



CERTIFICATE

I hereby certify that the *Public Finance (Management)(Amendment) Bill 2019* (Draft of 27/11/2019) is in accordance with the National Executive Council Decision No. NG145/2019, and the drafting instructions (Draft Bill).


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No. of 2019.

Public Finance (Management)(Amendment) Bill 2019,

ARRANGEMENT OF CLAUSES.

1. Compliance with constitutional requirements.
2. Interpretation.
3. Act binds the State.
4. Interpretation (Amendment of Section 2).
5. Repeal and replacement of Section 3.

“3. RESPONSIBILITIES AND POWERS OF THE FINANCE MINISTER.

6. Repeal and replacement of Section 3A.

“3A. RESPONSIBILITIES AND POWERS OF THE TREASURER.

7. Repeal and replacement of Section 4.

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

8. Repeal and replacement of Section 4A.

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

9. Repeal and replacement of Section 29.

“29. WARRANTS FOR ISSUE AND EXPENDITURE OF PUBLIC MONEYS.

10. Repeal and replacement of Section 31.

“31. WARRANT AUTHORITIES.



A Bill
for
An Act
entitled,

Public Finance (Management)(Amendment) Bill 2019,

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 organisations 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.

Public Finance (Management)(Amendment)

3. ACT BINDS THE STATE.

This Act binds the State.

4. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended -

- (a) by repealing the definition of "Finance Minister" and substituting the following 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 Part V Budgetary Control and the issuance of warrants;"

- (b) by repealing the definition of "Finance Departmental Head" and substituting the following definition:

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

- (c) by repealing the definition of "Treasurer" and substituting the following 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, Part V Budgetary Control and the issuing of warrants;"

- (d) by repealing the definition of "Treasury Departmental Head" and substituting the following definition:

"Treasury Departmental Head" means the Departmental Head of the Department responsible for administering Part IV - National Budget and Part V Budgetary Control and the issuing of warrants;"

5. 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 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
 - (b) for providing directions and guidelines regarding the financial management of public money and property by public and statutory bodies; and
 - (c) for the reporting on the Public Funds of Papua New Guinea; and
 - (d) for accounting to the Parliament for the financial performance and management of public and statutory bodies; and
 - (e) establishing controls and rules related to State procurement; and
 - (f) administering this Act unless otherwise specifically provided.

Public Finance (Management)(Amendment)

(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.”.

6. REPEAL AND REPLACEMENT OF SECTION 3A.

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

“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 and controlling 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; and
 - (h) developing policy on, implementing, monitoring, managing and reporting on all aspects of revenue raising and financing including issuing of warrants.

(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.”.

7. REPEAL AND REPLACEMENT OF SECTION 4.

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

Public Finance (Management)(Amendment)

“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 Part IV Budget compilation and Part V Budgetary Control and the issuance of warrants, 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 anyway, 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 Services (Management) Act 2014***.

Public Finance (Management)(Amendment)

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

8. REPEAL AND REPLACEMENT OF SECTION 4A.

Section 4A of the Principal Act is repealed and replaced with 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, implementation and control of the National Budget and additionally the issuing of warrants, 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.”.

9. 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 Treasurer may authorise the Treasury 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 Treasurer, financial exigencies or the public interest so require.”.

10. 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 Treasurer 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.”.