No. 5 of 2016.

***Public Finance (Management)(Amendment) Act* 2016.**

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No. of 2016.

AN ACT

entitled

***Public Finance (Management)(Amendment) Act* 2016,**

Being an Act to amend the ***Public Finance (Management) Act* 1995** and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts the exercise of a right or freedom referred to in Subdivision III.3.C. (*qualified rights*) namely -

(*a*) the right to freedom from arbitrary search and entry conferred by Section 44; and
(*b*) the right to freedom of expression and publication conferred by Section 46; and
(*c*) the right peacefully to assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other associations conferred by Section 47; and
(*d*) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
(*e*) the right to reasonable privacy conferred by Section 49; and
(*f*) the right of reasonable access to official documents conferred by Section 51; and
(*g*) the right of freedom of movement conferred by Section 52,

of the ***Constitution*** is a law that is made under Section 38 of the ***Constitution***, taking account of the National Goals and Directive Principles and the Basic Social Obligations, for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 53(2) of the ***Constitution***, this Act is expressed to be made in the national interest.

(3) For the purposes of Section 41 of the ***Organic Law on Provincial Governments and Local-level Governments***, it is declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

A reference in this Act, to this Act or any other Act includes -

(*a*) any regulations or lawfully made administrative arrangements made under this Act or any other Act; and
(*b*) any Act that is substituted for or that replaces that other Act; and
(*c*) any regulations made under any such substitute or replacement Act.

3. ACT BINDS THE STATE.
This Act binds the State.

4. NEW SECTIONS 1A AND 1B.
The Principal Act is amended by adding after Section 1, the following new sections:

"**1A. INTEGRITY OF CONSTITUTIONAL INSTITUTIONS.**

(1) Nothing in this Act shall be interpreted so as to restrict or in any way diminish the functional mandates and integrity of constitutional institutions but shall be interpreted so as to limit the operation of the Act to public financial management of public money.

(2) This Act binds constitutional institutions and constitutional institutions shall be deemed to be statutory bodies for the purposes of this Act.

1B. APPLICATION TO BOUGAINVILLE GOVERNMENT.

(1) Subject to this section, this Act applies to the Bougainville Government established under Part XIV of the ***Constitution***.

(2) The Bougainville Government is subject to the provisions of this Act that apply to public bodies and Provincial Governments and this Act shall be interpreted accordingly.

(3) The Minister responsible for financial matters, when satisfied that the Bougainville Government has legally adopted and operationalised laws efficiently and transparently managing public financial administration shall, by notice published in the National Gazette, exempt the Bougainville Government, in whole or part and subject to such conditions as he thinks fit, from the application of this Act.".

5. INTERPRETATION (AMENDMENT OF SECTION 2).
Section 2 of the Principal Act is amended -

(*a*) by repealing the definition of "public body" and substituting the following definition:
"public body" means -
(*a*) any agency which is part of the State Services established under Part VII of the ***Constitution***; and
(*b*) a Provincial Government or Local-level Government established under the ***Organic Law on Provincial Governments and Local-level Government***;"; and

(*b*) by inserting after the definition of "public office-holder" the following new definition:
"statutory body" means -
(*a*) a body, authority or instrumentality (corporate or unincorporated) established under an Act of the Parliament or howsoever otherwise for governmental or official purposes; or

(*b*) a body, authority or instrumentality (corporate or unincorporated) established by a Provincial Government or Local-level Government; or

(*c*) a subsidiary statutory body that is not a public body"; and

(*c*) by repealing the definition of "public moneys" and substituting the following definitions:

"public money" includes all money raised, appropriated, refunded, received, borrowed, held or controlled by a public body, statutory body or a person acting on behalf of the State, including all money received as a result of -

(*a*) tax, fees, levies, royalties or other charges; and

(*b*) bonds, debentures, shares, securities, term-deposits or any other investments; and

(*c*) the sale or lease of public property; and

(*d*) grants, loans, donations or gifts; and

(*e*) money held on trust for the benefit of the State or any other person;"; and

(*d*) by repealing the definitions of "property" and "stores"; and

(*e*) by adding, after the definition of "public office-holder", the following new definition:

"public property" means real or personal property, including land, intellectual property, goods and equipment, held or controlled by a public body or a person acting on behalf of the State or property held on trust for the benefit of the State by any other person;"; and

(*f*) by repealing the definition of "accounts and records" and substituting the following definition:

"accounts and records" include any receipts, deeds, statements, writings, images, recordings, documents or any other records of information whatsoever and howsoever compiled, recorded or stored on paper, manually, by microfilm, by electronic process or otherwise;"; and

(*g*) by inserting, after the definition of "public body", the following new definition:

"public debt" means all liabilities of the State in respect of the repayment of money borrowed in accordance with or as authorised by an Act of the Parliament and includes all debt charges that accrue;" and

(*h*) by inserting, after the definition of "debt charges", the following new definition:

"debt owed to the State" means all amounts owing to the State as a result of any agreement, transaction or Act of the Parliament and includes -

(*a*) any amounts owed in respect of public money loaned or advanced to public or private borrowers; and

(*b*) any amounts overpaid by the State, whether by mistake of fact or law, to any person;"; and

(*i*) by repealing the definition of "fiscal year" and substituting the following definition:

"fiscal year" or "financial year" means -

(*a*) the fiscal or financial year as defined in the Interpretation Act; and

(*b*) if a declaration has been made under Section 2A, the year defined in that declaration;"; and

(*j*) by repealing the definition of "Departmental Head" and substituting the following definition:

"Departmental Head" includes those persons who are -

(*a*) Heads of Departments of the Public Service and those persons who are deemed, for the purpose of the ***Public Services (Management) Act*** **2014**, to be Departmental Heads; and

(*b*) the administrative head of any public or statutory body;" and

(*k*) by repealing Paragraph (*e*) Subparagraph (ii) from the definition of "officer" and substituting the following new paragraph and subparagraph:

"(*e*)(ii) is, for the time being, declared by notice under the Interpretation Act;" and

(*l*) by deleting the words "by Section 10" from the definition of "the Consolidated Revenue Fund" and substituting them with "by this Act"; and

(*m*) by inserting, after the definition of "Departmental Head", the following new definition:

"district finance manager" means a person appointed as district finance manager under Section 8C;" and

(*n*) by inserting, before the definition of "finance inspector", the following new definition:

"Finance Departmental Head" means the Departmental Head of the Department responsible for administering this Act, except Part IV-National Budget"; and

(*o*) by inserting, the after the definition of "Financial Instructions", the following new definition:

"Finance Minister" means the Minister designated by the Prime Minister and published in the National Gazette with respect to the allocation of Ministerial duties and responsibilities of Ministers under Section 148 of the ***Constitution***, to be the Minister responsible for the administration of this Act, except Part IV-National Budget;" and

(*p*) by inserting, before the definition of "Finance Departmental Head", the following new definition:

"financial controller" means a person appointed as financial controller under Section 8A;"; and

(*q*) by repealing the definition of "financial inspector" and substituting the following definition:

"finance inspector" means a person appointed as finance inspector under Section 8;" and

(*r*) by inserting, before the definition of "Provincial and District Treasury", the following new definition:

"provincial finance manager" means a person appointed as provincial finance manager under Section 8B;" and

(*s*) by inserting, after the definition of "public office-holder", the following new definition:

"public resources" means public money and public property;"; and

(*t*) by inserting, before the definition of "this Act", the following new definition:

"subsidiary statutory body" means a body to which Section 49 applies;"; and

(*u*) by inserting, before the definition of "Trust Fund", the following new definition:

"Treasurer" means the Minister designated by the Prime Minister and published in the National Gazette with respect to the allocation of Ministerial duties and responsibilities of Ministers under Section 148 of the Constitution, to be the

Minister responsible for the administration of Part IV-National Budget of this Act;" and

(*v*) by inserting, after the definition of "Treasurer", the following new definition:
"Treasurer Departmental Head" means the Departmental Head of the Department responsible for administering Part IV-National Budget of this Act;" and

(*w*) by repealing the definition of "Trust Fund" and substituting the following definition:
"Trust Fund" means a fund established by this Act and, in relation to a Provincial Government or a Local-level Government established under the ***Organic Law on Provincial Governments and Local-level Governments***, means the Trust Fund established for that Provincial Government or Local-level Government by this Act.".

6. NEW SECTIONS 2A AND 2B.

The Principal Act is amended by adding immediately after Section 2, the following new sections:

"**2A. FISCAL YEAR DECLARATION.**

(1) Subject to this section, the Finance Minister may declare the timing of the start and end of each fiscal year.

(2) The declaration may be subject to such terms and conditions as the Finance Minister thinks fit.

(3) A declaration under this section shall be published in the National Gazette.

2B. DELEGATION.

(1) Subject to this Act, a person vested with a power, role or responsibility under this Act may delegate that power, role or responsibility to any person.

(2) A delegation under this Act shall -

(*a*) be by notice in writing executed by the person vested with the power, role or responsibility under this Act; and

(*b*) come into force on the day of publication in the National Gazette or the date specified in the notice, whichever is the later; and

(*c*) be subject to such terms and conditions as the delegator thinks fit,

and shall have a stated duration of the delegation, after which it will expire.

(3) A delegate shall not further delegate any power, role or responsibility delegated to them.

(4) A delegation of any role or responsibility vested under this Act shall not abrogate or reduce the right of the person originally vested with the role or responsibility to exercise that role or responsibility.".

7. REPEAL AND REPLACEMENT OF SECTION 3.

Section 3 of the Principal Act is repealed and replaced with the following new section:

"**3. RESPONSIBILITIES AND POWERS OF THE FINANCE MINISTER.**

(1) The Finance Minister is responsible -

(*a*) for the fiscal implementation of the National Budget, including such budget controls as may be authorised from time to time; and

(*b*) for overseeing the finances of the State so as to ensure that a full accounting is made to the Parliament of all transactions involving public and statutory bodies or public money and property; and

(*c*) for providing directions and guidelines regarding the financial management of public money and property by public and statutory bodies; and

(*d*) for the reporting on the Public Funds of Papua New Guinea; and

(*e*) for accounting to the Parliament for the financial performance and management of public and statutory bodies; and

(*f*) establishing controls and rules related to State procurement; and

(*g*) administering this Act unless otherwise specifically provided.

(2) Within 30 days after the end of the first, second and third quarters of each fiscal year, or such other date as is most practicable in all the circumstances, the Finance Minister shall publish in the National Gazette a summarised statement of the receipts and expenditure of the Public Funds during the fiscal year up to the end of that quarter.

(3) Within 30 days after the end of each fiscal year, or such other date as is most practicable in all the circumstances, the Finance Minister shall cause to be prepared a detailed statement of the receipts and expenditure of the Public Funds during the fiscal year, and shall send it to the Auditor-General.

(4) The Finance Minister may require any person to submit financial reports or any other records on such matters not otherwise specified in this Act, at such intervals and in such form as he determines, provided that the Finance Minister certifies that it is in the best interests of the State to do so.

(5) The Finance Minister, in fulfilling and exercising his roles, powers and responsibilities shall comply with this Act and any other laws in force.".

8. NEW SECTIONS 3A AND 3B.

The Principal Act is amended by adding, immediately after Section 3, the following new sections:

"**3A. RESPONSIBILITIES AND POWERS OF THE TREASURER.**

(1) The Treasurer is responsible for and has power to effect -

(*a*) the formulation of the National Budget for the consideration of Parliament; and

(*b*) monitoring the National Budget; and

(*c*) reporting matters relating to the National Budget; and
(*d*) monitoring and reporting on national economic trends; and
(*e*) developing and implementing strategies to promote economic and financial transparency to achieve a stable macroeconomic environment; and
(*f*) developing and implementing strategies and policies for the management of revenues and expenditures; and
(*g*) managing investments of Public Funds and state loans, other than investments from the Public Funds pursuant to Section 12.

(2) The Treasurer may require a Departmental Head to submit financial or other reports or any other records on such matters, at such intervals and in such form as he determines on matters relating to any area of responsibility of a Departmental Head.

(3) The Treasurer, in fulfilling and exercising his roles, powers and responsibilities shall comply with this Act and any other laws in force.

3B. RESPONSIBILITIES AND POWERS OF FINANCE MINISTER AND TREASURER EXERCISED BY ONE PERSON.

The responsibilities and powers of the Finance Minister and the Treasurer may be held and exercised by one person at the same time.".

9. REPEAL AND REPLACEMENT OF SECTION 4.

Section 4 of the Principal Act is repealed and replaced with the following new section:

"**4. RESPONSIBILITIES AND POWERS OF THE FINANCE DEPARTMENTAL HEAD.**

(1) The Finance Departmental Head is responsible to assist the Finance Minister in the implementation of ministerial responsibilities under this Act, subject to the specific directions of the Finance Minister.

(2) The Finance Departmental Head has administrative control and direction of all matters under this Act, except matters relating to the compilation of budgets, subject to the specific directions of the Finance Minister.

(3) The Finance Departmental Head may require a Departmental Head to submit financial or other reports or any other records on such matters, at such intervals and in such form as he determines on matters relating to any area of responsibility of a Departmental Head.

(4) The Finance Departmental Head has full and free access at all reasonable times to all accounts, documents and any other records of any type of any public body that relate in any way, directly or indirectly, to -
(*a*) the collection, receipt, management, expenditure or any issue relating to public money; or
(*b*) the purchase, receipt, management, custody, disposal, issue or use of public property.

(5) The Finance Departmental Head may inspect, copy, inquire into or call for any information, from any person, arising from the accounts, documents and any other records referred to in Subsection (4).

(6) The Finance Departmental Head may direct the establishment and operation of internal audit units and audit committees in public bodies or other entities that receive public money and are subject to audit by the Auditor-General, including, but without limiting the generality of the following:

(*a*) the specification of the functions and the responsibilities of an internal audit unit or audit committee; and

(*b*) supervising or otherwise directing a Departmental Head to ensure that an internal audit unit or audit committee is functioning effectively; and

(*c*) supervising or otherwise directing a Departmental Head to implement, comply with or act on the findings and recommendations of an internal audit unit or audit committee.

(7) The Finance Departmental Head may consult with the Auditor-General, the Departmental Head of any Department or any other person or body of any type to undertake and fulfil his responsibilities and powers.

(8) The Finance Departmental Head may, after he reasonably believes and considers that an officer from any department or public body has breached or failed to comply with this Act, or the ***Organic Law on Provincial Governments and Local-level Governments***, restrict or suspend that officer from all duties and responsibilities.

(9) The Finance Departmental Head shall, whenever an officer is restricted or suspended under this section, refer the matter for action under Part XIV of the ***Public Service (Management) Act*** **2014**.

(10) The Finance Departmental Head, in fulfilling his roles and responsibilities, shall comply with this Act and any other laws.".

10. NEW SECTION 4A.

The Principal Act is amended by adding, immediately after Section 4, the following new section:

"**4A. RESPONSIBILITIES AND POWERS OF THE TREASURY DEPARTMENTAL HEAD.**

(1) The Treasury Departmental Head is responsible to assist the Treasurer in the implementation of ministerial responsibilities under this Act, subject to the specific directions of the Treasurer.

(2) The Treasury Departmental Head has administrative control and direction of all matters under this Act relating to the formulation and implementation of the National Budget, consistent with this Act and subject to the specific directions of the Treasurer.

(3) The Treasury Departmental Head may require a Departmental Head to submit reports on budget, economic or any other matters, at such intervals and in such form as he determines on matters relating to any area of responsibility of a Departmental Head.

(4) The Treasury Departmental Head, in fulfilling his roles and responsibilities, shall comply with this Act and any other laws.".

11. REPEAL AND REPLACEMENT OF SECTION 5.

Section 5 of the Principal Act is repealed and replaced with the following new section:

"**5. RESPONSIBILITIES OF HEAD OF DEPARTMENT.**

(1) A Departmental Head shall establish internal controls and take all necessary actions to ensure the efficient, effective, economical and ethical use of the public money and property for which he is responsible, including, but without limiting the generality of the following:

(*a*) establishing an internal audit unit or audit committee as may be required under this Act; and

(*b*) reporting any material misstatements in the financial statement to the Office of the Auditor-General; and

(*c*) establishing and maintaining up-to-date asset registers of all public properties; and

(*d*) developing and implementing an annual plan to reduce the risk of fraud; and

(*e*) managing all public monies and properties consistent with all laws in force.

(2) A Departmental Head shall develop and implement processes and ensure the active collection, proper management and appropriate expenditure of public money, including, but without limiting the generality of the following:

(*a*) the collection and expenditure of public money in accordance with the National Budget, approved plans and estimates; and

(*b*) that any fee, charge, levy, tax or other impost imposed by any means is collected and banked promptly and to the fullest extent and value; and

(*c*) at least once in each year review and fix any fee, charge, levy, tax or other impost for which they have responsibility to ensure that the level of such fee, charge, levy, tax or other impost is appropriate; and

(*d*) all debts owed to the State for which a public or statutory body under their control or for which they are responsible are actively managed, collected and banked promptly and to the fullest extent and value; and

(*e*) all expenditure is incurred with due regard to proper process, economy, efficiency, effectiveness, ethical use and consistent with this Act and government priorities; and

(*f*) all expenditure is properly authorised under this Act and applied to the purposes for which it is appropriated; and

(*g*) a review is undertaken each month to ensure that there is no over expenditure or over commitment of public money.

(3) A Departmental Head shall ensure the proper management of public property.

(4) A Departmental Head shall ensure that all accounts and records relating to the functions and operations are properly maintained and the reports provided are consistent with this Act, its regulations and the Financial Instructions.

(5) A Departmental Head shall -

(*a*) promptly provide complete and accurate information as required by the Public Accounts Committee; and

(*b*) submit financial and other reports to the Finance Departmental Head as required by this Act; and

(*c*) as soon as practicable after the end of each quarter of each fiscal year, submit to the Finance Departmental Head a report on financial management as required by this Act; and

(*d*) provide regular bank reconciliations as required by this Act.

(6) A Departmental Head, in fulfilling his roles and responsibilities, shall comply with this Act and any other laws.".

12. REPEAL AND REPLACEMENT OF SECTION 6.

Section 6 of the Principal Act is repealed and replaced with the following new section:

"**6. ACCOUNTABLE OFFICERS.**

(1) A person who authorises the collection or payment of public money or accounts for public property, is an accountable officer for the purposes of this Act.

(2) An accountable officer shall comply with the provisions of this Act in respect of all matters for which he is responsible and for all public money and public property in his possession or under his control, and shall duly account for them.".

13. REPEAL AND REPLACEMENT OF SECTION 7.

Section 7 of the Principal Act is repealed and replaced with the following new section:

"**7. RESPONSIBILITY IN RELATION TO COLLECTION OF PUBLIC MONEY.**

It is the duty of a public office-holder, or any other person, responsible directly or indirectly, for the collection of public money to ensure that public money is collected promptly and to the fullest extent and paid into the Public Funds as soon as practicable.".

14. REPEAL AND REPLACEMENT OF SECTION 8.

Section 8 of the Principal Act is repealed and replaced with the following new section:

"8. **FINANCE INSPECTORS.**

(1) The Finance Departmental Head may appoint a person to be a finance inspector on such terms and conditions and for such purposes as may be specified.

(2) A finance inspector shall, at the direction of the Finance Departmental Head, undertake inspections and investigations with respect to -

(*a*) the collection, receipt, management, expenditure or issue of public money; or

(*b*) the purchase, receipt, management, custody, disposal, issue or use of public property; or

(*c*) such other matters as the Finance Departmental Head may direct from time to time.

(3) A finance inspector may inspect, inquire into or call for any information arising from any public or private accounts and records that directly or indirectly relate to an inspection or investigation from any person.".

15. NEW SECTIONS 8A, 8B AND 8C.

The Principal Act is amended by adding, immediately after Section 8, the following new sections:

"8A. **FINANCIAL CONTROLLERS.**

(1) The Finance Departmental Head may appoint a person as a financial controller for the purposes of this Act.

(2) Subject to this section, the Finance Departmental Head may place a financial controller in any public or statutory body.

(3) A financial controller shall, in the public or statutory body in which he is placed -

(*a*) assist and ensure compliance with this Act; and

(*b*) assist and ensure compliance with financial procedures established under this Act; and

(*c*) report to Finance Departmental Head on expenditure trends and non-tax revenue performance; and

(*d*) deal with such other matters as the Finance Departmental Head may direct from time to time.

(4) Every person shall fully comply with any direction of a financial controller with respect to compliance with this Act or the financial procedures established under this Act.

(5) A financial controller may only be placed in a constitutional institution with the consent and agreement of the relevant constitutional institution, whose consent and agreement shall not be unreasonably withheld.

8B. PROVINCIAL FINANCE MANAGERS.

(1) Subject to this section, the Finance Departmental Head may appoint a person as a provincial finance manager for the purposes of this Act.

(2) The Finance Departmental Head may place a provincial finance manager in any province.

(3) A provincial finance manager shall, in the province in which he is placed -

(*a*) be responsible for all the financial affairs of the provincial government to which they are assigned, irrespective of the source of the funds; and

(*b*) ensure the receipt, management, custody, disposal, issue or use of public resources in accordance with this Act; and

(*c*) assist and ensure provincial compliance with this Act; and

(*d*) assist and ensure provincial compliance with financial procedures established under this Act; and

(*e*) report to Finance Departmental Head as required and in such manner and form as the Finance Department Head requires; and

(*f*) deal with such other matters as the Finance Departmental Head may direct from time to time.

(4) Every person shall fully comply with any direction of a provincial finance manager with respect to compliance with this Act or with financial procedures established under this Act.

(5) A person appointed under Subsection (1), is deemed to be appointed under Section 112 of the ***Organic Law on Provincial Governments and Local-level Governments*** as a Provincial Treasurer under that section.

8C. DISTRICT FINANCE MANAGERS.

(1) The Finance Departmental Head may appoint a person as a district finance manager for the purposes of this Act.

(2) The Finance Departmental Head may place a district finance manager in any local-level government.

(3) A district finance manager shall, in the local-level government in which he is placed -

(*a*) be responsible for all the financial affairs of the local-level government to which they are assigned, irrespective of the source of the funds; and

(*b*) ensure the receipt, management, custody, disposal, issue or use of public resources in accordance with this Act; and

(*c*) assist and ensure local-level government compliance with this Act; and

(*d*) assist and ensure local-level government compliance with financial procedures established under this Act; and

(*e*) report to Finance Departmental Head as required and in such manner and form as the Finance Department Head requires; and
(*f*) deal with such other matters as the Finance Departmental Head may direct from time to time.

(4) Every person shall fully comply with any direction of a district finance manager with respect to compliance with this Act or with financial procedures established under this Act.

(5) A person appointed under Subsection (1), is deemed to be appointed under Section 112 of the ***Organic Law on Provincial Governments and Local-level Governments*** as a District Treasurer under that section.".

16. REPEAL AND REPLACEMENT OF SECTION 9.
Section 9 of the Principal Act is repealed and replaced with the following new section:

"**9. CONSOLIDATED REVENUE FUND, GENERAL REVENUE FUNDS AND TRUST FUNDS.**

(1) For the effective and efficient management, accounting and control of public money, public financial transactions and operations, the following funds are established:

(*a*) a Consolidated Revenue Fund; and
(*b*) a Trust Fund for the National Government; and
(*c*) a General Revenue Fund and Trust Fund for each of the Provincial Governments or a Local-level Government established under the ***Organic Law on Provincial Governments and Local-level Governments***.

(2) Receipts into the Consolidated Revenue Fund, General Revenue Funds or Trust Funds, shall be classified as follows:

(*a*) tax revenue, including taxes on income and profits, goods and services, and taxes on international trade and other transactions; and
(*b*) non-tax revenues and internally generated funds; and
(*c*) repayment of loans; and
(*d*) domestic and external grants; and
(*e*) other revenues received under an enactment; and
(*f*) other receipts including the product of borrowing, repayment of government loans and advances, sale of government securities, sale of government equity investments, sale of other government assets and special funds.".

17. AMENDMENT OF TITLE OF PART III.
The Principal Act is amended by repealing the title of Part III and replacing it with the following new title:

"**PART III. - CONSOLIDATED REVENUE FUND, TRUST ACCOUNTS AND PUBLIC FUNDS.**".

18. REPEAL AND REPLACEMENT OF SECTION 10.
Section 10 of the Principal Act is repealed and replaced with the following new section:

"**10. PUBLIC FUNDS.**

(1) There shall be a Public Fund -

(*a*) for the National Government; and

(*b*) for each of the Provincial Governments and Local-level Governments.

(2) A Public Fund established by Subsection (1) shall consist of -

(*a*) in the case of the National Government -

(i) the Consolidated Revenue Fund; and

(ii) the Trust Fund; and

(*b*) in the case of a Provincial Government or a Local-level Government -

(i) a General Revenue Fund; and

(ii) a Trust Fund.".

19. REPEAL AND REPLACEMENT OF SECTION 11.
Section 11 of the Principal Act is repealed and replaced with the following new section:

"**11. KEEPING OF PUBLIC FUNDS.**

(1) Subject to this Act, all public money shall be kept in such bank or banks as the Finance Departmental Head (subject to any specific directions of the Finance Minister) directs, but where banking facilities do not exist, public money shall be kept in such manner as the Finance Departmental Head (subject to any specific directions from the Finance Minister) directs.

(2) A direction under Subsection (1) shall be, by notice in the National Gazette and shall take effect from the date of publication or such date as is specified in the notice, whichever is the later date.

(3) A bank shall not permit a public or statutory body to open, maintain or operate a bank account without the consent in writing of the Finance Departmental Head.

(4) The Finance Departmental Head may, by notice in writing to any bank in which a bank account has been opened, maintained or operated without his consent, require the bank to transfer all funds in that account to the Consolidated Revenue Fund and to close or otherwise allow the Finance Departmental Head to take over the operation of that account.

(5) Any person in possession of public money for any reason shall cause it to be deposited in such bank or banks as the Finance Departmental Head directs under Subsection (1) at the first reasonably available opportunity after first coming into possession of that public money.

(6) Departmental Heads shall take such steps as are necessary in the circumstances to ensure compliance with this Act by all staff under their authority and control.".

20. REPEAL AND REPLACEMENT OF SECTION 12.

Section 12 of the Principal Act is repealed and replaced with the following new section:

"**12. INVESTMENT OF PUBLIC FUNDS.**

(1) The Finance Departmental Head may, subject to any specific directions from the Finance Minister, invest public moneys which form part of the Public Funds of National, Provincial or Local-level Governments and not immediately required -

(*a*) in the securities of any money market towards which the Central Bank acts as lender of last resort; or

(*b*) on deposit in a bank; or

(*c*) in any securities of, or guaranteed by, the State; or

(*d*) in the case of any money standing to the credit of a trust account in a Trust Fund, in accordance with the trust instrument relating to the investment of those money; or

(*e*) subject to Subsection (2), in any other manner approved by the Finance Minister.

(2) An approval by the Finance Minister under Subsection (1)(*e*) shall be by notice in the National Gazette.

(3) Investment of moneys out of the National Government Trust Fund shall be deemed to be part of that Trust Fund and subject to anything to the contrary in any law or in a trust instrument relating to any such moneys, the interest on any such investments shall be paid into the Consolidated Revenue Fund.

(4) Investment of moneys out of a Provincial or Local-level Government Trust Fund shall be deemed to be part of that Trust Fund, and subject to anything to the contrary in any law or in a trust instrument relating to any such moneys, the interest on any such investments shall be paid into the General Revenue Fund for that Provincial or Local-level Government.

(5) Investment of moneys out of the Consolidated Revenue Fund, and the interest on any such investments, form part of the Consolidated Revenue Fund.

(6) Investment of moneys out of any General Revenue Fund, and the interest on any such investments, form part of that General Revenue Fund.

(7) Investment of any moneys standing to the credit of any Trust Fund, the Consolidated Revenue Fund or General Revenue Funds shall be made only in accordance with the written authority of the Finance Departmental Head, subject to the terms and conditions that the Finance Departmental Head has specified in the written authority.

(8) The Finance Minister shall cause to be published in the National Gazette, within thirty days of the end of each quarter within a fiscal year, the full and complete details of each and every investment made or existing in that quarter under Subsection (1) by the classes of investment specified in Subsection (1)(*a*), (*b*), (*c*), (*d*) and (*e*).

(9) A notice under Subsection (5) shall contain sufficient detail to identify the nature of the investment, the amount invested, all fees and charges associated with the investment and the interest payable on the investment in that quarter.".

21. REPEAL AND REPLACEMENT OF SECTION 13.

Section 13 of the Principal Act is repealed and replaced with the following new section:

"**13. PAYMENTS INTO THE CONSOLIDATED REVENUE FUND.**

(1) Unless they are part of a Trust Fund or a General Revenue Fund, all public moneys -

(*a*) held by or on behalf of any person or a public or statutory body is part of the Consolidated Revenue Fund; and

(*b*) received by any person or in the custody, care or control of a public or statutory body is part of the Consolidated Revenue Fund by reason of it being public money, whether or not it has been banked; and

(*c*) must be recorded as public money as soon as practicable.

(2) All public money including loan moneys but not including -

(*a*) moneys payable under any law into an account of a Trust Fund or General Revenue Fund; or

(*b*) amounts advanced to a Trust Account by an overseas agency, by way of either loan or grant, for the purpose of funding an agreed project, shall be paid into the Consolidated Revenue Fund.

(3) Unless they are part of a Trust Fund or a General Revenue Fund, all moneys that are -

(*a*) deposited with a bank; or

(*b*) invested under Section 12; or

(*c*) advanced in accordance with this Act,

out of or on behalf of the Consolidated Revenue Fund shall be deemed to be part of that fund for the purposes of this Act.

(4) There shall be paid to the Consolidated Revenue Fund all amounts payable to it under this Act or any other law.".

22. REPEAL AND REPLACEMENT OF SECTION 14.

Section 14 of the Principal Act is repealed and replaced with the following new section:

"**14. PAYMENTS OUT OF CONSOLIDATED REVENUE FUND.**

(1) No public money shall be paid out of the Consolidated Revenue Fund except -

(*a*) public money appropriated under an Act; or

(*b*) public money deemed to have been appropriated under an Act; or
(*c*) to meet expenditure that is charged on the Consolidated Revenue Fund by a law; or
(*d*) for the payment of a refund of revenue required or permitted by any law where specific authority for the payment does not exist; or
(*e*) for the payment of revenue refunds provided for under any income tax, customs, stamp duty or other revenue law; or
(*f*) subject to Subsection (2), if, by the first day of a fiscal year, the Parliament has not appropriated public money for public expenditure or expenditure by the Parliament or the Judiciary for their respective services for that year; and
(*g*) in the case -
(i) of the National Executive - the Finance Minister; or
(ii) of the Parliament - the Speaker; or
(iii) of the Judiciary - the Chief Justice,

has authorised the issue and expenditure of moneys out of the Consolidated Revenue Fund for the purposes of government services, the services of the Parliament or the services of the Judiciary respectively.

(2) The Parliament or the Judiciary respectively under Subsection (1)(*f*) shall not exceed in total one third of the budgeted expenditure during the immediately preceding fiscal year for public expenditure the amounts which may be authorised for public expenditure.

(3) The Finance Minister shall give effect to the authorisation under Subsection (2) only on publication in the National Gazette.

(4) An authorisation under Subsection (2) becomes effective only on publication in the National Gazette.

(5) When an authorisation is made under Subsection (1)(*f*) and the public moneys paid pursuant to that authorisation, any appropriation subsequently passed by Parliament for that fiscal year for that purpose shall be reduced by the amount of the authorisation, unless the appropriation law specifically states that the appropriation has already taken into account the authorisation.

(6) No public money shall be paid out of the Consolidated Revenue Fund other than to meet an existing liability or requirement for payment and no payment shall be made in advance of liability or by way of a pre-payment.".

23. REPEAL AND REPLACEMENT OF SECTION 15.
Section 15 of the Principal Act is repealed and replaced with the following new section:

"**15. ESTABLISHMENT OF TRUST ACCOUNTS.**
(1) Subject to this section, within a Trust Fund, Trust Accounts may be established with the approval of the Finance Minister -
(*a*) to receive moneys held within a Trust Fund as trustee; or

(*b*) to receive the proceeds of commercial or trading activities carried on by any arm, agents or instrumentality of the State; or

(*c*) for such other purpose as may be approved by the Finance Minister.

(2) An approval under Subsection (1) shall be published in the National Gazette.

(3) The Finance Minister shall establish a Trust Account by executing a trust instrument.

(4) The State Solicitor shall approve the trust instrument which -

(*a*) specifies the operational terms and conditions of that Trust Account; and

(*b*) the date on which the Trust Account will expire.

(5) The Finance Minister may amend a trust instrument executed under this Act in a manner approved by the State Solicitor to correct minor errors or deficiencies but not so as to alter the purpose or intent of the trust instrument.

(6) Trust Accounts shall be operated in accordance with the requirements of the relevant trust instrument.

(7) Trust instruments for each Trust Account, including all amendments, shall be published in the National Gazette.

(8) A bank shall not permit a public or statutory body to open, maintain or operate a bank account for a Trust Account without possessing a copy of the National Gazette that published the trust instrument.

(9) The -

(*a*) Departmental Heads, Treasurer and Finance Departmental Head who are responsible for the management of Trust Accounts; and

(*b*) statutory bodies within their departmental oversight, who are responsible for the management of Trust Accounts,

shall cause to be published in the National Gazette, within one calendar month of the commencement of the fiscal year -

(*c*) details of all Trust Accounts opened or operating in the prior fiscal year; and

(*d*) details of the beneficiaries, signatories, purposes of the Trust Accounts and the current balance in the Trust Accounts at the time of the publication of the notice.

(10) All trust instruments that have no expiry date specified in the trust instrument, expire after 12 months from the date of commencement of this section.

(11) Any funds standing to the credit of a Trust Account at expiration shall -

(*a*) subject to Paragraph (*b*), be paid to the Consolidated Revenue Fund; or

(*b*) in the case of money that was sourced from an international agency, returned pro rata to that international agency.".

24. REPEAL AND REPLACEMENT OF SECTION 16.

Section 16 of the Principal Act is repealed and replaced with the following new section:

"**16. PAYMENTS INTO TRUST ACCOUNTS.**

(1) There shall be paid to the credit of a Trust Account -

(*a*) all public moneys appropriated for the purpose of the Trust Account; and

(*b*) all moneys received from any dealing with any articles purchased or produced, or for work paid for, with moneys standing to the credit of the Trust Account; and

(*c*) all moneys paid by any person for the purposes of the Trust Account; and

(*d*) amounts appropriated as Government contribution to a project which is partly funded by an international agency, whether by way of loan or grant.

(2) Subject to Subsection (1), transfers of funds from the Consolidated Revenue Fund to a Trust Fund are prohibited unless a special transfer is authorised by an Appropriation Act.

(3) Any money intended for a Trust Fund received by any person or in the custody, care or control of a public or statutory body is part of that Trust Fund, whether or not it has been banked, and must be recorded as soon as practicable.

(4) All moneys that are -

(*a*) deposited with a bank; or

(*b*) advanced in accordance with this Act,

out of or on behalf of a Trust Fund shall be deemed to be part of that fund for the purposes of this Act.

(5) Government contributions to donor-funded projects shall be transferred to the relevant Trust Account in compliance with the terms and conditions determined by the Finance Departmental Head.".

25. REPEAL AND REPLACEMENT OF SECTION 19.

Section 19 of the Principal Act is repealed and replaced with the following new section:

"**19. MANAGEMENT OF TRUST ACCOUNT.**

(1) The Finance Departmental Head shall notify each Departmental Head of the Trust Accounts for which he is responsible, including Trust Accounts managed by statutory bodies.

(2) A Departmental Head of a Department responsible for a Trust Account shall ensure the proper management and operation of that account.

(3) In relation to a Trust Account for which he is responsible, the Departmental Head of the Department shall, before the commencement of each fiscal year, submit to the Finance Departmental Head, in the form required by the Finance Departmental Head, an estimate of receipts and payments expected to be made into and withdrawn from that Trust Account.

(4) Departmental Head of a Department responsible for a Trust Account -

(*a*) may authorise payment out of that Trust Account in accordance with the estimate of receipts and payments submitted under Subsection (3) and agreed to by the Finance Departmental Head; and

(*b*) shall maintain such records pertaining to the Trust Account as are required by the Finance Departmental Head and shall submit to him, within 7 days after the end of each month, details of transaction on the account; and

(*c*) shall, within one month of the commencement of each fiscal year, submit to the Finance Departmental Head, a statement of account for the preceding year.

(5) The Finance Departmental Head may -

(*a*) suspend the operation of a Trust Account where the provisions of this Part are not complied with; and

(*b*) take over the responsibility for the Trust Account.

(6) The Finance Departmental Head may, at such intervals as he determines and after consultation with the Departmental Head of the Department responsible for a Trust Account, authorise the transfer of the surplus in that Trust Account to the Consolidated Revenue Fund.".

26. NEW SECTION 19A.

The Principal Act is amended by adding, immediately after Section 19, the following new section:

"**19A. FINANCE DEPARTMENTAL HEAD TO GIVE DIRECTIONS.**

(1) The Finance Departmental Head may give directions in respect of the management of trust accounts.

(2) The directions shall be published in the National Gazette.

(3) All persons shall comply with a direction in respect of the management of the trust accounts under this section.".

27. REPEAL AND REPLACEMENT OF SECTION 21.

Section 21 of the Principal Act is repealed and replaced with the following new section:

"21. **CLOSING OF TRUST ACCOUNTS.**

(1) The Finance Minister may direct that a Trust Account be closed.

(2) After all liabilities of the Trust Account have been met, the balance shall be dealt with in accordance with any trust instrument governing dealings with the moneys on the failure or expiration of the trust, and if there is no such instrument or if the trust instrument makes no provision for dealing with the trust moneys, on the failure or expiration of the trust, the balance shall be paid to the Consolidated Revenue Fund.".

28. REPEAL AND REPLACEMENT OF SECTION 22.

Section 22 of the Principal Act is repealed and replaced with the following new section:

"22. **NATIONAL BUDGET.**

(1) The raising and expenditure of finance by the National Government, and the imposition of taxation and the raising of loans, are subject to authorisation and control by the Parliament and shall be regulated by an Act of Parliament.

(2) For each fiscal year, there shall be a National Budget as required by Section 209 (*Parliamentary Responsibility*) of the ***Constitution*** comprising -

(*a*) estimates of finance proposed to be raised and estimates of proposed expenditure of the National Government in respect of the fiscal year; and

(*b*) separate appropriations for the service of that year in respect of -

(i) the services of the Parliament; and

(ii) general public services; and

(iii) the services of the Judiciary; and

(iv) a development budget for approved projects; and

(*c*) such other supplementary Budgets and appropriations as are necessary.

(3) Before any National Budget or appropriation is prepared for submission to the Parliament, the National Executive Council shall consult with any appropriate Permanent Parliamentary Committee, but this subsection does not confer any right or impose any duty of consultation after the initial stages of the preparation of the National Budget or appropriation.".

29. REPEAL AND REPLACEMENT OF SECTION 23.

Section 23 of the Principal Act is repealed and replaced with the following new section:

"23. **COMPILATION OF NATIONAL BUDGET.**

(1) The budget compilation processes for the National Budget, Provincial and Local-level Government budgets and the budgets of public and statutory bodies are administered and controlled by the Treasurer.

(2) The Treasurer shall, not later than six months before the end of a fiscal year, as part of the annual budget process, issue to Provincial and Local-level Governments and public and statutory bodies a budget calendar for the following fiscal year, that shall specify -

(*a*) the processes, timing of and all actions required to be taken by Provincial and Local-level Governments and public and statutory bodies in respect of the development and submission of estimates of receipts and expenditure for the next fiscal year and proposed works programme (if any) for that fiscal year; and

(*b*) the timing of the release by the Treasurer of the expenditure thresholds or limits for Provincial and Local-level Governments and public and statutory bodies.

(3) Provincial and Local-level Governments and public and statutory bodies shall comply with the budget calendar and the thresholds or limits released under this section.

(4) The Treasurer shall ensure that all allocations between Provincial, Local-level Governments, public and statutory bodies for similar purposes shall be based on allocation formulae that are transparent, needs based and poverty sensitive that use the best available sources of independent data that are robust and not capable of manipulation.

(5) Subsidiary statutory bodies budget estimates shall be incorporated in the budget estimates of the statutory body to which they are subsidiary.

(6) Local-level Government budget estimates shall be incorporated in the budget estimates of the Provincial Government in which they are located.".

30. NEW SECTION 23A.

The Principal Act is amended by adding, immediately after Section 23, the following new section:

"**23A. MANDATORY BUDGET CONSULTATION.**

In compiling the National Budget, the Treasurer shall consult with -

(*a*) the Minister responsible for the Prime Minister and National Executive Council matters; and

(*b*) the Minister responsible for economic and planning matters; and

(*c*) the Minister responsible for personnel management matters; and

(*d*) in so far as relating to the estimates of expenditure submitted by the Speaker under Section 209(2B) (*Parliamentary Responsibility*) of the ***Constitution*** - the Speaker or a member of the Parliamentary Service nominated by the Speaker for the purpose; and

(*e*) in so far as relating to the estimates of expenditure submitted by the Chief Justice under Section 209(2B) (*Parliamentary Responsibility*) of the ***Constitution*** - the Chief Justice or a member of the National Judicial Staff Service nominated by the Chief Justice for the purpose; and

(*f*) the Minister responsible for provincial government matters.".

31. REPEAL AND REPLACEMENT OF SECTION 24.
Section 24 is repealed and replaced with the following new section:

"**24. ADJUSTMENT OF APPROPRIATION AS BETWEEN SERVICES AND NEW SERVICES.**

(1) Subject to this section, where there is insufficient or no appropriation to meet expenditure incurred for an activity authorised by the National Budget, the Departmental Head of the department administering that activity may re-allocate the unexpended appropriation of another activity authorised by the National Budget and administered by that Department to meet the insufficiency or lack of appropriation.

(2) The Treasurer may, by notice published in the National Gazette, determine the limits, terms and conditions pursuant to which a Departmental Head is authorised to re-allocate appropriations pursuant to Subsection (1).

(3) The Departmental Head referred to in Subsection (1) shall advise the Treasurer of that re-allocation within 30 days of that reallocation.

(4) The Treasurer may direct the re-allocation of any unexpended appropriation to meet any insufficiency or lack of appropriation, however -

(*a*) the total re-allocation shall not exceed a sum specified for the purpose in an Act of the Parliament; and

(*b*) the re-allocation is within the budget for general public services or the development budget and is not partly within the budget for general public services and partly within the development budget.".

32. REPEAL OF SECTION 25.
Section 25 of the Principal Act is repealed.

33. REPEAL OF SECTION 26.
Section 26 of the Principal Act is repealed.

34. REPEAL AND REPLACEMENT OF SECTION 27.
Section 27 of the Principal Act is repealed and replaced with the following new section:

"**27. LAPSING OF APPROPRIATIONS.**

All appropriations made in respect of a fiscal year lapse at the end of that fiscal year.".

35. REPEAL AND REPLACEMENT OF SECTION 29.
Section 29 of the Principal Act is repealed and replaced with the following new section:

"**29. WARRANTS FOR ISSUE AND EXPENDITURE OF PUBLIC MONEYS.**

(1) The Finance Minister may authorise the Finance Departmental Head to issue a warrant authority authorising the expenditure of moneys from the Consolidated Revenue Fund for the purpose for which those moneys were appropriated or charged or were deemed to have been appropriated or charged.

(2) A warrant authority issued under Subsection (1) may limit the amount of moneys to be expended from the Fund if, in the opinion of the Finance Minister, financial exigencies or the public interest so require.".

36. REPEAL AND REPLACEMENT OF SECTION 30.

Section 30 of the Principal Act is repealed and replaced with the following new section:

"**30. LAPSE OF CERTAIN WARRANTS.**

All warrants lapse at the time that the appropriation or charge on which they were issued lapses.".

37. REPEAL AND REPLACEMENT OF SECTION 31.

Section 31 of the Principal Act is repealed and replaced with the following new section:

"**31. WARRANT AUTHORITIES.**

(1) Subject to Subsection (2), no public moneys shall be committed or expended except as authorised by a warrant authority within a fiscal year.

(2) Subsection (1) does not apply to payments from the Trust Fund.

(3) Notwithstanding the issue of a warrant authority, if in his opinion, financial exigencies or the public interest so require, the Finance Minister may limit or suspend any expenditure with or without suspension of the authority.

(4) All warrant authorities lapse at the end of the fiscal year in which they were issued.".

38. REPEAL AND REPLACEMENT OF SECTION 32.

Section 32 of the Principal Act is repealed and replaced with the following new section:

"**32. APPROVAL OF REQUISITIONS AND CONTRACT VARIATIONS.**

(1) A Departmental Head may, by notice in writing, appoint officers to approve requisitions for the expenditure of moneys in that Department in accordance with a warrant authority.

(2) The Finance Minister may, by notice in writing, appoint designated officers to approve variations to contracts.

(3) A Departmental Head may, by notice in writing, appoint officers as financial delegates to approve expenditures subject to the verified availability of funds for that expenditure.

(4) A notice under this section -

(*a*) may be subject to such terms and conditions as the Departmental Head or Finance Minister think fit; and

(*b*) shall be published in the National Gazette.".

39. REPEAL OF SECTION 34.

Section 34 of the Principal Act is repealed.

40. REPEAL AND REPLACEMENT OF SECTION 34A.

Section 34A of the Principal Act is repealed and replaced with the following new section:

"**34A. INTERPRETATION.**

In this Part, unless the contrary intention appears -

"designated mining enterprise" means a mining enterprise engaged in mining activities under a special mining lease issued or deemed to be issued under -

(*a*) Section 33 of the ***Mining Act* 1992**; or

(*b*) any similar provisions of a prescribed Act;

"designated petroleum enterprise" means any petroleum exploration or development enterprise engaged in petroleum exploration or development under -

(*a*) a petroleum development license or petroleum prospecting license issued under the ***Oil and Gas Act* 1998**; or

(*b*) any similar provision of a prescribed Act;

"person associated with mining or petroleum activities" means a corporate or natural person, declared for the purpose of this Act by the Finance Minister to be a person associated with mining or petroleum activities.".

41. REPEAL AND REPLACEMENT OF SECTION 34B.

Section 34B of the Principal Act is repealed and replaced with the following new section:

"**34B. PREPARATION OF ESTIMATES OF REVENUE, ETC.**

(1) The Finance Departmental Head shall, in the preparation of estimates of finance proposed to be raised for a fiscal year, specify -

(*a*) the revenue that, in his opinion, is expected to accrue to the Government from -

(i) designated mining enterprises; and

(ii) designated petroleum enterprises; and

(iii) persons associated with mining or petroleum activities; and

(*b*) the assumptions underlying his opinion.

(2) The matters referred to in Subsection (1)(*a*) and (*b*) shall be contained in the National Budget documents called volumes.".

42. REPEAL AND REPLACEMENT OF SECTION 34C.

Section 34C of the Principal Act is repealed and replaced with the following new section:

"34C. **EXPENDITURE OF EXCESS REVENUE FROM DESIGNATED MINING ENTERPRISES, ETC.**

(1) Where in any fiscal year the revenue accruing to Government from -

(*a*) designated mining enterprises; and

(*b*) designated petroleum activities; and

(*c*) persons associated with mining or petroleum activities,

exceeds the amount specified in respect of that fiscal year under Section 34B(1)(*a*), the amount of excess shall, subject to Subsection (2) be used only for the purpose of retiring debts incurred by the National Government.

(2) Excess revenue referred to in Subsection (1) not exceeding in total 10% of the amount of revenue specified in Section 34B(1)(*a*), may only be used for purposes other than the retiring of debts incurred by the National Government in accordance with an additional appropriation approved by the National Parliament.".

43. REPEAL AND REPLACEMENT OF SECTION 35.

Section 35 of the Principal Act is repealed and replaced with the following new section:

"35. **RESTRICTIONS ON BORROWING.**

(1) The State shall not borrow money except under and in accordance with an Act of the Parliament.

(2) Moneys borrowed under Subsection (1) from whatever sources shall not exceed the limit provided for by the ***Central Banking Act* 2000**.

(3) All debt charges for which the State is liable in respect of loan moneys shall be charged on the Consolidated Revenue Fund.".

44. REPEAL AND REPLACEMENT OF SECTION 36.

Section 36 of the Principal Act is repealed and replaced with the following new section:

"36. **LOANS TO THE STATE.**

(1) The Treasurer may, with and in accordance to the approval of the National Executive Council, for and on behalf of the State, borrow funds from any person to meet a public purpose.

(2) The approval shall -

(*a*) be by way of a notice in writing signed by the Prime Minister; and

(*b*) specify the full and complete terms and conditions of the approved borrowing; and

(*c*) be published in the National Gazette; and

(*d*) state the public purpose for which the borrowing is to be made and the use to which the borrowing is to be put.

(3) The Treasurer shall certify, by notice in writing prior to the execution of the borrowing, that a borrowing under this section was obtained on the best available commercial terms.

(4) The certification shall be published in the National Gazette.

(5) The Treasurer shall, at the first sitting of the Parliament following the execution of the borrowing, table all documents in his possession relating to the borrowing and his certification under this section.

(6) Moneys borrowed pursuant to this section shall not exceed the limit provided for by the ***Central Banking Act* 2000**.

(7) The principal and interest on moneys borrowed pursuant to this section shall be charged to the Consolidated Revenue Fund and are payable from that Fund.".

45. REPEAL AND REPLACEMENT OF SECTION 37.
Section 37 of the Principal Act is repealed and replaced with the following new section:

"**37. GUARANTEES BY THE STATE.**

(1) The Treasurer may, with and in accordance with the approval of the National Executive Council, for and on behalf of the State, guarantee to any person the repayment of funds (including interest and associated charges) by any person, where the repayment is of benefit to the State or otherwise furthers the interests of the State.

(2) The approval under Subsection (1) shall -

(*a*) be by way of a notice in writing signed by the Prime Minister; and
(*b*) specify the full and complete terms and conditions of the approved guarantee; and
(*c*) state the grounds on which the guarantee is of benefit to the State or otherwise furthers the interests of the State; and
(*d*) be published in the National Gazette.

(3) The Treasurer shall certify by notice in writing prior to the execution of the guarantee that the guarantee under this section was given by the State on the best available commercial terms.

(4) A certification under Subsection (3) shall be published in the National Gazette.

(5) The Treasurer shall, at the first sitting of the Parliament following the execution of the guarantee, table all documents in his possession relating to the guarantee and his certification.

(6) The Treasurer shall, on behalf of the State, charge such fee in respect of a guarantee made pursuant to this section as he considers appropriate in all of the circumstances in relation to that guarantee.".

46. REPEAL AND REPLACEMENT OF SECTION 38.
Section 38 of the Principal Act is repealed and replaced with the following new section:

"**38. LOANS BY THE STATE.**

(1) Subject to this section, the Treasurer may, in accordance with the approval of the National Executive Council, for and on behalf of the State, loan funds from any person for a purpose that benefits the State or furthers the interests of the State.

(2) An approval under Subsection (1) shall -

(*a*) be by way of a notice in writing signed by the Prime Minister; and

(*b*) specify the full and complete terms and conditions of the approved loan; and

(*c*) state the purpose of the loan that benefits the State or furthers the interests of the State; and

(*d*) be published in the National Gazette.

(3) The Treasurer shall certify, by notice in writing prior to the execution of the borrowing, that a loan under this section was granted on the best available commercial terms.

(4) A certification under Subsection (3) shall be published in the National Gazette.

(5) The Treasurer shall, at the first sitting of the Parliament following the execution of the loan, table all documents in his possession relating to the loan and his certification under this section.

(6) The Treasurer shall, on behalf of the State, charge such fee in respect of a loan made pursuant to this section as he considers appropriate in all of the circumstances in relation to that loan.".

47. REPEAL AND REPLACEMENT OF SECTION 39.

Section 39 of the Principal Act is repealed and replaced with the follow new section:

"**39. CENTRAL SUPPLY AND TENDERS BOARD.**

(1) The Central Supply and Tenders Board is hereby established to control and regulate -

(*a*) the purchase and disposal of public property; and

(*b*) the supply of works and services,

other than those in relation to which specialised Supply and Tenders Boards have been established under Section 39A, for and on behalf of the State.

(2) The Central Supply and Tenders Board -

(*a*) is a corporation by the name of The Central Supply and Tenders Board; and

(*b*) has perpetual succession; and

(*c*) shall have a common seal; and

(*d*) is capable by that name of -

(i) suing and being sued; and

(ii) taking, purchasing and holding public property; and

(iii) granting, selling, alienating, assigning and demising public property; and
(iv) doing all other matters and things incidental or appertaining to a corporation.

(3) The common seal of the Board shall be kept in such custody as the Board directs and shall not be used except by resolution of the Board or in such other manner as is authorised by law.

(4) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

(5) In the exercise of its powers under Subsection (1), the Central Supply and Tenders Board may, for and on behalf of the State -

(*a*) invite a tender for any amount; and
(*b*) enter into a contract for any amount up to K10,000,000.00, or such further or other amount as the Finance Minister may authorise.

(6) An authorisation under Section (5)(*a*) shall be published in the National Gazette.

(7) The Central Supply and Tenders Board shall consist of seven members comprising -

(*a*) the State Solicitor; and
(*b*) the Finance Departmental Head; and
(*c*) the Departmental Head of the Department responsible for works matters; and
(*d*) subject to this section, three persons appointed by the Finance Minister from nominations from three organisations of which one each represents the interests of business, engineers and accountants respectively; and
(*e*) an independent person appointed by the Finance Minister who has an unimpeachable and impeccable reputation and relevant experience or demonstrated understanding of commercial, procurement or contracting practices.

(8) The Finance Minister shall, by notice published in the National Gazette, specify the organisations referred to in Subsection (7)(*d*).

(9) An organisation specified pursuant to Subsection (8) shall nominate to the Finance Minister three persons who have, in the opinion of the organisation, unimpeachable and impeccable reputations and have relevant experiences or demonstrated understanding of commerce, procurement and contracting practices for appointment to any Board position.

(10) A person appointed by the Finance Minister under Subsections (7)(*d*) or (*e*) -

(*a*) shall be appointed by the Minister by notice published in the National Gazette; and
(*b*) shall be appointed for a period of three years commencing on the date specified in the notice; and
(*c*) holds office upon such terms and conditions as are determined by the Finance Minister by notice published in the National Gazette; and
(*d*) is eligible for re-appointment.

(11) The Finance Minister may, by notice published in the National Gazette, appoint a member of the Central Supply and Tenders Board to be the Chairman of the Board, and, where the member so appointed as Chairman is a member appointed pursuant to Subsection (7)(*d*) or (*e*), he shall -

(*a*) be appointed for a period of three years; and
(*b*) be on full-time employment upon such terms and conditions as are determined by the Head of State, acting on advice.

(12) At a meeting of the Central Supply and Tenders Board -

(*a*) the Chairman or, in his absence, a person appointed by the members from their number as chairman for that meeting, shall preside; and
(*b*) matters arising shall be decided by a majority of the votes of the members present; and
(*c*) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote; and
(*d*) the quorum shall be four members of whom at least one shall be a member appointed under Subsection (7)(*d*) or (*e*), and no more than two are delegates of members; and
(*e*) the procedures of the meeting are as determined by the Board.

(13) The Finance Minister may terminate the appointment of a member appointed pursuant to Subsection (7)(*d*) or (*e*) -

(*a*) for ill health, incompetence or impropriety; and
(*b*) only after the receipt by him of a report from the Board on the reason for the proposed termination.

(14) The Finance Minister may make Rules, by notice published in the National Gazette, not inconsistent with this Act prescribing -

(*a*) the manner of inviting tenders publicly; and
(*b*) the method of dealing with tenders; and
(*c*) the criteria to be applied in the evaluation of tenders; and
(*d*) the appointment by the Board, of advisors in technical matters; and
(*e*) the keeping by the Board of records of the performance of each successful tenderer; and
(*f*) the manner of regulating the disposal of public property no longer required by the State; and
(*g*) the method of obtaining and dealing with quotations for -
  (i) the purchase and disposal of public property; and
  (ii) the supply of goods and services; and

(*h*) the manner in which the Board shall supervise the operations of other Tender Boards established under Section 39B.".

48. OTHER SPECIALISED SUPPLY AND TENDERS BOARDS (AMENDMENT OF SECTION 39A).

Section 39A of the Principal Act is amended in Subsection (1), Paragraph (*c*), by deleting the words "property and stores" and replacing them with the following words:

"public property".

49. REPEAL AND REPLACEMENT OF SECTION 39B.

Section 39B of the Principal Act is repealed and replaced with the following new section:

"39B. PROVINCIAL SUPPLY AND TENDERS BOARDS.

(1) The Finance Minister may, by notice in the National Gazette, establish such number of Provincial Supply and Tenders Boards as he, on the advice of the Finance Departmental Head, thinks necessary.

(2) The Provincial Supply and Tenders Board shall control and regulate -

(*a*) the purchase and disposal of public property; and

(*b*) the supply of works and services,

for any amount up to K5,000,000.00 or such other amount as the Finance Minister, on the advice of the Central Supply and Tenders Board, may determine by notice in the National Gazette, for and on behalf of the State in the provinces.

(3) A Provincial Supply and Tenders Board shall comprise the following five members:

(*a*) the Provincial Administrator, who shall be the Chairman; and

(*b*) the Provincial Works Manager; and

(*c*) the Advisor, Planning and Budgeting; and

(*d*) the Provincial Treasurer; and

(*e*) an independent person appointed by the Finance Minister who has an unimpeachable and impeccable reputation and relevant experience or demonstrated understanding of commercial, procurement or contracting practices.

(4) An appointment of membership under Subsection (3) shall -

(*a*) be by notice published in the National Gazette; and

(*b*) shall be for a period of three years; and

(*c*) be subject to such terms and conditions as are determined by the Minister by notice in the National Gazette; and

(*d*) may be renewed.

(5) The Finance Minister may at any time terminate the appointment of a member of a Provincial Supply and Tenders Board appointed pursuant to Subsection (1)(*e*) for ill health, corruption, incompetence or impropriety and may appoint another person in his place.

(6) At a meeting of a Provincial Supply and Tenders Board -

(*a*) the Chairman or, in his absence, a person appointed by the members from their number as chairman for that meeting, shall preside; and

(*b*) matters arising shall be decided by a majority of the votes of the members present; and

(*c*) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote; and

(*d*) the quorum shall be three members; and

(*e*) the procedures of the meeting are as determined by the Board.

(7) The Finance Minister may make Rules determining -

(*a*) the manner of inviting tenders publicly; and

(*b*) the method of dealing with tenders; and

(*c*) the criteria to be applied in the evaluation of tenders; and

(*d*) the appointment by the Boards, of advisors in technical matters; and

(*e*) the keeping by the Boards, of records of the performance of each successful tenderer; and

(*f*) the manner of regulating the disposal of property no longer required by the State; and

(*g*) the method of obtaining and dealing with quotations for -

(i) the purchase and disposal of public property; and

(ii) the supply of goods and services.".

50. REPEAL AND REPLACEMENT OF SECTION 40.

Section 40 of the Principal Act is repealed and replaced with the following new section:

"**40. TENDERS FOR PUBLIC PROPERTY, WORKS AND SERVICES.**

(1) Subject to this Act, tenders shall be publicly invited and contracts let for the purchase or disposal of public property or the supply of works and services the estimated cost of which exceeds K500,000.00 or such other amount determined by the Finance Minister.

(2) Subject to this Act, in relation to the purchase or disposal of public property and the supply of works and services the estimated cost of which does not exceed the amount determined under this section, the Finance Departmental Head may direct the procedures and processes to be followed.

(3) This section shall not apply to the purchase or disposal of public property or the supply of works and services -

(*a*) that are to be purchased from, disposed of to, or executed or performed by -

(i) a public or statutory body approved for the purpose by the Minister; or

(ii) a Provincial Government; or

(iii) a Local-level Government; or

(iv) an approved overseas agency; or

(5) In assessing tenders, the Board shall give consideration to the capacity, experience, integrity, financial status and past performance of the tenderer and such other matters as it thinks relevant.

(6) The Board shall, after assessing all tenders, decide that the amount of the tender does not exceed the amount specified or determined as the limit of the jurisdiction of that Board -

(*a*) accept a tender; and

(*b*) reject all other tenders,

and the reasons for the acceptance and rejection shall be detailed in the minutes of the meeting of the Board.

(7) The Board shall, after assessing that the amount of the tender exceeds the amount specified or determined as the limit of the jurisdiction of that Board, recommend to the Finance Minister -

(*a*) the acceptance of the tender; and

(*b*) the rejection of all other tenders,

and the reasons for the recommendation shall be detailed in the minutes of the meeting of the Board.

(8) The Finance Minister shall, on receiving a recommendation from a Board in respect of a tender that the amount exceeds K10,000,000.00, submit to the National Executive Council the recommendation together with particulars of all tenders received and the National Executive Council shall decide which tender or tenders shall be accepted.

(9) All contracts exceeding K10,000,000.00 shall be executed for the State by the Head of State, acting in accordance with the approval and advice of the National Executive Council.".

53. REPEAL AND REPLACEMENT OF SECTION 44.

Section 44 of the Principal Act is repealed and replaced with the following new section:

"**44. FORM OF RECOMMENDATION BY BOARD.**

A recommendation by the Board shall be -

(*a*) in the form of a submission containing the reasons for the recommendation; and

(*b*) accompanied by -

(i) the tender notice; and

(ii) the conditions of tender; and

(iii) specifications and plans (if any) of the matter or thing in respect of which tenders were invited; and

(iv) the tenders received and considered.".

54. REPEAL AND REPLACEMENT OF SECTION 46.

Section 46 of the Principal Act is repealed and replaced with the following new section:

"**46. SECRECY.**

A person shall not discuss or divulge, directly or indirectly, the contents of a tender, except in compliance with the requirements of this Act.".

55. REPEAL AND REPLACEMENT OF SECTION 47.

Section 47 of the Principal Act is repealed and replaced with the following new section:

"**47. EXECUTION, ETC., OF STATE CONTRACTS.**

(1) Subject to this Act, where there is no provision in any law as to the person or authority empowered to execute a contract or agreement on behalf of the State, that contract or agreement may be executed -

(*a*) by the Head of State, acting on advice; or

(*b*) where the amount of the consideration does not exceed K5,000,000.00, by the Finance Minister; or

(*c*) where the amount of the consideration does not exceed an amount specified by the Minister, by the Chairman of the Tenders Board which considered the tender leading to the contract or agreement.

(2) Subject to Section 42(6), where a contract or agreement was executed by the Finance Minister or by the Head of State, acting on advice, or by the Chairman of a Tenders Board, any variation made to the contract or agreement may be executed by the Minister or by the Head of State, acting on advice.

(3) Where the amount of the consideration of a contract or agreement to which the State is a party exceeds K5,000,000.00, the Finance Minister shall cause a copy of the contract or agreement to be laid before the first sitting of the Parliament after execution of the contract or agreement.".

56. REPEAL OF SECTION 47A.

Section 47A of the Principal Act is repealed.

57. REPEAL AND REPLACEMENT OF SECTION 47B.

Section 47B of the Principal Act is repealed and replaced with the following new section:

"**47B. AUTHORITY TO PRE-COMMIT EXPENDITURE.**

(1) The Finance Departmental Head may issue to a Departmental Head an Authority to Pre-commit Expenditure in relation to the purchase of real or personal property or for the supply of goods or services where the Finance Departmental Head is satisfied that -

(*a*) in the case of proposed expenditure exceeding K100,000.00 -

(i) the provisions of this Part have been complied with in relation to the purchase or supply; and

(ii) funds will be available to meet the proposed schedule of payments for the purchase or supply; and

(*b*) in the case of proposed expenditure not exceeding K100,000.00, the circumstances of the proposed expenditure are such that it is appropriate to authorise the Departmental Head to enter into a contract for the purchase of real or personal property or stores or for the supply of goods or services notwithstanding that the full amount of funds to meet the payment required under the contract is not immediately available.

(2) An Authority to Pre-Commit Expenditure under Subsection (1) shall specify -

(*a*) the purchase of real or personal property or stores or the supply of goods or services to which it relates; and

(*b*) the maximum amount to which the Authority extends.

(3) An Authority to Pre-Commit Expenditure under Subsection (1) authorises the Departmental Head to enter into a contract for the purchase of public property or for the supply of goods and services specified in the Authority to the extent of an amount not exceeding the maximum amount specified in the Authority.".

58. REPEAL AND REPLACEMENT OF SECTION 47D.

Section 47D of the Principal Act is repealed and replaced with the following new section:

"**47D. CLAIM AGAINST STATE NOT ENFORCEABLE IN CERTAIN CIRCUMSTANCES.**

(1) A contract purportedly entered into for and on behalf of the State without full compliance of this Act is null and void and shall not be enforced in any court.

(2) Any property, goods or services supplied under a contract referred to in Subsection (1), may not be sued upon and no claim is enforceable in respect of them, in any court.".

59. NEW SECTION 47E.

The Principal Act is amended by adding immediately after Section 47D, the following new section:

"**47E. APPROVAL REQUIRED FOR CERTAIN CONTRACTS BY STATUTORY BODY.**

(1) Subject to this section, the Finance Minister may determine the limits, terms and conditions whereby contracts by a statutory body require prior approval by the Finance Minister.

(2) Determinations under Subsection (1) shall be published in the National Gazette.

(3) A statutory body shall not, except with the prior written approval of the Finance Minister, enter into a contract or arrangement exceeding K500,000.00 or such lesser sum as is specified for that statutory body pursuant to Subsection (1).

(4) A determination or approval pursuant to this section may be subject to such terms and conditions as the Finance Minister thinks fit.".

60. NEW PART VIIA.

The Principal Act is amended by adding, after Part VII, the following new part:

"**PART VIIA. - PUBLIC BODIES.**

47F. APPLICATION OF PART VIIA.

(1) This Part applies to all public bodies without exception, limitation, condition, addition or modification prescribed by any other law.

(2) Where a provision in this Part is stated to apply to all public bodies, then, notwithstanding any contrary provision in any other law, that provision shall apply without regard to any exception, limitation, condition, additions or modification in any other law.

47G. PERFORMANCE AND MANAGEMENT PLANS FOR PUBLIC BODIES.

(1) The Finance Departmental Head may, by notice in writing, direct a public body to submit to the Finance Departmental Head a performance and management plan.

(2) The public body shall submit the performance and management plan at such intervals and in such form and shall contain such information as is specified in the direction in Subsection (1).

(3) A public body that has submitted a performance and management plan shall submit to the Finance Departmental Head progress reports against its performance and management plan at such intervals and in such form and containing such information as is specified in the direction pursuant to Subsection (1).

(4) A direction under Subsection (1) shall be published in the National Gazette.

47H. BANK ACCOUNTS.

(1) A public body shall open and maintain an account with a bank approved by the Finance Minister and at all times maintain at least one such account.

(2) The public body shall deposit all money payable to it into the account.

47I. BUDGET APPROPRIATION PAYMENTS TO PUBLIC BODIES.

(1) The Treasury Departmental Head shall determine the amount of the money and at such times to pay the money to a public body as is appropriated by the Parliament for the purposes of the public body.

(2) Where money paid under Subsection (1) is unexpended within the financial year for the purposes for which it was appropriated, the public body shall return the money to the Consolidated Revenue Fund unless otherwise directed by the Treasurer.

(3) For the purposes of Subsection (2), "unexpended" means not contracted for expenditure at the end of the financial year.

47J. APPLICATION OF MONEYS BY PUBLIC BODIES.

The money of a public body shall be applied only in payment or discharge of expenses, obligations and liabilities of the public body in accordance with this Act.

47K. ACCOUNTS, RECORDS, ETC., OF PUBLIC BODIES.

(1) Subject to this section, a public body shall -

(*a*) keep proper accounts and records of its transactions and affairs; and

(*b*) do all things necessary to ensure that all payments out of its money are correctly made and properly authorised; and

(*c*) ensure that adequate control is maintained over its assets, or assets in its custody; and

(*d*) establish and ensure compliance with internal control procedures; and

(*e*) ensure that liabilities are controlled and incurred by it in accordance with the directions under this section.

(2) The Finance Minister may direct a public body as to any matter referred to in Subsection (1).

(3) A direction pursuant to Subsection (2) shall be subject to such terms and conditions as the Finance Minister thinks fit.

(4) A direction pursuant to this Act shall be published in the National Gazette.

47L. REPORTS AND FINANCIAL STATEMENTS OF PUBLIC BODIES.

(1) A public body shall, for every fiscal year, prepare and furnish to the Finance Departmental Head financial statements and a performance and management report of its operations.

(2) The statements and reports shall -

(*a*) be submitted prior to the end of the fourth calendar month from the close of a fiscal year; and

(*b*) be in such form and contain such information as the Finance Departmental Head may direct from time to time; and

(*c*) be submitted to the Auditor-General for report in accordance with Part II of the ***Audit Act* 1989**.

(3) The Finance Minister shall cause all reports and statements to be laid before Parliament at the first meeting of the Parliament after their receipt by the Finance Minister.

(4) The Finance Minister shall cause all reports of the Auditor-General in respect of statements and reports under this section to be laid before Parliament at the first meeting of the Parliament after their receipt by the Finance Minister.

(5) When the report or a financial statement of a public body is reproduced for publication or for other purposes, the report of the Auditor-General on it shall be included in the reproduction.

(6) A direction pursuant to this section shall be published in the National Gazette.

47M. POWERS OF INSPECTION OF THE FINANCE MINISTER, ETC., OF PUBLIC BODIES.

(1) The Finance Minister may, on reasonable belief that a public body has failed to comply with any provision or obligation under this Act, investigate or inspect the accounts and other records of that public body.

(2) In the investigation or inspection, the Finance Minister shall have full and free access, at all reasonable times, to all accounts and records of a public body that relate, directly or indirectly to -

(*a*) the collection, receipt, expenditure and issue of moneys of the public body; or

(*b*) the receipt, custody, disposal, issue or use of the real or personal property of the public body.".

61 REPEAL AND REPLACEMENT OF PART VIII TITLE.

The Principal Act is amended in Part VIII by repealing the title and replacing it with the following new title:

"**PART VIII. - STATUTORY BODIES.**".

62. REPEAL AND REPLACEMENT OF SECTION 48.

Section 48 of the Principal Act is repealed and replaced with the following new section:

"**48. APPLICATION OF THIS PART.**

(1) This Part applies to all statutory bodies unless exempted in whole or part by another Act.

(2) This Part shall not apply to a public body.

(3) All provisions of any statute which are inconsistent with this Act are, to the extent of their inconsistency, repealed.".

63. REPEAL AND REPLACEMENT OF SECTION 49.
Section 49 of the Principal Act is repealed and replaced with the following new section:

"**49. SUBSIDIARY STATUTORY BODIES.**
For the purposes of this Part, a body, whether corporate or unincorporate, is a subsidiary statutory body of a statutory body if -

(*a*) that statutory body -

(i) has the ability, directly or indirectly, to appoint or remove directors, managers or any other management or administrative staff to that body; or

(ii) controls, directly or indirectly, 50% or more of the voting power of that body; or

(iii) holds 50% or more of the issued shares or share capital of the body, if any; or

(*b*) the body is a subsidiary of a body that is a subsidiary of a statutory body.

64. REPEAL AND REPLACEMENT OF SECTION 50.
Section 50 of the Principal Act is repealed and replaced with the following new section:

"**50. PERFORMANCE AND MANAGEMENT PLANS.**
(1) A statutory body shall submit to the Finance Departmental Head a performance and management plan.

(2) A performance and management plan under Subsection (1) shall be submitted at such intervals and in such form and shall contain such information as the Finance Departmental Head, by notice in writing, directs.

(3) A statutory body shall submit to the Finance Departmental Head progress reports against their performance and management plans at such intervals and in such form and containing such information as the Finance Departmental Head, by notice in writing, directs.

(4) A direction pursuant to this section shall be published in the National Gazette.".

65. REPEAL OF SECTION 51.
Section 51 of the Principal Act is repealed.

66. REPEAL AND REPLACEMENT OF SECTION 52.
Section 52 of the Principal Act is repealed and replaced with the following new section:

"**52. BANK ACCOUNTS.**

(1) A statutory body shall open and maintain an account with a bank approved by the Finance Departmental Head (subject to any specific directions of the Finance Minister) and at all times maintain at least one such account.

(2) The statutory body shall pay all money payable to it into the account.".

67. REPEAL AND REPLACEMENT OF SECTION 53.

Section 53 of the Principal Act is repealed and replaced with the following new section:

"**53. BUDGET APPROPRIATION PAYMENTS TO STATUTORY BODIES.**

(1) The money appropriated by the Parliament for the purposes of statutory bodies shall be paid to a statutory body.

(2) Money paid pursuant to this section shall be paid in such amounts and at such times as the Treasury Departmental Head determines.

(3) Where money paid under Subsection (1) is unexpended within the financial year for the purposes for which they were appropriated, the statutory body shall return the money to Consolidated Revenue Fund unless otherwise directed by the Treasurer.

(4) For the purposes of Subsection (3), "unexpended" means not contracted for expenditure at the end of the financial year.".

68. REPEAL AND REPLACEMENT OF SECTION 54.

Section 54 of the Principal Act is repealed and replaced with the following new section:

"**54. LOANS, BORROWING AND GUARANTEES OF STATUTORY BODIES.**

(1) Subject to the approval in writing of the Treasurer, a statutory body may, on such terms as they agree -

(*a*) borrow money, including by overdraft, from any person; or
(*b*) borrow public money from the State; or
(*c*) guarantee a loan to any person.

(2) An approval shall be published in the National Gazette.

(3) The approval may be subject to such terms and conditions as the Treasurer thinks fit.

(4) Statutory bodies and all other persons shall comply with the terms and conditions of any approval.

(5) No person shall loan money to a statutory body or receive a guarantee from a statutory body without the approval of the Treasurer pursuant to this section first being had and in accordance with the terms and conditions specified in that approval.".

69. REPEAL OF SECTION 55.
Section 55 of the Principal Act is repealed.

70. REPEAL OF SECTION 56.
Section 56 of the Principal Act is repealed.

71. REPEAL AND REPLACEMENT OF SECTION 57.
Section 57 of the Principal Act is repealed and replaced with the following new section:

"**57. INVESTMENT BY STATUTORY BODIES.**

(1) A statutory body may invest money that is not immediately required -

(*a*) in the securities of any money market towards which the Central Bank acts as lender of last resort; or

(*b*) on deposit in a bank; or

(*c*) in any securities of, or guaranteed by the State; or

(*d*) in any manner in which a trustee may, under any law, invest trust moneys; or

(*e*) in any other manner approved by the Finance Minister.

(2) The Finance Minister may, by notice published in the National Gazette, determine such terms and conditions as he thinks fit in respect of investments under this section.

(3) An approval pursuant to Subsection (1)(*e*) shall be published in the National Gazette.

(4) A statutory body shall cause to be published in the National Gazette, within 30 days of the end of each quarter within a fiscal year, the full and complete details of each and every investment made or existing in that quarter by the classes of investment specified in Subsection (1)(*a*), (*b*), (*c*), (*d*) and (*e*).

(5) A notice under Subsection (4) shall contain sufficient detail to identify the nature of the investment, the amount invested, all fees and charges associated with the investment and the interest payable on the investment in that quarter.

(6) A statutory body shall, within four months of the end of a fiscal year, pay into the Consolidated Revenue Fund all revenue and profits of the statutory body for that fiscal year that are not contractually committed for expenditure in accordance with the approved budget of the statutory body within that fiscal year.".

72. REPEAL AND REPLACEMENT OF SECTION 58.
Section 58 of the Principal Act is repealed and replaced with the following new section:

"**58. APPLICATION OF MONEY BY A STATUTORY BODY.**

The money of a statutory body shall be applied only in payment or discharge of expenses, obligations and liabilities of the statutory body arising under this Act or its governing law.".

73. REPEAL OF SECTION 59.
Section 59 of the Principal Act is repealed.

74. REPEAL OF SECTION 60.
Section 60 of the Principal Act is repealed.

75. REPEAL OF SECTION 61.
Section 61 of the Principal Act is repealed.

76. REPEAL AND REPLACEMENT OF SECTION 62.
Section 62 of the Principal Act is repealed and replaced with the following new section:

"**62. ACCOUNTS, RECORDS, ETC., BY STATUTORY BODY.**

(1) A statutory body shall -

(*a*) keep proper accounts and records of its transactions and affairs; and

(*b*) do all things necessary to ensure that all payments out of its money are correctly made and properly authorised; and

(*c*) ensure that adequate control is maintained over its assets, or assets in its custody; and

(*d*) establish and ensure compliance with internal control procedures; and

(*e*) ensure that liabilities are controlled and incurred by it in accordance with the directions under this section.

(2) The Finance Minister may direct a statutory body as to any matter referred to in Subsection (1).

(3) A direction pursuant to Subsection (2) shall be subject to such terms and conditions as the Finance Minister thinks fit.

(4) In the case of a statutory body that is declared by its governing law or by the Finance Minister to be a trading enterprise for the purpose of this section, the accounts and records required by Subsection (1) shall be kept in accordance with the accounting principles generally applied in commercial practice.

(5) A direction or declaration under this section shall be published in the National Gazette.".

77. REPEAL AND REPLACEMENT OF SECTION 63.
Section 63 of the Principal Act is repealed and replaced with the following new section:

"**63. REPORTS AND FINANCIAL STATEMENTS BY STATUTORY BODY.**

(1) Subject to this section, a statutory body shall, for every fiscal year, prepare and furnish to the Finance Departmental Head the financial statements and a performance and management report of its operations.

(2) The financial statements under Subsection (1) shall be -

(*a*) in the case of a statutory body declared under its governing law to be a trading enterprise - in accordance with accounting principles generally applied in commercial practice; and

(*b*) in all other cases - in a form approved by the Finance Minister in consultation with the Auditor-General.

(3) Statements and reports referred to in Subsection (1) shall -

(*a*) be submitted prior to the end of the fourth calendar month from the close of a fiscal year; and

(*b*) be in such form and contain such information as the Finance Departmental Head may from time to time direct; and

(*c*) be submitted to the Auditor-General for report in accordance with Part II of the ***Audit Act* 1989**.

(4) The Finance Minister shall cause all reports of the Auditor-General in respect of statements and reports under this section to be laid before Parliament at the first meeting of the Parliament after their receipt by the Finance Minister.

(5) When the report or a financial statement of a statutory body is reproduced for publication or for other purposes, the report of the Auditor-General on it shall be included in the reproduction.

(6) A direction under this section shall be published in the National Gazette.".

78. REPEAL AND REPLACEMENT OF SECTION 64.

Section 64 of the Principal Act is repealed and replaced with the following new section:

"**64. POWERS OF INSPECTION OF THE FINANCE MINISTER, ETC., OF A STATUTORY BODY.**

(1) The Finance Minister may, on reasonable belief that a statutory body has failed to comply with any provision or obligation under this Act, investigate or inspect the accounts and other records of that statutory body.

(2) In an investigation or inspection under this section, the Finance Minister shall have full and free access, at all reasonable times, to all accounts and records of a statutory body that relate, directly or indirectly to -

(*a*) the collection, receipt, expenditure and issue of moneys of the statutory body; or

(*b*) the receipt, custody, disposal, issue or use of the real or personal property of the statutory body.".

79. NEW SECTIONS 64A, 64B, 64C, 64D AND 64E.

The Principal Act is amended by adding, immediately after Section 64, the following new sections:

"64A. **ESTABLISHMENT, RESTRUCTURE OR REVIEW OF STATUTORY BODIES.**

(1) The statutory body shall submit to the Treasurer and the Minister of Finance all proposals for the creation, reform or restructure of the statutory body for consideration, clearance and comment prior to submission to the National Executive Council.

(2) The Treasurer shall examine and consider a proposal under Subsection (1) as to the financial implications on the National Budget and shall issue a certificate that -

(*a*) the proposal has been considered; and
(*b*) states the impact of the proposal on the National Budget; and
(*c*) states whether or not the proposal is supported and the changes, if any, required to the proposal prior to the grant of support.

(3) The Finance Minister shall examine and consider a proposal under Subsection (1) as to the impact of the proposal on financial accountability and shall issue a certificate stating that -

(*a*) the proposal has been considered; and
(*b*) states the impact of the proposal on financial accountability; and
(*c*) states whether or not the proposal is supported and the changes, if any, required to the proposal prior to the grant of support.

(4) A certificate shall be attached to any submission to the National Executive Council for the creation, reform or restructure of a statutory body.

(5) The Treasurer or the Finance Minister may require a review to be undertaken in respect of any statutory body as to whether the purpose and expectations in respect of that statutory body have been met and make recommendations to the National Executive Council as to either reform or repeal that statutory body.

(6) A review under this section shall be conducted as the Treasurer or Finance Minister directs.

64B. ENFORCEMENT OF PART VIII.

(1) Where a statutory body, other than a constitutional institution, fails to comply with a provision of Part VIII or any direction, determination, guideline or other matter issued pursuant to Part VIII, the Finance Minister may, on written recommendation from the Finance Departmental Head, issue a notice of non-compliance to the head and a member or members of the controlling authority of the statutory body.

(2) A notice of non-compliance shall -

(*a*) identify the nature of the failure to comply with a provision of Part VIII or any direction, determination, guideline or other matter issued pursuant to Part VIII; and

(*b*) require a statutory body to remedy the failure to comply with a provision of Part VIII or any direction, determination, guideline or other matter issued pursuant to Part VIII, to the satisfaction of the Finance Minister, within the time specified in the notice; and

(*c*) state that if, after the expiration of the time specified in the notice, in the opinion of the Finance Minister, the statutory body remains non-compliant, the Finance Minister may recommend to the National Executive Council to suspend or terminate the head, members of the controlling authority or any of the staff of the statutory body.

(3) The National Executive Council, upon receiving a recommendation pursuant to Subsection (2)(*c*), may order -

(*a*) the suspension or termination of the head, members of the controlling authority or any of the staff of the statutory body; or

(*b*) that no action be taken in respect of the recommendation.

(4) If an order is made, the order shall specify -

(*a*) if a termination, how the terminated person is to be replaced; and

(*b*) if a suspension, how the suspension is to be resolved.

(5) A person terminated under Subsection (4)(*a*) shall -

(*a*) receive no compensation for that termination and all rights and entitlements under any other law are revoked; and

(*b*) be stopped in perpetuity from commencing or maintaining any action in any court of competent jurisdiction that relates to, directly or indirectly, any notice, recommendation or order under this section.

(6) Notices, recommendations or orders under this section shall be published in the National Gazette.".

64C. STATUTORY BODY FINANCIAL MANAGEMENT MANUAL.

(1) A statutory body shall establish, use and regularly update a Financial Management Manual.

(2) The form, substance and content of a Financial Management Manual shall comply with the directions of the Finance Departmental Head.

(3) The Finance Departmental Head may direct a statutory body to alter, amend or otherwise review its Financial Management Manual.

(4) All persons, in any dealing by, in or with a statutory body, whether or not they are appointed to, employed by or otherwise engaged with the operations or management of that statutory body, comply with the Financial Management Manual of that statutory body.

(5) Where a statutory corporation has not complied with Subsection (1), the Finance Departmental Head may direct a statutory corporation to use a Financial Management Manual specified in the direction.

64D. GOVERNANCE.

(1) A statutory body shall ensure that it applies governance rules appropriate for the statutory body, to manage the implementation and performance of its programs, activities, functions and operations.

(2) Governance rules shall -

(*a*) incorporate the cultural and operational aspects of the statutory body that are influenced by its actions and decisions; and

(*b*) include the concepts of -

(i) openness, integrity and transparency; and

(ii) due care; and

(iii) public accountability; and

(*c*) include establishing a performance management system, a risk management system and an internal control structure.

64E. RESPONSIBILITIES OF A STATUTORY BODY.

(1) The chairperson, board members, the chief executive officer and chief financial officer of a statutory body shall comply with the duties, obligations and responsibilities as directed by the Finance Departmental Head.

(2) A direction under this section shall be published in the National Gazette.".

80. REPEAL AND REPLACEMENT OF SECTION 65.

Section 65 of the Principal Act is repealed and replaced with the following new section:

"**65. CONDITIONAL GRANTS.**

(1) In accordance with the ***Organic Law on Provincial Governments and Local-level Governments***, conditional grants shall be made to Provincial Governments and Local-level Governments in such amounts and for such purposes as are appropriated.

(2) The terms and conditions attached to conditional grants shall be determined by the Finance Departmental Head.

(3) A determination under this section shall be published in the National Gazette.

(4) A Provincial Government, a Local-level Government and any other person shall comply with the terms and conditions attached to conditional grants determined by the Finance Departmental Head.

(5) The manner and conditions of payment of the conditional grants referred to in Subsection (1), shall be directed by the Finance Departmental Head.".

81. REPEAL OF SECTION 65A.
Section 65A of the Principal Act is repealed.

82. REPEAL AND REPLACEMENT OF SECTION 66.
Section 66 of the Principal Act is repealed and replaced with the following new section:

"**66. INVESTMENT.**

(1) A Provincial Government or Local-level Government may invest money that is not immediately required -

(*a*) in the securities of any money market towards which the Central Bank acts as lender of last resort; or
(*b*) on deposit in a bank; or
(*c*) in any securities of, or guaranteed by, the State; or
(*d*) in any manner in which a trustee may, under any law, invest trust moneys; or
(*e*) in any other manner approved by the Finance Minister.

(2) The Finance Minister may, by notice published in the National Gazette, determine such terms and conditions as he thinks fit in respect of investments.

(3) An approval pursuant to Subsection (1)(*e*) shall be published in the National Gazette.

(4) A Provincial Government or Local-level Government shall cause a notice to be published in the National Gazette, within 30 days of the end of each quarter within a fiscal year, the full and complete details of each and every investment made or existing in that quarter by the classes of investment specified in Subsection (1)(*a*), (*b*), (*c*), (*d*) and (*e*).

(5) A notice under Subsection (4) shall contain sufficient detail to identify the nature of the investment, the amount invested, all fees and charges associated with the investment and the interest payable on the investment in that quarter.".

83. REPEAL AND REPLACEMENT OF SECTION 67.
Section 67 of the Principal Act is repealed and replaced with the following new section:

"**67. LOANS, BORROWING AND GUARANTEES.**

(1) Subject to an approval in writing of the Treasurer, a Provincial Government or Local-level Government may, on such terms as are agreed -

(*a*) borrow money, including by overdraft, from any person; or
(*b*) borrow public money from the State; or
(*c*) guarantee a loan to any person.

(2) The approval shall be published in the National Gazette.

(3) The approval may be subject to such terms and conditions as the Treasurer thinks fit.

(4) A Provincial Government or a Local-level Government and any other person shall comply with the terms and conditions of an approval.

(5) No person shall loan money to a Provincial Government or Local-level Government or receive a guarantee from a Provincial Government or Local-level Government without the approval of the Treasurer and in accordance with the terms and conditions specified in that approval.".

84. REPEAL AND REPLACEMENT OF SECTION 68.
Section 68 of the Principal Act is repealed and replaced with the following new section:

"**68. ACCOUNTS, RECORDS, ETC.**

(1) A Provincial Government or a Local-level Government shall -

(*a*) keep proper accounts and records of its transactions and affairs; and

(*b*) do all things necessary to ensure that all payments out of its money are correctly made and properly authorised; and

(*c*) ensure that adequate control is maintained over its assets, or assets in its custody; and

(*d*) establish and ensure compliance with internal control procedures; and

(*e*) ensure that liabilities are controlled and incurred by it are in accordance with the directions under this section.

(2) The Finance Minister may direct a Provincial Government or a Local-level Government as to any matter referred to in Subsection (1).

(3) A direction pursuant to Subsection (2) shall be subject to such terms and conditions as the Finance Minister thinks fit.

(4) A direction pursuant to this Act shall be published in the National Gazette.".

85. REPEAL OF SECTION 69.
Section 69 of the Principal Act is repealed.

86. REPEAL AND REPLACEMENT OF SECTION 70.
Section 70 of the Principal Act is repealed and replaced with the following new section:

"**70. PROVINCIAL AND DISTRICT FINANCE OFFICE.**

(1) The Finance Departmental Head shall oversee the affairs of Provincial and District Treasuries.

(2) Provincial or District Treasuries shall, for the purposes of this Act, be referred to as Provincial or District Treasury Finance Offices.

(3) Provincial and District Finance Managers shall ensure that public money in Provincial and District Treasury Finance Offices are managed, accounted for, reported on, released and otherwise dealt with in accordance with this Act.

(4) The -

(*a*) functions, duties and administrative arrangements of a Provincial or District Finance Office; and

(*b*) management of public money in a province or district,

shall be as directed by the Finance Departmental Head, subject to such terms and conditions as he thinks fit.

(5) For the purposes of this section, "public money" includes, in addition to the definition in Section 2 -

(*a*) all money received from the National Government by way of grants or otherwise; and

(*b*) all revenue, income and receipts accruing to a Provincial Government or Local-level Government from any source.".

87. NEW PART IXA.

The Principal Act is amended by adding immediately after Part VIII, the following new part:

"**PART IXA. - FEES AND CHARGES.**

71A. AUTHORITY TO FIX FEES AND CHARGES.

(1) In this Part, "relevant Minister" means the Minister responsible for the administration of an Act in respect of which the determination of activities and services or the amount of fees and charges is considered under this Part.

(2) The Finance Minister shall, for all activities and services provided under any law, including any regulations, subsidiary legislations or administrative directions, in consultation with the relevant Minister -

(*a*) determine the activities and services for which fees and charges shall apply; and

(*b*) determine the amount of those fees and charges.

(3) A determination under this section shall be by notice published in the National Gazette.

71B. REVIEW OF FEES AND CHARGES.

(1) The Finance Minister or the relevant Minister may direct a review of fees and charges determined under this Part.

(2) The review shall be under the direction of the Finance Minister but shall be conducted in consultation with the relevant Minister.

(3) The Finance Minister may set the terms and conditions for the conduct of a review of fees and charges.

(4) A notice of a review under this section shall be published in the National Gazette prior to the commencement of the review.

71C. ADJUSTMENT OF FEES AND CHARGES.

(1) The Finance Minister, in consultation with the Treasurer, may by notice change any fees and charges determined under this Part to account for the effects of inflation or other cost of living increases.

(2) The notice may be issued at any time.

(3) A notice under this section shall be published in the National Gazette.

71D. ARREARS IN FEES AND CHARGES.

(1) Fees and charges determined under this Part that are not paid within the fiscal year within which they fell due for payment are in arrears.

(2) Within 30 days after the close of a fiscal year, a Department Head shall report to the Finance Departmental Head on all fees and charges in arrears in respect of which he is administratively responsible.

(3) The Finance Departmental Head shall cause to be published in the National Gazette a list of the persons and the amounts of fees and charges in arrears of payment.

(4) A person named in a publication under Subsection (3) shall, within 28 calendar days, either -

(*a*) pay in full the arrears specified, together with the increases determined by this Section; or

(*b*) apply to a court of competent jurisdiction for an order in respect of the amount, if any, of arrears of fees and charges owed by that person.

(5) The Finance Department Head shall use his best endeavours to collect on behalf of the State all arrears of fees and charges reported in Subsection (2).

(6) If in the opinion of the Finance Minister, it is necessary for prompt and efficient administration of this section, he may authorise the Finance Departmental Head to contract with private agencies for the collection of arrears of fees and charges and all contracting shall comply with the laws in force in Papua New Guinea in respect of procurement processes.

(7) Arrears of fees and charges that are not paid within the fiscal year in which they fell due for payment increase shall be charged interest at a rate determined by the Finance Minister.

(8) The Finance Minister may, as he thinks fit, by notice published in the National Gazette, give directions as to the methods and processes to be adopted by public and statutory bodies in the collection of fees and charges.

(9) A determination under this section shall be published in the National Gazette.".

88. REPEAL AND REPLACEMENT OF SECTION 73.
Section 73 of the Principal Act is repealed and replaced with the following new section:

"**73. CONSTITUTION OF COMMITTEE.**

(1) Subject to this section and to Subdivision VI.2.E of the ***Constitution***, the Public Accounts Committee shall consist of 14 members who shall all be sitting Members of Parliament.

(2) The members shall be appointed at the commencement of the first session of every Parliament, according to the practice of the Parliament, but subject to this Act, with reference to the appointment of members to serve on Permanent Parliamentary Committees.

(3) The Speaker and the Chairman of Committees of the Parliament may not be members of the Committee.

(4) The Committee and the members of the Committee -
(*a*) shall exercise such powers and authorities; and
(*b*) shall perform such duties; and
(*c*) are liable to such obligations as are conferred or imposed on the Committee or the members of the Committee, as the case may be, by the ***Constitution*** and this Act.

(5) Subject to Sections 75, 76 and 77, each member of the Committee holds office during the pleasure of the Parliament.

(6) The Committee shall appoint and may re-appoint from amongst its own members a Chairman and Deputy Chairman of the Committee by majority vote of the Committee quorum present at the time of the vote.".

89. REPEAL AND REPLACEMENT OF SECTION 74.
Section 74 of the Principal Act is repealed and replaced with the following new section:

"**74. DECLARATION TO BE MADE BY MEMBERS.**

(1) Before entering the duties of his office or sitting at a meeting of the Committee, every member of the Committee shall make and subscribe a declaration.

(2) The Speaker shall determine by notice published in the National Gazette the form and content of the declaration.".

90. REPEAL AND REPLACEMENT OF SECTION 76.
Section 76 of the Principal Act is repealed and replaced with the following new section -

"**76. VACATION OF OFFICE.**

(1) If a member of the Committee -
(*a*) dies; or
(*b*) ceases to be a member of the Parliament; or

(*c*) is removed by Parliament from the Committee; or
(*d*) resigns by written notice to the Speaker; or
(*e*) in the case of a member, fails to comply with Section 77(2),

his seat as a member of the Committee, becomes vacant.

(2) The vacancy shall be filled as soon as practicable.".

91. REPEAL AND REPLACEMENT OF SECTION 77.
Section 77 of the Principal Act is repealed and replaced with the following new section:

"**77. FAILURE TO ATTEND MEETINGS, ETC.**

(1) For the purposes of this section, "a meeting" means a meeting of the Committee for which at least seven days' notice to members has been given, and which -

(*a*) commences when the Committee first sits following a general election, the prorogation of Parliament or an adjournment of the Committee otherwise than for a period of less than 14 days; and
(*b*) ends when the Parliament is prorogued or when the Committee adjourns otherwise than for a period of less than 14 days.

(2) Subject to Subsection (3), where a member fails to attend a meeting -
(*a*) without the prior leave of the Committee; or
(*b*) without informing the Chairman or, if it is not practically possible to communicate with the Chairman or any other member of the Committee of his inability to attend,

during the whole of three consecutive meetings, his office as member of the Committee is considered vacated.

(3) The Committee may, in its discretion, permit the office of a member of the Committee to continue where a member has failed to obtain prior leave or inform the Chairman or another member of the Committee under Subsection (2).".

92. REPEAL AND REPLACEMENT OF SECTION 86.
Section 86 of the Principal Act is repealed and replaced with the following new section:

"**86. FUNCTIONS OF THE COMMITTEE.**

(1) The functions of the Committee are -
(*a*) to examine the accounts of the receipts and expenditure of Public Funds and each statement and report of the Auditor-General presented to the Parliament under Section 214 of the ***Constitution*** or Section 113(8)(*a*) of the ***Organic Law on Provincial Governments and Local-level Governments***; and
(*b*) to examine and report on the accounts of a public or statutory body in accordance with Section 87; and

(*c*) to report to the Parliament, with such comments as it thinks proper, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed; and

(*d*) to report to the Parliament any alteration that the Committee thinks desirable -

(i) in the form of the public accounts; or

(ii) in the method of keeping them; or

(iii) in the method of collection, receipt, expenditure or issue of public moneys; or

(iv) for the receipt, custody, disposal, issue or use of public property; and

(*e*) to inquire into any question in connection with the public accounts or the accounts of a public or statutory body that is referred to it by the Parliament, and to report to the Parliament on the question, and include such other duties as are assigned to the Committee by the Standing Orders of the National Parliament; and

(*f*) to refer a matter in connection with the control and the transaction concerning the accounts of a public body, the public money and public property of Papua New Guinea, to the appropriate authorities referred to under Section 86A and to report to the Parliament of such a referral.

(2) Any member of the Parliament may move for the reference to the Committee of any question in connection with the public accounts or the accounts of a public or statutory body, for report to the Parliament.".

93. REPEAL AND REPLACEMENT OF SECTION 86A.

Section 86A of the Principal Act is repealed and replaced with the following new section:

"**86A. REFERRAL OF MATTER.**

(1) Where the Committee is satisfied that a person or public or statutory body has not complied with the provisions of the ***Constitution*** and this Act concerning directly or indirectly the accounts of a public or statutory body, public money or public property, it shall refer the matter, together with its report on the matter, if any, to -

(*a*) in the case of a leader who is subject to the Leadership Code, the Ombudsman Commission; or

(*b*) in any other case, to the Public Prosecutor, for further investigation and prosecution as the case may be.

(2) The Committee shall make such recommendations as it thinks fit in relation to a referral under Subsection (1).".

94. REPEAL AND REPLACEMENT OF SECTION 87.

Section 87 of the Principal Act is repealed and replaced with the following new section:

"87. **ACCOUNTS OF CERTAIN PUBLIC AND STATUTORY BODIES.**

(1) The Committee may, of its own motion, if the Parliament so resolves, examine and report on the accounts of a person or public or statutory body in the same way as it is required to examine and report on the public accounts under Section 86.

(2) The Committee may examine and report on any statement or report of the Auditor-General relating to a public or statutory body that has been presented to or tabled in the Parliament.".

95. REPEAL AND REPLACEMENT OF SECTION 88.

Section 88 of the Principal Act is repealed and replaced with the following new section:

"88. **SITTINGS TO BE IN PUBLIC EXCEPT IN CERTAIN CASES.**

(1) The Committee shall take all evidence in public.

(2) The Committee may, and at the request of the witness giving the evidence, take evidence in private, whether oral or documentary, that, in the opinion of the Committee, relates to a secret or confidential matter.

(3) Where, at the request of a witness, evidence is taken by the Committee in private -

(*a*) the Committee or a member must not, without the written consent of the witness; and

(*b*) a person other than a member must not, without the written consent of the witness and the authority of the Committee under Subsection (5),

disclose or publish the whole or a part of the evidence (other than evidence that has already been lawfully published).

(4) Where evidence is taken by the Committee in private otherwise than at the request of a witness, no person (including a member of the Committee) may, without the authority of the Committee under Subsection (5), disclose or publish the whole or a part of that evidence (other than evidence that has already been lawfully published).

(5) The Committee may, in its discretion, disclose or publish, or authorise the disclosure or publication of evidence taken in private, but this subsection does not operate so as to affect the necessity for the consent of a witness under Subsection (3).

(6) This section has effect notwithstanding the ***Parliamentary Powers and Privileges Act*** (Chapter 24).".

96. REPEAL AND REPLACEMENT OF SECTION 89.

Section 89 of the Principal Act is repealed and replaced with the following new section:

"89. **POWER TO SUMMON WITNESSES.**

(1) The Committee may summon witnesses to appear before it to give evidence or produce documents.

(2) A summons to a witness shall be -

(*a*) in a form approved by the Committee as is evidenced by a signature pursuant to Subsection (2)(*b*); and

(*b*) signed by the Chairman or Deputy Chairman; and

(*c*) served on the witness either personally or by being left at or sent by post to his usual place of business or of abode.".

97. REPEAL AND REPLACEMENT OF SECTION 90.

Section 90 of the Principal Act is repealed and repealed with the following new section:

"**90. COMPLIANCE WITH SUMMONS.**

A person served with a summons under this Part shall appear and continue in obedience to the summons.".

98. REPEAL AND REPLACEMENT OF SECTION 91.

Section 91 of the Principal Act is repealed and replaced with the following new section:

"**91. PREVENTING WITNESSES FROM GIVING EVIDENCE.**

A person shall not dissuade or prevent a person from obeying a summons under this Part.".

99. REPEAL AND REPLACEMENT OF SECTION 92.

Section 92 of the Principal Act is repealed and replaced with the following new section:

"**92. POWER TO TAKE EVIDENCE ON OATH OR AFFIRMATION.**

(1) The Committee may take evidence on oath or affirmation, and the Chairman or Deputy Chairman may administer oaths or affirmations to witnesses appearing before the Committee.

(2) The oath or affirmation administered to a witness shall be in the form approved by the Committee.

(3) A witness who objects to taking an oath shall not be compelled to take an oath, but may be compelled to make an affirmation.".

100. REPEAL AND REPLACEMENT OF SECTION 93.

Section 93 of the Principal Act is repealed and replaced with the following new section:

"**93. COMPLIANCE WITH PRODUCTION OR ANSWERING, ETC.**

A person shall not refuse or fail to -

(*a*) be sworn or make affirmation; or

(*b*) answer a question put to him by the Committee or by a member of the Committee; or

(*c*) produce a document in his possession, disposition or control that he is required by the Committee to produce.".

101. REPEAL AND REPLACEMENT OF SECTION 95.
Section 95 of the Principal Act is repealed and replaced with the following new section:

"**95. PROTECTION TO WITNESSES.**
A person shall not, directly or indirectly, use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to or on any person for or on account of evidence lawfully given by him before the Committee.".

102. REPEAL AND REPLACEMENT OF SECTION 96.
Section 96 of the Principal Act is repealed and replaced with the following new Section -

"**96. FALSE, INCOMPLETE OR MISLEADING EVIDENCE.**
A person shall not give false, incomplete or misleading evidence to the Committee.".

103. REPEAL AND REPLACEMENT OF SECTION 97.
Section 97 of the Principal Act is repealed and replaced with the following new section:

"**97. WITNESSES' EXPENSES.**
A witness appearing before the Committee to give evidence shall be paid such witness fees and travelling expenses as the Chairman or Deputy Chairman thinks fit to allow, in accordance with the scale applied to witnesses in the National Court.".

104. REPEAL OF SECTION 98.
Section 98 of the Principal Act is repealed.

105. REPEAL AND REPLACEMENT OF SECTION 99.
Section 99 of the Principal Act is repealed and replaced with the following new section:

"**99. ALLOWANCES.**
(1) The Chairman and other members of the Committee shall be paid allowances in accordance with the scale provided for Members of the Parliament.

(2) The allowances of the members of the Committee are payable on the certificate of the Chairman or the Deputy Chairman.".

106. REPEAL AND REPLACEMENT OF SECTION 101.
Section 101 of the Principal Act is repealed and replaced with the following new section:

"**101. GAZETTAL OF COMMITTEE.**
The Chairman, within 30 days of appointment, shall by notice in the National Gazette identify, name, and address all members of the Committee and thereafter within 30 days of the change in the membership of the Committee.".

107. REPEAL AND REPLACEMENT OF PART XI TITLE.
Part XI of the Principal Act is amended by repealing the title and replacing it with the following new title:

"PART XI. - PENALTIES AND SURCHARGE.".

108. REPEAL AND REPLACEMENT OF SECTION 102.
Section 102 of the Principal Act is repealed and replaced with the following new section:

"**102. IMPOSING OF SURCHARGE PENALTY.**

(1) A person who, directly or indirectly, in the opinion of the Finance Departmental Head -

(*a*) omitted to collect or receive any public money for the collection or receipt of which he was responsible; or
(*b*) failed to account for any public money; or
(*c*) made an unrecorded or unauthorised payment of public money; or
(*d*) did, authorised or permitted any breach of any financial procedures created or authorised by this Act; or
(*e*) failed to prevent deficiency, loss, destruction or damage to public money or public property; or
(*f*) failed to comply with any of the provisions of this Act or of the ***Organic Law on Provincial Governments and Local-level Governments***,

owes as a debt due to the State the amount determined by this section.

(2) The Finance Departmental Head shall publish a notice in the National Gazette, of evidence of his opinion on the debts due to the State under Subsection (1).

(3) The notice shall specify -
(*a*) the amount of the debt due; and
(*b*) the grounds on which the Finance Departmental Head formed the opinion.

(4) The amount of the debt due shall be determined in the sole discretion of the Finance Departmental Head to be the amount which compensates the State for all direct or indirect loss, damage or inconvenience arising from any matter referred to in the notice.

(5) The notice under Subsection (2) may be entered as a judgment in any court of competent jurisdiction and may be executed upon without further reference to a court.

(6) The notice under Subsection (2) may be judicially reviewed but in any proceeding for judicial review, the applicant shall first pay into court the amount specified in the notice and the further amount fixed by the court as security for costs.

(7) An application for judicial review that fails to comply with Subsection (6) shall be stayed until this section is complied with, but that stay shall not prevent the execution on the debt due to the State.".

109. REPEAL OF SECTION 103.
Section 103 of the Principal Act is repealed.

110. REPEAL AND REPLACEMENT OF SECTION 104.
Section 104 of the Principal Act is repealed and replaced with the following new section:

"**104. ANNULMENT OF SURCHARGE.**

(1) Subject to this section, the Finance Minister may, at any time, annul a surcharge and any amount paid in consequence of it shall be refunded.

(2) An annulment under this section shall be by way of notice in writing published in the National Gazette and shall specify the reasons for annulment.".

111. REPEAL OF SECTION 105.
Section 105 of the Principal Act is repealed.

112. REPEAL AND REPLACEMENT OF SECTION 106.
Section 106 of the Principal Act is repealed and replaced with the following new section:

"**106. RECOVERY OF AMOUNT OF SURCHARGE.**

Notwithstanding any other law, the Finance Departmental Head may direct that the amount of a surcharge imposed on any person be deducted from any money paid or payable to that person by the State.".

113. NEW SECTIONS 106A, 106B AND 106C.
The Principal Act is amended by adding after Section 106, the following new sections:

"**106A. OFFENCES.**

(1) All offences under this Act are offences of strict liability.

(2) A person who, in whole or part, omits or fails to comply with a duty, obligation or requirement of this Act is guilty of an offence.

(3) In sentencing a person after conviction of an offence under this Act, the rank, title or designation of the person within the public or statutory body at the time of the commission of the offence shall be considered by the sentencing court so that the higher the rank, title or designation of the person, the more serious the offence when imposing penalty.

(4) The penalties for conviction for an offence under this Act are -

(*a*) in the case of an offence by an individual person, imprisonment for a period not exceeding 15 years and a fine not exceeding K2,000,000.00; and

(*b*) in the case of an offence by a person other than an individual person, a fine not exceeding K50,000,000.00.

(5) A penalty under this section may be imposed in addition to any surcharge under this Act.

106B. PERMANENT DISBARMENT.

(1) A person, whether corporate or unincorporate, who has been subject to a surcharge or is convicted of an offence under this Act is permanently barred from employment with or from contracting to a public or statutory body.

(2) A person who has any contractual relationship with any public or statutory body is permanently barred from employing or contracting with any person referred to in Subsection (1).

106C. SUSPENSION IN CERTAIN CIRCUMSTANCES.

(1) The Finance Minister may suspend without pay, for whatever period he thinks fit, a member of a public or statutory body if the Finance Minister is of the opinion that it is in the best interests of the financial administration of that public or statutory body.

(2) The suspension shall be by notice in writing.

(3) A notice in writing pursuant to this section shall be published in the National Gazette and is effective from the date specified in the notice.".

114. REPEAL AND REPLACEMENT OF SECTION 107.

Section 107 of the Principal Act is repealed and replaced with the following new section:

"**107. EX GRATIA PAYMENTS.**

(1) The Finance Minister may, if he is of the opinion that it is expedient to do so, authorise an ex gratia payment of public money to any person.

(2) The authorisation shall be by notice in writing and published in the National Gazette prior to the transfer of the ex gratia payment.

(3) The Finance Minister shall inform the National Executive Council at the next meeting of the Council after the issue of the authorisation of that ex gratia payment.

(4) This section shall not be taken to be an appropriation of public money.".

115. REPEAL AND REPLACEMENT OF SECTION 108.

Section 108 of the Principal Act is repealed and replaced with the following new section:

"**108. WRITING OFF.**

(1) Subject to this section, the Finance Minister may, by notice in writing, write off -

(*a*) losses and deficiencies of public moneys; and
(*b*) irrecoverable amounts of revenue; and
(*c*) irrecoverable debts and overpayments; and
(*d*) the value of lost, deficient, condemned, unserviceable or obsolete stores.

(2) The notice shall be published in the National Gazette.".

116. REPEAL AND REPLACEMENT OF SECTION 109.
Section 109 of the Principal Act is repealed and replaced with the following new section:

"**109. WAIVER OF FEES.**

(1) The Finance Minister may, by notice in writing -

(*a*) waive, reduce or defer an amount of -

(i) fees or forfeitures; or

(ii) fines or penalties in respect of fees; or

(*b*) by agreement, vary rent or royalties chargeable under any law.

(2) Nothing in Subsection (1) affects any power of waiver, reduction, deferment or variation conferred by any other law.

(3) A notice pursuant to this section shall be published in the National Gazette.".

117. REPEAL OF SECTION 110.
Section 110 of the Principal Act is repealed.

118. REPEAL AND REPLACEMENT OF SECTION 111.
Section 111 of the Principal Act is repealed and replaced with the following new section:

"**111. LAWS OF ANOTHER COUNTRY MAY APPLY TO FINANCIAL OPERATIONS OF CERTAIN AGENTS OF THE STATE.**

(1) In this section, "approved overseas agency" means -

(*a*) the government; or

(*b*) a government department; or

(*c*) a government instrumentality; or

(*d*) a statutory corporation,

of a country other than Papua New Guinea approved by the Finance Minister by notice in the National Gazette.

(2) Where an approved overseas agency acts as agent for the State (whether within or outside the country) for any purpose, it is responsible for -

(*a*) the collection, receipt, expenditure or issue of public moneys on behalf of the State; or

(*b*) the receipt, custody, disposal, issue or use of stores or other property of the State.

(3) Where a person approved by the Finance Minister for the purpose on the nomination of the approved overseas agency certifies that in respect of any period -

(*a*) the collection, receipt, expenditure or issue of public moneys on behalf of the State; or

(*b*) the receipt, custody, disposal, issue and use of stores and other property of the State,

was in accordance with the procedures laid down by or under the law of the country to which the approved overseas agency belongs that relates to the control, management and audit of public finance and property, those matters shall, for all purposes of this Act and any other law, be deemed to have been properly dealt with according to law.".

119. REPEAL OF SECTION 112.
Section 112 of the Principal Act is repealed.

120. REPEAL OF SECTION 113.
Section 113 of the Principal Act is repealed.

121. REPEAL OF SECTION 114.
Section 114 of the Principal Act is repealed.

122. REPEAL AND REPLACEMENT OF SECTION 116.
Section 116 of the Principal Act is repealed and replaced with the following new section:

"**116. DIRECTIONS AS TO MONEYS ETC., OUTSIDE THE COUNTRY.**

(1) The Finance Minister may give such directions by notice published in the National Gazette, as he thinks necessary for or in relation to -

(*a*) the collection, receipt, custody, expenditure, control, management and use, outside the country, of public money and public property of the State, and the due accounting for such money and property; and

(*b*) the keeping of accounts and records and the furnishing of statements, returns and vouchers in respect of the matters referred to in Paragraph (*a*); and

(*c*) the execution of works and supply of services outside the country for or by the State; and

(*d*) the purchase outside the country of public property for or by the State; and

(*e*) the custody, issue, sale or other disposal and writing off of public property of the State outside the country, and the proper accounting for and stocktaking of such public property; and

(*f*) the inspection and examination (other than by the Auditor-General) of accounts and records prepared or kept outside the country in respect of public accounts, public money and public property of the State.

(2) Unless and until directions under Subsection (1) have been given pursuant to this section, this Act applies to all public money and public property located outside of the State and this Act has extraterritorial application in so far as is necessary to apply the provisions of this Act to those public money or public property.".

123. REPEAL AND REPLACEMENT OF SECTION 117.
Section 117 of the Principal Act is repealed and replaced with the following new section:

"**117. FINANCIAL INSTRUCTIONS AND FINANCIAL MANUALS.**

(1) The Finance Departmental Head may issue Financial Instructions, not inconsistent with this Act, as to any matter prescribed by this Act for carrying out or giving effect to this Act and in general for the better control and management of public moneys and public property.

(2) All persons shall comply with the terms, conditions, requirements and instructions of Financial Instructions and Financial Manuals under this section.".

124. NEW SECTIONS 134, 135, 136 AND 137.
The Principal Act is amended by adding after Section 133, the following new sections:

"**134. REFERENCES.**

A reference in any law of Papua New Guinea in force immediately before the coming into operation of this Act to any matter defined in this Act, or any similar expression, shall, on that coming into operation, be read as a reference to the matter defined in this Act.

135. CONSOLIDATED REVENUE FUND, TRUST FUNDS AND TRUST ACCOUNTS.

All money standing to the credit of the Consolidated Revenue Fund, the General Revenue Fund, the Trust Fund or the Trust Account immediately before the coming into operation of this Act are, on that coming into operation, transferred to and stand to the credit of the Consolidated Revenue Fund, the General Revenue Fund, the Trust Fund or the Trust Account established by this Act.

136. FORMER WARRANTS, ETC.

All warrants and warrant authorities in force immediately before the coming into operation of this Act shall, on that coming into operation, be deemed to be warrants under this Act.

137. CONTINUANCE OF FORMER ACTS, ETC.

All acts, matters or things done or suffered or deemed to have been done or suffered or taken, or procedural steps taken under or for the purposes of a provision of the ***Public Finances (Management) Act* 1995** and having effect immediately before the coming into operation of this Act, shall, after that coming into operation, be deemed to have been done or suffered or taken under, or for the purpose of this Act.".

I hereby certify that the above is a fair print of the ***Public Finance (Management)(Amendment) Act* 2016** which has been made by the National Parliament.

Acting Clerk of the National Parliament.

09 NOV 2016

I hereby certify that the ***Public Finance (Management)(Amendment) Act* 2016** was made by the National Parliament on 11 August 2016, by an absolute majority as required by the ***Constitution***.

Acting Speaker of the National Parliament.

09 NOV 2016