



SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

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THE PUBLIC FINANCE MANAGEMENT ACT, 2017

(Act No. 10 of 2017)

**I ASSENT****MSWATI III**
KING OF SWAZILANDDate: 12th July, 2017

AN ACT
ENTITLED

AN ACT to provide for the management of public finances, public debt, repeal of the Finance Management and Audit Act No. 18 of 1967 and the Treasury Bills and Government Stocks Act No. 7 of 1994, and other incidental matters.

ENACTED by the King and the Parliament of Swaziland.

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PART I
PRELIMINARY PROVISIONS

Short title and commencement

1. (1) This Act may be cited as the Public Finance Management Act, 2017.

(2) This Act shall come into force on the date of publication subject to the dates specified for the sections in the First Schedule to this Act.

Interpretation

2. In this Act unless the context otherwise requires-

“accounting standards” means authoritative principles on how transactions and other events should be reflected in the accounts and financial statements in accordance with the International Public Sector Accounting Standards issued by the International Federation of Accountants, as adopted for use by the Accountant-General from time to time on how transactions and other events should be reflected in the accounts and financial statements;

“agency” means a public entity that is listed in the Second Schedule;

“annual budget” means the budget document specified in section 26 of this Act that is given legal effect through an appropriation Act or any other law to implement the annual budget and spend public money;

“conflict of interest” means circumstances in which the personal interest of any public officer of an entity to which this Act applies or public office holder benefits, directly or indirectly, from the actions of that public officer or public office holder;

“Cabinet” means the Cabinet of Ministers;

“Chief Executive Officer” means the person who has the principal managerial responsibility for a public entity, Local Government or Government Business Enterprise and includes a Principal Secretary of a ministry or a person designated as a controlling officer in any other law;

“direct charge” means an amount that can be withdrawn from the Consolidated Fund through an authorisation in an Act of Parliament without an appropriation;

“entity” means a public entity, agency or Government Business enterprise;

“financial year” means, in relation to Government, a period of twelve months commencing on the 1st April and ending on 31st March of the following year;

“Finance Committee” means the Parliament committee established under section 209 of the Constitution of Swaziland;

“Government” has the meaning assigned to it by section 261 of the Constitution of Swaziland Act, 2005;

“Government business enterprise” means an entity owned or controlled by the Government which provides goods or services to the public in a business environment and is listed in the Third Schedule;

“internal audit standards” means internal audit standards issued by International Institute of Internal Auditors and adopted by the Director of Internal Audit;

“Local government” has the same meaning ascribed to a local authority in the Urban Government Act, No.8 of 1969;

“line minister” means a minister assigned responsibility in accordance with the Constitution for a ministry and an entity named in a vote or a minister assigned responsibility for oversight of an agency by the Prime Minister;

“Minister” means the Minister responsible for finance;

“Minister and line Minister” means the Minister responsible for finance and a line Minister designated by Cabinet to jointly hold shares on behalf of the Government in a Government Business Enterprise;

“political head or political office holder” means member of Parliament or Senate, Regional Administrator or Local Government Councillor or any office the appointment to which depends upon the elections or nomination of the holder by proper authority and which has been designated for that purpose under the Constitution or any other law;

“Public Accounts Committee” means the Parliament Committee established under section 209 of the Constitution of the Kingdom of Swaziland;

“public entity” means an agency or a ministry and includes subordinate entities;

“public office holder” means the holder of an office in the Government or judiciary or Local Government, or a government appointee to a board or other advisory or governance position, and includes, but is not limited to, councillors of Local Government areas, appointees to Government advisory bodies and to boards in Government Business Enterprises;

“public officer” means a holder of any public office including a Local Government employee and any employee in a public entity and whose salary is paid from the Consolidated Fund;

“special fund” means a fund which is designated as an Agency under the Second Schedule to this Act and any other agency as may be designated by the Minister;

“unauthorised expenditure” means-

- (a) overspending of the approved budget of an entity to which this Act applies; and
- (b) expenditure not in accordance with the legal mandate or purpose of the entity to which this Act applies; and

“vote” means the expenditure in the annual budget for a specified ministry and other entity.

Application

3. This Act shall apply to-

- (a) Parliament;
- (b) Ministry;
- (c) Agency;
- (d) Government business enterprise;
- (e) Local Government; and
- (f) public office holder and public officer.

PART II

ROLES AND RESPONSIBILITIES

Parliament

4. (1) Parliament shall, in exercising its powers set out in the Constitution, hold the Government accountable for managing public resources in accordance with the fiscal responsibility set out in section 16 of this Act and the other requirements under this Act which include to-

- (a) consider the fiscal framework paper;
- (b) review and approve the annual budget, Appropriation Bill and other Bills which implement the annual budget;
- (c) review the performance of Government against the requirements of this Act the annual budget, Appropriation Act and other Acts which implement the annual budget;
- (d) review the annual audited accounts of Government;
- (e) review other reports on performance including annual reports of public entities, Government business enterprises and reports of the Auditor General; and
- (f) consider recommendations of parliamentary committees in reviewing the reports referred to in this section.

(2) Notwithstanding subsection (1) (a), Parliament shall not propose changes or formally adopt the fiscal framework paper.

Prime Minister and Cabinet

5. (1) The Prime Minister shall, in performing the functions and exercising the powers of the office of Prime Minister, comply with the fiscal responsibility requirements and other requirements under this Act.

(2) Cabinet shall, in observing its collective responsibility for making decisions about public finances and related activities of Government, comply with the fiscal responsibility and other requirements of this Act.

(3) A Cabinet Minister shall comply with the fiscal responsibility and other requirements of this Act and perform the responsibilities of a Cabinet Minister in relation to the entities to which this Act applies within the limits of the approved budgets.

Management of this Act

6. (1) In addition to any other responsibility of the Minister in this Act or any other law, the Minister shall-

- (a) manage the overall fiscal performance and position of the Government including managing the Consolidated Fund in accordance with this Act;

- (b) ensure the production of a fiscal framework paper as required in this Act;
- (c) co-ordinate intergovernmental financial relations;
- (d) manage the medium term resource allocation and annual budget formulation process;
- (e) promote and enforce the transparent and effective management of resources by entities to which this Act applies, including the management of revenue, expenditure, assets, liabilities and risks;
- (f) oversee the implementation of the annual budget from a Government perspective;
- (g) monitor the adherence to public finance requirements by entities to which this Act applies;
- (h) through, the Principal Secretary of the Ministry of Finance, direct the Ministry responsible for finance in the fulfilment of its responsibility; and
- (j) report financial and related non financial performance information to Parliament and the public.

(2) A draft bill, regulation or directive which has financial implications and is prepared by a line Minister shall be reviewed by the Minister who may-

- (a) certify the bill, regulation or directive as fiscally acceptable to proceed; or
- (b) propose an amendment to the bill, regulation or directive which may or may not be adopted by the line Minister.

(3) In the event that a line Minister does not adopt an amendment proposed under subsection (2), the Minister may provide an opinion to Cabinet on changes required to be made to the draft bill, regulation or directive.

Delegation by Minister

7. (1) The Minister may delegate, in writing, any of the functions or powers assigned to the Minister in terms of this Act that may be appropriately delegated to another Minister and that delegation shall be subject to any limitations or conditions that the Minister may impose.

(2) A delegation by the Minister under this section shall not absolve the Minister of responsibility for the exercise of the delegated function or power.

(3) The Minister may, in writing, revoke the delegation of any function or power or any part of it and shall put that revocation in writing as soon as practicable.

(4) The Minister may confirm, vary or revoke any decision taken by a delegated Minister, subject to any legal rights related to the exercise of the delegated responsibilities or powers by the delegated Minister, and shall put any variation or revocation of a decision in writing as soon as is reasonably practicable.

(5) A delegation made under this Act shall not prevent the exercise of that function or power by the Minister.

(6) A delegation made under this Act shall continue in force and effect notwithstanding that the Minister who made the delegation has ceased to hold office, until revoked by the successor in office of that Minister.

Principal Secretary

8. (1) A Principal Secretary of a line ministry shall, in addition to the functions in section 11, -
- (a) advise Cabinet and a line minister on public finances and the management of public resources of that line ministry;
 - (b) manage the resources of the line ministry in compliance with this Act; and
 - (c) supervise the management of resources in entities in the vote of the line ministry.

Principal Secretary of ministry responsible for finance

9. (1) The Principal Secretary of the ministry responsible for finance shall exercise the functions and powers in this section having regard to the responsibility assigned to the Accountant-General under this Act.

(2) The Principal Secretary of the Ministry responsible for finance shall -

- (a) advise the Minister on public finances and the management of public resources, including the implementation of the provisions of this Act;
- (b) ensure compliance by entities to which this Act applies to the public finance requirements and instructions or directions issued under this Act with the responsibility in section 16 of this Act;
- (c) supervise the management of public finances in Government;
- (d) act as the budgeting advisor for Government and managing relations between Cabinet and entities involved in the annual budget process;
- (e) implement the budget process including preparing the fiscal framework paper, the annual budget, other budget documents required under this Act, and the draft Bills which seek to implement the budget;
- (f) provide the accounting functions through the Accountant-General for the accounting of the Government and leadership for the accounting function throughout Government;
- (g) monitor the financial interests of Government in entities to which this Act applies;
- (h) ensure that the financial system of the Government is reliable and produces timely and accurate information;
- (i) implement and maintaining Government financial reporting through the Accountant-General on the basis of international accounting standards;
- (j) produce financial reports through the Accountant-General for the Government;

- (k) manage the production of the half-year, annual and pre-election economic and fiscal report;
- (l) manage the cash including bank accounts for the Government through the Accountant-General;
- (m) manage debt, other liabilities and financial assets of the Government;
- (n) ensure that the internal audit function of each public entity enterprise is appropriate to the needs of that entity and conforms to internationally recognised standards; and
- (o) manage any other responsibility as may be assigned to the Ministry responsible for finance by the Cabinet of Ministers or pursuant to an Act of Parliament.

Accountant-General

10. (1) The Accountant-General shall be responsible for the-

- (a) payment of expenditures and collection of revenues required in this Act to be managed through the Government account;
- (b) custody and safety of public money and other resources of Government under the control of the Accountant-General and the setting of standards and monitoring standards for the custody and safety of money and other resources of Government not under the control of the Accountant-General;
- (c) adoption and promotion of accounting standards in accordance with this Act;
- (d) compilation and management of the accounts of the Government;
- (e) management of the Government Financial Management Information and Accounting System;
- (f) establishment of a set of financial management principles, accounting standards, processes and systems for all public entities and Local Governments; and
- (g) leadership in the development of the public sector accounting profession including the promotion of high standards and development of capacity in the profession.

(2) The Accountant-General shall, through the Principal Secretary responsible for finance, advise the Minister in writing of-

- (a) any apparent defect in the control of or dealings with revenue, expenditure, cash, or assets by a public entity;
- (b) any significant issues with the creation of or management of liabilities and fiscal risks; or
- (c) any breach or non-observance of any Act, Regulation, directive or instruction which may come to the notice of the Accountant-General..

(3) The Accountant-General may inspect all offices of the Government including all offices of the entities to which this Act applies.

- (4) The Accountant-General shall have power to-
- (a) access, at all times, all offices of the Government;
 - (b) access public officers in a timely and reasonable manner; and
 - (c) access at all times, information that the Accountant-General may consider necessary to carry out the responsibilities of the Accountant-General under this Act, and that information may include personal taxpayer information where it is in the public interest and access is granted by the Court.

Chief Executive Officer

11. (1) An entity shall have a Chief Executive Officer or in the absence of the Chief Executive Officer, a Board.

(2) A Chief Executive Officer or Board of an entity shall put in place measures for the management of public finances consistent with the principles, standards, processes and systems required under this Act, including but not limited to-

- (a) effective and efficient internal controls arrangements and systems for the management of assets, liabilities, and other risks;
- (b) a procurement system in compliance with the law on procurement and instructions issued under this Act;
- (c) a system for evaluating capital projects as part of the approval process for all capital projects;
- (d) systems to ensure authorised, effective, efficient, economical and transparent use of the resources of the entity;
- (e) arrangements to collect all money due to the Government or the entity in a timely manner; and
- (f) arrangements to prevent unauthorised or wasteful expenditure, or loss of public resources;
- (g) internal audit system in compliance with internal audit standards issued under this Act.

(3) A Chief Executive Officer shall-

- (a) manage an entity so that it delivers on the annual plan;
- (b) implement the approved budget;
- (c) implement to the extent that funds are approved, recommendations from internal and external audit reports;
- (d) manage available working capital efficiently and economically;

- (e) ensure that the entity settles all contractual obligations and approves money for commitment and payment within the time required by this Act;
- (f) take appropriate measures to ensure that the commitments will not exceed the amount appropriated;
- (g) take effective and appropriate disciplinary steps including reporting losses as required under Part VII of this Act;
- (h) authorise the use of funds in the Appropriation Act in compliance with the provisions of that Act;
- (i) ensure that the terms and conditions for the supply of goods and services to the entity are complied with;
- (j) enforce compliance with any agreements and regulations issued by the Minister or Accountant-General regarding moneys or other assets held in trust for any other entity or person;
- (k) take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the Chief Executive Officer's responsibilities are considered, and when necessary, bring those considerations to the attention of the responsible Minister;
- (l) ensure that the entity complies with all legal and process requirements regarding the establishment of any new entity, including obtaining the prior written consent of the Minister or if required, a decision of the Cabinet; and
- (m) not commit the entity to any liability for which money has not been appropriated under an Appropriation Act or otherwise authorised according to law.

Delegation by Chief Executive Officers

12. (1) A Chief Executive Officer of an entity to which this Act applies may, in writing, delegate any of the responsibilities or powers assigned to that Chief Executive Officer under this Act to an officer in that entity, subject to such limitations and conditions the Chief Executive Officer may impose.

(2) A delegation by the Chief Executive Officer under this section shall not absolve that Chief Executive Officer of the responsibility for the exercise of the delegated responsibilities or powers.

(3) The Chief Executive Officer may, in writing, revoke the delegation of any responsibility or power or any part of it.

(4) The Chief Executive Officer may confirm, vary or revoke any decision taken in the exercise of delegated responsibility or power, subject to any legal rights related to the exercise of the delegated responsibility or power by the officer delegated that responsibility or power, and shall put any variation or revocation of a decision in writing as soon as practicable.

(5) The Chief Executive Officer shall inform the Minister, the Board if any, and the Principal Secretary of the ministry responsible for finance of any delegation under this Act.

(6) A delegation made under this Act shall not prevent the exercise of any power by a Chief Executive Officer.

(7) A delegation made under this Act shall continue in force and effect notwithstanding that the Chief Executive Officer who made the delegation ceases to hold office, until revoked by the successor in office of that Chief Executive Officer.

Ministerial directives to Chief Executive Officer

13. (1) Any directive by the Minister or a line Minister having financial implications, to a Chief Executive Officer of an entity to which this Act applies, shall be in writing.

(2) Where the implementation of the directive is likely to result in unauthorised expenditure, the Chief Executive Officer shall inform the Minister and the line Minister, in writing, of the likelihood of that unauthorised expenditure and postpone the implementation of the directive.

(3) Upon receipt of information referred to in subsection (2), the Minister shall consult with the line Minister and may give written notice to the Chief Executive Officer to proceed with the implementation of the directive and in that case-

- (a) the Minister shall report, in writing, the decision of the Minister to Cabinet and the Auditor-General and shall include information on the authority for the decision and the reasons for the decision; and
- (b) the Auditor-General shall provide a report, within two weeks of receiving the report from the Minister, to Cabinet and shall, by the same date table the report in Parliament, giving the opinion on whether the directive is in compliance with the law.

(4) Where the decision is found to be unlawful, the Chief Executive Officer shall not be held accountable for the decision of the Minister or liable for any disciplinary action or penalty in respect of the decision of the Minister.

Responsibilities and powers of finance officers

14. (1) This section applies to a public officer who is the head of the finance function in a Ministry.

(2) The head of the finance function in a Ministry shall be appointed by the Civil Service Commission after consideration of the recommendation of the Accountant-General.

(3) The head of the finance function in a Ministry shall report, for administration and management purposes, to the Principal Secretary of that Ministry, the Accountant-General as a member of the accounting staff of Government and shall comply with the standards, guidelines, instructions and other requirements of the Accountant-General issued under this Act.

(4) The head of the finance function in a Ministry shall-

- (a) advise the Chief Executive Officer on financial matters;
- (b) maintain full and proper accounts;

- (c) provide accounting and reporting information for internal and external purposes, including preparing the periodic and annual reports and accounts; and
- (d) undertake other functions assigned by the Accountant-General or the Chief Executive Officer.

(5) The Accountant-General shall have the power to direct the head of the finance function in a Ministry to act or refrain from an act and such direction shall be within the scope of the responsibility of the Accountant-General under this Act.

(6) The Minister may approve arrangements to provide financial services to a public entity that vary from the arrangements specified in this section.

PART III **FISCAL RESPONSIBILITY**

Fiscal responsibility

15. (1) The fiscal responsibility of the Government shall be to -

- (a) maintain prudent levels of public debt to share the burden of debt between generations;
- (b) achieve reasonable reserve position;
- (c) ensure that the fiscal balance is maintained at a sustainable level over the medium term;
- (d) manage resources in a fiscally and environmentally sustainable way;
- (e) manage fiscal risks in a prudent manner; and
- (f) develop fiscal policies and strategies consistent with the achievement of macroeconomic stability and economic growth.

(2) The Government shall set measurable fiscal objectives in the Fiscal Framework Paper for the fiscal responsibility in subsection (1) (a), (b), (c) and (d).

Fiscal Framework Paper

16. (1) The Principal Secretary of the ministry responsible for finance shall prepare an annual Fiscal Framework Paper which shall include, at a minimum-

- (a) the information and statements set out in the Fourth Schedule; and
- (b) a statement of responsibility signed by the Minister and the Principal Secretary of the Ministry responsible for finance attesting to the reliability and completeness of the information in the Fiscal Framework Paper and its compliance with the law.

(2) The Principal Secretary of the ministry responsible for finance shall submit the Fiscal Framework Paper to Cabinet for consideration and approval.(3) Upon approval by Cabinet, the Minister shall present the annual Fiscal Framework Paper to Parliament, for information, by no

later than 30 September of the year preceding the annual budget.

(3) The Minister shall publish the Fiscal Framework Paper on the Government official website one (1) week after the Fiscal Framework Paper is presented to Parliament.

Fiscal discipline

17 (1) A Minister who intends to confer a function or power to a public entity or increase the cost of any function or power of a public entity, whether by law, regulation or other subordinate legislation, shall append a financial memorandum containing a projection of the financial implications over the medium term of the proposed change.

(2) The financial memorandum shall be submitted to the Minister who shall give an opinion to Cabinet on whether the proposed change should be adopted or not.

(3) The financial memorandum and opinion of the Minister shall be tabled in Parliament with the Bill or proposed Regulation.

Government economic and fiscal half year update

18. (1) The Principal Secretary of the ministry responsible for finance shall produce an economic and fiscal update for half of the financial year being the period ending 30 September of each year according to the requirements set out in the Fourth Schedule.

(2) The Minister shall present the report to Parliament by 30 November of each year.

(3) The Principal Secretary of the ministry responsible for finance shall publish the Economic and Fiscal Update in the Government gazette and on the official website of the Government no later than one (1) week after the Economic and Fiscal Update is presented to Parliament.

Government economic and fiscal annual report

19. (1) The Principal Secretary of the ministry responsible for finance shall produce an Economic and Fiscal Report for the financial year which shall include the information specified in the Fourth Schedule.

(2) The Minister shall present the annual Economic and Fiscal Report to Parliament by 30 June or on the date that the end of year financial report is provided, with the latter date only being acceptable if the end of year financial report is within the time required under this Act.

(3) The Principal Secretary of the ministry responsible for finance shall publish the annual Economic and Fiscal Report in the Government gazette and on the official website of the Government no later than one (1) week after the report is presented to Parliament.

Pre-election economic and fiscal update

20. (1) The Principal Secretary of the ministry responsible for finance shall, not earlier than 30 days, nor later than 20 days, before the day appointed as polling day in relation to any general election of members of Parliament, publish a Pre-election Economic and Fiscal Update which shall include the information and statements specified in the Fourth Schedule.

(2) The Principal Secretary of the ministry responsible for finance shall publish the Pre-election Economic and Fiscal Update in the Government gazette no later than one (1) week after the report is presented to Parliament.

Government deviations from fiscal responsibility and objectives

21. (1) The Government may deviate from the fiscal responsibility in this Act or the fiscal objectives stated in the Fiscal Framework Paper on a temporary basis, where such deviation is due to a major natural disaster, unanticipated severe economic shock or other significant unforeseeable event that cannot be accommodated through accessing the contingency fund, the use of other flexibilities provided for in this Act, or prudent fiscal policy adjustments.

(2) The Minister shall present a report to the Parliament stating the reasons for any deviations from the fiscal responsibility or the fiscal objectives in the Fiscal Framework Paper, the plans to address the deviations, and the expected time to address the deviation.

(3) The Minister shall present the report required under this section to Parliament within one (1) month after the decision adopted by Cabinet or the next Fiscal Framework Paper or annual budget documents, whichever is earlier.

(4) The Principal Secretary of the ministry responsible for finance shall publish the report in the Government Gazette within one (1) week of the day it is presented to Parliament.

External review and the Parliamentary Support Office

22. The Principal Secretary of the ministry responsible for finance shall make the draft Fiscal Framework Paper and the draft annual budget available to the Parliamentary Support Office on time and not later than the dates agreed between the Principal Secretary of the ministry responsible for finance and Parliamentary Support Office.

PART IV

BUDGET PREPARATION, APPROVAL AND REPORTING

Financial year

23. (1) The financial year for the Government shall commence on 1 April and end on 31 March of the following year.

(2) The financial year for a Local Government and Government business enterprise shall commence on 1 April and end on 31 March of the following year, unless otherwise authorized in writing by the Minister.

Annual budget process

24. (1) A Minister, head of Local Government, public office holder, Chief Executive Officer and public officer who is responsible for a budget, shall produce documents for the annual budget in the format prescribed by the Minister, by regulations.

(2) A Minister, head of Local Government, public office holder, Chief Executive Officer and public officer who is responsible for a budget shall submit the documents to the Principal Secretary of the ministry responsible for finance by the dates specified by the Principal Secretary of the ministry responsible for finance.

(3) The Minister shall manage the Government budget process and consult the Parliamentary Committee responsible for finance on the contents of the Annual Budget before the Annual Budget is tabled in the Parliament.

(4) The Principal Secretary of the ministry responsible for finance shall, on behalf of the Minister-

- (a) issue instructions to all public entities, Local Governments and Government business enterprises involved in the annual budget process;
- (b) designate, by instructions, the public entities, Local Governments and Government business enterprises that are required to provide performance information in the annual budget estimates;
- (c) designate, by instructions, the public entities, Local Governments and Government business enterprises that are required to include the performance information for these entities in the annual budget; and
- (d) determine the method and extent of the consultation by the Ministry responsible for finance during the budget process with public entities, Local Governments and Government business enterprises and interest groups.

(5) The Minister shall submit the annual budget to Parliament no later than the last day of February of the year preceding the year to which the annual budget applies and shall submit any other documents not later than the date specified in the Constitution.

Annual budget

25. (1) The annual budget shall include the budget speech summarizing the contents of the annual budget and the documents on the revenue estimates, financing estimates and expenditure estimates specified in the Fifth Schedule, which shall present the financial information on a gross basis specified in the Fifth Schedule.

(2) The annual budget shall be accompanied by-

- (a) an Appropriation Bill as the basis for approving expenditure; and
- (b) any other Bill which seeks to implement the annual budget.

(3) The Minister shall publish the annual budget and the documents on the official website of the Government on the same day the annual budget is presented to Parliament and shall make the documents available to the public in printed form as soon as is reasonably practicable.

Appropriations

26. (1) Appropriations shall be presented by heads of expenditure and each head of expenditure shall be presented by a lower level classification.

(2) In this section, “heads of expenditure” means a ministry or other first level budget-using institution.

(3) At a time to be determined by the Minister, the appropriations shall be presented in a form to support performance based budgeting.

(4) Appropriations shall be authorized in the Appropriation Act and shall be made for one year.

Authorisation of classified expenditure

27. (1) In this section, “classified expenditure” means expenditure for defence and intelligence purposes which is budgeted and appropriated by Parliament in accordance with this section.

(2) A classified expenditure shall be prepared in consultation with the Finance Committee on an annual basis.

(3) The budget for a classified expenditure may, to preserve confidentiality, be presented at an aggregate level of classification as approved by the Finance Committee and reported to Parliament.

(4) A Chief Executive Officer shall, in accordance with standards and guidelines issued by the Accountant General, establish an appropriate system of control to prove to the Auditor General and Parliament that the classified expenditure is utilised for the purpose referred to in this section.

(5) Where Parliament has appropriated an amount of money for classified expenditure under the Appropriation Act and the amount appropriated is found to be insufficient, any requirement for further funding shall be presented to Parliament for approval in accordance with this Act.

(6) The provisions relating to reallocations allowing movement for funds by the Government under section 31 shall not apply to any movement of funds into any classified expenditure.

Multi-year expenditure commitments

28. (1) Government shall seek the approval of Parliament for making multi-year commitments by presenting the proposed multi-year commitments in the annual budget documents for approval by Parliament and shall, in addition, provide information on the previously approved multi-year commitments and the current status of these commitments.

(2) Government shall ensure that the proposed multi-year commitments are consistent with the fiscal responsibility and the fiscal objectives in the Fiscal Framework Paper.

(3) The Minister shall have the authority to approve multi-year commitments where the commitments are within the expenditure limits set in the annual budget documents for the financial year in which the approval is given and for the purpose set out in the annual budget documents.

(4) Apart from the approval power in this section and subject to the power of the Minister to delegate, no other person shall have the authority to approve the making of a multi-year commitment by Government.

(5) For the purposes of this section, “multi-year commitments” include capital investments and related recurrent costs, obligations for the Government under public-private partnerships and other investment and financing arrangements, but shall not include the usual costs of financing the personnel establishment of the Government.

(6) Multi-year commitments shall be appraised, monitored and evaluated as prescribed in the Regulations.

Parliament debate and approval

29. (1) Parliament shall endeavour to consider and approve the annual budget no later than 31 March of each year.

(2) An amendment proposed by Parliament to the annual budget and a Bill to implement the annual budget shall-

- (a) comply with the fiscal responsibility requirements in section 16;
- (b) result in a reduction in expenditure or fiscal neutrality within a head of expenditure.

(3) The Principal Secretary of the ministry responsible for finance shall be responsible for the technical preparation of any proposal made by Parliament to amend the annual budget and Bill which seek to implement the annual budget and shall be responsible for ensuring that the numbers contained in the proposals are accurate.

(4) The Principal Secretary of the ministry responsible for finance shall publish any amendments made by Parliament to the annual budget and Bills on the official website of the Government in a timely manner.

Deferred approval of the annual budget

30. (1) Where the Appropriation Act for any financial year has not come into operation by the beginning of that financial year, the Minister may, by warrant, authorize the withdrawal from the Consolidated Fund of moneys to meet any expenditure that may be necessary to carry on the services of the Government until the expiry of four months from the beginning of the financial year or the coming into operation of the Appropriation Act, whichever is the earlier if-

- (a) the Minister considers there is an urgent need to incur expenditure;
- (b) the Minister has obtained prior approval of the Parliament;
- (c) no expenditure upon any service for which no provision has been made in a law in force during the previous financial year or which has not been approved by a resolution of Parliament in that year shall be deemed to be authorized by this section;
- (d) the expenditure so authorized for any service does not exceed one quarter of the amount appropriated for that service in the Appropriation Act for the immediately preceding financial year; and
- (e) all moneys withdrawn from the Consolidated Fund in pursuance of a warrant issued under this section shall be deemed to have been issued in anticipation of authority in the Appropriation Act for the financial year in which that withdrawal took place, and on the coming into operation of the Act the warrant shall cease to have effect, and withdrawals there under shall be deemed to have been made for the purposes of that Act and shall be accounted for accordingly.

Reallocations

31. (1) Government shall not reallocate funds between heads of expenditure without prior authorization by Parliament through a supplementary budget.

(2) Government shall not reallocate funds without authorization through a supplementary budget-

- (a) from an amount for transfer to an entity or transfer to an individual, to any other economic classification of expenditure; or
- (b) from an amount for non salary recurrent economic items to salary recurrent economic items;
- (c) from an amount for capital expenditure to non capital expenditure; or
- (d) from any type of expenditure to a public entity for the purposes of expenditure on wages and related benefits.

(3) A Principal Secretary of a line ministry may, without further authority other than this section-

- (a) reallocate funds between non salary recurrent economic items within an activity; or
- (b) reallocate capital funds between projects if the projects have the same source of funding,

(4) Subsection (2) shall be complied with and the total amount to be reallocated in a financial year shall not exceed five (5) per cent of the amount for the activity from which funding is removed.

(5) A Principal Secretary of a line ministry shall obtain the approval of the Principal Secretary of the ministry responsible for finance prior to making a reallocation under subsection (3) where the Principal Secretary of the ministry responsible for finance proposes to exceed the limits in subsection (3).

(6) Approval shall not be granted under subsection (3) where the total proposed reallocations for all economic categories within a budget for a ministry exceeds 5 per cent of the budget for that Head of expenditure.

(7) In making reallocations of expenditure, the Principal Secretary of a line ministry shall have regard to the obligation to deliver the performance expected in relation to the funds appropriated.

(8) The Principal Secretary of the ministry responsible for finance shall have regard to such obligation in exercising powers to grant approvals for reallocations under this Act.

(9) The Principal Secretary of the ministry responsible for finance may, without further authority than this section, issue instructions to restrict or control reallocations where it is in the public interest or it is necessary for financial expediency.

(10) The Principal Secretary of a line ministry shall submit a report on the details of any reallocations made under this section and the performance of the activity affected, to the Principal Secretary of the ministry responsible for finance in the form and within the timeframe set by the Principal Secretary of the ministry responsible for finance.

(11) The Minister shall report quarterly to the Parliament on all reallocations made under this section and the performance of the appropriations affected, no later than one month after the end of the quarter in which the reallocations were approved.

(12) Where the structure of the appropriations is changed under section (27), or where the names of budget classifications are changed, the Minister may alter the reallocation provisions by Regulations prescribed under this Act.

Contingency fund

32. (1) The Minister shall include a contingency fund in the annual budget which shall provide for an urgent and unforeseen expenditure for which no other provision exists.

(2) For the purpose of this section an urgent and unforeseen need shall-

- (a) be a significant need that cannot be delayed until future budget years without harming the public interest;
- (b) be unable to be funded using the reallocation provisions under this Act or other flexibilities for managing expenditure available to a public entity;
- (c) have not been provided for in the annual budget; and
- (d) not relate to an increase in salaries or in the numbers of permanent civil servants or other public officers.

(3) The contingency fund shall be a provision in the annual budget of not more than 2% of the proposed annual budget excluding investments.

(4) The contingency fund shall be administered by the Minister and the Minister shall seek the prior approval of the Finance Committee for each withdrawal from the contingency fund.

(5) The Finance Committee shall not authorize any withdrawal from the consolidated fund for the purpose of the contingency fund unless if it has received from the Minister a written statement containing-

- (a) the amount of the expenditure, the recipient, and the purpose;
- (b) the reasons that delaying the expenditure until future budget years will harm the public interest; and
- (c) confirmation that the expenditure cannot be accommodated under the reallocation powers in this Act or other flexibilities for managing expenditure.

(6) The Principal Secretary of the ministry responsible for finance shall ensure that all expenditure sourced from the contingency fund is allocated to the relevant budgets of the recipient entities and are subject to the same requirements for the management and reporting of other expenditures.

(7) The Principal Secretary of the ministry responsible for finance shall include an account of the contingency fund in respect of the preceding financial year and that account shall be part of the annual accounts of Government.

(8) The Minister shall inform Parliament of all withdrawals from the contingency fund in the quarterly and annual financial reports required under this Act, including information on the date of withdrawal, amount, the entity receiving the funds, and the purpose.

(9) The Minister shall, as soon as any withdrawal has been made from the contingency fund, introduce a supplementary estimate and a motion to the House to replace the amount of money withdrawn.

(10) The Auditor General, in scrutinizing the utilization of the contingency fund, shall assess whether the funds have been allocated and utilized in the manner consistent with this Act and the decision of the Finance Committee and shall report to Parliament on any improper utilization of the contingency fund.

(11) Section 31 shall not apply to authorise expenditure from a contingency fund.

(12) There shall be no carry forward of budget appropriated to the contingency fund to a future financial year.

Supplementary budgets

33. (1) Any expenditure proposed during the year by a public entity that is not within the appropriations approved by Parliament in the annual budget shall be-

- (a) funded through the reallocations authorized under this Act;
- (b) funded through an allocation from the contingency fund consistent with the procedures set out in this Act;
- (c) deferred until future budget years if this can be done without substantially harming public interest; or
- (d) where funding by the ways set out in subsection (1) (a) to (c) is not possible, introduced through supplementary estimates and Appropriation Act as provided under the Constitution and this section.

(2) Each line Minister, Chief Executive Officer and Principal Secretary of the ministry responsible for finance shall ensure that expenditure that is not authorised under an appropriation Act or any other law or authorized by reallocations under this Act, does not occur and that the procedure in subsection (1) is applied in exceptional circumstances.

(3) Where, in any financial year, it is found-

- (a) that the amount appropriated by the Appropriation Act for the purposes related to that appropriation is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the appropriation law; or

- (b) moneys have been expended on any appropriation in excess of the amount appropriated for the purposes included in that appropriation by the appropriation law,

a supplementary estimate showing the sums required or spent shall be laid before Parliament and shall be included in a motion seeking approval of the supplementary expenditure in the manner that Parliament shall prescribe.

(4) The Government shall not propose supplementary estimates for over expenditure that results from circumstances within the control of the Government or circumstances which could have been reasonably anticipated and in that case the expenditure shall be dealt with as excess expenditure under section 34.

(5) Where any supplementary estimate has been approved in a financial year by a resolution of Parliament, a supplementary Appropriation Bill providing for the appropriation of the sum approved shall be introduced in Parliament as soon as practicable and not later than the end of the financial year to which the supplementary estimates relate.

(6) The supplementary estimates and Appropriation Bill shall be accompanied by an explanation from the Minister as to the impact of the additional expenditure or financing on the performance of Government against the fiscal principles in this Act and the fiscal objectives set out annually in the Fiscal Framework Paper.

(7) Where the Minister considers that the additional expenditure or financing sought under the Supplementary estimates is likely to breach the fiscal responsibility in this Act or the fiscal objectives in the Fiscal Framework Paper, the Minister shall comply with the requirements under section 22 of this Act.

(8) Government may propose supplementary estimates and an Appropriation Bill to reduce expenditure or reallocate expenditure as specified in this Act.

Unauthorised expenditure

34. (1) In this section “excess expenditure” means unauthorised expenditure.

(2) Where at the close of accounts for any financial year, it is found that moneys have been expended-

- (a) in excess of the amount appropriated under an Appropriation Act; or
- (b) for a purpose for which no moneys have been voted and appropriated; and
- (c) that amount is not authorized by a supplementary budget or the Government does not propose to authorize it by a supplementary budget;

the amount of the excess expended, or not appropriated, as the case may be, shall be included in a statement of expenditure in excess which shall be laid before Parliament and referred to the Public Accounts Committee.

- (3) The statement of excess expenditure shall include-

- (a) information to ensure that Parliament is fully informed, including details of the amount of excess expenditure, the name of the public entity and officer involved, the circumstances relating to the expenditure including the goods and services it relates to, the details of the supplier, the contractual situation, and the reasons that the excess expenditure occurred; and
- (b) for expenditure relating to goods and services, information differentiating-
 - (i) expenditure related to goods or services that have been received by Government;
 - (ii) expenditure related to a commitment made by Government but no goods or services have been received by Government or the full goods and services have not been received by Government; and
 - (iii) expenditure related to goods and services received by Government for which no commitment was made.

(4) The statement of excess expenditure shall be published on the official website of the Government within one week of being tabled in Parliament.

(5) The Public Accounts Committee that considers statements of excess expenditure referred to it under this section shall report to Parliament within one month of receiving the statement, and shall include in the report to Parliament recommendations to address the cause of the unauthorized expenditure and recommend disciplinary actions.

(6) Where on receiving the report of the Public Accounts Committee referred to in this section Parliament, by means of a resolution, allows the excess or the amount expended but not appropriated, to stand charged to public funds, the sum required to meet that excess or that amount as shall be allowed shall be included in supplementary estimates and supplementary Appropriation Bill and shall be included in the accounts.

(7) Any excess or any amount expended but not appropriated and which is not allowed under this section shall be treated as a loss of public moneys and dealt with in accordance with Part VIII of this Act.

Expiry of annual budget and carry forward of budget

35. The Principal Secretary of the ministry responsible for finance, a Chief Executive Officer and a public officer and public office holder with responsibilities for public finances, shall ensure that the commitments and payments at the end of the year comply with the requirements that-

- (a) the authority to spend under the annual budget shall expire and cease to have effect at the end of the financial year to which it relates;
- (b) all authorities to make payments against commitments which have been made prior to the end of the financial year and for which goods or services have been received but for which no payment has been made prior to the end of the year shall expire 14 days after the end of the financial year and payments made for goods and services received in the previous financial year shall be recorded for the previous financial year; and

- (c) payments against commitments carried forward for goods and services not received before the end of the financial year shall be-
 - (i) recorded in the appropriations for the year in which the payment is made if possible; or
 - (ii) shall be accommodated within the reallocation provisions; and
 - (iii) shall be recorded in the accounts for the year in which the payment is made.

PART V

FINANCIAL MANAGEMENT

Prohibitions

36. (1) A line Minister, public office holder, Chief Executive Officer or public officer shall not-

- (a) expend public money other than in accordance with authority under the annual budget, or an authority granted under an Act;
- (b) raise revenues using the powers of Government other than in accordance with an Act passed by Parliament or other legal authority;
- (c) make commitments that have financial implications for the Government budget or a Local Government budget that are not authorized by the annual budget, or an authority provided by an Act, or other legal authority;
- (d) carry out activities funded from public money for which there is no provision in the annual budget, Appropriation Act or other expenditure authority in any other Act; or
- (e) borrow money, or issue a guarantee, or issue an indemnity, or issue a security, or enter into any other transaction that binds or may bind a public entity to any future financial commitment, unless that borrowing, guarantee, indemnity, security or other transaction-
 - (i) is authorized by this Act; and
 - (ii) for any loan or guarantee, is within the limits set by or approved in accordance with this Act and other Acts.

(2) A Chief Executive Officer or public officer with banking responsibilities for public money shall not withdraw public money from a Government account except for the settlement of a legitimate claim against the Government or for payment in pursuance of an authority under the annual budget, or other lawful authority.

Authority to raise revenues

37. (1) Notwithstanding any other law, the Minister may impose-

- (a) income tax;
- (b) value-added tax;

- (c) customs duties and other duties on import and export goods;
- (d) excise tax; and
- (e) any other tax,

as may be authorized by Parliament.

(2) A Local Government may impose levies as may be authorized by an Act of Parliament.

Authority to impose fees and charges

38. (1) A public entity, a Local Government or a Government business enterprise may levy fees and charges in accordance with the law.

(2) A public entity that imposes fees and charges for services shall ensure that the fees and charges comply with the following requirements-

- (a) the fee or charge shall be set at a level not higher than the cost of the most efficient method of providing the service;
- (b) the fee or charge shall reflect the value of the service to the person paying for it and not a wider group of beneficiaries who should contribute to the costs of the service through specific or general taxes; and

(c) affected parties are adequately consulted and provided with an opportunity to be heard on the imposition of new fees or charges or significant increases to fees or charges.

(3) The Principal Secretary of the ministry responsible for finance may, in writing, grant an exception to the requirements in subsection (2).

(4) The Principal Secretary of the ministry responsible for finance may require a public entity to explain any fee or charge including how it complies with the requirements of this section.

(5) The Principal Secretary of the ministry responsible for finance may require a public entity to annul or adjust any fee or charge that does not comply with the requirements of this section.

(6) Subsections (2) to (5) shall not apply to a Local Government or a Government business enterprise.

(7) The Principal Secretary of the ministry responsible for finance may, by Notice published in the Government Gazette, impose a levy and fees relating to exercise of administrative services.

Waivers and write offs

39. (1) The Minister may waive a tax or fee or charge imposed by a public entity provided for any waiver over the value prescribed in regulations, the Minister has obtained the prior approval of Cabinet;

(2) The Principal Secretary of the ministry responsible for finance shall maintain a public record of each waiver together with the reason for the waiver and shall publish that information in the Government Gazette.

(3) The Minister shall notify the Cabinet and the Auditor General of each waiver and the reason for it within one week of making the decision to grant the waiver.

(4) The Minister may approve a proposal from the Principal Secretary of the ministry responsible for finance to-

- (a) write off any claims by or on behalf of Government;
- (b) write off losses of or deficiencies in public money or public assets and resources; or
- (c) write down the book value of any asset.

(5) Where the sum for any write off or write down exceeds the value prescribed in regulations, the Minister shall obtain the prior approval of Cabinet which shall be recorded in the minutes of the Cabinet meeting and this requirement shall apply to the cumulative sum of a write off or write down that affects the same entity or the same person in the financial year.

(6) The Principal Secretary of the ministry responsible for finance shall report on the write off or write down including the subject, value and date in the quarterly reports and the annual financial accounts required by this Act.

Consolidated Fund For Viewing Purposes Only

40. (1) The Consolidated Fund established by the Constitution shall consist of-

- (a) any money standing to the credit of the Consolidated Fund;
- (b) all revenues raised or received for purposes or on behalf of Government;
- (c) any money raised or received in trust for or on behalf of Government; and
- (d) any other money properly accruing to the Consolidated Fund under any enactment.

(2) The Consolidated Fund shall not include-

- (a) any money payable under the Constitution or any other law into some other fund established for a specified purpose; or
- (b) any money that may, under a law, be retained by a ministry that received the money for the purposes of defraying expenses of that ministry and in that case the revenues and expenditures shall be fully accounted for.

(3) Any money standing to the credit of the Consolidated Fund shall, except for day to day cash requirements or for investments made under section 54, be kept in a bank and money invested and any interest received from that investment shall form part of the Consolidated Fund.

Special Funds

41. (1) Every special fund shall be classified as an agency and shall be named in the Second Schedule to this Act.

(2) A proposal for the establishment of a new Special Fund shall not be made save in exceptional circumstances and with the prior approval of Cabinet..

(3) Every Special Fund shall be administered according to the requirements of this Act and the instrument creating the Special Fund.

(4) Money standing to the credit of a Special Fund shall be invested in accordance with this Act and interest received in respect of a Special Fund shall accrue to that Special Fund.

Depository of revenue

42. (1) The Central Bank of Swaziland shall be the depository for all moneys to be deposited in the Consolidate Fund listed in terms of section 39 for the purposes of the budgetary operations of Government.

(2) The Swaziland Revenue Authority shall deposit the revenue it collects to the Government account as part of the Consolidated Fund each day on a gross-basis.

Cooperation on cash management

43. (1) The Minister and the Governor of the Central Bank shall cooperate with regard to debt and cash management and shall put in place mechanisms for cooperation between the Ministry responsible for finance and the Central Bank.

(2) For purposes of subsection (1), the Minister and the Central Bank shall enter into a written agreement that shall include roles, responsibilities and terms and conditions, including requirements to-

- (a) keep to a minimum the volume of idle balances held in the banking system;
- (b) manage operational, credit and market risk;
- (c) manage the timing of government cash inflows and outflows; and
- (d) provide information.

(3) The Accountant-General shall put in place effective and efficient arrangements to forecast cash requirements and notify the Central Bank, including cash planning for public entities and the systems, processes and other capabilities to support cash planning and management.

Government Account

44. (1) The Accountant-General shall -

- (a) open a single master account known as the “Government Account” in which shall be deposited monies designated as part of the Consolidated Fund and all other public monies required by the Principal Secretary of the ministry responsible for

finance to be banked into the Government account;

- (b) maintain the Government Account with the Central Bank; and
- (c) transfer the contents of all subsidiary accounts of the Government account and all accounts in agent banks within Swaziland to the Government Account on a daily basis.

(2) The Accountant-General may authorize the opening and closing of bank accounts in countries other than Swaziland for the functions of Government maintained outside Swaziland, such as embassies, diplomatic missions and other entities with specific purposes.

(3) Where the Accountant-General is required to hold foreign currency accounts by virtue of specific provisions in agreements with donors or other entities, the Accountant-General may authorize one of its agents to operate the accounts outside the Government account.

(4) The Accountant-General may authorize the opening and closing of a bank account to contain money that is not public money but is held by the Government as the custodian on behalf of a non-public entity or person.

(5) Where an account referred to in subsection (4) is established, the Accountant General shall issue instructions for the operation of the bank account as a custodial account and in accordance with the interests of the beneficiaries or owners of the money contained in that account.

(6) The Accountant-General shall keep complete, accurate and current records of all bank accounts under this Act.

Agent banks

45. (1) The Accountant-General and the Central Bank may appoint agent banks and make any arrangements with them that are necessary for the management of budgetary operations.

(2) A bank which has opened a bank account for a Public entity, Local Government, or Government business enterprise shall, on request by the Accountant-General or the Auditor General, promptly disclose information regarding that account.

(3) Each receiving branch of a bank dealing with public money for a public entity shall credit, by the end of each working day, all receipts of public money, to the Government account held at the Central Bank unless otherwise agreed to with the Minister.

Authority for payments from Consolidated Fund

46. (1) Money shall not be withdrawn from the Consolidated Fund for payments except on the authority of a warrant or certificate issued by the Minister, and that warrant shall not be issued unless the expenditure to which it relates-

- (a) has been authorised by an Appropriation Act in respect of the fiscal year during which the withdrawal is to take place; or
- (b) is authorised under this Act or any other law authorizing a direct charge on the Consolidated Fund.

(2) The Minister may instruct the Accountant-General to suspend, withdraw, limit or place conditions on any warrant or certificate issued by the Minister under this section where that action complies with this Act or other laws and is required by reason of financial exigency or is in the public interest.

Authority for payments from Government account

47. (1) The Minister may authorise the withdrawal of money from the Government account by a warrant or certificate issued by the Minister for payments, except for the payments from the bank accounts of Government business enterprises and Local Government which shall not require warrants or certificates from the Minister.

(2) The Minister shall not issue a warrant or certificate to authorise a payment unless-

- (a) the expenditure has been authorized for the financial year during which the withdrawal is to take place-
 - (i) by an authority under an Appropriation Act to implement the annual budget; or
 - (ii) by an authority under an Appropriation Act to implement a supplementary budget; or
 - (iii) by any other provision of this Act or other law; or
- (b) the expenditure is for the purpose of repaying any moneys that are received in error by the Government account; or
- (c) the expenditure is for the purpose of paying sums required for any advance, refund, rebate or drawback where the payment of that advance, refund, rebate or drawback has a lawful authorisation.

(3) The Minister may, through the Accountant-General, authorise the release of funds by any means that are efficient, transparent and accord with the requirements of this Act.

(4) The Accountant-General may issue instructions regarding different categories and methods of funds release and the information public entities shall supply with any or all requests for releases.

(5) The Accountant-General shall set and meet reasonable time frames for the release of funds.

(6) The Accountant-General shall set the expiry date for the release of funds to be at the end of the financial year unless a carry-over is authorized.

Advances

48. (1) The Minister may issue a warrant to authorise an advance from the Consolidated Fund-

- (a) on behalf of, and recoverable from, the Government ;
- (b) to or on account of a special fund;

- (c) to a public officer, for the purposes and under the conditions specified in the financial instructions;
- (d) to or on behalf of any other person, where the advance is required in the public interest; and
- (e) for the purpose of expenditure authorised by any enactment which regulates the raising of loans by or on behalf of the Government in anticipation of the raising of all or any part of the loan.

(2) An advance to an account of a special fund shall be recoverable within a period of twelve (12) months after the close of the fiscal year in which it was made.

(3) Advances issued under this section shall not, in the aggregate, exceed the amount specified in the regulations.

Powers of Accountant-General relating to management of cash

49. (1) The Accountant-General shall issue instructions which a Chief Executive Officer of a public entity or other public officer who manages public money shall follow for the conduct of cash management.

(2) The Accountant-General may issue instructions on the operating rules and procedures for the bank accounts of a public entity or groups of public entities to facilitate management of their operations.

(3) The Accountant-General shall, where the operation of a bank account of a public entity is inconsistent with this Act, have the power to -

- (a) freeze the operation of any bank account of that public entity;
- (b) open, re-arrange and close any bank account of that public entity;
- (c) transfer proceeds from and to any bank account of that public entity; or
- (d) withdraw or change the operating authority of any bank account of that public entity.

(4) The Accountant-General shall notify the public entity, in writing, of the proposed action under subsection (3) and provide the public entity with the opportunity to show cause why an action in terms of subsection (3) should not be taken, except that such notice shall not be required if the Minister considers that urgent action shall be taken by the Accountant General.

(5) Where the Accountant-General is not satisfied with the response of the public entity, the Accountant-General may act in terms of subsection (3) and notify the public entity, in writing, of the action giving reasons for the action and forward a copy to the Auditor-General.

(6) The power of the Accountant-General in this section may apply to the bank account of a Government business enterprise or a Local Government where the Minister determines that an intervention is necessary to protect the public interest.

(7) The Accountant-General may, on the authority of the Minister, withhold a release of funds to any bank account of any public entity, Local Government or Government business enterprise where the public entity, Local Government or Government business enterprise has-

- (a) failed to submit completed regular financial reports that are required under instructions from the Ministry responsible for finance;
- (b) failed to attend to defects or irregularities in the financial reports;
- (c) managed public resources in a way that exposes the Government to fiscal risks, service failure or other serious performance issues; or
- (d) failed to comply with financial management requirements in this Act or any other law.

(8) Notwithstanding a decision of the Minister on the release of funds, the Accountant-General shall refuse payment of any deficient request to pay received from a Chief Executive Officer, or that contravenes the provisions of this Act or any other law or regulations or instructions issued pursuant to an Act.

Cash management and commitment control for public Entities

50. (1) A public entity shall open, operate or close bank accounts in compliance with instructions from the Accountant-General governing the control of such accounts and shall-

- (a) ensure payments and other cash is managed in accordance with lawful authority including Regulations and instructions issued under this Act regarding cash management;
- (b) pay claims against a bank account on completion of the required services or on fulfilment of conditions in accordance with usual commercial practice and not later than sixty (60) days of receipt of a valid invoice, or where a contract exists, then as specified in that contract, unless a valid query is raised by the Chief Executive Officer or the Auditor General;
- (c) submit reports and supporting documents that are required under this Act, Regulations or instructions issued by the Ministry responsible for finance;
- (d) ensure all moneys due to the public entity are collected in a timely and efficient manner;
- (e) bank cash on a daily basis;
- (f) ensure that the bank account is not overdrawn; and
- (g) submit to the Minister half yearly accounts of the receipt, utilization and disposition of funds.

(2) The Accountant-General may issue instructions on the matters set out in subsection (1) to a Local Government or a Government business enterprise if the instructions are in the public interest.

Approval before cost escalation, deviation or change

51. A public officer or public office holder with financial responsibility for a Government activity shall seek the approval of the Minister before undertaking any activity which involves cost escalations, deviations from the original plan, or changes in the scope of work, where the financial impacts may result in the contravention of this Act or any other law to spend public funds.

Commitment for future payments

52. (1) The Principal Secretary of the ministry responsible for Finance may issue commitment control limits to a public entity.

(2) The Chief Executive Officer of a public entity shall, before any commitment which binds the Government to the future payment is signed, ensure that the projected commitment is provided for in an appropriation or other expenditure authority in law.

(3) A Chief Executive Officer of a public entity shall put in place procedures consistent with this Act, the Procurement Act, 2011, (Act No. 7 of 2011) or any other law for verifying the receipt of goods and services prior to payment for the goods and services or that the payment otherwise meets the terms of the contract between the public entity and the supplier.

Treatment of externally financed activities

53. (1) The Government shall not accept a grant unless the grant has been approved in the annual budget or by Cabinet after considering the advice of the Minister responsible for finance and, the line minister.

(2) The Minister responsible for donor funding and a line Minister who requests the acceptance of the donor funding by Cabinet shall provide the Minister with full information on the donor funding, including the projected amount and any counterpart funding and implications for recurrent costs.

(3) The Minister shall, on behalf of the Government, receive all grants made to Government by a foreign government or any other entity or person and shall ensure that the grants are banked into the Government account.

(4) A public entity that administers a donor project shall apply the accounting and auditing procedures of the Government.

(5) The Ministry responsible for finance shall not release funding for donor projects to a public entity unless that funding is accounted for as donor revenue in the accounting system of the Government.

(6) The public entity responsible for an agreement between a donor and the government shall ensure that the agreement with the donor requires the donor to provide information to the Principal Secretary of the ministry responsible for finance and the Principal Secretary of the ministry responsible for donor funding on all payments made by the donor under that agreement.

(7) Each public entity shall provide the Principal Secretary for the ministry responsible for finance and the Ministry responsible for donor funding with the information required by each Ministry and without limiting the generality of this requirement, may include-

- (a) details of proposed grants;
- (b) medium term estimates of expenditure implications including recurrent costs;
- (c) details of grants received; and
- (d) information on the utilization of grants.

(8) The Minister responsible for donor funding together with the Minister may grant an exemption from the requirements of this section provided that the Ministers put the exemption in writing and table it in Parliament within one week of granting the exemption.

(9) This section shall not apply to a Local Government or a Government business enterprise except where the grant is received on behalf of the Government.

(10) A Government business enterprise shall include grants it proposes to receive in the Statement of Corporate Intent and the annual plan and each Local Government shall include grants it proposes to receive in the annual plan and budget of the Local Government.

Investments

54. (1) The Minister may, make arrangements with the Central Bank of Swaziland regarding the investment of public money.

(2) The Minister, in consultation with the Minister responsible for Local Government, may direct a Local Government to comply with any agreement between the Minister and the Central Bank of Swaziland regarding the investment of public money.

(3) Interest earned and other income from investments of public money shall be credited to the Government account which may include sub accounts designated for Local Government or a Special Fund or other entity, unless the Minister directs otherwise in writing to the Central Bank of Swaziland or unless there are other arrangements agreed in the memorandum of understanding between the Minister and the Central Bank of Swaziland.

(4) The Central Bank of Swaziland shall provide the Minister with information in a timely manner on investments, including information to prepare the annual accounts.

Borrowing

55. (1) The Minister may, subject to the approval of Parliament, raise a loan for the purpose of-

- (a) financing budget deficits and liquidity shortfalls;
- (b) refinancing and pre-financing maturing debts;
- (c) obtaining foreign currency on behalf of the Central Bank of Swaziland;
- (d) lending to an approved entity;
- (e) financing all sums of money paid to fulfil guarantees;
- (f) regulating internal monetary conditions should the necessity arise;

- (g) providing financing to remedy the effects of natural calamities; or
- (h) otherwise defraying expenditure which has been approved by Parliament.

(2) In raising a loan, the Minister shall on such terms and conditions that the Minister considers fit ensure that the loan does not conflict with-

- (a) the fiscal responsibility principles under this Act;
- (b) the fiscal objectives in the Fiscal Framework Paper; or
- (c) any limits on borrowing set out in the annual budget or any other law

Payment of monies raised by loan

56. All monies raised by loan shall be paid into the Government account or other account approved under this Act.

Powers of Minister on loans

57. The Minister may, with the concurrence of the lender and approval of Parliament-

- (a) repay any loan prior to the redemption date of that loan;
- (b) convert the loan into any other loan;
- (c) consolidate two or more loans into an existing or new loan;
- (d) refinance maturing loans;
- (e) reopen existing securities;
- (f) restructure government obligations under existing loans; or
- (g) manage risks through hedging transactions.

Appointment of adviser, agents and underwriters

58. The Minister may appoint advisers, agents and underwriters for the purposes of raising loans.

Expenses for raising loans

59. (1) Any expenses incurred in connection with -

- (a) negotiating the borrowing of money by Government;
- (b) undertaking the borrowing;
- (c) managing the borrowing;
- (d) servicing the borrowing;

(e) converting the borrowing; or

(f) repaying the borrowing,

may be incurred and paid without appropriation.

(2) Subsection (1) does not apply to expenses incurred in connection with money borrowed by the Government under-

(a) hire purchase agreements or agreements that are of the same or a substantially similar nature; and

(b) finance lease arrangements or arrangements that are of the same or a substantially similar nature.

(3) In this section, expenses includes-

(a) duties, taxes, premiums, bonuses, fees, interests, and commissions; and

(b) any expenses incurred on personnel and equipment necessary for the performance of functions set out in subsection (1).

Borrowing by a public entity

60. A public entity may borrow money from the Government on terms agreed with the Minister subject to the approval of Parliament.

Borrowing by Government business enterprise

61. (1) Prior to the beginning of each financial year, a Board of a Government business enterprise shall obtain the approval of the Minister and line Minister for any intended programme of borrowing for the forthcoming financial year and for the medium term including each loan the Government business enterprise intends to take, and the refinancing and repayment of such loans.

(2) The Board of a Government business enterprise shall obtain the approval of the Minister and line Minister for any changes to the programme of borrowing, proposed loans, refinancing and repayment during the financial year.

(3) The approval of the Minister and line Minister to any programme of borrowing, loans or refinancing and repayment that the Government business enterprise intends to take shall not imply in any way the existence of a Government guarantee for that borrowing.

Liability of Government to payment of debts of other entities

62. In the absence of a formal guarantee, Government is not liable to pay any debt or liability of-

(a) a Government business enterprise listed in the Third Schedule ;

(b) a subsidiary of a Government business enterprise listed in the Third Schedule;

(c) any entity in which a Government business enterprise has an interest;

- (d) a Local Government; or
- (e) any entity in which a Local Government has an interest.

Power to execute loans

63. The power to execute loan documents shall, provided that all the requirements of this Act are met, vest in -

- (a) the Minister;
- (b) Chairman of the Board and Chief Executive Officer of a Government business enterprise; or
- (c) where there is no board in place, the Chief Executive Officer and Chief Financial Officer of a Government business enterprise.

Local Government borrowing

64. (1) A Local Government Authority may not borrow money except-

- (a) from the Government;
- (b) in accordance with a written approval from the Minister responsible for Local Government and the Minister; and
- (c) with the approval of the Council of the Local Government.

(2) The Minister responsible for Local Government and the Minister shall ensure that before approving a loan for a Local Government, the loan-

- (a) complies with Regulations made pursuant to this Act; and
- (b) is consistent with the debt limits and guarantee limits in the Fiscal Framework Paper and the annual budget.

Securities

65. (1) Except as provided by any law, the Government shall not issue securities whether for money borrowed or any other purpose.

(2) The Minister, on behalf of the Government, may issue securities for money borrowed by the Government as may be prescribed by regulations.

(3) The authority of the Minister to raise loans under this Act shall include the authority to borrow money by way of the issue of public securities including bills, bonds or commercial paper.

(4) The securities may be issued in one or more series, and may be made pursuant to loan agreements between Government and one or more specified banks, financial institutions, or security dealers and the agreements may be amended from time to time.

Execution of security

66. (1) Security that shall be executed by Government for the purposes of this Act shall be executed for and on behalf of the Government by-

- (a) the Minister; or
- (b) a person acting in accordance with delegated powers; or
- (c) borrowing agents appointed by the Minister for that purpose under this Act.

(2) The Minister may, on behalf of the Government, do any of the following things in respect of or in connection with the security that could be done by the Government-

- (a) exercise any powers, functions, and rights including any power of disposal; and
- (b) undertake and perform any liabilities.

(3) For the purposes of this section, a facsimile of the signature of a person who is required to execute a security under this section shall suffice where it is reproduced on the security.

Variation of terms of and conditions of public security

67. (1) The Minister may, with the consent of the holder that may be necessary, at any time vary the terms and conditions of a public security

(2) At the request of the holder of a public security, the Minister may-

- (a) direct that the principal, or any interest payable in respect of the principal, be paid at a place in Swaziland or elsewhere that is other than the place otherwise provided; and
- (b) revoke the direction and give other directions.

Replacing a public security

68. The Minister may direct the issue of a new public security to replace a public security that is lost, damaged, or destroyed if the Minister is satisfied, on receiving evidence, of the loss, damage, or destruction.

Payment of security

69. (1) Subject to the provisions of the Constitution-

- (a) all principal amounts payable under a public security shall be paid from the Government account without appropriation; and
- (b) all borrowing expenses incurred under a public security may be incurred without appropriation.

(2) In this section, public security does not include a guarantee or indemnity given under this Act.

Expenses on public security

70. (1) Any expenses incurred in connection with any of the following functions may be incurred without appropriation-

- (a) issuing a public security in respect of the Government;
- (b) executing a public security;
- (c) redeeming a public security; or
- (d) varying the public security.

(2) In this section, expenses include-

- (a) duties, taxes, premiums, bonuses, fees, and commissions; and
- (b) any expenses incurred on personnel and equipment necessary for the performance of functions set out in subsection (1).

Local Government securities

71. (1) Local Government may issue securities -

(a) in accordance with written approval from the Minister responsible for Local Government and the Minister; and

(b) with the approval of the council of the Local Government.

(2) The Minister responsible for Local Government and the Minister shall, before approving an issue of securities by a Local Government, ensure that the issue-

- (a) complies with the prescribed regulations; and
- (b) is consistent with the debt limits in the Fiscal Framework Paper and annual budget.

Debt reporting

72. (1) The Principal Secretary responsible for finance shall maintain a full record of accounts of the loans taken by Government and shall arrange timely repayment.

(2) The Principal Secretary responsible for finance shall ensure that the record of accounts of loans taken by the Government includes information on the principal, terms of repayment, amounts drawn, interest and service charges accrued, principal and interest paid, and the balance outstanding and shall make the memorandum available in a timely way to Cabinet and Parliament where requested.

(3) Within seven days after a request by Parliament, the Minister shall present to the relevant committee, information concerning any particular loan or guarantee, including all information necessary to show-

- (a) the extent of total indebtedness by way of principal and accumulated interest;

- (b) the use made or to be made of the proceeds of the loan;
- (c) the provision made for servicing or repaying the loan;
- (d) the progress made in repaying the loan; and
- (e) for any guarantee, the recipient, amount and purpose.

(4) The Ministry responsible for finance shall, in addition to the information and reporting on loans required in other parts of this Act, provide a report at least every quarter to Cabinet summarizing the position with loans and other liabilities.

(5) Each Local Government shall maintain records and provide reports to the Ministry responsible for finance on loans and other liabilities as required by Regulations or instructions made pursuant to this Act.

Limits on lending by the Government

73. (1) Government shall not lend public money to any person, or entity, or government unless authorized by Parliament in terms of section 204 of the Constitution.

(2) A public entity, Local Government, or Government business enterprise shall not lend money to any person, entity or government unless authorized by Parliament in terms of section 204 of the Constitution.

(3) For the purposes of this section, the authority to lend money includes the authority to defer payment for any goods or services supplied or works constructed for any person, organization, or Government.

(4) Any lending under this section shall be made from an appropriation, or other authority approved by Parliament for that purpose.

(5) Any lending under this section shall be repaid over such period of time, and on such terms and conditions, as the Minister specifies, subject to agreement with the borrower.

Acceptance of money for repaying loan and variation of security

74. The Minister may, in relation to any money lent by Government under section 73-

- (a) accept all money payable under the loan in any currency that the Minister considers appropriate; and
- (b) agree at any time to the variation of any security issued in respect of the loan.

Security on loan

75. (1) A security taken in respect of a loan under section 73 shall be taken in the name of Government.

(2) The Minister may, on behalf of Government, do any of the following things in respect of, or in connection with, the security that could be done by Government-

- (a) exercise any powers, functions, and rights including any power of disposal; and

- (b) undertake and perform any liabilities.

Guarantees

76. (1) The Minister on behalf of Government may, subject to the Constitution, give a guarantee, indemnity, or security, after formal assessment and upon terms and conditions that will be prescribed by regulations, in respect of the performance of any obligation by any public office holder, public officer, public entity, Local Government or Government business enterprise, if the following requirements are met-

- (a) the guarantee complies with the fiscal responsibility principles in this Act, Regulations, and the fiscal objectives and policies in the Fiscal Framework Paper; and
- (b) the guarantee is approved by Parliament.

(2) The Government shall not be liable for any implied guarantees asserted by any individual or entity and shall only be liable for formal guarantees given in accordance with this Act.

(3) Subject to the terms of the instrument authorising the guarantee, the debt shall be repaid over such period of time, and on such terms and conditions, as specified by the Minister.

Debt

77. Any money paid by the Minister pursuant to any guarantee, indemnity or security given under this Act or any other Act and the expenses associated with the guarantee, indemnity, or security shall constitute a debt due to Government from the public officer, public office holder, public entity, Local Government or Government business enterprise in respect of whom the guarantee, indemnity, or security was given, and shall be recoverable as in the High Court.

Publication of information on guarantees

78. In addition to the reporting required in this Act, the Minister shall publish information in the annual accounts of the Government describing the guarantees given during that financial year.

Administration requirements for debt, liabilities, financial assets

79. (1) Where the Minister establishes any administrative unit to actively manage Government's line of debt, other liabilities and financial assets, the Minister shall-

- (a) establish an administrative unit within the Ministry responsible for finance which shall be subject to the requirements of this Act; and
- (b) ensure that the administrative unit has the resources and skills to manage debt, other liabilities and financial assets according to best-practice international standards for asset and liability management.

(2) An administrative unit set up for the management of debt, other liabilities and financial assets shall operate in accordance with international best practices and shall benchmark its performance to the debt management offices of other governments that are internationally respected for their practices.

(3) The Principal Secretary of the ministry responsible for finance may appoint agents to provide technical advice or manage administrative functions for the management of debt, other liabilities and financial assets, provided that control and accountability for these functions remains with the Principal Secretary of the Ministry responsible for finance.

Asset management

80. (1) The Chief Executive Officer of a public entity, Local Government, or Government business enterprise shall be responsible for the management of the assets of the public entity and shall manage the assets to ensure that Government achieves value for money when acquiring, using and disposing of Government assets.

(2) The Chief Executive Officer of a public entity, Local Government or Government business enterprise shall have the power to dispose of assets up to the value specified in Regulations and shall ensure that these are disposed of at the best obtainable price or lowest possible cost and that the proceeds from all asset disposals are banked into a Government bank account.

(3) The Chief Executive Officer of a public entity, Local Government or Government business enterprise shall have adequate systems and processes in place to plan for assets, procure assets, account for assets, maintain assets, store assets, and dispose of assets, including maintaining an asset register that is current, accurate and available for inspection at any time by the Ministry responsible for finance or the Auditor-General.

(4) The Ministry responsible for finance shall manage assets assigned to it under Regulations in an efficient and effective manner and shall maintain full and up to date records.

(5) A public officer or staff member of a public entity, Local Government or Government business enterprise shall not loan or permit any person or organisation to use assets for purposes other than carrying out the functions of that public entity, Local Government or Government business enterprise.

(6) The Chief Executive Officer of a public entity, Local Government or Government business enterprise that transfers assets to another public entity, Local Government or Government business enterprise shall-

- (a) draw up an inventory of the assets and liabilities in the prescribed format; and
- (b) provide the Chief Executive Officer of the receiving entity with the inventory.

(7) The Chief Executive Officer of the transferring public entity, Local Government or Government business enterprise and the Chief Executive Officer of the receiving public entity, Local Government or Government business enterprise shall sign the inventory when the transfer takes place.

(8) The Chief Executive Officer of the transferring entity shall submit a copy of the signed inventory to the Minister and the Auditor-General within 14 days of the transfer.

Establishment of Internal Audit Office

81. (1) There is established under the ministry responsible for finance an Internal Audit Office, which shall consist of a Director of Internal Audit, Deputy Director and other internal auditors.

(2) The Director of Internal Audit and Deputy Director shall be appointed by the Civil Service Commission and the Director of Internal Audit shall be the head of internal audit functions.

(3) The other internal auditors referred to in subsection (1) shall be appointed by the Civil Service Commission on the advice of the Director of Internal Audit.

(4) The Internal Audit Office shall provide internal audit functions to a public entity and any other entity designated by the Principal Secretary for the Ministry of finance notwithstanding the provision of any other law.

(5) The Director of Internal Audit shall be responsible for the management and administration of the Internal Audit Office and may make such decisions and exercise such powers as may be necessary and expedient for the attainment of the objectives of the Internal Audit Office.

(6) The Director of the Internal Audit shall, in the performance of the duties under subsection (4), prepare quarterly internal audit reports that are consistent with internal audit standards and submit such reports to the Audit Committee and the Minister.

(7) The Director of Internal Office shall report the findings of an internal audit to the Chief Executive Officer of an entity that has been audited in the manner prescribed by regulations.

(8) The Director of Internal Audit Office, Deputy Director and other internal auditors in the Internal Audit Office shall have unlimited access to all information, records, property and any other documents as may be necessary from a public entity for the fulfilment of the functions of the Internal Audit Office.

(9) The Auditor General may have access to the reports of the Director of Internal Audit.

Establishment of Audit Committee

82. (1) There shall be established an Audit Committee to be appointed by the Minister on the recommendation of the Principal Secretary responsible for finance.

(2) The Audit Committee shall comprise at least five and not more than fifteen members, all of which shall not hold a public office or be subject to official influence.

(3) The Director of Internal Audit shall be the Secretary to the Audit Committee.

(4) The Minister shall appoint a chairperson of the Audit Committee.

(5) In making appointments, consideration shall be made to knowledge, expertise and professional qualifications which shall include-

- (a) accounting, financial management and budgeting;
- (b) risk management;
- (c) internal and external audit;
- (d) information technology;

(e) Government environment and accountability structures; and

(f) membership to a relevant professional body which shall include-

(i) the Institute of Accountants;

(ii) the Institute of Internal Auditors; and

(iii) any other professional body as may be prescribed by internal audit regulations.

(6) A member of the Audit Committee shall hold office for a period not exceeding three years, and shall not serve more than two terms.

(7) The Audit Committee shall meet at least quarterly and annually and report, in writing, to the Minister.

(8) The Secretary to Cabinet may, at any time, have access to a report of the Audit Committee.

(9) The members of an Audit Committee may be paid such allowances as the Minister may determine.

Functions and powers of Audit Committee

83. (1) The functions of the Audit Committee shall include;

(a) assisting a Chief Executive Officer in fulfilling oversight responsibilities relating to financial practices, internal controls, governance systems, compliance with laws and ethics and audit matters;

(b) considering a report submitted by the Internal Audit Office to the Chief Executive Officer and making recommendations on the findings of a report;

(c) resolving any disagreement between a Chief Executive officer and an internal auditor or an internal auditor and a public entity that may arise from an internal audit report; and

(d) any other duty as may be prescribed by regulations.

(2) The Audit Committee may establish such committees as it may consider necessary or expedient to assist it in the performance of its functions under this Act.

(3) A committee established under subsection (2)-

(a) shall conform to and act in accordance with any direction given to it by the Audit Committee; and

(b) may determine its own procedure including the appointment of the chairman.

(4) Members of a committee established under subsection (2) shall be appointed from amongst members of the Audit Committee.

(5) A committee established under subsection (2) shall hold its meetings at such frequency as the Audit Committee may determine.

PART VI

ACCOUNTING, REPORTING AND AUDITING

Application of accounting requirements

84. (1) Any expenditure of public money, or dealing in Government assets or liabilities incurred by and for the Government, irrespective of the source of funding, shall be subject to the accounting and audit requirements prescribed under this Act.

(2) Part VI of this Act shall apply to Government, Local Government, public entities, and Government business enterprises unless otherwise specified.

Accounting standards

85. (1) The Accountant-General shall prescribe and publish accounting standards and practices to be implemented by Government including Local Government and public entities.

(2) The Accountant-General shall implement a unified chart of accounts for all public entities unless the Accountant-General exempts a public entity.

(3) Prior to the adoption of international accounting standards and practice by the Accountant General, the Government, Local Government and Public Entities shall use the accounting standards and practice approved and promulgated by the Ministry responsible for finance and the Minister shall determine whether the cash basis or the accrual basis of accounting may be used.

(4) The Accountant-General shall-

- (a) periodically review the instructions, guidelines, Regulations, processes, procedures and systems for accounting and reporting to ensure effective, economic and efficient utilization of public resources;
- (b) prescribe the chart of accounts to be used; and
- (c) prescribe other requirements for accounting including financial reporting.

(5) All accounts prepared by a Government business enterprise shall be prepared in accordance with international accounting standards and the Ministry responsible for finance may issue instructions to Government business enterprises on the adoption of suitable practices and standards consistent with the Companies Act, 2009.

(6) Any departure from the accounting standards specified in this section by a public entity, Local Government or Government business enterprise shall be identified and explained in the disclosures relating to the individual or consolidated annual accounts.

(7) The Accountant-General may issue instructions to Chief Executive Officers and public officers in accordance with this Act.

In-year Government level reporting and entity level reporting

86. (1) The Principal Secretary of the ministry responsible for finance shall provide periodic reports on financial and non-financial matters to the Minister as required by the Minister.

(2) The Principal Secretary of the ministry responsible for finance shall prepare a quarterly report on the financial and non-financial performance of the Government against the annual budget and Appropriation Act.

(3) The Minister shall submit a quarterly report for Government to Cabinet and shall table the quarterly report in Parliament no later than one month after the end of each quarter.

(4) The Principal Secretary of the ministry responsible for finance shall publish the quarterly report on the official website of the government within one week of the report being tabled in Parliament.

(5) A Chief Executive Officer of a public entity, Local Government and Government business enterprise shall submit to the Principal Secretary of the ministry responsible for finance quarterly reports on performance in the format and by the time required by the Ministry responsible for finance, and the report for each entity shall be published on the official website of the government by the entity not later than one month after the end of each quarter.

(6) The Auditor-General or the Director of Internal Audit may audit any reports referred to in this section and the Chief Executive Officer of a public entity, Local Government or Government business enterprise shall provide the information required by the Auditor-General or the Director of Internal Audit to conduct that audit.

(7) The requirements in this section relating to Local Government shall apply to reporting against funds received from Government, loans and other liabilities, unless otherwise determined by the Minister after consulting with the Minister responsible for Local Government.

Annual Government level reporting and entity level reporting and audit

87. (1) The Accountant-General shall, within 3 months of the end of each financial year, prepare and submit to the Auditor-General consolidated annual accounts containing-

(a) a consolidated budget report against the revenue, expenditure and financing estimates in the annual budget and any supplementary budget and the Appropriation Act;

(b) reports to show the position with regard to the matters set out in the annexes to the annual budget described in the Fifth Schedule;

(c) at a date to be determined by the Minister responsible for finance, consolidated financial statements integrating all accounts of Government, all public entities, Local Government and Government business enterprises presented in accordance with international accounting standards.

(2) Within three (3) months after the submission of the consolidated Government accounts to the Auditor-General, the Auditor-General shall issue an audit report on the accounts and submit the report to the Minister who shall table the consolidated government accounts, audit report and an annual report on non financial performance in Parliament within one week following the issue of the audit report of the Auditor-General.

(3) Where the Minister fails to submit the annual accounts, audit report and report on non-financial performance to Parliament within the time specified in subsection (2) -

(a) the Minister shall submit to Parliament a written explanation setting out the reasons for the failure; and

(b) the Auditor-General may issue a special report on this delay.

(4) Within one week following the issue of the audit report of the Auditor-General on the annual accounts of Government, the Principal Secretary of the ministry responsible for finance shall publish the annual accounts of Government, audit opinion and the annual non financial performance report on the official website of the government and shall publish the reports in printed form as soon as practicable.

(5) A public entity and Government business enterprise shall produce an annual report that meets the requirements set out in Part VII of this Act that shall include financial and non financial performance with financial statements audited by the Auditor-General or other authorised auditor.

(6) The requirements in this section relating to Local Government shall apply to reporting against funds received from the National Government, loans and other liabilities, unless otherwise determined by the Minister after consulting with the Minister responsible for Local Government.

(7) The Auditor General or the agent of the Auditor General shall complete a compliance and value for money audit of all borrowed funds as specified in Regulations, which shall be submitted to Parliament within 6 months of the end of each financial year and published on an official website of the Government within one week of being presented to Parliament.

Consideration of annual accounts and reports by Parliament

88. (1) The appropriate standing committee of Parliament shall-

(a) review the annual audited accounts of Government as a whole, the annual report on non-financial performance, and the annual economic and fiscal update report;

(b) review the reports of the portfolio committees on the annual reports including the non-financial performance achieved and the audited financial statements for each public entity and Government business enterprise under the responsibility of each line Minister; and

(c) report to Parliament on the results of the reviews and that report shall include recommendations on actions to be taken.

(2) Parliament shall-

(a) consider the report of the committee on the reviews set out in subsection (1);

(b) review the report of the Auditor-General on the accounts and other performance of the Government; and

(c) debate the recommendations in the reports in this subsection.

(3) Parliament shall complete the reviews and debates in this section within eight (8) months after the end of the financial year to which the reports and reviews in this section relate.

Powers of the Principal Secretary of the ministry responsible for finance in relation to monitoring

89. (1) Notwithstanding the power of the Principal Secretary in any other law, the Principal Secretary of the ministry responsible for finance shall, with regard to monitoring, have power to-

- (a) obtain information from a public entity, Local Government or Government business enterprise on its governance and management relating to financial and non-financial performance including its dealings with cash, other assets, debts, other liabilities, fiscal risks of any nature, information management, and related matters;
- (b) obtain regular reports that the Principal Secretary may specify from a public entity, Local Government or Government business enterprise on matters related to its financial and non financial performance; and
- (c) take such action that the Minister considers necessary to safeguard the fiscal position of the government, including prohibiting the public entity, Local Government or Government business enterprise from taking specified actions or compelling the public entity, Local Government or Government business enterprise to take actions consistent with the Constitution and other Acts.

(2) The public entity, Local Government or Government business enterprise shall supply the information required by the Ministry responsible for finance to fulfil its monitoring function within the timeframe requested and in the form specified.

(3) The powers in subsection (1) and the requirement to provide information in subsection (2) with regard to Local Government shall be exercised by the Minister in consultation with the Minister responsible Local Government.

Financial statistics

90. (1) The Principal Secretary of the ministry responsible for finance shall compile and publish government financial statistics in accordance with international standards.

(2) In the event that the financial statistics do not comply with the international standards, the Principal Secretary of the ministry responsible for finance shall indicate the non compliance in the reports and shall state when compliance will be achieved.

PART VII
ENTITY ACCOUNTABILITY

Planning and reporting general obligations

91. (1) The Principal Secretary of the ministry responsible for finance shall, from time to time, prescribe by issuing instructions, the format, contents and quality of information to be provided in the annual plans, the annual budget, quarterly reports, other periodic reports and the annual reports including the financial statements.

(2) Each Chief Executive Officer or board, if there is one, shall ensure that the annual plan, annual budget, quarterly report, other periodic reports and the annual report are provided as required by this Act and instructions issued pursuant to this Act.

Ministry annual plans and annual budgets

92. (1) A Principal Secretary of a ministry shall produce an annual plan for that ministry which shall have a medium term scope for the forthcoming financial year and contain-

- (a) strategic priorities for the medium term that are compatible with the priorities of the development plans;
- (b) a description of how the Ministry is responding to the changing environment;
- (c) services with outputs to be delivered in the coming financial year with details of-
 - (i) the strategic priorities that the outputs will contribute to;
 - (ii) the outputs to be provided;
 - (iii) measurable indicators of performance where feasible; and
 - (iv) the budget allocated to the outputs or groups of outputs;
- (d) payments on behalf of government or the Ministry including grants, benefits and subsidies to be paid;
- (e) capital developments;
- (f) description of intentions to develop capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (g) summary budget which shall include forecast accounts or forecast financial statements to be included from a date to be set by the Minister;
- (h) financial and other assumptions; and
- (i) other matters required by the Minister or the line Minister.

(2) During the implementation of an annual plan in the form required by this Act, the Ministry responsible for finance may permit a ministry to provide less information than required in subsection (1).

(3) A Principal Secretary of a ministry shall-

- (a) ensure that the annual plan and draft annual budget comply with the budget instructions from the Ministry responsible for finance;
- (b) consult in a manner to be determined by the line Minister of the Ministry on any significant changes in the annual plan;
- (c) reach agreement with the line Minister on the draft annual plan;

- (d) submit the draft annual plan to the Ministry responsible for finance with the budget submission by a date to be specified by the Minister responsible for finance not later than 30 November; and
- (e) publish the annual plan on the official website of the Government no later than one week after the presentation of the annual budget to the Parliament; and
- (f) publish on the official website of the Government any amendments to the annual plan no later than one week after the adoption of the annual budget by the Parliament.

(4) A line Minister shall present in Parliament the annual plan of the Ministry responsible for that plan no later than three weeks after the presentation of the annual budget to the Parliament.

Reporting by a Ministry and auditing of report

93. (1) A Principal Secretary shall provide a line Minister and the Principal Secretary of the ministry responsible for finance with a quarterly report in the format and at the time required by the Ministry responsible for finance.

(2) A Principal Secretary shall provide the line Minister and the Minister with an annual report no later than three months after the end of the financial year.

(3) The annual report shall include information on-

- (a) strategic priorities in the annual plan;
- (b) outputs delivered with measurable indicators of actual performance for outputs or groups of outputs;
- (c) payments made on behalf of government or the Ministry, including grants, benefits and subsidies to be paid;
- (d) progress with capital developments;
- (e) advances or issues in capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (f) financial performance which shall include financial statements prepared according to international accounting standards;
- (g) financial and other assumptions; and
- (h) other matters required by the Ministry responsible for finance or the line Minister.

(4) An annual report for each Ministry shall be-

- (a) audited by the Auditor General or the agents of the Auditor-General for financial matters and from a date to be determined by the Minister, shall be audited for service performance against the annual plan;
- (b) presented together with the audit opinion to the line Minister by the Chief Executive Officer;

- (c) presented together with the audit opinion to Parliament by the line Minister no later than six months after the end of the financial year;
- (d) published by the Principal Secretary of the ministry to which the annual report relates on the official website of the government no later than one week after providing the report to Parliament; and
- (e) made available to the public in print form by the Ministry to which the annual report relates as soon as practicable.

Service agreements

94. (1) A line Minister may have an output agreement and performance review process with a ministry providing services funded from the budget that the line Minister is responsible for.

(2) The Secretary to Cabinet or other authority with responsibility for reviewing the performance of Principal Secretaries shall take the performance review of the output agreement, if there is one, into account when reviewing the performance each year for each Principal Secretary of a line ministry.

(3) A Principal Secretary of a Ministry may have a performance agreement and performance review process with an entity providing services funded from the budget of that Ministry.

Review of performance of a ministry

95. (1) A line Minister shall have principal responsibility for the review of the overall performance of a ministry for which that line Minister is responsible.

(2) The Minister shall have the principal responsibility for the review of the financial management of the finances of a Ministry.

(3) A line Minister, Cabinet, or the Minister may commission a review of a Ministry.

(4) A line Minister shall-

- (a) provide the results of each review of a Ministry to the Secretary to Cabinet and Cabinet;
- (b) publish the results of the reviews on the official website of the Government within two weeks of providing the review to Cabinet; and
- (c) make the reviews available in printed form as soon as practicable.

Annual plans and annual budgets for an Agency

96. (1) An agency specified in the Second Schedule shall have an annual plan that shall include-

- (a) strategic priorities for the medium term that reflect Government's priorities and plans;
- (b) a description of how the Agency is responding to the changing environment;
- (c) services with outputs to be delivered in the coming financial year with details of-

- (i) the strategic priorities that the outputs will contribute to;
- (ii) the outputs to be provided;
- (iii) measurable indicators of performance where feasible; and
- (iv) the budget allocated to the outputs or groups of outputs;
- (d) payments on behalf of Government including grants, benefits and subsidies to be paid;
- (e) capital developments to be undertaken;
- (f) description of intentions to develop capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (g) summary budget which shall include forecast financial statements from a date to be specified by the Minister;
- (h) financial and other assumptions; and
- (i) other matters required by the Minister or the line Minister.

(2) The Minister may permit an agency to provide less information than required in subsection (1).

(3) The Board of an agency or where there is no Board, the Chief Executive Officer shall-

- (a) seek the approval of the line Minister on the draft annual plan and draft annual budget;
- (b) consult in a manner to be determined by the line Minister of the Agency on any significant changes in the annual plan;
- (c) submit the draft annual plan and draft annual budget to the line Ministry or where there is no line Ministry, to the Principal Secretary of the ministry responsible for finance by the date set by the Principal Secretary of the ministry responsible for finance but no later than 15 November of each year;
- (d) publish the annual plan on the official website of the Government not later than one week after the Minister presents the annual budget to the Parliament;
- (e) publish any amendments not later than one week after the adoption of the annual budget by the Parliament; and
- (f) make the annual plan available in print form as soon as is practicable.

(4) A line Minister shall submit a draft annual plan and draft annual budget to the Minister not later than 30 November.

(5) A line Minister shall present the annual plan to Parliament for each agency the line Minister is responsible for not later than three weeks after the Minister presents the annual budget to the Parliament.

Reporting by an Agency and auditing of reports

97. (1) Each Chief Executive Officer of an Agency shall provide the line Minister and the Minister with a quarterly report in the format and at the time required by the Ministry responsible for finance.

(2) The Chief Executive Officer of an Agency shall provide the line Minister and the Minister with an annual report not later than three months of the end of the financial year.

(3) The annual report shall include information on-

- (a) strategic priorities in the annual plan;
- (b) outputs delivered with measurable indicators of actual performance for outputs or groups of outputs;
- (c) payments made on behalf of Government or the Ministry including grants, benefits and subsidies to be paid;
- (d) progress with capital developments;
- (e) advances or issues in capability for physical, intellectual, human and other resources including measurable indicators where feasible;
- (f) financial performance which shall include financial statements;
- (g) financial and other assumptions; and
- (h) other matters required by the Principal Secretary of the ministry responsible for finance or the line Minister.

(4) An annual report for each Agency shall be-

- (a) audited by the Auditor-General or the agents of the Auditor-General for financial matters and shall be audited for service performance from the date specified by the Principal Secretary of the ministry responsible for finance;
- (b) presented together with the audit opinion to the line Minister by the board or the Chief Executive Officer where there is no board;
- (c) presented together with the audit opinion to Parliament by the line Minister not later than six months after the end of the financial year;
- (d) published by the Agency to which the report relates on the official website of the Government not later than one week after providing the annual report to Parliament; and
- (e) made available in print form by the Agency to which the annual report relates as soon as it is practicable.

Service agreements for an agency

98. (1) A line Minister may have an output agreement and performance review process with an agency providing services funded from the budget the line Minister is responsible for.

(2) A board or authority with the responsibility for reviewing the performance of a Chief Executive Officer, shall take into account the performance review of the output agreement when, in each year, reviewing the performance of the Chief Executive Officer of an agency.

(3) A Chief Executive Officer of an agency may have a performance agreement and performance review process with an entity providing services funded from the budget of the agency.

Review of an agency

99. (1) A line Minister shall have principal responsibility for the review of the overall performance of an agency for which the Minister is responsible.

(2) The Minister shall have the principal responsibility for the review of the performance of the financial management of an agency.

(3) The line Minister, Cabinet, or the Minister may commission a review of an agency.

(4) The line Minister shall-

- (a) submit each review of an agency to Cabinet ;
- (b) publish the results of the reviews on the official website of the Government within two weeks of providing the review to Cabinet; and
- (c) make the reviews available in printed form as soon as it is practicable.

Statement of corporate intent and annual plan for a Government business enterprise

100. (1) A board of each Government business enterprise shall prepare and deliver a draft annual plan and a draft statement of corporate intent for the Government business enterprise and its subsidiaries to the Minister and line Minister no later than three months before the commencement of the financial year.

(2) The Statement of corporate intent shall include-

- (a) the objectives of the enterprise;
- (b) the nature and scope of the activities to be undertaken;
- (c) the ratio of consolidated shareholders' funds to total assets and definitions of the terms;
- (d) the accounting policies;
- (e) the performance targets and other measures by which the performance of the enterprise may be judged in relation to its objectives;

- (f) a statement of the principles adopted in determining the annual dividend together with an estimate of the amount or proportion of annual tax paid, earnings from capital and revenue sources that is intended to be distributed to the Government;
- (g) the kind of information to be provided to the line Ministers by the Government business enterprise during the course of those financial years, including the information to be included in each half-yearly report;
- (h) the procedures to be followed before any member of the group subscribes for, purchases, or otherwise acquires shares in any company or other organisation;
- (i) any activities for which the board seeks compensation from the Government, whether or not the government has agreed to provide that compensation; and
- (j) any other matters that are agreed by the Minister and line Minister and the board.

(3) The annual plan shall contain, for the forthcoming three financial years, detail for the forthcoming financial year and at least -

- (a) forecast financial statements including an estimate of the anticipated profit for each of the three forthcoming years with sufficient detail for the forthcoming financial year to enable meaningful assessment against those expectations after the end of that financial year;
- (b) any proposed major financing transactions; and
- (c) other matters that are agreed by the Minister and line Minister and the board.

(4) The Minister and line Minister may agree on the annual plan and the statement of corporate intent with the board of each Government business enterprise.

(5) If the Minister and line Minister cannot agree on matters relating to the annual plan and statement of corporate intent, the Prime Minister shall decide on the matters.

(6) The Minister and line Minister acting jointly may direct the board in writing to make a change to the annual plan or statement of corporate intent-

- (a) prior to the finalisation of the annual plan or statement of corporate intent; or
- (b) during the financial year.

(7) The direction referred to in subsection (6) shall be tabled in Parliament within one month of giving the direction.

(8) The line Minister shall present the Statement of Corporate Intent for each Government Business Enterprise to Parliament not later than three weeks after the Minister presents the annual budget to the Parliament.

(9) The statement of corporate intent shall be published by the board of each Government business enterprise on its website and shall be published by the Ministry responsible for finance on the official website of the Government and publication shall be not later than one week after the Minister presents the annual budget to the Parliament.

(10) Notwithstanding reporting requirements in this Act or any other law, the Board of each Government Business Enterprise shall provide periodic and annual reports to the Principal Secretary of the ministry responsible for finance in the form and by the time prescribed in instructions issued by the Principal Secretary of the Ministry responsible for finance.

Service Agreement for a Government business enterprise

101. (1) Where Government requires a Government business enterprise to provide goods or services other than in the normal commercial manner, the Minister and line Minister shall conclude a service agreement with the Government business enterprise.

(2) The agreement shall specify the terms of delivery of goods or services that the Government business enterprise shall provide and the price that Government will pay, which shall be a fair market price, or if there is no market then a price that equals the costs for an efficient provider of the goods or services.

Accounting, cash management and asset management for Government business enterprises

102. The Chief Executive Officer of a Government business enterprise shall ensure that the Government business enterprise uses internationally accepted accounting standards and practices.

Reporting by a Government business enterprise

103. (1) A Government business enterprise shall prepare an annual report for that enterprise and its subsidiaries, including financial statements in accordance with the provisions of this Act, the Companies Act and instructions from the Principal Secretary of the ministry responsible for finance.

(2) The annual report of a Government business enterprise shall include-

- (a) a report of the operations of the Government business enterprise and those of its subsidiaries during that financial year with information that is necessary to enable an informed assessment of the operations of the enterprise and its subsidiaries, including a comparison of the performance of the enterprise and subsidiaries against its annual plan;
- (b) the dividend payable to the Government by the enterprise for the financial year to which the report relates;
- (c) audited consolidated financial statements for that financial year consisting of statements of financial position, profit and loss, changes in financial position, and any other statements that may be necessary to show the financial position of the enterprise and its subsidiaries and the financial results of their operations during that financial year;
- (d) the remuneration paid to each director including value of benefits in kind;
- (e) the remuneration paid to senior management, including all benefits in kind.
- (f) the auditor's report on the financial statements; and

- (g) any additional information that is necessary to enable an informed assessment of the activities of the enterprise against the annual plan.

Auditing and publication of the annual report

104. An annual report for a Government Business Enterprise may be-

- (a) audited by the Auditor- General or the agents of the Auditor-General;
- (b) presented together with the audit opinion to Parliament by the Minister and line Minister not later than six months after the end of the financial year to which the report relates;
- (c) published by the enterprise to which the annual report relates on the official website of the Government not later than one week after the Minister and line Minister have provided the report to Parliament; and
- (d) made available in print form by the enterprise as soon as is practicable.

Enterprises with Government as minority or majority shareholder but not sole shareholding

105. (1) Where the Government is a minority shareholder in a publicly listed enterprise, sections 97 to 101 shall not apply and the shareholding shall be subject to the provisions of the Companies Act, 2009 and any other law applicable.

(2) The Minister and line Minister shall exercise their rights as shareholders in the best interests of the Government and the citizens of Swaziland.

(3) Where Government holds fifty (50) percent but less than one hundred (100) percent of the shares, Government shall exercise its rights in accordance with the Companies Act, 2009.

Protection and supply of information

106. (1) A board of a Government business enterprise shall supply to the Minister and line Minister and the ministries supporting the Minister and line Minister such information relating to the affairs of the enterprise or any of its subsidiaries as the Minister or the other Shareholding Minister may from time to time request after consultation with the board, whether or not the information is of a kind referred to in the annual plan or statement of corporate intent.

(2) Nothing in this Act shall be construed as requiring the inclusion of any information in any annual plan, statement of corporate intent or annual report including the accounts that would be likely to unreasonably prejudice the commercial position of the Government business enterprise.

**PART VIII
ENFORCEMENT**

Financial misconduct

107. (1) A reference in this Part to positions and office holders includes current and former positions and office holders.

- (2) This section shall apply notwithstanding codes of ethics or codes of conduct.

(3) A public office holder and public officer, or other person with responsibility for Government resources, commits an offence of financial misconduct if, without lawful authority under this Act or other lawful authority, that person wilfully or negligently-

- (a) borrows money on behalf of the Government, or repays or converts an existing loan;
- (b) issues public securities, or varies their terms and conditions;
- (c) opens a bank account in the name of the Government;
- (d) maintains a bank account for a Government purpose outside Swaziland except in accordance with an Act;
- (e) lends money or other assets on behalf of the Government;
- (f) issues guarantees or indemnities on behalf of the Government;
- (g) issues securities for loans made to Government;
- (h) disposes of, pledges, or encumbers Government property;
- (i) refuses or neglects to pay any public money into a Government bank account on a timely basis;
- (j) incurs unauthorized expenditures or makes unauthorized commitments;
- (k) seeks or accepts a personal loan or benefit in circumstances that compromise the integrity of the public officer;
- (l) refuses or fails to produce any information in the possession or under the control of that person in relation to the financial management, financial performance, banking activities of a public entity or in relation to the management or control of any Government asset or liability when required to do so pursuant to this Act, Regulations or instructions;
- (m) fails to keep proper records or conceals or wrongfully destroys information that is required to be recorded by this Act, Regulations or instructions;
- (n) fails to produce the reports and accounts required by this Act;
- (o) provides incorrect information with regard to a public entity or Government business enterprise to the tax authorities;
- (p) fails to ensure that the public entity or Government business enterprise complies with its tax obligations;
- (q) resists or obstructs any person acting in the discharge of that person's functions or duties or in the exercise of that person's powers under this Act;
- (r) makes any statement or declaration, or gives any information or certificate, required by or pursuant to this Act, Regulations or instructions, knowing it to be false or misleading;

- (s) divulges data in electronic or other form without authority;
- (t) diverts funds to unauthorized activities;
- (u) fails to implement a lawful written directive relating to the management of public finances given by the Principal Secretary of the Ministry responsible for finance or the Auditor-General or when that directive is not contested; or
- (v) does any act for the purpose of procuring for that person or for any other person or organization-
 - (i) the improper payment of any public money; or
 - (ii) the improper use of any public financial resource; or
- (w) fails to declare a conflict of interest when dealing with or making decisions about Government resources.

(4) Where the political head or other political officer holder of a Local Government commits an offence of financial misconduct, in addition to being liable under this Act or any other Act, the political head shall be subject to disqualification in terms of the Constitution or any other law applicable to the appointment of the political head.

(5) Where a public officer does not comply with the instructions issued under this Act, the responsible officer may refer the matter to the appropriate Service Commission or the Civil Service Commission or other appropriate authority for disciplinary action.

(6) A charge of financial misconduct under this Act against any person shall be investigated, heard and disposed of in terms of the statutory or other conditions of appointment or employment applicable to that person and any regulations under this Act.

(7) A public officer or public office holder who becomes aware of, or suspects financial misconduct under this Act and fails to report this to at least two of the three following person shall be liable to a charge of financial misconduct under this Act-

- (a) the Principal Secretary of the ministry responsible for finance;
- (b) the Auditor-General;
- (c) the relevant Service Commission or the Civil Service Commission.

Criminal proceedings

108. (1) A public office holder, public officer, or other person with responsibility for Government resources, commits a criminal offence if without lawful authority under this Act or under other lawful authority that person wilfully or negligently-

- (a) takes unlawful possession of public funds or assets including electronic data;
- (b) misappropriates public funds or assets;
- (c) provides inaccurate financial information or conceals information on public finances to obtain a benefit for that person or another person; or

(d) engages in corrupt acts including soliciting or receiving bribes.

(2) Where a political head or other political office holder of a Local Government commits an offence under this section or any other law, that person shall be subject to disqualification in terms of the Constitution or any other law applicable to the appointment of that political head.

(3) Where a Minister commits an offence under this section or any other law, that Minister shall be subject to disqualification in terms of the Constitution.

(4) Where a political head, not being a minister or a political head of a Local Government, commits an offence under this section or any other law, that political head shall be subject to disqualification in terms of the Constitution or any other law applicable to the appointment of that political head.

(5) A public officer or public office holder commits an offence if that officer becomes aware of, or suspects, the commission of an offence under this Act and fails to report the offence to at least two of any of the following -

- (a) the Principal Secretary of the ministry responsible for finance;
- (b) the Auditor-General;
- (c) the relevant service commission or the Civil Service Commission; or
- (d) the Director of Public Prosecutions.

(6) A person who commits an offence under this section, shall on conviction, be liable to imprisonment for a period not exceeding two (2) years or to a fine not exceeding twenty thousand Emalangeni (E20, 000) or to both.

Institutional sanctions

109. (1) The Minister may apply sanctions to a public entity, Local Government or a Government business enterprise which has-

- (a) approved the commitment of expenditure for a future year which has not been authorised by the Minister as an approved multi-year commitment;
- (b) approved expenditures in excess of an appropriation under an Appropriation Act or other lawful authority;
- (c) re-allocated expenditures without lawful authority;
- (d) approved the contracting of debt beyond the debt limits set pursuant to this Act and other Acts;
- (e) defaulted on a loan;
- (f) provided inaccurate information to public officers on financial matters;
- (g) issued guarantees without the appropriate authorisation;
- (h) issued guarantees for amounts in excess of the limits set pursuant to this Act;

- (i) created liabilities in excess of its ability to finance these;
- (j) failed to adequately address issues raised by the Auditor-General when such issues are not contested; or
- (k) failed to produce annual accounts including financial statements in the form and by the time required by this Act, Regulations or instructions issued under this Act.

(2) The Minister may apply any of the following sanctions to a public entity Local Government or Government business enterprise to which this section applies-

- (a) impose additional reporting requirements to those required by law;
- (b) require a draft budget or financial plan to be submitted to the Ministry responsible for finance for approval prior to its approval by the board or council of the entity;
- (c) suspend the ability to use reallocation powers;
- (d) withhold funds;
- (e) suspend all authorisations to borrow;
- (f) treat any debt defaults as a charge on future revenues;
- (g) temporarily place the Ministry responsible for finance staff or appointees in the entity to undertake financial management functions;
- (h) make representations to the appointing authority for the board and the Chief Executive Officer to take action to dismiss or otherwise discipline any board member or the Chief Executive Officer; or
- (i) remove a board member.

(3) Where a public entity, Local Government or Government business enterprise incurs debt in excess of an ability to service a debt or in contravention of the debt level permissible under an Act or set by Government, the Ministry shall require that entity to adhere to a programme of debt reduction.

Personal responsibility for losses

110. (1) A public office holder, public officer, or other person with responsibility for Government resources shall be held personally responsible for any loss sustained by Government due to-

- (a) acts of fraud or negligence on the part of that officer; or
- (b) acts of fraud or negligence on the part of any other officer, if it is found that the officer contributed to the loss by the action, negligence or omission of that officer.

(2) The determination of a loss under this section shall be made by the Principal Secretary of the ministry responsible for finance who may consider the advice of the Losses Committee in accordance with this Act.

Entity responsibility for losses

111. (1) A corporation or any other legal entity shall, on conviction, be liable for contraventions of this section when committed by its organs or representatives in its name and in the collective interest of the entity if that entity has responsibility for Government resources and causes loss sustained by the Government due to-

- (a) acts of fraud or negligence on the part of the entity; or
- (b) acts of fraud or negligence on the part of any other entity or person, if it is found that the entity contributed to the loss by the action, negligence or omission of the entity.

(2) The determination of a loss under this section shall be made by the Principal Secretary in the ministry responsible for finance who may consider the advice of the Losses Committee in accordance with this Act.

Losses Committee

112. (1) The Minister shall, for the purposes of investigating the loss of public property, appoint a Committee, to be known as the Losses Committee.

(2) The Committee shall comprise-

- (a) the Principal Secretary of the Ministry responsible for finance or the representative of the Principal Secretary;
- (b) the Accountant-General or a representative of the Accountant-General;
- (c) the Auditor-General or a representative of the Auditor General;
- (d) the Attorney-General or a representative of the Attorney-General;
- (e) the Commissioner of Police or a representative of the Commissioner of Police;
- (f) the Principal Secretary of the Ministry responsible for Public Works or a representative of the Principal Secretary; and
- (g) three persons who are not public officers and of whom at least one has a legal background and one other an accounting background.

(3) The Principal Secretary of the ministry responsible for finance shall designate a public officer from the ministry responsible for finance to act as secretary to the Committee.

(4) The Minister shall appoint one of the persons named in section (2) to be the Chairperson of the Committee.

(5) A quorum of the Committee shall be formed by the Chairperson and four other members, excluding the secretary.

(6) In the absence of the Chairperson the members present shall elect one of their number to act as chairperson.

(7) The Committee shall investigate a report of loss of public property that the Principal Secretary of the ministry responsible for finance may refer to it and shall make recommendations in writing to the Principal Secretary based on its investigation.

Recovery of losses

113. (1) A loss attributed to a person or an entity under sections 110 to 112 shall be a debt due to the Government and may be recovered from the person or the entity either administratively including by deductions from a salary or a payment due to the person or entity for any purposes, or through a court of competent jurisdiction by action instituted by the Attorney-General.

(2) In any action instituted by the Attorney-General for the recovery of a loss, a certificate signed by the Principal Secretary of the ministry responsible for finance stating the amount of the loss owing by the person or the entity being sued shall be admissible as evidence for the assessment of the loss.

(3) The Principal Secretary of the ministry responsible for finance shall give the person or entity alleged to have caused a loss an opportunity to be heard and shall provide the person or entity with full information on the loss.

(4) The Principal Secretary of the Ministry responsible for finance shall provide a decision in writing to the person or entity found to have caused a loss, on the determination of the losses owed.

Surcharge

For Viewing Purposes Only

114. (1) The Auditor-General may disallow any item of expenditure that is contrary to law and may surcharge the person responsible for incurring or authorising that expenditure or loss.

(2) The Principal Secretary of the ministry responsible for Finance may surcharge the salary of any public officer or public office holder who has caused a loss that has been determined by the Principal Secretary.

(3) Where the Principal Secretary of the ministry responsible for Finance is the person who caused the loss, the Auditor-General may direct that a surcharge to be made to the Principal Secretary.

(4) The Principal Secretary of the ministry responsible for Finance shall notify the Auditor-General and the Principal Secretary of the line Ministry or Chief Executive Officer of the entity that employs the public officer or public office holder who is subject to surcharge, of any surcharge made under this section.

(5) The Principal Secretary of the ministry responsible for Finance on receiving the notification, shall notify the person surcharged and may advise the Accountant-General or other payment authority to withhold or defer the payment of any benefits, including terminal benefits that may be due to the person surcharged.

Withdrawal of claim for losses

115. The Principal Secretary of the ministry responsible for Finance may at any time withdraw any claim for losses in respect of which a satisfactory explanation has been received, or if it otherwise appears that no claim should have been made, and in that event the Principal Secretary shall notify the Auditor-General, the Accountant-General and the Chief Executive

Officer of the entity concerned of the withdrawal of the claim.

Referral of matter to Attorney-General

116. Where, in the investigation of a loss of public funds-

- (a) a public officer, or public office holder, denies liability or disputes the value of property under investigation; or
- (b) there is conflicting evidence as to the culpability or otherwise of a public officer or public office holder;

the public officer or public office holder may request the Attorney-General to assess whether the Principal Secretary of the ministry responsible for Finance should review the case or whether the Attorney-General should refer the matter to a court of competent jurisdiction for its determination.

Remedy of person aggrieved by a claim for losses

117. (1) A person or entity that is dissatisfied with any claim for losses or any surcharge made pursuant to this Act may, within a period of twenty-one days after being notified of the decision, appeal in writing to the Civil Service Commission if the person is a civil servant or to the Attorney General if the person is not a civil servant or if an entity contests a loss or surcharge.

(2) The Civil Service Commission or the Attorney General as the case may be, acting in their discretion, shall determine every appeal and shall make an order on the appeal accordingly.

(3) A copy of every order made under subsection (2) shall be transmitted to the Principal Secretary of the ministry responsible for Finance, the Chief Executive Officer of the entity concerned, and the Auditor-General.

(4) This section shall not affect the powers of a Court to review any proceedings taken under this Part.

Publication of offences and sanctions

118. The Ministry responsible for finance shall publish on the official website of the Government in a timely way-

- (a) the name, position, offence and sentence for each person convicted of an offence under this Act;
- (b) the name of the public entity, Local Government, or Government business enterprise, the issue giving rise to the imposition of an institutional sanction, and the institutional sanction applied; and
- (c) all recommendations of the Losses Committee and decisions of the Principal Secretary of the ministry responsible for Finance on the recommendations.

Regulations and instructions

119. (1) The Minister may make regulations or issue instructions to give effect to the objects of this Act including but not limited to-

- (a) roles and responsibilities in relation to the management of public finances;
- (b) the contents, process for developing, and timing of documents in this Act including but not limited to Fiscal Framework Paper, Economic and Fiscal Updates, Pre Election Economic and Fiscal Update, annual budget, annual plan, quarterly report, annual report including the annual financial statements, and other reports in this Act;
- (c) the classifications and other information requirements for budgeting, accounting and reporting;
- (d) the information to be provided by public entities, Government business enterprises and Local Government to the Ministry responsible for finance to fulfil its responsibilities under this Act including the processes and data standards to be used when supplying the information;
- (e) the information to be published by public entities related to the budget, periodic reports, final accounts and other public finance matters;
- (f) accounting standards and practices to be applied by public entities, Local Government and Government business enterprises provided that these are consistent with the law on companies for the Government owned and controlled companies;
- (g) requirements for managing information and providing information to Government and non-Government entities and persons;
- (h) cash management, including the collection, receipt, custody, banking, issue, expenditure, control, and management of public money or trust money;
- (i) requirements for making reallocations of expenditure;
- (j) controls on authorising advances and other matters relating to advances;
- (k) management and control of public property;
- (l) requirements relating to the management of commitments and the release of cash;
- (m) taking and managing loans including requirements on the exercise of any power to take and make loans;
- (n) the issue, registration, transfer, control, and redemption of government stock or any other public securities issued within Swaziland;
- (o) making guarantees;
- (p) lending public money;
- (q) investing public money;
- (r) waivers, write offs and recovery of losses;
- (s) internal audit;

- (t) the implementation date for requirements of this Act that may be implemented at a date to be set by the Minister.
- (u) requirements relating to charges of financial misconduct; and
- (v) any other matters that are contemplated by or necessary for giving full effect to this Act and for the administration of this Act.

(2) Any regulations or instructions issued under this section shall be consistent with international accounting standards or if this is not possible, then the instructions or regulations shall state the variances and state what will be done to comply with international accounting standards in future.

(3) The Minister shall publish the instructions or regulations on the official website of the Government and in the Gazette as soon as practicable after issuing them.

(4) A public office holder and every public official shall, in the performance of the duties of that public office holder or public official, comply with the instructions issued pursuant to this Act.

(5) Where a public office holder or public official does not comply with instructions issued under this Act, the responsible officer may refer the matter to the Civil Service Commission or other appropriate authority for disciplinary action.

Amendment of schedule Viewing Purposes Only

120. The Minister may, by notice in the Gazette, amend the schedules.

Transitional provisions

121. Regulations and instructions issued under the Finance Management and Audit Act, 1967 shall remain in force until replaced by Regulations and instructions issued under this Act and where they are inconsistent with any provisions of this Act, the Regulations and instructions shall be construed with such modifications, adaptations, qualification and exceptions that may be necessary to bring them into conformity with this Act.

Repeal

122. The Finance Management and Audit Act No. 18 of 1967 and the Treasury Bills and Government Stocks Act No. 7 of 1994 is repealed.

FIRST SCHEDULE
(Under Section 1)

Part	Section	Description of the activity with delayed commencement	Commencement date financial year ending March
III	16	Presentation of the Fiscal Framework Paper as required in the Act	2017
	18	Presentation of the Economic and Fiscal Update for half of the financial year as required in the Act	2017
	19	Presentation of the Economic and Fiscal Report as required in the Act	2017
	20	Presentation of the Pre-election Economic and Fiscal Update as required in the Act	2017
	21	Report on Government deviations from fiscal principles and objectives	2017
IV	25	Presentation of Annual budget as required in this Act	2017
	28	Presentation of multi-year commitments in the Annual budget documents	2017
	31 (3) (4)	Reallocations	2017
	32 (2)	Allocation for contingency fund	2017
	35	Rules on carry-overs and payments	2017
V	39	Report by the Ministry responsible for finance on the write offs or write downs in the quarterly reports and in the annual financial accounts	2017
	43, 44	Government Account requirements	2018
	48	The Accountant-General to issue instructions of the cash management regulatory framework	2017
	53	Rules concerning the cash management, accounting and audit system of the externally financed activities	2025
	72	Quarterly reporting on debt issues to Cabinet	2016
	80	Asset management requirements	2025
	81	Establishment of Internal Audit office	2016
VI		Development by the Accountant-General of regulations for accounting standards	2016
VII	84		

Part	Section	Description of the activity with delayed commencement	Commencement date financial year ending March
	85	Consolidated quarterly reports on financial performance provided by the Minister to Parliament	2017
	85	Quarterly reports on financial performance provided to the Minister	2017
	86	All quarterly reports include non-financial performance	2025
	87	Consolidated annual accounts to be sent to Auditor General's Office by end-June. Auditor General to submit opinion on annual accounts by end-September. Public Accounts Committee to consider reports within one month, and Parliament may then have one month to make resolutions.	2017
	90	Principal Secretary of the ministry responsible for finance to publish financial statistics in line with international standards for all functions and public entities.	2018
VII	92	Ministries to submit annual plans to Minister as part of budget process.	2016
	93	The Principal Secretary to provide the Portfolio Minister and the Ministry responsible for finance with an Annual Report within two months of the end of the financial year.	2018
	92	Line Minister to present the Annual Plan to the Parliament for each Public entity he is responsible	2017
	97	The Board or Chief Executive Officer of an Agency shall provide the line Minister and the Ministry responsible for finance with an Annual Report within two months of the end of the financial year.	2018
	100	The board of each Government Business Enterprise to deliver a draft Annual Plan and a draft Statement of Corporate Intent for the Government Business Enterprise and all its subsidiaries to the Minister and line Minister no later than two months before the commencement of the financial year.	2016
	103	A Government Business Enterprise to prepare an Annual Report for the Government Business Enterprise and all its subsidiaries including financial statements	2017

SECOND SCHEDULE

(Under Section 1)

AGENCIES

Conciliation, Mediation and Arbitration Commission
Competition Commission
Good Shepherd
Land Management Board
Minerals Management Board
National Agricultural Board
National Dairy Board
National Emergency Response Council on HIV and AIDS
Sebenta National Institute
Swaziland Agricultural and Development Enterprise
Swaziland Civil Aviation Authority
Swaziland Environment Authority
Swaziland Investment Promotion Authority
Swaziland National Council of Arts and Culture
Swaziland National Sports Council
Swaziland National Youth Council
Swaziland National Youth Enterprise Revolving Fund
Swaziland Nazarene Health Institutions
Swaziland Revenue Authority
Swaziland Standards Authority
Swaziland Tourism Authority
University of Swaziland

THIRD SCHEDULE

(Under Section 1)

GOVERNMENT BUSINESS ENTERPRISES

Central Transportation Board
National Maize Corporation
Piggs Peak Hotel
Royal Swazi National Airways
Sincephetelo Motor Vehicle Accident Fund
Swaziland Cotton Board
Swaziland Development and Savings Bank
Swaziland Development Finance Corporation
Swaziland National Housing Board
Swaziland National Provident Fund
Swaziland Electricity Company
Swaziland National Trust Commission
Swaziland Posts and Telecommunications Corporation
Swaziland Railway
Swaziland Television Authority
Swaziland Water Services Corporation
The Small Enterprise Development Company

FOURTH SCHEDULE

FISCAL RESPONSIBILITY REQUIREMENTS

1. (1) The Fiscal Framework Paper shall contain a medium-term macroeconomic forecast setting out actual, estimated and projected values of the following economic variables for no less than the previous two years, the current year, and the next three years including-

- (a) gross domestic product and its components;
- (b) inflation;
- (c) employment and unemployment;
- (d) exchange rates with major trading partners;
- (e) interest rates;
- (f) money supply;
- (g) assumptions and methodologies underpinning the forecasts; and
- (h) information on the longer term macroeconomic forecasts.

(2) The Fiscal Framework Paper shall contain medium-term fiscal forecasts setting out actual, estimated, and projected values of the following fiscal variables for no less than the previous two years, the current year, and the next three years including-

- (a) revenues by type including the amount proposed to be included in the Annual budget from a fund designated for the wealth of Swaziland;
- (b) aggregate expenditures by economic and administrative classifications;
- (c) budget balance for the overall budget and budget balance excluding revenues from the South Africa Customs Union;
- (d) the level of debt by external source, domestic source and total;
- (e) the accounting principles and methods used in the fiscal framework and key assumptions on which the above numbers are based;
- (f) sensitivity analysis taking account of possible changes in macroeconomic conditions;
- (g) forecasts for the longer term that have been taken into account in formulating the fiscal policies in the Fiscal Framework Paper and such forecasts shall take account of the impacts of changes in demographics and other factors; and
- (h) gross official reserves
- (i) any other information the Minister determines is material to the Fiscal Framework Paper.

(3) The Fiscal Framework Paper shall contain fiscal policy for revenues, debt, deficit and expenditure for the forthcoming budget year and two subsequent years including-

- (a) a summary table of the measurable fiscal objectives for no less than the previous two years, the current year, and the next three years including-
 - (i) aggregate government expenditure as a percentage of GDP and in nominal terms;
 - (ii) government expenditure on wages and benefits as a percentage of GDP and in nominal terms for all positions funded from the Annual budget and all positions funded by direct charge on the Consolidated Fund;
 - (iii) government revenues as a percentage of GDP and in nominal terms;
 - (iv) budget balance as a percentage of GDP and in nominal terms for the overall budget balance and for the budget balance excluding revenues from the South Africa Customs Union;
 - (v) government debt as a percentage of GDP and in nominal terms;
 - (vi) local authority debt as a percentage of GDP and in nominal terms; and
 - (vii) government net worth as a percentage of GDP and in nominal terms when net worth can be measured; and
- (b) information on the fiscal policies for medium term including-
 - (i) the revenue policy with planned changes to taxes and policies affecting other revenues;
 - (ii) deficit policy including deficit limits required by or implied by the fiscal targets including the overall budget balance and the budget balance excluding the South Africa Customs Union;
 - (iii) debt policy and an analysis of debt sustainability with debt ceilings; and
 - (iv) expenditure policy including expenditure priorities linked to ceilings in the medium term expenditure framework section of the Fiscal Framework Paper; and
- (c) an assessment of the consistency of the planned fiscal policy, aggregates and measurable fiscal objectives with the fiscal responsibility principles and the previous Fiscal Framework Paper; and
- (d) information on reasons for any deviations from the fiscal responsibility principles and fiscal objectives in the previous Fiscal Framework Paper with a summary of the plans to address any such deviations, and the expected time to achieve this.

(4) The Fiscal Framework Paper shall contain a medium-term expenditure framework stating the government's annual and medium-term expenditure intentions including limits which shall include-

- (a) the aggregate expenditure ceiling to be used in the preparation of the Annual budget which shall include indicative ceilings for two further outer years;
 - (b) a ceiling on total central government expenditure in the budget year and the indicative ceilings for two further outer years;
 - (c) minimum level of total central government investment in the budget year and indicative levels for the following two outer years;
 - (d) ceilings for central government current and investment expenditure by ministry for the budget year and next two years to be used as the basis for the preparation of the Annual budget; and
 - (e) forecast non-financial performance information at a suitable level of aggregation linked to the budget to show what is planned to be provided and achieved for the proposed expenditure, for strategic changes only; and
 - (f) information on major public investments including priorities and rationale for these and forecast costs for the forthcoming budget year and two outer years related to expenditure ceilings.
- (5) The Fiscal Framework Paper shall contain a fiscal risk statement including-
- (a) contingent liabilities;
 - (b) any commitments not included in the fiscal forecasts; and
 - (c) all other circumstances which may have a material effect on the fiscal and economic forecasts and which have not already been incorporated into the fiscal forecasts;

and such fiscal risks shall be quantified where practicable.

(6) If the Government is unable to provide any of the information in section 1 the Ministry responsible for finance shall explain the reasons for the lack of information in the Fiscal Framework Paper and shall ensure that such information is available as soon as practicable for future Fiscal Framework Papers.

(7) The Ministry responsible for finance shall produce an Economic and Fiscal Update for half of the financial year being the period ending 30 September each year which shall include-

- (a) updated macroeconomic and fiscal forecasts with sufficient information to show changes from the forecasts in the Fiscal Framework;
- (b) budget execution compared to the appropriations and other spending authorities for the first six months of the financial year;
- (c) information on how any changes in the forecasts or how actual fiscal performance for the half year may affect compliance with the fiscal responsibility principles and achievement of the fiscal objectives in the Fiscal Framework; and
- (d) information on reasons for any deviations from the fiscal responsibility principles and fiscal objectives with plans to address any such deviations, and the expected time to achieve this.

(8) The Ministry responsible for finance shall, for presentation to Parliament produce an Economic and Fiscal Report for the financial year which shall include-

- (a) updated macroeconomic and fiscal forecasts with sufficient information to show changes from the forecasts in the Fiscal Framework Paper;
- (b) budget execution compared to the appropriations and other lawful spending authorities for the financial year;
- (c) information on how any changes in the forecasts or how actual fiscal performance for the year may affect compliance with the fiscal responsibility principles and the fiscal objectives in the Fiscal Framework Paper; and
- (d) information on reasons for any deviations from the fiscal responsibility principles and fiscal objectives with plans to address any such deviations, and the expected time to achieve this.

(9) The pre-election economic and fiscal update shall include the following information and statements-

- (a) the information required by section 3 of this Schedule to be included in the economic and fiscal updates;
- (b) a statement signed by the Minister that the Economic and Fiscal Update includes-
 - (i) all policy decisions with material economic or fiscal implications that the government has made before the day on which the contents of an Economic and Fiscal Update was finalized; and
 - (ii) all other circumstances with material economic or fiscal implications of which the minister was aware before that day; and
- (c) a statement signed by the Principal Secretary of Finance that the pre-election Economic and Fiscal Update has been prepared by the Ministry responsible for finance-
 - (i) using its best professional judgments; and
 - (ii) on the basis of economic and fiscal information available to it before the week on which the contents of the Economic and Fiscal Update was finalized; and
- (d) a statement of the accounting and other standards applied which shall as far as practicable be internationally accepted standards and where such standards are not used, then an explanation of the deviation shall be provided.

FIFTH SCHEDULE
ANNUAL BUDGET DOCUMENTS

1. The Annual budget shall include Revenue Estimates documents with revenue information for the previous two years and the projected revenues for the current year and the next three financial years and the projected revenues shall include the revenue to be transferred from a fund designated for the wealth of Swaziland for the forthcoming year and an indication of the amount to be transferred for the two further years.

2. The Annual budget shall have Financing Estimates with financing information for the previous two years and projected financing for the current year and the next three years including-

- (a) plans for external financing in the form of borrowing and grants;
- (b) plans for domestic issuance of government debt and any other financial liabilities;
- (c) plans for issuance of guarantees to public or private entities;
- (d) plans for divestment of government assets;
- (e) plans for investments in Public Entities;
- (f) plans for the approval of new public private partnership contracts; and
- (g) other financing information that the Minister considers necessary.

3. The Annual budget shall have Expenditure Estimates with expenditure information for the previous two years and the projected expenditure for the current year and the next three financial years.

4. The Annual budget shall have annexes including-

- (a) updated macroeconomic information and summary of fiscal position compared to the Fiscal Framework;
- (b) statement of economic assumptions including significant changes from the assumptions in the Fiscal Framework;
- (c) information on projected statutory expenditure for the next financial year and the following two years;
- (d) statement of multi-year commitments
- (e) maximum upper limits for external, domestic and total borrowing, for issuing guarantees, for the value of public private partnership contracts, and for incurring other financial liabilities;
- (f) statement of all tax arrears for the previous financial year and the current year;
- (g) statement of tax relief and exemptions granted or planned and the amount of such tax relief and exemptions for the current financial year and forecasted for the next financial year;

- (h) summary of the financial position for the previous financial year, the current financial year and forecasts for the next financial year for Government Business Enterprises;
- (i) a medium term debt management strategy;
- (j) a report from the Ministry responsible for finance specifying the measures taken by the government to implement the audit recommendations from the previous year and the response to the findings of the committees of the Parliament with responsibility for examining performance reports and annual accounts;
- (k) a statement signed by the Minister and the Principal Secretary of Finance attesting to the reliability and completeness of the information in the Annual budget documents and conformity with the fiscal responsibility requirements of Part III of this Act;
- (l) the establishments register and an aggregate number of posts that will be abolished as they become vacant; and
- (m) such other documents as the Minister may determine.

For Viewing Purposes Only