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SCHEDULE



REPUBLIC OF GHANA

THE NINE HUNDRED AND TWENTY-FIRST

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

PUBLIC FINANCIAL MANAGEMENT ACT, 2016

AN Act to regulate the financial management of the public sector within a macroeconomic and fiscal framework; to define responsibilities of persons entrusted with the management and control of public funds, assets, liabilities and resources, to ensure that public funds are sustainable and consistent with the level of public debt; to provide for accounting and audit of public funds and to provide for related matters.

DATE OF ASSENT: *25th August, 2016.*

PASSED by Parliament and assented to by the President:

Preliminary Provisions

Object of this Act

1. (1) The object of this Act is to regulate the financial management of the public sector within a macroeconomic and fiscal framework.

(2) For the purpose of subsection (1), there shall be established

(a) a framework to support a sound fiscal policy and the macroeconomic management of public funds;

- (b) processes for the preparation, approval and management of a transparent, credible and predictable annual budget;
- (c) mechanisms for the operation of the Consolidated Fund;
- (d) mechanisms for the management of public funds, assets and liabilities;
- (e) internal and external audit frameworks and correlative reporting and accounting systems; and
- (f) a mechanism to oversee the matters specified under paragraphs (a) to (e).

Application

2. (1) This Act applies to

- (a) a covered entity; and
- (b) a public officer responsible for receiving, using, or managing public funds.

(2) This Act shall be read together with any other enactment relevant to public financial management.

(3) Where there is a conflict or inconsistency between the provisions of this Act and any other relevant enactment, the provisions of this Act shall prevail.

Responsibilities and Roles for Public Financial Management

General responsibility

3. The Minister, Chief Director, Controller and Accountant-General, a Principal Account Holder, a Principal Spending Officer and any other public officer designated by the Minister to manage public funds shall discharge their respective responsibilities and exercise their powers in accordance with this Act and the Regulations.

Responsibilities of Minister

4. (1) The Minister is responsible for the policy and strategic matters related to the efficient operation of the public financial management system of the country subject to policy guidance from Cabinet.

(2) For the purpose of subsection (1) and subject to the Constitution and any other enactment, the Minister shall

- (a) prepare the annual and supplementary budget estimates and reports for submission to Parliament;

- (b) submit to Parliament for approval, the budget of covered entities as required under this Act or any other enactment to ensure compliance of the covered entities;
- (c) monitor and assess the implementation of the annual budget and ensure the implementation of the fiscal policy of Government;
- (d) manage Government property, financial assets, Government debts, Government guarantees and other contingent liabilities specified under this Act;
- (e) account for public funds through a consolidated public account;
- (f) supervise the financial operations of a covered entity;
- (g) prepare Fiscal Strategy Document;
- (h) manage public funds;
- (i) coordinate and mobilise resources including financial assistance from development partners and integrate the resources into the planning, budgeting, reporting and accountability processes provided under this Act;
- (j) provide policy framework for conducting banking and management of cash for a covered entity;
- (k) issue directives and instructions necessary for the effective implementation of this Act or any other enactment to the head of a covered entity, a Principal Account Holder and Principal Spending Officer of a covered entity; and
- (l) perform any other functions assigned to the Minister under this Act.

Powers of Minister

5. (1) Pursuant to section 4, the Minister may
- (a) request a report or any other information from any covered entity or any other person receiving grants, advances, loans, guarantees or indemnities from the Government;
 - (b) in consultation with the Civil Service Council and with the approval of Cabinet, establish structures or units, within the Ministry necessary to enable the Minister discharge responsibilities under this Act;
 - (c) acting on the advice of the Attorney-General and subject to the approval of Parliament, enter into and execute an agreement on behalf of the Government in relation to matters of a financial nature; and

(d) give directives and instructions necessary for the implementation of the provisions of this Act.

(2) The Minister may delegate any of the responsibilities under subsection (1) to the Chief Director or to a senior public officer not below the rank of a Director within the Ministry but shall not be relieved of the ultimate responsibility for the performance of the delegated responsibility.

(3) Subject to any procurement laws, the Minister may hire or retain the services of professionals, consultants or experts, as the Minister considers necessary for the proper and effective performance of the functions of the Minister under this Act, on the terms and conditions to be agreed upon.

Responsibilities of Chief Director

6. (1) In addition to the duties assigned under section 20 of the Civil Service Act, 1993 (PNDCL 327) and responsibilities specified under this Act relating to a Principal Spending Officer, the Chief Director shall

- (a) advise the Minister on economic, budgetary, and financial matters and on matters related to the implementation of this Act;
- (b) coordinate the preparation of the
 - (i) Fiscal Strategy Document,
 - (ii) budget estimates, and
 - (iii) the Appropriation Bill;
- (c) co-ordinate the promotion and enforcement of a transparent, efficient and effective management of
 - (i) public revenue,
 - (ii) public expenditure, and
 - (iii) the assets and liabilities of a covered entity;
- (d) monitor the performance of the public financial management systems of the public sector;
- (e) monitor the financial and related performance of a covered entity; and
- (f) prepare a report within one month after the end of each quarter on the implementation of the annual budget by the Government and submit the report to the Minister.

- (2) For purposes of subsection (1), the Chief Director
- (a) shall through the Controller and Accountant-General have access, during working hours, to
 - (i) the accounting records or information of a covered entity,
 - (ii) the place where public accounting services are carried out, and
 - (iii) the place where public accounting records are kept; and
 - (b) may inspect, during working hours, the offices of a covered entity and access any information relating to public finance that the Chief Director may request.
- (3) The Chief Director may, under paragraph (b) of subsection (2), authorise a public officer to inspect the offices of a covered entity.
- (4) The Chief Director may, in writing, delegate any of the responsibilities under this section to a senior public officer of the Ministry but shall not be relieved of the ultimate responsibility for the discharge of the delegated responsibility.

Duties of a Principal Spending Officer

7. (1) A Principal Spending Officer of a covered entity shall
- (a) ensure the regularity and proper use of money appropriated in that covered entity;
 - (b) authorise commitments for the covered entity within a ceiling set by the Minister under section 25; and
 - (c) manage the resources received, held or disposed of by or on account of the covered entity.
- (2) A Principal Spending Officer shall, in the exercise of duties under this Act, establish an effective system of risk management, internal control and internal audit in respect of the resources and transactions of a covered entity.
- (3) Where a Principal Spending Officer receives a subvention on behalf of another entity, that Principal Spending Officer shall remit the subvention to that other entity in accordance with the approved cash flow plan for the subvention.
- (4) A Principal Spending Officer may delegate a function or responsibility specified in this Act to a public officer who is under the

control of that Principal Spending Officer but shall not be relieved of the ultimate responsibility for the performance of the delegated function or responsibility.

(5) Where a Principal Spending Officer delegates a function or responsibility under subsection (4), that Principal Spending Officer shall give the directives necessary for the proper exercise or performance of that function or responsibility.

Controller and Accountant-General

8. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Controller and Accountant-General who shall be the Chief Accounting Officer of the Government and the chief advisor to the Minister and Government in matters relating to accountancy.

(2) The terms and conditions of service of a Controller and Accountant-General shall be specified in the letter of appointment and shall be appointed for a term of four years which may be renewed for another term of four years.

(3) The Controller and Accountant-General shall be responsible to the Minister for the custody, safety and integrity of public funds.

(4) The Controller and Accountant-General shall

- (a) compile and manage the accounts prepared in relation to public funds;
- (b) issue general instructions to a Principal Spending Officer in accordance with this Act and the Regulations;
- (c) keep, render and publish statements on public accounts under this Act;
- (d) develop efficient accounting systems for a covered entity;
- (e) approve accounting instructions of a covered entity;
- (f) receive, disburse and provide secure custody for public funds;
- (g) on the instructions of the Minister, open an account with the Bank of Ghana and its agents necessary for the deposit of public funds subject to compliance with the Treasury Single Account system established under section 46;
- (h) authorise the opening of an account for a covered entity;

- (i) in consultation with the Auditor-General, specify for a covered entity, the accounting standards, policies and the classification system to be applied in public accounting to ensure that a proper system of accounting operates;
- (j) provide accounting officers to covered entities; and
- (k) be responsible for the classification and management of value books.

Deputy Controller and Accountant-General

9. (1) The President shall, in accordance with article 195 of the Constitution, appoint Deputy Controllers and Accountants-General.

(2) A Deputy Controller and Accountant-General shall perform functions assigned by the Controller and Accountant-General.

Budget Office

10. (1) The Ministry shall have an office known as the Budget Office.

(2) The Budget Office shall be responsible for

- (a) the preparation of the annual estimates and Medium-Term Expenditure Framework within the constraints specified in the Government's Fiscal Strategy Document;
- (b) the preparation of the mid-year review and half-yearly budget implementation reports under sections 28 and 34;
- (c) advising the Minister through the Chief Director on all matters related to the annual budget, supplementary budget and the Medium Term Expenditure Framework;
- (d) advising the Chief Director on matters related to the classification of the budget and systems required to prepare the budget; and
- (e) perform any other function assigned by the Chief Director.

Oversight of Parliament

11. (1) Subject to the Constitution, Parliament shall provide oversight in respect of

- (a) matters relating to budget and finance;
- (b) government expenditure;
- (c) performance reporting;
- (d) post-legislative scrutiny; and
- (e) impact of financial policy measures on the economy.

(2) The Speaker of Parliament may assign responsibilities under subsection (1) to a committee of Parliament or an office established by Parliament for that purpose.

Macroeconomic and Fiscal Policies

Application of sections 13 to 17

12. (1) The provisions of sections 13 to 17 apply to the central Government.

(2) The Minister may, by legislative instrument, extend the application of sections 13 to 17 to local government authorities and public corporations.

Fiscal Policy principles

13. (1) The following general principles of fiscal management apply for the effective implementation of this Act:

- (a) the Principal Account Holder and Principal Spending Officer of a covered entity shall be accountable to Parliament for the performance of their functions with respect to the implementation of fiscal policies;
- (b) Fiscal Policy shall be developed in a manner that takes into account the impact on the welfare of the current population and future generations;
- (c) Fiscal Policy shall be conducted in a manner that avoids abrupt changes in the evolution of macroeconomic and fiscal indicators; and
- (d) the management of public funds, assets and liabilities, including natural resources, and fiscal risks in the country shall be conducted in a prudent way, with a view to maintaining fiscal sustainability.

(2) The following principles shall guide the formulation and implementation of Fiscal Policy objectives:

- (a) sufficient revenue mobilisation to finance Government programmes;
- (b) maintenance of prudent and sustainable levels of public debt;

- (c) ensuring that the fiscal balance is maintained at a sustainable level over the medium term;
 - (d) management of fiscal risks in a prudent manner; and
 - (e) achieving efficiency, effectiveness and value for money in expenditure.
- (3) Fiscal management shall be carried out in a professional and transparent manner and in accordance with best practice and standards.
- (4) For purposes of subsection (3),
- (a) the roles and responsibilities of a covered entity and public officer with respect to the implementation of the Fiscal Policy shall be clearly established and defined;
 - (b) timely information related to the management of the Fiscal Policy shall be made available to enable effective scrutiny of the Fiscal Policy and the management of public finances; and
 - (c) a person responsible for publicising information shall not withhold the information except for reasons of national security, defence, or international obligations of the Republic.

Fiscal Policy objectives

14. (1) The prime Fiscal Policy objective of Government is to ensure the macroeconomic stability of the country within the macroeconomic and fiscal framework.

(2) The Government may determine any other fiscal policy objective, consistent with the principles set out in section 13.

Fiscal Strategy Document

15. (1) The Minister shall, not later than the end of May of each financial year, prepare and submit to Cabinet for approval, a Fiscal Strategy Document.

(2) The Fiscal Strategy Document shall specify

- (a) the Medium-Term Fiscal Framework of the Government with measurable fiscal objectives and targets to guide short and medium term fiscal planning for the ensuing three to five year period, consistent with the fiscal principles and fiscal policy objectives of Government;

- (b) an updated and comprehensive medium-term macroeconomic and fiscal forecast covering current developments and multiple year projections in line with the co-ordinated programmes of economic and social development policies as specified in article 36(5) of the Constitution;
 - (c) the Medium-Term Expenditure Framework of the Government with a resource envelope and overall expenditure ceiling;
 - (d) a statement of policy measures the Government shall implement in order to stay within the confines of the fiscal policy objectives;
 - (e) a comprehensive and quantified fiscal risk statement for the public sector showing the impact of alternative macroeconomic assumptions on the forecast fiscal balances, and quantified risks of guarantees, contingent liabilities and public private partnerships;
 - (f) the Medium-Term Debt Management Strategy including debt sustainability analysis and sensitivity analysis of macro-fiscal risk scenarios;
 - (g) a progress report on the implementation of the Fiscal Strategy Document for the previous financial year; and
 - (h) the alignment of statutory and other earmarked funds to national macro-fiscal goals and targets.
- (3) The report referred to under paragraph (g) of subsection (2) shall include
- (a) an update on the macroeconomic forecasts and fiscal outturns;
 - (b) the implementation of the fiscal policy and progress against the fiscal principles and rules, including targets where feasible;
 - (c) an explanation of deviations from the fiscal principles, rules and targets for the short and medium term objectives; and
 - (d) an explanation of the measures taken to respond to deviations.
- (4) In addition to the requirements specified in subsection (2), the Minister may propose specific numerical fiscal rules in the Fiscal Strategy Document to constrain Government with specific reference to one or more budget aggregates subject to subsection (5).

- (5) A numerical rule proposed shall be consistent with
 - (a) the Fiscal Policy objectives and Fiscal Policy indicators specified under sections 14 and 16 respectively;
 - (b) the Petroleum Revenue Management Act, 2011 (Act 815); and
 - (c) any other relevant enactment.

Fiscal policy indicators

16. (1) Compliance by Government with the fiscal policy objectives, fiscal policy principles and other requirements shall be assessed in accordance with the following indicators:

- (a) the non-oil primary balance or non-oil fiscal balance, as a percentage of gross domestic product; and
- (b) any two of the following fiscal policy indicators:
 - (i) public debt as a percentage of gross domestic product;
 - (ii) capital spending as a percentage of total expenditure;
 - (iii) revenue as a percentage of gross domestic product;
 - or
 - (iv) wage bill as a percentage of tax revenue.

(2) The Ministry shall review the fiscal policy indicators specified in subsection (1), every five years.

Cabinet to adhere to targets in Fiscal Strategy Document

17. Subject to article 76(2) of the Constitution, Cabinet shall, adhere to the targets set out in the Fiscal Strategy Document,

- (a) in making decisions with implications for public finances,
- (b) in determining, formulating and implementing the policies of the Government, or
- (c) in performing any function conferred on it by the Constitution, this Act or any other enactment.

Suspension of rules or targets

18. (1) A fiscal target or rule provided for in the Fiscal Strategy Document may be suspended with the prior written approval of Cabinet where

- (a) any of the following events occur:
 - (i) a natural disaster, public health epidemic, or war as a result of which a state of emergency has been declared by the President under article 31 of the Constitution;

- (ii) an unanticipated severe economic shock, including commodity and oil price shocks; and
 - (b) as a result of the occurrence of an event under paragraph (a), the Minister is of the opinion that the implementation of any of the fiscal targets or rules would be unduly harmful to the fiscal and macroeconomic or financial stability of the country.
- (2) Where an event under subsection (1) has occurred, the Minister shall submit a memorandum to Cabinet to request for approval to suspend any of the rules or targets in the Fiscal Strategy Document.
- (3) The Minister shall state in the memorandum
- (a) the reasons why the implementation of the fiscal rule or target would be harmful to the finances and macroeconomic or financial stability of the country;
 - (b) the period within which the fiscal rule or target is to be suspended; and
 - (c) a fiscal adjustment plan setting out the measures to return to a position of compliance with the fiscal rule or target within a period of not more than five years.

Budget Preparation, Approval and Management

Salary negotiations for public sector

19. (1) The Minister responsible for Employment in consultation with the Minister shall ensure that
- (a) salary and other compensation negotiations in respect of the public sector for the ensuing financial year are completed not later than the end of April of the current financial year; and
 - (b) the Fiscal Strategy Document required under section 15 reflects the negotiated aggregate of public sector salaries and compensation for the ensuing year.
- (2) Where salary and other compensation negotiations in respect of the public sector are not completed by the end of April of the current fiscal year, the Fiscal Strategy Document prepared for the ensuing fiscal year shall state an expected negotiated aggregate of public sector salaries and compensation for the ensuing year based on the negotiated public sector salaries and compensation for the preceding fiscal year.

Guidelines for preparation of annual budget

- 20.** (1) The Minister shall
- (a) subject to Cabinet approval, issue guidelines for the preparation of the budget for each financial year; and
 - (b) circulate copies of the guidelines to each covered entity not later than the 30th of June of every year.
- (2) The guidelines shall include
- (a) the economic outlook for the country;
 - (b) revenue forecasts;
 - (c) fiscal targets in relation to the fiscal principles, particularly, the need to achieve sustainable levels of public debt and fiscal balance;
 - (d) medium-term fiscal framework including key assumptions;
 - (e) the multiple year ceilings for each covered entity in line with the Fiscal Strategy Document;
 - (f) the ceilings on the required number of staff for each covered entity and the cost of appropriation for the relevant year for the public service;
 - (g) the reconciliation of any change to the previous Medium-Term Expenditure Framework arising from the discretionary policy changes, baseline parameters, and re-allocation of expenditure items;
 - (h) the selection criteria for investment projects, including provision for linking forward recurrent expenditure estimates to investments;
 - (i) the ceilings for the preparation of the budget estimates of local government authorities;
 - (j) details of expenditure under statutory funds and alignment and co-ordination of statutory funds with fiscal objectives, targets and other aspects of the budget; and
 - (k) any other information required from a covered entity to enable the Minister prepare the annual budget in accordance with the requirements of section 21.

Annual budget

- 21.** (1) The Minister shall,
- (a) in consultation with the relevant stakeholders, prepare the proposed annual budget not later than 1st October of each financial year; and

- (b) submit the proposed annual budget to Cabinet for approval not later than the 15th of October of each financial year.
- (2) Cabinet shall, not later than the 30th of October of each financial year, communicate to the Minister, the decision of Cabinet on the proposed annual budget.
- (3) The Minister shall, on behalf of the President, lay before Parliament not later than the 15th of November of each financial year, estimates of the revenues and expenditure of the Government, the annual budget, for the ensuing financial year.
- (4) The estimates of expenditure of all public offices and public corporations other than those set up as commercial ventures, shall
 - (a) be classified under programmes or activities in the Appropriation Bill to be introduced into Parliament, and
 - (b) in respect of payments charged on the Consolidated Fund, be laid before Parliament for the information of members of Parliament.
- (5) The annual budget shall
 - (a) be based on
 - (i) sound analysis and forecasts of macro-economic developments and fiscal projections in relation to the Medium-Term National Development Plan; and
 - (ii) approved plans;
 - (b) be consistent with the Fiscal Strategy Document;
 - (c) indicate
 - (i) an update of the macro-economic and fiscal projections in the Fiscal Strategy Document;
 - (ii) any change in the projections of fiscal aggregates under the Fiscal Strategy Document prepared and an explanation for the change; and
 - (iii) any change in the fiscal targets and ceilings under the Medium-Term Expenditure Framework;
 - (d) set out the recent trends and developments on the indicators of the economy of the country and provide forecasts of the indicators, for a three to five year period;
 - (e) provide detailed information on recent fiscal developments and forecasts for the period determined by the Minister under paragraph (d) in respect of

- (i) Government;
 - (ii) recurrent and capital expenditures of Government;
 - (iii) borrowing and debt servicing of the Government;
 - (iv) an overall net borrowing limit for Government defined with reference to the Medium Term Fiscal Framework, and the nominal limit of total financial borrowing by Government in the course of the financial year;
 - (v) contingent liabilities of the Government including those related to public private partnerships;
 - (vi) the amount and uses of internally-generated funds retained by a covered entity;
 - (vii) the amount of outstanding accounts receivable and payable;
 - (viii) a statement of tax expenditures, including the total cost of existing tax expenditures and the disclosure of new tax expenditures;
 - (ix) the ceilings on the required number of staff for each Ministry, Department or Agency and the corresponding amount appropriated to operate the public service for the ensuing financial year; and
 - (x) any other information in respect of assets and liabilities that the Minister considers appropriate;
- (f) indicate the financing estimates for the financial year to which the budget relates, including
- (i) the financing to be transferred from the Petroleum Funds and other similar funds to the Consolidated Fund;
 - (ii) the plans for domestic financing of the annual budget comprising borrowings by Government and the drawing down of Government deposits;
 - (iii) the plans for external financing of the budget in the form of borrowing and grants;
 - (iv) a plan for the government debt and any other financial liabilities for the financial year to which the annual budget relates;
 - (v) a plan for the guarantees to be issued in the financial year; and
 - (vi) a plan for divestment of government assets;

- (g) provide for the expenditure estimates for the preceding financial year, the current financial year, and the ensuing financial year;
 - (h) contain a statement of the multiple year commitments to be made by Government in the financial year, which shall include a legally-binding ceiling on such commitments;
 - (i) include a schedule of all major investment projects by vote, taking account of total project costs and expected commitments of the annual budget and Medium-Term Expenditure Framework;
 - (j) indicate the budgets of covered entities and the opinion of Government on the budgets; and
 - (k) state any grant or subvention made to a local government authority for the financial year.
- (6) The Minister shall present the annual budget accompanied with
- (a) the Appropriation Bill and any other Bill that is required to implement the annual budget; and
 - (b) a memorandum specifying the measures taken by Government to implement in the ensuing financial year the recommendations of Parliament in respect of the report of the Auditor-General with respect to this Act.
- (7) The Minister shall, publish in the *Gazette*, the Appropriation Act on or before the 31st of December of each financial year.
- (8) For the purpose of subsection (1), “relevant stakeholders” include the Ministry of Finance, Bank of Ghana, Ghana Statistical Service, civil society organisations, Ministries, Departments and Agencies, Ghana Revenue Authority, Controller and Accountant-General’s Department, National Development Planning Commission and local government authority.

Approval of annual budget by Parliament

- 22.** (1) Parliament shall, by the 31st of December of each financial year, consider and approve
- (a) the annual budget and the correlative work plan of Government for the ensuing financial year;
 - (b) the Appropriation Bill; and
 - (c) any other Bill that may be required to implement the annual budget.

(2) The annual budget, approved by Parliament, takes effect from the 1st day of January of the ensuing year.

Expenditure in advance of appropriation

23. Where the President is satisfied that the Appropriation Act in respect of a financial year, will not come into operation at the beginning of that financial year, the President may, with the prior approval of Parliament, by

(a) resolution in accordance with article 180 of the Constitution, and

(b) warrant addressed to the Minister,

authorise the issue of moneys from the Consolidated Fund for purposes of meeting the expenditure necessary to carry on the services of the Government, until the expiration of three months from the beginning of that financial year, or from the coming into operation of the Appropriation Act, whichever is earlier.

Budgeting on a gross basis

24. (1) The revenues and expenditure of Government shall be entered in the annual estimates of revenue and expenditure on a gross basis without being netted with each other.

(2) Despite subsection (1), tax revenue shall be entered in the annual estimates of revenue and expenditure after deducting the estimated amount of tax refunds from the tax revenue.

Commitment of approved budget

25. (1) After approval of the annual budget by Parliament, the Minister shall, within ten days of the ensuing month, issue quarterly expenditure ceilings in respect of approved annual budget.

(2) The Controller and Accountant-General shall, based on the quarterly expenditure ceilings issued under subsection (1), release funds to the Principal Spending Officers of covered entities.

(3) A Principal Spending Officer shall commit the budget of a covered entity based on the quarterly warrants issued under this section.

(4) A Principal Spending Officer or any other public officer shall not commit Government to a financial liability, including contingent liability, unless that Principal Spending Officer is specifically authorised to do so under this Act, the Regulations or directives issued pursuant to this Act.

(5) A commitment in respect of staff recruitment shall, subject to financial clearance by the Minister, be within the limits set by Parliament under section 21 (5) (e) (ix).

(6) Where a covered entity enters into a contract or any other arrangement that commits or purports to commit Government to make a payment, the contract or arrangement shall be approved by the Principal Spending Officer of that covered entity and the Principal Spending Officer shall enter the contract or arrangement into the Ghana Integrated Financial Management Information System.

(7) Subject to Parliamentary approval granted under section 21, the Minister shall grant clearance before a covered entity signs a multi-year contract.

(8) The Minister shall, in accordance with spending plans approved under section 22, approve commitments subject to the availability of sufficient unencumbered or uncommitted appropriation on the expenditure ceilings in respect of that commitment except that this subsection, shall not apply to the Judiciary, Legislature and the Audit Service.

(9) A Principal Spending Officer shall

- (a) maintain records of all financial commitments chargeable to each appropriation or item of expenditure in respect of a covered entity, and
- (b) ensure that each commitment or expenditure is in accordance with the commitment control system prescribed under the Regulations.

(10) A Principal Spending Officer who contravenes subsection (4) is liable to an administrative penalty of two thousand penalty units.

Expiry of appropriation

26. (1) Each appropriation approved by Parliament shall cease to have effect at the close of the financial year in respect of which the appropriation was made.

(2) Any balance of moneys unexpended from the Consolidated Fund or any other public fund for a financial year by Government by the close of the year, shall elapse by the 31st of January of the ensuing year.

Performance report

27. (1) Each Principal Account Holder shall, within the first quarter of the ensuing year after the Minister submits the annual budget to Parliament, submit to Parliament, a performance report on budget implementation for the preceding financial year.

(2) Each Principal Account Holder shall submit a copy of the performance report required under subsection (1) to the Minister.

(3) The Minister shall determine the format of the performance report required under subsection (1).

- (4) The performance report shall indicate
- (a) the achievements of the Principal Account Holder for the preceding financial year;
 - (b) the annual work plan comprising the objectives, outputs, outcomes, targets and performance indicators;
 - (c) the staff establishment of the Principal Account Holder in respect of a vote for the preceding year and ensuing three years;
 - (d) a statement on the actions taken by the covered entity to implement the recommendations of Parliament in respect of the most recent report of the Auditor-General; and
 - (e) any major investment to be implemented for more than one year, including
 - (i) any multi-year investment;
 - (ii) the total cost of the major investment within the medium term profile set out in the Medium Term Expenditure Framework, and
 - (iii) the respective amount to be appropriated in the budget year.

Mid-year review

28. (1) The Minister shall, not later than the 31st of July of each financial year, prepare and submit to Parliament a mid-year fiscal policy review.

(2) The mid-year fiscal policy review shall include the following information:

- (a) a brief overview of recent macroeconomic developments of Government;

- (b) an update of macroeconomic forecasts undertaken by Government;
- (c) an analysis of the total revenue, expenditure and financing performance for a period up to the first six months of the financial year;
- (d) a presentation of a revised budget outlook for the unexpired term of the financial year, and the implication of the revised budget outlook for the Medium-Term Fiscal and Expenditure Framework if necessary; and
- (e) where necessary
 - (i) plans for submitting a proposed supplementary budget for approval by Parliament; and
 - (ii) an overview of the implementation of the annual budget and of the budgets of covered entities.

Re-allocation of funds from a covered entity

29. (1) Subject to any limitation that Parliament may impose, the Minister may, re-allocate funds that have been allocated to a covered entity to another covered entity specified in the annual budget in the event where the functions of that covered entity are transferred to another covered entity.

(2) The Minister report to Parliament in the next reporting period on a re-allocation in subsection (1).

Budget implementation by Principal Spending Officers

30. (1) A Principal Spending Officer shall, plan and manage the activities of a covered entity in accordance with the policy statement and financial estimates of that covered entity.

(2) A covered entity shall not obtain a credit facility from any person if that covered entity

- (a) has not obtained permission from the Minister;
- (b) has unpaid arrears from a debt incurred in a previous financial year; and
- (c) does not have the capacity to pay for the expenditure from the approved estimates as appropriated by Parliament for that financial year.

(3) A Principal Spending Officer shall, not later than the 1st day of the months of April, July, September, and December of each year, in the format determined by the Chief Director, submit a report to the Minister on the activities or programmes of the respective covered entity and the implementation of the budget of the covered entity for the preceding quarter, including the actual and forecast commitments and cash positions of the covered entity.

(4) The Minister shall, not later than the end of the third week after the end of a quarter, submit to Parliament, a consolidated expenditure commitment report to cover all the reports submitted under subsection (3).

(5) For purposes of this section “policy statement” means the medium-term development plans of Government.

Cash flow forecast

31. A Principal Spending Officer shall, in accordance with the Regulations, prepare and submit to the Minister monthly cash flow forecasts of the covered entity for the ensuing three months or any other period that the Minister may specify.

Virement

32. (1) The Minister may, on the request of a Principal Spending Officer, execute a virement in respect of an amount of money allocated to the covered entity of that Principal Spending Officer.

(2) A virement executed under subsection (1) shall not result in a future liability for that covered entity or the Government.

(3) A virement executed under subsection (1) is subject to the following conditions:

- (a) a virement of funds allocated for wages and salaries in an expenditure vote shall not be made unless the virement is in respect of wages and salaries within that expenditure vote;
- (b) a virement that involves a change in the spending plans approved by the Minister for the current financial year shall require the prior written approval from the Minister;
- (c) a virement may be made from a recurrent expenditure to capital expenditure as well as from one capital expenditure to another capital expenditure but shall not be made from a capital expenditure to a recurrent expenditure; and

(d) a virement shall not be made in respect of appropriated amounts between covered entities without the approval of Parliament in a supplementary estimate.

(4) Subject to subsection (3), the Minister may delegate to a covered entity, the authority to vary economic classifications within that covered entity up to a limit specified by the Minister, subject to the submission of a quarterly report by that entity to the Minister and Parliament.

Multi-year expenditure commitments

33. (1) A covered entity shall not enter into any agreement with a financial commitment that binds the Government for more than one financial year or that results in a contingent liability except where the financial commitment or the contingent liability

- (a) is with the prior written approval of the Minister, and
- (b) authorised by Parliament in accordance with article 181 of the Constitution.

(2) Parliament may, in the annual budget, authorise a covered entity to make a multi-year expenditure commitment, and where Parliament so authorises, the annual budget shall indicate the commitment approved for the financial year and the approved multi-year commitments.

(3) A multi-year expenditure commitment approved under subsection (2) shall be consistent with the objectives of the Fiscal Strategy Document.

(4) The Minister shall, in accordance with section 25, submit to Parliament a report on the performance of the multi-year expenditure commitments made for each financial year.

(5) A Principal Spending Officer may propose or commit to invest in a project only after expert assessment has been completed and the justification for the investment project and efficiency is established.

Submission of half-yearly reports on budget implementation

34. (1) The Minister shall submit to Parliament, not later than the 30th day of the months of January and July of each year, a half-yearly report on budget implementation performance.

- (2) The report required under subsection (1) shall include
 - (a) programmes and a major category of economic classifications; and

- (b) a brief statement of programme performance by each Principal Account Holder.

Supplementary budget

35. (1) Where in a financial year, it is found that the amount appropriated by the Appropriation Act is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Appropriation Act, the Minister shall lay before Parliament for approval, a supplementary estimate, in the form of a Supplementary Appropriation Bill indicative of the amount required.

(2) The Supplementary Appropriation Bill shall indicate how the supplementary expenditure shall be financed.

(3) The appropriated budget of a covered entity under section 21 does not include the supplementary budget of the covered entity.

(4) The Minister shall, subject to section 18, ensure that supplementary expenditure under a Supplementary Appropriation Bill is not likely to breach the objectives, targets, or rules set out in the Fiscal Strategy Document.

Contingency Fund

36. (1) There shall be paid into the Contingency Fund moneys voted for the purpose by Parliament; and advances may be made from the Contingency Fund which are authorised by the Committee responsible for financial matters in Parliament whenever the Committee is satisfied that there has arisen an urgent or unforeseen need for expenditure for which no other provision exists to meet the need.

(2) Where an advance is made from the Contingency Fund, a supplementary estimate shall be presented as soon as possible to Parliament for the purpose of replacing the amount advanced.

Sinking Fund and Debt Servicing

Creation of Sinking Fund

37. (1) The Minister may create a Sinking Fund.

(2) The Sinking Fund shall be used to redeem specified debt obligations of Government.

(3) The Minister shall, as part of the annual budget, specify and provide an update on the loans to be redeemed by the Sinking Fund.

(4) For the purpose of this Act, a “Sinking Fund” means a special fund created for the redemption of a loan or a pool of loans, purchase of loans or any other related purpose by means of a periodic contribution into a fund which is calculated in a manner that when accumulated at compound interest over the life of the loan, the sum available in the fund shall be sufficient to redeem the loan.

Sources of money for the Sinking Fund

38. The sources of money for the Sinking Fund are

- (a) periodic contributions of specified amounts determined by the Minister as part of the annual budget;
- (b) repayment inflows of money on-lent by the Ministry to covered entities, state-owned enterprises and public corporations;
- (c) moneys that accrue to the Fund from investment of moneys of the Fund;
- (d) moneys borrowed or raised from capital markets for the purpose of redemption of existing debts;
- (e) moneys approved by Parliament for debt repayment under subsection (4) of section 23 of the Petroleum Revenue Management Act 2011 (Act 815); and
- (f) any other moneys that the Minister, with the approval of Parliament determines to be paid into the Fund.

Administration of Sinking Fund

39. (1) The Controller and Accountant-General shall administer the Sinking Fund created under subsection (1) of section 37.

(2) The Controller and Accountant-General shall for the purpose of subsection (1), invest moneys of the Sinking Fund.

(3) For the purpose of subsection (2), the Minister shall issue an Investment Policy Statement.

Bank account of the Sinking Fund

40. (1) The Controller and Accountant-General shall pay moneys for the Sinking Fund into a bank account opened for the purpose with the approval of the Minister.

(2) The bank account opened for the Sinking Fund shall be considered to be part of the Treasury Single Account.

Payment from Sinking Fund

41. (1) A payment shall not be made from the Sinking Fund unless the funds are required for the redemption of a loan specified under subsection (3) of section 37.

(2) Subsection (1) includes a buyback of a debt obligation on the open market.

Accounts and audit

42. (1) The Controller and Accountant-General shall keep accounts of the Sinking Fund in accordance with Generally Accepted Accounting Principles and in the form agreed to by the Auditor-General.

(2) The Controller and Accountant-General shall submit the accounts of the Fund to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

Annual report and other reports

43. (1) The Controller and Accountant-General shall within one month after receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Sinking Fund for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General and a report on the performance of the Sinking Fund relative to its statutory object.

(3) The Minister shall within one month after the receipt of the annual report submit the report to Parliament with the statement that the Minister considers necessary.

(4) The Controller and Accountant-General shall also submit to the Minister any other reports which the Minister may require in writing.

Transfer of money

44. The total sum of money located in any bank immediately before the coming into force of this Act, which constitutes moneys designated for the repayment of loans, shall at the coming into force of this Act be transferred into the Fund created under section 37 (1).

Cash and Asset Management

Management and use of Government moneys

45. (1) The Minister is responsible for the management and efficient

use of all revenues and moneys paid into the Consolidated Fund and any other public funds designated as being in the care of the Minister.

- (2) For the purposes of subsection (1), the Minister
- (a) shall ensure co-ordination between the cash management of Government and the fiscal policy, monetary policy and debt management policy of Government;
 - (b) shall establish the institutional and administrative arrangements required to manage the cash management system within the Ministry; and
 - (c) may request a person, including a Ministry, Department or Agency, to provide any information that the Minister considers necessary for the effective operation of the cash management system.

Treasury Single Account

46. There is established by this Act, a Treasury Single Account

- (a) which is to serve as a unified structure of Government accounts to give a consolidated view of Government cash resources; and
- (b) into which all Government cash including moneys received by covered entities shall be deposited and from which all expenditure of Government and covered entities shall be made.

Collection, deposit and retention of Government revenue

47. (1) A covered entity shall not collect or receive revenue except where the covered entity is authorised by an Act of Parliament to collect or receive the revenue.

(2) The revenue collected or received by a covered entity under subsection (1) shall

- (a) be paid into and form part of the Consolidated Fund;
- (b) be receivable into a public Fund; and
- (c) be receivable into a public fund established for a specific purpose where authorised by the Constitution or an Act of Parliament.

(3) A covered entity may retain revenue collected or received, where the revenue is in the form of a levy, licence fee or administrative penalty and the covered entity is authorised through appropriation by Parliament to retain the revenue.

Consolidated Fund

48. (1) Any revenue or other money raised or received for Government shall form part of the Consolidated Fund.

(2) Dividends due to Government shall be paid into the Consolidated Fund without any deduction.

(3) The Minister may, by warrant to the Controller and Accountant-General, authorise a prepayment from the Consolidated Fund to

- (a) a public fund established by or under an Act of Parliament, or
- (b) a Principal Spending Officer, where the prepayment is to fund an expenditure which is approved under an Appropriation Act or a Supplementary Appropriation Act.

Investment of balances on the Consolidated Fund

49. (1) The Minister may

- (a) authorise the Controller and Accountant-General to invest any sum standing to the credit of the Consolidated Fund with
 - (i) the Bank of Ghana, or
 - (ii) an approved financial institution, or
- (b) invest any sum standing to the credit of the Consolidated Fund, in an instrument other than government instrument that the Minister considers appropriate.

(2) The Instrument referred to in subsection (1) shall mature within the fiscal year.

Spending from the Consolidated Fund

50. (1) Subject to article 178 of the Constitution, an expenditure shall not be met from the Consolidated Fund except on the authority of a warrant issued by the Minister to the Controller and Accountant-General.

(2) The Minister shall issue a warrant for payment

- (a) that is authorised under an Appropriation Act or a Supplementary Appropriation Act for the financial year that the withdrawal is intended for;
- (b) for repaying moneys erroneously paid into the Consolidated Fund or other public funds;

(c) for paying sums required for advance, refund, rebate or drawback where the payment of the advance, refund, rebate or drawback is provided for in this or any other enactment; or

(d) that is subject to cash available under section 45.

(3) The Minister may suspend, withdraw, limit or place conditions on a warrant under this section where the Minister determines that the suspension, withdrawal, limitation or condition is necessary due to a financial exigency or for purposes of public interest.

Bank account management

51. (1) A bank account shall not be opened for any covered entity without the written approval of the Controller and Accountant-General.

(2) Subject to the written approval of the Controller and Accountant-General, a bank account shall not be opened to receive or spend public funds.

(3) A bank account shall be managed by a covered entity in accordance with the terms and conditions determined by the Controller and Accountant-General.

(4) Subject to subsection (5), the Bank of Ghana is the depository of cash for the recurrent and capital operations of all covered entities.

(5) The Controller and Accountant-General may authorise a covered entity to open a bank account in an approved financial institution.

(6) The Controller and Accountant-General shall ensure that all government bank accounts are reconciled regularly and in accordance with generally accepted accounting practices.

(7) The Controller and Accountant-General

(a) shall regulate the operation of a bank account of a covered entity; and

(b) may, with the prior written approval of the Minister, suspend or close a bank account if the Controller and Accountant-General considers it necessary in the public interest.

(8) A Principal Spending Officer of a covered entity shall before the closure of a bank account under the control of that Principal Spending Officer, in writing, obtain the approval of the Controller and Accountant-General for the closure of the bank account.

(9) The Bank of Ghana or where applicable, a financial institution that holds a bank account on behalf of a covered entity shall, on request by the Controller and Accountant-General or the Auditor-General, in writing, disclose any financial information regarding the account, within fourteen days after receipt of the request.

Custody and management of assets

52. (1) A Principal Spending Officer of a covered entity, state-owned enterprise or public corporation shall be responsible for the assets of the institution under the care of the Principal Spending Officer and shall ensure that proper control systems exist for the custody and management of the assets.

(2) A control system specified in subsection (1) shall be capable of ensuring that

- (a) preventive mechanisms are in place to eliminate theft, loss, wastage and misuse; and
- (b) processes, whether manual or electronic, and procedures are in place for the effective, efficient, economical and transparent use of the assets.

(3) A Principal Spending Officer shall maintain a register of

- (a) lands and buildings under the control or possession of that Principal Spending Officer; and
- (b) all other assets under the control or possession of the Principal Spending Officer.

(4) The register referred to in subsection (3) (a) shall contain a record of the details of each parcel of land and each building and the terms on which the land or building is held, with reference to the conveyance, address, area, date of acquisition, disposal or major change in use, cost, lease terms, maintenance contracts and other pertinent management details.

(5) The register referred to in subsection (3) (b) shall contain a record of the details of all major items of furniture and equipment including furniture and equipment issued for either government quarters or offices, large tools for government works, plant, equipment and vehicles.

(6) A Principal Spending Officer shall maintain adequate records of government stores.

(7) The Principal Spending Officer is discharged of accountability of government stores where the stores have been

- (a) consumed in the course of public business and records are available to show that the stores have been consumed;

- (b) worn out in the normal course of public business and deletion from the accounts has been approved by the Minister and they have been disposed of in accordance with the directives of the Minister; or
- (c) lost, stolen, destroyed, damaged or rendered unserviceable other than by fair wear and tear and deletion from the accounts has been approved by Parliament.

(8) The Minister may, by legislative instrument, delegate powers of deletion and disposal of government assets to the Principal Spending Officer of a covered entity, state-owned enterprise or public corporation.

(9) A Principal Spending Officer shall not delegate a power granted under subsection (8).

Abandonment of claims and write off of public funds

53. (1) The Minister shall seek the approval of Parliament, to

- (a) abandon or remit a claim by or on behalf of Government,
- (b) abandon or remit a service to the Government, and

write off a loss of or a deficiency in public funds or public resources.

(2) Where Parliament grants approval under subsection (1), the approval shall be by a resolution of a simple majority of Parliament.

(3) The approval under subsection (1) shall specify the amount authorised for each abandonment or write off and the total sum authorised to be written off or abandoned.

(4) The Minister may, in accordance with the Regulations, abandon or remit

- (a) a claim by or on behalf of Government;
- (b) abandon or remit a service to Government; and

write off a loss of or a deficiency in public funds or public resources, where the amount involved is within the threshold set out in the Regulations.

(5) The Minister shall, within three months after the end of each financial year, lay before Parliament

- (a) a statement of the losses written off by the Minister in accordance with subsection (1);
- (b) a statement of the losses written off by the Minister in accordance with subsection (4); and
- (c) a list of the public officers surcharged for loss of, or a deficiency in public moneys or public resources.

(6) The amount in excess shall be treated as a loss of public funds in accordance with section 96.

(7) Where

- (a) a loss or an abandonment of a loss, or
- (b) a remittance of the total loss which is abandoned or remitted exceeds the amount authorised by Parliament, the amount in excess shall be treated as a loss of public funds in accordance with section 97.

Public Debt Management

Functions of the Public Debt Management Office

54. (1) The Ministry of Finance shall have an office that is responsible for public debt management and which shall be under the supervision of the Chief Director in accordance with the Civil Service Act, 1993 (PNDC Law 327).

(2) The Public Debt Management Office shall

- (a) handle debt management operations of the Government;
- (b) assess risks for government guarantees and lending;
- (c) assess all forms of credit agreements including suppliers' credit, buyer's credit, mixed credit and finance lease agreements to be entered into by the Government;
- (d) assess the feasibility of borrowing requirements implied by the path for the fiscal deficit in the Fiscal Strategy Document;
- (e) formulate the Medium-Term Debt Management Strategy; and
- (f) perform any other functions that may be determined by the Minister.

Government borrowing and debt management

55. (1) Subject to article 181 of the Constitution and this Act, the Minister has the authority to raise a loan on behalf of the Government, both within and outside the country and in local and foreign currencies.

(2) The Minister shall not delegate a power granted under subsection (1) to any other person.

(3) The proceeds of all borrowings on behalf of the Government shall be

- (a) paid into and form part of the Consolidated Fund; and
- (b) utilised for any of the purposes stated in section 57.

(4) Government shall cause to be opened a bank account for purposes of depositing all government borrowings.

Approval of Parliament of terms and conditions of government borrowings

56. (1) The terms and conditions of all government borrowings shall be laid before Parliament and shall not come into operation unless the terms and conditions are approved by a resolution of Parliament in accordance with article 181 of the Constitution.

(2) For the purpose of subsection (1), Parliament may, from time to time, by resolution, approve standard terms and conditions for government borrowings including the following:

- (a) the nature of facility;
- (b) purpose of government borrowing;
- (c) condition of drawdown;
- (d) terms of interest payment and repayment;
- (e) pre-payment and cancellation;
- (f) fees and charges in respect of the borrowing;
- (g) tax gross-up and indemnities;
- (h) other indemnities;
- (i) events of default;
- (j) conduct of business by the parties;
- (k) payment mechanisms;
- (l) costs and expenses;
- (m) remedies and waivers;
- (n) amendments and waivers;
- (o) governing law and jurisdiction;
- (p) agent's option;
- (q) arbitration;
- (r) waiver of immunity;
- (s) conditions precedent;
- (t) conditions of payment;
- (u) documents to be submitted;
- (v) collateral security; and
- (w) force majeure.

Borrowing purposes

57. (1) Government may borrow for the following purposes:

- (a) to finance government budget deficit as approved by Parliament;

- (b) to build up and maintain a liquidity buffer at a level or range determined by the Minister;
- (c) to on-lend funds to local government authorities, state owned enterprises, public corporations or any other entity as approved by Parliament;
- (d) to honour obligations under outstanding government guarantees;
- (e) to refinance outstanding government debt, including repayment of a loan prior to the maturity date of the loan and repurchase of government debt securities; and
- (f) for any other purpose as may be approved by Parliament.

(2) The issuance of a government debt security under this section shall be in accordance with the Medium-Term Debt Management Strategy and the annual borrowing plan.

(3) For purposes of this section “liquidity buffer” means the accumulation of funds reserved for debt restructuring and cash management.

Debt management objectives

58. (1) The objectives of government debt management are to ensure that

- (a) the financing needs of Government are met on a timely basis;
- (b) borrowing costs to Government are as low as possible over the medium to long term, consistent with a prudent degree of risk;
- (c) the development of the Ghanaian debt market is promoted; and
- (d) any other action considered to impact positively on public debt is pursued.

(2) The Minister shall be responsible for ensuring that the debt management objectives set out under subsection (1) are achieved.

Debt management strategy

59. (1) The Public Debt Management Office shall, submit to the Minister, a Medium-Term Debt Management Strategy for the management of government debt.

(2) The Public Debt Management Office shall,

- (a) on a rolling basis, update the Medium-Term Debt Management Strategy at least once a year; and

(b) submit the update in respect of the Medium-Term Debt Management Strategy to the Minister.

(3) The Minister shall not later than December of the preceding year, review the Medium-Term Debt Management Strategy and submit the strategy to Cabinet for approval.

(4) The Minister shall publish the approved Medium-Term Debt Management Strategy on the website of the Ministry and any other medium determined by the Minister.

(5) The Medium-Term Debt Management Strategy shall be based on the debt management objectives set out in section 58 and shall take into account

- (a) the cost and risk embedded in the current debt portfolio;
- (b) future borrowing requirements and debt recovery mechanisms of the Government;
- (c) the macro-economic framework of the country;
- (d) prevailing market conditions; and
- (e) any other factors that may be relevant for the development of the Medium-Term Debt Management Strategy.

(6) The Medium-Term Debt Management Strategy shall include guidelines or ranges for the acceptable market risks in the debt portfolio and planned borrowings and other debt management activities to promote development of the Ghanaian debt market.

(7) Upon approval of the Medium-Term Debt Management Strategy, all Government borrowings and other debt management operations shall be undertaken in compliance with the Medium-Term Debt Management Strategy and approved revisions to the strategy.

Annual borrowing and recovery plan

60. (1) The Public Debt Management Office shall, not later than the month of December of the preceding financial year, prepare an annual borrowing and recovery plan to meet the aggregate borrowing requirements of Government for each financial year.

(2) The annual borrowing and recovery plan shall be based on the approved Medium-Term Debt Management Strategy and shall include

- (a) planned borrowing operations over the year;
- (b) borrowing instruments to be used; and
- (c) the indicative timing of the borrowings.

(3) The annual borrowing and recovery plan shall be updated at least every six months.

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

(5) The Minister shall publish on the website of the Ministry, the approved annual borrowing and recovery plan and updates to the plan.

Issuance of government debt securities in the domestic debt market

61. (1) The issuance of government debt securities in the domestic market shall be by way of auction or any other method approved by the Minister.

(2) For the purpose of subsection (1), the Minister shall, by Regulations, or rules or guidelines published in the *Gazette*, regulate the format of and criteria for the auction and the procedures for participation, bidding, and allocation in auctions.

Issuance of government debt securities abroad

62. The issuance of government debt securities outside the country shall

- (a) be in the manner and on the terms and conditions approved by Parliament; and
- (b) subject to subsections (2) and (4) of section 60 be based on the annual borrowing and recovery plan.

Borrowing from banks and other financial institutions

63. Government borrowing from banks and other financial institutions by means of a loan agreement shall

- (a) be on the terms and conditions approved by Parliament; and
- (b) subject to subsections (2) and (4) of section 60 be based on the annual borrowing and recovery plan.

Other market transactions

64. (1) Subject to subsection (2), the Minister may, in accordance with the debt management objectives and the medium-term debt management strategy, undertake other market transactions, including

- (a) entering into financial swaps and other derivative transactions on behalf of Government for the purpose of managing the risks of Government under various financial transactions;
- (b) offering buybacks and exchanges of government debt securities; and
- (c) offering early repayment of loans before the date of maturity of the loans.

(2) A transaction under subsection (1)(a) is subject to the approval of Parliament.

Status of Government debt

65. (1) A government debt is an absolute and unconditional financial obligation of the Government.

(2) A debt charge is a statutory claim against the Consolidated Fund, without further appropriation.

(3) For purposes of subsection (2), a debt charge includes

- (a) moneys required to provide a sinking fund or other means of securing repayment of debt securities;
- (b) the remuneration and compensation of registrars and fiscal agents appointed under this Act;
- (c) costs, expenses and charges incurred in the
 - (i) negotiation or raising of a loan; or
 - (ii) issue, redemption, servicing, payment or management of a loan or a debt security issued in respect of a loan; and
- (d) moneys required to be paid under a contract or agreement related to government debt.

Government guarantees

66. (1) Subject to this Act, the Minister may issue a guarantee on behalf of Government in respect of the obligation of a local government authority, public corporation or other entity if, considering the debt management objectives and the debt management strategy of the Government, the Minister is satisfied that

- (a) it is in the public interest to issue the guarantee; and
- (b) the beneficiary of the guarantee has the ability to
 - (i) repay the underlying loan; and
 - (ii) fulfill all payment and other obligations under the underlying loan and under the guarantee and related agreements.

(2) The Public Debt Management Office shall, before the issuance of a government guarantee under subsection (1), assess the local government authority, public corporation or other entity to ascertain the fiscal risk of that local government authority, public corporation or other entity to the Government in respect of that guarantee.

(3) The result of the risk assessment and the method used in the

assessment shall be submitted to the Minister in written form.

(4) A government guarantee is subject to prior approval by Parliament.

(5) Unless otherwise determined by Parliament, a beneficiary of a government guarantee shall

- (a) pay a guarantee fee determined by the Minister, in consultation with the Director responsible for the Public Debt Management Office, to cover the credit risk of Government upon the signing of the guarantee; and
- (b) reimburse or pay in a manner directed by the Minister, the
 - (i) moneys paid by Government to honour the guarantee where the beneficiary defaults and the Government is required to honor an obligation under the guarantee;
 - (ii) expenses incurred by Government in relation to the guarantee; and
 - (iii) interest on all moneys paid by Government to honour the guarantee.

(6) The Minister shall pay into the Consolidated Fund guarantee fees received under paragraphs (a) and (b) of subsection (5).

(7) A government guarantee shall be supported by appropriate legal documentation executed by the beneficiary of the guarantee indemnifying Government for any amount paid by Government under the guarantee.

(8) Where a beneficiary of a government guarantee neglects or fails to honour the obligations of that beneficiary under the loan agreement to the creditor or make good an indemnity to Government, the Minister shall

- (a) proceed to enforce the rights of Government under the indemnity, and
- (b) pursue any action necessary to recover from the beneficiary, moneys owed to Government under the guarantee agreement and indemnity together with interest at the prevailing market rate.

(9) The moneys recovered by Government under subsection (8) shall be paid into the Consolidated Fund.

(10) A letter of intent, letter of comfort or similar letter, or an approval by Government of a borrowing to be undertaken by another entity shall not constitute a government guarantee or any other form of legal undertaking of Government.

(11) Any amount due to be paid by Government under a guarantee issued under this Act shall be charged on and paid out of the Consolidated Fund without further appropriation.

Government lending

67. (1) Subject to article 181 of the Constitution, the Minister has the sole authority to lend public funds on behalf of Government.

(2) The Public Debt Management Office shall, before the grant of a loan

- (a) assess the credit risk to Government of providing the loan; and
- (b) propose the rate of interest to cover the cost and the credit risk of Government.

(3) The Public Debt Management Office shall submit to the Minister, in writing,

- (a) the result of the risk assessment;
- (b) the method used in the assessment; and
- (c) the proposed rate of interest.

(4) The Minister shall enter into a government lending transaction only where the risk assessment concludes that the borrower has the financial ability to service the loan on the due date.

(5) Unless otherwise determined by Parliament, the borrower shall pay to Government, interest at a rate determined by the Minister to cover the cost of the lending transaction and the credit risk of Government.

(6) A government lending transaction shall be supported by appropriate legal documentation executed by the borrower agreeing to service the debt obligation of that borrower under the transaction.

(7) Where a borrower neglects or fails to service a debt obligation under a government lending transaction, the Minister shall

- (a) proceed to enforce the rights of Government under that transaction, and
- (b) pursue any action necessary to recover from the borrower, outstanding moneys owed to Government under the agreement.

Supplier's credit agreements entered into by Government

68. (1) Subject to article 181 of the Constitution, the Minister shall enter into supplier's credit agreements.

(2) The Public Debt Management Office shall, before the execution of a supplier's credit agreement, assess the cost to Government of entering into that agreement.

(3) The assessment of cost under subsection (2) shall include a comparison with other available financing options.

(4) The Public Debt Management Office shall submit to the Minister, in writing,

- (a) the result of the assessment; and
- (b) the available financing options.

Finance lease agreements entered into by Government

69. (1) Subject to article 181 of the Constitution, the Minister has the sole authority to enter into finance lease agreements on behalf of Government.

(2) The Public Debt Management Office shall, before the execution of a finance lease agreement, assess the cost to Government of entering into that agreement.

(3) The assessment of cost under subsection (2) shall include a comparison with other available financing options.

(4) The Public Debt Management Office shall submit to the Minister, in writing,

- (a) the result of the assessment; and
- (b) the available financing options.

Record of government debt and finance arrangements

70. The Public Debt Management Office shall keep in a timely manner and in an appropriate database, comprehensive and accurate records of

- (a) outstanding government debts;
- (b) derivative transactions entered into by Government;
- (c) guarantees issued by Government;
- (d) government lending transactions;
- (e) finance lease agreements entered into by Government; and
- (f) any other relevant record in respect of Government debt obligation.

Publication of government debt and finance arrangements

71. (1) The Public Debt Management Office shall, at least at half year intervals, prepare statistical bulletins that provide accurate and timely information in respect of

- (a) debt stocks, debt service cost and risk measures of the debt portfolio of Government;
- (b) derivative transactions entered into by Government;
- (c) guarantees issued by Government and the purposes and beneficiaries of these guarantees;
- (d) lending provided by Government and the borrowers of the funds;
- (e) supplier's credit agreements entered into by Government and the purposes of the agreements;
- (f) finance lease agreements entered into by Government, the purposes of the agreements, and the counterparts of Government; and
- (g) financial terms of new agreements.

(2) The statistical bulletin referred to in subsection (1) shall be published

- (a) on the official website of Government;
- (b) on the official website of the Ministry; and
- (c) in any other medium determined by the Minister.

Annual report to Parliament

72. (1) The Public Debt Management Office shall, in respect of each preceding year, prepare an annual report on

- (a) borrowings and other government debt management operations,
- (b) guarantee and lending activities of Government, and
- (c) other finance arrangements entered into by Government.

(2) The annual report shall include

- (a) information on the debt management strategy and the rationale for the strategy;
- (b) information on the contribution of the debt management strategy and the execution of the strategy in achieving the debt management objectives under section 58;
- (c) a list of outstanding government debt;
- (d) a list of outstanding government guarantees, including

- (i) the amount and beneficiaries of the guarantees, and
 - (ii) an assessment of the fiscal risk embedded in the guarantees;
- (e) a list of lending operations, including outstanding amounts and beneficiaries of the loans and an assessment of the credit risk of the loans; and
- (f) a list of outstanding supplier's credit agreements and finance lease agreements and the financial terms of the agreements.
- (3) The Minister shall
- (a) review the annual report; and
 - (b) after notifying Cabinet, submit the report to Parliament not later than 31st of March each year.

Borrowing by local government authorities, public corporations and state-owned enterprises

73. (1) On the coming into force of this Act, borrowing by a local government authority, a public corporation or a state-owned enterprise shall be in accordance with this Act.

(2) An enactment in force on the coming into force of this Act, relating to borrowing by a local government authority, a public corporation or a state-owned enterprise, shall be construed with the necessary modification to give effect to this Act.

(3) A local government authority, public corporation or state-owned enterprise is liable for the debt and other obligations of that local government authority, public corporation or state-owned enterprise without recourse to Government, unless otherwise explicitly guaranteed by Government in accordance with this Act.

Borrowing by local government authorities

74. (1) Subject to subsection (2) and without limiting section 73, a local government authority may borrow funds only

- (a) from within the country, and
- (b) up to the limit determined by the Minister in consultation with the Minister responsible for Local Government,

and consistent with the medium term debt strategy and annual borrowing and recovery plan.

(2) A local government authority shall obtain prior written approval of the Minister for

- (a) the issuance of debt securities to the public; or
- (b) borrowing of an amount above the limit determined by the Minister under subsection (1).

Reporting requirements of local government authorities

75. (1) A local government authority shall, not later than ten working days from the date of signing a loan agreement, issuance of a debt security or obtaining an overdraft, submit to the Minister a record of the transaction.

(2) A local government authority shall submit to the Minister annually and upon request

- (a) data on the total outstanding debt of that local government authority; and
- (b) any other information that the Minister may specify.

(3) The Public Debt Management Office shall keep, in a timely manner and in an appropriate database, comprehensive and accurate records of outstanding local government debts.

Borrowing by public corporations and state-owned enterprises

76. (1) Subject to subsection (2) and without limiting section 73, a public corporation or state-owned enterprise may borrow funds up to the limit determined by the Minister and consistent with the annual borrowing and recovery plan.

(2) A public corporation or state-owned enterprise shall obtain the prior written approval of the Minister in respect of

- (a) borrowing of an amount above the limit determined by the Minister under subsection (1); or
- (b) borrowing from a foreign market.

(3) For purposes of this section, “foreign market” means the financial market that represent the mechanisms for issuing and trading securities of an entity domiciled outside the country.

Reporting requirements of public corporations and state-owned enterprises

77. (1) A public corporation or state-owned enterprise shall, not later than twenty working days after the end of each quarter, submit to the Minister a record of outstanding debt and new borrowings including overdrafts and corporate debt securities issued.

(2) A public corporation or state-owned enterprise shall submit to the Minister annually and upon request

- (a) a record of the total outstanding debt and borrowing operations of that public corporation or state-owned enterprise; and
- (b) any other record that the Minister may specify.

(3) The Public Debt Management Office shall keep in a timely manner and in an appropriate database, comprehensive and accurate records of outstanding debts of public corporations and state-owned enterprises.

Power to appoint agents

78. (1) The Minister may appoint issuing agents, registration agents, primary dealers and other agents to facilitate primary and secondary market transactions in government debt securities.

(2) Despite subsection (1), the Bank of Ghana may act as a fiscal agent for Government to facilitate the issuance, management, redemption and repayment of government securities, on the terms and conditions that may be agreed in a fiscal agency agreement.

(3) A fiscal agency agreement under subsection (2) shall provide, among others, for

- (a) the duties and responsibilities of the Bank of Ghana;
- (b) the remuneration due the Bank of Ghana for the performance of the duties and responsibilities under paragraph (a); and
- (c) any reporting required by the Minister.

(4) For purposes of this section, an “issuing agent”, “registration agent”, “primary dealer” and “other agents” referred to in subsection (1) means an agent appointed in accordance with the Public Procurement Act, 2003 (Act 663) who acts on behalf of Government.

Accounts and Audit

Submission of financial statements

79. (1) A Principal Spending Officer shall, through the Principal Account Holder

- (a) prepare and submit quarterly financial statements to the Controller and Accountant-General by the 15th day of the month following each quarter of each financial year; and
- (b) submit any other relevant report within the time that the Controller and Accountant-General may determine.

(2) The Controller and Accountant-General shall prepare and submit a quarterly financial statement to the Minister by the end of the month following the end of each quarter.

Annual accounts

80. (1) A Principal Spending Officer of a covered entity shall, within two months after the end of each financial year, prepare and submit to the Auditor-General and Controller and Accountant-General, the accounts and information set out in the Schedule.

(2) A Principal Spending Officer of a public corporation shall, within two months after the end of each financial year,

- (a) prepare, in the format determined by the Controller and Accountant-General, a summary statement of financial performance of that public corporation;
- (b) submit the summary statement to the Controller and Accountant-General and the Auditor-General; and
- (c) submit a copy of the summary statement to the Minister.

(3) The accounts submitted under subsection (1) shall

- (a) be prepared in accordance with accounting standards and associated policies;
- (b) indicate the basis of accounting used in the preparation of the accounts; and
- (c) indicate the action taken by the covered entity as regards the recommendations of Parliament on the report of the Auditor-General.

(4) The Auditor-General shall in accordance with the Audit Service Act, 2000 (Act 584) examine and audit the accounts submitted under this section.

Consolidated annual accounts

81. (1) The Controller and Accountant-General shall, within three months after the end of each financial year, prepare and submit the following consolidated accounts to the Minister and the Auditor-General:

- (a) the consolidated annual accounts of Government including the accounts specified in the Schedule;
- (b) the accounts of the Contingency Fund; and
- (c) the accounts of the Petroleum Funds.

(2) The Controller and Accountant-General shall, in respect of accounts submitted under subsection (1), indicate a defect, shortcoming or any other factor which in the opinion of the Controller and Accountant-General materially affects the responsibility of the Minister under this Act.

Changes to accounting or classification system

82. The Controller and Accountant-General

- (a) may introduce changes to the accounting or classification system; but
- (b) shall provide a justification in respect of
 - (i) the change; and
 - (ii) how the accounting or classification system introduced shall ensure that public funds are properly accounted for.

Internal audit

83. (1) A covered entity shall have an Internal Audit Unit.

(2) The head of the Internal Audit Unit shall report administratively to the Principal Spending Officer and functionally to the Audit Committee of that covered entity.

(3) An Internal Auditor of the Internal Audit Unit of a covered entity shall

- (a) appraise and report on the soundness and application of the system of controls operating in the covered entity;
- (b) evaluate the effectiveness of the risk management and governance process of a covered entity and contribute to the improvement of that risk management and governance process;
- (c) provide assurance on the efficiency, effectiveness and economy in the administration of the programmes and operations of a covered entity; and
- (d) evaluate compliance of a covered entity with enactments, policies, standards, systems and procedures.

(4) The Internal Auditor of a covered entity shall, in consultation with the Principal Spending Officer of the respective covered entity and in accordance with guidelines issued by the Internal Audit Agency, prepare an annual audit work plan of the activities required to be performed by the Internal Auditor in a financial year which is determined by the risk assessment including the fiscal risk of that covered entity.

(5) The annual audit work plan, referred to under subsection (4), includes an appraisal and report on

- (a) budget planning and implementation, and compliance with national goals and objectives;
- (b) the development initiatives of the covered entity;
- (c) procurement of goods, services and works;

- (d) value for money on public expenditure;
 - (e) follow-ups on the agreed audit recommendations and required corrective actions;
 - (f) systems of government revenue collections for proper accountability; and
 - (g) proper, timely and effective use of Government financial information systems.
- (6) The Internal Auditor of a covered entity shall, within thirty days after the beginning of the financial year, submit
- (a) the annual audit work plan to the Principal Spending Officer of that covered entity and the Audit Committee established under section 86; and
 - (b) a copy of the annual audit work plan to the Internal Audit Agency.
- (7) The Internal Auditor of a covered entity shall submit quarterly reports on the execution of the annual audit work plan to the Principal Spending Officer of the covered entity concerned, the Audit Committee, the Auditor-General and the Director-General of the Internal Audit Agency.
- (8) The Internal Auditor of a covered entity shall, in the performance of functions under this Act,
- (a) have access to information and property required to be audited; and
 - (b) be provided with any relevant explanation required by the Internal Auditor.
- (9) The Internal Auditor of a covered entity shall report to the Principal Spending Officer concerned any incidents of suspected fraud or misuse of public funds.
- (10) Where the Internal Auditor of a covered entity suspects that a Principal Spending Officer is involved in fraud or misuse of public funds, the Internal Auditor shall report the matter to the Director-General of the Internal Audit Agency who shall in consultation with the chairperson of the relevant Audit Committee initiate investigations into the matter.
- (11) This section shall, so far as it relates to internal audit, be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658)

External audit

84. The Auditor-General shall, within six months after the end of each financial year, examine and audit the public accounts submitted under this Act in accordance with article 187 of the Constitution and the Audit Service Act, 2000 (Act 584).

Report on findings and recommendations

85. (1) A Principal Spending Officer shall, on an annual basis, submit the following to the Minister and Auditor-General:

- (a) a report on the status of implementation of recommendations made by the Auditor-General in respect of that covered entity; and
- (b) a report on the status of implementation of recommendations made by Parliament in respect of that covered entity.

(2) The Attorney-General shall, on an annual basis, submit a report on the status of any action commenced on behalf of the Government to the Minister, Auditor-General and Parliament following findings of the Auditor-General and recommendations of the Public Accounts Committee of Parliament.

Audit Committees

Establishment of Audit Committee

86. (1) There is established by this Act, an Audit Committee that shall serve one particular covered entity or any other covered entities in a sector.

(2) For the purpose of subsection (1), the Minister shall, by Regulations, specify

- (a) the number of Audit Committees to be established in each sector;
- (b) the qualification for appointment to an Audit Committee;
- (c) the funding of Audit Committees; and
- (d) the procedure for meetings of an Audit Committee.

Composition of Audit Committee

87. (1) An Audit Committee consists of five members.

(2) The majority of members of an Audit Committee shall be independent members.

(3) The Internal Audit Agency and the Institute of Chartered Accountants, Ghana shall nominate the majority of members from among persons who do not work in the covered entity to which the

Audit Committee relates and two other members shall be nominated by the Principal Account Holder.

(4) The chairperson of an Audit Committee shall be elected from among the independent members of the Committee.

(5) Without limiting subsection (2), an Audit Committee may, in the performance of its functions under this Act, co-opt a senior management personnel to serve on the Audit Committee.

(6) The Principal Account Holder shall appoint the chairperson and members of an Audit Committee.

Functions of Audit Committee

88. (1) An Audit Committee shall ensure that the head of a covered entity, to which the Audit Committee relates,

(a) pursues the implementation of any recommendation contained in

(i) an internal audit report;

(ii) Parliament's decision on the Auditor-General's report;

(iii) Auditor-General's Management Letter; and

(iv) the report of an internal monitoring unit in the covered entity concerned particularly, in relation to financial matters raised; and

(b) prepares an annual statement showing the status of implementation of any recommendation contained in

(i) an internal audit report;

(ii) Parliament's decision on the Auditor-General's report;

(iii) Auditor-General's Management letter;

(iv) the report on financial matters raised in an internal monitoring unit of a covered entity; and

(v) any other related directive of Parliament.

(2) An annual statement required under subsection (1) (b) shall

(a) indicate the remedial action taken or proposed to be taken to avoid or minimise the recurrence of an undesirable feature in the accounts and operations of a covered entity;

(b) indicate the period for the completion of the remedial action; and

(c) be endorsed by the relevant sector Minister and forwarded to the Minister, Parliament, Office of the President and the Auditor-General within six months after the end of each financial year.

Oversight of Local Government Authorities, Public Corporations and State-Owned Enterprises

Submission of consolidated audit accounts of local government authorities

89. The Minister responsible for Local Government shall, within nine months after the end of each financial year, submit to the Minister a statement of consolidated audited accounts of each local government authority.

Duty of governing body of public corporation and state-owned enterprise

90. The governing body of a public corporation or state-owned enterprise shall establish and maintain

- (a) policies,
- (b) procedures,
- (c) risk management and internal control systems, and
- (d) governance and management practices,

to ensure that that public corporation or state-owned enterprise manages its resources prudently and operates efficiently in accordance with the objectives for which the public corporation or state-owned enterprise was established.

Collection and receipt of moneys due to public corporations

91. (1) The Board of Directors of a public corporation governed by this Act shall ensure the efficient management of the financial resources of the public corporation including the collection and receipt of moneys due to that public corporation.

(2) Where a public corporation wilfully or negligently fails to ensure that moneys due to that public corporation are collected or received, the Minister shall, upon the recommendation of the Auditor-General, withdraw or suspend the emoluments of the members of the governing body of the public corporation, either jointly or severally.

Removal of directors of a public corporation

92. (1) A person appointed by the Government as a director of a public corporation who fails to report on the operations of that public corporation to the Minister as required under section 80 shall be removed from office.

(2) The procedure for the removal of a director in the Civil Service, as set out in the Civil Service Act, 1993 (P.N.D.CL. 327), applies to the removal of a director of a public corporation under subsection (1).

Annual financial plan of public corporations and state-owned enterprises

93. (1) The governing body of a public corporation or state-owned enterprise shall, not later than four months before the beginning of each financial year, submit to the Minister through the relevant sector Minister, a financial plan reflecting the proposed revenue and expenditure estimate of that public corporation or state-owned enterprise in respect of the ensuing financial year.

(2) The governing body of a public corporation or state-owned enterprise shall, at the end of every quarter and at any other time that the Minister and relevant sector minister may determine, report to them on

- (a) operations of that public corporation or state-owned enterprise in relation to its approved business plan for the year; and
- (e) any other matter that the Minister may specify as a matter to be included in the report.

Financial directives to public corporations and state-owned enterprises

94. (1) The Minister may issue a financial directive to a public corporation or state-owned enterprise requesting that public corporation or state-owned enterprise to

- (a) provide financial information that the Minister may specify; and
- (b) submit to a special audit or review by a person appointed by the Minister.

(2) A public corporation or state-owned enterprise shall comply with a financial directive issued under subsection (1).

(3) A financial directive issued under subsection (1) shall be disclosed in the annual report of the public corporation or state-owned enterprise concerned, covering the year in which the directive was received.

(4) The annual report referred to under subsection (3) shall indicate the extent to which the public corporation or state-owned enterprise concerned complied with the directive.

Accounts and audit of public corporations and state-owned enterprises

95. The governing body of a public corporation or a state-owned enterprise shall

- (a) cause to be prepared, not later than two months after the end of each financial year, an annual account in respect of that financial year; and

- (b) submit to the Minister, not later than four months after the end of each financial year, an audited financial statement.

Miscellaneous Provisions

Offences and penalties

96. (1) A person, acting in an office or employment connected with the procurement or control of Government stores, or the collection, management or disbursement of amounts in respect of a public fund or a public trust who

- (a) makes an unauthorised commitment resulting in a financial obligation for the Government,
- (b) fails to collect moneys due to the Government,
- (c) is responsible for any improper payment of public funds or payment of money that is not duly verified in line with existing procedures,
- (d) is responsible for any deficiency in or for the loss, damage or destruction of any public funds, stamp, security, stores or any other Government property,
- (e) accepts or receives money or valuable consideration for the performance of an official duty,
- (f) in relation to the duties of that person, willfully makes or signs a false certificate, false return or false entry in a book, or
- (g) fails to report knowledge or information in respect of fraud committed by a person against the Government, contrary to any enactment related to public financial management, to the appropriate authority or law enforcement authority

commits an offence and is liable on summary conviction to a term of imprisonment of not less than six months and not more than five years or to a fine of not less than one hundred penalty units and not more than two thousand, five hundred penalty units or to both.

(2) A person, acting in an office or employment connected with the procurement or control of Government stores, or the collection, management or disbursement of amounts in respect of a public fund or a public trust who authorises an expenditure exceeding the approved appropriation in the relevant budget commits an offence and is liable on summary conviction to a term of imprisonment of not less than six months and not more than twelve months or to a fine of not more than the value of the assessed impact of the commitment or to both.

(3) A person who promises, offers or gives money or any other valuable consideration to another person, acting in an office or employment,

- (a) connected with the procurement or control of government stores,
- (b) connected with the collection, management or disbursement of amounts in respect of a public fund or a public trust, or
- (c) with the intent to influence
 - (i) a decision or action on any question or matter that is pending or is likely to be brought before the person in an official capacity, or
 - (ii) a person to commit fraud against the Government or to connive with, take part in or allow an opportunity for the commission of the fraud

commits an offence and is liable on summary conviction to a fine of not more than three times the amount offered or accepted or a term of imprisonment of not less than six months and not more than two years or to both.

Surcharge

97. (1) Where the Minister, after due inquiry, is satisfied that

- (a) a loss or deficit in public funds that has been advanced to or is under the control of a public officer, or
- (b) a loss or damage to public property under the care of a public officer,

is occasioned as a result of the negligence or misconduct of that public officer, or the negligence or misconduct of that public officer contributed to the loss or deficit in public funds or loss or damage to public property, the amount of the loss or deficit or value of the property lost or damaged or the cost of replacing or repairing the damage to the property becomes a debt due to the Government and shall be recovered through an administrative procedure or through a court action.

(2) Where the negligence or misconduct of the public officer only contributed to the loss or deficit in public funds or loss or damage to public property, the amount recoverable from the public officer under subsection (1) may be restricted to an amount that the Minister, after due inquiry, considers just and equitable having regard to the contribution the public officer made to the loss, deficit or damage.

(3) For purposes of this section, a “public officer” includes a person who has previously occupied a public office.

Penalty for contravention of this Act

- 98.** (1) A person who
- (a) refuses or fails to produce or submit any information required under this Act,
 - (b) issues a local purchase order outside the Ghana Integrated Financial Management Information System or any other electronic platform in use by Government,
 - (c) misuses or permits the misuse of any Government property which results in a loss of public resources,
 - (d) contravenes or knowingly permits another person to contravene a provision of this Act or the Regulations, or
 - (e) instigates another person to contravene a provision of this Act or the Regulations,

commits an offence and where no penalty is provided for the offence, is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than two years or to both.

(2) A person who contravenes subsection (1) is, in addition to the penalty specified in that subsection

- (a) liable for any liability contracted on behalf of Government as a result of the contravention; and
- (b) subject to disciplinary action by Government including dismissal, demotion or suspension.

Waiver of sovereign immunity

99. Where the Minister is satisfied that it is in the public interest, the Minister may, in connection with a borrowing governed by foreign law,

- (a) in accordance with the Constitution and any other enactment, and
- (b) with the prior approval of Parliament

waive any right of the Government to claim sovereign immunity from proceedings in a foreign court to settle any disputes, and with respect to its assets.

Fiscal impact analysis of legislation and proposals

100. (1) Any legislation to be laid before Parliament or proposal submitted for the approval of Parliament shall be accompanied by a fiscal impact analysis stating the estimated effect on revenues and expenditures for the financial year in which the legislation or proposal is expected to come into effect.

(2) The fiscal impact analysis shall be prepared and submitted in accordance with the Regulations.

Regulations

101. (1) The Minister may, by legislative instrument, make Regulations

- (a) for the operation of a public account;
- (b) for the recording and controlling of expenditure commitments and payments;
- (c) for the management of Government assets;
- (d) for the management of Government debts;
- (e) for Audit Committees;
- (f) for claims and write offs of public funds;
- (g) for the period within which a covered entity shall close all bank accounts opened by the covered entity before the coming into force of this Act;
- (h) for the limit on borrowing by local government authorities;
- (i) for the limit on borrowing by public corporations and state-owned enterprises;
- (j) for penalties under this Act;
- (k) for the implementation of the Treasury Single Account established under section 46 particularly in respect of
 - (i) the scope of the Treasury Single Account,
 - (ii) the structure of subaccounts of the Treasury Single Account,
 - (iii) the compliance procedures required of covered entities and the Consolidated Fund;
- (l) prescribing the method for the preparation, evaluation and execution of investment projects under section 33;
- (m) prescribing the manner in which the Minister may, approve, abandon or remit
 - (i) claims by or on behalf of Government, or
 - (ii) service to the Government, and
- (n) any other matters that are necessary for the effective implementation of this Act.

(2) The Minister may, in consultation with the Public Procurement Authority, by legislative instrument, make Regulations governing the acquisition, receipt, custody, control, issue and disposal of Government stores.

Interpretation

102. In this Act, unless the context otherwise requires,

“accounting standards” mean authoritative statements adopted by the Controller and Accountant-General, indicating how particular types of transactions and other events are to be reflected in the accounts and financial statements of a covered entity;

“appropriation” means an authorisation made under an Appropriation Act permitting withdrawal out of the Consolidated Fund or any other public fund;

“Appropriation Act” means an Act passed in accordance with article 179 of the Constitution, which authorises withdrawal out of the Consolidated Fund or any other public funds for a financial year;

“approved financial institution” means an establishment licensed to deal in financial transactions;

“arrears” means any payment which has not been made on its due date;

“Auditor-General” means the person appointed as Auditor-General under article 187 of the Constitution;

“autonomous agency” means a self-governing body established by the Government that is responsible for making binding decisions and developing its strategic plans without interference or with limited interference from the Government;

“baseline parameters” means an agreed description of the attributes of a product, within a specific period where the agreed description serves as a basis for defining change to the product;

“borrowing” means

- (a) raising funds by concluding loan agreements,
- (b) obtaining advances by overdrafts, and
- (c) issuing debt securities;

“borrowing instrument” includes a loan agreement and an agreement to use overdraft facilities or securities;

“budget” means the Government plan of revenue and expenditure for a financial year;

- “budgeting” means the process by which Government sets levels to efficiently collect revenue and allocate the spending of resources among all sectors to meet national objectives;
- “cash management bill” means a debt security of the Government with a tenor of seven to twenty one days;
- “capital expenditure” means any expenditure for the creation or acquisition of a fixed asset, inventory or other valuable physical stock which is not expended within the year;
- “central government” means units of government that exercise authority over the economy of the country;
- “Chief Director” means the Chief Director of the Ministry;
- “commitment” in reference to a covered entity ,means a contract or other binding arrangement which creates a future expense or liability;
- “Consolidated Fund” means the Consolidated Fund established under article 176 of the Constitution;
- “consolidated public account” means the process of eliminating transactions between different ministries, agencies or units of government and combining in a common set of categories the sum of the external transactions of the ministries, agencies or units to and from the rest of the economy;
- “Controller and Accountant-General” means the person appointed under section 6 or an officer acting on the authority of the Controller and Accountant- General;
- “covered entities” means
- (a) the Executive, Legislature and Judiciary;
 - (b) constitutional bodies;
 - (c) Ministries, Departments Agencies and local government authorities;
 - (d) the public service;
 - (e) autonomous agencies; and
 - (f) statutory bodies;
- “debt” includes a financial liability created by
- (a) borrowing,
 - (b) credits accepted under supplier’s credit agreements,
 - (c) the issuance of debt securities, and

- (d) assumption of the payment obligations under a guaranteed loan;
- “debt management operations” include
- (a) preparation of medium-term debt management strategies to achieve the debt management objectives,
 - (b) preparation of annual borrowing and recovery plans based on the determined strategy;
 - (c) borrowings and other market transactions to achieve the strategic goals; and
 - (d) debt data recording and other debt administration activities, and preparation of reports and statistical bulletins on debt and debt management;
- “debt management strategy” means a strategic plan designed to make operational the high-level objectives for debt management, taking into account the cost and risk associated with the public debt portfolio, which specifies the borrowing requirements of government and how the borrowing requirement of government is financed over a number of years;
- “debt market” means an environment in which the issuance and trading of debt securities occur;
- “debt portfolio” means a combination of debt instruments, often classified in accordance with the share of particular currencies, and the types and rates of interest held by Government;
- “debt securities” mean
- (a) legal documents as evidence of debt issued by the Government in electronic format or hard copy to a named person;
 - (b) negotiable or non-negotiable bearer instruments;
 - (c) promissory notes, IOU undertakings and similar financial instruments;
- “economic classification” means the type of expenditure by Government in respect of compensation, goods and services and capital expenditure;

- “expenditure” means a non-repayable and a non-repaying payment by Government, whether required or unrequired and whether for current or capital purposes;
- “financial assets” means money at hand, or money that is easily accessible, in the form of cash deposit, cheque, loan, account receivable, and marketable securities such as deposits, loans, bonds, financial derivatives, and accounts receivable;
- “finance lease “ means an arrangement between two parties by which the lessor undertakes to lease to the lessee for the lessee’s use only and against payment of mutually agreed lease rentals over a specified non-cancellable period,
- (a) the lessor’s own already acquired assets, or
 - (b) an asset that the lessor agrees to acquire from a third party, known as the supplier, chosen and specified by the lessee so that the lessor retains full title to the asset during the period of the lease,
- and under which, subject to agreement by the lessor, the lessee may exercise an option to purchase the asset outright after the period of the lease at a price agreed on by the parties,
- “financial management system” means the methodology and software that the Government uses to oversee and govern its income, expenses and assets for purposes of optimising financial management, reporting and sustainability;
- “financial year” means a period of twelve months commencing on the 1st day of January and ending on the 31st day of December;
- “financing estimates” means a list of all sources of funds by which the budget deficit will be financed;
- “financial swap” means an agreement in which two parties exchange cash flows of one party’s financial instruments for those of the other party’s financial instrument;
- “fiscal agent” an institution or organisation such as a bank or financial institution that acts on behalf of government performing various financial duties including the redemption of bonds, coupons, handling tax issues, replacement of lost or damaged securities and other finance related tasks;

- “fiscal policy” means the means by which Government policies are implemented with respect to revenue, expenditure and debt management;
- “fiscal policy document” means an outline of the revenue, expenditure, financing and debt management decisions of Government that influences the economy;
- “fiscal policy objective” means the targets that Government seeks to achieve on the implementation of a fiscal policy;
- “fiscal risk” means a risk arising from an unforeseen macroeconomic scenario such as external shock, natural disaster, fluctuation in the value of Government assets, commodities or guarantees and other contingent liabilities;
- “fiscal risk statement” means a statement that the Government issues periodically on the nature of fiscal risk over the medium term or any other specific period;
- “fixed asset” means a long term resource controlled by a covered entity, public corporation or state owned enterprise as a result of past events and from which future economic benefits are expected to flow to the entity;
- “forecast fiscal balance” means a statement issued by the Government in respect of the expected amount of money which Government has accrued from tax revenue and the proceeds of assets sold minus any Government spending over a fiscal year or any other specific period;
- “foreign market” means the financial market that represents the mechanism for issuing and trading securities of entities outside the country;
- “Ghana Integrated Financial Management Information System” means the electronic platform used by the Government to
- (a) manage commitments made against appropriation,
 - (b) process payment claims,
 - (c) record revenue and expenditure transactions, and
 - (d) produce monthly, quarterly and annual financial reports;

- “Government” means any authority by which the executive authority of the Republic is exercised;
- “Government cash management” means the strategy and associated process adopted by Government for purposes of managing cost effectively in respect of the short term cash flows and short term cash balances of government;
- “Government debt” means a financial claim on the Government that requires payment by the Government of the principal sum or the principal and interest to a creditor;
- “Government property” means all movable and non-movable assets or chattels owned by Government including land, buildings, plant, vehicles, machinery and equipment;
- “guarantee” means an explicit undertaking by the issuer to guarantee fulfillment of a financial obligation for which the guarantee is issued;
- “internally generated funds” means revenue generated from the activities of a covered entity from its operations other than taxes collected by the Ghana Revenue Authority;
- “inventories” mean
- (i) assets in the form of materials or supplies to be consumed in the production process;
 - (ii) assets in the form of materials or supplies to be consumed or distributed in the rendering of services; and
 - (iii) assets held for sale or distribution in the ordinary course of operations;
- “investment” means an expenditure on the creation or acquisition of fixed assets, inventories, valuable physical stocks or securities;
- “liability” includes
- (a) a liability measured in accordance with generally accepted accounting practice, or
 - (b) a liability that is contingent on an uncertain future event depending on the circumstances of each case;
- “liquidity buffer” means funds set aside by Government to take care of shortfalls in Government financing in the short term;
- “local government authority” means a Metropolitan, Municipal, or District Assembly as defined under the Local Government Act, 1993 (Act 462);

- “macro fiscal risk” has the meaning assigned to fiscal risk;
- “market transaction” means an order placed by an insider, after the appropriate documentation has been filed, to buy or sell restricted securities openly on an exchange market;
- “medium-term” means a period of not less than three years but not more than five years;
- “Medium-Term Expenditure Framework” means an annual, rolling three-year expenditure planning that sets out the medium term expenditure priorities and hard budget constraints against which sector plans may be developed and refined to match available resources;
- “Medium-Term Fiscal Framework” means an annual rolling three year period over which the Government plans fiscal policy and likely budget parameters to macroeconomic performance;
- “Medium Term National Development Plan” means a set of comprehensive development programmes, activities and projects initiated by the Government through covered entities to support and give direction to Government efforts;
- “Minister” means the Minister responsible for Finance;
- “Ministry” means the Ministry responsible for Finance;
- “monetary grants” means non-repayable funds received by a covered entity from an individual, body or institution for use by the covered entity;
- “monetary policy objective” means
- (i) exchange rate and interest rate management that has no direct relation to fiscal policy but may be affected by fiscal policy operations; and
 - (ii) goals that the credit control measures adopted by the Bank of Ghana seek to achieve;
- “multi-year ceilings” means the explicit commitment of Government to limit expenditure within the established maximum level of expenditure for a period of more than twelve months;
- “multi-year contract” means a contract for the purchase of goods, works, supplies or services for a period of more than one program year;

- “multi-year expenditure commitment” means a contract, transaction, or agreement that binds the Government to a financial commitment for more than one financial year or which results in a contingent liability, except where the financial commitment or contingent liability is authorised by Parliament;
- “other entities” means a private institution, an organisation or a company that is of interest to Government in respect of achievement of its policies;
- “petroleum funds” means the Petroleum Holding Fund, the Ghana Stabilisation Fund, the Ghana Heritage Fund and subsequently, the Ghana Petroleum Wealth Fund;
- “petroleum revenue” includes
- (a) royalties in cash or in equivalent barrels of oil or equivalent units of gas, payable by a licensed producer, including the national oil company or a company under a Production Sharing Agreement or other agreement,
 - (b) corporate income taxes payable by licensed upstream and mainstream operators,
 - (c) participating interest,
 - (d) additional oil entitlements,
 - (e) dividends from the national oil company for Government’s equity interest,
 - (f) the investment income derived from accumulated petroleum funds,
 - (g) surface rentals paid by licensed producers, or
 - (h) any other revenue determined by the Minister to constitute petroleum revenue, derived from upstream and midstream petroleum operations;
- “prepayment” means the settlement of a debt or installment payment before its official due date;
- “Principal Account Holder” means the sector Minister or the political head of a covered entity;
- “Principal Spending Officer” in relation to a covered entity, means the Chief Director, Chief Executive or the most senior administrative head responsible for producing outputs;

“property” means

- (a) a book, paper, an account or a document that is used, received or in the possession of a person employed to collect or manage the revenue of Government;
or
- (b) moneys or valuable securities of Government that is in the possession of a person in the course of employment of that person;

“public accounting record” means a record that is classified as an account including manual and electronic record, a book, ledger, ledger sheet, ledger card, or machine tabulation and voucher, schedule, returns, bank statement or any other statement;

“public accounts” mean the financial statements, notes and reports pertaining to money received into, held in, and paid from public funds;

“public corporation” means a body corporate established under an Act of Parliament in accordance with article 192 of the Constitution;

“public finances” means the income and expenditures of a public sector organisation;

“public financial management system” means legal and administrative procedures established to permit covered entities to conduct activities in a manner that ensures correct usage of public funds to meet defined standards of probity, regularity, efficiency and effectiveness;

“public funds” means the Consolidated Fund, the Contingency Fund and any other fund established by or under an Act of Parliament;

“public money” includes tax revenue, non tax revenue, grants and other receipts;

“public office” includes an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and an office in a public corporation established entirely out of public funds or moneys provided by Parliament;

- “public officer” includes the holder of a public office and a person appointed to act in that office;
- “Public Procurement Authority” means the Public Procurement Authority established under the Public Procurement Act, 2003 (Act 663);
- “public resources” mean public revenue including revenue acquired through donation, bequest, borrowing, movable and fixed asset, deposit, receivables and rights;
- “public service” includes service in any civil office of Government, the emoluments attached to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and service with a public corporation;
- “public trust” means moneys raised or received in trust for or on behalf of the Government;
- “resources” means the amount of money, material, staff, aid, financial assistance, technical assistance and other assets available to an entity to enable it carry out its functions;
- “resource envelope” means the overall financial resources available to Government for the fiscal year;
- “sector Minister” means the Minister with oversight responsibility for the public corporation or state-owned enterprise concerned;
- “short-term” means a period of not more than three years;
- “state-owned enterprise” means an entity whether incorporated or not under the Companies Act, 1963 (Act 179) whose shares are wholly or partially held or controlled by Government;
- “statutory expenditure” means an expenditure charged on the Consolidated Fund by the Constitution or by an Act of Parliament otherwise than expenditure of moneys appropriated or granted by an Appropriation Act or a Supplementary Appropriation Act;
- “spending plan” means a strategy document that contains the cash flow of a covered entity of Government;
- “subvention” means the appropriation of funds to a covered entity for onward transfer to an entity which is not a covered entity;

“Supplementary Appropriation Act” means an Act passed in accordance with article 179 of the Constitution the purpose of which is to supplement an appropriation granted under an Appropriation Act;

“supplier’s credit agreement” means a credit arrangement that includes payment of interest between a purchaser and a supplier of any goods, works or services that gives the purchaser the right to fully pay for the goods, works or services at a future date extending beyond one year from the date the goods, works or services were supplied;

“Treasury Single Account” means a consolidated bank account system where all deposit and payments transactions are processed for central government;

“unexpended” means a budgetary appropriation based on which commitment has been made and expenditure incurred but not yet paid by the end of the financial year;

“virement” means the reallocation of funds within the budget from one budget line to another budget line; and

“warrant” means the authority to commit government.

Repeals and savings

103. (1) The following Acts are repealed:

- (a) the Financial Administration Act, 2003 (Act 654); and
- (b) the Loans Act, 1970 (Act 335).

(2) Section 16(8) of the Internal Audit Agency Act, 2003 (Act 658) is repealed.

(3) Section 30 of the Audit Service Act, 2000 (Act 584) is repealed.

(4) Despite the repeal of the enactments in subsection (1), the Regulations, orders, rules and instructions relating to the administration of public finance, government stores and public corporation other than that set up for commercial purposes made or done under the repealed enactments shall continue to have effect as if made or done under this Act with the necessary modification until the Regulations, orders, rules and instructions are revoked, reviewed, cancelled, withdrawn or terminated by Regulations, orders or directives under this Act.

(5) Despite the repeal of the enactments in subsection (1), any borrowing, lending or guarantee issued by Government or any other

transaction entered into for and on behalf of the Government under any of the repealed enactments or Regulations made under the repealed enactment shall

- (a) be considered to have been done under this Act; and
- (b) continue in force in accordance with the terms of the transaction until maturity or expiry.

(6) Despite the repeal of the enactments in subsections (2) and (3), a report or a statement submitted under section 16 (8) of the Internal Audit Agency Act, 2003 (Act 658) or section 30 of the Audit Service Act, 2000 (Act 584) shall be considered to have been submitted under this Act.

Transitional provisions

104. (1) An internal audit officer or a public officer performing internal audit work in a covered entity immediately before the coming into force of this Act shall on the coming into force of this Act be deemed to constitute the members of the Internal Audit Unit for purposes of this Act.

(2) Despite subsection (1), a public officer performing internal audit duties in a covered entity may be reassigned to an internal audit unit that the appointing authority may determine.

SCHEDULE

Accounts to be submitted

(section 80 and 81)

Accounts to be submitted by the Controller and Accountant-General

1. The Controller and Accountant-General shall submit the following accounts to the Minister and the Auditor-General:

- (a)* a balance sheet showing the consolidated assets and liabilities of all public funds;
- (b)* a consolidated statement of the cash flow for all public funds and any other entity of central Government showing the revenues, expenditures and financing for the financial year;
- (c)* a balance sheet showing the assets and liabilities of the central Government;
- (d)* a statement of the cash flow for the central Government showing the revenues, expenditures and financing of the Consolidated Fund for the financial year;
- (e)* a summary statement of revenue and expenditure, being a summary of all the statements signed by the Principal Spending Officer under subparagraph *(a)* and *(c)* of paragraph (2);
- (f)* relevant notes to the account; and
- (g)* any other statement that Parliament may require.

Accounts to be submitted by Principal Spending Officer

2. A Principal Spending Officer shall submit the following accounts to the Controller and Accountant-General:

- (a)* an appropriation account, signed by the Principal Spending Officer, showing
 - (i)* the services for which the moneys expended were voted,
 - (ii)* the sums actually expended on each service, and
 - (iii)* the state of each covered entity compared with the amount appropriated for that covered entity by Parliament;
- (b)* a statement signed by the Principal Spending Officer in the form that the Controller and Accountant-General may direct, containing

- (i) the amount of commitments outstanding for the supply of goods, works and services at the end of the financial year, and
 - (ii) any other information that the Controller and Accountant-General may require;
- (c) a statement of revenues received and signed by the Principal Spending Officer in the form the Controller and Accountant-General may direct, showing
 - (i) the amount contained in the estimates of revenue for each source of revenue,
 - (ii) the amount actually collected, and
 - (iii) an explanation for any variation between the revenues actually collected and the amount estimated;
- (d) a statement of arrears of revenue signed by the Principal Spending Officer which
 - (i) indicates the amount outstanding at the end of the financial year for each source of revenue, and
 - (ii) contains information in the form that the Controller and Accountant-General may direct, and which shall be submitted as a nil return where appropriate;
- (e) a statement of assets, signed by the Principal Spending officer, indicating
 - (i) details and values of the unallocated stores under the control of the Principal Spending Officer at the end of the financial year, and
 - (ii) details and values of any other classes of assets under the control of the Principal Spending Officer, as the Controller and Accountant-General may determine;
- (f) a statement of performance, signed by the Principal Spending Officer, indicating each class of output provided during the year, which shall
 - (i) compare the performance with the forecast of the performance contained in the estimates laid before Parliament; and

- (ii) give the particulars of the extent to which the performance criteria specified in that estimate in relation to the provision of those outputs was satisfied; and
- (g) any other statements, in the form that the Controller and Accountant-General may require.

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