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OBJECTS AND REASONS

This Bill would make provision for the improvement of the management of public finance in Barbados.

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BARBADOS

A Bill entitled

An Act to make provision for the improvement of the management of public finance in Barbados.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Public Finance Management Act, 2019*.

Interpretation

2. In this Act,

“accounting officer” is an officer designated as such by the Director of Finance pursuant to section 18;

“Annual Budget” means the Annual Estimates required by section 21, the documents specified in the *Seventh Schedule* and any other documents the Minister responsible for Finance considers necessary;

“Annual Estimates” means the Annual Estimates of revenue, expenditure and financing;

“Appropriation” means a sum voted by Parliament in the form of the Annual Estimates or Supplementary Estimates and authorized as expenditure by an Appropriation Act or Supplementary Appropriation Act but does not include statutory expenditure, authorised as a charge on the Consolidated Fund or on the general revenues and assets of Barbados under an Act, according to section 109 of the *Constitution*;

“Appropriation Act” means an Act to appropriate sums necessary to meet the Annual Estimates of expenditure in a Financial Year;

“Auditor-General” means the public office established by section 113 of the *Constitution*;

“Audit Opinion” means a certification by an auditor that accompanies financial statements based on an audit of an accountant's opinion on the procedures

and records used to produce the statements regardless of whether material misstatements exist in the financial statements;

“Chief Executive Officer” means the manager of a Public Entity or a Commercial State-Owned Enterprise;

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

“Commercial State-Owned Enterprise” means

(a) an entity owned or controlled by the Government that provides services in the market or undertakes commercial activities; and

(b) specified in the *Second Schedule*;

“conflict of interest” means

(a) using an official position, or information or influence from such position, to further the private interests of the official or another person; or

(b) receiving a benefit of any kind that may reasonably be perceived to compromise the official’s judgement, integrity or behaviour in his official capacity;

“Consolidated Fund” means the Fund established by section 107 of the *Constitution*;

“Director of Finance” means the most senior management position in the Ministry responsible for Finance;

“Estimates” means Annual Estimates or Supplementary Estimates;

“Expenditure Head” means a sum arranged by a Head classification and appropriated by an Appropriation Act;

“Financial Memorandum” means the Memorandum prepared by a Minister pursuant to section 28;

“Financial Statements” means the Statement referred to in section 88;

- “Financial Year” means the 12 months beginning on the 1st day of April and ending on the 31st day of March;
- “Fiscal Framework” means the document prepared by the Ministry responsible for Finance pursuant to section 6;
- “Government” means the Government of Barbados;
- “Government Property” includes physical assets and financial assets in the possession or under the control of the Government that is not property held in trust;
- “Guarantee” means a legal obligation to pay a loan or other monetary obligation or to perform an act or obligation that is defaulted on by the borrower;
- “Internal Audit Committee” means the Committee referred to in section 71;
- “Internal Audit Office” means the Department referred to in section 67;
- “Medium-Term” means a minimum of 3 years and up to 5 years;
- “Minister” means the Minister with responsibility for a Public Entity or Commercial State-Owned Enterprise;
- “Ministry” means the Ministry with oversight responsibilities for a Public Entity or Commercial State-Owned Enterprise;
- “Negotiable Instrument” means a cheque, draft, traveller’s cheque, bill of exchange, postal note, money order, or other similar instrument and any electronic instrument that has the same effect;
- “output agreement” means the output targets achieved during the financial year based on measurable targets agreed to at the start of the financial year;
- “Permanent Secretary” has the meaning assigned to it by the *Public Service Act*, Cap. 29;
- “Public Accounts Committee” means the Committee established by section 3 of the *Public Accounts Committee Act*, Cap. 10A;

“Public Entity” means a Ministry or Department of Government with the status of a Ministry, or State-Owned Enterprise but shall not include a Commercial State-Owned Enterprise;

“public money” means money belonging or payable to or received, collected or held by, for, or on behalf of the Government and includes

- (a) all revenues or other money raised, payable or received for the purpose of the Government;
- (b) all money held, whether temporarily or otherwise, by a public officer or public office holder in his official capacity, either alone or jointly with any other person whether or not that other person is a public officer or public office holder; and
- (c) Negotiable Instruments;

“public office holder” means the holder of an elected or appointed office in Parliament, the Judiciary, the Government, a Government appointee to a board or commission or other advisory or governance position, and includes but is not limited to Ministers, constitutional office holders and appointees to Government advisory bodies and to boards of State Owned Enterprises and Commercial State-Owned Enterprises and the staff supporting the public office holder including the staff of those referred to in section 117(7) of the *Constitution*;

“public officer” has the meaning assigned to it by section 117(1) of the *Constitution*;

“Publish on an official website of the Government” means publishing the document on a website administered by the Government, a Public Entity, or a Commercial State-Owned Enterprise in a place on the website that is readily accessible by the public and for a period of not less than 5 years from the date of making the document available on the website;

“remission” includes a waiver of all or part of a payment of a tax, fee, interest, penalty or other sum owed to the Government;

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

“sinking fund” means a Fund for which provision is made in relation to Government securities under this Act or under any other enactment;

“special fund” means a fund referred to in section 36;

“statement of responsibility” means the statement signed by the Minister responsible for Finance and the Director of Finance pursuant to paragraph 2(k) of the *Third Schedule*;

“statement of social responsibility” means a statement summarising the services which the Government requires a Commercial State-Owned Enterprise to provide

(a) free at the point of delivery; or

(b) at a lower cost than it would be on a normal commercial basis;

“State-Owned Enterprise” means

(a) an entity of the Government that is not a Ministry and is not a Commercial State-Owned Enterprise; and

(b) is specified in the *First Schedule*;

“statutory entity” means any corporation, company, board, commission, authority or other entity established by or under an enactment to provide goods or services to the public or to fulfil regulatory or other Government functions and such entity shall be classified as either State-Owned Enterprise in the *First Schedule* or a Commercial State-Owned Enterprise in the *Second Schedule*;

“statutory expenditure” has the meaning assigned to it by section 109(7)(b) of the *Constitution*;

“Supplementary Appropriation Act” means an Act to appropriate sums of money necessary to meet the Supplementary Estimates of expenditure for services

in a Financial Year in accordance with section 109 of the *Constitution*;
and

“Supplementary Estimates” means Supplementary Estimates of expenditure,
revenue or financing.

Construction

3. Where a conflict arises between an enactment, with the exception of the *Constitution*, and the provisions of this Act, this Act and any rules made under this Act shall prevail.

Application

4. This Act shall apply to a Public Entity, Commercial State-Owned Enterprise, public officer and public office holder unless otherwise stated in this Act.

PART II

FISCAL RESPONSIBILITY

Fiscal Responsibility Principles

5.(1) The Government shall comply with the following fiscal responsibility principles:

- (a) achieving and maintaining a prudent level of public debt;
- (b) managing fiscal risks in a prudent manner; and
- (c) pursuing macro-economic stability, inclusive growth and inter-generational equity.

(2) The Government shall set measurable fiscal objectives for the fiscal responsibility principles and shall report on the achievement of the fiscal objectives to Parliament and the public as required by this Act.

(3) The Government shall use revenue in excess of Estimates in the execution of the Annual Budget to reduce debt and shall not use such revenues for additional expenditure unless appropriated by Parliament under section 26.

Fiscal Framework

6.(1) The Ministry responsible for Finance shall prepare a document to be known as the “Fiscal Framework” which shall review the performance of the previous financial year against the fiscal objectives, present a macro-economic outlook, and set out the fiscal objectives and policies for the medium term.

(2) The Fiscal Framework shall include the information and statements set out in the *Third Schedule*.

(3) The Minister responsible for Finance shall submit the Fiscal Framework to the Cabinet for approval no later than 31st July of the year preceding the Annual Budget.

(4) The Fiscal Framework shall be laid in Parliament for information by the Minister responsible for Finance no later than 15th August of the year preceding the Annual Budget.

(5) The Fiscal Framework shall be debated in Parliament and any recommendations in respect of the Fiscal Framework shall be considered by the Cabinet.

(6) The Cabinet shall not be required to make changes recommended pursuant to subsection (5) subject to subsection (6).

(7) The Minister responsible for Finance shall have laid in Parliament an explanation of why the Government is not adopting part or all of the recommendations made under subsection (5) no later than 21 days after making the Cabinet decision on the recommendations.

(8) The Director of Finance shall publish

(a) the Fiscal Framework on an official website of the Government on the day the Fiscal Framework is laid in Parliament and shall make the

Fiscal Framework available to the public in printed form as soon as practicable; and

- (b) the recommendations of Parliament on the Fiscal Framework and the response of the Government on an official website of the Government no later than 3 weeks after the day the document containing the response of the Government is laid in Parliament.
- (c) any changes made to the Fiscal Framework in response to the recommendations of Parliament on an official website of the Government no later than 3 weeks after the changes are agreed to by the Cabinet.

Mid-Year Review Report and Annual Report

7.(1) The Ministry responsible for Finance shall include information on progress against the Fiscal Framework in a Mid-Year Review Report as specified in the *Fourth Schedule* by 15th October each year.

(2) The Ministry responsible for Finance shall include information on progress against the Fiscal Framework in the Annual Report of a State-Owned Enterprise specified in *Fifth Schedule*.

Pre-election Economic and Fiscal Update Report

8.(1) The Ministry responsible for Finance shall, not earlier than Nomination Day and no later than 5 working days after Nomination Day, publish on an official website of the Government, a Pre-election Economic and Fiscal Update Report which shall include the information and statements specified in *Sixth Schedule*.

(2) Nothing in this section shall affect the setting of the polling date for the election.

Deviation from fiscal objectives

9. The Government may deviate from the fiscal objectives stated in the Fiscal Framework where that deviation is due to a significant unforeseeable event that cannot be accommodated through the use of other measures provided for in this Act or prudent fiscal policy adjustments.

PART III

ROLES AND RESPONSIBILITIES

Role of Minister

10.(1) A Minister shall

- (a) oversee and direct the Public Entity or Commercial State-Owned Enterprise under his responsibility to achieve the performance specified in the
 - (i) Annual Budget and the Annual Plan in respect of a Public Entity; and
 - (ii) Statement of Corporate Intent and the Annual Plan in respect of a Commercial State-Owned Enterprise; and
- (b) have the responsibilities with regard to a Public Entity and a Commercial State-Owned Enterprises specified in Part VIII and Part IX.

(2) A Minister may require a State-Owned Enterprise or a Commercial State-Owned Enterprise to produce periodic reports on financial matters related to the operation of the State-Owned Enterprise or the Commercial State-Owned Enterprise.

Role of Minister responsible for Finance

- 11.(1)** The Minister responsible for Finance is responsible for
- (a) facilitating adherence to the fiscal responsibility principles and other requirements specified in this Act;
 - (b) managing the fiscal performance, fiscal risks and report on the financial position of the Government as a whole;
 - (c) ensuring that the Government's plans are fully consistent with the fiscal responsibility principles of this Act and the fiscal objectives in the most recent Fiscal Framework;
 - (d) overseeing the preparation of the Fiscal Framework, the Annual Budget, including the Annual Estimates, the Mid-year Review, the Financial Statements and other Government financial reports required to be produced for the Cabinet and Parliament;
 - (e) ensuring that the Annual Budget is executed as appropriated by Parliament and as authorized for statutory expenditure, and managed so as to comply with this Act;
 - (f) management of Government assets and liabilities as required by this Act;
 - (g) exercising general control of the Ministry;
 - (h) supervising any Public Entity or Commercial State-Owned Enterprise for which he is responsible by virtue of being the Minister responsible for that entity;
 - (i) oversight and policy development for the financial management of Public Entities and Commercial State-Owned Enterprises;
 - (j) such other matters assigned to the Minister under an enactment or by administrative authority.

(2) The Minister responsible for Finance shall from time to time determine the format, contents, timing and quality of information to be provided in the budgets, plans, reports and other documents required by this Act.

(3) The Minister responsible for Finance may enter into and execute agreements on behalf of the Government in relation to matters of a financial nature.

(4) The Minister responsible for Finance may require a State-Owned Enterprise or a Commercial State-Owned Enterprise to produce periodic reports on financial matters related to the operation of the State-Owned Enterprise or the Commercial State-Owned Enterprise.

Role of the Director of Finance

12.(1) The Director of Finance shall be responsible for assisting the Minister responsible for Finance in the discharge of his responsibilities and shall manage the Ministry of Finance to provide the following functions:

- (a) economic and fiscal policy advice;
- (b) preparation of the Fiscal Framework and Annual Budget;
- (c) management of the Annual Budget process;
- (d) setting standards for the financial management systems and processes and monitoring the performance of such systems and processes;
- (e) treasury services including banking and cash management;
- (f) management of Government assets and liabilities;
- (g) project assessment, advice and monitoring;
- (h) setting the statistical reporting standards for all Public Entities and Commercial State-Owned Enterprises;
- (i) overseeing the setting of the accounting standards by the Accountant-General;

- (j) ensuring that information systems are designed in accordance with accounting and reporting standards;
 - (k) ensuring that all Public Entities and Commercial State-Owned Enterprises report on their true and fair financial position;
 - (l) Government financial reporting including producing the Financial Statements and Government financial reports required by this Act;
 - (m) monitoring of the Government's financial interests in entities to which this Act applies including managing the Government's ownership interests in State Owned Enterprises and Commercial State-Owned Enterprises;
 - (n) monitoring and managing the fiscal risks of the Government;
 - (o) designation of accounting officers; and
 - (p) other functions required by an enactment or administrative authority.
- (2) The Director of Finance
- (a) shall at all times have access to all Public Entities and Commercial State-Owned Enterprises and places where accounting for services takes place or accounting records are kept;
 - (b) may require a public officer or public office holder to furnish any information and provide access to any documents or information that the Director of Finance considers necessary; and
 - (c) may delegate any of his responsibilities or powers to the Accountant-General or any other appropriate public officer.
- (3) The Director of Finance and any delegate is accountable for discharging his responsibilities and exercising his powers under this Act or any other enactment in relation to financial administration, with diligence and honesty and is subject to discipline under the applicable enactment for failing to do so.

Role of the Comptroller-General

- 13.(1)** The Comptroller-General shall be responsible for
- (a) setting the accounting standards consistent with generally accepted accounting practice;
 - (b) publishing the accounting standards on an official website of the Government;
 - (c) ensuring that all Public Entities and Commercial State-Owned Enterprises have in place proper expenditure control mechanisms in accordance with this Act;
 - (d) ensuring that all Public Entities and Commercial State-Owned Enterprises adopts a proper system of accounts and all money received and paid by the Government is brought promptly and properly to account;
 - (e) exercising supervision over the receipt of revenue and securing its punctual collection, except where those responsibilities are by law assigned to the Barbados Revenue Authority or other public officer or public office holder.
- (2) The Comptroller-General
- (a) shall enforce the accounting standards for the Government including for Public Entities and Commercial State-Owned Enterprises;
 - (b) shall at all times have access to all Public Entities or Commercial State-Owned Enterprises where accounting for services take place or accounting records are kept;
 - (c) may require access to records and require any information, records or explanations from a public officer or public office holder or former public officer or public office holder, necessary for the performance of the responsibilities of the Comptroller-General;

- (d) may examine and report to the Director of Finance on the financial and accounting operations of a Public Entity or a Commercial State-Owned Enterprise;
 - (e) may provide accounting and other services in connection with the financial management of a Public Entity or a Commercial State-Owned Enterprise; and
 - (f) within his area of responsibility and his powers issue instructions in writing to Chief Executive Officers of Public Entities and Commercial State-Owned Enterprises or to persons to whom Chief Executive Officers have delegated their responsibilities under this Act.
- (3) In conducting an audit or examination or carrying out any responsibility under this Act or any other enactment, the Comptroller-General may
 - (a) summon and examine upon oath, declaration or affirmation a person with respect to any matter related to the audit, examination or other responsibility; and
 - (b) require a person to produce any records or information with respect to any matter related to the audit, examination or other responsibility.
- (4) A person summoned under subsection (3)(a) who without reasonable excuse fails to obey the summons is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 12 months or to both.
- (5) A person who refuses to produce any records or information as required under subsection (3)(b) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 12 months or to both.
- (6) The Comptroller-General may delegate to a public officer or public office holder any of his responsibilities or powers, other than the power under subsection (2)(f).

(7) The Comptroller-General and any delegate shall be accountable for discharging his responsibilities and exercising his powers under this Act and any other enactment in relation to financial administration with diligence and honesty and is subject to discipline under the applicable enactment for failing to do so.

(8) For the purposes of subsection (1)(a) “generally accepted accounting practice” means

- (a) the International Public Sector Accounting Standards issued by the International Federation of Accountants;
- (b) where no guidance is provided by the Standards mentioned in paragraph (a), the Accounting Standards issued by the International Accounting Standards Board; or
- (c) where no guidance is provided by the Standards specified in paragraph (a) or (b), accounting practice that is generally accepted within the accounting profession in Barbados as appropriate for reporting by the public sector including statutory bodies.

Role of a Permanent Secretary

14. A Permanent Secretary, where designated as an accounting officer under section 18, shall be responsible for

- (a) administering the Expenditure Head or part of an Expenditure Head in the Annual Budget that is under the control of the Public Entity;
- (b) administering each item or part of an item of Statutory Expenditure in the Annual Budget or under an Act that is under the control of the Public Entity;
- (c) administering each item of revenue or part of an item of revenue in the Annual Budget that is under the control of the Public Entity;
- (d) providing policy advice to the Minister;
- (e) assisting the Minister to oversee the entities that he is responsible for;

- (f) other functions as defined in rules made under this Act for accounting officers; and
- (g) other responsibilities set out in section 16.

Role of the Accountant-General

15.(1) The Accountant-General shall be responsible for

- (a) maintaining the accounts of the Government so as to show the current state of the Consolidated Fund and other funds, and the financial position of the Government;
- (b) receiving and banking, or overseeing the receipt and banking, of public money and overseeing its disbursement including overseeing the opening and closing of bank accounts;
- (c) maintaining arrangements for the management of the Government's cash;
- (d) preparing the Financial Statements and any other financial statements or reports required by the Minister responsible for Finance or the Director of Finance;
- (e) verifying that payments are processed in accordance with this Act and refusing payment on any invoice which is incorrect or insufficient in content, or which contravenes this Act or any other Act, or that is, in his opinion, in any other way unacceptable in support of a charge on public monies;
- (f) ensuring payments are processed within the agreed contractual time for payment;
- (g) ensuring in any instance of having less cash available than necessary to meet all payments due, payments are made in accordance with protections and priorities in the law;

- (h)* ensuring every Public Entity adopts a proper system of accounts and all money received and paid by the Government is brought promptly and properly to account;
 - (i)* reporting to the Comptroller-General in writing, any apparent defect in the control of revenue, expenditure, or money, or any breach or contravention of this Act or any other enactment, by a Public Entity or service that may come to, or be brought to, his notice;
 - (j)* exercising supervision over the receipt of revenue and securing its punctual collection, except where those responsibilities are by law assigned to the Barbados Revenue Authority or other public officer or public office holder;
 - (k)* such responsibilities as are assigned to him under an enactment or administrative authority.
- (2) The Accountant-General
- (a)* shall enforce the accounting standards for the Government including for Public Entities;
 - (b)* shall at all times have access to all Public Entities or places where accounting for services take place or accounting records are kept;
 - (c)* may require access to records and require any information, records or explanations from a public officer or public office holder or former public officer or public office holder, necessary for the performance of the responsibilities of the Accountant-General;
 - (d)* may examine and report to the Comptroller-General on the financial and accounting operations of a Public Entity.

Role of a Chief Executive Officer

16.(1) A Chief Executive Officer shall manage the assets and liabilities of the Public Entity or Commercial State-Owned Enterprise

- (a)* in accordance with this Act and any other relevant enactment; and

- (b) to achieve the performance required in the Annual Budget and the approved Annual Plan, and for a Commercial State-Owned Enterprise, the approved Statement of Corporate Intent and the Annual Plan.
- (2) A Chief Executive Officer shall be responsible for
 - (a) the prompt collection and receipt of the revenue of the entity;
 - (b) the control of, and accurate and timely accounting and reporting for, expenditure, revenues, assets and liabilities of the entity; and
 - (c) the control of, and accurate and timely accounting and reporting for, public money and all other money and property received by or controlled by or in the custody of the entity, in accordance with this Act and any other relevant enactment.
- (3) A Chief Executive Officer shall ensure that the plans, budgets and reports are provided as required by this Act.
- (4) A Chief Executive Officer is not absolved of responsibilities by reason of the proper discharge by the Comptroller-General or the Auditor-General of his responsibilities such as the acceptance for deposit of money by the Accountant-General or by reason of the auditing of the accounts by the Auditor-General.
- (5) A Chief Executive Officer and any delegate is accountable for discharging his responsibilities under this Act or rules made under this Act and other relevant enactment, with diligence and honesty and is subject to discipline and other sanctions under the applicable enactment for failing to do so.

Responsibilities of a public officer and a public office holder

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

- (a) public money that he knows or has reason to believe is intended to be paid to or received by the Government;

- (b) securities that are Government Property and that are intended to be placed on deposit with or entrusted to the Government; or
- (c) electronic instruments relating to money or property that are intended to be controlled by the Government,

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

Accounting Officers

18.(1) The Director of Finance shall designate in writing the officers who shall be accounting officers.

(2) An accounting officer designated under subsection (1) shall be charged with the duty of accounting for

- (a) all revenues;
- (b) all expenses and expenditure; and
- (c) all assets and liabilities relating to the operations of the entity over which he has responsibility.

(3) An accounting officer may by instrument in writing delegate to his authorised representative, on such conditions as he determines, any of his functions arising under or by virtue of this Act, but such delegation does not relieve an accounting officer of his accountability under this Act.

Representations to the Minister

19.(1) An accounting officer of a department shall, in writing, promptly make a representation to a Minister in respect of a decision of the Minister that relates to the financial administration of the department where the accounting officer disagrees with the decision and the accounting officer

- (a) is unable to defend the decision as a prudent financial administrative decision; or

- (b) regards the decision as inconsistent with his obligation to ensure that the financial administration of the department is carried out
 - (i) to avoid waste of moneys;
 - (ii) with propriety.
- (2) Subject to subsection (1), the accounting officer shall, in the representation, state the decision of the Minister with which he disagrees and the reasons for the disagreement.
- (3) Notwithstanding subsection (2), where the Minister adheres to his decision, the Minister shall, in writing, communicate his adherence to the accounting officer and the accounting officer shall carry the decision into effect.

Liability for funds

- 20.(1)** Notwithstanding section 19, where an accounting officer of a department objects to a decision of a Minister that relates to the financial administration of the department and the objection involves the liability of the accounting officer for moneys of the department or the regularity or propriety of payment of moneys of the Government, the accounting officer shall
- (a) state in writing the
 - (i) decision of the Minister;
 - (ii) objection to the decision; and
 - (iii) reasons for the objection;
 - (b) only authorise payment of moneys of the Government or make a payment of moneys of the Government where the Minister overrules the objection.
- (2) Where a payment is made under subsection (1)(b), the accounting officer shall immediately
- (a) inform the Director of Finance and the Accountant-General, in writing, of the circumstances of the payment; and

- (b) forward the documentation that relates to the payment to the Auditor-General.
- (3) Notwithstanding subsection (1)(b) and subsection (2), where loss, wastage or improper use of moneys of the Government occurs as a result of the decision of the Minister, the Minister is liable for the loss, wastage or improper use of the moneys of the Government.

PART IV

ANNUAL BUDGET AND AUTHORISATION OF EXPENDITURE

Annual Budget

- 21.(1)** The Annual Budget shall contain revenue, financing and expenditure Estimates and annexes including the information set out in the *Seventh Schedule*.
- (2) The Annual Budget shall present the financial information on a gross basis.
- (3) The Annual Budget documents shall be accompanied by
 - (a) an Appropriation Bill as the basis for approving expenditure;
 - (b) annual plans for Public Entities and Commercial State-Owned Enterprises.
- (4) The Annual Budget shall be laid by the Minister responsible for Finance in Parliament no later than 15th March of the year prior to the year to which it relates.

Appropriations

- 22.(1)** The Appropriations shall be presented by Expenditure Heads which shall be expenditure to be administered by a specified Ministry or other Public Entity.

(2) The Appropriations shall be authorised in the Appropriation Act and shall be made for one year.

Contingencies

23.(1) The Minister responsible for Finance may include in the Appropriations an Expenditure Head to be known as “Contingencies” which shall

- (a) provide for an urgent and unforeseen need for expenditure; and
- (b) not exceed 3 per cent of the recurrent expenditure specified in the Appropriation Act.

(2) The Cabinet may authorize a charge for the purpose of Contingencies where it has received justification in writing from the Minister responsible for Finance.

(3) The Auditor-General in scrutinizing the utilization of the Contingencies Expenditure Head shall assess whether the funds have been allocated and utilized in the manner consistent with this Act and shall report to Parliament on any improper utilization of funds specified by the Contingencies Expenditure Head.

(4) The Minister responsible for Finance shall issue a warrant to authorise a charge on the Consolidated Fund made pursuant to this section.

Parliament approval of Annual Budget

24.(1) Parliament shall approve the Annual Budget for the forthcoming financial year no later than 31st March of the financial year prior to the year to which the Annual Budget relates.

- (2) The Ministry responsible for Finance shall be responsible for
- (a) the technical preparation of any proposal by Parliament to amend the Annual Budget and Bills to implement the Annual Budget; and
 - (b) ensuring that the numbers contained in such proposals are accurate.

Publication of Annual Budget

25.(1) The Minister responsible for Finance shall publish on an official website of the Government

- (a) the proposed Annual Budget on the same day the Annual Budget documents are laid in Parliament;
- (b) the Annual Budget approved by Parliament no later than 28 days after the date that the Annual Budget was approved; and
- (c) a summary of the Annual Budget within 28 days after the date that the Annual Budget is approved.

(2) The

- (a) proposed Annual Budget;
- (b) Annual Budget approved by Parliament; and
- (c) summary of the Annual Budget,

referred to in subsection (1), shall be made available to the public in printed form as soon as practicable;

Supplementary Estimates and Supplementary Appropriations

26.(1) Any expenditure proposed during the year by a Public Entity that is not within the Appropriations approved by Parliament in the Annual Budget shall be

- (a) funded through the virements authorized under this Act;
- (b) deferred until future budget years if this can be done without substantially harming the public interest; or
- (c) if funding by the ways set out in paragraphs (a) and (b) is not possible then Supplementary Estimates and Supplementary Appropriation Bill shall be presented to the House of Assembly as required by section 109 of the *Constitution* and this section.

- (2) Where, in respect of any Financial Year, it is found
- (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Appropriation Act; or
 - (b) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act or for a purpose to which no amount has been appropriated by the Appropriation Act;

Supplementary Estimates showing the sums required or spent shall be laid before Parliament and when the Supplementary Estimates have been approved by Parliament, a Supplementary Appropriation Bill shall be introduced into Parliament as required by section 109 of the *Constitution*, providing for a charge on the Consolidated Fund for such sums and appropriating them to purposes specified therein.

(3) The Supplementary Estimates and Supplementary Appropriation Bill shall be accompanied by an explanation from the Minister responsible for Finance as to the impact of the additional expenditure or financing on the Government's performance against the fiscal objectives in the Fiscal Framework.

(4) The Government may propose Supplementary Estimates and a Supplementary Appropriation Bill to reduce expenditure or reallocate expenditure when such reallocation is not within the power of the Government to make without an appropriation.

Lapse of Appropriations and Warrants

27.(1) The balance in an Appropriation that has not been expended at the end of the Financial Year after adjustment for the recording of liabilities referred to in subsection (2), and any warrant in relation to the balance of the Appropriation, shall lapse.

(2) A liability incurred by the Government before the end of the Financial Year that remains unpaid at the end of the Financial Year shall be included in the accounts for the Financial Year in which the liability was incurred for the Appropriation to which it relates.

(3) All settlements of liabilities shall be in accordance with this Act but nothing in this section permits the recording of a payment that is in excess of the balance available in the Appropriation.

(4) The liability recorded as a charge under subsection (1) may be discharged or settled no later than 30 days after the end of the Financial Year.

(5) No warrant shall be issued by the Minister responsible for Finance for movements of funds for a Financial Year after the end of the Financial Year to which the warrant is being issued in.

Financial Memorandum

28.(1) A Minister who proposes any measure or action that has financial implications requiring the approval of the Cabinet, shall prepare and submit to the Minister responsible for Finance, a Financial Memorandum containing a projection of the financial implications for the short, medium and long term.

(2) The Minister responsible for Finance shall provide an opinion in writing to the Cabinet on whether the proposed measure or action should proceed.

PART V

FINANCIAL MANAGEMENT

Authorisation of Expenditure

Authorisation of Expenditure

29. Sections 109 and 110 of the *Constitution* shall apply in respect of the authorisation of expenditure of public money.

Control of Expenditure

30.(1) An accounting officer shall provide spending, procurement, and cash plans to the Ministry responsible for Finance by no later than one week after the approval by Parliament of the Appropriation Bill or such other date as specified by the Director of Finance.

(2) Where an accounting officer fails to supply the information as required by subsection (1), the Minister responsible for Finance may suspend the warrant or part of the warrant to authorise commitments for which there are no plans.

Commitments

31.(1) A public officer or public office holder shall not commit the Government to any financial liability unless specifically authorized to do so pursuant to this Act or any other enactment.

(2) An accounting officer and the Chief Executive Officer of a Public Entity shall maintain arrangements to ensure that any commitment made

- (a) is authorized pursuant to this Act or any other enactment;
- (b) does not exceed the approved warrant; and
- (c) is in accordance with the procedures of the Ministry responsible for Finance to control commitments and requirements stated in any other relevant enactment.

(3) An accounting officer and the Chief Executive Officer of a public entity shall maintain a proper record of all financial commitments chargeable to each Appropriation and item of expenditure.

(4) Where an accounting officer, public officer or public office holder makes a commitment in contravention of the procedures to control commitments, the Director of Finance shall assess whether a surcharge should be imposed.

Virements

32.(1) The Government shall not vire funds between Expenditure Heads without prior authorisation by Parliament through Supplementary Estimates and a Supplementary Appropriation Bill or resolution.

(2) The Director of Finance may authorise an accounting officer by way of a warrant to

- (a) vire funds within an expenditure head between non-salary recurrent economic items as specified in any rules made under this Act; or
- (b) vire capital funds within an expenditure head between projects if the projects have the same source of funding.

(3) The Director of Finance shall not issue a warrant to authorise the movement of funds

- (a) from an amount for a transfer to an entity or transfer to an individual, or benefits for a class of persons, to any other economic classification of expenditure;
- (b) from an amount for capital expenditure to non-capital expenditure; or
- (c) from a transfer for a Public Entity or Commercial State-Owned Enterprise for the purposes of expenditure on wages and related benefits.

(4) Subject to the restrictions in this section, virements within and between programs and within and between sub-programs in the same Expenditure Head shall be made in accordance with any rules made under this Act.

(5) When making virements of expenditure, the accounting officer shall have regard to the obligation to deliver the performance in the Annual Budget and annual plans required under this Act in relation to the funds appropriated, and the Director of Finance shall have regard to such obligation in issuing a warrant.

(6) The accounting officer shall submit a report on the details of any virements made under this section and the performance of the service affected, to the Ministry responsible for Finance in the form and within the time-frame set by the Ministry responsible for Finance.

(7) The Minister responsible for Finance shall report twice yearly to Parliament on all virements made under this section and the performance of the Appropriations affected in the Mid-Year Review Report and Financial Statements.

Cash Management

Cash Planning and Management

- 33.(1) The Director of Finance, through the Accountant-General, shall
- (a) establish effective procedures for the planning and management of cash which may include a cash management committee;
 - (b) inform the Ministers, Permanent Secretaries and other Chief Executive Officers of Public Entities of the approved Annual Estimates under the responsibility of the Minister, to be administered by the Public Entity;
 - (c) require a Public Entity to prepare an annual cash plan specified by month for revenues, expenditures and financing and to periodically update the plan; and
 - (d) review the revenue, expenditure and financing plans and cash forecasts each month against actual results, revise the forecasts and adjust the plans and cash forecasts as necessary.
- (2) The Chief Executive Officer shall ensure that the cash management plans provided to the Accountant-General are consistent with the timing of planned purchases and are regularly updated.

Consolidated Fund, Special Funds, Trust Assets

Consolidated Fund

34.(1) There is a Consolidated Fund as established by section 107 of the *Constitution*.

(2) Subject to the provisions of this or any other Act for the time being in force, all public money shall be credited to the Consolidated Fund and banked into the Treasury Account or a sub-account of the Treasury Account.

Charges on the Consolidated Fund

35.(1) No sum shall be charged on the Consolidated Fund or warrant issued except upon the authority of an Appropriation Act, the *Constitution* or any other enactment.

(2) Any sums issued in accordance with subsection (1) shall be disposed of for meeting the cost of the public services specified by the Appropriation Act for the financial year during which the withdrawal is to take place or for services otherwise lawfully charged on the Consolidated Fund.

(3) The public debt of Barbados, including the interest on that debt, sinking fund payments and redemption moneys in respect of that debt, and the costs, charges and expenses incidental to the management of that debt, shall be a charge on the Consolidated Fund as stated by section 111 of the *Constitution*.

Special funds

36.(1) A special fund may be established by an enactment for a specific purpose and such fund shall be held or administered by the Government.

(2) The enactment referred to in subsection (1) shall specify:

- (a) the purpose of the special fund;
- (b) the money to be credited to the special fund; and

- (c) the public officer or public office holder responsible for the accounting, management, monitoring and reporting of the special fund.
- (3) Where the termination of a special fund is not provided for in an enactment, the Minister responsible for Finance may terminate a special fund that has fulfilled its objectives and is not required for a public purpose and all moneys of the special fund shall be credited to the Consolidated Fund.

Trust Assets

- 37.(1) All trust assets shall be accounted for separately from other public assets.
- (2) Subject to any other enactment and the trust instrument, the Accountant-General shall be responsible for trust assets and shall manage or arrange for the management of such assets.
- (3) The Accountant-General may charge an administration fee which shall be deducted from the trust assets or from income from those assets and such fee shall be no more than 1.5 per cent.
- (4) The Accountant-General may invest any trust assets for such periods and on such terms and conditions as are beneficial to the trust and in accordance with the trust instrument and an enactment applying to the trust.
- (5) No person shall have any right of action against the Accountant-General or the Government in respect of any investment or non-investment of any money to which this section relates.

Unclaimed Trust Assets

- 38.(1) Any trust assets that are unclaimed for a period of 3 years after having become payable to any person entitled thereto, together with interest, if any, added thereto, shall be transferred to the Government for use in marine conservation or any other public interest purpose related to achieving environmental sustainability.

(2) Where a person claims any trust assets which have been transferred to the Consolidated Fund and establishes a claim to the satisfaction of the Accountant-General, the money shall be paid to that person out of the Treasury Account on the authority of this section and without appropriation.

Banking Arrangements

Treasury Account

39.(1) The Bank Account of the Government, to be known as "the Treasury Account" shall be the principal bank account of the Government and shall be opened, maintained, and operated by the Accountant-General.

(2) Subject to the provisions of this Act and any rules made under the Act, the Accountant-General shall be responsible for the general management and supervision of the cash transactions and accounting operations of the Government and shall be accountable for all public monies received by the Accountant-General.

(3) No Public Entity shall open a bank account in respect of public money, whether in or outside of Barbados, without the prior written authorisation of the Director of Finance.

(4) The Accountant-General shall designate a bank with which the Treasury account shall be established and shall authorize the opening of sub-accounts in domestic and foreign commercial banks, to act as transitory bank accounts to facilitate the collection of public money including revenues of Public Entities, grants, and loan funds and for processing payments.

(5) A bank holding public money shall provide information to the Minister responsible for Finance, Director of Finance or Accountant-General in the form and by the time requested.

(6) The Director of Finance may close or direct the closure of a bank account of a Public Entity and may issue instructions in writing respecting the banking

of the money from the bank account and the bank shall comply with such instructions.

(7) The Director of Finance may issue a direction regarding the bank accounts of a Commercial State-Owned Enterprise where the Accountant-General considers it necessary in the public interest to issue such a direction.

(8) The Accountant-General may determine the accounts in the names of Public Entities, public officers or public office holders or their offices in any bank which shall be included in the Treasury Account and the financial statements of the Government.

(9) The Accountant-General shall maintain an up-to-date list of the Government entities required to use the Treasury Account and shall ensure that it is published on an official website of the Government.

Fees and Charges

Fees and Charges

40. A Public Entity may levy fees and charges in accordance with an enactment or authorisation in writing by the Minister responsible for Finance consistent with the Laws of Barbados.

Grants

Requirements for Grants

41.(1) The Government may accept a grant that has been approved in the Annual Budget or by the Cabinet after considering the advice of the Minister responsible for Finance and the Minister.

(2) A Minister who proposes to recommend to the Cabinet that donor funding be accepted shall provide the Minister responsible for Finance with full information on the donor funding including the projected amount, any counterpart funding and implications for recurrent costs.

- (3) The Director of Finance, on behalf of the Government, shall receive all grants made to the Government by a foreign Government or any other entity or person and shall ensure that the grants are credited to the Consolidated Fund and banked in the Treasury Account.
- (4) A Ministry or Department which receives grant funding or loan funding shall immediately transfer the funds to the Accountant-General to be credited to the Consolidated Fund and banked in the Treasury Account unless the ministry or department has a below the line account.
- (5) Where a person contravenes subsection (4), that contravention shall be considered to be financial misconduct pursuant to section 121 and the matter may be referred to the Director of Public Prosecutions where it is suspected that a crime has been committed.
- (6) Each Public Entity that administers a donor project shall use the accounting and auditing procedures of the Government.
- (7) The Ministry responsible for Finance shall not release funding for donor projects to a Public Entity unless such funding is accounted for as donor revenue in the Government's accounting system.
- (8) The Public Entity responsible for an agreement with a donor shall ensure that the agreement requires the donor to provide information to the Ministry responsible for Finance on all payments made by the donor under such agreement.

Remissions, Write-offs and Dispensations

Remissions generally

- 42.(1)** Subject to sections 42 and 43, no sums due to the Government by way of revenue and no other public moneys may be remitted except
- (a) in the case of sums not exceeding \$100 000, under the authority of the Minister responsible for Finance; and

- (b) in the case of sums exceeding \$100 000, under the authority of the Cabinet; and
 - (c) where a detailed statement of all amounts so remitted shall be audited and submitted by the Auditor-General to the House of Assembly.
- (2) A recommendation by the Minister responsible for Finance to the Cabinet for a remission under this section shall include a report that contains
- (a) a description of the proposed remission including the full value of the remission;
 - (b) the names and addresses of all beneficiaries of the proposed remissions including, in respect of a company, the names and addresses of the shareholders;
 - (c) a statement of the reasons the Minister responsible for Finance considers the proposed remission to be in the public interest or that a hardship or injustice has or is likely to result;
 - (d) an analysis of the costs and benefits of the proposed remission;
 - (e) the conditions, if any, to which the remission is subject; and
 - (f) a list of the value of all remissions that have been granted to each and every one of the beneficiaries of the proposed remission in the past 10 years.
- (3) The Minister responsible for Finance or the Cabinet, as the case may be, shall only grant a remission where satisfied that it is in the public interest or that a hardship or injustice has or is likely to result.

Remission of duties imposed by way of penalty

43.(1) Where, by virtue of an Act in force in Barbados, additional duties are made payable by way of forfeiture, the Minister responsible for Finance, upon the petition of any person who has incurred and paid these additional duties so imposed by way of forfeiture, may, if in the circumstances of the case he considers it equitable to do so, remit such duties.

(2) The Accountant-General is hereby authorised and required to pay any such duties as are remitted under subsection (1) upon the warrant of the Minister responsible for Finance or of a person authorised in writing by the Minister responsible for Finance.

Remission of duties on the address of the House of Assembly.

44. The Minister responsible for Finance may, upon the address of the House of Assembly, remit and order repayment of any duties raised, levied, collected and paid to the Government for the uses of Barbados, and the Accountant-General is hereby authorised and empowered to repay the same upon the warrant of the Minister responsible for Finance or of a person authorised in writing by the Minister responsible for Finance.

Write-offs

45.(1) The Director of Finance may by certificate write-off all or part of a debt due to the Government that he determines that

- (a) he is unable to collect; or
- (b) the collection of which would not be cost effective.

(2) The write-off of all or part of a debt does not extinguish the right of the Government to collect the debt.

(3) The Director of Finance may delegate the authority to make write-offs and such delegation may be general or may relate to a class or classes of write-offs and may be made subject to conditions.

Accounting for Remissions and Write-offs

46.(1) A summary statement of

- (a) remissions and write-offs in this Act; and
- (b) remissions and write-offs made under the authority of any other Act, shall be included in the Financial Statements.

- (2) A summary statement is sufficient if it identifies the type of remission or write-off and the names of the persons affected, including for a company the names of the shareholders, and the total value of each type of remission or write-off and, in the case of a remission or write-off made under the authority of any other enactment, the authority for it.
- (3) The Accountant-General shall ensure that the summary statement
- (a) is available for inspection by the public in a register in the Ministry responsible for Finance during usual business hours and on an official website of the Government; and
 - (b) continues to be so available until the Financial Statements containing the summary statement are laid in Parliament and for 10 years thereafter.
- (4) The register, referred to in subsection (3), may be in such form as the Accountant-General determines provided that it contains at least the information required by this section.

Power of Minister responsible for Finance to dispense with probate or letters of administration

47.(1) On the death of any person who was employed in the public service (hereafter in this section referred to as the deceased public officer) and to whom was payable at the date of his death on account of his public service any salary, allowance, pension or gratuity not exceeding the sum of \$15 000, the Minister responsible for Finance, on an application being made for such purpose, may, subject to subsection (3), dispense with probate or letters of administration if he is satisfied that it is expedient to do so, and direct that any such salary, allowance, pension or gratuity shall be paid to such person as appears to him best entitled to receive the same.

(2) The Accountant-General is hereby authorised and required to pay upon the warrant of the Minister responsible for Finance or of a person authorised by the Minister responsible for Finance in writing such sum as may be directed to be paid under subsection (1).

(3) Before dispensing with probate or letters of administration and directing the payment of any sums under subsection (1), the Minister shall satisfy himself that every reasonable care has been taken to ascertain whether or not the deceased public officer was indebted to any person at the date of his death.

(4) Any payment made under this section shall be valid against all persons, and all persons acting under the provisions of this section are absolutely discharged from all liability in respect of any moneys duly paid or applied by them under this section; but nothing in this section shall in any way interfere with the right of any creditor or other person having any claim to or upon the property of the deceased public officer to proceed against the legal personal representative of the deceased public officer for the recovery of any money or other property which such creditor or other person may claim.

(5) A summary statement of the dispensations made by the Minister responsible for Finance under this section shall be included in the Financial Statements.

Financial Asset Management

Medium-Term Financial Asset Management Strategy

48.(1) The Minister responsible for Finance shall present with the Annual Budget a Medium-Term Financial Asset Management Strategy.

(2) The Medium-Term Financial Asset Management Strategy shall include the principles applied by the Government to the management of its investment portfolio and the acceptable investment instruments having regard to risk.

Deposit of Excess Moneys

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

Authorised Investments and Investment Requirements

50.(1) The Minister responsible for Finance, having regard to the Medium-Term Financial Asset Management Strategy, shall authorise the investment of money forming part of the Consolidated Fund or held in a Special Fund, or other fund for which provision is made by or under an enactment

- (a) with a registered bank;
- (b) in deposits with the Central Bank;
- (c) in securities approved in accordance with subsection (3); or
- (d) in a manner authorised by law for the investment of money administered by a trustee.

(2) The Minister responsible for Finance may, if he is satisfied that it is in the public interest and with the prior approval of Parliament, authorise the Director of Finance to purchase Securities, consistent with the Medium-Term Financial Asset Management Strategy, with money credited to the Consolidated Fund.

(3) On the next sitting of Parliament, following the purchase of securities under subsection (3), the Minister responsible for Finance shall have

- (a) a report laid in Parliament containing the full details of the Securities purchased including the investment grade rating, if any; and
- (b) a copy of the agreement made in relation to the purchase together with the most recent annual financial statements laid in Parliament, where securities in either domestic or foreign companies are purchased.

Securities

51.(1) A security taken in respect of a loan shall be taken in the name of the Government.

(2) The Minister responsible for Finance may, on behalf of the Government, do any of the things in respect of, or in connection with, the security that could

be done by the Government including exercising any powers, functions, and rights.

Crediting Interest from Investments

52. The interest or dividends received from an investment under this Act from money from a special fund, sinking fund, or trust account in a sub-account of the Treasury Account shall be credited to the fund or trust from which the moneys came to make the investment.

Loans by the Government to be authorized by Parliament

53.(1) The Government shall not lend public money to any person, Government entity, private sector entity or any other entity unless authorized by an Act or a resolution of Parliament.

(2) The Government shall not request a resolution of Parliament to authorize a loan from the Government to a person, or Government entity, private sector entity or other Government or any other entity unless the loan is

- (a) to meet a legal obligation; or
- (b) required in order to properly perform a function of Government; and
- (c) for a loan over the value of \$100 000.

Appropriation Necessary for Lending

54. Any lending under section 53 shall be made from an Appropriation.

Investment in a Commercial State-Owned Enterprise

55.(1) Subject to the provisions of any other enactment and consistent with the Medium-Term Financial Asset Management Strategy, the Minister responsible for Finance may invest money by way of capital injection in a Commercial State-Owned Enterprise only by way of a capital contribution appropriated by Parliament.

- (2) All shares held in a Commercial State-Owned Enterprise by the Government shall be held in the name of "the Government of Barbados".
- (3) All rights and powers attaching to the shares in a Commercial State-Owned Enterprise, including the power of sale or disposition, held by the Government shall be exercised by the Government in accordance with the Laws of Barbados.

Loans to be Secured

56. A loan given by the Government to a person, Government entity, private sector entity, other Government, or any other entity shall be secured by way of a loan agreement or a debenture mortgage or other suitable instrument depending on the circumstances of the loan.

Liability Management

Liability Management

- 57.(1)** The Minister responsible for Finance shall present a Medium-Term Debt Management Strategy with the Annual Budget to Parliament.
- (2) The Medium-term Debt Management Strategy shall be consistent with the fiscal responsibility principles set out in section 5.
- (3) The Minister responsible for Finance shall ensure the financing needs of the Government are met and payment obligations are made, at the lowest possible cost over the medium term to the long term with a prudent degree of risk.

Authority to Borrow and Guarantee

- 58.(1)** No money shall be raised on the credit of the Government to be guaranteed by the Government except under the authority of an Act or of a resolution of Parliament and any such resolution shall be made prior to the loan being contracted or a guarantee granted.
- (2) Notwithstanding any other enactment, it shall not be lawful for the Government, a Public Entity, or a Commercial State-Owned Enterprise to borrow

from, or to give a Government guarantee to, any person, entity, or other Government entity, unless the Minister responsible for Finance has approved such borrowing or guarantee in writing and the requirements of this Act are complied with.

(3) A loan or guarantee that contravenes this Act shall be null and void.

Borrowing for Current Requirements

59.(1) The Minister responsible for Finance may in a Financial Year, when authorised by resolution of Parliament, for the purpose of meeting current requirements, borrow money from a bank or other financial institution by means of temporary advances, overdraft, treasury bills or other similar means subject to this Act or rules made under this Act and other relevant enactments.

(2) Where the Minister responsible for Finance, in a Financial Year, when authorised by resolution of Parliament, for the purpose of meeting current requirements, borrows money from the Central Bank of Barbados by means of temporary advances the amount shall not exceed 7.5 per centum of the net receipts of the estimated revenue of the Government for that financial year.

(3) The Minister responsible for Finance shall ensure that any borrowing pursuant to this section is consistent with the Fiscal Responsibility Principles pursuant to section 5, the Fiscal Framework pursuant to section 6 and the Annual Budget pursuant to section 21.

(4) Subject to subsection (1), no Government bank account shall be overdrawn nor any temporary advance obtained from a bank unless authorized by a resolution in Parliament.

(5) The interest of all advances referred to in this section shall be charged on the Consolidated Fund.

Borrowing for Non-current Requirements

60.(1) The Minister responsible for Finance shall determine how money is to be raised for non-current requirements having regard to the Medium-Term Debt Strategy.

(2) Where the money is to be raised by the issue and sale of Government Securities, the Minister responsible for Finance may determine, having regard to the Medium-Term Debt Strategy any matter with respect thereto, including, but not limited to

- (a) the principal amount of the Government Securities to be issued;
- (b) the rate of interest payable and the rate of any premium or discount applicable to the Government Securities;
- (c) the currency in which the principal amount of the Government Securities and any interest or premium are payable;
- (d) the sale price of the Government Securities;
- (e) the form, denomination and dates of issue and maturity of the Government Securities; and
- (f) any other terms and conditions of the Government Securities.

(3) When raising money by the issue and sale of Government Securities, the Minister responsible for Finance shall satisfy any jurisdiction with respect to the offer, issue, sale and trade of securities and other transactions relating to securities in the jurisdiction, including, without limitation

- (a) the preparation, approval, filing or delivery of a prospectus or other document or any amendment or supplement to any of them;
- (b) the registration, qualification or exemption from registration or qualification of the Government under the laws of the jurisdiction regarding the offer, issue, sale or trade of Securities;
- (c) the listing and trading of securities on a stock exchange;

- (d) the disclosure of financial and other information;
- (e) entering into agreements with respect to the offer, issue, sale or trade of Securities or other transactions relating to Securities including underwriting and similar agreements;
- (f) providing for the establishment and operation of Sinking Funds in relation to Government Securities; and
- (g) the execution of all documents and instruments in relation to matters described in this subsection.

Payment of Loan Moneys into Consolidated Fund

61. Notwithstanding any enactment to the contrary, any money raised by the Government by loan or by the sale of Government Securities shall be credited to the Consolidated Fund and paid into the Treasury Account.

Minister may change form of Public Debt

62.(1) Subject to subsection (2) and subject to the consent of the creditor holding the public debt or where the Minister responsible for Finance is entitled to do so, the Minister responsible for Finance may change the form of the public debt or part of the public debt.

(2) The Minister responsible for Finance shall not make a change in the form of the public debt or part of the public debt that has the effect of increasing the present value of the public debt except with the approval of Parliament.

Debt is a charge on the Consolidated Fund

63. Section 111 of the *Constitution* applies in relation to debt charges on the Consolidated Fund.

Guarantee that imposes a liability on the Government

64.(1) It shall not be lawful for any person to give a guarantee or indemnity that imposes a contingent liability on the Government.

- (2) No guarantee shall be granted by the Government without prior authorisation by a resolution of Parliament.
- (3) A guarantee shall
- (a) be a formal guarantee and not a letter of comfort or other communication purporting to commit the Government to obligations in the nature of a guarantee that is inconsistent with this Act;
 - (b) meet the criteria for guarantees specified in rules made under this Act; and
 - (c) comply with the fiscal responsibility principles in this Act, the fiscal objectives in the Fiscal Framework, and be consistent with the Medium-Term Debt Strategy.
- (4) The Government shall not be liable for any implied guarantees asserted by any individual or entity and shall only be liable for formal guarantees given in accordance with this Act.
- (5) A resolution of Parliament referred to in this section shall be published in the *Official Gazette* no later than 2 weeks after making the resolution.

Payments are debts due to Government

- 65.(1)** Any money paid by the Government under a guarantee constitutes a debt due to the Government from the person, organisation, or government in respect of whom the guarantee was given.
- (2) A debt referred to in subsection (1)
- (a) is recoverable in any court;
 - (b) may be paid over such period of time and on such terms and conditions as agreed by the Cabinet.

Reporting

- 66.(1)** In addition to the reporting required in this Act, the Minister responsible for Finance shall publish information in the Financial Statements of

the Government describing the loans taken and guarantees given during that Financial Year.

(2) The Ministry responsible for Finance shall maintain memorandum accounts of the loans taken by the Government and shall arrange repayment in accordance with the legal obligations.

(3) The Ministry responsible for Finance shall ensure that the memorandum includes information on the principal, terms of repayment, amounts drawn, interest and service charges accrued, principal and interest paid, and the balance outstanding and shall make the memorandum available in a timely way to the Ministers and Parliament if requested.

(4) The Ministry responsible for Finance shall in addition to the information and reporting on loans and guarantees required in this section and other sections in this Act, provide a report at least every quarter to the Cabinet summarising the position with loans, guarantees and other liabilities.

(5) A Public Entity and a Commercial State-Owned Enterprise shall maintain records and provide reports to the Ministry responsible for Finance on loans, guarantees and other liabilities as required by rules made under section 129.

Internal Audit

Internal Audit Office

67.(1) There shall be a department of the Ministry responsible for Finance known as the Internal Audit Office which shall be responsible generally for conducting audits of Public Entities.

(2) The internal audit function shall operate in a manner consistent with International Auditing Standards to evaluate and improve risk management, control, and governance processes in relation to Public Entities.

Functions of the Internal Audit Office

- 68.** The responsibilities of the Internal Audit Office shall include
- (a) publishing on an official website of the Government standards and procedures consistent with international standards for the conduct of internal audit activities;
 - (b) preparing the Government level annual audit plan that shall provide coverage of major risks and exposures across Public Entities and State Owned Enterprises ;
 - (c) assessing the risk management, control, and governance processes for Public Entities and State Owned Enterprises including whether
 - (i) risks are appropriately identified and managed;
 - (ii) public moneys and assets are adequately safeguarded and used as intended;
 - (iii) financial and operating information is accurate, complete, reliable, and timely;
 - (iv) ethical standards and values are established and followed;
 - (v) applicable laws, policies, and procedures are complied with; and
 - (vi) resources are applied to achieve the strategic objectives of the entity and the Government;
 - (d) providing assurance to the Chief Executive Officer that operations are being carried out economically, efficiently, effectively;
 - (e) providing the Chief Executive Officer with professional and impartial opinions and advice on systems of risk management, control, and governance with recommendations concerning activities reviewed; and
 - (f) monitoring and reporting on the implementation of recommendations arising from audit reports.

Director of Internal Audit

69.(1) The Internal Audit Office shall be managed by a Director of Internal Audit or other appropriate public officer designated by the Minister responsible for Finance.

(2) The Director of Internal Audit shall report for management purposes to the Director of Finance and for functional purposes to the Internal Audit Committee.

(3) The Director of Internal Audit shall manage the internal audit function of Public Entities having regard to the technical and professional advice of the Internal Audit Committee.

(4) The Director of Internal Audit and officers assigned to the Internal Audit Office of the Ministry responsible for Finance shall have access to

- (a) the premises, property, information and records in any form of a Public Entity or Commercial State-Owned Enterprise; and
- (b) Public Officials and public officer holders,

to seek explanations necessary to conduct an audit.

(5) The Director of Internal Audit shall provide a copy of each audit report to the

- (a) Comptroller-General;
- (b) Internal Audit Committee;
- (c) Chief Executive Officer of the Public Entity audited; and
- (d) Auditor-General.

(6) The Director of Finance shall, where he determines to be necessary, direct the establishment of internal audit offices within Public Entities.

Internal audit offices in Public Entities and Commercial State-Owned Enterprises

70. Where a Public entity has an internal audit office, that Public Entity shall submit a copy of the internal audit report of that entity to the

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

when requested to do so by the Director of Finance.

Internal Audit Committee

71.(1) There shall be a Committee which shall be known as the “Internal Audit Committee”.

(2) The provisions of the *Eighth Schedule* have effect with respect to the constitution of the Committee and otherwise in relation thereto.

Duties of the Internal Audit Committee

72. The Internal Audit Committee shall

- (a) review the work of the internal auditors of the Government;
- (b) recommend and periodically review an internal audit charter for the Government for approval by the Director of Finance;
- (c) provide advice to the Director of Finance on the sufficiency of resources of the Internal Audit Office in the Government;
- (d) review and recommend for approval by the Director of Finance, an annual internal audit plan which shall include the resources for the Internal Audit Office, the scope of work, and planned activities;
- (e) adopt standards consistent with international internal auditing standards and set requirements for the internal audit work in the

Government including the content, timing and circulation of internal audit reports and shall communicate such standards and requirements to public officers and public office holders, including internal auditors;

- (f) review and recommend for approval internal audit reports and corresponding management action plans to address recommendations;
- (g) require public officers or public office holders to attend meetings to explain the reasons for deficiencies in internal audit reports and the plans and actions to correct such deficiencies;
- (h) review reports on progress against the internal audit plan and requests from Permanent Secretaries, other Chief Executive Officers, public officers or public office holders for advice, audit of projects, fraud investigations or other assistance;
- (i) assess and make recommendations to improve the performance of the internal auditors of the Government;
- (j) provide advice to the Director of Finance on the recruitment, appointment, and performance management of the Director of Internal Audit;
- (k) provide the Director of Internal Audit with direct access to the Internal Audit Committee; and
- (l) refer matters for consideration by the appropriate authorities including the Director of Public Prosecutions, Accountant-General, and the Police where the Internal Audit Committee has made a decision that a referral is necessary.

Internal Audit Standing Instructions

73. The Director of Finance may, after consulting with the Internal Audit Committee, issue standing instructions to Public Entities, State Owned Enterprises, or Commercial State-Owned Enterprises consistent with this Act.

Internal Audit Requirements of a Commercial State-Owned Enterprise

74. The board of directors of each Commercial State-Owned Enterprise shall be responsible for establishing and maintaining an internal audit function consistent with International Auditing Standards.

PART VI

AUDITOR-GENERAL

Duties of Auditor-General

75.(1) The Auditor-General is the auditor of the financial statements for the Government of Barbados.

(2) The Auditor-General shall also

- (a) be responsible for the audit and inspection of all public accounts, whether such accounts are of general revenue credited to and expenditure met from the Consolidated Fund or of special funds or departmental accounts and statutory bodies which receive all or part of their funds from the Consolidated Fund;
- (b) apply to the public accounts such an examination as will enable him to ascertain that in his opinion the accounts are kept on a proper system, that they are punctually and properly posted and that checks against irregularity and fraud are adequate and effective;
- (c) prepare and deliver an audit opinion to the entity whose statements have been audited;
- (d) satisfy himself that all standing instructions, enactments and other laws of Barbados relating to finance and accounts are strictly observed; and

- (e) examine, and in accordance with the outcome of his examination report on, the several statements and accounts which are required to be submitted to him under this Act.
- (3) The Auditor-General may carry out examinations into the economical, efficient and effective use of resources of any Ministry or Department or any other entity required to be audited by him.
- (4) Subsection (3) shall not be construed as entitling the Auditor-General to review the merits of the policy objectives of Government in respect of any Ministry, Department or statutory body.
- (5) The Auditor-General may refer matters for consideration by the appropriate authorities including the Director of Public Prosecutions, Accountant-General, and the Police where the Auditor-General has made a decision that a referral is necessary.

Certification of Pensions

76. The Auditor-General shall examine the calculations and computations of all pensions and gratuities or similar awards before any award is made, and shall certify that they are arithmetically correct and are in accordance with all statutory provisions relating thereto.

Auditor-General's Report

- 77.(1)** The Auditor-General shall report annually, as soon as possible and not later than the last day of December following the close of each financial year, the results of his examination of the accounts and any failure to observe the enactments or other laws of Barbados.
- (2) Notwithstanding subsection (1), the Auditor-General may at any time, if it appears to him to be desirable, transmit to the House of Assembly a special report on any matter incidental to his powers and duties under this Act.
- (3) The estimates of expenditure of the office of the Auditor-General shall be transmitted to the House of Assembly through the Public Accounts Committee;

and the Public Accounts Committee shall consider the estimates in accordance with subsection (4).

(4) In considering the estimates of expenditure under subsection (3), the Public Accounts Committee shall ensure that the estimates of expenditure are adequate to enable the Auditor-General to fulfil the responsibilities of the office of Auditor-General, and for this purpose may make comments for the consideration of the Auditor-General, who shall consider the comments and, if necessary, revise the estimates of expenditure for re-submission to, and approval by, the Public Accounts Committee.

(5) Every report of the Auditor-General shall be addressed to the Speaker of the House of Assembly, who shall lay the report before the House of Assembly as soon as possible after the report is received by him.

(6) A copy of every report of the Auditor-General shall also be transmitted to the Senate for information.

Powers of Auditor-General

78.(1) For the purpose of his examination under section 75(3), the Auditor-General is at all times entitled to

- (a) have access to all books, records, including data held or stored electronically, vouchers, payment requests, documents, returns, cash, stamps, securities, stores or other property in whatever form existing in the possession of the audited body; and every facility shall be given for carrying out the examination;
- (b) send for, and have custody of, any books, accounts, vouchers, payment requests, papers, data held or stored electronically or any other information in whatever form existing under the control of the audited body relating to the matter under examination, and to keep such books, accounts, vouchers, payment requests or papers for such time as he may require them;

- (c) call upon any officer for any explanation and information the Auditor-General may require in order to enable him to discharge his duties;
- (d) require any department concerned to furnish him from time to time or at regular periods with accounts of the transactions of such department up to the date as he may specify;
- (e) without payment of any fee, cause a search to be made in, and extracts to be taken from, any book, document or record in any public office;
- (f) summon and examine upon oath, declaration or affirmation (which oath, declaration or affirmation the Auditor-General is hereby empowered to administer) all persons whom he thinks fit to examine respecting
 - (i) the receipt or expenditure of money;
 - (ii) the receipt or issue of any stores affected by this Act; and
 - (iii) all other matters and things whatever necessary for the due performance of his functions;

and any person so summoned is upon production of a certificate of the Auditor-General entitled to payment for his attendance in accordance with the provisions of the *Witnesses and Interpreters (Payment) Act*, Cap. 119 as if he were a witness attending a legal proceeding in obedience to a summons issued at the instance of the Government; but the Auditor-General may, if he thinks fit in any case, disallow the whole or any part of such payment;

- (g) require every person employed in the office of the Auditor-General who has to examine the accounts of a department to comply with any security requirements applicable thereto, and to take any oath of secrecy required to be taken by persons employed in that department.
- (2) Any person summoned under paragraph (f) of subsection (1) who without reasonable excuse fails to obey the summons is guilty of an offence and is liable

on summary conviction to a fine of \$10 000 or to imprisonment for a term of 12 months.

Authorisation to perform duties

79.(1) The Auditor-General may authorise any officer in the office of the Auditor-General to perform on his behalf any of his functions under this Act or any other Act other than the administering of oaths and the certifying of and reporting on accounts for the House of Assembly.

(2) Where it appears to the Auditor-General that

- (a) any irregularities have occurred in the collection, custody or expenditure of public moneys or in the accounting for the same;
- (b) any irregularities have occurred in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other property of the Government or in the accounting for the same;
- (c) any loss of or damage to the property of the Government has not been duly reported to the Director of Finance,

the Auditor-General shall immediately bring the matter to the notice of the accounting officer and, where the case is serious, report the circumstances to the Director of Finance.

Examination of accounts on request

80.(1) The Auditor-General shall, if required by

- (a) a resolution of the House of Assembly;
- (b) the Public Accounts Committee of Parliament; or
- (c) the Minister responsible for Finance,

examine the accounts of any person or organisation who has received moneys by way of a grant or a loan out of funds voted by Parliament or in respect of whom financial aid from the Government is sought.

(2) The Auditor-General submit a report on the results of the examination conducted pursuant to subsection (1) to the House of Assembly or to the Minister responsible for Finance.

(3) Where the Minister responsible for Finance fails within a reasonable time to present the report referred to in subsection (2) to the House of Assembly, the Auditor-General shall transmit the report to the Speaker of the House of Assembly to be presented by him to the House of Assembly.

Fees for auditing accounts

81.(1) The Auditor-General may, subject to approval by the Minister responsible for Finance, charge a fee for auditing the accounts of a person or body whose expenditure is not met from the Consolidated Fund.

(2) Any fees received by the Auditor-General under subsection (1) shall be credited to the Consolidated Fund.

Engagement of services by Auditor-General

82.(1) The Auditor-General may engage the services of professionally competent persons to assist in the conduct of audits, and payment for such services shall be charged on the Consolidated Fund.

(2) Where under subsection (1) the Auditor-General engages a private auditor to conduct the audit of a Government entity, the auditor of the entity shall make available all working papers and other documents to the Auditor-General.

Officers of the Audit Office

83. The Audit Office shall consist of the Auditor-General and such other officers and employees as are assigned to him.

PART VII

ACCOUNTS AND REPORTS

*Accounts***Standing instructions to Accounting Officers**

- 84.** The Director of Finance may issue standing instructions in respect of
- (a) the preparation of estimates in the form of a budget;
 - (b) the collection, payment, management and administration of, and the accounting for, public moneys;
 - (c) the purchase, receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other property of the Government;
 - (d) the keeping of records of the Government; or
 - (e) any other purpose necessary for the efficient administration of the financial business of the Government.

Timing of accounting for moneys recovered

- 85.** The recovery by the Government of an expenditure charged to an Appropriation for goods or services received
- (a) before the end of the Financial Year in which the expenditure was made shall be credited to the Appropriation against which the expenditure was charged; or
 - (b) after the end of the Financial Year shall be credited to the appropriate revenue account of the Financial Year in which it is received.

*Reporting and Transparency Requirements***Monthly Reports**

- 86.(1)** The Director of Finance shall prepare a monthly report on the financial performance of the Government against the Annual Budget and Appropriation Act.
- (2) The Minister responsible for Finance shall provide the monthly report to the Cabinet no later than 28 days after the end of each month to which the report relates.
- (3) The Director of Finance shall publish the monthly report on the official website of the Government no later than 14 days after the report is provided to the Cabinet.
- (4) The Auditor-General or the Director of Internal Audit may audit the monthly reports referred to in this section and the Chief Executive Officer of a government entity shall provide the information required by the Director of Internal Audit or the Auditor-General to conduct such audit.
- (5) The Director of Finance shall provide other periodic reports on financial or non-financial matters to the Minister responsible for Finance.

Mid-Year Review Report

- 87.(1)** The Minister responsible for Finance shall have a Mid-Year Review Report on progress made against the Fiscal Framework and the Annual Budget as specified in the *Fourth Schedule* laid in Parliament no later than 31st October.
- (2) The Director of Finance shall publish the Mid-Year Review Report on an official website of the Government on the same day as the Report is laid and shall make a printed copy available as soon as practicable.

Financial Statements of the Government

- 88.(1)** In respect of each financial year and within a period of 4 months after the close of each financial year, the Accountant-General shall prepare, sign and

transmit to the Auditor-General the following statements in respect of the Government

- (a) a statement of the financial position at the balance sheet date;
 - (b) a statement of financial performance;
 - (c) a statement of cash flows;
 - (d) a statement of borrowings;
 - (e) a statement of sinking fund and sinking fund assets for the year;
 - (f) a statement of contingent liabilities of the Government as at the balance sheet date including any Government guarantees or indemnities;
 - (g) a statement of all amounts remitted pursuant to sections 42, 43 and 44;
 - (h) a statement of accounting policies;
 - (i) such other statements as are necessary to fairly reflect the financial operations of the Government for that year and its financial position at the end of the financial year; and in relation to each statement required by paragraphs (a) to (g) of this subsection and, where appropriate, paragraph (i) of this subsection,
 - (i) budgeted figures for the financial year; and
 - (ii) comparative budgeted and actual figures for the previous financial year.
- (2) In respect of each financial year and within a period of 2 months after the close of the financial year
- (a) accounting officers shall prepare, sign and transmit to the Director of Finance and the Auditor-General, in such manner as the Director of Finance may approve, appropriation accounts in respect of the heads for which they are responsible;

- (b) accounting officers shall prepare, sign and transmit to the Director of Finance and the Auditor-General in such manner as the Director of Finance may approve
 - (i) a statement of performance for each programme of the Ministry including the results achieved by the Ministry during the year as compared with the programmes budgeted for that year;
 - (ii) a schedule of capital assets at the balance sheet date;
 - (iii) a statement of the commitments and any other liabilities in relation to the activities of the Ministry as at the balance sheet date;
 - (iv) such other statements as are necessary to fairly reflect the financial operations of the Ministry; and
 - (v) budgeted figures for the financial year and comparative actual and budgeted figures for the previous financial year; and
 - (c) accounting officers and collectors of revenue shall prepare, sign and transmit to the Director of Finance, the Auditor-General and the Accountant-General, in such manner as the Director of Finance may direct, approved statements of receipts, revenue, receivables, refunds, waivers and remittances; and
 - (d) the officer primarily responsible for a fund to which moneys have been appropriated by Parliament shall prepare, sign and transmit to the Auditor-General, the Director of Finance and the Accountant-General financial statements in respect of the fund.
- (3) The annual financial statements shall be prepared in accordance with accounting standards and practices required by the Accountant-General under this Act.
- (4) The statements and accounts mentioned in subsections (2) and (3), when certified and reported on, shall be sent by the Auditor-General to the Speaker of the House of Assembly to be laid before the House of Assembly.

(5) The Director of Finance shall publish the Financial Statements of the Government on an official website of the Government on the same day as the report is laid in Parliament and shall make a printed copy available as soon as practicable.

Annual Report on Non-Financial Performance

89.(1) A Minister shall no later than 3 months after the end of every Financial Year prepare an Annual Report on the non-financial performance of the Public Entities or Commercial State-Owned Enterprises he is responsible for.

(2) The Annual Report on Non-Financial Performance shall be laid in Parliament no later than the day the Auditor-General has laid the Financial Statement of the Government.

(3) The Director of Finance shall publish the Annual Report on an official website of the Government on the same day as the report is laid in Parliament and shall make a printed copy available as soon as practicable.

Publication of Financial Statements and Annual Report of the Government

90. The Director of Finance shall publish the Financial Statements, the Audit Opinion, and the Annual Report of the Government on the official website of the Government no later than one week after these documents have been laid in Parliament and shall publish such reports in printed form as soon as practicable.

Public Accounts Committee

91.(1) The Public Accounts Committee of Parliament shall

- (a) review the annual audited Financial Statements of the Government as a whole and the annual report on non-financial performance;
- (b) review the annual reports including the non-financial performance achieved and the audited financial statements for each Public Entity and Commercial State-Owned Enterprise; and

- (c) report to Parliament on the results of such reviews no later than the first week of the tenth month of the financial year following the financial year under review and such report shall include recommendations on the actions to be taken.
- (2) The Chairperson of the Public Accounts Committee shall ensure that the Committee meets as often as is necessary to perform the functions required by the *Public Accounts Committee Act*, Cap. 10A and this Act.
- (3) Parliament shall
 - (a) consider the report of the Public Accounts Committee on the reviews set out in subsection (1);
 - (b) review the report of the Auditor-General on the accounts and other performance of the Government; and
 - (c) debate the recommendations contained in the reports referred to in this subsection.
- (4) Parliament shall complete the reviews and debates in this section no later than the end of the tenth month after the end of the Financial Year to which the reports and reviews in this section relate.

PART VIII

MINISTRY ACCOUNTABILITY

Performance of Ministry

92. The financial and non-financial performance report expected for a Ministry shall be included in the Estimates and shall be submitted to the Minister responsible for Finance by the Minister.

Agreements and Review of Performance of Ministry

93.(1) The Minister or the Minister responsible for Finance may commission a review of a Ministry with regard to its performance.

(2) The Minister shall monitor the overall performance of the Ministry and may have an output agreement and performance review process with the Permanent Secretary of the Ministry he is responsible for or with any other Ministry providing services funded from the budget the Minister is responsible for.

(3) The Director of Finance may review the performance of each State-Owned Enterprise or Commercial State-Owned Enterprise to ensure compliance with the requirements of this Act and shall provide a letter to the Minister responsible for Finance and the Minister on such performance no later than 30th November each year.

(4) A Permanent Secretary may have a service agreement and performance review process with an entity providing services funded from the budget of the Ministry.

PART IX**ACCOUNTABILITY***General Matters***Classification of Entities**

94.(1) A Government entity that is not a Ministry or a Department shall be classified as

- (a) a State-Owned Enterprise and shall be set out in the *First Schedule* of this Act; or

best suited to the efficient, effective and economical achievement of the mandate of the entity.

Minister for a State-Owned Enterprise or a Commercial State-Owned Enterprise

95.(1) The Minister for a State-Owned Enterprise shall be the Minister assigned responsibility for that State-Owned Enterprise in accordance with section 72 of the *Constitution*.

(2) The Minister for a State-Owned Enterprise shall be responsible for the performance of the functions given to him by this Act or rules made under this Act and any other relevant enactments, including the requirement to oversee and direct in accordance with this Act, the State-Owned Enterprise under his responsibility to achieve the performance specified in the Annual Budget and the Annual Plan.

(3) A Minister shall oversee and direct in accordance with this Act the Commercial State-Owned Enterprise under his responsibility to achieve the performance specified in the Statement of Corporate Intent and the Annual Plan.

(4) A Minister of a Commercial State-Owned Enterprise shall exercise his powers on behalf of the Government and in the public interest, including when exercising the voting rights attached to the shares of the Commercial State-Owned Enterprise.

Specific responsibilities of Minister responsible for Finance

96. The Minister responsible for Finance shall have the responsibilities regarding financial management for State Owned Enterprises and Commercial State-Owned Enterprises in addition to the responsibilities of a Minister for a State Owned Enterprises or a Commercial State-Owned Enterprise including

- (a) approving Government loans and guarantees for Commercial State-Owned Enterprises and State Owned Enterprises;

- (b) approving significant financing proposals for Commercial State-Owned Enterprises and State Owned Enterprises;
- (c) setting and enforcing the Government's ownership expectations for Commercial State-Owned Enterprises and State Owned Enterprises;
- (d) monitoring the financial performance and risks of Commercial State-Owned Enterprises and State Owned Enterprises;
- (e) taking the necessary disciplinary action required pursuant to the *Third Schedule* to the *Public Service Act*, Cap. 29;
- (f) other responsibilities in this Act or rules made under this Act and any other relevant enactments.

Board of a Commercial State-Owned Enterprise and a State-Owned Enterprise

97.(1) A board of a State-Owned Enterprise or Commercial State-Owned Enterprise shall be responsible for

- (a) providing corporate governance consistent with good practice corporate governance standards;
- (b) overseeing and managing the Government's interests in the entity;
- (c) ensuring the entity meets on its statutory requirements;
- (d) ensuring the entity meets on the Annual Plan in respect of a State-Owned Enterprise and the Statement of Corporate Intent and Annual Plan in respect of a Commercial State-Owned Enterprise; and
- (e) meeting the requirements for directors under Part IX.

(2) In addition to the general requirements in subsection (1) each director of a State-Owned Enterprise or a Commercial State-Owned Enterprise and the board collectively shall be responsible for

- (a) appointing and removing the Chief Executive Officer;

- (b) defining areas of priority for the State-Owned Enterprise or Commercial State-Owned Enterprise;
 - (c) ensuring the production of the Annual Plan for a Commercial State-Owned Enterprise, the Annual Plan and the Statement of Corporate Intent as required by this Act;
 - (d) ensuring the production of the Annual Report and other reports as required by this Act;
 - (e) meeting legal obligations including those specified in the *Companies Act*, Cap. 308 for entities incorporated under this Act;
 - (f) fulfilling the requirements of the Minister or the Minister responsible for Finance and their supporting Ministries consistent with this Act;
 - (g) overseeing the management of the entity including overseeing the management of risks;
 - (h) ensuring the entity has adequate corporate governance arrangements including for the management of risks;
 - (i) acting in the best interests of the State-Owned Enterprise or Commercial State-Owned Enterprise;
 - (j) fulfilling the duties of a director with diligence and honesty;
 - (k) ensuring that any conflict of interest is declared to the board and that the director does not take part in making a decision if a conflict of interest exists; and
 - (l) other matters specified in rules made under this Act.
- (3) The directors of a Commercial State-Owned Enterprise and the directors of a State-Owned Enterprise shall be appointed by the Cabinet.

Nomination of Directors

98. Where a Minister or the Minister responsible for Finance is empowered by an enactment to appoint a person as a director to the board of a

State-Owned Enterprise or a Commercial State-Owned Enterprise, he shall seek the approval of the Cabinet.

Training of Directors of a State-Owned Enterprise or a Commercial State-Owned Enterprise

99. Directors of a State-Owned Enterprise or a Commercial State-Owned Enterprise shall, within a reasonable time of accepting their instruments of appointment, attend training seminars on the principles of good corporate governance organised through the Ministry of Finance or an entity or individual so designated by the Ministry.

Chief Executive Officer of a State-Owned Enterprise and a Commercial State-Owned Enterprise

100.(1) The board of the State-Owned Enterprise or the board of the Commercial State-Owned Enterprise shall appoint the Chief Executive Officer who shall be responsible to the board for managing the State-Owned Enterprise or Commercial State-Owned Enterprise.

(2) The employment contract for a Chief Executive Officer of a Commercial State-Owned Enterprise or a State-Owned Enterprise and the enactment applying to such contract shall form the basis for the employment relationship.

Standing Instructions of the Minister responsible for Finance

101. The Minister responsible for Finance may issue standing instructions to a State-Owned Enterprise or a Commercial State-Owned Enterprise on policy matters, consistent with this Act or any other enactments with regard to but not limited to

- (a) accountability requirements;
- (b) corporate governance;
- (c) roles and responsibilities of Ministers, boards of directors, and staff;
- (d) remuneration of staff and board directors;

- (e) planning;
- (f) performance expectations including dividends;
- (g) business case requirements;
- (h) investments including participation in private public partnerships;
- (i) liability management including borrowing;
- (j) asset management (financial, physical, human and intellectual);
- (k) risk management including liabilities;
- (l) reporting;
- (m) information provision;
- (n) disclosures;
- (o) monitoring;
- (p) reviews of investment;
- (q) reviews of performance; and
- (r) other matters considered necessary by the Minister.

Accounting Standards

102.(1) A Public Entity shall implement International Accounting Standards and practices in accordance with the accounting standards and standing instructions issued by the Accountant-General under this Act and shall keep proper books of account of its revenues, expenditures, assets and liabilities.

(2) A Commercial State-Owned Enterprise shall implement International Accounting Standards and shall keep proper books of account of its revenues, expenditures, assets and liabilities.

Protection of Commercially Sensitive Information

103. Nothing in this Act shall be construed as requiring the inclusion of information in the Statement of Corporate Intent, Annual Report or other publicly

available report that would be likely to unreasonably prejudice the commercial position of the Commercial State-Owned Enterprise.

Financial year for Public Entities and Commercial State-Owned Enterprises

104. Each Public Entity and Commercial State-Owned Enterprise shall have the same financial year as the Government being the 12 months beginning on the 1st day of April and ending on the 31st day of March of the following year.

State-Owned Enterprise Accountability

Annual Plan of a State-Owned Enterprise

- 105.(1)** A State-Owned Enterprise shall have an Annual Plan that shall include
- (a) strategic priorities for the medium-term that reflect the Government's priorities and plans;
 - (b) a description of how the State-Owned Enterprise is responding to the changing environment including description of significant changes from previous Annual Plan;
 - (c) services with outputs to be delivered in the coming Financial Year with details of
 - (i) the outputs to be provided;
 - (ii) the strategic priorities and outcomes that the outputs will contribute to;
 - (iii) measurable indicators of performance where feasible; and
 - (iv) the budget allocated to groups of outputs consistent with the classification used in the Annual Budget;
 - (d) payments on behalf of the Government including grants, benefits and subsidies to be paid;

- (e) significant capital developments;
 - (f) a description of intentions to develop capability for physical, intellectual, human and other resources including measurable indicators where feasible;
 - (g) a summary budget which shall include forecast financial statements;
 - (h) financial and other assumptions;
 - (i) a statement of fiscal risks and the intended management of these fiscal risks; and
 - (j) other matters required by the Minister responsible for Finance, or the Minister with the agreement of the Minister responsible for Finance.
- (2) The board of directors of a State-Owned Enterprise, if there is one, or the Chief Executive Officer where there is no board shall
- (a) agree the Annual Plan and Annual Budget with the Minister and the Minister responsible for Finance;
 - (b) consult in a manner to be determined by the Minister of the State-Owned Enterprise on any significant changes to the Annual Plan;
 - (c) submit a summary plan of the Annual Plan and Annual Budget to the Ministry and to the Ministry responsible for Finance by May 15th of each year;
 - (d) submit the Annual Plan and Annual Budget to the Ministry and to the Ministry responsible for Finance by the date set by the Director of Finance but no later than December 15th of each year;
 - (e) publish the Annual Plan on the official website of the Government no later than one week after the adoption of the Annual Budget by Parliament.
- (3) A Minister shall have the Annual Plan in respect of the State-Owned Enterprise laid in Parliament on the same day as the Annual Budget.

Mid-Year and Annual Report of a State-Owned Enterprise

106.(1) The board of directors and Chief Executive Officer of a State-Owned Enterprise shall ensure that the reporting requirements of this Act are complied with.

(2) The board of directors of a State-Owned Enterprise shall cause to be provided to the Minister, Minister responsible for Finance and the Director of Finance a mid-year report no later than one month after the end of the first 6 months of the financial year.

(3) The mid-year report referred to in subsection (2) shall include information on the following:

- (a) significant variations in performance from the Annual Plan;
- (b) progress with significant capital developments;
- (c) financial performance which shall include unaudited financial statements;
- (d) financial and other assumptions;
- (e) report on fiscal risks and management of the fiscal risks;
- (f) other matters required by the Minister responsible for Finance, or the Minister with the agreement of the Minister responsible for Finance.

(4) The board of directors of a State-Owned Enterprise shall cause to be provided to the Minister, Minister responsible for Finance and the Director of Finance an Annual Report no later than 4 months after the end of the Financial Year.

(5) The Annual Report referred to in subsection (4) shall include information on the following:

- (a) strategic priorities and outcomes in the Annual Plan;

- (b) outputs delivered with measurable indicators of actual performance for outputs or groups of outputs consistent with the classification used in the Annual Budget;
 - (c) significant variations in performance from the Annual Plan;
 - (d) payments made on behalf of Government including grants, benefits and subsidies to be paid;
 - (e) progress with significant capital developments;
 - (f) advances or issues in capability for physical, intellectual, human and other resources including measurable indicators where feasible;
 - (g) financial performance which shall include audited financial statements;
 - (h) financial and other assumptions;
 - (i) the auditor's report on the financial statements;
 - (j) report on fiscal risk and the management of the fiscal risks;
 - (k) the remuneration paid to each director including value of benefits in kind;
 - (l) the remuneration paid to senior management including all benefits in kind presented in the form of number of employees within salary bands; and
 - (m) other matters required by the Minister responsible for Finance, or the Minister with the agreement of the Minister responsible for Finance.
- (6) The Annual Report for a State-Owned Enterprise shall be
- (a) submitted to the Auditor-General or his agent no later than July 31st of each year and shall be audited for service performance;
 - (b) presented to the Minister and the Minister responsible for Finance by the board of directors, where there is one, and by the Chief Executive Officer if there is no board of directors;

- (c) laid in Parliament by the Minister no later than 7 months after the end of the Financial Year; and
- (d) published by the State-Owned Enterprise to which the report relates on an official website of the Government no later than one week after the Annual Report is laid in Parliament.

Performance Agreements and Reviews

107.(1) The Ministry responsible for Finance shall monitor and review the performance of State Owned Enterprises including

- (a) compliance with this Act;
 - (b) financial;
 - (c) non-financial performance;
 - (d) fiscal risks; and
 - (e) any other matters specified by the Minister responsible for Finance.
- (2) The Director of Finance may review the performance of a State-Owned Enterprise against the requirements of this Act, the Annual Budget and the Annual Plan of the State-Owned Enterprise and shall provide a letter to the Minister responsible for Finance and the Minister on such performance no later than 30th October each year.
- (3) A Minister shall have responsibility to monitor and review the overall performance of a State-Owned Enterprise in his portfolio and the role of the Minister responsible for Finance in this Act shall not absolve the Minister from his responsibility.
- (4) A Minister or the Minister responsible for Finance may commission a formal review of a State-Owned Enterprise.
- (5) The board of directors, Chief Executive Officer and staff of a State-Owned Enterprise shall cooperate with a review under this Act and shall supply to the Minister, the Minister responsible for Finance and the Ministry responsible for

Finance, or their agents, with such information relating to the affairs of the State-Owned Enterprise as the Minister, Minister responsible for Finance, Ministry responsible for Finance, or the agent requests.

(6) A Minister may have an output agreement and performance review process with a State-Owned Enterprise providing services funded from the budget the Minister is responsible for.

(7) The board of directors, if there is one, and in the absence of a board of directors, then the authority with responsibility for reviewing the performance of the Chief Executive Officer, shall consider the performance review of the output agreement, performance compared to the Annual Plan and the letter referred to in subsection (2) when reviewing the performance each year for the Chief Executive Officer of a State-Owned Enterprise.

(8) A Chief Executive Officer of a State-Owned Enterprise may have a service agreement and performance review process with an entity providing services funded by the State-Owned Enterprise.

Public Meeting of a State-Owned Enterprise

108. A State-Owned Enterprise shall hold a public meeting every two years and a report shall be presented at the public meeting on the following:

- (a) the performance of the State-Owned Enterprise over the last year;
- (b) the current state of the State-Owned Enterprise; and
- (c) the expected performance of the State-Owned Enterprise for the next 2 years.

*Commercial State-Owned Enterprise Accountability***Objective of a Commercial State-Owned Enterprise**

109. The board of directors of a Commercial State-Owned Enterprise shall ensure that the Commercial State-Owned Enterprise achieves the

- (a) primary objective to operate as a successful business and to earn a return on the owner's funds over the medium-term; and
- (b) additional objectives contained in the Statement of Corporate Intent and Annual Plan.

Timing Statement of Corporate Intent and Annual Plan

110. The board of directors of each Commercial State-Owned Enterprise shall provide a Statement of Corporate Intent and an Annual Plan for the Commercial State-Owned Enterprise and all its subsidiaries to the Minister, by no later than December 15th of each year.

Contents of Statement of Corporate Intent

111. The board of directors of a Commercial State-Owned Enterprise shall cause to be prepared a Statement of Corporate Intent for the entity and its subsidiaries (the group) that shall have a medium term scope with a focus on the forthcoming financial year and shall include

- (a) the objectives of the entity or group;
- (b) the nature and scope of the activities to be undertaken;
- (c) the ratio of consolidated owners' funds to total assets, and definitions of those terms;
- (d) the accounting policies;
- (e) the expected performance for the medium term of the entity or group in relation to its objectives;

- (f) a statement of the principles adopted in determining the annual dividend together with an estimate of the amount or proportion of annual earnings after tax (from both capital and revenue sources) that is intended to be distributed to the Government where applicable;
- (g) the information to be provided to the Minister by the Commercial State-Owned Enterprise during the course of those financial years, including the information to be included in the in-year reports;
- (h) the procedures to be followed before any member of the entity or group subscribes for, purchases, or otherwise acquires shares in any company or other organisation;
- (i) any activities for which the board of directors seeks compensation from the Government whether or not the Government has agreed to provide such compensation;
- (j) a statement of social responsibility; and
- (k) such other matters as are agreed by the Minister and the board of directors.

Contents of Annual Plan

112. The board of directors of a Commercial State-Owned Enterprise shall cause to be prepared an Annual Plan containing

- (a) details for the forthcoming financial year of the expected performance targets and other measures by which the performance of the group may be judged in relation to its objectives in the Statement of Corporate Intent which shall include the performance indicators required by the Minister responsible for Finance;
- (b) an explanation of variations in performance from the previous Annual Plan;
- (c) forecast financial statements including an estimate of the anticipated profit for each of the 2 forthcoming years and the dividend to be paid

to the Government where applicable, with sufficient detail for the forthcoming financial year to enable meaningful assessment against those expectations after the end of that financial year;

- (d) any proposed major financing transactions;
- (e) a statement of any arrangements or proposed arrangements to provide goods or services for less than the cost of those services or to receive services from a government entity for less than the cost to provide the goods or services;
- (f) a statement of fiscal risks and the intended management of the fiscal risks;
- (g) other matters as are agreed by the Minister and the board of directors; and
- (h) additional information prescribed for a plan in the establishment law for the Commercial State-Owned Enterprise.

Statement of Corporate Intent and Annual Plan

113.(1) The Minister shall agree on the Statement of Corporate Intent and the Annual Plan with the board of directors of the Commercial State-Owned Enterprise.

(2) The Minister may issue instructions to the board of directors in writing to make a change to the Statement of Corporate Intent or the Annual Plan prior to the finalisation of the Statement of Corporate Intent or the Annual Plan provided that the instructions

- (a) comply with the legal mandate and obligations of the Commercial State-Owned Enterprise; and
- (b) is in the public interest.

- (3) The Minister, may agree with the board of directors to make a change to the Statement of Corporate Intent or the Annual Plan during the Financial Year or may direct the board of directors to make a change, provided that the directive
- (a) complies with the legal mandate and obligations of the Commercial State-Owned Enterprise; and
 - (b) is in the public interest.
- (4) The Chief Executive Officer shall publish any change during the Financial Year to a Statement of Corporate Intent or an Annual Plan on an official website of the Government no later than one week after agreeing the change or receiving an instruction to make a change.

Introduction into Parliament and publication of Statement of Corporate Intent and Annual Plan

- 114.(1)** The Statement of Corporate Intent and the Annual Plan for each Commercial State-Owned Enterprise shall be laid in Parliament by the Minister responsible for Finance on the same day as the Annual Budget.
- (2) The Chief Executive Officer of each Commercial State-Owned Enterprise shall publish the Statement of Corporate Intent and the Annual Plan on an official website of the Government no later than one week after the adoption of the Annual Budget by Parliament.

Service Agreements

- 115.(1)** Where the Government requires a Commercial State-Owned Enterprise to provide goods or services in other than a normal commercial manner, the Minister shall conclude a service agreement with the Commercial State-Owned Enterprise.
- (2) Such agreement shall specify the terms of delivery of goods or services to be provided by the Commercial State-Owned Enterprise and the price that the Government will pay, which shall be a fair market price, or if there is no market, then a price that equals the costs for an efficient provider of the goods or services.

Periodic Reports, Mid-Year Reports and Annual Reports

116.(1) The board of directors of a Commercial State-Owned Enterprise shall cause to be prepared a Mid-Year Report and an Annual Report for the Commercial State-Owned Enterprise and its subsidiaries including financial statements in accordance with the provisions of this Act or rules made under this Act, the *Companies Act*, Cap. 308, or any instructions issued by the Director of Finance.

(2) The board of directors of a Commercial State-Owned Enterprise shall cause an Annual Report to be provided to the Minister and the Director of Finance no later than 4 months after the end of the Financial Year.

(3) The Annual Report of a Commercial State-Owned Enterprise shall include

- (a) a report of the operations of the Commercial State-Owned Enterprise and those of its subsidiaries during that Financial Year with information as is necessary to enable an informed assessment of the operations of the entity, including a comparison of the performance of the entity with the Statement of Corporate Intent and the Annual Plan;
- (b) the dividend payable to the Government by the Commercial State-Owned Enterprise for the Financial Year to which the report relates;
- (c) audited consolidated financial statements for that Financial Year consisting of statements of financial position, profit and loss, changes in financial position, and such other statements as may be necessary to show the financial position of the Commercial State-Owned Enterprise and its subsidiaries and the financial results of their operations during that Financial Year;
- (d) the auditor's report on the financial statements;
- (e) report on fiscal risks;
- (f) report on compliance with the statement of social responsibility;

- (g) the remuneration paid to each board director including the value of benefits in kind;
 - (h) the remuneration paid to senior management including all benefits in kind presented in the form of number of employees within salary bands; and
 - (i) such additional information as is necessary to enable an informed assessment of the activities of the Commercial State-Owned Enterprise against the Statement of Corporate Intent and the Annual Plan.
- (4) The Annual Report for each Commercial State-Owned Enterprise shall be
- (a) submitted to the Auditor-General no later than July 31st of each year and shall be audited by the Auditor-General or his agents;
 - (b) provided to the Minister by the board;
 - (c) laid in Parliament by the Minister responsible for Finance no later than 7 months after the end of the Financial Year; and

published by the Commercial State-Owned Enterprise to which the report relates on the official website of the Government no later than one week after the Annual Report is laid in Parliament.

- (5) The board of directors of a Commercial State-Owned Enterprise shall cause a Mid-Year Report to be provided to the Minister and the Director of Finance no later than one month after the end of the first 6 months of the financial year.
- (6) The Mid-Year Report shall include the following:
- (a) a report on the operations of the Commercial State-Owned Enterprise and those of its subsidiaries during the financial year with information as is necessary to enable an informed assessment of the operations of the entity, including a comparison of the performance of the entity with the Statement of Corporate Intent and Annual Plan;

- (b) unaudited consolidated financial statements for the financial year consisting of statements of financial position, profit and loss, changes in financial position and such other statements as may be necessary to show the financial position of the Commercial State-Owned Enterprise and its subsidiaries and the financial result of their operations during the financial year;
- (c) a report on fiscal risk and management of the fiscal risk;
- (d) a report on compliance with the statement of social responsibility;
- (e) such additional information as is necessary to enable an informed assessment of the activities of the Commercial State-Owned Enterprise against the Statement of Corporate Intent and Annual Plan.

Reviews of Performance

117.(1) The Ministry responsible for Finance shall monitor and review the performance of Commercial State-Owned Enterprises including

- (a) compliance with this Act;
- (b) financial;
- (c) non-financial performance;
- (d) fiscal risks; and
- (e) other matters specified by the Minister.

(2) The Director of Finance shall review the performance of each Commercial State-Owned Enterprise against the requirements of this Act, the Statement of Corporate Intent and the Annual Plan and shall provide a letter to the Minister on such performance no later than 31st October each year.

(3) A Minister who is not the Minister responsible for Finance, shall have responsibility to monitor and review the overall performance of a Commercial State-Owned Enterprise in his portfolio and the role of the Minister responsible for Finance in this Act shall not absolve the Minister from his responsibility.

- (4) A Minister may commission a formal review of a Commercial State-Owned Enterprise.
- (5) The board of directors, Chief Executive Officer and staff of a Commercial State-Owned Enterprise shall cooperate with a review under this Act and shall supply to the Minister, the Minister responsible for Finance and the Ministry responsible for Finance, or their agent, such information relating to the affairs of the Commercial State-Owned Enterprise or any of its subsidiaries as the Minister, Minister responsible for Finance, Ministry responsible for Finance, or the agent requests.
- (6) The board of directors shall consider the performance compared to the Statement of Corporate Intent, the Annual Plan and the letter referred to in subsection (2) when reviewing the performance each year for the Chief Executive Officer of the Commercial State-Owned Enterprise.
- (7) A Chief Executive Officer of a Commercial State-Owned Enterprise may have a service agreement and performance review process with an entity providing services funded by the Commercial State-Owned Enterprise.

Public Meeting of a Commercial State-Owned Enterprise

118. A Commercial State-Owned Enterprise shall hold a public meeting every 2 years and a report shall be presented at the public meeting of the board on the following:

- (a) the performance of the Commercial State-Owned Enterprise over the last year;
- (b) the current state of the Commercial State-Owned Enterprise; and
- (c) the expected performance of the Commercial State-Owned Enterprise for the next 2 years.

Government Share-Holding

119.(1) Where the Government is a minority shareholder in a publicly listed entity then sections 109 to 118 shall not apply and such share-holding shall be

subject to the provisions of the *Companies Act*, Cap. 308 and other relevant enactments.

(2) Where the Government holds more than 50 per cent but less than 100 per cent of the shares then it shall exercise its rights in accordance with the *Companies Act*, Cap. 308 and sections 120 to 128 shall apply only as far as they are consistent with the *Companies Act*, Cap. 308.

PART X

MEASURES

Application of measures

120. A reference in this Part to positions and office holders includes current and former positions and office holders.

Financial Misconduct

121.(1) A public officer, public office holder or other person with responsibility for Government resources, commits an act of financial misconduct if, without lawful authority under this Act or other lawful authority, that person wilfully or negligently

- (a) incurs expenditures or makes commitments;
- (b) borrows money on behalf of the Government or entities owned or controlled by the Government or repays or converts an existing loan;
- (c) issues public securities, or varies their terms and conditions;
- (d) opens a bank account in the name of the Government or entities owned or controlled by the Government;
- (e) maintains a bank account for a Government purpose outside Barbados except in accordance with an Act or other lawful authority;

- (f) lends money or other assets on behalf of the Government or entities owned or controlled by the Government;
 - (g) issues guarantees or indemnities on behalf of the Government or entities owned or controlled by the Government;
 - (h) issues securities for loans made to the Government or entities owned or controlled by the Government;
 - (i) disposes of, pledges, or encumbers property of the Government;
 - (j) loses or damages in respect of Government Property;
 - (k) for an accounting officer, does an act that breaches the duties of an accounting officer specified under this Act or rules made under this Act; or
 - (l) seeks or accepts a personal loan or benefit in circumstances that compromise the integrity of the public officer or public office holder.
- (2) A public officer or public office holder or other person with responsibility for Government resources, commits an offence of financial misconduct if that person wilfully or negligently
- (a) fails to produce any information in the possession or under the control of that person in relation to the financial management, financial performance, or banking activities of the Government or entities owned or controlled by the Government when required to do so under this Act;
 - (b) fails to keep proper records or conceals or wrongfully destroys information that is required to be recorded by this Act;
 - (c) fails to pay public money in a timely manner into the bank account of the Public Entity or Commercial State-Owned Enterprise;
 - (d) fails to produce the reports, accounts or other information required by this Act;
 - (e) provides incorrect information to the tax authorities with regard to a Public Entity or Commercial State-Owned Enterprise;

- (f) resists or obstructs any person acting in the discharge of that person's functions or duties or in the exercise of that person's powers under this Act;
- (g) makes any statement or declaration or gives any information or certificate required by or under this Act knowing it to be false or misleading;
- (h) divulges data in electronic or other form without authority;
- (i) diverts funds to unauthorised activities;
- (j) fails to implement a lawful written instruction or directive relating to the management of public finances given under this Act;
- (k) fails to report an incident of financial misconduct the public officer or public office holder has become aware of to the Director of Finance;
- (l) fails to declare a conflict of interest when dealing with or making decisions about public resources;
- (m) for an accounting officer fails to perform a duty of an accounting officer specified under this Act or rules made under this Act; or
- (n) does any act for the purpose of procuring for any person or organization
 - (i) the improper payment of any public money; or
 - (ii) the improper use of any public financial resource.

(3) A charge of financial misconduct under this Act against any person shall be investigated, heard and disposed of as required by the *Constitution*, the *Public Service Act*, Cap. 29 as applicable, any other enactments and the terms of appointment or employment applicable to that person.

Criminal Proceedings

122.(1) A public office holder, public officer, or other person with responsibility for Government resources, is guilty of an offence if, without lawful

authority under this Act or any relevant enactment, that person wilfully or negligently

- (a) takes unlawful possession of public moneys or assets including electronic data;
- (b) misappropriates public moneys or assets;
- (c) provides inaccurate financial information or conceals information on public finances to obtain a benefit for that person or another person; or
- (d) engages in corrupt acts including soliciting or receiving bribes.

(2) A person who is guilty of an offence referred to in subsection (1) is liable on indictment to a fine of \$200 000 or to imprisonment for 5 years or to both.

Institutional measures

123.(1) The Director of Finance may apply a sanction to a Public Entity or Commercial State-Owned Enterprise which has

- (a) approved expenditures in excess of an Appropriation under an Appropriation Act or other lawful authority;
- (b) re-allocated expenditures without lawful authority;
- (c) created liabilities in excess of its ability to finance the liabilities;
- (d) defaulted on a loan;
- (e) issued a guarantee without the appropriate authorisation;
- (f) failed to provide the Annual Plan, Statement of Corporate Intent, reports, Annual Accounts or other information as required by this Act;
- (g) provided inaccurate information to a public officer or public office holder on financial matters;
- (h) failed to adequately address issues raised by the Auditor-General or other external auditor when such issues are not contested; or

- (i) failed to manage its finances in accordance with this Act or rules made under this Act or other enactments.
- (2) The Director of Finance may apply any of the following measures to a Public Entity or Commercial State-Owned Enterprise that has breached the provisions of this section
 - (a) impose additional reporting requirements to those required by any enactment;
 - (b) require a draft budget or financial plan to be submitted to the Ministry responsible for Finance for approval by the Minister responsible for Finance prior to its approval by the board of directors of the entity;
 - (c) place restrictions on the management and use of money and other assets;
 - (d) place restrictions on the creation of liabilities;
 - (e) withhold funds;
 - (f) treat any debt defaults as a charge on future revenues;
 - (g) make representations to the appointing authority for the board of directors and the Chief Executive Officer to take action to dismiss or otherwise discipline any board director or the Chief Executive Officer;
or
 - (h) require the entity to adhere to a programme of debt reduction.

Surcharge by Director of Finance

124.(1) The Director of Finance may impose a surcharge against a person who is or was a public officer or public office holder where it appears to the Director of Finance upon a report by the Auditor-General, Comptroller-General,

Permanent Secretary or accounting officer or where the Director of Finance is otherwise satisfied, that the public officer or public office holder

- (a) has failed to record and collect any moneys owing to the Government for the collection of which that person is or was at the time of his employment or engagement responsible;
- (b) has made a commitment that exceeds the authorised authority to commit or spend;
- (c) is or was responsible for any improper payment of public moneys or for any payment of such moneys which is not duly vouched or for any expenses in excess of the amount authorised; or
- (d) is or was responsible for any deficiency in, or for the loss, damage or destruction of, any public moneys, stamps, securities, stores, or other property of the Government.

(2) Where Director of Finance is not furnished with regard to the matters referred to in paragraphs (a) to (d) of subsection (1), within a period specified by the Director of Finance, he may impose a surcharge on a public officer or public office holder who is the subject of the matters referred to in paragraphs (a) to (d) of subsection (1) and the nature of the surcharge may be

- (a) the amount not collected;
- (b) the improper payment;
- (c) the payment not duly vouched;
- (d) the expenditure in excess of the amount authorised;
- (e) the deficiency, loss, damage or the full value of the property destroyed, as the case may be; or
- (f) or such lesser amount as the Director of Finance may determine.

Notification of Surcharge

125.(1) The Director of Finance shall cause the Auditor-General, the Accountant-General and the Chief Executive Officer of the entity concerned to be notified of any surcharge made under section 124.

(2) The Chief Executive Officer, on being notified under subsection (1), shall notify the person surcharged and shall, subject to sections 126 and 127, recover the amount surcharged from that person.

Withdrawal of Surcharge

126. The Director of Finance may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that a surcharge should not have been made and in that event the Director of Finance shall notify the Auditor-General, the Accountant-General and the Chief Executive Officer of the entity concerned of the withdrawal of the surcharge.

Right of Appeal

127.(1) Any person who is dissatisfied with any surcharge made against him under section 124 may appeal to a judge in Chambers within 28 days of the notification of the surcharge under section 125.

- (2) The Judge in Chambers may
- (a) confirm, modify or reverse a decision made pursuant to section 124 or any part thereof; or
 - (b) direct the Director of Finance to reconsider, either generally or in respect of specified matters, the whole or a specified part of the matter to which the appeal relates.

Recovery of Loss

128.(1) The amount of any surcharge made under section 124 may, subject to sections 126 and 127, be recovered before a Magistrate on the complaint of the Director of Finance or any person authorised to act for the Government.

(2) Notwithstanding subsection (1), the Director of Finance may direct that the amount of any surcharge which may be due from a public officer or public office holder shall be recovered by monthly or semi-monthly deductions from the salary or other payment due to that public officer or public office holder in such amounts, not exceeding one-sixth of the salary or other payment due monthly or semi-monthly, as the Director of Finance may authorise.

(3) Nothing in this section shall prevent the Government from recovering the loss through civil proceedings.

(4) In any action for the recovery of a loss a certificate signed by the Director of Finance stating the amount of the loss shall be admissible as evidence of the assessment of the loss.

PART XI

MISCELLANEOUS

Rules

129.(1) The Cabinet may make rules for all or any of the following matters:

- (a) the form and manner in which any of the Financial Statements are to be kept;
- (b) the procedure for the checking by accounting officers of claims against the Consolidated Fund and the paying of such claims;
- (c) the procedure for the reporting by the Auditor-General of delays and irregularities;

- (d) the purchase, receipt, custody, issue, sale, transfer or delivery of any stamps, securities or other Government Property;
- (e) the proper and efficient keeping of the Financial Statements;
- (f) the accounts of the Barbados Defence Force and the purchase of military stores, equipment and supplies therefor;
- (g) the accounting for public money including the collection, receipt, custody, banking, expenditure, proper accounting for, care and management and forms of records of public money;
- (h) the records, reports and accounts required by this Act;
- (i) in relation to Government Property,
 - (i) the custody, handling and proper accounting for Government Property; and
 - (ii) the creation and maintaining of up-to-date inventories or registers on such property;
- (j) the establishment and operation of
 - (i) Sinking Funds; and
 - (ii) Special Funds;
- (k) any additional public finance requirements for a State-Owned Enterprise or a Commercial State-Owned Enterprise;
- (l) the payment of interest on late payments by the Government, including permitting a specified person to determine when interest is payable, the rate of that interest and when it is calculated and compounded;
- (m) the charges for payments to the Government made other than in legal tender;
- (n) the interest rates applicable in respect of debts owed to the Government;

- (o) the fees and charges
 - (i) for dishonoured cheques; and
 - (ii) to defray the costs of acceptance by the Accountant-General of voluntary assignments by public officer or public office holders of salaries, wages, pensions, gratuities and other money;
 - (p) the security of premises, documents, securities and the financial information system;
 - (q) the amendment of budget classifications and reallocation powers;
 - (r) all matters related to Government securities; and
 - (s) for any other matter required to be prescribed under this Act.
- (2) All rules shall be subject to negative resolution.

Amendment of Schedules

130. The Minister responsible for Finance may amend the *Schedules* by Order.

Savings

- 131.** The
- (a) *Financial Administration and Audit (Financial) Rules, 2011* (S.I. 2011 No. 54); and
 - (b) *Financial Administration and Audit (Supplies) Rules, 1971* (S.I. 1971 No. 47)

shall remain in force and shall apply in so far as they are not inconsistent with this Act, until revoked by rules made under this Act.

Repeal

132. The *Financial Management and Audit Act, Cap. 5* is repealed.

Commencement

133. This Act shall come into operation on a date fixed by Proclamation.

FIRST SCHEDULE

(Sections 2 and 94)

State Owned Enterprises

1. Air Transport Licensing Authority
2. Barbados Accreditation Council
3. Barbados Community College
4. Barbados Defence Force
5. Barbados International Business Promotion Corporation
6. Barbados Investment and Development Corporation
7. Barbados National Standards Institute
8. Barbados Vocational Training Board
9. Child Care Board
10. Community Legal Services Commission
11. Cultural Industries Authority
12. Fair Trading Commission
13. Financial Services Commission
14. National Assistance Board
15. National Council on Substance Abuse

16. National Productivity Council
17. National Sports Council
18. Rural Development Commission
19. Technical and Vocational Education and Training Council
20. Transport Authority
21. Urban Development Commission

SECOND SCHEDULE

(Sections 2 and 94)

Commercial State-Owned Enterprises

1. Barbados Agency for Micro-Enterprise Development Ltd.
2. Barbados Agricultural Credit Trust Ltd.
3. Barbados Agricultural Development and Marketing Corporation
4. Barbados Agricultural Management Co. Ltd.
5. Barbados Cane Industry Corporation
6. Barbados Conference Services Ltd.
7. Barbados National Oil Co. Ltd.
8. Barbados National Terminal Ltd.
9. Barbados Port Inc.
10. Barbados Revenue Authority
11. Barbados Tourism Investment Inc.
12. Barbados Tourism Marketing Inc.
13. Barbados Tourism Product Authority
14. Barbados Water Authority
15. Caribbean Airways International Ltd.

16. Caribbean Aircraft Handling Co. Ltd.
17. Caribbean Broadcasting Corporation
18. Caves of Barbados Ltd.
19. Enterprise Growth Fund Ltd.
20. Grantley Adams International Airport Inc.
21. Gymnasium Ltd.
22. Hotels and Resort Ltd.-Gems of Barbados
23. Kensington Oval Management Inc.
24. National Conservation Commission
25. National Cultural Foundation
26. National Housing Corporation
27. National Insurance Department
28. National Petroleum Corporation
29. Needham Point Development Inc.
30. Needham Point Holdings Ltd.
31. New Life Investment Company Inc.
32. Queen Elizabeth Hospital
33. Resolution Life Assurance Company Ltd.

- 34. Sanitation Service Authority
- 35. Southern Meats Inc.
- 36. Student Revolving Loan Fund
- 37. Transport Board

THIRD SCHEDULE*(Section 6)**Contents of Fiscal Framework*

1. The Fiscal Framework shall present an analysis of outcomes for the previous financial year and an assessment of the forthcoming financial year with emphasis on measuring performance against the targets of the Government for the forthcoming Annual Budget.
2. The Fiscal Framework shall contain the information specified below:
 - (a) Report for the recently concluded financial year which shall include
 - (i) an updated macro-economic and fiscal outturn to show changes from the forecasts in the previous Fiscal Framework for the information required in paragraph 3 of this *Schedule*;
 - (ii) a summary of actual expenditure compared to the appropriations and statutory commitments for the information required in sub-paragraph (e)(i) to (v) and (viii) of this *Schedule*, if applicable;
 - (iii) a summary report on the performance of all key policies identified in the previous Fiscal Framework identified in sub-paragraph (h) (ii) of this *Schedule*;
 - (iv) report on the extent to which the risks identified in the previous Fiscal Framework Paper were realized and the effect on fiscal performance; and
 - (v) information on reasons for any deviations from the fiscal responsibility principles and fiscal objectives with plans to address any such deviations, and the expected time to achieve this.
 - (b) A medium-term macro-economic forecast setting out actual, estimated and projected values of the following economic variables for no less

than the previous 2 years, the current year, and the next 2 years including

- (i) the Gross Domestic Product and its components;
- (ii) inflation;
- (iii) employment and unemployment;
- (iv) interest rates; and
- (v) money supply and monetary conditions including credit to the private sector;

and for (i) to (v) the source of the data shall be identified, and for historical information, a statement provided of whether it is official or estimated in cases where official data are not available.

- (c) Medium-term fiscal forecasts setting out actual, estimated, and projected values of the following fiscal variables for no less than the previous 2 years, the current year, and the next 2 years including
 - (i) revenues by type;
 - (ii) aggregate expenditures by economic, administrative, and functional classifications;
 - (iii) budget balance for the overall budget;
 - (iv) a summary of the sources of budget financing;
 - (v) the level of debt by external source, domestic source and total; and
 - (vi) any other information the Minister responsible for Finance determines is material to the Fiscal Framework;

- (d) Fiscal policy targets for revenues, debt, deficit and expenditure for the forthcoming budget year and 2 subsequent years including
- (i) a summary table of the fiscal targets for no less than the previous 2 years, the current year, and the next 2 years including, where possible
 - (A) aggregate Government expenditure as a percentage of the Gross Domestic Product and in nominal terms;
 - (B) Government expenditure on wages and National Insurance Contributions as a percentage of the Gross Domestic Product and in nominal terms for all positions funded from the Annual Budget including all positions funded by direct charge on the Consolidated Fund and all positions funded by appropriation;
 - (C) Government revenues as a percentage of the Gross Domestic Product and in nominal terms;
 - (D) overall budget balance as a percentage of the Gross Domestic Product and in nominal terms;
 - (E) Government debt as a percentage of the Gross Domestic Product and in nominal terms; and
 - (F) Government net worth as a percentage of the Gross Domestic Product and in nominal terms when net worth can be measured; and
 - (ii) information on reasons for any deviations from the fiscal responsibility principles and fiscal objectives in the previous Fiscal Framework with a summary of the plans to address any such deviations, and the expected time to achieve this.
- (e) A medium-term expenditure framework stating the Government's annual and medium-term expenditure intentions and an explanation of

any changes in the proposed ceilings from the previous Fiscal Framework limits which shall include

- (i) the aggregate expenditure ceiling to be used in the preparation of the Annual Budget which shall include indicative ceilings for 2 further outer years; and
 - (ii) ceilings for central Government expenditure by a Ministry and other budget entity for the budget year and next 2 years to be used as the basis for the preparation of the Annual Budget.
- (f) A fiscal risk statement including
- (i) contingent liabilities;
 - (ii) any commitments not included in the fiscal forecasts; and
 - (iii) all other circumstances which may have a material effect on the fiscal and economic forecasts and which have not already been incorporated into the fiscal forecasts

and such fiscal risks shall be quantified where practicable.

- (g) A statement of responsibility signed by the Minister responsible for Finance and the Director of Finance attesting to the reliability of the information in the Fiscal Framework and its compliance with the law.

3. If the Government is unable to provide any of the information required by this *Schedule* the Ministry responsible for Finance shall state in the Fiscal Framework the reasons for any missing information and shall ensure that such information is available as soon as practicable for future Fiscal Frameworks.

FOURTH SCHEDULE*(Section 7 and 87)**Contents of the Mid-Year Review Report*

The Mid-Year Review Report shall provide an update to the fiscal framework and shall focus primarily on out turns relative to the Annual Budget and includes the following information:

- (a) updated macro-economic forecasts used in the update when different than in the Fiscal Framework;
- (b) updated fiscal outlook including:
 - (i) Government revenue outturn for the first 6 months and a forecast for the budget year;
 - (ii) Government expenditure outturn for the first 6 months and a forecast for the budget year;
 - (iii) approval of new major investment projects including public private partnership contracts;
 - (iv) budget balance for the first 6 months and a forecast for the budget year, budget balance for past 2 years; and
 - (v) net and Gross debt for the forecast for the Annual Budget;
- (c) information on virements, reallocations, use of the Contingency head, the use of the Supplementary Estimates and any other matters required to be reported by this Act;
- (d) other financing matters compared to the Annual Budget including
 - (i) a summary of arrears, tax relief, tax exemptions, other waivers;
 - (ii) a summary of the outstanding stock of arrears for all Government entities; and
 - (iii) other significant financing matters that have occurred or are planned;
- (e) an update of fiscal risks including those stated in the Annual Budget; and
- (f) where there are any deviations from the fiscal objectives in the Fiscal Framework the Government shall provide the information required by section 9 of this Act.

FIFTH SCHEDULE*(Section 7)**Contents for Annual Report of the State-Owned Enterprise*

The Annual Report of Performance for the State-Owned Enterprise, prepared pursuant to section 7, shall contain the following:

- (a) a commentary on the department's overall performance for the year, including performance measured by the key performance indicators and a comparison of actual achievements with those forecast in the annual plan;
- (b) a summary of the level of activity undertaken during the year;
- (c) details of significant developments which are likely to affect the entity's performance in subsequent years, in particular any initiatives to improve quality, value for money, customer satisfaction and income generation;
- (d) organisational coverage of the annual report;
- (e) the period covered;
- (f) audited information;
- (g) a Statement of performance;
- (h) End-of-year performance information on appropriations;
- (i) Exemptions from the statement of performance;
- (j) Annual financial statements;
- (k) an Audit report;
- (l) unaudited information;
- (m) asset performance indicators;
- (n) a report on health and safety.

SIXTH SCHEDULE*(Section 8)**Contents for the Pre-Election Economic and Fiscal Update*

The Pre-Election Economic and Fiscal Update shall include the following information and statements:

- (a) the information required for paragraph 1(a), (b), (c), (d) and (3) of the Mid-Year Review in the *Fourth Schedule*;
- (b) a statement signed by the Minister responsible for Finance that the Pre-Election Economic and Fiscal Update includes
 - (i) all policy decisions with material economic or fiscal implications that the Government has made as of the date of publication; and
 - (ii) all other circumstances with material economic or fiscal implications of which the Minister responsible for Finance was aware as of the date of publication;
- (c) a statement signed by the Director of Finance that the Pre-Election Economic and Fiscal Update has been prepared by the Ministry responsible for Finance
 - (i) using its best professional judgments; and
 - (ii) on the basis of economic and fiscal information available to it as of the date of publication; and
- (d) a statement of the accounting and other standards applied which shall be the accounting standards adopted for the Government consistent with internationally accepted standards and where such standards are not used, then an explanation of the deviation shall be provided.

SEVENTH SCHEDULE*(Section 21)**Contents for the Annual Budget*

1. The Annual Budget documents shall include Revenue Estimates with revenue information (both budget and actual) for the previous 2 years and the projected revenues for the current year and the next 2 Financial Years and the Revenue Estimates shall be at a level of detail as set by rules made under this Act.
2. The Annual Budget shall have Expenditure Estimates with expenditure information for the previous 2 years (both budget and actual) and the projected expenditure for the current year and the next 2 Financial Years and the Expenditure Estimates shall be at a level of detail as set by rules made under this Act .
3. The Annual Budget shall have Financing Estimates with financing information for the previous 2 years (both budget and actual) and projected financing for the current year and the next 2 years including
 - (a) plans for external financing in the form of borrowing and grants;
 - (b) plans for domestic issuance of Government bills and notes and any other financial liabilities;
 - (c) issuance of guarantees to public or private entities, divestment of Government assets or new loans to Public Entities and Commercial State-Owned Enterprises;
 - (d) plans for the approval of new public private partnership contracts; and
 - (e) other financing information that the Minister responsible for Finance considers necessary.

4. The Annual Budget shall have annexes including
- (a) updated macro-economic information and summary of fiscal position compared to the Fiscal Framework;
 - (b) information on projected Statutory Expenditure for the next Financial Year and the following 2 years with a reference to the specific law that authorizes the Statutory Expenditure;
 - (c) medium-term debt management strategy including any limits for external, domestic and total borrowing, for issuing guarantees and for incurring other financial liabilities presented in the form that Parliament may approve by resolution if a debt limit or guarantee limit is proposed for the forthcoming financial year;
 - (d) a summary statement of all tax arrears for the previous Financial Year and the current year;
 - (e) a summary statement of tax relief and exemptions granted or planned and the amount of such tax relief and exemptions for the current Financial Year and forecasted for the next Financial Year;
 - (f) a report from the Ministry responsible for Finance specifying the measures taken by the Government to implement the audit recommendations from the previous year and the response to the findings of the committees of Parliament with responsibility for examining performance reports and Government Financial Statements;
 - (g) the establishments register and an aggregate number of posts;
 - (h) a statement signed by the Minister responsible for Finance attesting to the reliability of the information in the Annual Budget documents and conformity with the fiscal responsibility requirements of this Act; and
 - (i) such other documents as the Minister responsible for Finance may determine or may be required under this Act.

EIGHTH SCHEDULE

(Section 71)

Internal Audit Committee

Composition

- 1.** The members of the Internal Audit Committee shall be
- (a) the Director of Finance;
 - (b) the Comptroller-General;
 - (c) a representative of the Institute of Chartered Accountants of Barbados;
 - (d) a person approved by the Minister as a representative of a trade union; and
 - (e) a person approved by the Minister as a representative of a private sector organisation.

Chairman, Deputy Chairman and Secretary

- 2.(1)** The Chairman of the Internal Audit Committee shall be the Director of Finance.
- (2) At the first meeting of the Internal Audit Committee, and thereafter as necessary, the Deputy Chairman and the Secretary shall be elected by the members.

Meetings and Quorum

- 3.(1)** The Internal Audit Committee shall
- (a) meet at such times and places as the chairperson may determine; and
 - (b) hold a special meeting on the written request of at least two members of the Internal Audit Committee.

- (2) The quorum for a meeting of the Internal Audit Committee shall be 3 members.
- (3) The Chairman or, in the absence of the Chairman, the Deputy Chairman shall preside at all meetings.
- (4) Where the Internal Audit Committee considers it necessary to do so, the Committee may invite Public Officials and public office holders or any other relevant person to attend any of its meetings to seek explanations in relation to an audit.

Minutes

4. Minutes of each meeting shall be kept in proper form by the Secretary or such other person as the Committee may appoint for the purpose; and shall be confirmed in writing at the next meeting.

Decisions

5. The decisions of the Internal Audit Committee shall be by a majority of votes, and in the event of an equality of votes the Chairman has a casting vote.

Signature and seal.

- 6.(1) All decisions made by the Internal Audit Committee and all documents of the Internal Audit Committee shall be signed by the Chairman or any other person so authorised to act.
- (2) The seal of the Internal Audit Committee shall be kept in the custody of the Chairman or such other member as the Internal Audit Committee may approve.

Conflict of interest

7. A member of the Internal Audit Committee who is directly or indirectly interested in a matter being considered or dealt with by the Internal Audit Committee shall disclose the nature of the interest at a meeting of the

Internal Audit Committee and shall not take part in any deliberation or decision of the Internal Audit Committee with respect to the matter.

Procedure.

8. Subject to the provisions of this Act, the Internal Audit Committee may regulate its own proceedings.