

GUYANA
ACT No. 20 of 2003
FISCAL MANAGEMENT AND ACCOUNTABILITY ACT 2003

I assent.

Bharrat Jagdeo
President
16th December, 2003

ARRANGEMENT OF SECTIONS

SECTION

PART I

GENERAL PROVISIONS

1. Short title and commencement.
2. Interpretation.
3. Delegation of functions.
4. Regulation-making power.
5. Regulations: contents and laying.
6. Power to recover public moneys not affected by this Act.

PART II

RESPONSIBILITY FOR FISCAL MANAGEMENT

7. Responsibilities of the Minister.
8. Responsibilities of the Ministry.
9. Appointment and responsibilities of the Finance Secretary.
10. Designation and accountability of a Head of a budget agency.
11. Responsibilities of a Head of a budget agency.

PART III

BUDGET PREPARATION AND PRESENTATION TO THE NATIONAL ASSEMBLY

12. Timetable for budget.
13. Budget Circular.
14. Budget submissions.
15. Annual budget proposal.

PART IV

BUDGET APPROPRIATION, APPROVAL AND CONTROL

16. No expenditure without appropriation.
17. Appropriation Bills: preparation, presentation and format.
18. Appropriation for repayment required or permitted by law.
19. Expenditure credit.
20. Charges and fees.
21. Budget agency receipts and conditional appropriation.
22. Authority to vary annual appropriations.
23. Appropriation amendment Acts.
24. Supplementary appropriation Acts.
25. Adjustment of appropriations.
26. Appropriations to lapse.
27. Appropriation allotment.
28. No variation without approval.
29. Control of allotments.
30. Expenditure initiation and commitment control.
31. Payment authority.

PART V

DRAWING RIGHTS

32. Drawing rights required.
33. Issuance, revocation and amendment of drawing rights.
34. Drawing rights to be consistent with appropriation allotments.
35. Drawing rights to lapse with appropriation.
36. Drawing rights if appropriation Act not passed.

PART VI

PUBLIC FUNDS

37. Classification of public moneys.
38. Consolidated Fund.
39. Extra-budgetary Funds.
40. Social and economic development projects.
41. Contingencies Fund.
42. Deposit Funds.
43. Unexpended Balances of public moneys.

PART VII

COLLECTION, CUSTODY AND USE OF PUBLIC MONEYS

44. Agreements with banks for custody of public moneys.
45. Official bank accounts.
46. Deposit and withdrawal of public moneys.
47. Receipt of public moneys from an outsider.
48. Misuse of public moneys.
49. Liability for loss of public moneys.

PART VIII

ACCOUNTS, ACCOUNTING AND PAYMENTS

50. Currency of Guyana.
51. Establishment of Official Consolidated Fund.
52. Payments from the Official Consolidated Fund.
53. Finance Circulars.
54. Suspension of payments.
55. Multi-year contracts.
56. Accounting procedures.

PART IX

BORROWING, LENDING, INVESTMENTS AND GUARANTEES

57. Sources and purposes of borrowed funds.
58. Borrowing power.
59. Consultation with the Bank of Guyana.
60. Overdraft facility.
61. Proceeds of borrowing.

62. Government guarantees.
63. Government guarantee levy.
64. Lending of public moneys.
65. Investment of public moneys.
66. Provisions of this Act to prevail.

PART X

ACCOUNTABILITY FOR FISCAL MANAGEMENT AND PERFORMANCE

67. Mid-year report.
68. End of Year Budget Outcome and Reconciliation Report.
69. Reporting of public debt.
70. Reporting of public lending.
71. Reporting of Government guarantees.
72. Programme Performance Statement.
73. Consolidated financial statements.
74. Requirement to audit.

PART XI

CONTROL AND MANAGEMENT OF PUBLIC PROPERTY

75. Minister may make Regulations.
76. Liability for loss of public property.
77. Gifts of public property.

PART XII

STATUTORY BODIES

78. Applicable law.
79. Annual budget.
80. Annual report and audited financial statements.

PART XIII

MISCELLANEOUS

- 81. Forgiveness of debts.
- 82. Amendment of the Schedule.
- 83. Classification of statutory bodies.
- 84. Power of statutory bodies to borrow.

PART XIV

OFFENCES

- 85. Liability of official.

PART XV

REPEAL

- 86. Repeal.
- 87. Power to remove difficulties.

SCHEDULE

Budget Agencies

AN ACT to provide for the regulation of the preparation and execution of the annual budget; the receipt, control and disbursement of public moneys; the accounting for public moneys; and such other matters connected with or incidental to the transparent and efficient management of the finances of Guyana.

A.D. 2003 Enacted by the Parliament of Guyana:-

PART I

GENERAL PROVISIONS

Short title and commencement.

1. (1) This Act may be cited as the Fiscal Management and Accountability Act 2003.

(2) This Act shall come into operation on such date as the Minister may, by Order, prescribe, and different dates may be prescribed for different sections of the Act:

Provided that the whole Act shall come into operation no later than one year from the date of its enactment.

Interpretation.

2. (1) In this Act -

“accounting standards” means the rules and procedures relating to the measurement, valuation and disclosure of accounting transactions;

“amortisation payments” means the repayment of debt by a borrower in a series of instalments over a period of time and includes both a payment that constitutes a partial repayment of the principal of the debt and a payment that comprises a partial repayment of the principal of the debt and interest on the debt;

“annual budget” means the financial plan for the delivery of the Government’s programmes and policies for a fiscal year, which financial plan shall include -

(a) estimates of the revenues from all sources during the fiscal year;

- (b) estimates of the current expenditures to be made during the fiscal year;
- (c) estimates of the capital expenditures to be made during the fiscal year;
- (d) in the case of a projected surplus, the allocation of that surplus; and
- (e) in the case of a projected deficit, the sources and amounts of financing required to fund that deficit;

“annual budget proposal” means the proposed budget for a fiscal year prepared by the Ministry in accordance with section 15;

“annual estimates” means the forecasted levels of Government receipts and expenditures, including separate estimates of all statutory expenditures, that are expected to be received or made during a fiscal year;

“appropriation” means any authority of Parliament to pay money out of the Consolidated Fund, and that stipulates the purpose of the expenditure and an amount of money representing the maximum that may be expended for the specified purpose;

“Auditor General” means the Auditor General appointed pursuant to Article 223(1) of the Constitution;

No. 1 of 1995. “bank” has the same meaning as in the Financial Institutions Act, and notwithstanding anything in the said Act, includes a deposit-taking institution that is licensed to carry on the business of banking outside of Guyana and that is endorsed by the Bank of Guyana as an institution capable of providing safe custody of public moneys;

Schedule. “budget agency” means a public entity for which one or more appropriations are made and which is named in the Schedule;

“budget agency receipts” means Government receipts of a budget agency;

“Budget Circular” means the circular prepared by the Minister in accordance with section 13;

“capital expenditure” means any expenditure for the acquisition of tangible and intangible fixed assets, including land, equipment, services

and government stocks, of more than a prescribed value to be used for longer than one year in the process of production;

“commitment” means an amount of public moneys that must be expended now or in the future as a result of a legally enforceable contract or other arrangement for which the State is liable entered into by a Head of a budget agency or an official authorised by a Head of a budget agency;

“concerned Minister” means the Minister assigned responsibility for the relevant budget agency;

“conditional appropriation” means an appropriation that has been marked to indicate that the amount appropriated may be supplemented by a specified amount of additional appropriation tied to budget agency receipts pursuant to an agreement with the Minister referred to in section 21(4);

“Consolidated Fund” means the aggregate of all public moneys that are on deposit at the credit of the State;

“Contingencies Fund advance” means an expenditure out of the Consolidated Fund pursuant to section 41(3);

“Contingencies Fund” means the sub-fund of the Consolidated Fund established by the Minister pursuant to section 41(1);

“contingent liability” means a future commitment, usually to spend public moneys, which is dependent upon the happening of a specified event or the materialisation of a specified circumstance;

“current expenditure” means any expenditure other than a capital expenditure;

“Deposit Fund” means a fund established by the Minister pursuant to section 42;

“enabling legislation” means an Act or other law authorising the establishment of a public entity, designating a minister responsible for that public entity, and setting out the fiscal management rules and procedures under which the public entity is to operate;

“End of Year Budget Outcome and Reconciliation Report” means a report reconciling the planned execution of the annual budget for a fiscal year and the out-turn of that budget prepared by the Ministry pursuant to section 68;

“entitlement payment” means a payment to any person under a social security programme, unemployment programme or poverty alleviation programme or who meets eligibility criteria for payment set out in any other programme or pursuant to any law;

“Extra-budgetary Fund” means a fund established by an Act for a specific purpose and funded by specific earmarked revenue, that operates apart from the Consolidated Fund with the result that the transactions of the fund are not included in the annual budget;

“Finance Circular” means an instruction issued by the Finance Secretary pursuant to paragraph 9(2)(a);

“Finance Secretary” means the permanent secretary appointed pursuant to section 9;

“fiscal year” means the period beginning on January 1 of each year and ending on December 31 of that year or such other period as the Minister may by order prescribe;

“financing” means, in the case of a budget deficit, the instruments issued by the State to obtain the financial resources required to fund that budget deficit and, in the case of a budget surplus, means the allocation of that budget surplus;

“Fund”, as the context requires, means the Consolidated Fund, the Contingencies Fund, an Extra-budgetary Fund, or a Deposit Fund;

“Government guarantee” means a contingent liability that is an obligation undertaken by the Government to pay the debt of a third party in the event that the third party defaults on its debt obligation;

“Government receipts” means moneys and other assets received by or owing to the State, including -

- (i) taxes, excise and custom duties;
- (ii) fees and charges, including royalties, licensing fees and revenues from the sale or lease of any rights controlled by the State;
- (iii) non-tax receipts, including budget agency receipts and the proceeds from the sale of goods and services;
- (iv) fines, penalties, forfeits, confiscations and settlements

arising from judicial processes;

- (v) dividends and profit-sharing paid to the State by public enterprises, statutory bodies and the Bank of Guyana;
- (vi) proceeds from the sale or lease of any public property;
- (vii) interest earned on the investment of assets of the State; and
- (viii) transfers to and grants and gifts received by the State;

“Head of a budget agency” means the permanent secretary, acting permanent secretary or other official as may be designated by the Finance Secretary pursuant to section 10;

“long-term public debt” means public debt having a term to maturity of greater than twelve months;

“Minister” means the Minister assigned responsibility for finance;

“Ministry”, unless the context requires otherwise, means the Ministry under the supervision of the Minister responsible for finance;

“official” means an individual who is in, or is part of, a budget agency as an employee of the Government on a full-time, part-time, or contracted basis;

“official bank account” means a bank account opened on behalf of the Government pursuant to section 45(1) that has been designated as “official” pursuant to section 45(2);

“out-turn” means the actual amount of Government receipts received or the actual amount of current and capital expenditures made during a fiscal year;

“programme” means a collection of activities funded by an appropriation with the aim of creating the impact or impacts set forth in the programme’s statement of objective or objectives;

“programme impact” means the consequences to the community that results from the implementation of a particular programme;

“Programme Performance Statement” means the collection of programme reports prepared pursuant to section 72 by each budget agency in respect of the programmes administered by that budget agency;

“public debt” means indebtedness of the State;

“public debt obligation” means an instrument or other document evidencing public debt;

“public enterprise” means a business or entity engaged in market production in which the State has a controlling interest;

“public moneys” means all moneys belonging to the State received or collected by officials in their official capacity or by any person authorised to receive or collect such moneys and, without limitation, includes -

- (a) tax and non-tax revenue collections authorised by law;
- (b) grants to the Government;
- (c) budget agency receipts;
- (d) moneys borrowed by the State or received through the issuance and sale of securities;
- (e) moneys received or collected for and on behalf of the State; and
- (f) moneys that are paid to or received or collected by an official pursuant to any law, trust or other agreement which moneys are to be disbursed for a purpose set out in that law, trust or agreement;

“public property” means all property, other than moneys -

- (a) belonging to or under the control of the State; and
- (b) in the custody of or under the control of any person acting for or on behalf of the State in respect of that property,

including all property that is held by the State in trust for, or otherwise for the benefit of, any other person;

“Regulations” means regulations made under this Act;

“revolving fund” means a fund authorised pursuant to an appropriation Act or an appropriation amendment Act authorising the expenditure of budget agency receipts by a budget agency for specified purposes and

subject to a draw-down limit;

“short-term public debt” means public debt having a term to maturity of twelve months or less;

“statutory body” means a public entity that has been established by law;

“statutory expenditure” means any expenditure that constitutes a charge on the Consolidated Fund pursuant to the Constitution.

(2) With effect from the commencement of this Act, every reference in any written law to the Secretary to the Treasury shall be read and construed as a reference to the Finance Secretary.

Delegation of functions.

3. Subject to this Act, the Minister may, by instrument in writing, delegate to an official any of the Minister’s functions under this Act.

Regulation-making power.

4. The Minister may make Regulations prescribing any matter -

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for the carrying out or giving effect to the provisions of this Act.

Regulations: contents and laying.

5. (1) In particular, the Minister may make Regulations -

- (a) relating to matters including -
 - (i) handling, spending and accounting for public moneys;
 - (ii) commitments to spend public moneys;
 - (iii) procedures for the incurring of debt by the State;
 - (iv) recovering amounts owing to the State; and
 - (v) using or disposing of public property or acquiring property that is to become public property;
- (b) relating to the use of technology as it applies to the operation and management of the financial and

accounting system of the State, including -

- (i) electronic authorisations;
- (ii) electronic certifications,
- (iii) digital signatures; and
- (iv) techniques relating to the security, integrity and access to financial information; and

(c) generally for ensuring or promoting -

- (i) the transparent, efficient and proper use and management of public moneys, public property and the financial assets and liabilities of the State; and
- (ii) proper accountability for the use and management of public moneys, public property and the financial assets and liabilities of the State.

(2) All Regulations made pursuant to this section shall, as soon as is practicable, be laid before the National Assembly.

Power to recover public moneys not affected by this Act.

6. Nothing in this Act shall extend in any way to abridge or alter the rights and powers of the Government under any other law to control, suspend or prevent the execution of any process or proceeding for the recovery of moneys owing or otherwise due to the State.

PART II

RESPONSIBILITY FOR FISCAL MANAGEMENT

Responsibilities of the Minister.

7. (1) In addition to any responsibilities that the Minister may have under any other law, the Minister shall, among other matters, be responsible for -

- (a) preparing the Budget Circular;
- (b) presenting the annual budget proposal to the National Assembly;
- (c) presenting any supplementary or amending estimates

proposals to the National Assembly;

- (d) controlling and monitoring execution of the annual budget and, within the powers and authority vested in the Minister under this Act, adjusting budget allocations seeking to achieve the fiscal objectives set out in the annual budget;
- (e) managing and accounting for the finances and the public debt of the State, including contingent liabilities;
- (f) publishing regular reports on the progress of the execution of the annual budget; and
- (g) preparing consolidated financial statements for the Government for subsequent audit by the Auditor General and presentation to the National Assembly.

(2) In addition to the responsibilities set out in subsection 1, the Minister shall determine the organisational structure of the Ministry in a manner that will best support the Minister in carrying out the Minister's responsibilities under this Act.

Responsibilities of the Ministry.

8. (1) The responsibilities of the Ministry as they pertain to the budget function shall include -

- (a) managing the preparation of the annual budget proposal;
- (b) providing advice to the Minister on options to improve the cost of effective delivery of programmes;
- (c) setting expenditure control limits based on annual appropriations;
- (d) monitoring, controlling and reporting on key fiscal aggregates during budget execution;
- (e) monitoring, controlling and reporting on the execution of the current and capital components of the annual budget;
- (f) co-ordinating the participation of the Ministry in programme evaluations;
- (g) preparing an End of Year Budget Outcome and

Reconciliation Report which shall form part of the annual consolidated financial statements; and

- (h) advising the Minister throughout the fiscal year on adjustments that may need to be made to the financial plan contained in the annual budget to ensure that fiscal targets are met.

(2) Responsibilities of the Ministry as they pertain to the treasury function shall include -

- (a) cash execution of the annual budget;
- (b) management of the banking arrangements of the State;
- (c) management of the public debt and cash flow;
- (d) operation of the payments system;
- (e) overseeing and monitoring the accounting function; and
- (f) operation and management of the financial and accounting system of the State.

Appointment and responsibilities of the Finance Secretary.

9. (1) There shall be a Finance Secretary who shall be a permanent secretary.

(2) The Finance Secretary, in addition to any responsibilities delegated to him by the Minister, shall -

(a) have authority to issue Finance Circulars -

- (i) to define procedures necessary for the implementation of this Act and the Regulations; and
- (ii) to define procedures necessary to enhance the transparency of and accountability for the use of public moneys;

(b) take all proper steps to ensure that the provisions of this Act, the Regulations and the Finance Circulars are -

- (i) complied with;

- (ii) appropriately amended to ensure that they are current and reflect best fiscal management practice; and
 - (iii) made available to all persons having responsibility for the management of public finances;
- (c) at any time, be entitled to inspect any Government office, public property or other asset in the custody of officials; and
- (d) upon request to an appropriate official, be given prompt access at all times to bank account records and other financial records and documents that pertain to the management of and accounting for public moneys and the financial assets and liabilities of the State.

(3) The Finance Secretary may by instrument in writing delegate to an official all or any of the powers set out in paragraph (2)(c) or (2)(d).

Designation and accountability of a Head of a budget agency.

10. (1) In the case of a budget agency where there is no permanent secretary or acting permanent secretary, or where the responsibility for managing the affairs of a budget agency does not rest directly with a permanent secretary or acting permanent secretary, the Finance Secretary shall, on or before the time of the submission to the National Assembly of the annual budget proposal or thereafter if the need arises, designate an appropriate official as Head of that budget agency for the purposes of this Act.

(2) A Head of a budget agency shall be required to provide such explanations and information as may be required by the National Assembly in its examination of the consolidated annual financial statements.

(3) A Head of a budget agency shall comply with all relevant provisions of this Act, the Regulations, the Finance Circulars, and any other instructions in relation to the proper management of the financial resources of the State.

Responsibilities of a Head of a budget agency.

11. (1) Each Head of a budget agency shall manage the affairs of that budget agency in a manner that promotes the proper use of the public resources for which that Head of a budget agency is responsible and, in particular, shall -

- (a) implement appropriate processes and procedures to prevent the incidence of fraud, embezzlement or misappropriation of public moneys for which the Head of a budget agency is responsible;
- (b) maintain an effective internal audit capability within the budget agency;
- (c) pursue collection of each debt for which the Head of a budget agency is responsible, unless -
 - (i) the debt has been written off under the authority of an Act;
 - (ii) the Minister is satisfied that the debt is not legally recoverable; or
 - (iii) with the agreement of the Minister, the Head of a budget agency deems that it is not economical to pursue collection of the debt;
- (d) identify and assign clear responsibilities for -
 - (i) co-ordinating the preparation of the budget submissions for the budget agency;
 - (ii) the budgeting and financial management systems of the budget agency, including the allocation and management of drawing rights, and the processing of payment orders;
 - (iii) maintaining the financial management information system for the budget agency;
 - (iv) operating agency-specific bank accounts approved by the Minister;
 - (v) the security of and accounting for all cash and other financial assets held on the premises occupied by the budget agency; and
 - (vi) maintaining financial accounts and registers as required by the Minister, the Regulations, the Finance Circulars or the management of the budget agency.

(2) The Head of a budget agency shall provide to the Finance Secretary any information that is requested concerning the affairs of the budget agency for which that Head of a budget agency has responsibility.

(3) A Head of a budget agency may issue instructions to officials in his budget agency in order to give effect to the responsibilities set out in this section, provided that such instructions are consistent with any Regulations, Finance Circulars, and Public Service Rules that may be relevant.

(4) For the purposes of this section, “proper use” shall mean efficient, effective and ethical action in accordance with the provisions of this Act, any other Act, the Regulations, and the Finance Circulars specifying accepted financial management practice.

PART III

BUDGET PREPARATION AND PRESENTATION TO THE NATIONAL ASSEMBLY

Timetable for budget.

12. The Minister shall, not later than one hundred and eighty days prior to the commencement of each fiscal year, establish a timetable for the preparation of the annual budget proposal pertaining to the next ensuing fiscal year.

Budget Circular.

13. (1) The Minister shall, not later than one hundred and eighty days prior to the commencement of each fiscal year, prepare and distribute a Budget Circular to all budget agencies.

(2) The Budget Circular shall include -

- (a) the timetable established pursuant to section 12;
- (b) the economic situation and the fiscal policy objectives and priorities of the Government;
- (c) the medium-term fiscal policy objectives and priorities of the Government, including a brief description of how the Government plans to manage the public debt;
- (d) targets for budget surplus or budget deficit;
- (e) pro forma of the annual estimates; and
- (f) budget costing parameters to be used in

determining the allocations to be made to budget agencies.

Budget submissions.

14. (1) A budget submission shall be prepared for each fiscal year by each budget agency in accordance with the rules, procedures and guidelines set out in the Budget Circular pertaining to that fiscal year.

(2) A budget submission shall be approved by the concerned Minister for each budget agency prior to being forwarded to the Minister.

Annual budget proposal.

15. The annual budget proposal shall include -

- (a) the financial plan for the next ensuing fiscal year;
- (b) an overview of the medium-term domestic and international economic outlook, together with the major economic assumptions upon which the financial plan contained in the annual budget for the next ensuing fiscal year is based;
- (c) a statement of the fiscal policy objectives that the Government has set for the medium term;
- (d) a statement of the Government's social and economic policy objectives and priorities for the next ensuing fiscal year that have guided the preparation of the annual budget for that fiscal year;
- (e) a review of the execution of the annual budget for the current fiscal year, together with a projection of the likely outcome for the full fiscal year and explanations for any major differences between the financial plan for the current fiscal year and actual performance;
- (f) tabulations and analyses of actual and projected tax, non-tax and other revenues for past relevant years, the current fiscal year, the next ensuing fiscal year, and the next following three fiscal years, including proposed changes to the Government's revenue bases required to support the expenditure proposals of the Government;
- (g) in the case of non-tax revenue, details of the type

of revenue to be received in the next ensuing fiscal year by each budget agency;

- (h) tabulations and analyses of actual and projected expenditures, classified by government function, for the past relevant years, the current fiscal year, the next ensuing fiscal year, and the next following three fiscal years, including a discussion of any new or changed expenditure policy by the Government;
- (i) estimates of all statutory expenditures, for the past relevant years, the current fiscal year, the next ensuing fiscal year and the next following three fiscal years;
- (j) estimates of expenditures for investment by each budget agency for the next ensuing fiscal year and the next following three fiscal years;
- (k) a statement of usage of a planned budget surplus or the sources of financing a budget deficit, as the case may be;
- (l) a statement setting out the budget surplus or deficit and the stock of short-term public debt and long-term public debt;
- (m) details of the fiscal relationship between the Government and the regions, including proposed general and special purpose transfers to the regions during the next ensuing fiscal year and the following three fiscal years;
- (n) a Programme Performance Statement from each budget agency that administers one or more programmes of the Government for which an appropriation during the next ensuing fiscal year is to be sought;
- (o) copies of the appropriation Bill referred to in section 17; and
- (p) drafts of any proposed new legislation or amendments to existing legislation required to implement the revenue, expenditure and financing

policies presented in the annual budget proposal.

PART IV

BUDGET APPROPRIATION, APPROVAL AND CONTROL

No expenditure without appropriation.

16. There shall be no expenditure of public moneys except in accordance with Article 217 of the Constitution.

Appropriation Bills: preparation, presentation and format.

17. (1) The Minister shall cause to be prepared an appropriation Bill in respect of each fiscal year detailing the appropriation of public moneys for all current expenditures, including entitlement payments, and all capital expenditures to be made by each budget agency.

(2) The appropriation Bill shall be presented to the National Assembly as part of the annual budget proposal.

(3) The Minister shall determine the format for the presentation of the appropriation Bill and that format shall conform, so far as is practical, to accepted international standards for the classification of government finances.

Appropriation for repayment required or permitted by law.

18. (1) Where an Act or other law requires or permits the repayment of an amount received by the Government and there is no appropriation for such repayment, subject to subsection (2), the repayment shall be made out of the Consolidated Fund.

(2) Where the amount received by the Government referred to in subsection (1) was credited to a Fund other than the Consolidated Fund, the repayment shall be made out of that other Fund.

Expenditure credit.

19. Where moneys are repaid or restored to the Government after having been paid out of the Consolidated Fund under the authority of an appropriation, the appropriation shall have the same effect as if such moneys had not been paid out.

Charges and fees.

20. (1) Except where such fees or charges have been established pursuant to an Act or any subsidiary legislation, a concerned Minister may under this section prescribe fees or charges -

- (a) to be paid for a right, privilege or use of a facility conferred or provided by or on behalf of the Government by means of a license, permit or other authorisation to the person or class of persons on whom the right or privilege is conferred or to whom the use is granted;

(b) in respect of services or products supplied on such terms and conditions as may be specified by the concerned Minister.

(2) The concerned Minister under subsection (1) shall prepare, and Cabinet may approve, rules for establishing the costing structure of any right, privilege, use of facility, service or product to be provided by a budget agency and for calculating the amount to be paid therefor.

Budget agency receipts and conditional appropriation.

21. (1) All budget agency receipts shall be credited to the Consolidated Fund.

(2) Subject to subsections (3) (4) and (7), the expenditure of budget agency receipts by a budget agency shall be permitted only pursuant to an appropriation.

(3) An appropriation referred to in subsection (2) shall be called a “conditional appropriation” and shall consist of -

- (a) an authority to a budget agency to spend a specified amount of money; and
- (b) an additional authority to spend a specified amount of money, conditional upon budget agency receipts earned by that budget agency and being credited to the Consolidated Fund,

which conditional appropriation shall be presented in a form that details -

- (i) the total amount of budget agency receipts to be credited to the Consolidated Fund;
- (ii) the appropriation authority for expenditures out of the Consolidated Fund; and
- (iii) the additional appropriation authority conditional upon an equivalent amount of budget agency receipts being credited to the Consolidated Fund.

(4) A budget agency may expend budget agency receipts under a conditional appropriation referred to in subsection (3) only pursuant to a written agreement with the Minister entered into prior to the presentation of the annual budget proposal to the National Assembly in respect of each category of budget agency receipts to be

earned by that budget agency, which agreement shall include -

- (a) the source of earnings for the budget agency receipts;
- (b) the expected amount of earnings from budget agency receipts for the fiscal year;
- (c) the formula for allocating the aggregate amount of the budget agency receipts;
- (d) the appropriation under which the budget agency receipts are to be expended; and
- (e) the proposed action to be taken at the end of the fiscal year in the event that a portion of the budget agency receipts remain unexpended or the receipts target is not achieved.

(5) The Minister may, at any time, cancel or vary the agreement referred to in subsection (4) without the consent of the budget agency.

(6) Any agreement relating to budget agency receipts made pursuant to subsection (4) shall lapse and have no effect at the end of the fiscal year in which that agreement was made.

(7) Where provided in an appropriation Act, a budget agency may, for such purposes and subject to the draw-down limit as specified in that Act, establish a revolving fund and expend budget agency receipts out of that revolving fund.

(8) The purposes and draw-down limit of a revolving fund referred to in subsection (7) may be amended by means of an appropriation amendment Act.

(9) The operation of a revolving fund and the expenditure of budget agency receipts by a budget agency out of that revolving fund are, in addition to any limitation imposed by this Act or any other Act, subject to such terms and conditions as the Minister may direct.

*Authority to vary
annual
appropriations.*

22. (1) The Minister may reallocate spending authority among annual appropriations during the fiscal year to which the appropriations relate, subject to the following restrictions -

- (a) appropriations may only be varied across

programmes within the budget agency to which they relate;

- (b) appropriations for current expenditures may be moved to appropriations for capital expenditures, but appropriations for capital expenditures may not be moved to appropriations for current expenditures;
- (c) the amount of an appropriation for any programme may not be varied under this section by more than ten per cent of the total amount appropriated for that programme in the applicable appropriation Act; and
- (d) new appropriations shall not be created.

(2) The Minister shall include all changes to appropriations made pursuant to subsection (1) up to the end of the tenth month of the current fiscal year in an appropriation amendment Bill; otherwise any changes shall be made in accordance with section 24.

Appropriation amendment Acts.

23. (1) The Minister shall present to the National Assembly any appropriation amendment Bill referred to in subsection 22(2) no later than the end of the eleventh month of the current fiscal year.

(2) The format for an appropriation amendment Bill shall be the same as for an appropriation Act.

(3) Appropriation amendment Acts shall be numbered sequentially for each fiscal year.

Supplementary appropriation Acts.

24. (1) Any variation of an appropriation, other than those variations referred to in section 22, shall be authorised by a supplementary appropriation Act prior to the incurring of any expenditure thereunder.

(2) The format for a supplementary appropriation Bill shall be the same as for an appropriation Act.

(3) Supplementary appropriation Acts shall be numbered sequentially for each fiscal year.

(4) The Minister, when introducing a supplementary appropriation Bill, shall present to the National Assembly the reasons for the proposed variations and provide a supplementary document describing the impact that the variations, if approved, will have on the

financial plan outlined in the annual budget.

(5) The Minister shall not, in any fiscal year, introduce more than five supplementary appropriation Bills under this section, except in circumstances of grave national emergency, where the Minister may introduce a Bill, intitled an emergency appropriation Bill, to meet the situation.

Adjustment of appropriations.

25. (1) Where a programme of one budget agency is taken over for any reason by another budget agency, the Minister may issue directions to transfer from the one budget agency to the other part or all of the amount that has been appropriated in respect of that programme.

(2) A direction issued pursuant to subsection (1) shall take effect from the time of its issue, but shall not have the effect of extending any time limit that applies to the appropriation to which the direction relates.

Appropriations to lapse.

26. Except as provided in this Act, every appropriation of public moneys authorised by Parliament for a fiscal year shall lapse and cease to have effect as at the end of that fiscal year.

Appropriation allotment.

27. (1) At the commencement of each fiscal year or at such other time as the Minister may direct, the Head of each budget agency shall inform the Minister of the division into allotments of each appropriation applicable to that budget agency.

(2) The Minister may direct allotments to be made at a level of expenditure classification other than that set out in the applicable appropriation Act.

(3) Appropriation allotments are not effective until approved by the Minister and, upon approval, notice of such approval shall be given to the budget agency.

No variation without approval.

28. Appropriation allotments that have been approved pursuant to section 27(3) shall not be varied or amended without the prior written approval of the Minister.

Control of allotments.

29. The Head of a budget agency shall ensure that an adequate system of internal control and audit is established and maintained within the budget agency to properly manage appropriation allotments and to ensure that the allotment limits are not exceeded.

Expenditure initiation and

30. (1) No contract or other arrangement providing for the

*commitment
control.*

payment of public moneys with respect to any programme for which there is an appropriation or an item included in the annual budget proposal then before the National Assembly to which that payment is to be charged shall be entered into unless there is a sufficient unencumbered balance available in the appropriation or the proposed budget item, as the case may be, to make that payment.

(2) The Head of a budget agency or such other official charged with the administration of a programme for which there is an appropriation or an item included in the annual budget proposal then before the National Assembly to which that payment is to be charged shall establish and maintain procedures and records in respect of the control of all commitments chargeable to each appropriation or proposed budget item.

*Payment
authority.*

31. (1) No charge shall be made against an appropriation except on the requisition of the Head of the budget agency for which the appropriation was made or of an official authorised in writing by the Head of the budget agency for the purpose.

(2) Each requisition for a payment of public moneys out of the Consolidated Fund shall be in such form, accompanied by such documents and certified in such manner as the Minister may by regulation prescribe.

(3) No requisition for the payment of public moneys shall be made in respect of any part of the Government unless the Head of the budget agency concerned or an official authorised in writing by that Head for the purpose certifies -

- (a) in the case of a payment for the performance of work, the supply of goods or the provision of services -
 - (i) that the work has been performed, the goods supplied or the services provided, as the case may be, and that the price charged therefor is in accordance with the contract or other arrangement governing the work, goods or services or, if not specified in the contract or arrangement, that the price is fair and reasonable;
 - (ii) where, pursuant to a contract or other arrangement, a payment is to be made prior to the completion of the work, supply of the

goods or provision of the services, as the case may be, that the payment is in accordance with the contract or arrangement; or

(iii) where, pursuant to the procedures prescribed in section 30(2), a payment is to be made in advance of verification, that the claim for payment is fair and reasonable; and

(b) in the case of any other payment, that the payee is eligible for or otherwise entitled to that payment.

(4) No requisition for the payment of public moneys shall be made pursuant to subsection (3) where that payment -

- (a) would not be a lawful charge against the applicable appropriation;
- (b) would result in an expenditure in excess of the applicable appropriation; or
- (c) would reduce the balance available in the applicable appropriation such that it would not be sufficient to meet all of the commitments charged against that appropriation.

PART V

DRAWING RIGHTS

Drawing rights required.

32. An official shall not do any of the following except as authorised by a valid drawing right -

- (a) enter into a commitment to expend public moneys;
- (b) make a payment of public moneys;
- (c) request that an amount be debited against an appropriation; or
- (d) debit an amount against an appropriation.

Issuance, revocation and amendment of drawing rights.

33. (1) The Minister may issue a drawing right for one or more of the following purposes -

- (a) to enter into a commitment to expend public moneys;

(b) to make a payment of public moneys for a specified purpose;

(c) to request the debiting of an amount against a specified appropriation; and

(d) to debit an amount against a specified appropriation.

(2) Where a payment of public moneys is required by law to be made and there is an available appropriation for that payment -

(a) the Minister shall issue sufficient drawing rights to permit the amount to be paid in full; and

(b) the recipient of any of those drawing rights shall exercise the rights in full.

(3) Where a payment of public moneys is permitted, but not required, by law to be made, there is no obligation to issue or exercise drawing rights for that payment.

(4) The Minister may at any time revoke or amend a drawing right.

(5) A drawing right shall have no force or effect unless it authorises the application of public moneys in a manner that is consistent with an appropriation or the purpose of the application as set out in the applicable legislation.

Drawing rights to be consistent with appropriation allotments.

34. The amount of money, the time period, and the purpose of the expenditure of the money stipulated in a drawing right shall be consistent with the appropriation allotment established pursuant to section 27 or as varied pursuant to section 28.

Drawing rights to lapse with appropriation.

35. (1) Except as provided in this Act, a drawing right shall lapse and cease to have effect at the close of the time period set out in that drawing right and, in all events, shall lapse when the applicable appropriation lapses at the end of the fiscal year in which that drawing right was issued.

(2) Any amounts under a commitment, previously approved by the Minister, that remain unpaid at the time that the appropriation therefor lapses shall be met out of an appropriation or appropriations approved for the next ensuing fiscal year.

Drawing rights if appropriation Act not passed.

36. (1) If an appropriation Act has not come into effect at the beginning of a fiscal year, the Minister shall be authorised to issue drawing rights on the Consolidated Fund sufficient to fund the ongoing delivery of normal services of Government in accordance with Article 219(1) of the Constitution.

(2) Drawing rights issued pursuant to subsection (1) shall, for each month in respect of each budget agency, be subject to a drawing limit of one-twelfth of the amount that was expended by that budget agency in the immediately preceding fiscal year; provided, however, that provision for a payment obligation under a multi-year contract referred to in subsection 55(1) may be included in a drawing right.

(3) The Minister shall not issue a drawing right pursuant to subsection (1) in relation to a subject matter or for a purpose for which there was no appropriation in the immediately preceding fiscal year.

(4) Public moneys expended pursuant to this section shall, at the time an appropriation Act relating to the current fiscal year comes into force, be deemed to have been expended pursuant to the provisions of that appropriation Act and shall be accounted for accordingly.

PART VI

PUBLIC FUNDS

Classification of public moneys.

37. (1) All public moneys shall be classified as either -

- (a) received moneys;
- (b) moneys in the Consolidated Fund, including any moneys in the Contingencies Fund;
- (c) moneys in an Extra-budgetary Fund;
- (d) drawn moneys; or
- (e) moneys in a Deposit Fund.

(2) All public moneys shall be deemed to be received moneys from the time that they become public moneys until the time that they are credited to the Consolidated Fund, an Extra-budgetary Fund or a Deposit Fund.

(3) All public moneys that have been debited from a Fund

without being credited to another Fund shall be deemed to be drawn moneys.

(4) For the purposes of this section, “public moneys” does not include any overdraft drawings under an agreement made pursuant to section 44.

*Consolidated
Fund.*

38. (1) All public moneys raised or received by the Government shall be credited fully and promptly to the Consolidated Fund, except -

- (a) moneys credited to an Extra-budgetary Fund as stipulated in the enabling legislation establishing that fund;
- (b) moneys credited to a Deposit Fund; and
- (c) as stipulated in the Constitution.

(2) The Consolidated Fund shall be managed by the Minister or by an official in the Ministry to whom the Minister has delegated that responsibility.

*Extra-budgetary
Funds.*

39. (1) An Extra-budgetary Fund may be created by an Act, which legislation shall set out -

- (a) the officials who will undertake the financial management of the Extra-budgetary Fund, including the responsibilities and accountabilities of the officials charged with managing the Extra-budgetary Fund;
- (b) the banking arrangements that pertain to the Extra-budgetary Fund;
- (c) the source or sources of public moneys to be credited to the Extra-budgetary Fund;
- (d) the accounting rules and auditing requirements applicable to the Extra-budgetary Fund; and
- (e) the financial reporting requirements applicable to the Extra-budgetary Fund, including the reporting of financial performance both during and at the end of each fiscal year.

(2) Officials charged with the management of an Extra-

budgetary Fund shall establish close co-operation and co-ordination with the Minister and share with the Minister all relevant information necessary or desirable to ensure adherence to the principle of consolidation of Government revenues and expenditures.

(3) The Minister shall develop detailed procedures for achieving the co-operation and co-ordination referred to in subsection (2), particularly in connection with the preparation, execution and monitoring of the annual budget and the budget for each Extra-budgetary Fund.

(4) Subject to any other law, resources of an Extra-budgetary Fund may be administered either through its own accounts in selected banks pre-approved by the Minister or through the payment and banking services of the Consolidated Fund, but shall be accounted for separate and apart from any other resources.

(5) Subject to any other law, the officials charged with the management of an Extra-budgetary Fund shall, with respect to that Fund -

- (a) observe the accounting methodology and reporting format prescribed by the Minister;
- (b) submit to the Minister and publish for general information quarterly reports on the financial operations of the Fund;
- (c) make the accounts and records of the Fund available for independent audit by the Auditor General; and
- (d) prepare an annual report on the financial operations of the Fund for presentation, together with the report of the Auditor General thereon, to the National Assembly and publication for general information and any other requirements stipulated by the Minister.

Social and economic development projects.

40. Subject to any other law, resources allocated from any Extra-budgetary Fund for the purpose of financing Government social or economic development projects shall be included in the relevant investment plan and programmes of expenditure contained in the annual budget and such resources shall be processed through the Consolidated Fund.

Contingencies Fund.

41. (1) Pursuant to Article 220 of the Constitution, a Contingencies Fund is hereby established as a sub-fund of the

Consolidated Fund.

(2) The Minister shall have sole authority for the release of moneys from the Contingencies Fund, which authority shall not be delegated.

(3) The Minister, when satisfied that an urgent, unavoidable and unforeseen need for expenditure has arisen -

- (a) for which no moneys have been appropriated or for which the sum appropriated is insufficient;
- (b) for which moneys cannot be reallocated as provided for under this Act; or
- (c) which cannot be deferred without injury to the public interest,

may approve a Contingencies Fund advance as an expenditure out of the Consolidated Fund by the issuance of a drawing right.

(4) The total of the amounts permitted to be drawn from the Contingencies Fund pursuant to subsection (3) shall not exceed two percent of the estimated annual expenditure of the last preceding fiscal year as shown in the annual budget proposal approved by the National Assembly or such greater sum as the National Assembly may approve.

(5) The Minister shall report at the next sitting of the National Assembly on all advances made out of the Contingencies Fund since the previous report of the Minister, which report shall specify -

- (a) the amounts advanced;
- (b) to whom the amounts were paid; and
- (c) the purpose of the advances.

(6) Upon the National Assembly approving the Contingencies Fund advance or advances and passing a supplementary appropriation Act covering such advance or advances -

- (a) the drawing right or rights authorising the advance or advances, if not then utilised, shall lapse and the advance or advances shall be deemed to have been made for the purpose of the appropriation and shall

be accounted for accordingly; and

- (b) the amount of such advance or advances shall be added back to the total amount authorised by the National Assembly referred to in subsection (4).

(7) Upon the National Assembly approving the advance or advances, the Contingencies Fund shall be replenished in the amounts approved.

Deposit Funds.

42. (1) The Minister may establish one or more Deposit Funds into which public moneys shall be paid pending repayment or payment for the purpose for which the moneys were deposited.

(2) On the establishment of a Deposit Fund, the Minister shall notify the National Assembly of the Deposit Fund and shall specify -

- (a) the source or sources of the moneys in the Deposit Fund;
- (b) the purpose or purposes for which moneys may be expended from the Deposit Fund;
- (c) the banking arrangements for the Deposit Fund; and
- (d) the intended investment strategy for the moneys deposited in the Deposit Fund.

(3) Each Deposit Fund shall be managed and operated by the Ministry.

Unexpended balances of public moneys.

43. Except as otherwise provided in this Act or in any other law, at the end of each fiscal year, any unexpended balance of public moneys issued out of the Consolidated Fund shall be returned and surrendered to the Consolidated Fund.

PART VII

COLLECTION, CUSTODY AND USE OF PUBLIC MONEYS

Agreements with banks for custody of public moneys.

44. (1) The Minister may, on behalf of the Government, enter into an agreement with any bank -

- (a) for the receipt, custody, payment or transmission of public moneys, either within or outside the State; and

(b) for any other matter relating to the conduct of the banking business of the Government.

(2) An agreement referred to in subsection (1) may provide for -

(a) the payment of interest by the bank to the Government;

(b) the payment of fees and other charges to the bank by the Government for banking services; and

(c) overdraft drawings by the Government, provided that any such overdraft drawings are repaid to the bank no later than the end of the fiscal year in which the overdraft is incurred.

(3) An agreement referred to in subsection (1) shall not be made for a period of more than one year, unless it is a condition of that agreement that it may be terminated by the Government at any time upon the giving of not more than three months prior notice.

Official bank accounts.

45. (1) The Minister may open and maintain bank accounts in accordance with an agreement made pursuant to section 44(1) and shall open and maintain at least one such bank account.

(2) A bank account holding public moneys shall include in its name the word "official".

(3) The Minister may, in writing, authorise the Head of any budget agency to open a bank account, subject to the following limitations -

(a) the agreement with the bank regarding the account shall be approved by the Minister prior to the opening of the account;

(b) instructions issued by the Minister for the operation of official bank accounts, modified as the Minister deems necessary, shall apply to any bank account opened pursuant to this section; and

(c) upon request, the operators of any bank account opened pursuant to this subsection shall promptly provide the Minister with formal bank statements and reconciliations, together with all supporting

documentation.

(4) The Minister shall not delegate the authority vested in him under section 44(1).

Deposit and withdrawal of public moneys.

46. (1) An official who receives public moneys shall promptly deposit such moneys or otherwise deal with same as required by the Minister.

(2) Subject to section 47, an official shall not deposit public moneys into any account other an official bank account.

(3) An official shall not withdraw public moneys from an official bank account, except as authorised by the Minister and as specified in the Regulations.

Receipt of public moneys from an outsider.

47. (1) An official shall not enter into any agreement or arrangement for the receipt or custody of public moneys with any person, other than the Government, or an official, unless -

(a) the Minister has given written authorisation for the agreement or arrangement; or

(b) the agreement or arrangement is expressly authorised by this Act or any other law.

(2) Public moneys referred to in subsection (1) shall continue to be public moneys and subject to the rules and procedures for the management of public moneys set out in this Act.

Misuse of public moneys.

48. A Minister or official shall not in any manner misuse, misapply, or improperly dispose of public moneys.

Liability for loss of public moneys.

49. (1) If a loss of public moneys should occur and, at the time of that loss, a Minister or official has caused or contributed to that loss through misconduct or through deliberate or serious disregard of reasonable standards of care, that Minister or official shall be personally liable to the Government for the amount of the loss.

(2) Where the misconduct or disregard of the person is not the sole cause of the loss referred to in subsection (1), the person shall be liable to pay only so much of the loss as is just and equitable having regard to the person's share of the responsibility for the loss.

(3) If a loss of public moneys should occur and, at the time of that loss, a Minister or official had nominal custody of such moneys,

that Minister or official shall be personally liable to the Government for the amount of the loss.

(4) For the purposes of subsection (3), a person has nominal custody of moneys where -

(a) the person holds the moneys by way of a petty cash advance, a change float, or other form of advance; or

(b) the person has received the moneys, but has not yet dealt with it as required by section 46.

(5) A person's liability under this section is not terminated or avoided upon that person ceasing to be a Minister or official.

(6) An amount payable to the Government under this section is recoverable as a debt in a court of competent jurisdiction.

(7) The Government shall not be entitled to recover amounts from the same person pursuant to both subsection (1) and subsection (3) in respect of the same loss.

(8) For the purposes of this section, "loss" includes a deficiency.

PART VIII

ACCOUNTS, ACCOUNTING AND PAYMENTS

*Currency of
Guyana.*

50. The accounts of the State shall be kept in the currency of Guyana.

*Establishment of
Official
Consolidated
Fund.*

51. Public moneys at the credit of the Consolidated Fund shall be kept in an account styled as the "Official Consolidated Fund Account" at the Bank of Guyana, but may include deposits of public moneys held at any other bank as the Minister may direct.

*Payments from
Official
Consolidated
Fund.*

52. (1) No payment of public moneys shall be made from the Official Consolidated Fund Account except -

(a) to meet expenditures stipulated in the Constitution, any appropriation Act, or any other Act;

(b) where the Minister has issued drawing rights for the purpose;

(c) for the purpose of repaying any moneys that were paid into the Consolidated Fund in error; or

(d) for the purpose of paying such sums as may be required for any refund, rebate or drawback where the payment thereof is provided for in law.

(2) Any moneys forming part of the Consolidated Fund that is -

(a) on deposit with a bank; or

(b) invested in a manner prescribed by law,

shall be deemed not to have been withdrawn from the Consolidated Fund by reason only that such moneys constitute a deposit or an investment.

*Finance
Circulars.*

53. The Finance Secretary shall issue Finance Circulars setting out the rules and procedures for the processing of payments of public moneys, including the settlement of any debt or other amount due or owing that has been recorded as a charge against an appropriation.

*Suspension of
payments.*

54. (1) The Minister may, at any time, suspend the making of any payment or any expenditure of public moneys, other than statutory expenditures, if, in the opinion of the Minister, the financial exigencies of the public interest so require.

(2) Within two months after suspending a payment or expenditure of public moneys, the Minister shall notify the National Assembly of the suspension, setting out -

(a) the reasons for the suspension;

(b) the estimated length of time the suspension is to be in force; and

(c) the course of action being taken to address the financial exigencies within the annual budget.

*Multi-year
contracts.*

55. (1) An official shall not enter into a multi-year contract or arrangement for the supply of goods or the provision of services to the Government without the prior written authorisation of the Minister.

(2) It shall be an express condition of any multi-year contract that any payment that falls due under that contract is subject to

there being an appropriation for that payment in the fiscal year in which the payment falls due.

(3) For the purposes of this section, “multi-year contract” means any contract that -

(a) extends beyond the current fiscal year; or

(b) commences in a fiscal year subsequent to the current fiscal year and extends beyond the end of that fiscal year.

Accounting procedures.

56. (1) The Minister shall promulgate appropriate accounting standards to be employed by officials responsible for the maintenance of the accounts and records referred to in this section.

(2) The Finance Secretary shall -

(a) cause proper accounts and records to be maintained in relation to the receipt and expenditure of public moneys; and

(a) cause proper accounts and records to be maintained in relation to the financial assets and liabilities of the State, including contingent liabilities.

(3) The Head of each budget agency shall ensure that the accounts and records of the budget agency for which he is responsible are maintained as required by the Minister and the Finance Secretary.

(4) The Minister shall have full and free access at all times to the accounts and records of each budget agency.

PART IX

BORROWING, LENDING, INVESTMENTS AND GUARANTEES

Sources and purposes of borrowed funds.

57. (1) Subject to any other law, the Minister may, for and on behalf of the Government, borrow from -

(a) any bank;

(b) persons, both within and without Guyana;

(c) foreign governments; and

(d) international financial institutions,

for any of the following purposes -

- (i) to meet cash shortfalls that may occur periodically during the execution of the annual budget;
- (ii) to fund investment and infrastructure projects undertaken by the Government;
- (iii) to finance a budget deficit; and
- (iv) to meet the objectives of monetary policy.

(2) The Minister shall be responsible for -

- (a) the administration of all domestic and external indebtedness of the Government;
- (b) authorising and recording payments on all public debt obligations, including the administration of all Government guarantees and contingent liabilities of the Government; and
- (c) the maintenance of original documents evidencing and registers of all borrowing and lending arrangements, including contingent liabilities, of the Government.

Borrowing power. **58.** (1) The Minister shall have the power to borrow by any means that the Minister considers appropriate for the purposes set out in section 57.

(2) The Minister shall have the authority to execute any document, agreement or instrument that renders the Government liable for a debt or evidences that indebtedness.

Consultation with the Bank of Guyana. **59.** (1) Insofar as the incurring of a public debt impacts on monetary policy, the Minister shall exercise his power to borrow in consultation with the Bank of Guyana.

No. 26 of 1998. (2) Pursuant to the Bank of Guyana Act and any written agreement with the Minister, the Bank of Guyana may provide all or any of the services required for the execution of decisions on borrowing by the Government.

Overdraft facility. **60.** (1) The Minister may approve the use of advances in the

form of an overdraft on an official bank account to meet cash shortfalls during the execution of the annual budget.

(2) The Minister shall repay in full all advances in the form of an overdraft on an official bank account on or before the end of the fiscal year during which that overdraft was drawn.

Proceeds of borrowing.

61. Subject to this Act, the proceeds of any borrowing by the Government shall be paid into and form part of the Consolidated Fund.

Government guarantees.

62. (1) Government guarantees shall only be issued as provided for in this Act or other law.

(2) A Government guarantee may only be issued to a public entity.

(3) The Minister shall -

(a) have sole authority to execute a Government guarantee;

(b) retain all original documentation pertaining to a Government guarantee;

(c) maintain a register of Government guarantees; and

(d) report the aggregate of liabilities under Government guarantees as contingent liabilities when reporting pursuant to section 71.

(4) The authority of the Minister under paragraph (3)(a) shall not be delegated.

Government guarantee levy.

63. (1) Each public entity in receipt of a Government guarantee shall pay to the Government a levy in an amount to be determined by the Minister.

(2) Any levy paid pursuant to subsection (1) shall be deemed to be public moneys and shall be held in a Deposit Fund established by the Minister.

Lending of public moneys.

64. (1) The Government may lend public moneys to any public entity or to any individual who is a citizen of Guyana.

(2) Public moneys to be loaned pursuant to subsection (1) shall be appropriated either in annual or amended appropriation legislation.

(3) Any loan of public moneys made pursuant to subsection (1) shall be evidenced by a loan agreement signed on behalf of the Government by the Minister.

(4) A loan agreement shall include -

- (a) the term of the loan;
- (b) the rate of interest applicable to the loan;
- (c) the schedule of repayment; and
- (d) a statement of the purpose for which the funds are being lent.

(5) The Minister shall make Regulations governing the lending of public moneys, which Regulations shall include -

- (a) the criteria for determining when a loan of public moneys may be made;
- (b) the requirements to be met and the procedures to be followed before any loan of public moneys may be made; and
- (c) the information and records to be maintained in respect of any loan of public moneys that is made.

Investment of public moneys.

65. (1) The Minister may authorise the investment of public moneys, including any public moneys on deposit in the Consolidated Fund, with one or more banks in such amounts and for such periods of time as the Minister shall, in his discretion, deem advisable.

(2) Any investment of public moneys made pursuant to subsection (1) shall be in conformity with the terms of any trust or any specified conditions that apply to the moneys to be invested.

(3) All expenses related to the investment of public moneys shall be debited against the Fund from which such public moneys were drawn.

(4) Upon maturity or realisation of an investment of public moneys, the proceeds of the investment, including any interest earned thereon, shall be credited to the Fund from which such public moneys were drawn.

(5) The Consolidated Fund shall be deemed to be appropriated to the extent required for the purposes of this section.

Provisions of this Act to prevail.

66. In the event of any conflict between the provisions of this Part IX and those of any other law, the provisions of this Act shall prevail.

PART X

ACCOUNTABILITY FOR FISCAL MANAGEMENT AND PERFORMANCE

Mid-year report.

67. (1) The Minister shall present to the National Assembly within sixty days after the end of the first half-year of each fiscal year a report on the year-to-date execution of the annual budget and the prospects for the remainder of that fiscal year.

(2) A mid-year report shall include -

- (a) an update on the current macroeconomic and fiscal situation, a revised economic outlook for the remainder of the fiscal year, and a statement of the projected impact that these trends are likely to have on the annual budget for the current fiscal year;
- (b) a comparison report on the out-turned current and capital expenditures and revenues with the estimates originally approved by the National Assembly with explanations of any significant variances; and
- (c) a list of major fiscal risks for the remainder of the fiscal year, together with likely policy responses that the Government proposes to take to meet the expected circumstances.

End of Year Budget Outcome and Reconciliation Report.

68. (1) The Ministry shall, in each fiscal year, prepare an End of Year Budget Outcome and Reconciliation Report with respect to the immediately preceding fiscal year, which report shall include -

- (a) annual estimates and out-turn for revenues and current and capital expenditures;
- (b) a detailed explanation of any significant differences between annual estimates and out-turn, including the impact of -
 - (i) movements in the underlying economic

assumptions and parameters used in the preparation of the annual budget proposal;

(ii) changes to revenue and expenditure policies during the fiscal year; and

(iii) slippages, if any, in the delivery of the budget measures.

(2) The level of statistical detail presented in the End of Year Budget Outcome and Reconciliation Report shall be consistent with, and not less than, the level of statistical detail contained in the appropriation Act for the fiscal year to which that report relates.

(3) The End of Year Budget Outcome and Reconciliation Report shall be a component of the annual consolidated financial statements to be audited and presented to the National Assembly pursuant to section 73.

Reporting of public debt.

69. (1) The Minister shall, within the annual consolidated financial statements, certify and issue an official schedule of public debt outstanding in the name of the Government, other levels of government and public enterprises.

(2) The official schedule of public debt referred to in subsection (1) shall, with respect to each issue of public debt outstanding, include -

(a) the identity of the issuer;

(b) the face value of the debt;

(c) the amount unpaid at the beginning and end of the current fiscal year, including principal, accrued interest, commissions, and any repayment arrears;

(d) the applicable rate of interest;

(e) the maturity date; and

(f) the aggregate amount of the debt service cost of the debt due and payable during the current fiscal year.

(3) Each budget agency shall, upon request, provide to the Minister, within the time prescribed, all information necessary for the compilation of the schedule of public debt referred to in subsection (1).

*Reporting of
public lending.*

70. (1) The Minister shall, within the annual consolidated financial statements, certify and issue an official schedule of the issuance and extinguishments of all loans granted by the Government, other levels of government and public enterprises.

(2) The official schedule of public loans referred to in subsection (1) shall, with respect to each unpaid loan outstanding, include -

- (a) the identity of the debtor;
- (b) the face value of the loan;
- (c) the amount remaining unpaid at the beginning and end of the current fiscal year, including principal, accrued interest, commissions, and any repayment arrears;
- (d) the applicable rate of interest;
- (e) the maturity date; and
- (f) the aggregate amount of interest and amortisation payments on the loan due and payable during the current fiscal year.

(3) Each budget agency shall, upon request, provide to the Minister, within the time prescribed, all information necessary for the compilation of the schedule of public loans referred to in subsection (1).

*Reporting of
Government
guarantees.*

71. (1) The Minister shall, within the annual consolidated financial statements, certify and issue an official schedule of Government guarantees.

(2) The official schedule of Government guarantees referred to in subsection (1) shall, with respect to each Government guarantee outstanding, include -

- (a) the identity of the public entity whose borrowing has been guaranteed;
- (b) the identity of the creditor; and
- (c) the amount of the Government's potential debt obligation in respect of the guarantee, including

payments of principal and interest that remain outstanding.

*Programme
Performance
Statement.*

72. (1) Each budget agency shall prepare a Programme Performance Statement on the performance of each programme administered by that budget agency.

(2) The Programme Performance Statement shall be presented to Parliament in accordance with section 15.

(3) Each Programme Performance Statement of a budget agency presented to the National Assembly shall have attached thereto an endorsement signed by the concerned Minister.

(4) The Programme Performance Statement of each budget agency shall, with respect to each programme administered by that budget agency, include -

- (a) the objective of the programme;
- (b) the main programme impacts that the programme seeks to achieve;
- (c) the strategies employed by the budget agency to achieve the programme impacts;
- (d) both quantitative and qualitative indicators of the programme impacts achieved by the programme during the current fiscal year;
- (e) the amount of funds appropriated in the current annual budget for the programme, the amount of funds estimated to be expended during the current fiscal year in respect of the programme, and the amount of funding being sought for the next ensuing fiscal year in respect of the programme; and
- (f) the anticipated programme impacts the programme is aiming to achieve if the funding sought for the next ensuing fiscal year is appropriated by Parliament.

*Consolidated
financial
statements.*

73. (1) The Minister shall, as soon as is practicable after the end of each fiscal year, prepare consolidated financial statements for the fiscal year just completed in accordance with accounting standards and formats set out in the Regulations.

- (2) The consolidated financial statements shall consist of -
- (a) in respect of the Consolidated Fund, including each Fund that is considered to be part of the Consolidated Fund -
 - (i) a statement of revenues and expenditures for the fiscal year in the form of the End of Year Budget Outcome and Reconciliation Report;
 - (ii) a statement of contingent liabilities; and
 - (iii) such other financial information relating to the fiscal year that the Minister deems necessary to present fairly the financial transactions and financial position of the State;
 - (b) in respect of Extra-budgetary Funds, the financial reports required by the enabling legislation establishing those Funds;
 - (c) in respect of Deposit Funds, the financial reports required by the Minister; and
 - (d) in respect of any other accounts approved by the Minister, the financial reports required by the Minister.

(3) The Minister shall deliver the consolidated financial statements to the Auditor General within four months following the end of the fiscal year to which those financial statements relate.

(4) If the Minister has not delivered the consolidated financial statements to the Auditor General within four months following the end of the fiscal year to which those financial statements relate, the Minister shall provide to the National Assembly a statement as to the reasons why the consolidated financial statements have not been so delivered to the Auditor General.

Requirement to audit.

74. (1) The Auditor General shall, as soon as is practicable after receiving the consolidated financial statements pursuant to section 73, examine the financial statements and prepare an audit report thereon in accordance with law.

(2) The Auditor General shall, within nine months following the end of the fiscal year to which the consolidated financial

statements relate, present those financial statements together with the audit report thereon to the Speaker of the National Assembly in accordance with law and who shall cause them to be laid before the National Assembly in accordance with Article 223(3) of the Constitution.

PART XI

CONTROL AND MANAGEMENT OF PUBLIC PROPERTY

*Minister may
make Regulations.*

75. The Minister may make Regulations prescribing procedures for the use, application and lawful disposal of public property.

*Liability for loss
of public property.*

76. (1) If a loss of public property should occur and, at the time of that loss, a Minister or official has caused or contributed to that loss through misconduct or through deliberate or serious disregard of reasonable standards of care, that Minister or official shall be personally liable to the Government for the amount of the loss.

(2) Where the misconduct or disregard of the person is not the sole cause of the loss referred to in subsection (1), the person shall be liable to pay only so much of the loss as is just and equitable having regard to the person's share of the responsibility for the loss.

(3) If a loss of public property should occur and, at the time of that loss, a Minister or an official had nominal custody of that property, that Minister or official shall be personally liable to the Government for the amount of the loss.

(4) For the purposes of subsection (3), a person has nominal custody of property where -

(a) the person has taken delivery of the property and has not returned it to the person entitled to receive the property on behalf of the State; and

(b) at the time that the person took delivery of the public property, that person signed a written acknowledgment that the property was delivered on the express condition that the person would at all times take strict care of that property.

(5) A person's liability under this section is not terminated or avoided upon that person ceasing to be a Minister or official.

(6) An amount payable to the Government under this

section is recoverable as a debt in a court of competent jurisdiction.

(7) The Government shall not be entitled to recover amounts from the same person pursuant to both subsection (1) and subsection (3) in respect of the same loss.

(8) For the purposes of this section -

(a) “amount of the loss” means -

(i) where the property is damaged, the value of the property prior to the damage or the cost of repairing the property, whichever is less; and

(ii) in all other cases, the value of the property; and

(b) “loss” includes destruction or damage.

Gifts of public property.

77. A Minister or an official shall not make a gift of public property unless the making of the gift is expressly authorised by law.

PART XII

STATUTORY BODIES

Applicable law.

78. Sections 79 and 80 shall apply to a statutory body except to the extent that other provision is made under the law establishing that statutory body.

Annual budget.

79. (1) A statutory body shall, prior to the commencement of each fiscal year established for that statutory body or, if no fiscal year has been established, prior to the commencement of each calendar year, submit to the appropriate Minister for approval -

(a) estimates of the revenue and the current and capital expenditures of the statutory body for the fiscal or calendar year;

(b) the financing activities that the statutory body intends to undertake during the fiscal or calendar year; and

(c) a statement of the short-term debt and long-term debt obligations of the statutory body.

(2) The format for the annual budget of a statutory body shall be as determined by the concerned Minister in consultation with

the Minister.

(3) The concerned Minister shall, prior to the commencement of the fiscal or calendar year, as the case may be, submit to the Minister for approval the proposed annual budget for that statutory body for the fiscal or calendar year.

(4) A statutory body shall, upon request from the concerned Minister or from the Minister, furnish in a timely manner such additional financial or budgeting information as the Minister may request.

(5) The annual budget of a statutory body approved by the Minister shall not be altered or amended without the prior approval of the Minister.

(6) The Minister shall, as soon as is practicable following his approval pursuant to subsection (3) and no later than the time of submission of the annual budget proposal, submit the annual budget of each statutory body to the National Assembly.

*Annual report and
audited financial
statements.*

80. (1) A statutory body shall, as soon as is practicable and in all events not later than four months after the end of the fiscal year established for that statutory body or, if no fiscal year has been established, after the end of each calendar year, submit an annual report to the concerned Minister.

(2) The format for the annual report of a statutory body shall be as determined by the concerned Minister in consultation with the Minister.

(3) The annual report of a statutory body shall include -

- (a) a statement of assets and liabilities of the statutory body as at the end of the fiscal or calendar year;
- (b) a statement of revenue and expenditures of the statutory body for the fiscal or calendar year; and
- (c) a report prepared by the Auditor General on the annual financial statements of the statutory body.

(4) The concerned Minister shall, within two months following the receipt of the annual report, present the annual report of each statutory body to the National Assembly.

PART XIII

MISCELLANEOUS

Forgiveness of debts.

81. (1) Subject to subsection (2) and all other applicable laws, the Minister may forgive, postpone or reduce a debt obligation owing to the State.

(2) Where any forgiveness, postponement or reduction of a debt obligation pursuant to subsection (1) is likely to significantly affect the financial assets and liabilities of the State, such action shall only be taken by the Minister with the approval of the National Assembly.

(3) The National Assembly may set a limit on the aggregate amount of debt obligations that may be forgiven, postponed or reduced by the Minister without the approval of the National Assembly pursuant to subsection (1) in any fiscal year.

(4) The Minister shall make Regulations governing the writing off, either in whole or in part, of any debt obligation owing to the State, which Regulations shall include -

(d) the criteria for determining when a debt obligation owing to the State may be written off;

(e) the requirements to be met and the procedures to be followed before any debt obligation owing to the State may be written off; and

(f) the information and records to be maintained in respect of any debt obligation owing to the State that is written off.

(5) All indebtedness owing to the State that has been forgiven, postponed, reduced or written off pursuant to this Act or any other law during a fiscal year shall be reported in the consolidated financial statements for that fiscal year prepared pursuant to section 73.

Amendment of the Schedule.

82. The Minister may, by Order, amend the Schedule.

Classification of statutory bodies.

83. Within three months of the commencement of this section, every statutory body shall be classified as follows -

(a) public enterprises;

(b) departmental enterprises; and

- (c) bodies other than those falling under paragraphs (a) and (b).

Power of statutory bodies to borrow. **84.** (1) Subject to subsection (2), a statutory body with power to borrow moneys shall only exercise that power with the approval of the Minister.

(2) Notwithstanding subsection (1), the Minister may exempt from subsection (1), in the national interest, such statutory bodies as he considers appropriate.

PART XIV

OFFENCES

Liability of official. **85.** An official who -

(a) falsifies any account, statement, receipt or other record issued or kept for the purposes of this Act, the Regulations, the Finance Circulars or any other instrument made under this Act;

(b) conspires or colludes with any other person to defraud the State or make opportunity for any person to defraud the State; or

(c) knowingly permits any other person to contravene any provision of this Act,

is guilty of an indictable offence and liable on conviction to a fine of two million dollars and to imprisonment for three years.

PART XV

REPEAL

Repeal. **86.** Parts II, III and V of the *Financial Administration and Audit Act* are hereby repealed:
Cap. 73:01.

Provided that all subsidiary legislation made and Circulars issued under the *Financial Administration and Audit Act* and in operation at the commencement of this Act shall, insofar as they are not inconsistent with this Act, continue in force as if made or issued under this Act until such time as they are amended, superseded or repealed under this Act.

Power to remove **87.** The Minister may, for the purpose of removing any difficulty in

difficulties.

Cap. 73:01.

giving effect to the provisions of this Act, particularly in relation to the transition from the provisions of the Financial Administration and Audit Act to the provisions of this Act, make such Order or give such direction not inconsistent with the provisions of this Act, as appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such Order or direction shall be made or given after the expiry of two years from the commencement of this Act.

SCHEDULE

ss. 2, 82

BUDGET AGENCIES

Office of the President
Office of the Prime Minister
Ministry of Finance
Ministry of Foreign Affairs
Parliament Office
Office of the Auditor General
Public and Police Service Commission
Teaching Service Commission
Guyana Elections Commission
Ministry of Local Government and Regional Development
Public Service Ministry
Ministry of Foreign Trade and International Co-operation
Ministry of Amerindian Affairs
Ministry of Agriculture
Ministry of Tourism, Commerce and Industry
Ministry of Public Works and Communications
Ministry of Education
Ministry of Culture, Youth and Sports
Ministry of Housing and Water
Georgetown Public Hospital Corporation
Ministry of Health
Ministry of Labour, Human Services and Social Security
Ministry of Home Affairs
Ministry of Legal Affairs
Guyana Defence Force
Supreme Court
Public Prosecutions
Office of the Ombudsman
Public Service Appellate Tribunal
Region 1: Barima/Waini
Region 2: Pomeroon/Supenaam
Region 3: Essequibo Islands/West Demerara
Region 4: Demerara/Mahaica
Region 5: Mahaica/Berbice
Region 6: East Berbice/Corentyne
Region 7: Cuyuni/Mazaruni
Region 8: Potaro/Siparuni
Region 9: Upper Takatu/Upper Essequibo
Region 10: Upper Demerara/Upper Berbice

Passed by the National Assembly on 15th December 2003.

S. E. Isaacs
Clerk of the National Assembly

(Bill No. 21/2003)