



REPUBLIC OF THE GAMBIA

PUBLIC FINANCE ACT, 2014

PUBLIC FINANCE ACT, 2014

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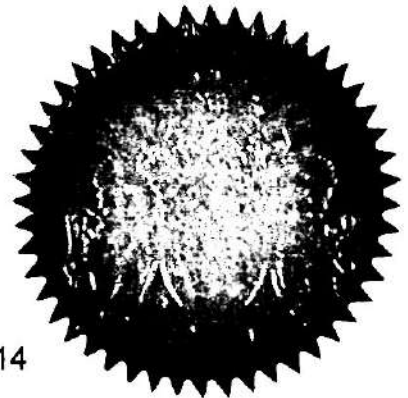
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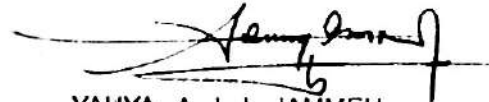
Public Finance Act, 2014



THE GAMBIA
NO. 15 OF 2014

Assented to by The President,
this 9th day of October, 2014




YAHYA A. J. J. JAMMEH
President

AN ACT to provide for the control and management of public monies, the powers and duties of the legislature and executive in the preparation, presentation, approval, execution, and reporting of Government budget, as well as the conditions under which the State, local government authorities and public enterprises may borrow, the Central Bank of The Gambia may issue State debt securities to achieve its monetary policy objectives, and certain conditions under which the State may issue guarantees, lend funds and enter into supplier's credit agreements and finance lease agreements and for connected matters.

ENACTED by the National Assembly and the President.

PART I- PRELIMINARY

1. Short title and commencement

This Act may be cited as the Public Finance Act, 2014 and shall come into force on such date as the Minister shall determine by order published in the gazette.

2. Interpretation

In this Act, unless the context otherwise requires –

"Accountant General's Department" refers to the former Treasury Directorate;

"Appropriation Bill documents" means a collection of budget papers, including policy statements, budget speech, estimates of revenues and expenditures, legal provisions relating to the implementation of the Government Budget, and proposals for financial related amendments to existing Acts, that need to be approved by the National Assembly in support of the Government Budget;

"Appropriation structure and appropriation Act" means selected classification of Government expenditures and other payments included in the Appropriation Bill documents, which, after approval of the National Assembly, form the legal structure and annual limits for spending, accounting, and reporting by the Government;

"budget agency" means a Government organisation, including a Ministry, an agency, an office, an authority, an institution, and any other department or unit, for which, independently, an annual budget is included in the Appropriation Bill documents; and for which an appropriation is made by the National Assembly;

"Central Bank" means the Central Bank of The Gambia;

"Consolidated Fund" means the Consolidated Fund established under section 150 of the Constitution;

"Constitution" means the Constitution of the Republic of The Gambia, 1997;

"Departmental self-raised revenue" means revenue or other money collected and retained by a budget agency for the purpose of defraying the expenses of the budget agency in accordance with the provisions of section 100 (2)(b) of the Constitution;

"extra-budgetary fund" means a fund created outside the operations of the Consolidated Fund by an Act of the National Assembly in accordance with the provisions of section 150 (2)(a) of the Constitution for the payment of particular revenue or other money for a specific purpose;

"Financial Regulations" means the instructions of a long-term nature issued from time to time by the Minister, for regulating and facilitating the implementation of any provision of this Act and includes any instructions of a like kind issued under the authority of the Government and in operation immediately before the commencement of this Act until replaced by the Financial Regulations made by the Minister;

"financial year" means a twelve month period, starting on the first of January and ending on the thirty-first of December for which a Government Budget is approved, executed, reported, and audited;

"General Orders" means the General Orders issued from time to time, under the authority of the Government to control the conduct and discipline of public officers;

"generally accepted accounting practice" refers to rules, procedures and principles generally accepted as being applicable to accounting practices as laid down by standards, legislation or upheld by the accounting profession;

"Government budget" means sections of the Appropriation Bill documents that are approved by the National Assembly, which consist of the appropriation structure and legal provisions relating to revenue and expenditure transactions;

"Minister" means, the Minister responsible for finance and economic affairs, and **"Ministry"** shall be construed accordingly;

"Permanent Secretary" means, the Permanent Secretary of the Ministry;

"public money" means-

(a) any money in the custody or under the control of-

(i) the Government of The Gambia, or

(ii) any person acting for or on behalf of the Government of The Gambia; and

(b) includes any public money held on trust for, or otherwise for the benefit of a person, other than the Government of The Gambia;

"Public Officer" means a person holding or acting in a public office as defined in section 230 of the Constitution;

"statutory instruments" means orders, regulations, circulars, technical documents, including budget preparation and accounting manuals, the Financial Instructions and any other relevant documents of a short-term nature issued by a public officer of the Ministry for facilitating the implementation of the provisions of any section of this Act;

"Supervising Department" means a Ministry which coordinates the operations of one or several budget agencies under its supervision;

"Treasury Main Account" means the Government bank account held at the Central Bank, and managed by the Accountant General for expenditure transactions of the Consolidated Fund;

"virement" means a transfer of appropriations within the expenditure items of a budget agency, or among expenditure items of the budget agencies under the same Supervising Department or from one budget agency to another;

"vote" means the upper spending limit appropriated by the National Assembly, which entitles a budget agency to make commitments and payments;

"Vote Controller" means the head of a budget agency or the public officer authorised by the head of the agency to take charge of and manage funds appropriated for that agency.

PART II - DUTIES AND RESPONSIBILITIES OF THE MINISTRY, MINISTER AND PERMANENT SECRETARY IN GOVERNMENT BUDGET PREPARATION, ACCOUNTING, AND REPORTING OF GOVERNMENT BUDGET

3. Duties and responsibilities of the Ministry

(1) The Ministry shall-

- (a) develop the Government's macro-fiscal policy and the medium-term revenue and expenditure framework for budget preparation;
- (b) manage the budget preparation process;
- (c) coordinate the management of external grants and loans;
- (d) carry out budget execution and internal auditing, cash management and current year financial planning, management of Government banking arrangements, management of Government accounting and reporting, and management of public debt;
- (e) promote fiscal transparency and effective management in respect of revenues, expenditures, and assets and liabilities of the Government;
- (f) exercise control over the implementation of the Government budget, including any adjustments to the current year budget;
- (g) publish, where appropriate, the progress of budget execution;
- (h) inspect the financial operations and proper management of budget agencies; and
- (i) prepare and submit annual statement of Government

accounts to the Auditor General, and publish them for the interest of the general public.

(2) The Ministry shall, for the purposes of sub-section (1)-

- (a) prescribe appropriate instruments, including circulars, technical manuals on financial norms and standards and comply with Financial Instructions issued by the Minister;
- (b) enforce this Act and any prescribed norms and standards, including any prescribed standards of internationally recognised accounting practice and classification systems for Government revenues and expenditures;
- (c) examine and inspect any system of financial management, books and accounts in any budget agency;
- (d) establish organisational divisions within the Ministry appropriate to carry out the duties prescribed under this Act;
- (e) establish treasury offices in large budget agencies and regions for the receipt, custody, and disbursement of public money in executing the approved budget; and
- (f) establish mechanisms for the implementation of this Act, including a mechanism for promoting participatory approaches in the preparation and execution of the Government Budget.

4. Duties and responsibilities of the Minister

(1) The Minister is responsible to the President and the National Assembly for the policy and other decisions of the Ministry.

(2) Subject to the provisions of the Constitution and this Act, the Minister shall undertake the management of the duties of the Ministry and the supervision, control, and direction of all matters relating to the financial and economic affairs of The Gambia.

(3) The Minister may delegate or assign in writing, to the Permanent Secretary and other public officers in the Ministry, any portion of his or her responsibilities appropriate for the performance of their duties and responsibilities of the Ministry.

(4) A delegation or assignment under sub-section (3) does not preclude the Minister from performing the duty or carrying out the responsibility delegated or assigned.

(5) The Minister may confirm, suspend, vary, or revoke any duty or responsibility delegated or assigned to, or any decision taken by a public officer in the Ministry.

5. Duties and responsibilities of the Permanent Secretary

(1) The Permanent Secretary is accountable to the Minister, and derives his or her power and duties by delegation or assignment from the Minister and the provisions of this Act.

(2) The Permanent Secretary shall, under the general direction of the Minister, take overall charge of the duties and responsibilities of the Ministry.

(3) The Permanent Secretary-

(a) may issue instructions to expand, elaborate or clarify the provisions of this Act, the Financial Regulations and the General Orders on financial matters, or to define procedures that are deemed necessary to enhance transparency of, and accountability for the use of public money; and

(b) shall take appropriate steps to ensure that his or her instructions are complied with, and are updated to reflect current best fiscal management practices.

(4) The Permanent Secretary may delegate or assign in writing, any portion of his or her duties and responsibilities, except those relating to issuing instructions to relevant public officers in charge of internal units of the Ministry, the Budget Directorate, the Accountant General's Department and the Public Debt Unit.

6. Accountant General's Department

(1) There is established in the Ministry, a department known as the Accountant General's Department.

(2) The Accountant General shall be responsible to the Permanent Secretary on administrative matters, and to the Minister on all technical matters.

(3) The Accountant General-

- (a) is responsible for all the cash transactions and accounts of the Government; and
- (b) is the Receiver General, Paymaster and Chief Accounting Officer of the Government and is Head of the Accountant General's Department within the Ministry of Finance and Economic Affairs.

(4) The duties of the Accountant General include-

- (a) to establish proper systems of account in every department of the Government;
- (b) to supervise the prompt collection of all public revenue;
- (c) to bring to prompt account, under the proper Heads, Subheads and Item all revenue or other receipts paid into the Consolidated Revenue Fund and other bank accounts under his control or accounted for to him;
- (d) to see that proper provision is made for safe-keeping of all public moneys, stamps, securities and valuable documents;
- (e) to exercise supervision over all the Accounting officers entrusted with the receipt and expenditure of public money and take precautions, by the maintenance of frequent checks, including surprise inspections, against the occurrence of frauds, embezzlement or carelessness;
- (f) to supervise the expenditure and other disbursements of Government; to take care that no payment is made which is not covered by the proper authority and in the case of any apparent extravagance call the attention of the Accounting Officer;
- (g) to charge all disbursements of the Government under the proper Head, Subhead and Item and fund;
- (h) to prepare the accounts for audit and to prepare Financial Statements and Returns within the time laid down by Statutes and regulations;
- (i) specify financial management system to be used throughout Government;

- (j) issue instructions in respect of accounting procedures and refuse payment of any voucher that he or she considers appropriate;
- (k) implementation of systems to ensure the safe custody of Government assets and has power to issue instructions to ensure compliance;
- (l) report to the Minister with a copy to the Auditor General, any short comings in financial control that he or she has identified in the course of his or her duty;
- (m) cause proper accounts and records to be kept in relation to receipt and payment of public moneys;
- (n) establish appropriate accounting systems and procedures for receipts and payments and issue appropriate manuals, accounting standards and procedures to be employed by Ministries, Departments and Agencies; and
- (o) to maintain all documents and records prescribed for him or her in this Act and the Accounting Manual, in particular-
 - (i) principal and subsidiary Journals, ledgers and registers,
 - (ii) registers to records,
 - (iii) revenue earning book register,
 - (iv) safes and keys, accountable financial stationery, stamp duty, write-offs, and all stocks, shares, debentures and other securities held by Government,
 - (v) audit trails, and
 - (vi) all relevant records and data backups necessary in the context of a manual and a computerised accounting system.

(5) The Accountant General shall carry out inspections that he or she considers necessary to ensure the integrity of the internal control system operating in the Ministries, Departments, Sub-

Treasuries and Embassies.

(6) During the inspection, the Accounting Officer shall give the Accountant General's Department full access to all documentation, systems, stores, officials, safes and other relevant information that are necessary for an inspection.

(7) The Accountant General shall report immediately to the Permanent Secretary and to the Auditor General, any material irregularities connected with the public accounts that may come to his or her notice.

PART III -THE CONSOLIDATED FUND, EXTRA-BUDGETARY FUNDS, DEPARTMENTAL SELF-RAISED REVENUES AND EXPENDITURES, AND GOVERNMENT BANKING ARRANGEMENTS

7. Consolidated Fund

(1) Pursuant to provisions of section 150 of the Constitution, there shall be a Consolidated Fund into which shall be paid-

- (a) all revenues or other public monies raised or received for the purpose of, or on behalf of the Government, including tax revenues, non-tax revenues, grants, and loans; and
- (b) any other monies raised or received on trust for or on behalf of the Government.

(2) Notwithstanding sub-section (1), an Act of the National Assembly may provide-

- (a) for the payment of particular revenue or other money into some other fund, called "extra-budgetary fund" established for a specific purpose; and
- (b) for the retention of revenue or other money by the budget agency that received it for the purpose of defraying expenses of that budget agency, called "departmental self-raised revenue".

8. Withdrawal from Consolidated Fund

Money shall not be withdrawn from the Consolidated Fund, except-

- (a) to meet expenditures charged on that Fund by the Constitution or an Act of the National Assembly; and
- (b) where the issue of that money has been authorised by an Appropriation Act or a Supplementary Appropriation Act or in accordance with section 151 (4) of the Constitution.

9. Suspension, withdrawal and limitation of warrant or authorisation

The Minister may where he or she is satisfied that it is in the public interest or that financial exigencies so demand, suspend, withdraw, or limit, any warrant or authorisation given by him or her, or by the Permanent Secretary under this Act, other than those expenditures specified in sections 156 and 157 of the Constitution, which include-

- (a) salaries, allowances and retirement benefits of-
 - (i) the President and Vice-President,
 - (ii) the Speaker,
 - (iii) a Judge of a superior court,
 - (iv) a member of the Independent Electoral Commission,
 - (v) the Auditor-General,
 - (vi) the Ombudsman, and
 - (vii) the Director of Public Prosecutions; and
- (b) public debt, including interest on the debt, sinking fund payments and redemption money in respect of that debt, and all costs and charges incidental to the management and repayment of that debt.

10. Restriction on withdrawal from extra budgetary fund or departmental self-raised revenues

Money shall not be withdrawn from any extra-budgetary fund or departmental self-raised revenue, unless the Minister has authorised the issue of that money.

11. Payment of money due to the Consolidated Fund and extra-budgetary fund

- (1) Any money due to the Consolidated Fund shall be paid by depositing it into the Consolidated Revenue Fund.
- (2) Money due to an extra-budgetary fund shall according to the law creating that extra-budgetary fund, be deposited into a bank account held at the Central Bank.

12. Receipts to be paid into Consolidated Revenue Fund or Commercial bank

- (1) All Government receipts on accounts of loans, grants, and departmental revenues, together with other tax and non-tax revenues, shall be paid into the Consolidated Revenue Fund.
- (2) The Minister may in exceptional circumstances and for policy and managerial reasons, permit a budget agency to pay into a special bank account held by it at the Central Bank or a commercial bank of-
 - (a) receipts and grants, where it is a condition required by a donor; and
 - (b) departmental self-raised revenues, where it is proved to be efficient and necessary.

- (3) All revenues and other receipts of extra budgetary funds shall be paid into a special bank account held at the Central Bank.

13. Restriction on opening of official account

A person shall not open an official account in any domestic or foreign bank, without the authority of the Accountant General in consultation with the Permanent Secretary, except for commercial bank accounts which must be approved by the Minister on the recommendation of the Accountant General.

14. Long-term expenditure commitments

A person shall not introduce in the National Assembly any Bill that provides for withdrawal from the Consolidated Fund for any transaction, which creates or is likely to create long-term expenditure commitments without the prior consent of the Minister.

15. Temporary investment of money from Consolidated Fund

The Permanent Secretary may invest temporarily in The Gambia or elsewhere, money from the Consolidated Fund that is not immediately needed.

16. Interest on fund invested

When money from the Consolidated Fund is invested, the interest it earns, together with the investment, is regarded as part of the Consolidated Fund.

17. Agreement for receipt of public money

The Accountant General in consultation with the Permanent Secretary, may enter into an agreement with any bank for the receipt, custody, payment or transmission of public money either inside or outside The Gambia, or for any other matter dealing with the banking business of Government.

18. Duty of Public Officer to bank public money received

A Public Officer who receives public money shall promptly bank it in accordance with this Act, unless he or she is instructed in writing by the Minister to do otherwise.

19. Restriction on Public Officer entering into agreement for receipt or custody of public money

A Public Officer shall not enter into an agreement or arrangement for the receipt or custody of public money by an outsider unless the Minister has first given authorisation in writing for the agreement or arrangement.

20. Issuance of statutory instruments governing acquisition, etc. of Government shares

The Minister may cause or directly issue the appropriate statutory instruments to govern the, acquisition, custody, operation and disposal of Government stores and other public assets.

PART IV - APPROPRIATION BILL DOCUMENTATION AND PRESENTATION, AND STRUCTURE OF THE APPROPRIATIONS

21. Laying of Appropriation Bill documents before National Assembly

(1) The Minister shall, in accordance with section 152 of the

Constitution, prepare and lay before the National Assembly, the Appropriation Bill documents at least thirty days before the end of the financial year.

(2) Government revenues and other receipts include-

- (a) tax revenues, including taxes on income and profits, domestic taxes on goods and services, taxes on international trade and transactions, and other taxes;
- (b) non-tax revenues, including profits from public enterprises, administrative fees and charges, fines and forfeitures, repayment of loans and other non-tax revenues, including proceeds from sale of public assets;
- (c) domestic and external grants;
- (d) other revenues paid to the Government in accordance with any law, including departmental self-raised revenues; and
- (e) domestic and external borrowing for financing the budget deficit.

(3) Government recurrent and development expenditures and other payments consist of-

- (a) current expenditures, including salaries, wages and allowances, pensions and gratuities, expenditures on goods and other services, current transfers, and interest payments;
- (b) capital expenditures, including acquisition of capital assets, and capital transfers;
- (c) lending and equity participation; and
- (d) payment of principal on domestic and external borrowing.

(4) A statement of the classes of outputs expected to be provided from each vote during the year and the performance criteria to be met in providing those outputs shall be included in the Appropriation Bill document.

22. Retention and spending of departmental self-raised revenues

(1) The Minister may pursuant to the provisions of section 150 (2)(b) of the Constitution, and an Act of the National Assembly, permit a budget agency to retain and spend part or whole of its departmental self-raised revenues in support of Government budget programmes.

(2) The Minister may grant permission under sub-section (1) on condition that the revenues and their associated expenditures are included in the Appropriation Bill documents.

(3) The Ministry shall, using the standard budget classifications, add a separate column to the revenue and expenditure tables in the Appropriation Bill documents to show the amount of departmental self-raised revenues and their associated expenditures for each budget agency, for approval by the National Assembly.

(4) If the departmental self-raised revenues exceed the amounts recorded in the Appropriation Bill documents, the Minister may permit a budget agency to spend, and report to him or her the additional revenues, pursuant to the specific provisions of Part VII.

23. Submission of annual budgets of extra budgetary funds to the National Assembly

The annual budgets of extra-budgetary funds created pursuant to the provisions of section 150 (2)(a) of the Constitution, shall be submitted to the National Assembly for their approval, together with the Appropriation Bill documents.

24. Contents of Appropriation Bill documents

The Appropriation Bill documents submitted to the National Assembly shall contain at least-

- (a) summary statement on the economic and social conditions of The Gambia, and the policies considered or to be enacted;
- (b) summary of revenues and expenditures, including financing of the budget deficit, and in the case of a budget surplus, a statement on how the surplus is to be treated;
- (c) estimates of revenues of each budget agency according to their revenue items;

- (d) estimates of expenditures of each budget agency classified as-
 - (i) recurrent expenditures for each budget agency, broken down by expenditure items and sources,
 - (ii) development expenditures of each development project for each budget agency, broken down by expenditure items and sources,
 - (iii) estimates of expenditures allocated to unforeseen expenditures (in this section referred to as "unallocated expenditure"), pursuant to section 154 of the Constitution, for any situation of exceptional nature which cannot be predicted in advance and, therefore, cannot be included under an appropriate category of expenditure, and
 - (iv) public debt payments;
- (e) revenue and expenditure data for-
 - (i) actual revenues and expenditure for the preceding year,
 - (ii) revised estimates for the current year,
 - (iii) estimates for the budget year, and
 - (iv) subject to the Ministry finalising the medium term expenditure framework for the Government, preliminary projections in broad categories, for revenues, expenditures, and possible deficit of two years after the budget year;
- (f) a statement of Government guarantees to third parties for the preceding year; and
- (g) proposed legal provisions required to enable and facilitate the implementation of the proposed budget, including the imposition or alteration of taxes and spending-related laws.

25. Structure of appropriations

- (1) The structure of appropriations and reporting to the National

Assembly shall-

- (a) follow the expenditure requirements outlined in section 24 (b), (d) and (e), which shall be the structure for appropriations, spending limits, accounting and reporting; and
- (b) be determined by the existing expenditure classification system or such other classification that the Minister may introduce.

(2) The control vote of the Ministry includes the appropriation of unallocated expenditures, centralised votes and public debt payments.

(3) The total amount of unallocated expenditure in the Government budget shall not exceed, excluding external grants, two per cent of total revenues in any given financial year.

(4) The Minister is in charge of the unallocated expenditure heading, and any given transaction under that heading shall be re-allocated to the appropriate classification.

26. Supervising Departments to declare budget agencies entitled to independent vote

(1) A Supervising Department shall, for the purposes of budget preparation and approval declare to the Minister, the number of budget agencies under its supervision that are entitled to an independent vote in the Government budget.

(2) The number of budget agencies under a Supervising Department shall be determined by the agreement of the Minister with each Supervising Department at the time of annual budget preparation and documentation.

27. Power of National Assembly to appoint technical staff

The National Assembly may appoint, temporarily or permanently, a small core of technical staff to assist in gathering information, making research and analysis on issues pertinent to its deliberations and resolutions on the budgets submitted to it by the Minister.

**PART V - BUDGET EXECUTION, VOTE CONTROLLERS,
CURRENT YEAR BUDGET ADJUSTMENTS, REVISED
AND SUPPLEMENTARY BUDGETS, AND BUDGET
ACCOUNTING**

28. Vote Controllers

- (1) Every budget agency for which an appropriation is made in the Government budget must have a Vote Controller.
- (2) The head or chief executive officer of a budget agency is the Vote Controller of the agency.
- (3) The Clerk of the National Assembly is the Vote Controller of the National Assembly.
- (4) In the absence of the Vote Controller designated under sub-sections (2) and (3), the Public Officer deputising in the place of the person shall be the Vote Controller.
- (5) A Vote Controller has direct responsibility to properly and efficiently manage the utilisation of funds under his or her custody and he or she shall-
 - (a) comply with all the regulations, instructions and directions issued in respect of such funds; and
 - (b) maintain proper systems for effective internal control.

29. Warrants for spending

- (1) As soon as the Government budget is approved, the Ministry shall issue warrants for spending of appropriations and inform the Vote Controller of each budget agency of its approved budget.
- (2) Based on its budget allocation, a budget agency is free to make commitments and payment for the purchase of goods and services, pursuant to this Act and the statutory instruments issued by the Ministry.
- (3) The Ministry may in pursuance of sub-section (2), set, for cash management purposes, such periodic limits on incurring of commitments and execution of payments, as are deemed necessary.

(4) Virement is allowed-

- (a) among expenditure items of a budget agency up to a maximum of seventy five per cent of the appropriation of giving or receiving expenditure items, at the request of the budget agency and the approval of the Minister;
- (b) among budget agencies under the same Supervising Department, at the request of the Supervising Department and the approval of the Minister provided that the amount being vired does not exceed fifty per cent of the total appropriations of the giving or receiving expenditure items of each budget agency; and
- (c) among budget agencies by the approval of the Minister in consultation with vote controllers of Budget agencies.

(5) Where the amount to be vired exceeds the limit set under sub-section (4) (a), the approval of the Minister is required.

(6) Any expenditure discovered at the end of the financial year to constitute excess expenditure shall require approval of the National Assembly and shall be included in the Supplementary Appropriation Bill.

(7) If approval is not given, the Public Officer or Vote Controller deemed responsible for the loss of such public funds, shall be surcharged in accordance with the penalty provisions provided in the Act.

(8) Virement is not permitted between personnel emoluments and other charges.

30. Revised budget

(1) The Minister may submit a revised budget to the National Assembly with any changes on revenues and expenditures that may be required, within the limit of the total appropriated amount of expenditures in any particular financial year.

(2) Where substantial changes in the economic and social conditions require larger expenditures than the original and revised budgets allow, the Minister shall submit a supplementary budget to the National Assembly, detailing the additional expenditures and sources of their financing.

(3) The revised and supplementary budgets shall be presented and documented in the same manner and format as the original Government budget was documented and presented.

31. Withdrawal and allocation of funds in times of unforeseen political developments

(1) Where there are unforeseen political developments, and the Government budget is not approved by thirty first December of any year, the President may authorise withdrawal from the Consolidated Fund, and allocation to budget agencies, sums equivalent to only one-twelfth of actual expenditure of the preceding year for each full month, not exceeding four months and one-third of the sums approved for the immediately preceding financial year.

(2) A sum withdrawn pursuant to sub-section (1) shall-

- (a) be utilised only for the services for which it was appropriated in the previous financial year's budget, and
- (b) not be taken as additional sum, but as a sum forming part of the sums appropriated for that financial year, at a later date.

32. Limitation of authority to spend

(1) The authority for expenditure conveyed by an approved budget shall lapse on the thirty-first December each year.

(2) Any revenue received after the thirty-first December of any year on account of the financial year concluded, shall not be disbursed, but shall be recorded as revenue of the budget for the next financial year.

(3) Any unpaid expenditure shall be paid from the appropriations of the next financial year.

33. Execution of Government budget

(1) The Ministry is responsible for the execution of the Government budget and the accounting and execution of Government receipts and payments.

(2) The Ministry may on account of efficiency, or where a condition by a donor agency so requires, delegate certain stages of accounting and payment procedures to a budget agency.

(3) A budget agency to which a procedure is delegated under sub-section (1) shall report regularly to the Ministry and the Accountant General.

(4) The Accountant General shall-

- (a) cause proper accounts and records to be kept in relation to the receipts and payments of public money; and
- (b) establish appropriate accounting systems and procedures for receipts and payments and issue appropriate manuals on accounting standards and procedures to be employed by Ministries and budget agencies.

(5) The head of a budget agency shall ensure that the accounts and records of the agency are kept as prescribed by the Ministry.

(6) The Ministry shall have full and free access to the accounts and records kept under sub-section (4) and (5).

PART VI- PUBLIC DEBT MANAGEMENT

34. Definitions under this Part

In this Part, unless the context otherwise requires-

"borrowing" means the procedures for raising funds by concluding loan agreements, obtaining advances by overdrafts from commercial banks and the Central Bank of The Gambia, and by issuing debt securities; and **"borrow"** shall be construed accordingly;

"borrowing instruments" include loan agreements and debt securities;

"cash management bills" means debt securities with tenors of 7-21 days;

"Central Bank" means the Central Bank of The Gambia;

"Constitution" means the Constitution of the Republic of The Gambia, 1997;

"debt" includes all financial liabilities created by –

- (i) borrowing,
- (ii) credits accepted under supplier's credit agreements,
- (iii) issuance of debt securities as part of a rescheduling scheme of any outstanding liability, and
- (iv) by taking over the payment obligations under a guaranteed loan;

"debt management operations" includes preparation of medium-term debt management strategies to achieve stated debt management objectives, preparation of annual borrowing plans based on the determined strategy, borrowings and other market transactions to achieve the strategy goals, debt data recording and other debt administration activities, and preparation of reports and statistical bulletins on debt and debt management;

"debt securities" means legal documents as evidence of debt issued in electronic (dematerialized) form or in paper form, to named persons or as bearer instruments, and may be negotiable or non-negotiable;

"finance lease" (also called capital lease) is a longer-term financial arrangement similar to a loan for purchase of a capital asset on installments, whereby the user of the asset (the lessee) pays a series of rentals or installments to the purchaser/owner of that asset (the lessor) covering the full cost (including the financing costs and a profit margin of the lessor) of the leased asset, and at the end of the lease has the option to acquire the asset at a fixed price;

"guarantee" means an explicit undertaking by the issuer to guarantee fulfilment of financial obligations for which the guarantee is issued; for the avoidance of doubt, under no circumstances shall letters of intent, letters of comfort or similar letters, or approval of any borrowing to be undertaken by another entity, be considered a guarantee or any other form of legal undertaking;

"local government authority" means a city council, a municipality and an area council;

"medium term" means a period of 3-5 years;

"Minister" means the Minister for the time being responsible for finance; and **"Ministry"** shall be construed accordingly;

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

"public enterprise" means any body corporate or other body or institution, wholly owned or controlled by the Government; but under this Bill does not include the Central Bank of The Gambia and financial institutions part or all of whose business is to lend or borrow money;

"short term" means a period of up to and including one year;

"State" means the central government of The Gambia; for the avoidance of doubt, under no circumstances shall any local government authority or public enterprise be considered part of the central government;

"supplier's credit agreement" means a credit arrangement that includes payment of interest between a purchaser and a supplier of any goods or services that gives the purchaser the right to fully pay for these goods and services at some future date extending beyond one year from which these goods or services are delivered or supplied.

35. Borrowing authorization

(1) Subject to the provisions in this Part, the Minister has the sole authority to borrow on behalf of the State, both in The Gambia and abroad and in local and foreign currencies, and to sign loan agreements, as well as agreements governing the sale of State debt securities.

(2) All borrowings shall be for any of the purposes stated in section 36.

36. Borrowing purposes

(1) The purposes for which the State may borrow are-

- (a) to finance any State budget deficit as approved by the National Assembly;
- (b) to maintain a credit balance on the Treasury Main Account at a level or range determined by the Minister;
- (c) to lend funds to local government authorities, public

enterprises and any other entity as approved by the National Assembly;

- (d) to honor obligations under outstanding State guarantees;
- (e) to refinance outstanding State debt, including repayment of a loan prior to its maturity date, and repurchase of State debt securities;
- (f) to immediately respond to effects caused by a natural environmental disaster or any other national emergency in Gambia;
- (g) to issue State debt securities for the sole purpose of supporting monetary policy objectives; and
- (h) for any other purpose as may be approved by the National Assembly.

(2) Where borrowing is for any of the purposes stated in sub-section (1) (f), the Minister shall as soon as is practicable but in any event not later than ten working days after the conclusion of such borrowing, inform the National Assembly about the terms and conditions of the loan.

(3) These emergency borrowings shall not be subject to any debt ceiling.

37. Debt management objectives

The objectives of State debt management are to ensure that –

- (a) the financing needs of the State always are met on a basis;
- (b) its borrowing costs are as low as possible over the medium long run, consistent with a prudent degree of risk; and
- (c) development of the Gambian debt market is promoted.

38. Debt management strategy

(1) A medium-term debt management strategy for management of the State debt shall be formulated and updated at least once a year on a rolling basis by the Ministry, and be reviewed by the Minister and submitted for approval to the Cabinet.

(2) The strategy shall be based on the debt management objectives stated in Section 38 and shall take into account-

- (a) the cost and risk embedded in the current debt portfolio;
- (b) future borrowing requirements of the State;
- (c) the macroeconomic framework;
- (d) market conditions; and
- (e) such other factors as may be relevant for development of the strategy.

(3) The strategy document shall include guidelines or ranges for the acceptable market risks in the debt portfolio, as well as planned borrowings and other debt management activities to promote development of the Gambian debt market.

(4) Upon determination and approval of the strategy, all State borrowing and other debt management operations shall be undertaken in compliance with the strategy.

39. Borrowing plan

(1) For each financial year, a borrowing plan to meet the aggregate borrowing requirement of the State shall be prepared by the Ministry.

(2) The borrowing plan shall be based on the determined medium-term debt management strategy and the annual cash flow forecast for the State, and include planned borrowing operations over the year, borrowing instruments to be used, and the indicative timing of these borrowings.

(3) The borrowing plan shall be updated at least half yearly.

(4) The Minister shall review and approve the annual borrowing plan and its updates.

40. Issuance of State debt securities in the Gambian debt market for debt management purposes

(1) The issuance of State debt securities in the domestic market for debt management purposes shall be by way of auction or such other method, as the Minister shall approve.

(2) The Minister shall regulate the auction format and rules for participation, bidding, and allocation in auctions.

(3) The Permanent Secretary shall have the authority to accept or reject bids submitted in an auction of State debt securities, and to issue and determine the terms and conditions of any cash management bills.

(4) Where repayment of advances and overdrafts provided to the State by the Central Bank are unduly delayed, the Central Bank may issue short-term State debt securities in accordance with section 32 of the Central Bank of The Gambia Act for the purpose of offsetting this debt. The Minister shall determine the tenors of these debt securities.

(5) In other cases, terms and conditions of State debt securities shall be subject to the prior approval of the Minister.

41. Issuance of State debt securities in the Gambian debt market for monetary policy purposes

(1) Subject to sub-sections (2) and (3), the Central Bank may issue short-term State debt securities for the sole purpose of supporting monetary policy objectives, and these issuances shall not be subject to any debt ceilings.

(2) The proceeds of these issuances shall be deposited in an account at the Central Bank, and shall be used to redeem those debt securities only.

(3) Any cost to the State resulting from issuance of these State debt securities shall be fully reimbursed by the Central Bank, unless the Cabinet directs otherwise.

(4) The Central Bank shall not later than one business day after these issuances inform the Permanent Secretary about the amount and terms and conditions of these issues.

42. Issuance of State debt securities in foreign debt markets

The issuance of State debt securities outside The Gambia shall be in such mode and on such terms and conditions, as the Minister shall approve.

43. Borrowing from banks and other financial institutions

(1) Subject to sub-section (2), borrowing from banks and other

financial institutions by concluding a loan agreement or obtaining an overdraft shall be on such terms and conditions as the Minister shall approve.

(2) The National Assembly shall ratify international loan agreements between the State and other subjects of international public law, and approve any loan agreement with a financial institution located outside The Gambia.

44. Other debt management operations

(1) Subject to sub-section (2), the Minister may, in consonance with the debt management objectives and the medium-term debt management strategy, undertake other debt management operations, including-

- (a) enter into financial swaps and other derivative transactions;
- (b) offer buybacks and switches of State debt securities; and
- (c) offer early repayment of a loan prior to its date of maturity.

(2) The Cabinet shall approve any financial swap and other derivative transactions.

45. Status of the State debt

(1) Subject to sub-section (2), the State debt constitutes an absolute and unconditional obligation of the State.

(2) In case of creditor complicity in the corruption of State officials in the borrowing process, the State is not obliged to repay and service that loan.

(3) Valid debt charges constitute a statutory claim against the Consolidated Fund, and shall not be subordinated to any other claim for payment.

(4) Any payment to meet the debt obligations of the State by its due date shall be made, notwithstanding that it exceeds its appropriation.

46. State guarantees

(1) Subject to sub-sections (2), (3) and (4), the Minister has the sole authority to issue State guarantees.

(2) Prior to the issuance of any form of State guarantees, the

Ministry shall assess the fiscal risk to the State for such guarantee, and the result of the risk assessment and the method used in this assessment shall be presented in written form to the Minister.

(3) In case of loan guarantees, the risk assessment report shall in addition propose the level of a guarantee fee to cover the credit risk of the State.

(4) Unless the Cabinet has determined otherwise, the beneficiary of a loan guarantee shall pay to the State such guarantee fee as the Minister has determined to cover the credit risk of the State, and reimburse or pay the State, as the case may be, in such manner as the Minister shall direct-

- (a) all sums of moneys paid by the State to honor the guarantee;
- (b) all expenses incurred by the State in relation to the guarantee; and
- (c) interest on all sums of moneys paid by the State to honor the guarantee.

47. State lending

(1) Subject to sub-sections (2), (3) and (4), the Minister has the sole authority to lend State funds.

(2) Prior to extending a loan, the Ministry shall assess the risk to the State in providing such loan, and propose the level of interest rate to cover the cost and the credit risk of the State. The proposal and the method used in the risk assessment shall in written form be sent to the Minister.

(3) Unless the Cabinet has determined otherwise, the borrower shall pay to the State such interest rate as the Minister has determined to cover the cost and the credit risk of the State.

(4) The National Assembly shall approve agreements for the granting for a loan of any public fund or public account.

48. Supplier's credit agreements entered into by the State

(1) Subject to sub-sections (2) and (3), the Minister shall approve the financial terms of any supplier's credit agreements to be entered into by the State.

(2) Prior to signing of any supplier's credit agreements, the Ministry shall assess the cost of the State in entering into such agreement, which shall include a comparison with other available financing options, and the method used in the assessment, and available financing options shall in written form be sent to the Minister.

(3) The President may waive application of this section on a case-by-case basis in the interest of security of the State.

49. Finance lease agreements entered into by the State

(1) Subject to sub-section (2), the Minister has the sole authority to enter into finance lease agreements on behalf of the State.

(2) Prior to entering into a finance lease agreement, the Ministry shall assess the cost of the State in entering into such agreement, which shall include a comparison with other available financing options, and the method used in the assessment, and available financing options shall in written form be sent to the Minister.

50. Records of State debt and finance arrangements

The Ministry shall keep timely, comprehensive and accurate records of outstanding State debt, derivative transactions, guarantees, lending, and finance lease arrangements of the State in an appropriate database.

51. Publication of State debt and finance arrangements

The Ministry shall frequently prepare and publish statistical bulletins that provide accurate and timely information on-

- a) debt stocks, debt service cost, and risk measures of the debt portfolio of the State;
- b) derivative transactions entered into by the State;
- c) guarantees issued by the State and the purposes and beneficiaries of these guarantees;
- d) lending provided by the State and the borrowers of these funds;
- e) supplier's credit agreements entered into by the State and the purposes of these agreements; and

- f) finance lease agreements entered into by the State and the purposes and counterparts of these agreements.

52. Annual report to the National Assembly

(1) The Ministry shall each year prepare a draft annual report on State debt management operations, guarantee and lending activities, and other finance arrangements entered into over the previous financial year.

(2) The report shall include-

- (a) information on the debt management strategy and its rationale;
- (b) information on the contribution of the debt management strategy and debt management operations in achieving the debt management objectives as stated in section 38;
- (c) a list of all outstanding State debt;
- (d) a list of all outstanding State guarantees, including amount and beneficiaries of these guarantees, and an assessment of the fiscal risk embedded in those guarantees;
- (e) a list of all lending operations, including outstanding amounts and borrowers of these loans, and an assessment of the credit risk of these loans; and
- (f) a list of all outstanding supplier's credit agreements and finance lease agreements, including the financial terms of those contracts.

(3) The Minister shall review the draft report, and after notifying the Cabinet, shall submit it to the National Assembly not later than end March.

53. Regulation of borrowing by local government authorities and public enterprises

As from the commencement of this Act, borrowing by local government authorities and public enterprises shall be in accordance with this Act and every provision in any enactment, including the articles and memorandum of association of public enterprises, in existence immediately before such commencement relating to borrowing by local government authorities and public

enterprises shall be read and construed with such modification as will enable effect to be given to these provisions of this Bill

54. Borrowing by local government authorities

(1) A local government authority may borrow only within The Gambia, and only up to such limit as may be determined by the Minister.

(2) For the purpose of sub-section (1), the Minister after consultation with the Minister for the time being responsible for local government authorities, shall prescribe an annual borrowing limit for each local government authority based on its capacity to repay and such other considerations as the Minister may determine.

(3) Any issue of debt securities and any borrowing above the determined borrowing limit requires the prior approval of the Minister.

55. Reporting requirements of local government authorities

A local government authority shall submit to the Ministry, a record of its borrowing not later than ten working days from the date of signing of a loan agreement or obtaining an overdraft, as the case may be, and shall upon request submit to the Ministry data on its total outstanding debt.

56. Borrowing by public enterprises

(1) A public enterprise may borrow up to such limit as may be determined by the Minister.

(2) For the purpose of sub-section (1), the Minister shall prescribe an annual borrowing limit for each public enterprise based on its capacity to repay and such other considerations as the Minister may determine.

(3) Any borrowing outside The Gambia requires the prior approval by the Minister, as well as any borrowing above the determined borrowing limit.

57. Reporting requirements of public enterprises

(1) A public enterprise shall submit to the Ministry, a record of its outstanding debt and new borrowings including overdrafts not later than twenty working days after the end of every quarter.

(2) A public enterprise shall upon request, submit to the Minister

such information or data on its outstanding debt and borrowing including overdrafts as he or she may specify.

58. Waiver of sovereign immunity

Where the Minister is satisfied that it is in the public interest, he or she may in connection with any borrowing governed by foreign law, and within the limits established by the laws of The Gambia, waive any right of the State to claim sovereign immunity from proceedings in foreign courts to settle any disputes, and with respect to its assets.

59. Power to issue regulations

The Minister may make such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Part and for the due administration of this Act.

60. Power to delegate

(1) The Minister may delegate in writing, through a power of attorney or by any other legal means, any of his or her functions under this Part, except his or her power to make regulations to the Permanent Secretary or to any senior officer of the Ministry.

(2) In case a loan agreement or a subscription and similar agreement governing the sale of State debt securities is to be signed abroad, the Minister may delegate his or her function to sign such agreement to the Ambassador or the High Commissioner of The Gambia accredited such country.

(3) The Permanent Secretary may delegate in writing, through a power of attorney or by any other legal means, any of his or her functions under this Bill to the Deputy Permanent Secretary responsible for fiscal matters or to any senior officer of the Ministry.

PART VII - CURRENT YEAR BUDGET REPORTING, CLOSURE OF ANNUAL ACCOUNTS, AND SUBMISSION OF THE ANNUAL ACCOUNTS TO THE AUDITOR-GENERAL

61. Submission of accounts by Vote Controllers

A Vote Controller who is authorised to operate special bank accounts shall submit to the Ministry within five days of the end of each month, the account of revenue and expenditure transactions relating to loans, grants and departmental self-raised revenues for the preceding month, after reconciling its accounting transactions with corresponding bank transactions.

62. Time of lapsing of appropriation warrants and other authorisations

(1) At the closure of business of the last day of the financial year-

- (a) all appropriations, warrants and other authorisations for expenditure shall lapse;
- (b) the Accountant General shall close all revenue and expenditure accounts for the financial year by transferring the balances of the accounts to the Consolidated Fund; and
- (c) no further disbursements shall be made.

(2) The Ministry shall close all loans, grants and departmental self-raised revenue accounts individually, and carry over their balances to the following financial year.

(3) The Ministry shall after reconciliation of its own accounts with the transactions of the Treasury Main Account, consolidate and submit to the Auditor-General, the annual statement of Government accounts, not later than three months after the end of the financial year.

63. Review of transactions

(1) After the end of each financial year, the Accountant General shall prepare and submit to the Auditor General with a copy to the Minister the financial statements and information set out in the Schedule to this Act, within three months or such other period as the National Assembly may by resolution appoint.

(2) All financial statements submitted under this section shall be prepared in accordance with the generally accepted accounting practice and in all cases in accordance with any instructions issued by the Accountant General.

64. Audit of annual accounts by Auditor General

(1) The Auditor-General shall on receipt of the statement of annual accounts from the Accountant General, audit the annual accounts and submit his or her report to the Public Accounts Committee of the National Assembly within three months from the date of submission of the annual accounts.

(2) The auditing by the Auditor-General of the annual accounts shall not relieve the Public Officer responsible for keeping of the accounts from his or her duty to comply and to ensure the compliance of his or her subordinates with the provision of this Act or any other enactment or with any regulation, or direction that may have been issued.

(3) Part III of the Finance and Audit Act shall remain in force until a new Act on auditing is passed by the National Assembly.

[cap.75.01]

65. Issuance of statutory instruments to budget agencies

The Ministry shall issue to all budget agencies, the appropriate statutory instruments regulating and governing-

- (a) the liability for losses and damages and procedures for recovery;
- (b) the handling and control of trust money and property;
- (c) the writing-off of losses of public money and other public assets, the remission of money due to the Consolidated Fund, refunds of revenue and payments from the Consolidated Fund;
- (d) the settlement of claims by or against The Gambia;
- (e) vouchers and other proofs of receipt or payments, which are defective or have been lost or damaged;
- (f) the improvement, maintenance and disposal of immovable public assets; and
- (g) such other matters that may facilitate and strengthen the implementation of this Act.

66. Computerised Accounting Environment

(1) User identities and user names on accounting documents shall have the same legal effect, significance and implication as there is for the signature of the individual.

(2) A public officer who willingly or knowingly discloses his or her password shall be personally responsible for transactions carried

out in his or her name and any losses arising from those transactions

(3) Users shall be accountable for any transaction or security breach associated with their access rights.

PART VIII INTERNAL AUDIT

67. Establishment of the Directorate of Internal Audit

(1) There is established in the Ministry, a unit known as the Directorate of Internal Audit to replace the existing Internal Audit Unit

(2) The Head of the Directorate of Internal Audit shall perform his or her duties under the direct supervision of the Audit Committee.

(3) The role, membership and constitution of the Audit Committee shall be approved by the Minister from time to time as deemed necessary.

68. Functions of the Internal Auditor

(1) The Internal Auditor is responsible for conducting financial and performance audit of all Budget Entities and contractors of the Government to determine whether-

- (a) adequate financial, operating and administrative procedures and practices, systems of accounting, internal control and audit and such other systems of internal management control as may be required have been established and are in use by management to economically and efficiently accomplish the objective established by Government in conformance with generally accepted accounting principles and Government accounting standards;
- (b) activities and programs are being conducted and funds being expended in compliance with applicable laws,
- (c) revenues are being properly collected, deposited and accounted for;
- (d) resources including funds, property and personnel are adequately safeguarded, controlled and use in a

faithful, effective and efficient manner;

- (e) financial and other reports are being reviewed, reconciled and provided in a timely manner and that they fairly disclosed all information that is required by law and generally accepted accounting principles and Government accounting standards;
- (f) activities and programs being implemented have been duly authorized by law;
- (g) activities and programs are being conducted in a manner intended to accomplish the objectives of the authorizing law; and
- (h) the implementing agency or department has determined that the activities or programs effectively serve the purpose intended by the authorizing law.

(2) The Internal Auditor shall also-

- (a) review the means of safeguarding assets from various types of losses, such as those resulting from theft, fire, improper or illegal activities, and exposure to elements and, as appropriate verify the existence of such assets;
- (b) serve as a liaison with National Audit Office and coordinate audit efforts to avoid unnecessary duplication of efforts and increase in Audit coverage;
- (c) conduct follow up reviews on Audit reports issued by National Audit Office;
- (d) serve on committees as appointed or elected and participate in or conduct evaluations, financial and management studies, special audits and fraud investigations as directed.

(3) The Internal Audit Unit shall periodically review the access rights of users to ensure that all users are in employment and have been assigned the correct rights based on their responsibilities.

(4) The Internal Audit Unit shall carry out surprise review of stock and assets registers and submit reports to Management.

(5) The Internal Audit Unit shall review purchase Orders and contracts awarded from time to time to ensure that laid down procedures are adhered to in awarding these contracts.

(6) The backup log book kept by the System Administrator shall be reviewed periodically by the Internal Auditor and also ensure all external backups are secured

(7) The back up strategy in place shall be reviewed periodically by the Internal Auditor to be abreast with developments within the system environment

69. Functions of the Audit Committee

(1) The audit Committee shall assist the Ministry in fulfilling its oversight responsibility relating to-

- (a) the integrity of the Government financial statements and financial reporting process and the Government's systems of internal accounting and financial controls;
- (b) the performance of the internal auditors;
- (c) the annual independent audit of the Government's financial statements, the engagement of the independent auditors and the evaluation of the independent auditors' qualifications, independence and performance;
- (d) the compliance by the Government with legal and regulatory requirements, including Government's disclosure controls and procedures; and
- (e) the evaluation of management's process to assess and manage Government's enterprise risk issues

(2) The Committee shall also prepare the report of the Committee required to be included in the Government's annual financial statement as part of the report of the Minister.

PART IX- PENALTIES AND SURCHARGES

70. Penalties and surcharges

(1) If it appears to the Permanent Secretary that a person who is or

was a Public Officer-

- (a) failed to collect any money owing to the Government for which he or she is or was, at the time of his or her employment, responsible;
- (b) is or was responsible for any improper payment of public money or, for any payment of public money which is not duly vouched;
- (c) is or was responsible for any deficiency in, or for the loss or destruction of, any public money, stamp, security, store or other Government property;
- (d) has communicated a password to an unauthorised person;
- (e) has failed to provide within the stipulated period, information that is required for the carrying out or implementation of this Act,

the Permanent Secretary shall demand an explanation from the Public Officer within a specified period.

(2) If within a period specified by the Permanent Secretary, the Public Officer does not furnish an explanation satisfactory to him or her, the Permanent Secretary shall surcharge the Public Officer-

- (a) the amount not collected or the improper payment, payment not duly vouched, deficiency, loss or the property destroyed, as the case may be; or
- (b) such lesser amount as the Permanent Secretary may determine.

(3) A Vote Controller who without reasonable excuse, fails to comply with any financial regulations or instructions under any law, shall have sanctions imposed on him or her under this Act or any other law.

(4) A person who opens or causes to be opened, any bank account for public or official use, without the authority of the Accountant General or the Minister, or in any other way contravenes section 14 of the Act in respect of any bank account, commits an offence and is liable to be sanctioned.

(5) A person who has communicated a password used as a security

check for accessing data in a computer based accounting system to an unauthorised person commits an offence and is liable to be sanctioned

(6) A person who fails to provide within the stipulated period, information that is required for the carrying out or implementation of this Act, commits an offence and is liable to be sanctioned.

71. Notification of surcharge to Auditor-General and Vote Controllers

(1) The Permanent Secretary shall cause the Auditor-General, Accountant General and the Vote Controller of the budget agency concerned to be notified of any surcharge made under section 70.

(2) The Vote Controller shall, on being notified of the surcharge-

- (a) notify the person surcharged; and
- (b) subject to the provisions of sections 73 and 74, recover the amount surcharged from the person.

72. Withdrawal of surcharge

(1) The Permanent Secretary may at any time, withdraw any surcharge in respect of which a satisfactory explanation has been received, or if it otherwise appears that no surcharge should have been made

(2) The Permanent Secretary shall notify the Auditor General, Accountant General and the Vote Controller of the budget agency concerned of the withdrawal of any surcharge under sub-section (1).

73. Right of appeal

(1) A person who is dissatisfied with any surcharge made against him or her under section 70 may, within twenty-one days immediately after he or she has been notified of the surcharge, appeal in writing to the Minister.

(2) The Minister may after carrying out such investigation as he or she may deem necessary, confirm the surcharge or direct that the appellant be released wholly or in part from the surcharge as may appear just and reasonable in the circumstances, and cause an order to be made in accordance with that decision.

(3) A copy of every order made under sub-section (2) shall be transmitted to the Permanent Secretary, the Vote Controller of the budget agency concerned, the Accountant General and the Auditor-

General.

74. Recovery of surcharge

(1) The amount of any surcharge made under the provisions of Part VIII of this Act shall be recovered by such deductions from the salary or pension of the Public Officer concerned or through such other means as the Permanent Secretary may direct.

(2) A single deduction shall not exceed one-sixth of the Public Officer's gross monthly salary or pension, as the case may be;

(3) Where the Public Officer concerned is due to be paid any money of whatever description by the Government, other than by way of salary or pension, the Permanent Secretary may cause the amount of any surcharge to be deducted from the money in whole or in part as he or she considers fit.

(4) Where the Public Officer concerned is no longer in the public service or is not entitled to a pension, the surcharge shall be recovered by such other means as the Permanent Secretary may direct.

(5) The provisions of sub-sections (1) to (4) are without prejudice to the right of the Attorney-General on behalf of Government acting on the instructions of the Permanent Secretary to sue for and recover the amount of any surcharge as a civil debt due to the Government.

PART X – MISCELLANEOUS

75. Financial Regulations

(1) The Minister may issue Financial Regulations for the proper implementation of the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Regulations may provide for-

- (a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of, all public monies and the guidance of all persons concerned;
- (b) the recording, examination, inspection and departmental check of all receipts and payments, and the keeping of all necessary books and accounts;
- (c) the purchase, safe custody, issue, sale or other disposal or write off of public stores, and other property of the

Government of The Gambia, and the proper accounting for, and stock-taking of, the stores and property;

- (d) the authorisations of rates of payments of public funds for specific purposes where the rates of payments are not provided by law;
- (e) the making of advances, to public officers and persons and the rates and limits of such advances and the rates of interest thereon.

(3) The Financial Regulations shall be published in such manner as the Minister may direct.

76. Inconsistency with other laws

Subject to the Constitution of the Republic of The Gambia, where a provision of this Act is inconsistent with a provision of any other law, the provision of this Act shall prevail and the provision of that other law shall, to the extent of the inconsistency be void.

77. Repeal and savings

(1) The Local Loans Act, the Loans Act, the General Loan and Stock Act, and the Government Budget Management and Accountability Act, are repealed.

[cap 75.01], [cap 75.02], [cap.75.04], [cap. 78.01]

(2) Sections 14 and 15 of the Local Government Finance and Audit Act and sections 8 and 17(2) of the Public Enterprises Act are deleted.

[cap 34.03] [cap. 87.01]

(3) Notwithstanding the repeal of the above Acts-

- (a) all regulations, decisions, Instructions and Orders issued under the repealed Act are valid in so far as they are not inconsistent with this Act, unless expressly revoked; and
- (b) the powers, rights and obligations of the State, local government authorities and public enterprises in relation to existing debt contracted on the basis of the laws and regulations that were in force before the coming into force of this Act shall continue to apply until the full repayment of such debt, and loan agreements concluded; and

- (c) debt securities issued before the coming into force of this Act shall remain valid; and
- (d) guarantees issued by the State before the coming into force of this Act shall represent obligations of the State in accordance with the issued guarantee.

SCHEDULE

Provisions of submission of financial statements by the Accountant General

The following financial statements and information shall be submitted by the Accountant General to the Auditor General and copied to the Minister-

- a) a statement of responsibility for the preparation of the financial statements and control of public resources and funds;
- b) a statement from the Minister of Finance and Economic Affairs providing a high-level commentary on the management of the economy and public finances;
- c) a commentary on the financial statements by the Accountant General;
- d) a consolidated statement of cash receipts and payments giving a summary of all cash receipts, cash payments and cash balances controlled by the Government of the Gambia, separately identifying payments made by third parties on behalf of the government;
- e) a statement of revenue and expenditure giving a summary of all revenue, expenditure and surplus or deficit of the consolidated fund for the financial year in comparison with approved budget of the Government of the Gambia;
- f) a statements of payments by functions of Government giving a summary of all payments by functions of government;

- g) a statement of financial position of the Consolidated Fund being a summary of assets and liabilities or the financial position of the Consolidated Fund;
- h) a summary of public debt transactions showing information on the outstanding public debt of the Republic of The Gambia at the end of the year;
- i) a statement of changes in Un-drawn External Assistance providing information on the extent to which the government may avail itself of external assistance to sustain its operations in the future;
- j) a summary of Public Loans Transaction providing information on outstanding financial resources at the year-end that the Government has provided to government entities, state enterprises, the public etc by way of loans;
- k) a statement of Investments held by the Government providing a summary of information on outstanding investments held by the Government at the end of the financial year. The Statement provides information on the original cost and current value of the investments at the year end;
- l) a statement of Net-worth of all State Enterprises providing information on the Net-Worth of all state owned enterprises;
- m) a summary statement of revenue in respect of the sums actually earned and collected on each service, and the state of each vote compared with the amount appropriated for collection by that vote by the National Assembly;
- n) a summary statement of expenditure in respect of the sums actually expended on each service, and the state of each vote compared with the amount appropriated for that vote by the National Assembly;
- o) a statement of contingent liabilities providing information on the outstanding amounts guaranteed by the Government in respect of bank overdrafts, loans, public loan issues and other contingent liabilities such as outstanding litigation cases at the

end of the year;

- p) a statement of outstanding commitments providing information on the outstanding commitments at the end of the financial year, which the Government has entered into for the supply of goods and services for each vote;
- q) a statement of arrears of revenue being a consolidated statement, derived from statements prepared and submitted by Vote Controllers, in respect of revenue due but not collected;
- r) a statement of stores and other assets being a consolidated statement derived from statements prepared and submitted by vote controllers in respect of the physical assets purchased/acquired during the year (*statement of stores shall only be provided where inventory items are maintained*);
- s) a statement of disposal of stores and other assets, being a consolidated statement in respect of physical assets/stores disposed during the year;
- t) a statement of losses of public moneys and stores reported, being a consolidated statement in respect of losses of public moneys and stores reported during the year whether written off or recovered;
- u) a statement of losses of public moneys and stores written off and claims abandon, being a consolidated statement in respect of losses of public moneys, stores written off, and all claims abandoned during the year;
- v) a summary statement of expenditure re-allocated from un-allocated Headings showing the expenditure that was incurred from funds re-allocated from the un-allocated expenditure heading such as the Contingency Fund appropriated for the year;
- w) accounting policies and explanatory Notes;
- x) Any other statements and in the form the Accountant-General may from time to time determine.

Public Finance Act, 2014

PASSED in the National Assembly this Nineteenth day of August in the year of Our Lord Two Thousand and Fourteen.



D. C. M. Kebbeh
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.



D. C. M. Kebbeh
Clerk of the National Assembly.

