Chief Officer of finance.

Clause 21 also adds a function of preparing and publicising a manual about how, under section 4, entities are to comply with generally accepted accounting practice. The manual will replace certain provisions of the Regulations which are out-of-date and will be repealed. The manual is a better means of providing detailed advice about the practice as the relevant international standards change frequently. The clause also adds functions for the Chief Officer of finance to monitor compliance with the Law generally, to report contraventions and recommend action about such contraventions and for Regulations under the Law or a job description under the Public Service Management Law (2013 Revision) to confer additional detailed functions on the Chief Officer of finance.

Clause 22 amends section 55 to make an amendment consequential on the amendments to section 54 and to correct an error.

Clause 23 replaces section 56 (about the power to request information for Government reporting) with sections 56 and 56A and a new Part VIA heading for the Director of Internal Audit (which office the existing Law mentions in section 35(i), but does not provide for or explain).

Replacement section 56, in line with amended section 54, will change the repository of the power to require information from the Minister of Finance to the Chief Officer of finance. It also clarifies that the power applies for all of the functions under section 54 and that the Chief Officer of finance can also require

entities to prepare and give documents needed for the functions. Rather than the Governor, the Minister of Finance is to be the arbiter on whether or not requested information or documents are relevant to the functions of the Chief Officer of finance.

New section 56A will provide for there to be a public officer called the Director of Internal Audit and for an Internal Audit Unit of public officers to help the Director perform the Director's functions. That section will also provide for the Director's functions and for a job description to confer other functions on the Director. The Audit Office's management systems are to be independent of review by the Director.

Clause 24 amends section 57 to clarify the powers of the Director of Internal Audit and that Internal Audit Unit officers authorised by the Director can also exercise those powers.

Clause 25 amends section 60 to make amendments consequential on the new and replacement sections 29, 29A, 44 and 52.

Clause 26 amends section 69 to provide that, for auditing the Audit Office under section 44, the independent auditor may also conduct periodic internal audits and control reviews of that office.

Clause 27 replaces the subheading "Transitional Arrangements, Repeals and Consequential Amendments" in Part VIII and repeals sections 82 and 83 and replaces all of them with a new subheading and new sections 82, 83 and 84.

Existing sections 82 and 83 are spent transitional provisions that are no longer needed. Section 25(2) of the Interpretation Law (1995 Revision) will save their ongoing operation for things that have already happened.

Replacement section 82 will group together all of the documents under the Law that become public documents on their notification in the Gazette or presentation to the Legislative Assembly. Replacement section 83 will require the relevant Chief Officer to publicly notify those documents on an appropriate Government website for public access to them. New section 84 will be a transitional provision to defer the new provisions about Government quarterly returns from applying until the first quarter of 2018.

Clause 28 amends Schedule 4 to correct an error and to omit a spent provision.

Clause 29 makes miscellaneous consequential amendments for the new definition "Chief Officer of finance", to update "Governor in Cabinet" to "Cabinet", to correct some minor errors, to repeal sections 23(3), 24(6), 25(4), 26(3) (all of

which will be covered by new sections 82 and 83) and to update a reference to the “Portfolio of Internal and External Affairs”.

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) (NO. 2)
BILL, 2016**

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of section 2 of the Public Management and Finance Law (2013 Revision) - definitions
3. Amendment of section 7 - appropriations required for various transactions
4. Amendment of section 11 - authorisation in advance of appropriation
5. Amendment of section 12 - advance approval of executive expenses and capital expenditure
6. Insertion of subheading - extension power in emergency or for exceptional circumstance and section 12A - power to extend
7. Amendment of section 13 - emergency expenditure
8. Amendment of section 14 - responsible financial management
9. Amendment of section 24 - plan and estimates
10. Amendment of section 26 - pre-election economic and financial update
11. Repeal and substitution of section 29 - government annual report and insertion of section 29A - Government Annual Reports
12. Amendment of section 32 - duties of Minister of Finance
13. Insertion of section 38A - chief financial officer
14. Amendment of section 41 - further duties and powers of, and prohibitions on, ministries and portfolios
15. Amendment of section 42 - budget statement
16. Repeal and substitution of section 44 - ministry or portfolio annual report
17. Amendment of section 49 - annual purchase agreement
18. Amendment of section 50 - annual ownership agreement
19. Repeal and substitution of section 52 - statutory authority or government company annual report
20. Deletion and substitution of Part VI heading - ministry responsible for finance

21. Amendment of section 54 - duties of the ministry responsible for finance
22. Amendment of section 55 - executive bank account
23. Repeal and substitution of section 56 - power to request information for Government reporting
24. Amendment of section 57 - powers of internal audit unit
25. Amendment of section 60 - powers and duties of auditor general
26. Amendment of section 69 - annual report of audit office
27. Repeal and substitution of subheading - transitional arrangements, repeals and consequential amendment and sections 82 - transition of accounts and 83 - transition to responsible financial management
28. Amendment of Schedule 4 - financial statements
29. Miscellaneous consequential amendments - to update certain references - for insertion of sections 82 and 83

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A BILL FOR A LAW TO AMEND THE PUBLIC MANAGEMENT AND FINANCE LAW (2013 REVISION) TO MAKE BETTER PROVISIONS ABOUT TRANSACTIONS FOR WHICH APPROPRIATION IS NOT REQUIRED, TO MORE CLEARLY PROVIDE FOR THE FUNCTIONS OF THE MINISTER OF FINANCE, THE FINANCIAL SECRETARY, THE CHIEF OFFICER OF FINANCE AND OF OTHER CHIEF OFFICERS, THE DIRECTOR OF INTERNAL AUDIT AND OF CHIEF FINANCIAL OFFICERS, TO PROVIDE FOR CLEARER AND SIMPLER PRE-ELECTION AND FINANCIAL UPDATES, TO PROVIDE FOR GOVERNMENT QUARTERLY REPORTS, TO STREAMLINE AND UPDATE PROVISIONS ABOUT ANNUAL REPORTS, TO PROVIDE FOR A MANUAL ABOUT COMPLIANCE WITH GENERALLY ACCEPTED ACCOUNTING PRACTICE BY ENTITIES, TO ALLOW FOR ADDITIONAL AND VOLUNTARY DEBT PRINCIPAL REPAYMENTS WITHOUT INCREASING THE DEBT SERVICING RATIO, TO CHANGE CERTAIN DOCUMENTS FROM ANNUAL TO TWO-YEARLY, TO UPDATE CERTAIN REFERENCES IN THE LAW; AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED MATTERS

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Public Management and Finance (Amendment) (No. 2) Law, 2016.

Short title and commencement

(2) This Law comes into force immediately after the coming into force of the Public Management and Finance (Amendment) Law, 2016.

Amendment of section 2
of the Public
Management and
Finance Law (2013
Revision) - definitions

2. The Public Management and Finance Law (2013 Revision), in this Law referred to as the “principal Law”, is amended in section 2 as follows -

- (a) by deleting the definitions of the words “entire public sector” and of the word “Government”;
- (b) by inserting, in the appropriate alphabetical sequence, the following definitions -

“entire public sector” means -

- (a) the core government (other than the equity investment in statutory authorities and government companies); and
- (b) all statutory authorities and government companies;

“Chief Officer of finance” means the officer mentioned in section 53B(2);

“Financial Secretary” means the Financial Secretary required under section 115 of the Constitution;

“function” includes duty, power and role;

“job description” means a job description made under the Public Service Management Law (2013 Revision), Regulations under that Law or another instrument made under that Law or those Regulations;

“legislative review phase” means the phase of the budget process under section 21;

“published by notice in the Gazette”, for a document under this Law, means to publish a notice in the Gazette stating that the document has been made and how it may be accessed under section 83;”;

- (c) in the definition of the words “chief officer”, by repealing paragraphs (a) to (c) and substituting the following paragraphs -
 - “(a) in the case of the ministry (whatever called) responsible for finance, the Chief Officer of finance;
 - (b) in the case of another ministry or a portfolio, the public officer in that ministry or portfolio designated by the Governor;
 - (c) in the case of a statutory authority or government company, the person appointed as the Chief Officer (whatever called) by its board;”;
- (d) in the definitions of the words “centralised accounting information system” and “centralised banking system”, by

UKSI 2009/1379

2013 Revision

deleting the words “ministry responsible for finance under section 54” and substituting the words “Chief Officer of finance”; and

- (e) by repealing paragraph (a) of the definition of the words “financial year” and substituting the following paragraph -
 “(a) in relation to an entity required to report under this Law, means a year ending on 31st December; and”.

3. The principal Law is amended in section 7 by inserting after the word “sections” the number “11,”. Amendment of section 7 - appropriations required for various transactions

4. The principal Law is amended in section 11 by repealing paragraph (6)(b) and substituting the following paragraph - Amendment of section 11 - authorisation in advance of appropriation

“(b) the authorised executive financial transactions are to be included in a supplementary Appropriation Bill introduced in the Legislative Assembly before the end of the financial year to which those transactions relate.”.

5. The principal Law is amended in section 12(3) by deleting the words “for that financial year” and substituting the words “, which Bill shall be introduced in the Legislative Assembly before the end of the financial year to which the executive expenses relate”.

Amendment of section 12 - advance approval of executive expenses and capital expenditure

6. The principal Law is amended by inserting after section 12, and before Part III - Governor in Cabinet, the following subheading and section - Insertion of subheading - extension power in emergency or for exceptional circumstance and section 12A - power to extend

“Extension power in emergency or for exceptional circumstance

Power to extend 12A.(1) This section applies if either or both of the following (the “event”) occurs -

- 2006 Revision (a) a state of emergency is proclaimed under the Emergency Powers Law (2006 Revision); or
(b) an exceptional circumstance.

(2) The Legislative Assembly may, by a resolution passed during or after the event, extend any or all of the periods required under this Law -

- (a) to complete the Government budgeting process under sections 17 to 22;
- (b) for a document to be published by notice in the Gazette; or
- (c) for a document to be presented, or a Bill to be introduced, to the Legislative Assembly.

(3) The resolution shall state when each of the extended periods are to end.”.

- Amendment of section 13 - emergency expenditure
7. The principal Law is amended in section 13 as follows -
- (a) in subsection (2), by -
 - (i) deleting the word “annual” and substituting the word “quarterly”; and
 - (ii) deleting the words “the first Appropriation Bill” and substituting the words “a supplementary Appropriation Bill”; and
 - (b) by repealing subsections (3) and (4).
- Amendment of section 14 - responsible financial management
8. The principal Law is amended in section 14(3)(c) by inserting after the words “principal repayments” the words “(except for repayments of principal that, under relevant borrowing agreements, were not legally required to be made)”.
- Amendment of section 24 - plan and estimates
9. The principal Law is amended in section 24(1) by deleting the words “next financial year” and substituting the words “next budget period”.
- Amendment of section 26 - pre-election economic and financial update
10. The principal Law is amended in section 26(2) as follows -
- (a) in paragraphs (a) and (b), by deleting the words “next two financial years” and substituting the words “next financial year”;
 - (b) in paragraph (c) by deleting the word “; and” and substituting “;”;
 - (c) in paragraph (d), by deleting the full stop and substituting the following word and paragraph -
“; and
 - (e) the most recent Government quarterly report under section 29 published by notice in the Gazette when the update is prepared.”.
- Repeal and substitution of section 29 - government annual report and insertion of section 29A- Government Annual Reports
11. The principal Law is amended by repealing section 29 and inserting the following sections -
- “Government quarterly reports
29. (1) Both of the following shall take place within six weeks after the end of each of the first three quarters in each financial year (the “relevant year”) -
- (a) the Chief Officer of finance shall a prepare for the Cabinet an unaudited quarterly report relating to the core government; and
 - (b) the Cabinet shall have the report published by notice in the Gazette.

(2) The report shall contain the following for the quarter and for all preceding quarters in the relevant year (the “period reported”), on a cumulative basis -

- (a) a summary of capital investment;
- (b) statements of financial performance, financial position and of cash flows; and
- (c) for each of the statements, comparative statements for -
 - (i) cumulative forecast figures for the period reported; and
 - (ii) actual figures for the period reported and for the period in the preceding financial year corresponding to the period reported.

(3) The statements and the summary shall be prepared on a basis consistent with the relevant forecasts.

(4) After publication of the notice, a member of the Cabinet appointed by it to do so shall present the report to the Legislative Assembly to review at its next sitting.

(5) In this section -

“relevant forecasts” means the forecast financial statements in the plan and estimates under section 24 that include the relevant year, together with any supplementary plan and estimates for them under section 25 relating to the relevant year.

Government
annual reports

29A. (1) The Chief Officer of finance shall, within four months after the end of each financial year (the “year”) -

- (a) prepare an annual report for the year; and
- (b) submit the report to the Auditor General for review.

(2) The report shall -

- (a) state details of entire public sector activities during the year;
- (b) include a schedule of appropriations used for the year in comparison with the granted appropriations;
- (c) include financial statements relating to the core government and for the entire public

- sector for the year; and
- (d) compare the actual performance shown by the financial statements with the performance proposed in the relevant plan and estimates.

(3) The financial statements shall -

- (a) be prepared on a basis consistent with the forecast financial statements in the relevant plan and estimates; and
- (b) comply with Schedule 4.

Schedule 4

(4) The Auditor General shall, within one month after receiving the report, review it and express an opinion on the financial statements and on the schedule of appropriations.

(5) The Cabinet shall have the report published by notice in the Gazette within six months after the end of the year.

(6) After the notification, a member of the Cabinet appointed by it to do so shall present the report to the Legislative Assembly to review at its next sitting.

(7) In this section -

“granted appropriations” means appropriations granted under the Appropriation Law for the year, together with any supplementary Appropriation Law for the year; and

“relevant plan and estimates” means the plan and estimates under section 24 that includes the year, together with any supplementary plan and estimates for them under section 25 relating to the year.”.

Amendment of section 32 - duties of Minister of Finance

12. The principal Law is amended in section 32 as follows -

- (a) in paragraph (d), by deleting the words “ministry responsible for finance under section 54” and substituting the words “Chief Officer of finance”; and
- (b) in paragraph (f), by deleting the words “section 29” and substituting the words “sections 29 and 29A”.

Insertion of section 38A - chief financial officer

13. The principal Law is amended by inserting after section 38, before the subheading “Powers of Ministries, Portfolios and Chief Officers”, the following section -

“Requirement to have chief

38A.(1) Each ministry and portfolio shall appoint a chief

financial officer

financial officer.

(2) The chief financial officer's functions are -

- (a) to be the key financial advisor to the ministry's or portfolio's Minister or official member and Chief Officer; and
- (b) any other functions conferred under Regulations or a job description."

14. The principal Law is amended in section 41(5) by deleting the words "to the ministry responsible for finance" and substituting the words "the Chief Officer of finance".

Amendment of section 41 - further duties and powers of, and prohibitions on, ministries and portfolios

15. The principal Law is amended in section 42 as follows -

Amendment of section 42 - budget statement

- (a) by repealing subsection (1) and substituting the following subsection -
“(1) The chief officer of a ministry or portfolio shall prepare and execute two-yearly budget statements with the Cabinet for successive periods of two financial years.”;
- (b) in subsection (3) -
 - (i) by deleting the words “The draft budget statement for a financial year” and substituting the words “A draft of each proposed budget statement”; and
 - (ii) in paragraph (a), by deleting the words “each year”;
- (c) by repealing subsection (4)(a) and substituting the following paragraph -
“(a) prepared immediately after completion of the legislative review phase of the relevant budget period.”;
- (d) in subsection (4)(b)(i), by deleting the words “Portfolio of Internal and External Affairs and”;
- (e) by repealing subsection (5); and
- (f) by repealing subsection (7) and substituting the following subsection -
“(7) All amendments under subsection (6) shall be written and presented to the Legislative Assembly.”.

16. The principal Law is amended by repealing section 44 and substituting the following section -

Repeal and substitution of section 44 - ministry or portfolio annual report

“Annual reports

44. (1) Each ministry or portfolio (the “entity”) shall, within two months after the end of each financial year (the “year”) -

- (a) prepare an annual report for the year; and
- (b) submit the report to the Auditor General for review.

(2) The report shall -

- (a) state details of the entity's activities during the year;
- (b) include a statement reporting all executive financial transactions that the entity administered;
- (c) include the entity's financial statements for the year; and
- (d) compare the actual performance shown by the financial statements with the performance proposed in the relevant budget statement.

(3) The financial statements shall -

- (a) be prepared on a basis consistent with the relevant forecast; and
- (b) comply with Schedule 4.

Schedule 4

(4) The Auditor General shall, within two months after receiving the report, review it and express an opinion on the financial statements.

(5) The entity shall, within five months after the end of the year, present the report and opinion to the Cabinet for review and noting.

(6) After the Cabinet's review and noting, a member of the Cabinet appointed by it to do so shall present the report to the Legislative Assembly to review at its next sitting.

(7) In this section -

“relevant budget statement” means the entity's finalised budget statement under section 42 that includes the year, together with any amendments to that statement under section 42 relating to the year; and

“relevant forecast” means the forecast financial statements in the relevant budget statement.”.

Amendment of section
49 - annual purchase
agreement

17. The principal Law is amended in section 49 as follows -

- (a) by deleting the marginal note and substituting the following marginal note: “Purchase agreements”;

- (b) by repealing subsection (1) and substituting the following subsection -
“(1) Each statutory authority or government company that is delivering outputs that are being purchased by the Cabinet shall prepare and execute two-yearly purchase agreements with the Cabinet for successive periods of two financial years.”;
- (c) in subsection (2), by deleting the words “A purchase agreement executed under subsection (1)” and substituting the words “Each purchase agreement”;
- (d) in subsection (3) -
 - (i) by deleting the words “The draft purchase agreement for a financial year” and substituting the words “A draft of each proposed purchase agreement”; and
 - (ii) in paragraph (a), by deleting the words “each year”;
- (e) by repealing subsection (4)(a) and substituting the following paragraph -
“(a) prepared immediately after completion of the legislative review phase of the relevant budget period;”;
- (f) by repealing subsection (5); and
- (g) by repealing subsection (7) and substituting the following subsection -
“(7) All modifications under subsection (6) shall be written and presented to the Legislative Assembly.”.

18. The principal Law is amended in section 50 as follows -

Amendment of section
50 - annual ownership
agreement

- (a) by deleting the marginal note and substituting the following marginal note: “Ownership agreements”;
- (b) by repealing subsection (1) and substituting the following subsection -
“(1) Each statutory authority and government company shall prepare and execute two-yearly ownership agreements with the Cabinet for successive periods of two financial years.”;
- (c) in subsection (2), by deleting the word “An” and substituting the word “Each”;
- (d) in subsection (3) -
 - (i) by deleting the words “A draft ownership agreement for a financial year” and substituting the words “A draft of each proposed ownership agreement”; and
 - (ii) in paragraph (a), by deleting the words “each year”;
- (e) by repealing subsection (4)(a) and substituting the following paragraph -
“(a) prepared immediately after completion of the legislative review phase of the relevant budget period;”;
- (f) by repealing subsection (5);

- (g) in subsection (6), by deleting the word “annual”; and
- (h) by repealing subsection (7) and substituting the following subsection -
“(7) All modifications under subsection (6) shall be written and presented to the Legislative Assembly.”.

Repeal and substitution of section 52 - statutory authority or government company annual report

19. The principal Law is amended by repealing section 52 and substituting the following section -

“Annual reports 52. (1) Each statutory authority or government company (the “entity”) shall, within two months after the end of each financial year (the “year”) -

- (a) prepare an annual report for the year; and
- (b) submit the report to the Auditor General for review.

(2) The report shall -

- (a) state details of the entity’s activities during the year;
- (b) summarise the extent to which the ownership performance targets under the relevant ownership agreement were achieved during the year;
- (c) include the amount of the following during the year -
 - (i) Cabinet equity investments into the entity;
 - (ii) Cabinet capital withdrawals from the entity;
 - (iii) Cabinet loans to the entity; and
 - (iv) the entity’s dividends or profit distributions;
- (d) include details of any Cabinet guarantees relating to entity made during the year;
- (e) include the entity’s financial statements for the year; and
- (f) compare the actual performance shown by the financial statements with the performance proposed in the relevant ownership agreement.

(3) The financial statements shall -

- (a) be prepared on a basis consistent with the

Schedule 4 forecast financial statements in the relevant ownership agreement; and
(b) comply with Schedule 4.

(4) The Auditor General shall, within two months after receiving the report, review it and express an opinion on the financial statements.

(5) The entity shall, within five months after the end of the year, present the report and opinion to the Cabinet for review and noting.

(6) After the Cabinet’s review and noting, a member of the Cabinet appointed by it to do so shall present the report to the Legislative Assembly to review at its next sitting.

(7) In this section -
“relevant ownership agreement” means the entity’s ownership agreement under section 50 that includes the year, together with any amendments to that agreement under section 50(6) relating to the year.”.

20. The principal Law is amended by deleting the heading to Part VI and inserting the following Part heading and sections -

Deletion and substitution of Part VI heading - ministry responsible for finance

“PART VI - Financial Secretary and Chief Officer of Finance

“Financial Secretary’s functions 53A. As well as the function under section 115 of the Constitution, the Financial Secretary’s functions are -

- (a) to be the overall leader of the Government’s financial management and reporting functions;
- (b) to promote improved financial reporting across the entire public sector; and
- (c) any other functions conferred under Regulations or a job description.

“Chief Officer of finance 53B. (1) There is to be a public officer in the ministry responsible for finance (whatever called) designated by the Governor to perform -

- (a) the functions under section 54; and
- (b) a Chief Officer’s functions under Parts III and IV in relation to the ministry.

(2) That officer is the “Chief Officer of finance”.

(3) The same person may be the Financial Secretary and the Chief Officer of finance.”.

Amendment of section 54 - duties of the ministry responsible for finance

21. The principal Law is amended in section 54 as follows -

- (a) by deleting the marginal note and substituting the following marginal note: “Additional functions of Chief Officer of finance”;
- (b) by deleting the words “The Ministry responsible for finance shall -” and substituting the words “As well as the functions that the Chief Officer of finance has under Parts III and IV, that officer shall -”;
- (c) by repealing paragraph (g) and substituting the following paragraph -
“(g) perform that officer’s functions under sections 29 and 29A for Government quarterly reports and Government annual reports;”;
- (d) by repealing paragraph (k) and substituting the following paragraphs -
“(k) prepare a manual called the “Public Finance Manual” setting out, for all entities, financial, management and reporting policies that are consistent with generally accepted accounting practice, as required under section 4;
(ka) amend the manual from time to time to reflect changes to generally accepted accounting practice;
(kb) publish the manual as in force from time to time in the way the Chief Officer of finance thinks is appropriate to ensure entities can access its contents;”;
- (e) by repealing paragraph (n); and
- (f) in paragraph (o), by deleting the full stop and substituting the following symbol and paragraphs -
“;”,
(p) monitor compliance with all other requirements of this Law;
(q) report contraventions of the requirements to the relevant Chief Officer, Deputy Governor, relevant Minister or official member, together with recommendations about -
(i) remedying the contraventions; and
(ii) action to be taken against those responsible for the contraventions; and
(r) perform any other functions conferred under Regulations or a job description.”

Amendment of section 55 - executive bank account

22. The principal Law is amended in section 55 as follows -

- (a) in subsection (1)(a), by deleting the words “ministry responsible for finance” and substituting the words “Chief Officer of finance”; and
- (b) in subsection (3), by deleting the number “44”.

23. The principal Law is amended by repealing section 56 and substituting the following sections and Part heading -

Repeal and substitution of section 56 - power to request information for Government reporting

“Chief Officer of finance’s power to require information

56. (1) This section applies to any entity in the entire public sector and to a non-governmental output supplier receiving money from the Government.

(2) To perform functions under section 54, the Chief Officer of finance may require the entity to do either or both of the following things by a stated date -

- (a) give that officer stated information; or
- (b) prepare and give that officer a stated document containing stated information.

(3) The requirement may include that the information or document is to be in a stated format.

(4) The entity shall comply with the requirement.

(5) Any issue about whether information is relevant to the functions is to be decided by the Minister of Finance.

“PART VIA - Director of Internal Audit

Office and functions

56A. (1) There is to be -

- (a) a public officer called the Director of Internal Audit; and
- (b) an Internal Audit Unit of public officers to assist the Director perform the Director’s functions.

(2) The Director’s functions are to -

- (a) review the management systems operated by entities (other than the Audit Office) for compliance with this Law and Regulations; and
- (b) assist the Chief Officer of finance to monitor compliance with all other requirements of this Law, under section 54(p).

(3) The Director also has any functions conferred under Regulations under section 35(i) or a job description.”.

Amendment of section 57 - powers of internal audit unit

24. The principal Law is amended in section 57 as follows -

- (a) by deleting the marginal note and substituting the following marginal note: “Director’s powers”;
- (b) by repealing subsection (1) and substituting the following subsection -
“(1) In performing functions under section 56A in relation to an entity, the Director of Internal Audit has the right -
 - (a) of access to all information held by the entity;
 - (b) to take copies of any or all of the information;
 - (c) to require explanations from officers or employees of the entity; and
 - (d) of access to all premises occupied by the entity.”; and
- (c) inserting after subsection (3) the following subsection -
“(4) In this section -
“Director of Internal Audit” includes a public officer of the Internal Audit Unit under section 56A(1)(b) authorised by the Director.”.

Amendment of section 60 - powers and duties of auditor general

25. The principal Law is amended by repealing section 60(1)(a) and (b) and substituting the following paragraph -

- “(a) conduct audits as required under this Law; and”.

Amendment of section 69 - annual report of audit office

26. The principal Law is amended by inserting after section 69(5) the following subsection -

“(6) For the purpose of conducting audits under section 44, as applied under subsection (5), the independent auditor may also conduct periodic internal audits and control reviews of the Audit Office.”.

Repeal and substitution of subheading - transitional arrangements, repeals and consequential amendment and sections 82 - transition of accounts and 83 - transition to responsible financial management

27. The principal Law is amended by deleting the subheading “Transitional Arrangements, Repeals and Consequential Amendments” in Part VIII and repealing sections 82 and 83 and substituting the following sections and Part -

“Public documents under this Law

82. (1) The following become public documents when they are published by notice in the Gazette -

- (a) a pre-election economic and financial update under section 26; and
- (b) a Government quarterly report under section 29.

(2) The following become public documents when they are presented to the Legislative Assembly -

- (a) a strategic policy statement under section 23;
- (b) a plan and estimates under section 24;
- (c) a supplementary plan and estimates under section 25;
- (d) an annual report under section 29A, 44 or 52;
- (e) a draft budget statement, finalised budget statement or a finalised budget statement as amended, under section 42;
- (f) a draft purchase agreement, finalised purchase agreement or a finalised purchase agreement as amended, under section 49; and
- (g) a draft ownership agreement, finalised ownership agreement or a finalised ownership agreement as amended, under section 50.

Access to the public documents

83. When a document becomes a public document under section 82, the following officer shall post it on the Government website that the officer thinks is the most suitable to allow public access to the document -

- (a) if the Chief Officer of finance prepared the document, that officer; or
- (b) otherwise, the Chief Officer of the entity to which the document relates.

Part IX - Transitional Provisions

“Transitional provision for Public Management and Finance (Amendment) (No. 2) Law, 2016

84. (1) The following do not apply until 1 January 2018 -

- (a) the replacement, under section 2(e) of the amending Law, of paragraph (a) of the definition “financial year” in section 2 of this Law;
- (b) the amendment, under section 7(a)(i) of the amending Law, of section 13(2) of this Law;
- (c) sections 26(2)(e), 29 and 82(1)(b); and
- (d) section 54(g) to the extent that paragraph relates to Government quarterly reports.

(2) In this section -

“amending Law” means the Public Management and Finance (Amendment) (No. 2) Law, 2016.”.

- Amendment of Schedule 4 - financial statements
28. The principal Law is amended in Schedule 4 as follows -
- (a) by deleting the words “sections 29, 44 and 52” and substituting the words “sections 29A, 44 and 52”; and
 - (b) in paragraph (i) of item 1, by -
 - (i) deleting the words “paragraph 4” and substituting the words “paragraph 3”; and
 - (ii) deleting the words “figures, except that paragraphs (b) to (g) shall not apply for the financial years 2004/5 to 2007/8” and substituting the word “figures”.
- Miscellaneous consequential amendments - to update certain references - for insertion of sections 82 and 83
29. The principal Law, as amended under sections 2 to 28, is amended as follows -
- (a) by deleting the following terms wherever they appear and substituting the terms as follows -

<i>Term</i>	<i>Substituted term</i>
“chief officer of the ministry responsible for finance”	“Chief Officer of finance”
“chief officer” (where the term appears other than in the phrase “chief officer of the ministry responsible for finance”)	“Chief Officer”
“minister” (where the term appears with an initial lower case letter)	“Minister”
“Governor in Cabinet”	“Cabinet”
“Governor in Cabinet’s”	“Cabinet’s”
“an budget”	“a budget”
“An budget”	“A budget”
“annual ownership agreement”	“ownership agreement”.
 - (b) by repealing sections 23(3), 24(6), 25(4) and 26(3); and

- (c) in section 78(3) and (4), by deleting the words “Portfolio of Internal and External Affairs” and substituting the words “Portfolio of the Civil Service”.

Passed by the Legislative Assembly the day of , 2017.

Speaker.

Clerk of the Legislative Assembly.