

EXPLANATORY NOTES TO THE PUBLIC FINANCIAL MANAGEMENT ACT 2013

The Bill seeks to strengthen the framework for the Government's management of the Consolidated Fund and other public resources, to make the Government accountable to Parliament for its management of public resources and to make public officers and other persons who control or spend public resources individually accountable for their use and management and decisions in respect thereof.

Part 1 of the Bill deals with preliminary matters, including definitions and provides that the Act binds the Crown and prevails over inconsistent Acts.

Part 2 states the purposes and principles of the Act.

Part 3 sets out the roles and duties of the Minister and other Government financial managers and would establish the office and duties of the Accountant General.

Part 4 would allow the Minister to establish an Internal Audit Office headed by a Director of Internal Audit, with the powers given him in that Part.

Part 5 deals with the management of the Consolidated Fund and other funds.

Division 1 sets out the rules for management of the Consolidated Fund and special funds. The Division would also include a power for the Minister to establish targeted balances for targeted allocations as part of the Consolidated Fund and to establish a targeted balances account.

Division 2 sets out the rules for managing money deposited with the Government, but not raised or received for the purposes of the Government, money received subject to specific terms and conditions or money insufficiently documented to enable immediate allocation to the correct service.

Division 3 would set out the duties of Government officers and others respecting the custody of public money and use of Government bank accounts. The Division would also confer powers

on the Minister to invest public monies on behalf of the Government and specify permitted investments.

Part 6 of the Bill sets out the procedures for preparation of the annual budget, including the budgeting process, the estimates, budgetary appropriations and variations of appropriated amounts.

Division 1 sets out that the Ministry of Finance has responsibility for the preparation, management and monitoring of the annual budget. The Division also provides for the preparation of the budget estimates and the presentation of the annual budget in Parliament.

Division 2 provides for the introduction of an Appropriation Bill for each financial year, the making of requests for Supplementary Appropriations and the tabling of budget reports in Parliament by the Minister.

Division 3 would give the Minister powers to approve virements, or variations in appropriated amounts within a budget head.

Part 7 of the Bill would give power to the Minister and the Secretary to issue warrants for spending money from the Consolidated Fund or make statutory expenditures. The Part defines the various types of warrants that may be issued, the conditions for their issue and their duration.

Part 8 would give the Minister the power to approve borrowing by a Government agency, provincial government or a state owned enterprise, on-lending of public money to any entity in the public or private sector and to guarantee of a loan by another entity. It sets out the process by which and conditions upon which borrowing, on-lending or guarantees may be approved by the Minister. The Part establishes a debt management advisory committee and requires the Minister to seek its advice before borrowing, on-lending or guaranteeing a loan on behalf of the Government.

Part 9 sets out the duties of accountable and accounting officers in managing the procurement process on behalf of Government. It also sets out their duties in respect to the management of public resources.

Part 10, which provides for the preparation of the public accounts, would require accountable officers to submit monthly financial reports to the Accountant General as well as a series of annual financial reports to be submitted to the Accountant General and Auditor-General. The Part would require the Accountant General in turn to submit to the Minister and

Auditor-General the annual accounts and a series of detailed financial reports.

Part 11 of the Bill requires accountable and accounting officers to recover public debts, unless written off by the Minister, and authorises the National Parliament to abandon claims or write-off losses. The Part also would empower the Government to receive and give gifts and donations.

Finally this Part would give the Minister the power to make regulations respecting public procurement, public accounts, public stores, public funds and the national budget and to establish offences for breaches of the Act or regulations.

Part 12 would declare certain acts or omissions of public officers, accountable officers and accounting officers in dereliction of their duties to be misconduct in office, subject to sanction under the *Leadership Code (Further Provisions) Act 1999*. The Part would also permit the Minister to issue surcharges against such officers to recover losses to the Government due to such acts or omissions and, if the amount of the surcharge is significant, to direct the Attorney-General to recover it in court as a debt due to the Crown.

Part 13 would repeal the Public Finance and Audit Act (Cap.120), except the Parts of that Act necessary for the continued functioning of the Office of the Auditor General. It would preserve the financial instructions, certain Orders and agreements made under the repealed Parts of the Act.

EXPLANATORY MEMORANDUM

Clause 1 provides for the short title and commencement of the Act.

Clause 2 defines terms used in the Act.

Clause 3 makes the Act binding on the Government and Government agencies.

Clause 4 provides that the Act prevails in case of conflict with another Act.

Clauses 5 and 6 set out the purpose and principles of the Act.

Clause 7 and 8 describe the roles and responsibilities of the Minister.

Clause 9 describes the roles and responsibilities of the Permanent Secretary Finance.

Clause 10 establishes the Office of the Accountant General.

Clause 11 describes the roles and responsibilities of the Accountant General.

Clause 12 describes the overall responsibilities of the accountable officers.

Clause 13 sets out the responsibilities of accounting officers.

Clause 14 describes the roles and responsibilities of financial controllers.

Clause 15 gives the Minister the power to delegate some of his functions and powers under the Act to an accounting or accountable officer.

Clause 16 allows accounting and accountable officers to delegate their functions and powers under the Act to another accounting or accountable officer.

Clauses 17 and 18 impose specific duties on accountable and accounting officers including a duty to comply with the Part X of the Penal Code and the Leadership Code.

Clause 19 allows the Minister to establish an Internal Audit Office headed by a Director of Internal Audit appointed by the Public Service Commission and sets out the Director's responsibilities.

Clause 20 confers powers and duties on the Director of Internal Audit.

Clause 21 requires the Minister to appoint an Audit Committee to oversee the Internal Audit functions of the Government.

Clause 22 provides that public monies raised or received by the Government be paid into the Consolidated Fund.

Clause 23 defines monies raised or received by the Government.

Clause 24 permits the Minister to establish special funds by Order and deems the special funds set out in the Schedule to have been so established.

Clause 25 requires estimates of income and expenditure of a special fund to be laid before the National Parliament before any expenditure may be made from the fund.

Clause 26 provides for the circumstances and procedure for winding up of special funds by the Minister.

Clause 27 defines "targeted balances".

Clause 28 gives the Minister the power to establish and to determine the operation targeted balances by Order.

Clauses 29 and 30 provides authority for the Minister to establish the targeted balances account and to approve spending of funds in such accounts.

Clause 31 provides for the lapsing of unexpended balances in targeted balance at the end of the fiscal year.

Clauses 32 and 33 define "deposits" and provide for their administration by the Secretary.

Clauses 34 and 35 permit the Minister to authorise the investment of deposits or their use for making advances.

Clause 36 provides for the payment of unclaimed deposits into the Consolidated Fund.

Clause 37 requires monies received for specific purposes of Government to be paid into a deposit account.

Clause 38 provides for the lodging of insufficiently documented monies charged to the Government by overseas agents in a suspense account.

Clauses 39 and 40 impose a duty on accountable, accounting and public officers to keep public money in safe custody and to deposit it in a Government bank account.

Clause 41 prohibits the use of a Government bank account or public money for a personal purpose and prohibits the misuse of public money by accountable, accounting and public officers.

Clauses 42 and 43 give the Minister the power to invest public money on behalf of the Government and specify permitted investments.

Clause 44 gives the Ministry of Finance and Treasury responsibility for preparation of the annual budget and management of the budget process.

Clause 45 requires the Minister to table in Parliament and publish reports on the Government's budget strategy, fiscal strategy, debt management strategy and medium term development plan.

Clause 46 requires accountable and accounting officers to prepare budget estimates for their Government agency for the financial year and up to the next three financial years.

Clause 47 sets out the contents of the national budget.

Clause 48 gives the timeframe for the Minister's presentation to Parliament of the national budget and statement of outputs for each head of expenditure.

Clause 49 defines "statutory expenditures" and states the requirement for the Minister to introduce the Appropriation Bill in Parliament.

Clause 50 provides for the set off of advances against the amounts provided for in the Appropriation Act for the financial year.

Clause 51 authorises the Minister to seek supplementary appropriations for certain purposes.

Clause 52 requires the Minister to table certain budget reports, at certain times, in the National Parliament and sets the standards for those reports.

Clauses 53 and 54 define “virements” and sets out the process and criteria for approval of virements by the Minister.

Clause 55 provides that issues from the Consolidated Fund may only be made under the authority of a general warrant issued by the Minister.

Clause 56 provides additional purposes for the issue of a general warrant and authorises the Minister to suspend, withdraw or limit any warrant by reason of financial exigencies or in the public interest.

Clause 57 requires accounting warrants to be issued incurring any commitment or expenditure and provides for the terms of their issuance.

Clause 58 establishes the procedure and conditions for issuance of contingency warrants by the Minister.

Clause 59 establishes the procedure and conditions for issuance of departmental warrants by accountable officers.

Clause 60 gives the Minister the power to authorise advances for certain purposes, subject to the limits in the Appropriation Act.

Clause 61 provides that appropriations and warrants lapse at the end of the financial year in respect of which they were issued.

Clause 62 requires the Minister to publish a notice of revocation or amendment by the Minister of a warrant issued under the Act.

Clause 63 defines the terms “Government borrowing”, “Government on-lending” and “Government guarantee”.

Clause 64 requires the Minister to seek the advice of the debt management advisory committee before exercising his powers under Part 8 and enables him to seek advice from others as well.

Clause 65 requires the Minister to establish a debt management advisory committee and specifies the membership of the committee.

Clause 66 gives the Minister the power to borrow money and establish the borrowing limit on behalf of the Government and

requires provincial governments and state owned enterprises to obtain the consent of the Minister before borrowing.

Clause 67 sets out the procedure and powers of the Minister to approve Government on-lending and specifies terms and conditions for undertaking it.

Clause 68 sets out the procedure and powers of the Minister to approve Government guarantees and specifies the terms and conditions on which a guarantee may be approved.

Clause 69 requires the Minister to set up a debt servicing account and set aside a predetermined portion of Government revenue for the purpose of discharging statutory debt.

Clause 70 establishes conditions that must be met by a proposing Government agency, provincial government, state owned enterprise or the City of Honiara before the Minister may approve any Government borrowing, on-lending or guarantee.

Clause 71 imposes limits and restrictions on the Minister's authority to borrow.

Clause 72 requires the Minister to make procurement regulations. It also requires accountable officers to plan and prioritise their Government procurement activities and to comply with the prescribed procurement processes.

Clause 73 imposes a standard of care on accountable and accounting officers managing Government procurement activities and prohibits certain conduct in relation thereto.

Clause 74 requires accountable and accounting officers to comply with prescribed procedures for certain Government procurement activities.

Clause 75 imposes a standard of care on accountable and accounting officers managing public resources and requires that they keep proper records of public resources under their control and follow prescribed procedures in handling them.

Clause 76 requires accountable officers to submit monthly financial reports to the Accountant General and sets the standard for reporting.

Clause 77 requires the Accountant General to submit to the Minister and Auditor-General after the end of each financial year the annual

accounts and a series of detailed financial statements. The Clause also requires accountable officers to submit a series of financial statements to the Accountant General and Auditor-General after the end of the financial year.

Clause 78 requires authorisation from the Minister for accountable or accounting officer to enter into obligations that will hinder future government revenue streams, dispose of assets or create a future liability.

Clause 79 requires accountable and accounting officers to recover public debts unless written off by the Minister.

Clause 80 authorises the National Parliament to abandon claims or write-off losses by resolution and allows the Minister to delegate to an accounting officer any power that he is authorised to exercise by such a resolution.

Clause 81 would empower the Government to receive and give gifts and donations but requires accountable or accounting officers to keep proper books of account in respect thereto.

Clauses 82 and 83 give the Minister the power to make regulations respecting public procurement, public accounts, public stores, public funds and the national budget and to establish offences for breaches of the Act or regulations.

Clause 84 declares that accountable, accounting or public officers who carry out the duties specified in the clause, or fail to carry out those duties, so as to acquire a personal material or immaterial gain for themselves or another person are guilty of misconduct in office.

Clause 85 provides that accountable, accounting or public officers guilty of misconduct in office pursuant to clause 84 are subject to sanction under the *Leadership Code (Further Provisions) Act 1999* and the *Public Service Regulations 1998*.

Clause 86 allows the Minister to impose a surcharge on any accountable, accounting or public officer whom he believes to be guilty of misconduct in office under clause 84, in an amount not exceeding the amount of money lost to the Government due to the misconduct. The clause provides opportunities to the officer to explain his act or omission to the Minister and for the Minister to withdraw the surcharge.

Clause 87 gives the aggrieved officer a right of appeal to the High Court by against the surcharge.

Clause 88 deems a surcharge to be a debt due to the Crown and provides for its collection by deduction from the officer's salary or pension.

In the case that the officer ceases to be a public officer or in the case of large losses to the Government, the clause permits the Attorney General to pursue the debt in any court of competent jurisdiction and provides for expedited rules of evidence to recover the debt.

Finally, the clause provides that where an officer's misconduct is only partly to blame for the Government's loss, the Government is entitled to recover only part of that loss from the officer.

Clause 89 repeals the Public Finance and Audit Act (Cap.120), except for those Parts of the Act necessary for the continued functioning of the Office of the Auditor General.

Clause 90 preserves agreements entered into under the repealed Act and the subsidiary legislation respecting audits carried out by the Auditor General. It also provides that the financial instructions and certain Orders made respecting Audits under the repealed Act shall continue in force until replaced.

The Schedule lists the Special Funds that are deemed to have been established under clause 24 of the Bill.

