

PUBLIC FINANCE MANAGEMENT BILL

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BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

PART 1

INTRODUCTORY PROVISIONS

1. Definitions

(1) In this Act, unless the context indicates otherwise –
“Accountant General” means an officer in the Ministry, who has roles and responsibilities as set forth in Section 11 of this Act;

“Accounting Officer” means the staff member, who has the functions or roles and responsibilities as defined in Section 12(1) of this Act;

“Agency” means any agency as defined in the Public Service Act;

“Agent Bank” means any banking institution approved by the Minister for opening the bank account of an Entity in accordance with Section 33 of this Act;

“Appropriation” means an authority under the Appropriation Act to make payments from the State Revenue Fund;

“Appropriation Act” means an Appropriation Act or additional appropriation Act passed pursuant to the provisions of Article 126(2) of the Namibian Constitution;

“Auditor-General” means the person appointed in that capacity under Article 127(1) of the Namibian Constitution;

“Banking institution” means banking institution as defined in the Banking Institution Act No. 2 of 1998.

“Budget documents” means annual documents as set forth in Section 21 of this Act.

“Budgetary Entity” means any Office, Ministry and/or Agency as defined in the Public Service Act;

“Commercial Public Enterprise” means any commercial public enterprise as declared in accordance with the Public Enterprises Governance Act No. 1 of 2019;

“Commitment” means an obligation through a contract or purchase order or otherwise to make payments on the fulfilment of relevant conditions;

“Computerized System” means any technology system or information system that is adopted by the Government with the authorization of the Minister for the management of public finances and any related transactions;

“Entity” means Budgetary Entity, Regional Council, Local Authority and/or Public Enterprise;

“Estimates” means any forecasted expenditure, revenue and income presented to the Parliament in accordance with the provisions of Article 126(1) of the Namibian Constitution;

“Executive Director” refers to the executive director, who is a staff member as defined pursuant to the Public Service Act, of the Ministry responsible for finance;

“Extrabudgetary Entity” means either an extra-budgetary fund, extra-budgetary account or a non-commercial public enterprise as declared in accordance with the Public Enterprises Governance Act;

“Financial year” means a financial year commencing on 1 April and ending on 31 March of the following year.

“Fiscal Framework Paper” means the paper prepared in accordance with Section 16 of this Act;

“Government” means the Government of the Republic of Namibia;

“Government Asset” means any asset belonging to or owned by the Government at the central level even if such an asset is held by, used by or in the custody of any Entity;

“Head of Expenditure” means, in relation to the Appropriation Act, the annual budget and the Supplementary Budget, an Appropriation that –

- (a) specifies the total expenditure for a Budgetary Entity or any entity at the highest level of the budgetary classification; and
- (b) is separately voted by the Parliament.

“Local Authority” means the local authorities as defined in the Local Authorities Act;

“Minister” means the Minister responsible for finance;

“Ministry” means the Ministry responsible for finance;

“Office” means an office as defined in section 1(1) of Public Service Act, 1995;

“Parliament” means the National Assembly and the National Council of the State as established by the Constitution;

“Payment arrears” means payables which have remained unpaid –

- (a) after the due date specified in a relevant contract or agreement; or
- (b) for 30 calendar days or more after a relevant invoice has been received;

“Public Enterprise” means a Commercial Public Enterprise and/or an Extrabudgetary Entity;

“Regional Council” means a regional council as defined in the Regional Councils Act, No. 22 of 1992;

“Regulations” means the implementation instructions, guidelines or regulations issued by the Minister in accordance with this Act;

“Revenue” means all moneys received by way of -

- (a) taxes, levies, duties or fees not accruing by or under any law to the funds of any Budgetary Entity;
- (b) tariffs, rates, scales or charges levied on services rendered by an Budgetary Entity;
- (c) fines imposed in respect of offences, whether under the common law or the provisions of any law, except such fines as in terms of any law accrued to the funds of any entity, or the forfeiture to the State of any bail moneys or any other moneys seized, or the realization of goods seized, in connection with any such offence;
- (d) loans raised in terms of the provisions of this Act;
- (e) interest on moneys invested by the Executive Director in terms of section 38;
- (f) dividends on shares held by the State;
- (g) royalty
- (h) the alienation of any asset of the State;
- (i) grants accepted in terms of section 40 of this Act;
- (j) grants-in-aid received by the State, and
- (k) all casual and other receipts of the State from whatever source;

“security” means any bill of exchange, promissory note or debenture, and, in the application of sections 43 includes any treasury bill or any stock or bond certificate or other document issued under section 43;

“Special Fund” means any fund which is created by the Government for any special purpose as listed under Schedule 1 of this Act;

Staff member means, a staff member as defined in terms of the Public Service Act or the holder of any office or position created by this Act or any other Law.

“State” means the Republic of Namibia;

“State Account” means an integrated bank account structure that allows the management of public money in a consolidated manner in terms of section 31 and 32;

“State Asset” means any asset that is owned by either the Government or any Entity;

“State moneys” means –

- (a) all revenue;
- (b) all other moneys whatever received or held by or on behalf of an accounting officer in relation to the administration of the affairs of the State;

“State Revenue Fund” has the meaning as set forth in Section 28 of this Act;

“Supplementary Budget” means the budget that is approved by the Parliament in addition to the Appropriation Act within the same financial year;

“Warrant” means a written order or authorization for payment out of the State Revenue Fund and the State Account as issued in accordance with Section 52 of this Act.

2. Objectives

The objective of this Act is to set standards, requirements, rules and procedures for the transparent and accountable management of the financial affairs of the State in relation to revenue management, the expenditure of public resources, the accounting and reporting of receipts and expenditures of public funds, the management of government borrowing and public debt, and the oversight of public resources which should be in line with high standards of integrity, independence, impartiality, equity, professionalism, accountability, responsiveness and value for money.

- (a) to increase wages, salaries, emoluments, allowances or other personnel expenditures.

3. Application

- (1) This Act shall apply to –
 - (a) any Office, Ministry and Agency, which is either or together referred to as the Budgetary Entity;
 - (b) any Extrabudgetary Fund and Non-commercial Public Enterprise, which is either or together referred to as an Extrabudgetary Entity;
 - (c) any Regional Council and Local Authority; and
 - (d) any Commercial Public Enterprise.
- (2) In the event that there is any inconsistency between this Act and any other legislation on any aspect of the financial affairs of the State, this Act shall prevail.

4. Entities

- (1) For the implementation and enforcement of this Act, the Ministry may prepare and maintain a list of all Entities as defined, established and categorized in accordance with this Act.
- (2) Such a list of Entities shall be updated annually and published in the Government gazette.

5. Financial Year

Notwithstanding other legislation, the financial year for the Government and all Entities shall commence on 1 April and end on 31 March of the following year, unless otherwise authorized in writing by the Minister.

PART 2
ROLES AND RESPONSIBILITIES

6. Parliament

- (1) The Parliament shall exercise its powers as set out in the Constitution in accordance with the fiscal responsibility requirements as set forth in Section 13 of this Act and other provisions pursuant to this Act, which include but not limited to –
 - (a) consider the Fiscal Framework Paper without proposing changes or formally adopting such a Fiscal Framework Paper;
 - (b) review and approve the Appropriation Act and other relevant Acts for the effective government and administration of the country in line with Article 126 (2) of the constitution;
 - (c) provide for revenue and taxation as part of the annual budget;
 - (d) review the financial performance of the Government in compliance with this Act, the annual budget, the Appropriation Act, the Supplementary Budget and other relevant Acts and regulations;
 - (e) review the annual audited accounts and financial statements of the Government as required to be submitted to the Parliament pursuant to this Act and other relevant Acts;
 - (f) review budget execution reports as required to be submitted to the Parliament pursuant to this Act; and
 - (g) provide recommendations upon the review of the audited accounts, financial statements and performance reports as set forth in subsection 1(e) and subsection 1(f) above.
- (2) Notwithstanding subsection (1)(b), the Parliament shall not propose any change to the draft annual budget and the Appropriation Act for increasing total expenditures if this would result in any worsening of the budget balance or deficit.

7. Cabinet

- (1) The President and the Prime Minister shall, in performing their functions and exercising their powers as granted under the Constitution as well as other applicable Acts and regulations, comply with the fiscal responsibility requirements as set forth in Section 13 of this Act.
- (2) The Cabinet shall exercise its power as set out in the Constitution in accordance with the fiscal responsibility requirements as set forth in Section 13 of this Act and other requirements pursuant to this Act, which include but are not limited to review and approve:

- (a) the Fiscal Framework Paper, the annual budget, the Appropriation Act and any Supplementary Budget to be laid before the Parliament;
- (b) the fiscal strategy statement at the beginning of the term of office of a new Government;
- (c) any deviation from the fiscal responsibility principles as requested by the Minister;
- (d) any request from the Minister on the waiving or write off of any revenue;
- (e) the debt management strategy as submitted by the Minister;
- (f) any externally financed activities funded either by a loan or a grant;
- (g) the terms and conditions of a guarantee to be provided by the Government as proposed by the Minister;
- (h) the determination of an emergency situation for the payment of funds from the contingency provision in the annual budget; and
- (i) monitor and review the execution of the budget and financial management of the Government through the review of the financial statements and audit reports as required to be submitted to the Cabinet pursuant to this Act and other relevant Act and regulations.

8. Minister

- (1) In addition to any other responsibility of the Minister that is specified in this Act or any other law, the Minister shall –
 - (a) ensure the effective application of this Act and the Regulations;
 - (b) formulate fiscal policies, including the design and development of tax policies;
 - (c) oversee and monitor the implementation and administration of tax laws to ensure optimal collection of tax revenue;
 - (d) set out and ensure the implementation of the financial management policies and the overall financial performance and position of the Government, as well as applying the principles of fiscal transparency and accountability, as set forth in Part 3 of this Act;
 - (e) promote the fiscal responsibility requirements in managing fiscal affairs as set forth in Section 13 of this Act for the effective management of revenues, expenditures, assets, liabilities, and fiscal risks of the Government;
 - (f) establish mechanisms and procedures for the transparent and effective use of the State Revenue Fund, other public funds and the State Assets;

- (g) develop a sound system of financial controls to manage public resources;
 - (h) oversee and monitor the implementation and execution of the annual budget;
 - (i) ensure the preparation and submission to the Cabinet and the Parliament of accounts, financial reports and performance reports as required pursuant to this Act;
 - (j) ensure that the Ministry exercises effective financial oversight of Regional Councils, Local Authorities and Public Enterprises by monitoring their financial performance, identifying sources of fiscal risk, enabling actions to be taken as appropriate to manage such risks, and publishing relevant information;
 - (k) establish mechanisms and procedures for the imposition of penalties and sanctions on any breaches of the provisions set out in this Act or Regulations; and
 - (l) prepare and cause to issue Regulations, instructions, directives and decisions as required for the implementation of this Act.
- (2) In order to perform his or her functions set forth under subsection (1), the Minister may –
- (a) establish or continue in existence within the Ministry such departments, divisions or units as he or she may consider necessary or expedient;
 - (b) adopt any computerized system for facilitating, assisting and performing any of the functions set forth in this Act; and
 - (c) require any information from any Entity and any other persons as may be required to facilitate the implementation of this Act.
- (3) Any draft Act, regulation, directive or policy that has financial implications shall be submitted to the Minister for consultation.
- (4) The Minister may delegate any of his or her functions and powers pursuant to this Act to the Executive Director, the Accountant General and other Accounting Officers of other Entities, with the exception of the power to –
- (a) borrow or enter into any agreement that would bind the Government or the State Revenue Fund to any liability.
 - (b) issue the Regulations under this Act

9. Heads of Budgetary Entities

- (1) The Heads of Budgetary Entities must be responsible for the financial management of their Budgetary Entities in accordance with this Act as well as other applicable Act and regulations.

- (2) The Heads of Budgetary Entities shall ensure that their Budgetary Entities have put in place and implement appropriate and effective a public financial management system and measures as required pursuant to this Act including but not limited to –
- (a) effective and efficient procedures, internal controls arrangements and systems for the preparation and execution of the budget as well as the management of assets, liabilities and fiscal risks;
 - (b) a system for properly evaluating capital projects as part of the process of preparing and executing the budget;
 - (c) a system and clear procedures for authorizing and controlling the use and payment of public resources and State Assets in an effective, efficient, economical and transparent way;
 - (d) arrangements to collect all moneys due to Budgetary Entities and the State Revenue Fund in a timely manner;
 - (e) arrangements to prevent unauthorized expenditure or loss of public resources;
 - (f) an internal risk management system as required pursuant to this Act;
 - (g) an internal audit system in compliance with international internal audit standards as required pursuant to this Act; and
 - (h) an appropriate recording and reporting system that ensures prompt and accurate accounting records, financial reports and performance reports as required pursuant to this Act.
- (3) For the public financial management of each Budgetary Entity, the Head of the Budgetary Entity shall:
- (a) participate in the preparation and discussion of the Fiscal Framework Paper as required by the Minister and the Cabinet;
 - (b) ensure the timely preparation and submission of the budget proposal;
 - (c) participate in the discussion of the annual budget;
 - (d) ensure the compliance of all obligations as prescribed under this Act and the Regulation in executing or implementing the budget;
 - (e) supervise and monitor the performance of responsibilities of the Accounting Officer of the Budgetary Entity; and
 - (f) ensure the accurate production of statements and reports as required pursuant to this Act for timely submission to the Ministry as well as to the Parliament.
- (4) Each Head of a Budgetary Entity may delegate any of his or her functions and powers pursuant to this Act to the Accounting Officer of his respective Budgetary Entity.

10. Executive Director of the Ministry

- (1) For the public financial management of the State, the Executive Director of the Ministry shall, subject to this Act, have the principal responsibility to –
 - (a) coordinate the intergovernmental financial relations for promoting and implementing the Government’s national fiscal and macroeconomic policy as well as the good financial governance of the Government;
 - (b) monitor the adherence to public finance requirements by Entities to which this Act applies;
 - (c) establish a set of financial management principles including asset management, debt management and oversight of Regional Councils, Local Authorities and Public Enterprises;
 - (d) establish mechanisms and procedures for managing or overseeing the management of State Assets;
 - (e) direct the Ministry in the fulfilment of its responsibilities pursuant to this Act as well as other relevant Act and regulations;
 - (f) manage the overall fiscal performance and position of the Government including the public funds and resources in accordance with this Act and any other relevant Act and regulations;
 - (g) oversee and ensure the preparation and production of the Fiscal Framework Paper, the medium-term budgetary framework paper, fiscal risk statement, the national budget and other documents as required pursuant to this Act;
 - (h) coordinate and manage the budgeting of public investment projects and public private partnership projects;
 - (i) prepare and issue a budget call circular in line with Section 20(2) of this Act;
 - (j) collect and review the budget proposals submitted by Budgetary Entities to prepare the budget estimates;
 - (k) advise the Minister on the approval of the budget estimates;
 - (l) issue any warrant as required under Section 52 of this Act;
 - (m) provide guidance and instructions in relation to the preparation of the budget and the management of warrants;
 - (n) advise and assist the Minister on all issues related to public financial management in accordance with this Act and its Regulations;

- (o) monitor the compliance of all duties and obligations of the Ministry and other Entities pursuant to this Act and the Regulation;
 - (p) supervise and monitor the performance of the Accountant General; and
 - (q) perform other responsibilities as may be delegated or assigned by the Minister.
- (2) The Executive Director shall perform his or her responsibilities in accordance with this Act, the Regulations, and any instructions or directions given by the Minister.
- (3) The Executive Director shall inform the Minister and the Auditor General in writing of any breach or non-observance of this Act, or Regulations, directives or instructions issued thereunder, which may come to the attention of the Executive Director.
- (4) For implementing the responsibilities under subsection (1) above, the Executive Director may –
- (a) request the Minister to establish or continue in existence within the Ministry such departments, divisions or units as he or she may consider necessary or expedient; and
 - (b) designate a financial advisor to assist with his or her responsibilities under this Section.

11. Accountant General

- (1) The Accountant General responsibilities include -
- (a) establishing a set of accounting standards, processes and systems to be applied by the Budgetary Entities and the Extrabudgetary Entities in accordance with this Act and other applicable Acts and regulations;
 - (b) controlling and managing the accounting system, accounting records, financial statements and reporting;
 - (c) ensuring the preparation of in-year reports, annual reports, and other reports and statements as required pursuant to this Act;
 - (d) executing the budget including the payment of expenditures and collection of certain revenues as required in this Act and other applicable Acts and regulations;
 - (e) ensuring and managing the custody and safe keeping of public money and other resources of the State;
 - (f) managing and controlling the State Account and may be designated by the Executive Director and Minister to manage and control accounts of the Budgetary Entities;

- (g) managing the operation of the Computerized System for carrying out the functions of the treasury;
 - (h) ensuring the preparation and submission of cash flow plans as required pursuant to this Act;
 - (i) controlling and managing all transactions related to State debt, loans, grants, on-lending, and guarantees, maintain records and prepare and publish reports on these transactions as required pursuant to this Act;
 - (j) monitoring and assessing compliance with the standards and measures established pursuant to this Act;
 - (k) leading the development of the public sector accounting profession including the promotion of high standards and the development of skills and capacity in public financial management;
 - (l) in collaboration with Public Accountants and Auditors Board and any recognised accounting professional institution, may develop and implement a training program for accountants in the employment of the public sector to be recognised as professional accountants and may qualify to be registered with accounting professional bodies after meeting standards of such any accounting professional body;
 - (m) promoting fiscal transparency through the public disclosure of information related to the functions and operations of the treasury;
 - (n) assisting Entities in building their capacity for operating efficient, effective, and transparent financial management; and
 - (o) performing other acts as ordered by the Minister and the Executive Director.
- (2) The Accountant General shall inform the Executive Director, the Minister and the Auditor General in writing of –
- (a) any apparent defect in the management of revenue, expenditure, cash, or assets by any Entity; or
 - (b) any breach or non-observance of this Act, or Regulation, directive or instruction issued thereunder, which may come to the attention of the Accountant General.
- (3) The Accountant General shall, in the performance of his or her responsibilities pursuant to this Act and the Regulations, act in accordance with the general or specific directions of the Minister and the Executive Director.
- (4) For the performance of his or her responsibilities pursuant to this Act or the Regulations, the Accountant General shall have power to –
- (a) access, at all times, all offices of the Entities within the Government and Public Entities;

- (b) issue a treasury instruction to specify the requirements, procedures, rights and obligations of all Entities and officers in managing, controlling and reporting on the public finances in line with the Regulations; and
 - (c) access to all files, documents and other records in relations to the accounts and finances of every Entity immediately upon requests.
- (5) The Accountant General shall as soon as practicable inform the Executive Director: and the Auditor-General of all cases in respect of which it has, whether in terms of this Act or any other law, granted any authorisation or approval or has issued, made or laid down any instruction, determination or condition.

12. Accounting Officer

- (1) Every Entity must have an Accounting Officer who shall be either –
- (a) the Executive Director or Chief Regional Officer of such an entity; or
 - (b) the Chief Executive Officer of such an entity
- unless otherwise as determined by the appointing authority of such Executive Director, Chief Regional Officer or Chief Executive Officer.
- (c) Whenever an accounting officer is absent or is for any other reason unable to act, the person acting in his or her place shall exercise or perform the powers and duties conferred or imposed upon an accounting officer by or under this Act or any other law as if he or she were the accounting officer.
- (2) The Accounting Officer shall have the principal responsibilities to –
- (a) ensure compliance and implementation of this Act and the Regulations in their respective Entity;
 - (b) be responsible for the preparation of the budget, budget documents, the execution of the budget and the production of reports and statements as required pursuant to this Act;
 - (c) make proposals for and ensure appropriate implementation of public investment projects and public private partnership projects;
 - (d) prepare and submit, with the approval of his or her Minister, the budget proposal of the Entity to the Executive Director;
 - (e) ensure the collection, depositing and accounting for public money on a timely basis;

- (f) put in place a system of financial management, internal control and risk management within his or her Entity to ensure the compliance with this Act;
 - (g) oversee the internal audit functions as well as review the internal audit reports and recommendations for taking appropriate actions when required;
 - (h) perform financial control functions in executing the budget including but not limited to the management of payments, revenue collection, asset management, and cash management;
 - (i) register, record, safeguard and manage the State Assets under the Entity's ownership or custody in accordance with this Act;
 - (j) keep records and safeguard documents, data, accounts and other information as required under this Act or Regulations;
 - (k) prepare, submit and publish financial statements as required by this Act and other applicable Acts and Regulations;
 - (l) advise his or her respective minister about the management of public finances and public resources within their respective Entity; and
 - (m) undertake any other functions as assigned by his or her minister.
- (3) The Accounting Officer shall report to the minister or board of directors of the Entity, to which he or she is attached, for administration and management purposes; and
- (4) The Accounting Officer shall comply with the standards, guidelines, instructions and other requirements as set forth in this Act and its Regulations.

PART 3

FISCAL RESPONSIBILITY

13. Fiscal Principles and Fiscal Objectives

- (1) Any person or institution responsible for or engaged in the management of the public finances shall comply with the principles of responsible financial management in order to ensure a prudent, efficient, effective, transparent and accountable use of public funds and resources.
- (2) The principles of responsible financial management are:
 - (a) to formulate and implement fiscal policies and strategies that are consistent with the achievement of macroeconomic stability and economic growth;
 - (b) to achieve and maintain prudent levels of public debt so as not to impose an inequitable burden between generations;

- (c) to achieve and maintain a reasonable reserve position of public resources;
 - (d) to maintain the fiscal balance, which is an appropriate balance between the revenues and expenditures of the Government, at a sustainable level over the medium term;
 - (e) to manage resources in a fiscally, environmentally and generationally sustainable way;
 - (f) to manage fiscal risks in a prudent manner that manages and mitigates these risks; and
 - (g) to ensure transparency and accountability in the budgetary and financial management of the Government, Budgetary Entities, Regional Councils, Local Authorities and Public Enterprises.
- (3) The Government may set forth the quantitative and measurable fiscal objectives to elaborate the fiscal principles in subsection (2)(a), subsection (2)(b), subsection (2)(c) and subsection (2)(d) in the Fiscal Strategy Statement and the Fiscal Framework Paper.

14. Fiscal Strategy Statement

- (1) Upon the election of the President, the new Cabinet shall specify its first Fiscal Strategy Statement to set forth the fiscal objectives to be applied for the new term of the Government.
- (2) Where the fiscal objectives have been specified under subsection (1), the Fiscal Strategy Statement shall include –
 - (a) an analysis of the current and future macroeconomic, fiscal and political situation;
 - (b) the fiscal objectives and the strategy to achieve and maintain the fiscal objectives; and
 - (c) a statement of the fiscal risks and an associated strategy to manage and mitigate such risks.
- (3) The fiscal objectives specified under subsection (1) may not be changed during the term of the President unless such a change is made through the Fiscal Framework Paper which must include an explanation of the reasons for the change.

15. Macroeconomic and Fiscal Forecasts

- (1) The Executive Director shall produce an economic and fiscal projection for the next financial year and the medium term as the basis for the preparation of the Fiscal Framework Paper, the Medium-term Budgetary Framework and the annual budget documents.
- (2) The content of the economic and fiscal projection shall contain at least:

- (a) an overview of recent macroeconomic and fiscal developments;
 - (b) macroeconomic and fiscal forecasts for the next financial year and the medium term;
 - (c) an explanation of the methodologies and assumptions used for preparing the macroeconomic and fiscal forecasts;
 - (d) a comparison of the forecasts with those of international organizations and relevant independent bodies and the justification for any significant differences;
 - (e) a comparison of the previous forecasts of the macroeconomic and fiscal indicators with the actual outcomes and an explanation of any significant differences; and
 - (f) any other information as may be deemed appropriate by the Minister.
- (3) The macroeconomic and fiscal forecasts underlying the Fiscal Framework Paper and the annual budget document shall be based on assumptions that take full account of domestic and international economic conditions and developments.

16. Fiscal Framework Paper

- (1) The Executive Director shall prepare an annual Fiscal Framework Paper to set the fiscal strategy and the policy objectives of the medium-term budgetary framework and the annual budget that will contain, at a minimum, the following information and statements –
- (a) the economic and fiscal projections as prepared in accordance with Section 15 above;
 - (b) a fiscal risk statement applicable for the next financial year and the medium term, which shall include:
 - (i) the stress test scenarios and different assumptions in respect of the main macroeconomic and fiscal indicators;
 - (ii) the exposures to risks of the Government and its Entities including those risks arising from debts, guarantees, losses, loans, advances, contingent liabilities and other liabilities; and
 - (iii) any other information as may be deemed appropriate by the Minister;
 - (c) the fiscal strategy statement applicable to the medium term and the next financial year, and any change to the fiscal objectives as set forth in Section 14 above, if available;

- (d) a description of the main policy measures which the Government plans to introduce during the medium term and projections of their fiscal impacts;
 - (e) fiscal trends and the framework for setting fiscal policy;
 - (f) the fiscal objectives as set forth in Section 13(3) of this Act;
 - (g) ceilings on total expenditures of the Government and on expenditures broken down at such level of detail as deemed appropriate by the Minister for the medium term and the next financial year;
 - (h) any contingent liabilities to the Government or State Revenue Fund as may be derived from the activities of public investment programs, public private partnership projects, Regional Councils, Local Authorities and Public Enterprises;
 - (i) the medium-term budgetary framework as prepared in accordance with Section 19 below; and
 - (j) any other information as may be deemed appropriate by the Minister.
- (2) The Executive Director, via the Minister, shall submit the Fiscal Framework Paper to the Cabinet for review and approval for further submitting to the Parliament for information by not later than 30 September of the year preceding the annual budget.
 - (3) The Executive Director shall publish the Fiscal Framework Paper within one month after the Fiscal Framework Paper has been presented to the Parliament.
 - (4) The Minister ~~will~~ may further prescribe the format and content of the Fiscal Framework Paper in the Regulations.

17. Deviation from Fiscal Principles and Fiscal Objectives

- (1) The Government may deviate from the fiscal responsibility principles pursuant to this Act or the fiscal objectives stated in the Fiscal Framework Paper on a temporary basis in the situation of force majeure, an unanticipated severe economic shock, or any other significant unforeseeable event that cannot be accommodated through contingency provisions or in-year adjustment of the budget as set forth in this Act.
- (2) Any required deviation from the fiscal responsibility principles pursuant to this Act or the fiscal objectives stated in the Fiscal Framework Paper shall be proposed by the Minister in a report to be approved by the Cabinet, and shall be notified to the Parliament for information not longer than one month after the decision adopted by the Cabinet.

The report on the deviation from the fiscal principles and the fiscal objectives shall be published within one week upon tabling at the Parliament.

PART 4
BUDGET PREPARATION

18. Budget Structure

- (1) The annual budget hereby consists of –
 - (a) an Appropriation Act, which is considered and approved by the Parliament, for the payment of money from the State Revenue Fund to meet the financial requirements of the State annually;
 - (b) the Estimates, which are presented to the Parliament as the basis to review and approve the draft Appropriation Act.
- (2) The Appropriation Act shall present the appropriations by –
 - (a) Heads of Expenditures, which means expenditure appropriated per Budgetary Entity or other highest level of the budgetary classification; and
 - (b) each head of expenditure shall be presented in the classification and format as determined by the Minister that supports the measurement and monitoring of the delivery of the public services related to that expenditure.
- (3) The Estimates shall consist of the estimates of –
 - (a) revenue and income, which further include taxes, other current revenues, grants, proceeds of the sale of assets, and borrowing to be presented on a gross basis, without any deductions or offsets; and
 - (b) expenditure, which includes current expenditure, capital expenditure, transfers, expenditures for granting loans and expenditures for interest payments and debt service charges.
- (4) The Estimates shall be prepared and presented in the classification and format as determined by the Minister.

19. Medium-term Budgetary Framework

- (1) As part of the Fiscal Framework Paper, the Executive Director shall prepare a Medium-term Budgetary Framework that determines the fiscal policy and annual budget over the medium term to contain at least the following information –
 - (a) revenue and expenditure outcomes for the three years preceding the current year;
 - (b) the annual borrowing and financing plan and the annual debt report as prepared in accordance with Section 41 of this Act;
 - (c) multiannual commitments as set forth in Section 22 of this Act;

- (d) estimates for the current year, the budget year, and the two financial years following the budget year, of –
 - (i) the revenue expected to be raised during each year of the period; and
 - (ii) the expenditure expected to be incurred per head of expenditure during each year of the period, distinguishing between capital expenditure and current expenditure, as well as a description of spending objectives, targets and the expected impact of the spending on the delivery of goods and services over that period; and
- (e) the ceilings on current expenditure, capital expenditure, and total debt for the whole period and during each year of the period.
- (2) The ceilings on expenditure and debt for the next financial year shall be included in the budget call circular, as set forth in Section 20(2) of this Act, that is issued for the preparation of the annual budget.
- (3) The ceilings on expenditure and debt for the last two years of the medium-term period shall be annually reviewed and revised in accordance with the fiscal objectives and the fiscal strategy to reflect the updated macro-economic projections and assumptions.
- (4) The Medium-term Budgetary Framework shall be prepared annually on a rolling basis by adding one additional year to the previous year's Medium-term Budgetary Framework.

20. Annual Budget Process

- (1) As soon as the Fiscal Framework Paper is approved by the Cabinet, the Executive Director shall issue a budget call circular for the purpose of guiding the Budgetary Entities in preparing their budget proposals.
- (2) A budget call circular under subsection (1) above shall –
 - (a) prescribe ceilings on current expenditure, capital expenditure and debt for the next three years with further detail as determined by the Minister;
 - (b) prescribe a calendar for the main actions and decisions to be taken in preparing and approving the annual budget, which sets out the time frame in respect of the preparation and approval of the State budget;
 - (c) include instructions to be complied with and information to be provided by the Budgetary Entities in the course of preparation of the budget proposals;
 - (d) determine the method, timing, and extent of the consultations between the Ministry, Budgetary Entities, and external stakeholders during the budget process; and

- (e) any other matters as may be deemed necessary by the Minister.
- (3) By such date as specified by the budget call circular as issued by the Executive Director, the Accounting Officer of a Budgetary Entity shall submit to the Executive Director a budget proposal, which includes –
 - (a) estimates of the revenues expected to be received under the responsibilities of the Budgetary Entity for the next three years at a level of detail as specified by the budget call circular;
 - (b) estimates of expenditures for the next three years at a level of detail as specified by the budget call circular to include both current expenditure and capital expenditure;
 - (c) the list of the capital projects approved by the National Planning Commission in consultation with the Budgetary Entity and the Ministry and an analysis of the operating expenditure associated with each of these projects;
 - (d) the list of the public private projects approved by the Minister with an analysis of the expenditure from the State Revenue Fund and the contingent liability attached to these projects;
 - (e) a list of key performance indicators showing how the budget proposal will enable the Budgetary Entities to deliver their public services efficiently and effectively; and
 - (f) any other matters as prescribed by the Executive Director in the budget call circular.
- (4) To support the preparation of the annual budget, the Executive Director may develop procedures for giving stakeholders and the public an opportunity to express their views on the budget proposal and the Government's performance in the delivery of public services.
- (5) While reviewing and discussing the budget proposals with the Budgetary Entities, the Executive Director shall ensure that all major capital projects and public private partnership projects are analysed and assessed along with the operational expenditures associated with these projects.
- (6) Based on the Fiscal Framework Paper and the submitted budget proposals, the Executive Director shall prepare a draft annual budget for submitting to the Cabinet, via the Minister, for review, discussion, consultation and approval by not later than 31st December each year.
- (7) By not later than end of February, the draft annual budget, which is approved by the Cabinet, shall be laid before the Parliament.

21. Annual Budget Documents

- (1) The annual budget documents to be laid before the Parliament shall include –
 - (a) the budget speech summarizing the contents of the annual budget;

- (b) the Fiscal Framework Paper as prepared in accordance with Section 16 of this Act;
 - (c) the draft Appropriation Act and the Estimates as prepared in accordance with Section 20 of this Act;
 - (d) the consolidated budget of the Government, which aggregates the budgets of all Budgetary Entities;
 - (e) a description of the main policy objectives and strategies to be achieved and implemented under the annual budget;
 - (f) multiannual commitments of expenditure as set forth in Section 22(7) of this Act;
 - (g) a statement of Special Funds as referred to in Section 30 of this Act;
 - (h) a list of outstanding guarantees and loans of the Government;
 - (i) a comparison of the previous year budget and the expenditure outcome for the current fiscal year and an explanation of any significant deviations;
 - (j) the development budget document as prepared in accordance with Section 22 and Section 23 of this Act to present the analysis of spending on capital projects and public private partnerships that support the State's economic and social development; and
 - (k) any other information as required by this Act or deemed appropriate by the Minister.
- (2) The Minister may further prescribe the list of annual budget documents and their contents and format in the Regulations.

22. Capital Projects

- (1) By not later than 30 July of each year preceding the annual budget, the Accounting Officer of each Budgetary Entity shall submit the proposed capital projects to the National Planning Commission for conducting screening, appraisals and other analysis in the content and format as prescribed by the National Planning Commission.
- (2) The National Planning Commission shall review the proposed development projects submitted by the Budgetary Entities by taking into consideration the State national development plan and the Fiscal Framework Paper in order to
 - (a) identify and prioritize the projects to be approved and included in the pipeline subject to the availability of resources to finance the projects; and

- (b) propose that the Minister prescribes expenditure ceilings for capital projects within the Medium-Term Budgetary Framework and the budget call circular.
- (3) For the implementation of subsection (2)(b) above, the National Planning Commission shall prepare and submit to the Minister the following –
 - (a) a list of –
 - (i) all previously approved and ongoing capital projects;
 - (ii) all capital projects proposed by the Budgetary Entities to include in the Medium-Term Budgetary Framework and the annual budget of the next financial year;
 - (iii) projects funded by grants or loans in accordance with this Act;
 - (iv) multi-annual commitments for spending on capital projects which have been approved by the Minister or requested for approval; and
 - (b) the following information related to all projects included in the list above shall specify:
 - (i) the names, start and expected completion dates, and summaries of all projects;
 - (ii) the total cost and year-by-year cost, including the costs of delay, over the entire period of implementing the projects, and the financing sources of the projects;
 - (iii) updated projections of expenditure to be financed by the annual budget each year over the entire period of the projects' implementation;
 - (iv) updated projections of the Government's outstanding commitments for payments related to the projects; and
 - (v) any other information as may be deemed appropriate by the Minister.
- (4) The Minister shall prescribe the ceilings of capital expenditure or expenditure for capital projects in the Medium-Term Budgetary Framework –
 - (a) after consulting the Director General of the National Planning Commission; and
 - (b) after considering both conventionally procured capital projects and public private partnership projects that are proposed by each Budgetary Entity.
- (5) Subject to the ceilings as set forth in the Medium-Term Budgetary Framework, the National Planning Commission shall review and approve the proposed capital projects within the medium-term ceilings and notify such approved capital projects to the Executive Director for determining the annual

expenditure ceiling for the capital budget of each Budgetary Entity to be included in the budget call circular.

- (6) The Accounting Officer of each Budgetary Entity shall include in his or her budget proposals of the estimates of capital expenditure for the capital projects, which are approved by the National Planning Commission under subsection (5) only.
- (7) In the event that a proposed capital project requires expenditures for longer than the period covered by the Medium-Term Budgetary Framework, the National Planning Commission shall seek approval from the Minister for multiannual commitments beyond the medium term by presenting the following information:
 - (a) the total cost of the project, and the year-by-year cost, over the entire period of implementing the project, and the sources of financing;
 - (b) information on any previously approved multiannual commitments;
 - (c) the current status of these commitments;
 - (d) a brief description of the projects for which the multiannual commitments are required;
 - (e) confirmation that the proposed multiannual commitments are consistent with the fiscal responsibilities and fiscal objectives set out in the Fiscal Strategy Statement and the Fiscal Framework Paper as well as with the expenditure ceilings defined in the annual budget documents for the upcoming financial year and the Medium-term Budgetary Framework; and
 - (f) any other information as may be deemed appropriate by the Minister.
- (8) Notwithstanding any other applicable Acts or regulations, Regional Councils, Local Authorities and the Extrabudgetary Entities shall comply with this Section for seeking approval from the Minister to enter into or to execute any public investment project.
- (9) The Minister in consultation with the Director General of the National Planning Commission, shall issue the regulations to prescribe –
 - (a) the procedures, criteria, methodologies, and specific information required to qualify a project for inclusion in the budget; and
 - (b) any other procedures, criteria, methodologies, and requirements in respect of the screening, evaluation and implementation of projects.

23. Public Private Partnership Projects

- (1) By not later than 30 July of each year preceding the annual budget, the Accounting Officer of each Budgetary Entity shall submit any proposed public private partnership projects to the Minister for review in accordance with any applicable laws and regulations relevant to the public private partnership.
- (2) The Minister shall approve a public private partnership project, only when –
 - (a) the project’s detailed feasibility study has been approved by the technical committee responsible for public private partnership projects, and confirms that the project is expected to generate value for money and is fiscally affordable;
 - (b) the expenditure or guarantee from the State Revenue Fund form part of the project or any contingent liability to the State Revenue Fund is within the ceilings under the Medium- Term Budgetary Framework; and
 - (c) the project complements and contributes to the overall portfolio of capital projects that have been approved by the National Planning Commission as part of the National Development Plan.
- (3) Any expenditure from the State Revenue Fund on the approved public private partnership project shall be appropriated in the Appropriation Act for the Budgetary Entity responsible for implementing the project, and the total costs of the public private partnership project shall be included in the annual budget document.
- (4) The screening, evaluation, selection and implementation of public private partnership projects shall be made in accordance with this Act and any other applicable laws and regulations.
- (5) Upon the approval of a public private partnership project, the Ministry shall ensure that –
 - (a) an assessment of the contingent liabilities associated with the public private partnership is included in the Fiscal Framework Paper;
 - (b) the preparation of the overall financial and execution reports on the performance of the public private partnership projects to be submitted to the Parliament with the annual financial report of the Government.
- (6) Notwithstanding any other applicable Acts or regulations, the Regional Councils, the Local Authorities and the Extrabudgetary Entities shall comply with this Section as the Budgetary Entities for seeking approval from the Minister to enter into or to execute any public private partnership project.

24. Approval Procedure of the Parliament

- (1) The Parliament shall endeavour to consider and approve the annual budget not later than 31 March of each year.
- (2) Subject to Section 6(2) of this Act, any amendments to the annual budget proposed by the Parliament shall comply with the fiscal responsibility requirement as set forth in Section 13 of this Act.
- (3) The Minister shall be responsible for the technical validation of any proposal made by the Parliament to amend the annual budget and the Appropriation Act and for ensuring that the estimates of spending and revenue contained in these amendments are accurate.

25. Temporary Budget

- (1) If the Appropriation Act is not passed before 31st March, the Minister may authorize the expenditure as direct charges against the State Revenue Fund for a period not exceeding four months after the commencement of such financial year until the Appropriation Act is passed.
- (2) The funds withdrawn from the State Revenue Fund in terms of subsection (1) –
 - (a) may be utilized only for services for which funds were appropriated in the previous annual budget or an adjustments budget; and
 - (b) may not exceed 33 percent of the total amount appropriated in the previous annual budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated for the relevant financial year, and any funds withdrawn in terms of that subsection must be regarded as forming part of the funds appropriated in the annual budget for that financial year.

PART 5
FINANCIAL MANAGEMENT

26. Financial Management Principles

- (1) The Accounting Officer of the Entity shall not –
 - (a) make commitments or spend public money or public funds in non-compliance with the Appropriation Act or an authority granted pursuant to this Act or any applicable Acts or regulations;
 - (b) raise revenues in non-compliance with this Act, the Regulations or any other applicable Acts or regulations;
 - (c) acquire or manage State Assets in non-compliance with this Act or any applicable Acts or regulations; and
 - (d) fail to maintain records or reports that are required pursuant to this Act or any applicable Acts or regulations related to the management of the public finances.
- (2) A Minister, Executive Director or staff member with banking responsibilities for public money shall not withdraw public money from a State Account except for the settlement of a legitimate claim against the Government or for payment in pursuance of an authority under the Appropriation Act or another lawful authority.
- (3) Any trading account shall be established with the approval of the Minister and shall be operated by –
 - (a) having any expenditure related to the trading account appropriated in the Appropriation Act; and
 - (b) having any revenue or income raised by the operation of the trading accounts deposited into the State Revenue Fund.

27. Revenue Management

- (1) The Government may, through a proposal from the Minister, impose taxes in accordance with the applicable Acts and regulations as may be authorized by the Parliament.
- (2) The Regional Councils and Local Authorities may impose levies as may be authorized by the applicable Acts and regulations by providing notification to the Minister.
- (3) no services shall be rendered free by Budgetary Entities to any person without the authorisation of Accountant General;
- (4) Subject to approval by Accountant General , a Budgetary Entity, Extra Budgetary Fund and Extra Budgetary Accounts may impose a fee, charge, rate, scale and tariff for services provided if this is in compliance with the following requirements –

- (a) the fees and charges shall be set at a level not higher than the cost of the most efficient method of providing the service;
 - (b) the fees and charges shall reflect the value of the service to the person paying for it and not a wider group of beneficiaries who should contribute to the costs of the service through specific or general taxes; and
 - (c) affected parties are adequately consulted and provided with an opportunity to be heard on the imposition of new fees or charges or a significant increase in existing fees or charges.
- (5) All imposed taxes, fees and charges shall be assessed and forecasted to include in the Estimates of the annual budget.
- (6) The Minister, subject to the approval by the Cabinet, may waive or write off any applicable tax, interest, penalty, fee or charge in accordance with the terms and conditions as set forth in the Regulations.

28. State Revenue Fund

- (1) Pursuant to Section 125 of the Constitution, the State Revenue Fund shall consist of all income accruing to the Government including –
- (a) all revenues or other moneys raised or received on behalf of the Government and/or Budgetary Entities;
 - (b) revenue entitled to the State, which shall be received from and allocated by other persons including but not limited to SACU;
 - (c) any money standing to the credit of the Government and/or Budgetary Entities;
 - (d) all grants provided to the Government and/or Budgetary Entities; and
 - (e) any other moneys raised or received in trust for or on behalf of the Government;
- (2) The State Revenue Fund shall not include –
- (a) moneys that are payable to any Special Fund as prescribed in Section 30 of this Act;
 - (b) any moneys or revenue collected on behalf of any person other than the Government including but not limited to the revenue collected for and on behalf of SACU; or
 - (c) moneys that may be for lawful retention to defray any expenses of any entity as permitted pursuant to this Act or any other applicable Act and regulations.
- (3) All moneys in the State Revenue Fund shall be deposited in the State Account, except for day-to-day cash management or for investment to be made under Section 38 of this Act.

29. Withdrawals from the State Revenue Fund

- (1) Money shall not be withdrawn from the State Revenue Fund unless such withdrawal or expenditure –
 - (a) has been authorized by an Appropriation Act or a Supplementary Budget in respect of the financial year during which the withdrawal is to take place;
 - (b) is made for investment under Section 38 of this Act; or
 - (c) is authorized pursuant to this Act or any other law authorizing a direct charge on the State Revenue Fund.
- (2) The direct charges on the State Revenue Fund are the following –
 - (a) for the payment and repayment of debt, or interest and other service charges on the debt as set forth in Section 44 of this Act;
 - (b) for payment in case there is any enforcement against a Government's guarantee under Section 45 of this Act; and
 - (c) for the lawful authorized payment in respect of any advance, refund, rebate or drawback.
- (3) The amounts of money withdrawn in accordance with subsection (2) as a charge to the State Revenue Fund, shall be deemed to have been appropriated by law for the purposes concerned.
- (4) The Minister may authorize the withdrawal of moneys from the State Revenue Fund in order –
 - (a) to defray expenditure on services in connection with any anticipated excess of an amount mentioned in an estimate of expenditure in respect of a Budgetary Entity;
 - (b) to defray expenditure on services of a special nature which are not provided for in an appropriation Act,
if the Minister is satisfied that the expenditure concerned cannot without serious detriment to the public interest be postponed until provision can be made therefor by law;
- (5) authorise the establishment of a new main division and, if necessary, subdivisions thereof in respect of a Head of Expenditure.
- (6) Subject to the provisions of this Act and notwithstanding anything to the contrary in any other law contained –
 - (a) no expenditure shall be incurred as a charge to the State Revenue Fund;
 - (b) no payments shall be made as a charge to the State Revenue Fund;
 - (c) no fees or charges, or the rates, scales or tariffs thereof, shall be determined as a charge to the State Revenue Fund,

without the authorisation of the Accountant General.

30. Special Funds

- (1) Upon the enactment of this Act, only the funds listed in Schedule 1 of this Act shall be legally recognized as the Special Funds outside of the State Revenue Fund.
- (2) Any new Special Fund shall be established by the proposal of the Minister for the approval of the Parliament through the adoption of an Act only.
- (3) Every Special Fund shall be administered in accordance with the requirements of this Act and the Act created for the respective Special Fund.
- (4) Notwithstanding the provisions in any other Act, the operation of the Special Fund shall meet the following minimum requirements –
 - (a) the income of the Special Fund shall be deposited in the State Account or a subsidiary account of the State Account;
 - (b) any payment from the State Revenue Fund to the Special Fund shall be made by means of the appropriation in the Appropriation Act only;
 - (c) any payment from the Special Fund shall be made in accordance with the rules and procedures applicable to the payment and withdrawal from the State Account;
 - (d) any entity responsible for the Special Fund shall keep an appropriate and accurate record of the financial and non-financial performance of the Special Fund as prescribed by the Minister; and
 - (e) any entity responsible for the Special Fund shall prepare and submit reports and statements as required by the Accountant General, the Executive Director and the Minister.

31. State Account

- (1) There shall be established and maintained at the Bank of Namibia an account to be known as the State Account –
 - (a) into which, subject to the provision of this Act or any other applicable Acts and regulations, shall be deposited the State Revenue Fund and all money received by the Government either from the State Revenue Fund or other Special Funds;
 - (b) into which, subject to the provisions of this Act or any other applicable Acts and regulations, shall be deposited all monies or revenue raised by the Government and/or the Budgetary Entities for and on behalf of other persons including SACU; and
 - (c) from which, subject to the provisions of this Act and any other applicable Acts and regulations, shall be defrayed all expenditure of or payment from the Government.

- (d) Unless the Accountant General determines otherwise, the Bank shall on every working day, in such form as the Accountant General may determine, render a return to the Executive Director: in respect of all moneys deposited in and paid from the State Account.
- (2) Besides the State Account at the Bank of Namibia provided for in subsection (1) above, the Accountant General may, subject to the regulations prescribed by the Minister, approve the Budgetary Entity to open other bank accounts as part of the State Account at –
 - (a) the Bank of Namibia; or
 - (b) other Agent Banks.
- (3) The Minister may by Regulations prescribe –
 - (a) a list of the bank accounts to be included in the State Account;
 - (b) any arrangements, including the reporting of deposits, withdrawals and balances, necessary for the development and management of the State Account;
 - (c) his or her powers and the powers of the Accountant General in opening, closing, transferring and suspending the bank accounts of Budgetary Entities;
 - (d) the arrangement with the Bank of Namibia and other Agent Banks to transfer the contents of all subsidiary accounts of the State Account to the State Account on a daily basis in order to minimize the overall liquidity requirements of the government;
 - (e) the requirement for any idle cash balances to be invested in accordance with Section 38 of this Act; and
 - (f) any other matters necessary for implementation of this section.

32. Other Bank Accounts

- (1) The Accountant General may authorize the opening and closing of the following bank accounts –
 - (a) bank accounts in countries other than Namibia for the functions of the Government outside of Namibia such as embassies, diplomatic missions and other entities with specific purposes; or
 - (b) bank accounts to contain money that is not public money but is held by the Government as the custodian on behalf of a non-public entity or person.
- (2) The Accountant General shall issue instructions for the operation, reporting and reconciliation of the bank accounts opened and operated in subsection (1).

- (3) The Accountant General shall keep complete, accurate and current records and statements of all bank accounts pursuant to this Act.
- (4) The Accountant General may, on the authority of the Executive Director, withhold the release of funds to any bank account of the Entity if the Entity has –
 - (a) failed to submit completed regular financial reports as required by this Act, the Regulations or any other applicable Acts and regulations;
 - (b) failed to attend to defects or irregularities in the financial reports;
 - (c) managed public resources in a way that exposes the Government to fiscal risks, failure to deliver public services or other serious performance issues; or
 - (d) failed to comply with the financial management requirements in this Act, the Regulations or any other applicable Acts and regulations.

33. Agent Banks

- (1) For the purpose of opening bank accounts by Entities, the Accountant General after consultation with bank of Namibia shall make recommendations to the Minister for the approval of banking institutions as agent banks.
- (2) In case of a bank account to be opened in a foreign country, the Accountant General shall, in consultation with Bank of Namibia authorize the opening of an account by the Budgetary Entity.
- (3) The Minister may further prescribe via Regulations to –
 - (a) control and manage the bank accounts opened at the Agent Banks by the Budgetary Entities and the Extrabudgetary Entities; and
 - (b) access, oversee or supervise the bank accounts of Regional Councils, Local Authorities and Commercial Public Enterprises.
 - (c) Outline the criteria or requirements for approval of the agent banks by the Minister.
- (4) In accordance with a Regulation as may be prescribed by the Minister, there shall be developed a computerized system for processing and reporting bank statements and reconciliation.

34. Depository of Revenue

- (1) In accordance with Article 125 of the Constitution, all revenue raised by the Budgetary Entities under this Section shall be deposited into the State Revenue Fund each day on a gross basis, without any deductions or offsets, except for:

- (a) any lawful retention to defray any expenses of any entity as permitted pursuant to this Act;
 - (b) any revenue raised by the Government and/or any Budgetary Entity for or on behalf of another person including but not limited to SACU; or
 - (c) any special approval as granted by the Minister.
- (2) The Minister may prescribe through Regulations the rules and procedures for collecting revenue and depositing such revenue in the State Revenue Fund in accordance with subsection (1) above.
- (3) An official receipt of revenue and other money collected by any Budgetary Entity shall be issued in electronic form or substituted for by electronic records.

35. Withdrawal from the State Account

- (1) The Executive Director may authorize the withdrawal of money from the State Account and the State Revenue Fund by a Warrant in accordance with Section 52 of this Act.
- (2) Payments shall not be withdrawn from the State Account unless –
- (a) the expenditure has been authorized for the financial year during which the withdrawal is to take place –
 - (i) by an authority under an Appropriation Act or a Supplementary Budget;
 - (ii) by any other provisions of this Act or other applicable Acts; or
 - (b) the payment or transfer of any revenue or money that the Government and/or any Budgetary Entity has collected for or on behalf of another person to such a person including but not limited to SACU; and
 - (c) the expenditure is for the purpose of repaying any moneys that were received in error by the Government account.
- (3) The Minister by means of Regulations may prescribe –
- (a) the detailed rules and procedures for releasing funds or withdrawing money from the State Account by any means which are efficient, transparent and in accordance with the requirements of this Act;
 - (b) the detailed rules, procedures, information and documents as required for the payment or withdrawal of funds from the State Account;
 - (c) the timeframe within which the Accountant General shall release the funds for payment;

- (d) the expiry date for the release of funds at the end of financial year unless a carry-over is authorized in accordance with this Act and the Regulations; and
- (e) other matters as deemed fit by the Minister.

36. Cash Management

- (1) The Executive Director may require the Accounting Officer of the Budgetary Entities to prepare and submit to him or her forecasts, plan and reports related to cash flow of the entities in such form and by such date as determined by the Executive Director.
- (2) For the purpose of effective and efficient cash flow management, the Accountant General and the Accounting Officer of the Budgetary Entity shall –
 - (a) ensure payments and other cash transactions are managed in accordance with lawful authority as stipulated in this Act and the Regulations;
 - (b) ensure all moneys due to entities are collected in a timely and efficient manner;
 - (c) ensure all moneys are deposited into the State Account or respective bank accounts in accordance with this Act and the Regulations; and
 - (d) ensure that the State Account or respective bank accounts are sufficiently funded.
- (3) The Minister may prescribe procedures, methodologies, forms and any other matters in respect of subsection (1) and subsection (2) above in the Regulations.

37. Investments

- (1) The Executive Director may, in consultation with the Minister, invest the available balances of the moneys in the State Account that will not be used or needed in the short term as determined by the Accountant General.
- (2) Any interest or income earned from the investments of the State Revenue Fund and other monies or funds in the State Account under subsection (1) above shall be accounted for in and form part of the State Revenue Fund.
- (3) The Minister shall prescribe investment guidelines to specify the policies and rules on the investment of public moneys under subsection (1) above.

38. Asset Management

- (1) Notwithstanding the provisions in other laws, all assets used by or belonging to the Budgetary Entities shall be considered as Government Assets, which shall be owned by the Government.
- (2) All Government Assets, especially fixed assets, shall be registered as owned by the Government.
- (3) All assets belonging to the Regional Councils, Local Authorities and Public Enterprises shall be owned by the respective entities but shall be classified as State Assets.
- (4) Any use of a Government Asset by any Commercial Public Enterprise shall be made by means of a lease agreement or any other arrangement at a fair market price.
- (5) The Accounting Officers of Budgetary Entities shall efficiently and effectively manage the assets held by them to ensure that the Government achieves the best value for money when acquiring, using and disposing of these assets.
- (6) The acquisition and disposal of State Assets shall be managed in accordance with the Public Procurement Act or the Public Private Partnership Act.
- (7) The Minister may prescribe in the Regulations for –
 - (a) the establishment and maintenance of a comprehensive register of all Government Assets;
 - (b) the requirements for valuing the assets in order to record them in the balance sheet of the Government;
 - (c) the rules and procedures for the maintenance and management of Government Assets and the State Assets;
 - (d) the requirements and procedures for allocating Government Assets to any Budgetary Entity to hold, use or keep custody;
 - (e) the requirements and procedures for transferring Government Assets to other Budgetary Entities or persons;
 - (f) the procedures for including information on the acquisition, disposal, and management of assets in Budgetary Entity’s annual procurement plan; and
 - (g) other matters in relation to asset management as the Minister deems fit.
- (8) Subject to Regulations as prescribed by the Minister, the Accounting Officer of each Entity shall have adequate systems and processes in place to prepare an asset management plan, procure assets, account for assets, maintain assets, store assets, and dispose of assets as well as maintaining an asset register that is current, accurate and available for inspection at any time by the Ministry.

- (9) Notwithstanding anything to the contrary in any other law contained, no movable and no immovable property of the State shall be alienated, let, exchanged, donated, hypothecate or otherwise disposed of without the authorisation of the Accountant General.

39. Grant Management

- (1) All grants shall be approved either by –
- (a) the Minister to be included in the annual budget for the expenditure from such grants to be appropriated in the Appropriation Act; or
 - (b) the Minister for the expenditure from such grants to be managed externally outside of the Appropriation Act by the responsible Budgetary Entity in accordance with the contract relating to each grant or any other arrangement for the grants' disbursement and utilization.
- (2) The grants received under subsection (1)(a) above shall be –
- (a) assessed by the National Planning Commission, if such grants are for funding a capital project to be budgeted under the capital expenditure of the Appropriation Act;
 - (b) included in the draft annual budget of the Budgetary Entity responsible for executing the grant; and
 - (c) deposited into the State Account as revenue within the State Revenue Fund for all execution, expenditure and payment processes to be in accordance with this Act and the Regulations.
- (3) The grants received with the approval of the Minister under subsection (1)(b) shall be received jointly by –
- (a) the Minister for the financial management and oversight of the grant; and
 - (b) the Accounting Officer of the Budgetary Entity responsible for the operation and execution of the grant.
- (4) The grants accepted and received under subsection (3) above shall be deposited into any account opened with the approval of the Accountant General for all expenditure and payment processes to be made in accordance with the approved grant contract or agreement and reported to the Executive Director as required or as set forth in the Regulations.
- (5) For the acceptance and management of the grants under sub-section 3, the Minister may prescribe in the Regulations the requirements and procedures for assessing the terms and conditions of the grants and the management of the grants.
- (6) Upon the completion of any capital project financed by a grant, the asset shall be classified as an asset of the Government to be managed under Section 39 of this Act.

- (7) Any Budgetary Entity that receives assistance in kind, shall determine and record the monetary value in accordance with the Regulations.
- (8) If any Budgetary Entity or Extrabudgetary Entity wants to provide any assistance in kind or a grant from the State Revenue Fund –
 - (a) such an entity shall submit a request for providing the grant, with a justification and the proposed terms and conditions of the grant, to the Minister for approval in principle;
 - (b) such an entity shall include the expenditure related to the proposed grant in its annual budget proposal; and
 - (c) all approved grants shall be appropriated in the Appropriation Act for the payment of such grants to be made from the State Revenue Fund.

40. Debt Management

- (1) The Minister shall prepare a debt management strategy for inclusion in the Fiscal Strategy Statement and submit the strategy to the Cabinet for approval.
- (2) The debt management strategy shall consist of –
 - (a) the objectives and scope of debt management;
 - (b) a description and analysis of the existing debt portfolio, any identified risks and the measures to mitigate such risks;
 - (c) the sources of potential financing both domestic and external and a comparison of alternative funding strategies based on estimates of cost and risk;
 - (d) the baseline pricing assumptions and shock scenarios;
 - (e) the proposed debt ceilings for the medium term;
 - (f) the rollover of the Government's annual borrowing and financing plan for the next financial year; and
 - (g) other items as deemed fit by the Minister.
- (3) The Minister, in consultation with the Bank of Namibia, shall prepare an annual borrowing and financing plan, which may include –
 - (a) the amount, creditor, term, and purpose of each instrument of external borrowing to be made by the Minister during the next financial year;
 - (b) the amount and other details of domestic borrowing to be made by the Minister, the Regional Councils and the Local Authorities during the next financial year;
 - (c) the amount, term, borrower and purpose of each guarantee to be issued by the Minister during the next financial year;

- (d) the details of loans to be undertaken by the Minister during the next financial year;
 - (e) the amount and other details of borrowing to be made by the Public Enterprises during the next financial year; and
 - (f) any other information as the Minister deems appropriate.
- (4) The Regional Councils, the Local Authorities and the Public Enterprises shall request the Minister's approval of any loans they want to make and any guarantees they want to request from the Minister in accordance with the Regulations made pursuant to this Act and the budget call circular issued by the Minister under Section 22(2) of this Act.
- (5) The Minister shall maintain and keep an up-to-date register of borrowings received under Section 42 of this Act, guarantees given under Section 45 of this Act and loans granted from the State Revenue Fund under Section 46 of this Act.
- (6) The register referred to in subsection (6) above shall include information on –
- (a) the contractual terms and conditions of any borrowings, guarantees and loans;
 - (b) the performance of obligations under contracts including the underlying obligations in respect of the guarantees; and
 - (c) any other matters as may be specified by the Minister.
- (7) The Accounting Officers of Public Enterprises and Local Authorities shall submit to the Minister a report on outstanding borrowings, guarantees and loans by such a date and in such a form and manner as may be specified by the Minister.
- (8) The Executive Director shall prepare an annual debt report to be tabled before Parliament by the Minister in accordance with the timeframe, process and contents specified in the Regulations as well as publication.
- (9) The Accounting Officers of Entities shall submit to the Executive Director a report on payment arrears in such a form and manner, at such frequency, and by such a time as determined by the Minister.
- (10) Payment arrears shall be considered as part of the Government's debt to be controlled and managed in accordance with Regulations that shall prescribe the following –
- (a) the definition and classification of payment arrears;
 - (b) the reporting requirements for payment arrears;
 - (c) the management and settlement of payment arrears;
 - (d) the inclusion of payment arrears in the annual debt report; and
 - (e) other matters as deemed fit by the Minister.

- (11) The Ministry shall maintain a computerized debt management system that records, and makes available to the public, comprehensive information on Government debt

41. Borrowings

- (1) Notwithstanding the provisions in any other law, the Minister shall have the sole authority to make borrowings within or outside Namibia that bind or may bind the State Revenue Fund or public funds other than the funds of the Regional Councils and the Local Authorities.
- (2) In making any foreign borrowing the Minister shall consult with the Bank of Namibia in accordance with the Act on the Bank of Namibia.
- (3) The Minister may borrow money in terms of this Act for the following purposes –
 - (a) to finance budget deficits;
 - (b) to finance maturing debt or a loan paid before the redemption date;
 - (c) to obtain foreign currency;
 - (d) to maintain credit balances on the State Account or another bank account;
 - (e) to regulate influence internal monetary conditions; or
 - (f) for any other purpose approved by the Parliament by special resolutions.
- (4) In exercising the powers conferred by subsection (1), the Minister may –
 - (a) enter into agreements with banking institutions or other financial institutions including the Bank of Namibia, an international bank or a foreign financial institution and, subject to delegation of such power by the President under Article 32(3)(e) of the Namibian Constitution, with foreign governments.
- (5) Notwithstanding any other Act or regulations, an Extrabudgetary Entity may borrow only through on-lending or borrowing made by the Minister to finance capital expenditure of the Extrabudgetary Entity.
- (6) All borrowings made by Regional Councils and Local Authorities shall be made with the concurrence of the Minister.
- (7) All funds obtained from borrowings under subsection (1) shall be deposited into the State Account for the expenditure financed by such borrowing to be appropriated in the Appropriation Act unless there are any special conditions as required by the loan agreement for the funds to be used and managed outside the State Account and the Appropriation Act.

- (8) If the loan agreement requires the loan to be disbursed and used outside the State Account and the Appropriation Act, the Minister shall –
 - (a) not accept such a loan unless there is an approval from the Cabinet and such a decision shall be laid before the Parliament for information and included in the debt register or annual debt report to be submitted to the Parliament; and
 - (b) ensure that such a loan is deposited in any account opened with the approval of the Accountant General for all expenditure and payment processes to be in accordance with the loan agreement.

42. Government Securities

- (1) The authority of the Minister to raise loans pursuant to this Act shall include the authority to borrow money by way of the issue of public securities including bills, bonds or commercial paper.
- (2) The Minister may prescribe further pursuant to this Act or any other applicable Acts for the rules and procedures to be used in issuing Government securities in the Regulations. The Minister shall not be liable for any obligation resulting from a lien over or the cession of any security issued under this Act.
- (3) The Minister may within Namibia or elsewhere enter into an agreement with any person, including a financial institution, providing for the exercise or performance, on the terms and conditions agreed upon, by such person of any power or duty which in terms of this Act may be or is required to be exercised or performed by the Minister or the Executive Director in relation to the issue, transfer, administration, purchase or repayment of securities.

43. Loan Repayment

- (1) The following payments in connection with loans are direct charges against the State Revenue Fund –
 - (a) the repayment of money borrowed by the Minister pursuant to this Act on behalf of the Government;
 - (b) the interest payable on money borrowed by the Minister pursuant to this Act on behalf of the Government; and
 - (c) any costs associated with such borrowing and approved by the Minister.
- (2) The Minister may enter into an arrangement with the Bank of Namibia to raise and service all Government loans and repayment by paying all service fees as a direct charge to the State Revenue Fund as set forth in subsection (1) above.

44. Guarantees

- (1) Subject to Section 41(3) of this Act, the Minister may issue a guarantee or sign a guarantee agreement in any financial year up to the limit as determined in the Fiscal Framework Paper.
- (2) In the event that the issued guarantee is called or enforced, the payment of such a guarantee shall be made as a direct charge to the State Revenue Fund and shall be accounted for in the financial year when the guarantee is called or enforced.
- (3) The Minister shall ensure that there is a procedure in place for claiming any indemnification and reimbursement of the called or enforced guarantee from the responsible person or entity.

45. Lending

- (1) The Government may provide loans on behalf of the State in accordance with this Act or a resolution of the Parliament.
- (2) Only the Minister may –
 - (a) enter into an agreement for granting loan from the State Revenue Fund subject to this being recorded as an appropriation under the Appropriation Act; or
 - (b) agree that a Budgetary Entity may lend to a person in kind by providing any specific goods or services without charge.
- (3) An agreement entered into pursuant to subsection (2) may be laid before the Parliament and be recorded in the register as maintained by the Minister in accordance with Section 41(6) of this Act.

Any lending by the Government or from the State Revenue Fund shall be repaid over such a period of time and according to the terms and conditions of the agreement or as specified by the Minister.

PART 6

IN-YEAR ADJUSTMENTS TO THE ANNUAL BUDGET

46. Rules on Reallocation

- (1) The amount of a provision for a head of expenditures under the Appropriation Act may not be reallocated between different heads of expenditures, without approval by the Parliament through a Supplementary Estimate.
- (2) The Accountant General may, on the request of the Accounting Officer of a Budgetary Entity, reallocate an amount of a provision for an item of expenditures under the Appropriation Act between different subheads of expenditure but within the same head of expenditures if the aggregate amount of reallocation between different subheads within the same head

of expenditure does not exceed ten percent of the total expenditures provided for the head of expenditure.

- (3) The Accounting Officer of a Budgetary Entity may, by providing pre-notification to the Accountant General, reallocate an amount of a provision for an item of expenditures under the Appropriation Act within the same subheads of expenditures if the aggregate amount of reallocation within the same subhead does not exceed ten percent of the total expenditures provided for the subhead.
- (4) The amount of a provision for an item of expenditures under the Appropriation Act may not be reallocated –
 - (b) from capital expenditures to current expenditures unless authorized by the Minister in consultation with the Director General of the National Planning Commission;
 - (c) to cause any unapproved or unallocated obligation or liabilities to the Government; or
 - (d) to increase wages, salaries, emoluments, allowances or other personnel expenditures.
- (5) The Minister may prescribe further rules and procedures on expenditure reallocations necessary for implementation of this section in the Regulations.

47. Contingency Provision

- (1) The Executive Director shall include an appropriation for a contingency provision in the budget of the Ministry.
- (2) The amount of the appropriation for a contingency provision in terms of subsection (1) shall be determined by the Minister after considering the proposal by the Executive Director.
- (3) Upon requests by the Budgetary Entities in accordance with the Regulations, the Minister may decide that an “emergency” situation exists, which means an event that causes severe human suffering or material, economic and environmental damage and which results in or is likely to result in the loss of essential services as required to meet basic human needs and which –
 - (a) cannot be responded to with the resources available from the Appropriation Act or other sources of funds;
 - (b) cannot, without serious prejudice to the public interest, be postponed to a future appropriation of funds; and
 - (c) creates a compelling need for funding that is in the public interest.
- (4) The Minister may approve on the confirmation of the “emergency” situation a warrant for payment from the contingency provision.

- (5) When the emergency is confirmed for the withdrawal from the contingency provision, the Executive Director shall transfer the used amount from an appropriation for the contingency provision to an appropriation under the appropriate head of expenditure, for which the contingency provision is used.
- (6) The Minister shall report the use of the contingency provision to the Parliament in accordance with the Regulations.

48. Mid-Year Budget Review

- (1) The Minister shall between October and December of each financial year table a mid-year report to the Parliament.
- (2) The Mid-Year Budget Report shall include the following information –
 - (a) an overview of recent macroeconomic and fiscal developments;
 - (b) an update of the macroeconomic and fiscal forecasts prepared by the Government;
 - (c) an analysis of the total revenue, expenditure and financial performance of the Government for the first six months of the financial year; and
 - (d) a revised budget outlook for the unexpired term of the financial year, and the impact of the revised budget outlook on the Medium-Term Budgetary Framework.
- (3) The Mid-Year Budget Report must identify any corrective measures that will be taken by the Government to put fiscal policy back on the track set out in the Fiscal Framework Paper, including adjustments to the medium-term budgetary framework as well as the requirement for an adjustment to the Appropriation Act to be undertaken.
- (4) Upon the Mid-Year Budget Review, the Minister may request for an adjustment of the Appropriation Act only if –
 - (a) such adjustment is required due to significant and unforeseeable economic and financial events affecting the fiscal objectives;
 - (b) there is any unforeseeable and unavoidable expenditure recommended by the Cabinet based on a recommendation made by the Minister;
 - (c) there is any unavoidable need for the roll-over of unspent funds from the preceding financial year; and
 - (d) there is a need to correct any errors in the Appropriation Act.
- (5) Subject to the pre-conditions as set forth in subsection (4) above, the Minister shall submit to the Cabinet for approval of the adjustment prior to laying before the Parliament for its approval on a Supplementary Budget to –

- (a) decrease an appropriation under the Appropriation Act;
 - (b) increase an appropriation under the Appropriation Act only when justified by an increase of the estimated revenue;
 - (c) create a new appropriation under the Appropriation Act with an offsetting reduction of another appropriation;
 - (d) change the purpose of an appropriation under the Appropriation Act; or
 - (e) change the purpose of a provision under the Appropriation Act.
- (6) A Supplementary Budget shall not be laid by the Minister before the Parliament more than once within a financial year.
- (7) A Supplementary Budget shall classify the expenditures in the same manner as the Appropriation Act.
- (8) A Supplementary Budget laid by the Minister before the Parliament shall be accompanied by the provision of information, which includes –
- (a) updated forecasts of revenues and expenditures of the annual budget;
 - (b) an explanation for any changes to appropriations for individual heads or sub-heads of expenditure;
 - (c) an assessment of the fiscal impact of the Supplementary Budget; and
 - (d) any other information as may be deemed appropriate by the Minister.

49. Unauthorized Expenditure

- (1) “Unauthorized expenditure” refers to a situation where the public funds have been expended –
- (a) in excess of the amount appropriated under the Appropriation Act; or
 - (b) for a purpose for which no funds have been voted and appropriated;
 - (c) any expenditure or payment for which no provision has been made by or under any law;
 - (d) that amount is not authorized by a Supplementary Budget or the Government does not propose to authorize it by a Supplementary Budget.
 - (e) any expenditure or payment incurred or made without the authorisation or approval required by this Act;
 - (f) any expenditure or payment incurred or made contrary to the provisions of any law;

- (2) After the closing of the account and as part of the audited financial statements, the Auditor General shall lay before the Parliament a statement of unauthorized expenditure, which shall include –
 - (a) details of the amount of unauthorized expenditure, the name of the Budgetary Entities and officers involved, and the circumstances relating to the expenditure;
 - (b) information detailing the non-compliance of the unauthorized expenditure as well as the impact of such non-compliance on the budget with any justification, if available; and
 - (c) any other information as may be deemed appropriate by the Minister.
- (3) Any unauthorized expenditure shall be treated as a loss of public money for -
 - (a) the responsible authority to take action for sanctions or loss recovery in accordance with Part 11 of this Act; and
 - (b) the Executive Director to consider and take account of the unauthorized expenditure in allocating the budget for the liable Budgetary Entity in the next financial year.

50. Withholding of Appropriation Funds

- (1) The public funds appropriated for a function shall be attached to such a function in case of any transfer of functions within the financial year and the Minister –
 - (a) may withhold from an Entity any remaining funds appropriated for a specific function if that function is transferred to another Entity; and
 - (b) must allocate such remaining funds to that other Entity which receives the transferred function.
- (2) The Minister may further prescribe the rules and procedures for withholding of appropriated funds in the Regulations.

PART 7

BUDGET EXECUTION

51. Warrants

- (1) Subject to the Appropriation Act, no payment shall be made unless a Warrant authorizing expenditure to be charged against the appropriation has been issued by the Executive Director.
- (2) Subject to Section 37 of this Act, the Accounting Officer of the Budgetary Entity shall prepare the annual cash flow plan as well as a quarterly cash flow plan in accordance with the Regulations for submitting to the

Executive Director to prepare the appropriation allotment for releasing a warrant for payment.

- (3) Subject to the decision of the Minister, the Executive Director may issue a Warrant to authorize an advance from the State Revenue Fund.
- (4) Advances authorized under subsection (3) above shall not, in the aggregate, exceed the amount specified in the Regulations.
- (5) The Minister may prescribe further about the rules and procedures for requesting for warrants and submitting cash flow plans in the Regulations.

52. Public Procurement

- (1) The Accounting Officer of the Budgetary Entity shall make an annual procurement plan to submit with the budget proposal in accordance with Section 20(3) above.
- (2) Procurement activities may take place only when they are in line with the annual procurement plan as set forth in subsection (1) and when the funds do not exceed the available appropriation under the Appropriation Act.

53. Contract Management

- (1) All Government contracts, the contracting authorities of which are Budgetary Entities, shall be registered in the computerized system for their effective management.
- (2) Where any payment under a contract is withheld to ensure the due performance of the contract, such payment may, subject to this Act or any other applicable Acts or regulations, be charged to the appropriation for the contract and the amount so charged may be placed to the credit of a special account to be paid out in accordance with such a contract and in such manner as the Minister may prescribe in the Regulations.
- (3) All Government contracts, the contracting authorities of which are Budgetary Entities, shall be registered in the computerized system and shall not enter into force until the date of registration of the contract.
- (4) Notwithstanding anything to the contrary in any law contained –
 - (a) no contract in which the State is a party shall be cancelled or varied to the detriment of the State;
 - (b) no claim by the State resulting from any loss or damage or unjust enrichment contemplated in section 90, whether or not instituted by way of judicial proceedings, shall be waived or settled;
 - (c) no claim against the State shall be settled,

without the authorisation of the Accountant General.

54. Commitment Control System

- (1) The Executive Director may issue commitment control limits to the Budgetary Entity.
- (2) The Accounting Officer of the Budgetary Entity shall, before any commitment which binds the Government to the future payment is signed, ensure that the projected commitment is provided for in an appropriation or other direct charges to the State Revenue Fund or the State Account.

55. Annual Commitment

- (1) A commitment, the settlement of which requires expenditures from the Appropriation Act only in the present financial year, may be assumed by any Budgetary Entity, if –
 - (a) the amount to be paid under the commitment is equal to or less than the available provision, appropriation and warrant; and
 - (b) the legality of expenditures to be made from the Appropriation Act under the commitment has been verified.
- (2) The annual commitment in a financial year based on an Appropriation Act shall expire at the end of the financial year.
- (3) If any Budgetary Entity makes any commitment in non-compliance to subsection (1) above, such event shall –
 - (a) be considered as financial misconduct, which may be subject to sanction and loss recovery procedure in accordance with Part 11 of this Act; and
 - (b) cause the Executive Director to take account of such overcommitment in allocating and approving the budget for the liable Budgetary Entity in the next financial year.

56. Multi-Annual Commitments

- (1) The Accounting Officer of a Budgetary Entity or an Extrabudgetary Entity shall seek approval from the Minister prior to entering into a commitment, the settlement of which requires expenditure from the Appropriation Act in future financial years.
- (2) The Minister may approve a multiannual commitment under subsection (1) if –
 - (a) the amount to be paid under the commitment within the present financial year is equal to or less than the available appropriation and the available allotment, if any;
 - (b) the legality of expenditure to be made from the Appropriation Act under the commitment has been verified in accordance with any applicable Acts;

- (c) the amount to be paid under the commitment does not cause any expenditure ceiling under the annual budget and the Medium-Term Budgetary Framework to be exceeded; and
 - (d) such multiannual commitment is made for expenditure on capital projects approved in accordance with Section 22 and Section 23 of this Act.
- (3) When authorizing a commitment under subsection (1), the total amount including amount that falls due in future years shall be recorded in the Computerized System.

57. Verification for Payment

- (1) The Accounting Officer of the Budgetary Entities shall put in place procedures that comply with this Act and any other applicable Acts for verifying the receipt of goods and services prior to payment for these goods and services or that the payment otherwise meets the terms of any contract between the Entities and the supplier.
- (2) Prior to asking for a payment voucher in accordance with Section 59(2) of this Act, the Accounting Officer of the Budgetary Entity shall certify –
 - (a) that the work has been performed in line with the terms and conditions of the contract and that the goods have been supplied or the services rendered; or
 - (b) where payment is to be made before the completion of the work, the delivery of the goods or the rendering of the services, that the payment is in accordance with the contract.
- (3) A report on the results of verification under subsection (1) shall be recorded in the Computerized System.

58. Payment Vouchers

- (1) A voucher for making payments by the Budgetary Entity shall be certified by its respective Accounting Officer or the office member authorized by him or her.
- (2) The Accounting Officer or authorized office member of the Budgetary Entity shall not certify a payment voucher under subsection (1), unless –
 - (a) the underlying commitments of the payment voucher meet the requirement under Section 55, Section 56 or Section 57;
 - (b) if applicable, the certification in respect of the relevant work done, goods supplied or services rendered has been provided under Section 58(2) above;
 - (c) the information stated in the payment voucher is confirmed by evidence of the relevant claim; and

- (d) the legality of a proposed payment has been verified in accordance with any applicable Acts and regulations.
- (3) The Minister may issue a Regulation to prescribe the rules and procedures for issuing and transacting payment voucher and other transactions using the computerized system.
- (4) All payments from the State Revenue Fund shall be made by electronic fund transfers.

59. Expiry of the Budget

- (1) The annual budget and the Appropriation Act shall expire and cease to have effect at the end of the financial year to which it relates.
- (2) All authorities to make payment against commitments, which have been made prior to the end of the financial year and for which goods or services have been received but for which no payment has been made prior to the end of the year shall expire 10 working days after the end of the financial year and payments made for goods and services received in the previous financial year shall be recorded for the previous financial year.

60. Carry Forward of the Budget

- (1) Payments against commitments carried forward for goods and services not received before the end of the financial year shall be –
 - (a) recorded in the appropriations for the year in which the payment is made if possible; or
 - (b) shall be accommodated within a provision of an appropriation for the next financial year; and
 - (c) shall be recorded in the accounts for the year in which the payment is made.
- (2) All appropriation and commitments which are not in line with Section 60 of this Act and the above subsection (1) shall be submitted via the budget proposal to be included in the Appropriation Act for the next financial year.

61. Government Internal Audit

- (1) The Minister shall establish a unit responsible for Government Internal Audit and Policy Coordination and shall designate staff members within public service as its head and such other staff members within the Ministry to carry out the functions set out in Subsection (1).
- (2) The Government Internal Audit and Policy Coordination function shall include to—

- (a) develop the Government's internal audit strategy and supervise its implementation;
 - (b) develop internal audit policies, rules, standards, manuals, circulars and guidelines that are aligned with international standards of best practice;
 - (c) liaise with the Auditor General, Accountant General, Accounting Officers and internal auditors in Budgetary Entities, Extrabudgetary Entity, Regional Councils and Local Authorities on audit matters;
 - (d) periodically evaluate the effectiveness of internal auditors and audit committees of the respective entities;
 - (e) support the development and building of capacity of internal audit staff members across the Budgetary Entities, Extrabudgetary Entity, Regional Councils and Local Authorities; and
 - (f) prepare an annual report on the performance of internal audit functions across the Budgetary Entities, Extrabudgetary Entity, Regional Councils and Local Authorities.
- (3) The Minister shall establish Internal Audit Committee, which shall be constituted by not less than three persons and not more than five persons appointed by the Minister in accordance with the requirements, procedures and such other functions as set out in the Regulations.
- (4) The Head of the Government Internal Audit and Policy Coordination Unit shall administratively report to the Executive Director and functionally report to the Government Internal Audit Committee.

62. Internal Audit Units

- (1) There shall be established an internal audit unit in each Budgetary Entity, Extra Budgetary Fund, Regional Council and Local Authority unless exempted by the Minister.
- (2) The internal audit unit shall be responsible for functions that include but are not limited to –
 - (a) preparing an annual internal audit workplan in accordance with a risk-based approach to submit to the respective Accounting Officer;
 - (b) evaluating the safeguarding and management of the State Assets owned or managed by the Entity;
 - (c) appraising and reporting the soundness and application of the Entity's system of accounting, financial and operational controls;
 - (d) evaluating the effectiveness of the risk management procedures in the Entity; and

- (e) evaluating and reviewing the performance, security, safety and accuracy of the Entity's computerized financial management and other information systems.
 - (f) evaluating compliance of the Entity with prevailing legislation, policies, standards, systems and procedures relating to financial management.
- (3) The internal audit unit will ensure appropriate arrangements are in place for conducting internal audit according to the guidelines issued by the Government Internal Audit and Policy Coordination Unit.
 - (4) The internal audit unit shall have unrestricted access to all information, property and premises and shall be provided with all necessary documents and materials.
 - (5) If there is any non-compliance to subsection (4) above, the internal audit unit may submit a request for intervention from the Accounting Officer of the respective Entity.
 - (6) The internal audit unit shall report Administratively to the Accounting Officer and functionally to the Audit Committee.

63. Audit Committees

- (1) The Minister, Heads of Budgetary Entities, Regional Councils, Local Authority Councils and Boards of Extrabudgetary Fund shall establish audit committees for their respective entities.
- (2) The Minister may prescribe in the Regulations the composition of the Audit Committee, tenure and remuneration of the Audit Committee Members.
- (3) An audit committee shall be responsible for –
 - (a) assisting the Accounting Officer in carrying out the oversight responsibilities relating to financial practices, internal controls, information systems, corporate governance issues, compliance with laws, ethics and audit matters;
 - (b) reviewing the arrangements established by the Accounting Officer for compliance with regulatory and financial reporting requirements;
 - (c) reviewing the financial statements prepared by the Accounting Officer to ensure that the disclosure in the financial statements is adequate and that fair representation is achieved;
 - (d) facilitating risk assessment to determine the amount of risk exposure of the assets of the Budgetary Entity and the possibility of loss that may occur, with a view to mitigating risks;

- (e) reviewing reports prepared by the internal audit unit and providing recommendations on these reports to submit to the Accounting Officer;
 - (f) discussing and providing recommendations on any issue of non-compliance to this Act and the Regulations; and
 - (g) other acts as prescribed by the Minister in the Regulations.
- (4) The Accounting Officer of the Entity shall report to the audit committee the actions taken or planned in response to the recommendations of the audit committee.
- (5) An audit committee shall report to the Minister, Heads of Budgetary Entities Regional Councils, Local Authority Councils and Boards of Extrabudgetary Funds.

PART 8

ACCOUNTING, REPORTING AND AUDITING

64. Accounting Standards

- (1) The Accountant General, in consultation with the Auditor General, shall prescribe and publish the accounting standards and practices to be implemented by Budgetary Entities, Extrabudgetary Entities, Regional Councils and Local Authorities.
- (2) The accounting standards set in subsection (1) above shall –
 - (a) promote transparency in the public disclosure of financial information and the effective management of revenue, expenditure, assets and liabilities of the entities to which the standards apply;
 - (b) be aimed at the advancement of financial reporting in the public sector;
 - (c) be based on the internationally recognized accounting standards; and
 - (d) ensure that the relevant entities develop the capacity to comply with the standards.
- (3) The Accountant General, in consultation with the Auditor General, shall determine and publish the chart of accounts of the Government, the Budgetary Entities, the Extrabudgetary Entities, the Regional Councils and the Local Authorities.
- (4) The classification of revenues, expenditures, and other financial transactions under the chart of accounts here shall be the same as in the Appropriation Act.

- (5) Any deviation or departure from the accounting standards specified in this section by any entity shall be identified and explained in the disclosure relating to the individual or consolidated annual accounts.
- (6) Subject to the adopted accounting standards and related Regulations, the Accountant General shall be responsible for requesting approval from the Minister for any write-off of public funds and State Assets.

65. In-year Reporting

- (1) The Minister may prescribe in Regulations for the Budgetary Entities and Extrabudgetary Entities to produce and publish periodic reports on budget execution and the format and frequency of these reports.
- (2) The Minister shall –
 - (a) prepare a periodic report on budget execution against the annual budget and the Appropriation Act;
 - (b) submit the periodic report to the Cabinet after the end of each quarter; and
 - (c) publish the periodic report within one week of the report being submitted to the Cabinet.
- (3) The Accounting Officer of the Budgetary Entities and Extrabudgetary Entities shall –
 - (a) submit to the Ministry reports on the financial performance and non-financial performance of the entities concerned in the format and frequency required by the Minister; and
 - (b) publish the periodic report on performance within one month after the end of each quarter.
- (4) The Auditor General or the director or head of internal audit of a Budgetary Entity or Extrabudgetary Entity may audit any reports referred to in this section, and the Accounting Officer of that entity shall provide all information as required by the Auditor General or director of the internal audit to conduct that audit.

66. Annual Reporting

- (1) Within the timeline prescribed by the Minister in the Regulations, the Accounting Officer of the Budgetary Entities and the Extrabudgetary Entities shall submit –
 - (a) to the Accountant General and the Auditor General the annual financial statements of the entity for the financial year; and
 - (b) to the Executive Director and the Auditor General the annual budget execution report of the entity in the format and requirements as prescribed by the Minister in Regulations.

- (2) The Accountant General shall, within three months of the end of each financial year, prepare and submit to the Auditor General the consolidated annual accounts containing –
 - (a) a consolidated budget execution report against the revenue, expenditure and financing estimates in the annual budget, the Appropriation Act and any Supplementary Budget;
 - (b) consolidated financial statements that integrate all accounts of the Government and other Budgetary Entities in accordance with international accounting and reporting standards;
 - (c) the consolidated annual non-financial performance report of the Government; and
 - (d) explanatory notes on any issue with regards to the above reports.

67. External Audit

- (1) Within three months after the submission of the consolidated annual accounts in accordance with Section 67(2) of this Act, the Auditor General shall issue an audit report on the accounts and submit such report to the Minister and the Parliament in accordance with the other relevant Acts.
- (2) Within one week following the issuance of the audit report under subsection (1), the Auditor General shall publish –
 - (a) the consolidated annual accounts; and
 - (b) the audit report with the audit opinion or recommendations.

68. Review by the Parliament

- (1) In the event that the Auditor General fails to submit the reports as required under Section 68(1) of this Act –
 - (a) the Auditor General shall submit to the Parliament a written explanation setting out the reasons for the failure; and
 - (b) the Auditor General may issue a special report on such a delay.
- (2) Upon receiving the reports as submitted under Section 68(1) of this Act, the Parliament shall –
 - (a) assign the responsible committee to review the submitted reports and provide recommendations;
 - (b) consider and debate on the recommendations provided by the responsible committee under subsection (2)(a) above;
 - (c) complete all reviews and debates in this subsection within eight months after the end of the financial year to which the reports and reviews in this subject relate; and

- (d) communicate to the Minister the Parliament's findings and recommendation on the submitted audit reports.
- (3) The Executive Director shall be responsible and authorized for –
 - (a) communicating the recommendations of the Parliament to any relevant Entity;
 - (b) discussing and performing dialogue with the relevant Entities on the action plan to address the recommendations of the Parliament;
 - (c) following up with the relevant Entities on the development and progress in addressing the recommendations of the Parliament;
 - (d) enforcing and implementing the recommendations of the Parliament; and
 - (e) providing a report attached to the annual budget documents or as requested by Parliament on the progress in implementing the recommendations made by the Parliament on the audit reports, and communicate these findings to the Parliament and the Auditor General.

69. Monitoring Financial and relevant Non-financial Performance

- (1) The Minister, with regards to monitoring the performance of Budgetary Entities and Extrabudgetary Entities, has power to –
 - (a) obtain information from any Entity relating to its financial and relevant non-financial performance including its dealings with cash, other assets, debts, other liabilities, fiscal risks of any nature, and related matters.
 - (b) obtain regular reports that the Minister may require in the Regulations from the Entity on matters related to their financial and relevant non-financial performance; and
 - (c) take such action that the Minister considers necessary to safeguard the fiscal position of the Government, including prohibiting any Entity from taking specified actions or compelling any Entity to take actions consistent with the Constitution, this Act and other applicable acts in relation to financial management.
- (2) The Entity shall supply the information as required by the Minister to fulfil its monitoring function within the timeframe as requested and in the form specified.
- (3) The Minister may prescribe in the Regulations further requirements for implementing and enforcing this section of this Act.

70. Financial Statistics

- (1) The Executive Director shall compile and publish government financial statistics in accordance with international standards.
- (2) If the financial statistics do not comply with the international standards, the Executive Director shall indicate to the relevant authorities the areas of noncompliance and shall state when compliance will be achieved.

PART 9

FINANCIAL OVERSIGHT OF PUBLIC ENTERPRISES

71. Shareholdings

- (1) All shareholdings of the Government in any company including the Commercial Public Enterprises shall be considered as Government Assets
- (2) The acquisition, sale, and transfer of shares shall be managed in accordance with the Regulations, issued by the Minister or under the joint supervision of the Minister and the Minister responsible for public enterprises.
- (3) The Minister responsible for public enterprises shall seek a written opinion from the Minister prior to –
 - (a) declaring the establishment of any new Commercial Public Enterprise or Extrabudgetary Entity;
 - (b) acquiring any share or ownership interest in any Commercial Enterprise or company; or
 - (c) the sale or disposal of a share or ownership interest, which shall be classified as the financial asset of the Government under subsection (1) above, in any Commercial Public Enterprise or company during the financial year which is accounted for in the State Revenue Fund.
- (4) Where the Government is a minority shareholder in a company, such shareholdings shall be registered under the ownership of the Government, held by the Ministry, and the Minister shall exercise the Government's rights as a minority shareholder in the best interests of the Government in accordance with the Companies Act or any other act where applicable.
- (5) The Accountant General shall –
 - (a) keep a record of all shareholdings held or owned by the Government under this Section in a list of the financial assets belonging to the Government; and
 - (b) estimate and keep up-to-date the value of all shareholdings held or owned by the Government under this Section to be recorded on the Government's balance sheet.

72. Integrated Strategic Business Plans

- (1) The Minister may request the minister responsible for public enterprises to submit the integrated strategic business plans of any Public Enterprise for information and comment.
- (2) Subject to the Regulations, the Minister responsible for public enterprises shall submit to the Minister a consolidated report of the strategic business plans of the Public Enterprises.
- (3) On the basis of the consolidated report under subsection (2) above, the Minister and the Minister responsible for public enterprises may discuss issues relevant to the financial performance of public enterprises including but not limited to -
 - (a) any expected reliance on the State Revenue Fund for implementing the strategic business plans;
 - (b) any expected capital projects that will be undertaken by the Public Enterprises, which should specify the total costs and the timeline for implementing such projects;
 - (c) any expected borrowings and guarantees to be taken by the Public Enterprises;
 - (d) any potential fiscal risks that may arise out of the strategic business plans; and
 - (e) other matters required by the Minister as prescribed in the Regulations.
- (4) The Minister may further prescribe in Regulations the procedures and requirements for implementing subsection (2) above.

73. Annual Business and Financial Plan

- (1) The Executive Director may request the Accounting Officer of the Ministry responsible for public enterprises to submit the annual business and financial plan of any Public Enterprise for review and comment together with any additional information on the following matters that may impact on the financial performance of a Public Enterprises –
 - (a) any request for a capital injection or expenditure from the State Revenue Fund into the Public Enterprise with a justification;
 - (b) any request for a loan or on-lending from the State Revenue Fund with terms and conditions on the repayment and interest;
 - (c) any request for a guarantee on any obligation taken by the Public Enterprise;
 - (d) any capital development projects and progress with implementing such projects in the content as prescribed by the Minister in the Regulation;

- (e) any payment made on behalf of the Government or the Ministry including grants, benefits and subsidies; and
 - (f) other documents or information as prescribed or required by the Minister.
- (2) When reviewing the annual financial plan and annual budget of the Public Enterprises, the minister responsible for public enterprises, in consultation with the Minister, shall ensure that –
- (a) the annual financial plan and budget plan of the Public Enterprises are in line with the Fiscal Framework Paper;
 - (b) any request for expenditure from the State Revenue Fund is in line with the ceilings on expenditures as set forth in the Medium-Term Budget Framework and the budget call circular; and
 - (c) the annual financial plan and budget plan of the Public Enterprises take account of risk factors and the strategies to mitigate these risks.
- (3) If the expenditure from the State Revenue Fund or the guarantee is not approved in the Fiscal Framework Paper and the annual budget, the Minister responsible for public enterprises shall require the affected Public Enterprise to make appropriate changes in its annual business plan and financial plan.
- (4) As required by the Public Enterprises Governance Act, the Minister shall consult with and provide recommendation to the minister responsible for public enterprises on the following issues relating to the statement of investment policies, standards, and procedures prepared by a Public Enterprise –
- (a) the impact of such investments on the fiscal affairs of the Government;
 - (b) the alignment of such investments with the Government’s policies relating to public investment and public private partnerships;
 - (c) any associated fiscal risks; and
 - (d) any other matters related to public financial management and fiscal affairs of the Government as deemed appropriate by the Minister.

74. Public Service Agreements

- (1) When the Government requires a Commercial Public Enterprise to provide goods or services in a non-commercial manner, the Minister and the Minister responsible for public enterprises shall prepare and execute a public service agreement with the Public Enterprise.
- (2) The annual budget documents as set forth in Section 21 of this Act shall include the estimates of the budgetary costs of any public service agreements referred to in subsection (1).

- (3) The public service agreements under subsection (1) shall specify the obligations of the Government to remunerate the Public Enterprises for the cost of providing the goods and services under the public service agreements, and such remuneration shall –
 - (a) reflect the fair market price for delivering such services; or
 - (b) equal the cost of providing such goods or services efficiently if a market for such goods or services is not available.

75. Special Provisions for Extrabudgetary Entities

- (1) The Ministry may have a performance agreement with an Extrabudgetary Entity for providing any public services funded by the State Revenue Fund.
- (2) The performance agreement may require the Extrabudgetary Entity –
 - (a) to submit its integrated strategic business plan and its annual financial plan to the Ministry for review and approval in concurrence with the ministry responsible for public enterprises;
 - (b) to process payment of expenditure from the State Revenue Fund for such public services as the Extrabudgetary Entity provides in accordance with the general procedures for payment as set forth in Part 7 of this Act;
 - (c) to be bound by the financial and non-financial reporting and auditing requirements as set forth in Section 66, Section 67 and Section 68 of this Act; and
 - (d) to comply with any other requirements of financial control prescribed by the Minister.
- (3) When more than 75% of the annual expenditure incurred by the Extrabudgetary Entities relies on the State Revenue Fund or the transfer or grants from the Government, the Minister, in consultation with the Minister responsible for public enterprise, may –
 - (a) request the Cabinet for re-classifying such Extrabudgetary Entities as Budgetary Entities as defined in this Act;
 - (b) require such an Extrabudgetary Entity to –
 - (i) submit its integrated strategic business plan and its annual and financial plan to the Ministry for review and approval in concurrence with the Ministry responsible for public enterprises;
 - (ii) have a separate head of expenditure as its own Appropriation in order to receive grants or transfers from the Government;

- (iii) to process payments of expenditure from the State Revenue Fund in accordance with the general procedures of payment set forth in Part 7 of this Act;
- (iv) be bound by the financial and non-financial reporting and auditing requirements as set forth in Section 66, Section 67 and Section 68 of this Act; and
- (v) be subject to other requirements of financial control prescribed by the Minister.

76. Financial Management Principles

- (1) All dividends declared by the board of directors of a Commercial Public Enterprise shall be classified as State revenue to be deposited into the State Revenue Fund.
- (2) Subject to the Public Enterprises Governance Act, the Minister or (the Minister responsible for public enterprises, in consultation with the Minister in case the Minister is not responsible for public enterprises), shall ensure that the Public Enterprises—
 - (a) use or manage their financial affairs in compliance with the fiscal principles and fiscal objectives set out in this Act, where relevant;
 - (b) open bank accounts only at an Agent Bank and operate and manage these bank accounts in line with the principles as set forth in this Act and its Regulations; and
 - (c) have in place appropriate policies and procedures for debt and cash management, investment in physical assets, and the management of such assets.
- (3) Any on-lending or guarantees provided by the Government to the Commercial Public Enterprise shall be –
 - (a) made in accordance with Section 45 and Section 46 of this Act;
 - (b) based on the market interest rate on an arm's length basis in order to avoid any hidden subsidy or fiscal risks;
 - (c) recorded in the Fiscal framework Paper and the annual budget;
 - (d) recorded in the debt management register under Section 41(6) of this Act; and
 - (e) comply with other rules and procedures as prescribed by the Minister in Regulations.
- (4) Where the Public Enterprise –
 - (a) deviates significantly from the financial targets specified in its annual financial plan and the annual budget;
 - (b) contravenes any provision pursuant to this Act or Regulations;

- (c) fails to implement an action plan specified within its annual business plan or a service agreement with the Minister;
- (d) has caused or is likely to cause a material deterioration in its financial condition; or
- (e) fails to submit or submits with a significant delay its budget, financial plans, quarterly financial reports, annual report, or any other information according to the timeline or other requirements of this Act

the Minister may, in consultation with the Minister responsible for public enterprises –

- (i) require the Public Enterprise to submit or resubmit an action plan to resolve the underlying issues within a specific period;
- (ii) publish the fact of the irregularity as determined by the Minister;
- (iii) place in an office of the Public Enterprise a special administrator, who has the power to inspect all documents, records and information and attend at any meetings of the Public Enterprise and submit reports to the Minister;
- (iv) reduce or suspend grants, lending, or transfers from the Government;
- (v) have full access to the bank accounts of the Public Enterprise; and
- (i) request the minister responsible for public enterprises to restructure the Public Enterprise in accordance with the Public Enterprises Governance Act.

- (5) The Ministry shall monitor the financial performance of public enterprises and their exposure to fiscal risk, using guidelines and methodologies prepared by the Executive Director. The Executive Director will advise the Minister on actions that may need to be taken to manage and mitigate such risks.

77. Reporting and Auditing Requirements

When the Minister is not responsible for public enterprises-

- (1) The Minister responsible for public enterprises shall submit to the Minister the following –
 - (a) notification of any significant events affecting the achievement of the objectives of a public enterprise or any of its subsidiaries as required under the Public Enterprise Governance Act;
 - (b) in-year reports on the financial performance of the Public Enterprise in a format and frequency as prescribed by the Minister; and

- (2) other information as deemed fit by the Minister. For exercising the Minister's power and authority under this Part, the Minister shall have access to information as required from Public Enterprises to be obtained through the ministry responsible for public enterprises.
- (3) The Ministry shall publish an annual report on the financial performance and fiscal risks related to Public Enterprises and include relevant information in the Fiscal Risk Statement described in Section 16 of this Act.

PART 10

FINANCIAL OVERSIGHT OF REGIONAL COUNCILS AND LOCAL AUTHORITIES

78. Capital Development Plan

- (1) The Minister responsible for Regional Councils and Local Authorities shall annually prepare and submit to the Minister and the Director-General of the National Planning Commission a consolidated development plan of all Regional Councils and Local Authorities.
- (2) The development plan referred to in subsection (1) shall include –
 - (a) a list of all projects, including transformational development projects, if any;
 - (b) estimates of the year-by-year expenditures, both capital and current, that are expected to be incurred in implementing each project over the entire period of the project's implementation; and
 - (c) any other matters as may be prescribed by the Minister in the Regulations.

79. Annual Budget

- (1) The Minister may, in consultation with the Minister responsible for Regional Councils and Local Authorities, prescribe requirements in respect of annual budget preparation and execution.
- (2) Upon the issuance of the budget call circular under Section 20(2) of this Act, the Minister responsible for Regional Councils and Local Authorities after consultation with the Minister shall issue an instruction to each Regional Council and Local Authority on –
 - (a) the ceilings on transfers to that Regional Council and Local Authority that will apply in the financial year covered by the annual budget;
 - (b) the ceilings on debt, guarantees and lending of the Government to the Regional Council and Local Authority;

- (c) a statement of issues from the Fiscal Framework Paper that are relevant to the Regional Council and Local Authority;
 - (d) the deadline for the Regional Council and Local Authority to submit the request any transfer from the State Revenue Fund;
 - (e) a statement of issues from the national development plan that are relevant to the Regional Council and Local Authority; and
 - (f) other matters as deemed fit by either the Minister or the minister responsible for Regional Councils and Local Authorities
- (3) Based on the instruction issued under subsection (2) above, the Regional Council and Local Authority shall prepare its draft annual budget by identifying the needs for moneys to be transferred from the State Revenue Fund.
- (4) In addition to the statement of estimated income and expenditure as required under the Regional Councils Act and the Local Authorities Act, each Regional Council and Local Authority shall further prepare and approve the annual budget in the format and requirements as prescribed by the Minister in consultation with the Minister responsible for Regional Councils and Local Authorities.

80. Transfers from the Government

- (1) Based on the draft budget of the Regional Council and Local Authority, the Minister responsible for Regional Councils and Local Authorities shall –
- (a) include in the budget proposals of the Ministry responsible for Regional Councils and Local Authorities of the transfer of money from the State Revenue Fund as requested by each Regional Council and Local Authority and agreed by the Minister responsible for Regional Councils and Local Authorities; and
 - (b) inform each respective Regional Council and Local Authority of the requested transfer of money from the State Revenue Fund, which will be included in the budget proposal of the Ministry responsible for Regional Councils and Local Authorities.
- (2) During the budget discussion with the Minister, the Minister responsible for Regional Councils and Local Authorities may require any Regional Council and Local Authority to provide written documents and justification to support its request for the transfer of funds from the State Revenue Fund.
- (3) In the event that the approved transfer from the State Revenue Fund is less than the amount requested in the budget proposal of the Ministry responsible for Regional Councils and Local Authorities, the Minister responsible for Regional Councils and Local Authorities shall notify each respective Regional Council and Local Authority to adjust its approved

annual budget through a supplementary statement of estimated expenditures.

- (4) Any payment of the transfers from the State Revenue Fund shall be made –
 - (a) in accordance with the applicable requirements for payment procedures from the State Revenue Fund and the State Account pursuant to this Act and the Regulations; and
 - (b) to the Minister responsible for Regional Councils and Local Authorities who will allocate the approved amounts to each respective Regional Council or Local Authority.

81. Financial Management Principles

- (1) Subject to this Act, each Regional Council and Local Authority shall manage their revenues, expenditures, assets, and liabilities in a manner to achieve and maintain an appropriate balance between revenues and expenditures in accordance with the fiscal responsibility provisions under Part 3 of this Act.
- (2) The Minister, in consultation with the Minister responsible for Regional Councils and Local Authorities, may prescribe the expenditure ceilings and other financial rules for Regional Councils and Local Authorities.
- (3) For the enforcement of subsection (1) and subsection (2) above, the Minister, in consultation with the Minister responsible for Regional Councils and Local Authorities, may require any Regional Council and Local Authority to submit any relevant information to the Minister.
- (4) A Regional Council and Local Authority shall not raise loans or issue debentures, bills of exchange or other negotiable instruments without the concurrence of the Minister.
- (5) Subject to the Regional Councils Act and the Local Authorities Act, the minister responsible for Regional Councils and Local Authorities in consultation with the Minister shall ensure that any Regional Council and Local Authority shall –
 - (a) use or manage their financial affairs as well as the public funds in compliance with the fiscal principles and the fiscal objectives under Part 3 of this Act, where relevant;
 - (b) open bank accounts only at an Agent Bank and shall operate and manage these bank accounts in line with the principles as set forth in this Act and the Regulations; and
 - (c) have in place appropriate policies and procedures for debt and cash management, investment and asset management, investment in physical assets, and the management of such assets.
- (6) Where a Regional Council and Local Authority –

- (a) contravenes the ceilings and rules established under Section 82(2) of this Act or any other provisions of this Act;
 - (b) fails to implement a project development plan, which has been submitted under Section 79 of this Act; or
 - (c) fails to submit, or submits with significant delay, financial planning documents, budgets, budget execution reports, financial statements, or any other reports or information according to the timelines or other requirements of this Act or any other applicable Acts;
- (7) The Minister may, in consultation with the Minister responsible for Regional Councils and Local Authorities –
- (i) require the Regional Council and Local Authority to submit or resubmit an action plan to resolve underlying issues within a specific period of time;
 - (ii) require prior approval of the Minister for such key financial decisions of the Regional Council and Local Authority as specified by the Minister;
 - (iii) have full access to the bank accounts of the Regional Council or the Local Authority;
 - (iv) reduce or suspend grants, transfers, or lending from the State Revenue Fund to the Regional Council and Local Authority; and
 - (v) appoint for a specific period a financial administrator who would advise the Regional Council and Local Authority on corrective actions, monitor the implementation of such actions, and may issue legally binding directions to the Regional Council or Local Authority in respect of such key financial decisions as specified by the Minister
- (8) A financial administrator appointed under paragraph (v) of subsection (6) above –
- (a) shall act as an agent of the Minister and be subject to the supervision and directions of the Minister;
 - (b) shall have full and free access to any books, documents, records, and other information retained by the Regional Council or Local Authority; and
 - (c) may be stationed in the Regional Council or Local Authority if the Minister so decides.
- (9) The Ministry shall monitor the financial performance of Regional Councils and Local Authorities and their exposure to fiscal risk, using guidelines and methodologies prepared by the Executive Director. The Executive Director will advise the Minister on actions that may need to be taken to manage and mitigate such risks.

- (10) For exercising the Minister's power and authority under this Part, the Minister shall have access to information as required from Regional Councils and Local Authorities to be obtained through the Ministry responsible for regional councils and local authorities.
- (11) Information on fiscal risks related to regional councils and local authorities will be published in the Fiscal Risk Statement described in Section 16 of this Act.

82. Reporting Requirements

- (1) The Minister responsible for Regional Councils and Local Authorities shall prepare and submit to the Ministry budget execution reports on –
 - (a) performance against funds or transfer received from the State Revenue Fund to the Regional Councils and Local Authorities;
 - (b) the amount of actual revenues and expenditures of the Regional Councils and Local Authorities; and
 - (c) loans and other liabilities of the Regional Councils and Local Authorities.
- (2) The Minister may, in consultation with the Minister responsible for Regional Councils and Local Authorities, specify the timeline of submission, format, and any other matters in respect of the budget execution reports referred to in subsection (1) above.
- (3) In addition to the budget execution reports as referred to under subsection (1), the Minister may require at any time the Minister responsible for Regional Councils and Local Authorities to submit to him any reports and information in such form and by such date as may be determined by the Minister.

PART 11

ENFORCEMENT AND SANCTIONS

83. Financial Misconduct

- (1) A reference in this Part to staff members includes current and former staff members.
- (2) This section shall apply notwithstanding –
 - (a) any applicable codes of ethics or codes of conduct; and
 - (b) any applicable Acts and regulations with regards to misconduct of any staff members including but not limited to the Anti-Corruption Act and the Public Service Act.

- (3) A staff member, or other person with responsibility for Government resources, commits an offence of financial misconduct if, without lawful authority pursuant to this Act or other relevant Acts, that person wilfully and negligently –
- (a) borrows money either by way of public securities issuance to bind the Government, or repays or converts an existing loan;
 - (b) opens or maintains a bank account in the name of the Government in non-compliance to this Act;
 - (c) lends money or other assets of the Government;
 - (d) issues guarantees or indemnities on behalf of the Government;
 - (e) disposes of, pledges, or encumbers the public assets;
 - (f) refuses or neglects to pay any public money or revenue into a bank account of a Budgetary Entity or an Extrabudgetary Entity on a timely basis;
 - (g) incurs unauthorized expenditures or makes unauthorized commitments or payments;
 - (h) refuses or fails to produce any information in the possession or under the control of that person in relation to the financial management, financial performance, banking activities of a Budgetary Entity or an Extrabudgetary Entity or in relation to the management or control of any public asset or liability when required to do so pursuant to this Act or the Regulations;
 - (i) fails to keep proper records or conceals or wrongfully destroys information that is required to be recorded in terms of this Act or its Regulations;
 - (j) fails to produce the reports and accounts required by this Act or its Regulations;
 - (k) resists or obstructs any person acting in the discharge of that person's functions or duties or in the exercise of that person's powers pursuant to this Act;
 - (l) makes any statement or declaration, or gives any information or certificate, required by or pursuant to this Act or instructions, knowing it to be false or misleading;
 - (m) diverts funds to unauthorized activities or transactions;
 - (n) fails to implement a lawful written instruction relating to the management of public finances given by the Minister, the Executive Director, the Accountant General, or an Accounting Officer;
 - (o) carries out any act for the purpose of procuring for that person or for any other person or organization –
 - (i) the improper payment of any public money; or

- (ii) the improper use of any public financial resources;
 - (p) fails to declare a conflict of interest when dealing with or making decisions about public resources;
 - (q) fails to comply with any provisions or obligations as prescribed pursuant to this Act, or the Regulations; and
 - (r) any other acts of financial misconduct as may be prescribed by Regulations.
 - (s) is or was responsible for a deficiency in, or a destruction of or damage to State properties.
- (4) The staff member, who is suspected of committing any act of financial misconduct as defined in subsection (3) above, may be subject to enforcement procedures as set forth in Section 91 of this Act.
- (5) A staff member, who becomes aware of or suspects financial misconduct pursuant to this Act and fails to report this to any responsible officer in accordance with Section 91 of this Act, shall be liable to a charge of financial misconduct pursuant to this Act.

84. Personal Responsibility for Losses

- (1) A staff member with responsibility for public resources shall be held personally liable for any loss sustained by the Government due to –
- (a) acts of fraud or negligence on the part of that staff member; or
 - (b) acts of fraud or negligence on the part of any other staff members, if it is found that the officer contributed to the loss by the action, negligence, or omission of that officer.
- (2) The determination of a loss under this section shall be made by the Accounting Officer in consideration of the advice of the Losses Committees in accordance with this Act.
- (3) In case of the Accounting Officer, the determination of a loss under this section shall be made by the Minister in consideration of the advice of the Losses Committees in accordance with this Act.

Unless the Auditor-General directs otherwise, the Accounting Officer concerned or the Accountant General, as the case may be, shall notify the Auditor-General of all the facts in connection with any loss.

85. Entity Responsibility for Losses

- (1) Any Entity or legal entity shall be liable for contraventions of this section when committed by that Entity or legal entity or its representative in its name and in the collective interest of the entity if that entity has responsibility for Government resources and causes losses sustained by the Government due to –

- (a) acts of fraud or negligence on the part of the entity; or
 - (b) acts of fraud or negligence on the part of any other entity or person, if it is found that the entity contributed to the loss by its actions, negligence or omission.
- (2) The determination of a loss under this section shall be made by the Minister in consideration of the advice of the Losses Committees in accordance with this Act.

86. Criminal Offences and Penalties

- (1) Any staff member of the Entity or any other person shall be guilty of an offense and liable on conviction to a fine not exceeding one million Namibia Dollar or imprisonment for a period not exceeding ten years or both such fine and such imprisonment if such person wilfully or in a grossly negligent way fails to comply with any provision of this Act or its Regulations.
- (2) Notwithstanding other provisions under this Part, the Attorney General may take legal action against the suspected person under subsection (1) through court procedure.

87. Institutional Sanction

- (1) When an Entity fails to comply with any provision of this Act or the Regulation, the Minister shall take one or more of the following measures –
 - (a) impose additional reporting requirements to those required by law;
 - (b) suspend the ability to make in-year expenditure reallocations;
 - (c) treat any debt defaults as a charge on future revenues;
 - (d) withhold the release of warrants for such an Entity and require the submission of a corrective action plan and additional reporting;
 - (e) publish the fact of the failure, together with the name of the Accounting Officer, in such media as deemed appropriate by the Minister;
 - (f) suspend transfers from the State Revenue Fund to such an Entity or the whole or part of the appropriations for the Entity, until the irregularities are resolved;
 - (g) deduct an amount from the allocation of funds or appropriation for the next financial year;
 - (h) intervene in the control of its bank account or make an order to close its bank account;

- (i) require the prior approval of the Minister for financial transactions performed by the entity as determined by the Minister; and
 - (j) place a special administrator in an office of such an Entity.
- (2) Where a Regional Council, Local Authority or Public Enterprise incurs debt that exceeds its ability to service that debt or is in contravention of the debt level permissible under this Act or set by the Government, the Minister may require such an Entity to adhere to a programme of debt reduction.

88. Loss Committees

- (1) There must be a Loss Committees established by each Entity pursuant to this Act.
- (2) The Loss Committees shall report to the Accounting Officer of each respective Entity;
- (3) The Minister may prescribe further through Regulations about –
 - (a) the appointment of the chairperson of the Loss Committees;
 - (b) the appointment of any person, unit or department within the Ministry to be the secretary of the Loss Committee;
 - (c) the quorum and the meeting procedures of the Loss Committees;
 - (d) the duties, authorities, rights and obligations of the Loss Committees in
 - (i) investigating a report of loss of public funds or property as submitted by the Ministry; and
 - (ii) making a decision in writing on the confirmation of the loss and the recovery of the loss.

89. Recovery of Losses

- (1) The Loss Committees shall give the person or entity alleged to have caused a loss –
 - (a) full information on the loss; and
 - (b) an opportunity to defend himself or herself in accordance with the applicable acts and instructions.
- (2) Subject to Section 89(3)(d) of this Act, the Loss Committee shall provide a decision in writing on the amount of losses and the person and/or entity liable for those losses.
- (3) Any loss as found committed by a person or an entity under this Part shall be a debt due to the State and may be recovered from such person or the entity by means that include–

- (a) a deduction from the salary or a payment due to such a person or entity;
 - (b) imposition of a surcharge as prescribed by the Minister in the Regulations, in addition to the recovery of the amount lost from the person or entity deemed liable;
 - (c) withholding, suspending, or revoking any payment due to the person or entity deemed liable; or
 - (d) an action initiated by the Attorney General through a court of competent jurisdiction.
- (4) A person who has been ordered to pay an amount in terms of section (84) may, within the period of thirty days referred to in that subsection, request the Accountant General to waive the claim or her to authorise under that he or she be discharged either wholly or partly from liability in respect of such amount.
- (5) Any person in respect of whom a request referred to in subsection (4) has been refused may –
- (a) within a period of thirty days after he or she has been informed of such refusal, appeal in writing against such refusal to the Minister, and the Minister may, after such investigation as the Minister may deem necessary, dismiss such appeal or order that the person be discharged either wholly or partly from liability; or
 - (b) within the period referred to in paragraph (a), or such further period as the court may allow, apply to a competent court for an order setting aside the order for payment made in terms of subsection 3 (a) or reducing the amount determined under that subsection, and such court may set aside such order for payment or reduce such amount if the Accounting Officer or the Accountant General, as the case may be, cannot satisfy the court that the merits of the case justified the making of such an order for payment or that the amount so determined is correct.

90. Enforcement Procedures

- (1) Subject to the Regulation, each Entity shall ensure that it has put in place appropriate policies, rules and procedures to address any issues of non-compliance with provisions on public financial management set out in this Act and its Regulations including but not limited to the following –
- (a) internal policies, rules and procedures for internal control and the verification and approval of financial transactions performed by the Entity;
 - (b) whistle blowing policies and procedures as well as procedures for handling complaints for any non-compliance with this Act and its Regulations;
 - (c) internal investigation procedures or internal audit; and

- (d) policies and procedures for referring any issue of non-compliance or the recovery of losses to either –
 - (i) the Ministry as required by this Act and its Regulations;
 - (ii) the Public Service in cases of misconduct under the Public Service Act;
 - (iii) the Auditor General in accordance with this Act or any other applicable act; or
 - (iv) the Attorney General for criminal offenses.
- (2) Where a staff member of an Entity becomes aware of or suspects financial misconduct pursuant to this Act, such a staff member shall report the matter with supporting documents to either one of the following persons –
 - (a) the executive director of the Entity; and/or
 - (b) the Entity's internal audit unit.
- (3) On the instruction of its Executive Director or Accounting Officer, the internal audit unit of an entity may initiate an internal audit process over any suspected financial misconduct.
- (4) In the event that the financial misconduct is confirmed upon the audit, the internal audit unit shall put in its report on the recommendation for classifying such financial misconduct as –
 - (a) a type of misconduct under the Public Service Act to be investigated and dealt with in accordance with the Public Service Act; and
 - (b) an act of corruption for reporting to the Anti-Corruption Commission to take further action in accordance with the Anti-Corruption Act; or/and
 - (c) a criminal offense for reporting to the Anti-Corruption Commission, Namibian Police and any other law enforcement agency to pursue the legal procedure against the perpetrator.
 - (d) A civil offense for reporting to the Attorney General.
- (5) Notwithstanding subsection (3) above, any acts that incur loss under Section 85 and Section 86 of this Act shall be proceeded for recovery of loss by the Loss Committees in accordance with Section 90 of this Act.
- (6) Unless it contravenes any other applicable acts, the Executive Director of Finance may compile and publish a list of confirmed cases of financial misconduct by detailing –
 - (a) the name of the person or entity who committed the financial misconduct;
 - (b) the act of financial misconduct;

- (c) the sanctions imposed on such financial misconduct;
- (d) the recovered losses; and
- (e) other items as deemed fit by the Executive Director.

PART 12

GENERAL PROVISIONS

91. Regulations

- (1) The Minister may issue a Regulations to give effect to the object of this Act including but not limited to –
 - (a) further details of the roles and responsibilities of responsible key staff members in relation to the management of public finances;
 - (b) the format, contents, rules, processes and timing for preparing documents related to financial management pursuant to this Act including but not limited to the Fiscal Framework Paper, the annual budget documents, the Appropriation Act, quarterly reports, annual plans, annual reports, and other reports or documents relating to the management of public finances;
 - (c) the classifications and other information requirements for carrying out the functions of budgeting, accounting, reporting, cash and debt management, and other public financial management activities pursuant to this Act;
 - (d) the information to be provided by the Entities under this Act including the rules and procedures on recording, preparing and providing such information;
 - (e) the information to be published by the Entities related to the budget, periodic reports, annual consolidated accounts, and other public finance matters;
 - (f) the accounting standards and practices to be applied by each respective type of Entity;
 - (g) the powers and duties of an officer designated as the Financial Advisor.
 - (h) the detailed rules and procedures in relation to the management of accounts, cash, revenue, investment, debt, liabilities, lending and guarantees including the collection, receipt, custody, banking, expenditure, control, and management of public money or trust accounts;
 - (i) the designation of persons employed in Budgetary entities as receivers of revenue, and prescribing the powers and duties of such persons;

- (j) requirements for making reallocations of expenditure, emergency financing, and supplementary budgets;
 - (k) controls on authorizing and processing payments and advances and other related matters including commitment controls, the release of funds, and payments from the State Account and State Revenue Fund;
 - (l) rules, procedures, records and systems on asset management, inventory management and procurement including the rules on waivers, write offs and the recovery of losses;
 - (m) detailed procedures for the oversight of Public Enterprises, Regional Councils and Local Authorities;
 - (n) the organizational structure and duties of internal audit units, audit committees, and the Government Internal Audit and Policy Coordination unit;
 - (o) the implementation date for requirements of this Act, to be determined by the Minister;
 - (p) detailed rules and procedures with regards to financial misconduct and the recovery of losses; and
 - (q) any other matters that may be necessary for giving full effect to this Act and for the administration of this Act.
 - (r) general rules on granting authorizations or approval of and determinations in terms of this Act or any other law.
 - (s) rules and procedures in relation to the collection, receipt, custody, banking, payment, disposal and control of, accounting for, and supervision over State moneys, and providing for any examination in relation to any such system;
 - (t) rules and procedures in relation to the control over and the disposal and stocktaking of, stamps, securities held in respect of debts due to the State Revenue Fund, forms having a face or potential value, equipment, stores and other movable goods owned or leased by the State and providing for any examination and inspection.
- (2) general rules and procedures on delegation of duties, functions or powers in terms of this Act. The Minister shall publish the Regulations on the Gazette of the Government and another source as deemed fit by the Minister.

92. Transitional Provisions

- (1) The provisions in the Treasury Instructions issued under the State Finance Act 1991 shall remain in force, to the extent that such provisions are consistent with this Act or other relevant Acts, until replaced by the Regulations issued pursuant to this Act.

- (2) Some of the obligations under this Act may be delayed by Regulations issued by the Minister to any date but not later than [-].

93. Repeals

The State Finance Act 1991 is hereby repealed.

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SCHEDULE 1

1. Special Funds

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