

**FINANCE AND AUDIT (AMENDMENT) ACT, 1973**

**No. 2**



**of 1973**

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title
2. Amendment of section 4A
3. Amendment of section 25
4. Replacement of sections 37 and 37A
5. Amendment of section 38
6. Amendment of First Schedule
7. Amendment of Third Schedule

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

*Date of Assent: 14.3.73*

*Date of Commencement: 16.3.73*

**ENACTED** by the Parliament of Botswana.

Short title	<b>1.</b> This Act may be cited as the Finance and Audit (Amendment) Act, 1973.
Amendment of section 4A Act 2 of 1970	<b>2.</b> Section 4A of the Finance and Audit Act, 1969, hereinafter referred to as the principal Act, is amended by deleting the word "recurrent".
Amendment of section 25	<b>3.</b> Section 25 of the principal Act is amended by substituting for the word "law" wherever it occurs the words "written law" in each case.
Replacement of sections 37 and 37A	<b>4.</b> The principal Act is amended by substituting for sections 37 and 37A thereof the following new section —
Power of surcharge	<p>37. (1) Where it appears to the Permanent Secretary for the time being responsible for finance that any person who is or was at the relevant time a public officer, or any person who, although not a public officer, is or was at the relevant time paid from public funds or is or was at the relevant time responsible for the collection of public moneys —</p> <p>(a) has failed to collect any moneys owing to the Government for the collection of which such person is or was responsible;</p> <p>(b) has made, caused or permitted any unauthorised, unvouched, improper or incorrect payment of public money for which he is or was responsible, (this includes fraud, forgery, misappropriation, theft and burglary);</p> <p>(c) has caused or permitted any deficiency in, or damage to or the loss or destruction of any public moneys, stamps, securities, public buildings, equipment, vehicles, stores, fittings, furniture or other Government property;</p> <p>(d) has caused or permitted the misuse of any Government property whereby the public revenue has suffered loss;</p> <p>(e) has by wilful default or negligence caused or permitted any personal injury or damage to property in circumstances which render the Government liable to third parties in respect of such injury or damage; or</p> <p>(f) has committed or incurred, or has authorized or required a person under his control to commit</p>

or incur, expenditure in excess of any amount duly authorized at the time of such committal or expenditure,  
such person shall be liable to surcharge under this Part.

(2) Where a person is liable to surcharge under subsection (1), and if within a period specified by the Permanent Secretary and explanation satisfactory to the Permanent Secretary is not furnished by such person in respect of the act or omission rendering him liable to surcharge, the Permanent Secretary may surcharge against such person the amount not collected or the amount by which the public revenue has suffered as a result of such act or omission, as the case may be, or such lesser amount as the Permanent Secretary may determine.

(3) Notwithstanding subsections (1) and (2), where the Minister is of the opinion that the liability for any surcharge made under those subsections was incurred wholly or partially by reason of the lack of supervision by the accounting officer of the person who was surcharged, the Minister may recommend to the President that such accounting officer be surcharged.

(4) Where a recommendation has been made to the President under subsection (3) 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 either in place of or in addition to the person supervised.

(5) Any surcharge made under subsection (4) shall not, when added to any surcharge imposed on the person supervised, exceed the amount not collected, or the amount by which the public revenue has suffered, as the case may be.”.

5. Section 38 of the principal Act is amended by deleting the words “or 37A”. Amendment  
of section 38

6. The First Schedule to the principal Act is amended — Amendment  
of First  
Schedule  
(a) in rule 5 (2) thereof by substituting for the words “the monies required to meet expenditure under those heads during the

financial year” the words “the total amount necessary to meet expenditure on projects during the financial year”;

(b) by substituting for rules 7, 8, 9 and 10 thereof the following rules —

“Supplementary estimates 7. If it is found —

(a) that the total estimated cost of a project, as shown in the estimates and approved by the National Assembly, is insufficient to enable that project to proceed in the current financial year, or is in the opinion of the Permanent Secretary likely to be exceeded by the equivalent of 25% or more;

(b) that the total amount appropriated for development projects in the current financial year is insufficient; or

(c) that a need has arisen to proceed with an approved project which has not been included in the estimates for the current financial year, a supplementary estimate shall be laid before the National Assembly for approval by resolution.

Special warrants 8. (1) If in any financial year —

(a) the circumstances mentioned in rule 7 (a), (b) and (c) arise; or

(b) it is found that a need has arisen to proceed with a new project,

and in the judgment of the President expenditure in excess of the total amount appropriated, or additional expenditure up to the level which would be permissible if the new or revised total estimated cost of a project were approved by the National Assembly, is so urgently required that it cannot or cannot without serious detriment to the public interest be postponed until adequate provision can be made by the National Assembly, or until a new or revised total estimated cost can be approved by the National Assembly, as the case may be, the President may direct the Minister to issue a special warrant authorizing the issue of moneys to meet such expenditure.

(2) At the next meeting of the National Assembly after the issue of a warrant under this rule, the Minister

shall submit a supplementary estimate to the National Assembly for its approval of the expenditure authorized by the warrant, or for the new or revised total estimated cost, as the case may be, to be signified by resolution.

(3) In this rule, "new project" means a project of the Government for economic or social development which is not contained in an approved Development Plan.

Supplement-  
ary Appro-  
priation Bill

9. Where expenditure in excess of the total amount appropriated in any financial year has been approved by the National Assembly under rule 7 or rule 8 a Supplementary Appropriation Bill shall be introduced in the National Assembly, not later than the end of the financial year next following, authorizing the issue from the Fund of the additional moneys so approved.

Allocation of  
provision

10. (1) Where the appropriate authority considers that the provision on any subhead should be exceeded in any financial year, such additional expenditure may be authorized:

Provided that —

- (i) the total estimated cost of that subhead shall not be exceeded; and
- (ii) the total appropriation for that financial year shall not be exceeded.

(2) Any surplus arising from under-expenditure on any subhead in the estimates for any financial year shall not be applied in aid of any other subhead during that year.

(3) If the requirements of a project included in the estimates for any financial year render it expedient to do so, the appropriate authority may direct that any surplus arising in that year from under-expenditure of any item of the relevant subhead shall be applied in aid of any other item thereof or of any item thereof to be created, so however that the total authorised provision for the subhead shall not be exceeded.

(4) In this rule, "appropriate authority" means any person designated by financial instructions to exercise the powers conferred by paragraphs (1) and (3)."

Amendment  
of Third  
Schedule

**7.** The Third Schedule to the principal Act is amended by substituting for paragraph (*p*) thereof the following paragraph --  
“(*p*) a Statement of Losses of Public Moneys and Stores reported during the year, whether written off or not.”

Passed by the National Assembly this 13th day of March, 1973.

I.P. GONTSE,  
*Clerk of the National Assembly.*