

THE FINANCE AND AUDIT (AMENDMENT) ACT, 1972

No. 5



of 1972

ARRANGEMENT OF SECTIONS

SECTION

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AN ACT TO AMEND THE FINANCE AND AUDIT ACT, 1969.

Date of Assent: 5.4. 1972.

Date of Commencement: 7.4. 1972.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Finance and Audit (Amendment) Act, 1972, and shall be read and construed as one with the Finance and Audit Act, 1969, hereinafter referred to as the principal law.

Amendment
of section 2
of Act No. 2
of 1970

2. Section 2 of the principal law is amended as follows —

(i) by the deletion of the definition of “accounting officer” appearing therein and by the substitution therefor of a new definition as follows —

“accounting officer” means a person designated as an accounting officer under the provisions of section 4A;” and

(ii) by the deletion of the definition of “public officer” appearing therein and by the substitution therefor of a new definition as follows —

“public officer” means, subject to the provisions of subsections (3) and (4), any person employed by Government and includes any teacher employed in a Government school;”.

Amendment
of section 4 of
Act No. 2 of
1970

3. Section 4 of the principal law is amended by the insertion immediately after the words “the Consolidated Fund” appearing therein of the words “and the Development Fund.”.

Insertion of
section 4A in
Act No. 2 of
1970

4. The principal law is amended by the insertion immediately after section 4 thereof of a new section as follows —

“Accounting responsibility 4A. (1) The Minister shall, when laying the annual estimates of recurrent revenue and expenditure of the Consolidated Fund and of the Development Fund, in respect of each head thereof designate a public officer to be the accounting officer for such head.

(2) Notwithstanding anything contained in subsection (1) the Minister may, if he thinks it desirable —

(a) designate different public officers in respect of different parts of a head of revenue; and

(b) at any time designate a public officer to be the accounting officer for any head or part thereof and include such designation in the next appropriate supplementary estimates of expenditure or revenue.

(3) Where a public officer has been designated in respect of a part of a head of revenue the provisions of subsection (4) shall apply to such officer in respect of such part of the head of revenue for which he is designated.

- (4) A public officer designated under this section shall be responsible for —
- (a) the control of expenditure;
 - (b) the collection of revenue and the payment thereof into the Consolidated Fund or the Development Fund as the case may be;
 - (c) the control, custody, issue and use of all public stores; and
 - (d) the custody of public monies;
- for the head in respect of which he is designated.”.

5. Section 17 of the principal law is amended by the deletion of subsection (4) thereof.

Amendment of section 17 of Act No. 2 of 1970

6. Section 22 of the principal law is amended as follows

Amendment of section 22 of Act No. 2 of 1970

(i) in subsection (2) thereof—

- (a) by the substitution of a semi-colon and the word “and” for the fullstop at the end of paragraph (c) thereof and by the addition thereafter of a new paragraph as follows —

“(d) unless the Minister shall otherwise direct, monies earned by or received in reimbursement of expenditure under any project:”; and

- (b) by the addition at the end thereof of two new provisos as follows —

“Provided that notwithstanding anything contained in any other written law any monies received from proceeds of any grant or loan for the purposes of the Fund shall not, unless the Minister shall otherwise direct, be paid into the Fund except to offset expenditure incurred by and disbursed from the Fund in respect of the project for which such loan was raised or grant made and shall, pending the payment into the Fund, be paid into a deposit account:

Provided further that any monies earned by or received in reimbursement of expenditure

under any project may, if the Minister shall so direct, be paid into a deposit account pending transfer to the Fund on the instructions of the Minister"; and

(ii) by the addition thereto immediately after subsection (3) thereof of a new subsection as follows —

“(4) The provisions of section 11 (2), (3) and (4) shall apply to any monies paid into a deposit account under subsection (2).”.

Amendment of section 23 of Act No. 2 of 1970

7. Section 23 (1) of the principal law is amended by the insertion immediately after paragraph (b) of a new paragraph as follows —

“(c) any fund created by the Minister in exercise of the powers conferred upon him by section 23A;”.

Insertion of new section 23A and 23B in Act No. 2 of 1970

8. The principal law is amended by the insertion immediately after section 23 thereof of two new sections as follows —

“Establishment of Special Funds
23A. (1) The Minister may, by Order in the Gazette, establish additional Special Funds.

(2) Every Order made under subsection (1) shall state the purpose of and the revenue to be paid into the Special Fund established thereby and the public officer responsible for the administration of the Fund.

(3) Every Order made by the Minister under this section shall be laid before the National Assembly at the next meeting commencing after such Order has been made.

23B. (1) When a Special Fund has been established by the Minister in exercise of the powers conferred by section 23A or has been established under any other written law there shall be added to the Second Schedule, in the appropriate columns, the name of such Fund, the purpose of such Fund and the revenue to be paid into such Fund.

(2) When a Special Fund has been dissolved by the Minister in exercise of the powers conferred by section 26 reference to such Fund shall be deleted from the Second Schedule.”.

Amendment of section 29 of Act No. 2 of 1970

9. Section 29 of the principal law is amended by the deletion of the words “any public officer authorised by him” appearing therein and by the substitution therefor of —

- “(i) any public officer; or
 - (ii) any person publicly carrying on the profession of accountant;
- authorised by him.”.

10. Section 37 of the principal law is amended as follows

Amendment of section 37 of Act No. 2 of 1970

- (i) by the deletion of the word “or” appearing at the end of paragraph (c) thereof and by the addition of the word “or” at the end of paragraph (d) thereof;
- (ii) by the addition immediately after paragraph (d) thereof of a new paragraph as follows —
- “(e) is or was at the time of such employment responsible for committing or incurring, or for authorising or requiring an officer under his control to commit or incur, expenditure in excess of any amount duly authorised at the time of such committal or expenditure;” and
- (iii) by the deletion of all the words from “and if, within a period” to the end of the section and by the substitution therefor of the following —

“and if, within the period specified by the Permanent Secretary, an explanation satisfactory to him is not furnished with regard to such committal or incurring of such excess expenditure, or the authorisation or requirement thereof, failure to collect, improper payment, payment not duly vouched, deficiency, loss, damage or destruction, as the case may be, the Permanent Secretary may surcharge against such person the amount committed or incurred in excess or not collected, or such improper payment, payment not duly vouched, deficiency or loss or the value of the property destroyed or damaged, as the case may be, or such lesser amount as the Permanent Secretary may determine.”.

11. The principal law is amended by the insertion therein immediately after section 37 thereof of a new section as follows —

Insertion of new section 37A in Act No. 2 of 1970

“Surcharge of accounting officers

37A. (1) Notwithstanding anything contained in section 37 where the Minister is of the opinion that the liability for any surcharge made under section 37 was incurred wholly or partially by reason of the lack of

supervision by his accounting officer of the officer who was surcharged the Minister may recommend to the President that such accounting officer be surcharged.

(2) Where a recommendation has been made to the President under subsection (1) the President shall call for an explanation from the accounting officer concerned and if, after considering such explanation, he is satisfied that the liability for surcharge was incurred wholly or partially by reason of lack of supervision he shall instruct the Permanent Secretary to surcharge against such accounting officer.

(3) Any surcharge made under the provisions of subsection (2) shall not, when added to any surcharge imposed under section 37, exceed the excess expenditure committed or incurred, improper payment made, payment not duly vouched, deficiency, loss, damage or destruction as the case may be.”.

Amendment
of section 38
of Act No. 2
of 1970

12. Section 38 of the principal law is amended by the deletion of the words and figures “section 37 of this Act” appearing therein and by the substitution therefor of the words and figures “sections 37 or 37A.”.

Amendment
of section 39
of Act No. 2
of 1970

13. Section 39 of the principal law is amended by the deletion of the words “The Permanent Secretary” where they first appear therein and by the substitution therefor of the words “The President or the Permanent Secretary as the case may be.”.

Amendment
of First
Schedule to
Act No. 2 of
1970

14. Paragraph 3 of the First Schedule to the principal law is amended as follows —

- (i) by re-numbering the existing paragraph as subparagraph (1);
- (ii) by the deletion in subparagraph (1) as re-numbered of the words “No monies” appearing therein and by the substitution therefor of the words “Subject to the provisions of subparagraph (2) no monies”; and
- (iii) by the addition thereto of a new subparagraph as follows —

“(2) Notwithstanding anything contained in subparagraph (1) where monies have been paid into the Fund in respect of a project and such project

has thereafter been financed from some other source then the monies so paid in may be withdrawn without warrant and placed on deposit.”.

Passed by the National Assembly this day, the 30th March, 1972.

G. T. MATENGE,
Clerk of the National Assembly.