

GOVERNMENT BUDGET MANAGEMENT AND ACCOUNTABILITY ACT, 2004

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Budget Management and Accountability Act, 2004



THE GAMBIA
NO. 12 OF 2004.

Assented to by The President,
this 12th day of December, 2004.

YAHYA A.J.J. JAMMEH
President.

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AN ACT to provide for the control and management of public monies, for the powers and duties of the legislature and executive in the preparation, presentation, approval, execution, and reporting of Government budget and for matters connected therewith.

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ENACTED by the National Assembly and the President.

PART I - PRELIMINARY

1. This Act may be cited as the Government Budget Management and Accountability Act, 2004.

2. In this Act, unless the context otherwise requires -

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

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

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

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

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

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

"Department of State" means the Department of State responsible for finance and economic affairs;

Short title:
Interpretation

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

"departmental self-raised revenue" means revenue or other money collected and retained by a budget agency for the purpose of defraying the expenses of the budget agency in accordance with the provisions of section 150 (2)(b) of the Constitution;

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

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

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

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

"Permanent Secretary" means, the Permanent Secretary of the Department of State;

"public money" means-

- (a) any money in the custody or under the control of-
 - (i) the Government of The Gambia; or
 - (ii) any person acting for or on behalf of the Government of The Gambia; and
- (b) includes any public money held on trust for, or otherwise for the benefit of a person, other than the Government of The Gambia;

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

"Secretary of State" means, the Secretary of State responsible for finance and economic affairs;

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

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

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

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

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

"vote controller" means the head of a budget agency or the public officer authorized by the head of the agency to take charge of and manage funds appropriated for that agency.

Financial Instructions

3. (1) The Secretary of State may issue Financial Instructions for the proper implementation of the provisions of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Financial Instructions may provide for --

- (a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of, all public monies and the guidance of all persons concerned;
- (b) the recording, examination, inspection and departmental check of all receipts and payments, and the keeping of all necessary books and accounts;

(c) the purchase, safe custody, issue, sale or other disposal or write-off of public stores, and other property of the Government of The Gambia, and the proper accounting for, and stock-taking of, the stores and property;

(d) the authorizations of rates of payments of public funds for specific purposes where the rates of payments are not provided by law;

(e) the making of advances to public officers and persons and the rates and limits of such advances and the rates of interest thereon.

(3) The Financial Instructions shall be published in such manner as the Secretary of State may direct.

PART II - DUTIES AND RESPONSIBILITIES OF DEPARTMENT OF STATE, SECRETARY OF STATE AND PERMANENT SECRETARY IN GOVERNMENT BUDGET PREPARATION, ACCOUNTING, AND REPORTING OF GOVERNMENT BUDGET

4. (1) The Department of State shall -

- (a) develop the Government's macro-fiscal policy and the medium-term revenue and expenditure framework for budget preparation;
- (b) manage the budget preparation process;
- (c) coordinate the management of external grants and loans;

Duties and responsibilities of the Department of State

- (d) carry out budget execution and internal auditing, cash management and internal year financial planning, management of Government banking arrangements, management of Government accounting, management of Government accounting and reporting, and management of public debt;
- (e) promote fiscal transparency and effective management in respect of revenues, expenditures, and assets and liabilities of the Government;
- (f) exercise control over the implementation of the Government budget, including any adjustments to the current year budget;
- (g) publish, where appropriate, the progress of budget execution;
- (h) inspect the financial operations and proper management of budget agencies; and
- (i) prepare and submit annual statement of Government accounts to the Auditor General, and publish them for the interest of the general public, as prescribed by this Act.

(2) The Department of State shall, for the purposes of subsection (1) -

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

Duties and responsibilities of the Secretary of State

5. (1) The Secretary of State is responsible to the President and the National Assembly for the policy and other decisions of the Department of State.

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

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

(4) A delegation or assignment under subsection (3) does not preclude the Secretary of State from performing the duty or carrying out the responsibility delegated or assigned.

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

Duties and responsibilities of the Permanent Secretary

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

(2) The Permanent Secretary shall, under the general directions of the Secretary of State, take regularly an overall charge of the duties and responsibilities of the Department of State mentioned in section 5.

(3) The Permanent Secretary –

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

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

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

Treasury Directorate

7. (1) There shall be established in the Department of State, a unit to be known as the Treasury Directorate, to replace the existing Accountant General's Department.

(2) The head of the Treasury Directorate shall perform his or her duties under the direct supervision of the Permanent Secretary in accordance with the Financial Instructions.

(3) The Treasury Directorate shall be established within three months after the commencement of this Act.

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

Consolidated Fund

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

- (a) all revenues or other public monies raised or received for the purpose of, or on behalf of the Government, including tax revenues, non-tax revenues, grants, and loans; and
 - (b) any other monies raised or received on trust for or on behalf of the Government.
- (2) Notwithstanding the provisions of subsection (1), an Act of the National Assembly may provide -

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

9. No money shall be withdrawn from the Consolidated Fund, except -

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

Suspension, withdrawal and initiation of warrant or authorization

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

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

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

11. No money shall be withdrawn from any extra-budgetary fund or departmental self-raised revenue unless the Secretary of State has authorized the issue of that money.

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

12. (1) Any money due to the Consolidated Fund shall be paid by depositing it into the Treasury Main Account.

(2) Money due to an extra-budgetary fund shall, according to the law creating that extra-budgetary fund, be deposited into a bank account held at the Central Bank.

Receipts to be paid into Treasury Main Account or commercial bank

13. (1) All Government receipts on accounts of loans, grants, and departmental revenues, together with other tax and non-tax revenues, shall be paid into the Treasury Main Account.

(2) The Secretary of State may, in exceptional circumstances and for policy and managerial reasons, permit a budget agency to pay into a special bank account held by it at the Central Bank or a commercial bank of -

(a) receipts and grants, where it is a condition required by a donor; and

(b) departmental self-raised revenues, where it is proved to be efficient and necessary.

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

Section opening of official account

14. No person shall open an official account in any domestic or foreign bank, without the authority of the Permanent Secretary.

Long-term expenditure grant - assets

15. No person shall introduce in the National Assembly any Bill that provides for withdrawal from the Consolidated Fund for any transaction, which creates or is likely to create long-term expenditure commitments without the prior consent of the Secretary of State.

Temporary investment of money in Consolidated Fund

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

Interest on loan invested

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

Agreement by receipt, etc. of public money

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

Duty of public officer to bank public money received

19. A public officer who receives public money shall promptly bank it in accordance with this Act, unless he or she is instructed in writing by the Secretary of State to do otherwise.

Restriction on public officer entering into agreement for receipt or custody of public money

20. A public officer shall not enter into an agreement or arrangement for the receipt or custody of public money by an outsider unless the Secretary of State has first given authorization in writing for the agreement or arrangement.

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

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

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

Laying of Appropriation Bill documents before National Assembly

22. (1) The Secretary of State shall, in accordance with section 152 of the Constitution, prepare and lay before the National Assembly, the Appropriation Bill documents, at least thirty days before the end of the financial year.

(2) Government revenues and other receipts include-

- (a) tax revenues, including taxes on income and profits, domestic taxes on goods and services, taxes on international trade and transactions, and other taxes;
- (b) non-tax revenues, including profits from public enterprises, administrative fees and charges, fines and forfeitures, repayment of loans and other non-tax revenues, including proceeds from sale of public assets;

- (c) domestic and external grants;
- (d) other revenues paid to the Government in accordance with any law, including departmental self-raised revenues; and

(e) domestic and external borrowing for financing the budget deficit.

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

(a) current expenditures, including salaries, wages and allowances, pensions and gratuities, expenditures on goods and other services, current transfers, and interest payments;

(b) capital expenditures, including acquisition of capital assets, and capital transfers;

(c) lending and equity participation; and

(d) payment of principal on domestic and external borrowing.

Selection and spending of departmental self-raised revenues

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

(2) The Secretary of State may grant permission under subsection (1) on condition that the revenues and their associated expenditures are included in the Appropriation Bill documents.

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

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

Submission of annual budgets of extra-budgetary funds to the National Assembly

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

Contents of Appropriation Bill documents

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

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

(c) estimates of revenues of each budget agency according to their revenue items;

(d) estimates of expenditures of each budget agency classified as -

(i) recurrent expenditures for each budget agency, broken down by expenditure items and sources,

(ii) development expenditures of each development project for each budget agency, broken down by expenditure items and sources,

(iii) estimates of expenditures allocated to unforeseen expenditures (in this section referred to as "unallocated expenditure"), pursuant to section 154 of the Constitution, for any situation of exceptional nature which cannot be predicted in advance and, therefore, cannot be included under an appropriate category expenditure, and

(iv) public debt payments;

(e) revenue and expenditure data for -

- (i) actual revenues and expenditure for the preceding year,
- (ii) revised estimates for the current year,

(iii) estimates for the budget year, and

(iv) subject to the Department of State finalising the medium-term expenditure framework for the Government, preliminary projections, in broad categories, for revenues, expenditures, and possible deficit of two years after the budget year,

(f) a statement of Government guarantees to third parties for the preceding year, and

(g) proposed legal provisions required to enable and facilitate the implementation of the proposed budget, including the imposition or alteration of taxes and spending-related laws.

Structure of appropriations

26. (1) The structure of appropriations and reporting to the National Assembly shall -

(a) follow the expenditure requirements outlined in section 25 (b), (d) and (e), which shall be the structure for appropriations, spending limits, accounting and reporting;

(b) be determined by the existing expenditure classification system or such other classification that the Secretary of State may introduce.

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

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

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

27. (1) A Supervisory Department shall, for the purposes of budget preparation and approval each year, declare to the Secretary of State the number of budget agencies under its supervision that is entitled to an independent vote in the Government Budget.

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

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

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

29. 1) Every budget agency for which an appropriation is made in the Government Budget must have a vote controller.

(2) The head or chief executive officer of a budget agency is the vote controller of the agency.

(3) The Clerk is the vote controller of the National Assembly.

(4) In the absence of the vote controller designated under subsections (2) and (3), the public officer deputizing in the place of the person shall be the vote controller.

(5) A vote controller is personally responsible to his or her immediate supervisor, if any, for ensuring that the collecting and spending of revenue by his or her budget agency are in accordance with this Act, other enactments and statutory instruments issued by the Department of State.

Warrants for spending

30. (1) As soon as the Government Budget is approved, the Department of State shall issue warrants for spending of appropriations and inform the vote controller of each budget agency of its approved budget.

(2) Based on its budget allocation, a budget agency is free to make commitments and payment for the purchase of goods and services, pursuant to this Act and the statutory instruments issued by the Department of State.

(3) The Department of State may, in pursuance of subsection (2), set, for cash management purposes, such periodic limits on incurring of commitments and execution of payments, as are deemed necessary.

(4) Virement is allowed—

(a) among expenditure items of a budget agency up to a maximum of seventy five *per cent* of the appropriation of giving or receiving expenditure items, at the request of the budget agency and the approval of the Secretary of State; and

(b) among budget agencies under the same Supervising Department, at the request of the Supervising Department and the approval of the Secretary of State, provided that the amount being vired does not exceed fifty *per cent* of the total appropriations and the giving or receiving expenditure items of each budget agency.

(5) Where the amount to be vired exceeds the limits set under subsection (4), the approval of the Secretary of State is required.

(6) No virement is permitted between personal emoluments and other charges.

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

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

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

Withdrawal and allocation of funds in times of unforeseen political developments

32. (1) Where there are unforeseen political developments, and the Government Budget is not approved by 31st December, the President may authorise withdrawal from the Consolidated Fund, and allocation to budget agencies, sums equivalent to only one-twelfth of actual expenditure of the preceding year for each full month, not exceeding four months and one-third of the sums approved for the immediately preceding financial year.

(2) A sum withdrawn pursuant to subsection (1) shall -

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

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

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

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

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

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

(3) A budget agency to which a procedure is delegated under subsection (1) shall report regularly to the Department of State.

(4) The Department of State shall -

- (a) cause proper accounts and records to be kept in relation to the receipts and payments of public money; and

- (b) establish appropriate accounting systems and procedures for receipts and payments and issue appropriate manuals on accounting standards and procedures to be employed by Department of State and budget agencies.

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

(6) The Department of State shall have full and free access to the accounts and records kept under subsection (4) and (5).

PART VI - GOVERNMENT BORROWING AND DEBT MANAGEMENT, AUTHORITY TO BORROW, LIMITS OF BORROWING, INSTRUMENTS OF BORROWING, AND DEBT RECORDING

Government borrowing

35. (1) The Secretary of State is the only person entitled to borrow money from any legal entity or person, or to enter into a guarantee or indemnity with third parties.

(2) Notwithstanding any provision to the contrary in any law, public enterprises and local authorities shall only borrow from local and external sources through the Department of State and the amounts to be borrowed shall be made only under appropriations in their budgets.

36. (1) The Department of State may, in each financial year, or such other time as it may determine, set separate limits on the annual increase permissible for -

- (a) total domestic debt; and
- (b) total foreign outstanding Government debts, which shall also be included in the Appropriation Bill Documents for approval by the National Assembly.

(2) The debts of third parties taken over by the Government are included within the limit specified in subsection (1).

37. The Secretary of State may borrow money -

- (a) to finance budget deficits;
- (b) to re-finance maturing debt or a loan to be paid before a redemption date;
- (c) to maintain credit balances on the Treasury Main Account; and
- (d) for any other purpose approved by the National Assembly by special resolutions.

38. (1) Government borrowing may be in the form of loan arrangements, debt instruments, and records in bank accounts.

(2) The Central Bank, or a Government-approved bank or other financial institution, supervised by the Central Bank, may maintain a book of accounts on behalf of the Department of State.

(3) The Secretary of State is free to choose the form of borrowing and the terms, conditions and other characteristics of the instrument of borrowing, subject to the condition that, in matters relevant to monetary policy, the Secretary of State shall consult the Central Bank.

(4) When the Central Bank uses debt instruments for liquidity management in the banking system, it shall maintain a separate record of the debt instruments and make a report to the Department of State.

(5) The Central Bank shall provide the Secretary of State, with all banking services required for the execution of decisions on Government debts.

Record of
Government
debts

39. (1) The Department of State shall maintain a detailed record of Government debts and guarantees, and of loans granted by the Government.

(2) The Secretary of State may, under general guidelines from Government, and on such terms and conditions deemed appropriate for The Gambia, with the concurrence of a lender -

(a) repay a loan prior to its redemption date;

(b) seek modification on contractual terms and conditions of any existing loan, or convert the loan into any other loan.

(3) The Secretary of State shall make any payment to meet the debt obligations of The Gambia by its due date, notwithstanding that it exceeds its appropriation

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

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

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

(a) all appropriations, warrants and other authorizations for expenditure shall lapse;

(b) the Department of State shall close all revenue and expenditure accounts for the financial year by transferring the balances of the accounts to the Consolidated Fund; and

(c) no further disbursements shall be made.

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

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

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

44. The Department of State shall issue to all budget agencies the appropriate statutory instruments regulating and governing -

Issuance of statutory instruments to budget agencies

- (a) the liability for losses and damages and procedures for recovery;
- (b) the handling and control of trust money and property;
- (c) the writing-off of losses of public money and other public assets, the remission of money due to the Consolidated Fund, refunds of revenue and payments from the Consolidated Fund;
- (d) the settlement of claims by or against The Gambia;
- (e) vouchers and other proofs of receipt or payments, which are defective or have been lost or damaged;

(f) the improvement, maintenance and disposal of immovable public assets; and

(g) such other matters that may facilitate and strengthen the implementation of this Act.

PART VIII- PENALTIES AND SURCHARGES

45. (1) If it appears to the Permanent Secretary that a person who is or was a public officer-

- (a) failed to collect any money owing to the Government for which he or she is or was, at the time of his or her employment, responsible;
- (b) is or was responsible for any improper payment of public money or for any payment of public money which is not duly vouched; or
- (c) is or was responsible for any deficiency in, or for the loss or destruction of, any public money, stamp, security, store or other Government property,

the Permanent Secretary shall demand an explanation from the public officer.

(2) If, within a period specified by the Permanent Secretary, the public officer, does not furnish an explanation satisfactory to him or her with regard to the failure to collect, improper payment, payment not duly vouched, deficiency, loss or destruction, as the case may be, the Permanent Secretary shall surcharge the public officer-

(a) the amount not collected or the improper payment, payment not duly vouched as the case may be; or

(b) such lesser amount as the Permanent Secretary may determine.

Notification of surcharge to Auditor General and vote controllers

46. (1) The Permanent Secretary shall cause the Auditor-General and the vote controller of the budget agency concerned to be notified of any surcharge made under section 45.

(2) The vote controller shall, on being notified of the surcharge-

(a) notify the person surcharged; and

(b) subject to the provisions of sections 47 and 48, recover, from the person, the amount surcharged from the person.

Withdrawal of surcharge

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

(2) The Permanent Secretary shall notify the Auditor-General and the vote controller of the budget agency concerned of the withdrawal of any surcharge under subsection (1).

Right of appeal
48. (1) A person who is dissatisfied with any surcharge made against him or her under section 45 may, within twenty-one days immediately after he or she has been notified of the surcharge, appeal in writing to the Secretary of State.

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

(3) A copy of every order made under subsection (2) shall be transmitted to the Permanent Secretary, the vote controller of the budget agency concerned, and the Auditor-General.

49. (1) The amount of any surcharge made under the provisions of this Part shall be recovered by such deductions from the salary or pension of the public officer concerned or through such other means as the Permanent Secretary may direct, provided that -

(a) no one deduction shall exceed one-sixth of the public officer's gross monthly salary or pension, as the case may be; and

(b) where the public officer concerned due to be paid any money of whatever description by the Government, other than by way of salary or pension, the Permanent Secretary may cause the amount of any surcharge to be deducted from the money in whole or in part as he or she considers fit; and

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

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

PART IX – MISCELLANEOUS

Inconsistency with other laws

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

PASSED in the National Assembly this 23rd day of August, in the year of Our Lord Two Thousand and Four

M. S. JALLOW
Clerk of the National Assembly

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

M. S. JALLOW
Clerk of the National Assembly