

FINANCE AND AUDIT (AMENDMENT) ACT, 1982

No. 27



of 1982

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 3 of Cap. 54:01
3. Amendment of section 4 of principal Act
4. Amendment of section 5 of principal Act
5. Amendment of section 7 of principal Act
6. Substitution of new sections 8, 9 and 10 of principal Act
7. Amendment of section 11 of principal Act
8. Amendment of section 12 of principal Act
9. Amendment of section 19 of principal Act
10. Amendment of section 23 of principal Act
11. Amendment of section 24 of principal Act
12. Amendment of section 25 of principal Act
13. Substitution of new section 26 of principal Act
14. Amendment of section 27 of principal Act
15. Amendment of section 29 of principal Act
16. Amendment of section 32 of principal Act
17. Amendment of section 34 of principal Act
18. Amendment of section 35 of principal Act
19. Amendment of section 36 of principal Act
20. Amendment of section 38 of principal Act
21. Amendment of section 39 of principal Act
22. Substitution of new section 42 of principal Act
23. Amendment of section 43 of principal Act
24. Amendment of section 44 of principal Act
25. Substitution of new First Schedule to principal Act
26. Deletion of Second Schedule to principal Act
27. Amendment of Third Schedule to principal Act

SCHEDULE

An Act to amend the Finance and Audit Act

Date of Assent: 18.10.82

Date of Commencement: 29.10.82

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Finance and Audit (Amendment) Act, 1982. Short title

- Amendment of section 3 of Cap. 54:01
2. Section 3 of the Finance and Audit Act (hereinafter referred to as "the principal Act") is amended by substituting for subsection (1) thereof the following new subsection —
- "(1) All or any of the functions conferred by this Act on the Permanent Secretary (excluding the functions conferred by this subsection) may, subject to the general or special directions of the Permanent Secretary, be carried out by any other public officer in his Ministry for the time being designated by him for that purpose."
- Amendment of section 4 of principal Act
3. Section 4 of the principal Act is amended by substituting for the words "the Consolidated Fund and the Development Fund", which appear therein, the words "the Consolidated Fund, the Development Fund and all other public Funds".
- Amendment of section 5 of principal Act
4. Section 5 of the principal Act is amended —
- (a) in subsection (1) thereof, by deleting the words "and of the Development Fund", which appear therein;
- (b) in subsection (2) (a) thereof, by inserting therein, immediately after the word "revenue", which appears therein, the words "or expenditure";
- (c) in subsection (3) thereof, by inserting therein, immediately after the word "revenue", where it twice appears therein, the words "or expenditure"; and
- (d) in subsection (4) (b) thereof, by deleting the words "or the Development Fund as the case may be", which appear therein.
- Amendment of section 7 of principal Act
5. Section 7 of the principal Act is amended —
- (a) by substituting for the words "The Permanent Secretary and any public officer", which appear therein, the words "The Permanent Secretary or any other public officer"; and
- (b) by adding thereto, immediately after paragraph (c) thereof, the following new paragraph —
- "(d) shall carry out such internal audit examinations and make such reports as the Permanent Secretary may be required to carry out or make under section 44."
- Substitution of new sections 8, 9 and 10 of principal Act
6. The principal Act is amended by substituting for sections 8, 9 and 10 thereof the following new sections —
- "Banking etc. of public moneys
8. (1) Money at the credit of any public fund, other than day-to-day cash requirements, shall be kept in any account at the Bank of Botswana which shall disburse the same on behalf of the Government:
- Provided that such money —
- (i) may be kept in an account at or disbursed through some other financial institution in Botswana, in such cases, on such terms and subject to such conditions as may be prescribed by the Minister in consultation with the Bank of Botswana; or

(ii) may be invested in the Joint Consolidated Fund administered by the Crown Agents.

(2) No public officer shall open any public or official account at any bank without the authority in writing of the Accountant-General.

Minister's power to borrow may be exercised by means of fluctuating overdraft

9. (1) Where any power is conferred on the Minister to borrow money, that power may be exercised by means of a fluctuating overdraft; but the total of the amounts so borrowed shall not at any one time exceed P5 000 000 or such greater amount as the National Assembly may, by resolution, from time to time approve for the purposes of this section.

(2) Any expense incurred by the establishment, maintenance or reduction of an overdraft such as is referred to in subsection (1) is hereby charged upon the Consolidated Fund.

(3) No person shall overdraw or permit to be overdrawn any account such as is referred to in section 8 without the consent of the Minister.

Imprests

10. The Permanent Secretary may authorize the Accountant-General to issue imprests to public officers for any purpose for which moneys have been appropriated from the Consolidated Fund."

7. Section 11 of the principal Act is amended –

(a) in subsection (2) thereof, by substituting for the words "P500 000", which appear therein, the words "P5 000 000"; and

(b) by deleting subsection (5) thereof.

Amendment of section 11 of principal Act

8. Section 12 (6) of the principal Act is amended by substituting for the words "the Minister", which appear in the proviso thereto, the words "the Permanent Secretary".

Amendment of section 12 of principal Act

9. Section 19 of the principal Act is amended –

(a) in subsection (1) thereof –

(i) by deleting the words "the Consolidated Fund or other", which appear therein; and

(ii) by inserting therein, immediately after the words "General Orders", which appear in paragraph (c) thereof, the words "or for such other purposes as may be authorized by the Permanent Secretary"; and

(iii) by substituting for the full stop which appears at the end of paragraph (d) thereof, a semi-colon and by adding at the end of the said paragraph (d), the following new paragraph –

"(e) to purchase unallocated stores."; and

Amendment of section 19 of principal Act

(b) in subsection (2) thereof –

(i) by substituting for the words "P300 000", which appear in paragraph (a) thereof, the words "P1 000 000"; and

(ii) by substituting for the words "P500 000", which appear in paragraph (b) thereof, the words "P800 000".

Amendment
of section 23
of principal
Act

10. Section 23 of the principal Act is amended —
(a) by substituting for subsection (1) thereof the following new subsection —

"(1) For the purpose of financing projects of the Government for economic and social development, the Development Fund shall continue in force as a fund not forming part of the Consolidated Fund but kept in a separate account with the Accountant-General.";

(b) in subsection (2) (b) thereof, by deleting the proviso thereto; and

(c) by deleting subsection (4) thereof.

Amendment
of section 24
of principal
Act

11. Section 24 (1) (c) of the principal Act is amended by substituting for the words "section 24", which appear therein, the words "section 25".

Amendment
of section 25
of principal
Act

12. Section 25 of the principal Act is amended by deleting subsections (4) and (5) thereof.

Substitution
of new section
26 of
principal Act

13. The principal Act is amended by substituting for section 26 thereof the following new section —

26. Each of the existing Special Funds shall continue to be maintained for the purpose for which it was established until such time as it is dissolved."

Amendment
of section 27
of principal
Act

14. Section 27 (2) of the principal Act is amended by substituting for the word "but", which appears therein, the word "or".

Amendment
of section 29
of principal
Act

15. Section 29 (2) of the principal Act is amended by inserting therein, immediately after the word "economy", which appears therein, the words, "efficiency or effectiveness".

Amendment
of section 32
of principal
Act

16. Section 32 of the principal Act is amended —

(a) in subsection (1) thereof, by substituting for paragraph (a) thereof the following new paragraph —

"(a) require any person to produce to him such books, records, reports or other documents in that person's custody as he may consider it necessary or expedient to examine in order fully to discharge those duties;" and

(b) by adding thereto, immediately after subsection (3) thereof, the following new subsection —

"(4) In the performance of his duties, the Auditor-General shall have access, at all reasonable times, to all offices, stores, workshops and other premises whatsoever and sites subject to his audit."

17. Section 34 of the principal Act is amended by substituting for subsections (2) and (3) thereof the following new subsections —

“(2) Within the period of 8 months after the close of each financial year, the Accountant-General shall prepare, sign and transmit to the Auditor-General, for the purpose of auditing, the accounts and statements specified in the Second Schedule in relation to that financial year, together with such other accounts and statements in relation to that year as the Minister may specify for the purposes of this subsection.

(3) As soon as the Auditor-General has completed his examination of the accounts and statements transmitted to him in accordance with subsection (2), he shall return the same, together with his certificate thereon, to the Accountant-General who shall, within the period of 4 weeks after their return to him, submit them, together with the Auditor-General’s certificate thereon, to the Minister.

(4) The Minister shall, within the period of 30 days after the submission to him of the accounts and statements in accordance with subsection (3), lay the same, together with the Auditor-General’s certificate thereon, before the National Assembly.”

18. Section 35 of the principal Act is amended by substituting for all the words following paragraph (b) thereof the words “whichever expires later, the Auditor-General shall send to the Minister his report upon the audit of those accounts and statements and related matters.”

19. Section 36 of the principal Act is amended by substituting for subsection (1) thereof the following new subsection —

“(1) The Minister shall, within the period of 30 days after the receipt by him of the Auditor-General’s report sent to him in accordance with section 35, lay the same, without any alteration thereto, before the National Assembly.”

20. Section 38 of the principal Act is amended by adding thereto, immediately after subsection (3) thereof, the following new subsections —

“(4) Notwithstanding any other written law, the Minister may request the Auditor-General to carry out such investigations into the affairs of any corporation established by a written law, or of any corporation registered in accordance with the Companies Act in which the Government owns all the equity shares, as the Minister may think necessary or expedient in the public interest.

(5) Where the Auditor-General complies with a request made of him under subsection (4), he shall, for the purposes of his investigations, have all the powers conferred by subsection (1) in relation to the corporation in question and to its members, officers, employees and property.

(6) The Auditor-General may submit a written report to the Minister on any investigations carried out by him in compliance with a request made of him under subsection (4)."

Amendment
of section 39
of principal
Act

21. Section 39 (1) of the principal Act is amended –

(a) by substituting for paragraph (b) thereof the following new paragraph –

"(b) has made or caused or permitted to be made in any way (including fraud, forgery, misappropriation, theft, burglary or any other way whatsoever) any unauthorized, unvouched, improper, nugatory, unnecessary or otherwise incorrect payment of public money for which he was at the relevant time responsible;" and

(b) by substituting for the words "such person shall be liable to surcharge under this Part", which appear therein, the words "and loss of public moneys has thereby resulted, that person shall be liable to surcharge under this Part".

Substitution
of new section
42 of
principal
Act

22. The principal Act is amended by substituting for section 42 thereof the following new section –

"Appeals 42. (1) Any person who is dissatisfied with any surcharge made against him under section 39 may, within the period of 21 days after he has been notified of the surcharge, appeal in writing to the Public Service Commission or to the Judicial Service Commission, as is appropriate in his case.

(2) Where a person lodges an appeal under this section, he shall, at the same time, transmit a copy of his appeal to the Permanent Secretary.

(3) Before deciding an appeal under this section, the Commission in question –

(a) shall give both the appellant and the Permanent Secretary the opportunity to call additional evidence and to make oral and written submissions to it; and

(b) may itself call additional evidence.

(4) After considering an appeal under this section, including all additional evidence and every submission which may have been called or made to it under subsection (3), the Commission in question shall either –

(a) dismiss the appeal and confirm the surcharge; or
(b) allow the appeal, wholly or in part, and accordingly set aside the surcharge or vary its terms to such extent as the Commission considers just and reasonable in all the circumstances.

(5) On deciding an appeal under this section, the Commission in question shall cause the Permanent Secretary to be notified of the terms of its decision and

the Permanent Secretary shall thereupon cause the appellant, the accounting officer concerned, the Auditor-General and the Accountant-General to be so notified."

23. Section 43 (2) of the principal Act is amended by substituting for the words "the Accountant-General", which appear therein, the words "the Permanent Secretary".

Amendment of section 43 of principal Act

24. Section 44 (1) of the principal Act is amended —

Amendment of section 44 of principal Act

- (a) by deleting the words "with the approval of the President.", which appear therein; and
- (b) by inserting therein, immediately after the words "all public moneys", which appear in paragraph (a) thereof, the words "and stores".

25. The principal Act is amended by substituting for the First Schedule thereto the new First Schedule set out in the Schedule to this Act.

Substitution of new First Schedule to principal Act

26. The principal Act is amended by deleting the Second Schedule thereto.

Deletion of Second Schedule to principal Act

27. The Third Schedule to the principal Act is amended —

Amendment of Third Schedule to principal Act

- (a) by retitling the Schedule as the Second Schedule; and
- (b) by deleting item (b) thereof.

SCHEDULE

(s.25)

NEW FIRST SCHEDULE TO PRINCIPAL ACT

"FIRST SCHEDULE

(Section 23 (3))

RULES FOR OPERATION OF THE DEVELOPMENT FUND

1. In this Schedule —

Definitions

"approved project" means a project contained in a Development Plan;

"Development Plan" means a plan of economic and social development; including any amendment of or addition to such plan, prepared by the Government and approved by the National Assembly by resolution;

"new project" means a project which is not contained in a Development Plan;

"project" means a project of the Government for social or economic development.

2. Except as provided by rule 9, provision shall not be made for expenditure from the Fund for any purpose other than the purpose of an approved project.

Use of Fund

3. (1) No moneys shall be disbursed from the Fund except upon the authority of a warrant under the hand of the Minister; and no such warrant shall be issued unless the disbursement of those moneys is in respect of an approved or new project.

Authority for Withdrawal

(2) Notwithstanding subrule (1), where moneys have been paid into the Fund in respect of a project and that project has thereafter been financed from some other source, those moneys may be withdrawn from the Fund without warrant and credited to the deposit account from which they were originally withdrawn.

Annual
estimates
to be
prepared

4. (1) The Minister shall cause to be prepared in each financial year estimates of the revenue and expenditure of the Fund for the next following financial year (which estimates are hereinafter referred to as "the annual estimates").

(2) The annual estimates shall be so prepared as to show the provision made for each project provided for therein under a separate subhead and the various subheads shall be grouped under heads of expenditure corresponding to the Departments responsible for the projects.

(3) The annual estimates shall show, in relation to each project, an estimate of the total cost of the project in addition to the estimate of sums required during the financial year.

(4) The annual estimates shall be appended to the estimates of the Consolidated Fund for the same financial year laid before the National Assembly.

(5) The annual estimates shall be accompanied by a statement showing the estimated balance of the Fund at the commencement of next following financial year and the anticipated revenue accruing to and total expenditure from the Fund during that financial year.

Accounting
officers

5. (1) When laying the annual estimates before the National Assembly, the Minister shall, in respect of each project provided for therein, designate a public officer as the accounting officer for that project:

Provided that the Minister may, if he considers it desirable to do so, —

(i) designate at that time different public officers as the accounting officers for different parts of any such project; and

(ii) at any other time, designate a public officer as the accounting officer for any such project or part thereof, in which case the designation shall be included in the next appropriate supplementary estimates of the Fund.

(2) In respect of the project or part thereof for which he has been designated as the accounting officer under subrule (1), every accounting officer shall be responsible for —

(a) the control of expenditure;

(b) the control, custody, issue and use of all public stores; and

(c) the custody of public moneys.

Appropriation
Bill

6. The Appropriation Bill for any financial year shall authorize the issue from the Fund of the total amount necessary to meet

expenditure on all projects for which provision has been made in the annual estimates for that financial year approved by the National Assembly without containing heads of expenditure corresponding to the heads of expenditure in the annual estimates or any other particulars in respect of the appropriation or application of that total amount.

7. (1) If the Appropriation Act for any financial year has not come into operation by the beginning of that year, the President shall direct the Minister to issue a warrant authorizing the issue of moneys from the Fund to meet such expenditure as may be necessary for the continuation of projects financed from the Fund in the immediately previous financial year until the expiration of 4 months from the beginning of the new financial year or the coming into operation of the Appropriation Act, whichever is the earlier.

Issue of moneys before commencement of Appropriation Act

(2) All moneys disbursed from the Fund in pursuance of this rule shall be deemed to have been disbursed in anticipation of the enactment of an Appropriation Act and, on the coming into operation of that Act, any warrant issued under this rule shall cease to have effect and disbursements thereunder shall be deemed to have been made by virtue of the Act and shall be accounted for accordingly.

8. If it is found —

- (a) that the total estimated cost of a project, as shown in the annual estimates and approved by the National Assembly, is insufficient to enable that project to proceed in the current financial year;
 - (b) that the total amount appropriated for all projects in the current financial year is insufficient;
 - (c) that a need has arisen to proceed with an approved project which has not been included in the annual estimates for the current financial year; or
 - (d) that a need has arisen to proceed with a new project,
- a supplementary estimate shall be laid before the National Assembly for approval by resolution.

Supplementary estimates

9. (1) If in any financial year any of the circumstances referred to in rule 8 arise and, in the judgment of the President, expenditure up to the level of the new or revised total estimated cost of a project is so urgently required that it cannot, without serious detriment to the public interest be postponed until a new or revised total estimated cost is approved by the National Assembly, the President may direct the Minister to issue a special warrant authorizing that expenditure.

Special warrant

(2) At the next meeting of the National Assembly after the issue of a special warrant under subrule (1), the Minister shall submit a new or revised total estimated cost for the project in question, as

the circumstances require, to the National Assembly for its approval by resolution.

Supplementary
Appropriation
Bill

10. Where expenditure in excess of the total amount appropriated in any financial year has been approved by the National Assembly under rule 8 or 9, 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.

Accounting
and use of
moneys
constituting
Fund

11. Moneys received for the purposes of the Fund shall be brought to the account of the Fund in such a manner as to identify the source from which they came and shall be used to offset expenditure incurred by and disbursed from the Fund in respect of projects for which the moneys were approved and allocated.

Conditions
to be
observed

12. Where the grantor attaches, to any grant of money which, by virtue of section 23 (2) (b), is paid into the Fund, conditions relating to the use of the grant, those conditions shall be observed and these Rules shall be applied in such manner as to ensure that observance."

PASSED by the National Assembly this 2nd day of April, 1982.

B.K. TEMANE,
Clerk of the National Assembly.