

FISCAL RESPONSIBILITY OVERSIGHT COMMITTEE



LEGISLATIONS ON PUBLIC FINANCIAL MATTERS

FISCAL RESPONSIBILITY OVERSIGHT COMMITTEE

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ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment to section 12 of principal Act
3. Amendment to section 14 of principal Act
4. Amendment to Second Schedule to principal Act



GRENADA

ACT NO. 11 OF 2017**I assent,**

CÉCILE E. F. LA GRENADE

*Governor-General.**14th July, 2017.*

AN ACT to amend the Fiscal Responsibility Act No. 29 of 2015.

[21st July, 2017].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows—

1.—(1) This Act may be cited as the

Short title.

FISCAL RESPONSIBILITY (AMENDMENT) ACT,
2017.

and shall be read as one with the Fiscal Responsibility Act, No. 29 of 2015, hereinafter referred to as the “principal Act”.

2. Section 12 of the principal Act is amended in subsection (3) by deleting the number “(1) (d)” and substituting therefor the number “(1) (e)”.

Amendment to
section 12 of
principal Act.

Amendment to
section 14 of
principal Act.

3.— (1) Section 14 of the principal Act is amended—

- (a) in subsection (4) by deleting the “full-stop” in paragraph (e), substituting therefor a comma and inserting after paragraph (e) the following post-amble—

“and shall be laid before the House of Representatives no later than three months after the end of the fiscal year.”;

- (b) by inserting after subsection (4) the following new subsection—

“(4A) Notwithstanding subsection (4), in the event of exigent circumstances and upon the request of the Fiscal Responsibility Oversight Committee, the Speaker of the House of Representatives may grant an extension of time for the annual report pursuant to subsection (3) (b) to be laid before the House of Representatives, which shall in no case exceed thirty days.”.

(2) Notwithstanding subsection (1) of this Act, for the purposes of the fiscal year immediately preceding the appointment of the members of the Fiscal Responsibility Oversight Committee in the first instance, an annual report pursuant to section 14 (3) (b) of the principal Act in respect of that fiscal year may be laid before Parliament, no later than three months after the Committee is duly constituted.

Amendment to
Second Sched-
ule to principal
Act.

4. The principal Act is amended by repealing the Second Schedule and substituting therefor the following new schedule—

“SECOND SCHEDULE

Fiscal Responsibility Oversight Committee

(Section 14)

1. Composition (1) The Fiscal Responsibility Oversight Committee shall consist of five members which shall be appointed by the Governor-General.

(2) The Governor-General shall appoint each member, upon the nomination of the Committee of Privileges of Parliament—

- (a) in the case of four members, in consultation with the Director of Audit, having qualifications in the following areas—
 - (i) accounting;
 - (ii) business management, having not less than ten years of experience;
 - (iii) public administration, having not less than ten years of experience; or
 - (iv) law; and
- (b) in the case of one member who shall have expertise in economics, on the advice of the Governor of the Eastern Caribbean Central Bank.

2. Tenure and revocation. (1) The Governor-General shall appoint as Chairperson of the Fiscal Responsibility Oversight Committee one of the four members nominated by the Committee of Privileges of Parliament upon the Committee of Privileges nominating that member to be the Chairperson.

(2) A member of the Committee shall hold office for a period not exceeding three years and shall be eligible for re-appointment subject to subsection (3).

(3) In no case shall a person hold office as a member of the Committee for a period exceeding four consecutive years, but a person who has served for a period of four consecutive years may become eligible for re-appointment after the expiration of two years.

(4) The Governor-General may revoke the appointment of a member of the Committee, if the member—

- (a) is unable to perform the functions of his or her office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of an offence under—
 - (i) the Criminal Code, Chapter 72A; or
 - (ii) the Prevention of Corruption Act, Chapter 252A;or an offence involving dishonesty;
- (d) is convicted outside of the State of Grenada of an offence consisting of acts or omissions which would constitute an offence under paragraph (c); or
- (e) is absent from three consecutive sittings of the Committee without the permission of the Committee of Privileges.

(5) A member of the Committee may at any time resign from office by notice in writing to the Governor-General, which shall take effect on the date specified by the notice or on the date the notice is received by the Governor-General, whichever is later.

(6) Where the Governor-General appoints a new member of the Committee in place of a member of the Committee whose appointment has been terminated or revoked by reason of death, resignation or circumstances under subsection (4), the term of the new member shall be the remainder of the term of office of the former member.

3. Support Services. (1) Notwithstanding subsection (2), the Fiscal Responsibility Oversight Committee shall appoint such staff on a temporary basis as shall be necessary for the efficient operation of the Committee.

(2) The Division of Economic Management and Planning shall provide support relating to the supply of data and any supplementary information requested by the Committee, in order to facilitate the discharge of its functions.

4. Meetings. (1) The Fiscal Responsibility Oversight Committee shall meet as often as is necessary but at a minimum of four times a year.

(2) Subject to the provisions of this Act, the Committee shall regulate its own proceedings.

5. Costs. The costs incurred for, and in relation to, the performance of the functions of the Fiscal Responsibility Oversight Committee shall be a direct charge on the Consolidated Fund.”

Passed by the House of Representatives this 8th day of June, 2017.

WILLAN A. THOMPSON

Clerk to the House of Representatives.

Passed by the Senate this 27th day of June, 2017.

WILLAN A. THOMPSON

Clerk to the Senate.

GRENADA

2016 *Fiscal Responsibility (Amendment)* *Act 1* *1*

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 8 of principal Act

2 *Act 1* *Fiscal Responsibility (Amendment)* 2016



GRENADA

ACT NO. 1 OF 2016

I assent,



DAME CÉCILE LA GRENADE

12th January, 2016.

Governor-General.

An Act to amend the Fiscal Responsibility Act No. 29 of 2015.

[22nd January, 2016].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows—

1. This Act may be cited as the

Short title.

FISCAL RESPONSIBILITY (AMENDMENT) ACT, 2016

and shall be read as one with the Fiscal Responsibility Act No. 29 of 2015, hereinafter referred to as the “principal Act”.

4 *Act 1* *Fiscal Responsibility (Amendment)* 2016

Amendment of
section 8 of
principal Act.

2. Section 8 of the principal Act is amended in subsection (3) by repealing paragraph (d) and substituting therefor the following new paragraph—

“(d) a notional compensatory primary balance shall be calculated to reflect the cumulated difference between the target primary balance and the actual primary balance, by subtracting the actual primary balance from the target primary balance, as realised in any fiscal year from the first full fiscal year after commencement of this section;”.

Passed by the House of Representatives this 18th day of December, 2015.

WILLAN A. THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 23rd day of December, 2015.

WILLAN A. THOMPSON
Clerk to the Senate.

GRENADA

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SCHEDULE



GRENADA

ACT NO. 17 OF 2015**I assent,**

CÉCILE E. F. LA GRENADE

*Governor-General.**18th June, 2015.*

AN ACT to regulate the proper financial management and control of the money, property, and other resources of the public sector including the Consolidated Fund and other public funds under the Consolidated Fund; prescribe the responsibilities of persons entrusted with public financial management; and provide for matters connected therewith and incidental thereto.

[19th June, 2015].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada and by the authority of the same as follows—

PART I**PRELIMINARY**

1. This Act may be cited as the—

PUBLIC FINANCE MANAGEMENT ACT, 2015.

Short Title and
Commence-
ment.

Interpretation.

2. In this Act—

“Accountant General” means the Public Officer appointed to the post of Accountant General under the direction of the Permanent Secretary;

“Accountable Officer” means any Public Officer designated as such under section 10;

“Annual estimates” means the annual estimates of revenue and expenditure, both recurrent and capital;

“Appropriation” means an authority from Parliament to pay money out of the Consolidated Fund or other public fund to meet the estimates of expenditure in a financial year by an Appropriation Act or a Supplementary Appropriation Act and, where the context requires, includes expenditures authorized to be made out of the Consolidated Fund under this or other relevant Act without further action by Parliament and the term “appropriate” shall have a corresponding meaning;

“Appropriation Act” means an Act of Parliament the purpose of which is an appropriation of public money out of the Consolidated Fund pursuant to section 77 (2) of the Constitution;

“Central Government” means every branch, ministry, department, agency of Government, and includes all special funds established and maintained by Government under the Consolidated Fund pursuant to this Act;

“Collector of Revenue” means any person responsible for collecting money, securities or other negotiable instrument for or on behalf of Government;

“Commitment” means the entering into a legally binding agreement that will result in payments or other liabilities for the Government or a covered entity under this Act;

“Consolidated Fund” means the Consolidated Fund established pursuant to section 75 of the Constitution;

“Covered Entity or Entities” means entities covered under section 3 (2);

“Department” includes a non-ministerial department of Government, a ministerial department of Government and a unit of Government;

“Director of Audit” means a Public Officer whose office is created and defined in section 87 of the Constitution;

“Expenditure Vote” means a sum appropriated to a service authorized by an Appropriation Act;

“Government agency” includes every ministry, department, independent establishment, division, bureau, board, commission, institution, authority, organization of the Government of Grenada including parishes, local authorities or political or governmental sub-divisions of the Government of Grenada;

“Government borrowing” means any short, medium, and long-term borrowing, loans or financial contracts, including financial leasing contracts and securities issues contracted by the Government;

“Government property” means all assets whether movable, immovable, or intangible, or financial assets in any form, owned by the Government of Grenada;

“Line Ministries” means generally, all Ministries other than the Ministry of Finance of Grenada;

“Line Ministers” means generally, the Ministers who are heads of Line Ministries;

“Minister” means the Minister responsible for Finance;

“Ministry” means the Ministry with responsibility for Finance;

“National Budget” means the Budget approved by Parliament for a fiscal year;

“Negotiable instruments” includes a cheque, a draft, a traveler’s cheque, a bill of exchange, a postal note, a money order or any other similar instruments;

“Permanent Secretary” means the Permanent Secretary of the Ministry with responsibility for Finance;

“Prescribed” means prescribed by Regulations, instructions, directives, or orders as the case may be;

“Public Accounts” means the accounts referred to in section 67;

“Public Accounts Committee” means the committee appointed pursuant to the relevant Standing Order of the House of Representatives;

“Public body” means a Statutory Body as defined herein, or a Government owned or controlled company as defined herein;

“Public money” means revenues; money borrowed by the Government of Grenada through any means including through the issue or sale of securities; grants received by Government; money in the custody or under the control of the Government; money held, whether temporary or otherwise by a Public Officer in his or her official capacity, whether alone or jointly with any other person whether or not that person is a Public Officer; money held on trust for, or otherwise for the benefit of, a person other than the Government; money lent by Government to a person pursuant to this Act and other relevant legislation;

“Public Officer” has the meaning assigned to it under the Constitution;

“Public property” means property of any kind in the custody or under the control of the Government;

“Receiver of revenue” means the Accountant General or any Public Officer designated by the Accountant General for the purpose of receiving public money, securities or other financial instruments;

“Revenue” means all taxes, tolls, imposts, levies, rates, duties, fees, penalties, royalties, surcharges, forfeitures, rents and dues, proceeds of sale, repayment of loans, and all other receipts of the Government from whatever sources arising, over which Parliament has the power of appropriation;

“Securities” means bonds, debentures, promissory notes, treasury bills and other claims evidencing debts and includes assets commonly known as securities;

“Special fund” means a special fund provided for under section 45;

“Statutory expenditure” means expenditure charged on the Consolidated Fund by the Constitution or any other enactment that provides that the expenditure is so charged in each year;

“Supplementary Appropriation Act” means an Act providing for the issue from the Consolidated Fund of the sums necessary to meet the supplementary estimates of expenditure in a financial year and for the appropriation of those sums to the purposes specified therein;

“Supplementary estimates” means the supplementary estimates of expenditure, both recurrent and capital.

3.—(1) This Act, together with other relevant legislation, governs all matters related to the management of the public finances of the Government of Grenada. It lays out fundamental procedures for the preparation, adoption, execution and final accounts of the National Budget and related matters including internal control, accounting and auditing of public finances, management of assets as well as the arrangements for public debt and government guarantees. This Act shall be supplemented by enabling regulations promulgated by the Ministry of Finance to further specify the procedures in each of the areas mentioned herein, and which may be amended from time to time.

Scope and Application.

(2) This Act shall apply to ministries, departments, agencies, entities, institutions of executive, legislative and judicial branches of the central and all local governments, all autonomous bodies under government control, state owned enterprises, and any entity or individual who receives or uses public money, and all officers and employees in those entities.

4. The management of public finances of the Government of Grenada including the preparation and execution of the National Budget and its supplements are guided by the following principles—

Principles Guiding Public Financial Management.

- (a) all members of the Executive are accountable to Parliament for the manner in which they carry out their responsibilities with respect to the management of public finances; and

within the Executive, all public officials entrusted with public finance responsibilities are accountable to Cabinet for the proper execution of their duties; and

- (b) the formulation, approval, presentation and implementation of the medium-term budget framework, the budget, the Appropriations Act and supplements thereto shall be based on the principles of sustainability, prudence, stability, consistency and transparency.

Fiscal year.

5. The fiscal year for Grenada shall begin on January 1st and end on December 31st of each year.

PART II

ROLES AND RESPONSIBILITIES FOR MANAGEMENT OF PUBLIC FINANCES

General Responsibilities.

6.—(1) The Minister, the Permanent Secretary, Accountant General, Accountable Officer and any other officer designated by the Minister shall be responsible for the administration of the provisions of this Act and shall discharge their responsibilities and exercise their powers in accordance with this Act, Regulations under this Act, and any other Act relating to matters provided for in this Act.

(2) An Accountable Officer and any delegate of an Accountable Officer shall discharge his or her responsibilities and exercise his or her powers in accordance with this Act and any other Act relating to matters provided for in this Act.

Responsibilities and Powers of Minister of Finance.

7.—(1) In addition to the powers and duties referred to under subsection (2) and other Parts of this Act, the Minis-

ter shall be responsible for all technical matters related to the proper functioning of the public finance management system, subject to the overall policy guidance from Cabinet.

(2) The Minister's specific responsibilities shall include—

- (a) the preparation and execution of the National Budget;
- (b) the preparation of annual and supplementary estimates reports pertaining thereto;
- (c) the management of government property, fixed assets, financial assets, debt and Government guarantees and other contingent financial liabilities, as specified in this Act;
- (d) approval of the budgets of other entities as required by this Act or any other laws for ensuring their compliance with the fiscal rules and policy;
- (e) the efficient and effective management of the funds of the Government, including the management of revenue and expenditures and generally monitoring and assessing the execution of the budget of Government and public bodies for ensuring the achievement of fiscal policy;
- (f) prepare and submit a mid-year review of the progress of the budget and fiscal operations to the Cabinet, and the House of Representatives;

- (g) accounting for finances of the Government through the public accounts and laying the report of the Director of Audit before the House of Representatives annually;
- (h) co-ordinate international and intergovernmental financial and fiscal relations on behalf of the Government of Grenada;
- (i) perform any other functions conferred on him or her by any other law or incidental to the previous paragraphs;
- (j) make Regulations for the implementation of the provisions of this Act, pursuant to section 88.

(3) For the purpose of performing his functions under this Act, the Minister—

- (a) shall supervise the operations of any entity covered by this Act, and may give such directions and instructions as appear to the Minister to be necessary and expedient for the proper carrying out of the provisions of this Act;
- (b) may require any information and reports from any entity covered by this Act, and any other person receiving grants, advances or loans, or guarantees or indemnities from the Government;
- (c) may following approval from Cabinet, and consistent with the laws of Grenada,

establish, structures/units within the Ministry for implementing the requirements under this Act in order to fully discharge the Minister's responsibilities prescribed herein. Details relating to such structures/units will be prescribed in regulations pursuant to this Act.

- (d) may enter into and execute agreements on behalf of the Government in relation to matters of a financial nature.

(4) The Minister may delegate any of the responsibilities or powers given to him or her under this Act to the Permanent Secretary or any other Public Officer provided however that the Minister shall remain responsible under this Act.

8.—(1) In addition to the responsibility in other relevant sections of the Act, the Permanent Secretary shall report to the Minister and be responsible for—

Permanent
Secretary of
Ministry of
Finance.

- (a) the overall administration and supervision of the Ministry;
- (b) overseeing the preparation of the annual and supplementary estimates on behalf of the Minister;
- (c) advising the Minister on matters pertaining to the implementation of this Act;
- (d) assisting the Minister in the discharge of the Minister's responsibilities under this Act, any Regulations, orders, or instructions, including without limitation, in relation to the supervision

of Statutory Bodies and State-owned enterprises;

- (e) overseeing the management of public finances including adherence to this Act, regulations and instructions;
- (f) acting as the government's budget advisor and managing the process of the formulation of the Annual Budget, the supplementary budgets and their implementation;
- (g) monitoring the government's financial interest in the entities to which this Act applies;
- (h) managing and assisting the Minister in midyear and in yearly fiscal and budgetary reviews, and monitoring fiscal risks;
- (i) overall, supervise the functions of the Accountant General.

(2) For the purpose of executing his or her responsibilities under this Act, the Permanent Secretary—

- (a) shall at all times have access to all ministries, departments, agencies, Statutory Bodies, Government-owned or controlled companies, or places where accounting for public services takes place or public accounting records are kept;
- (b) may require a Public Officer to furnish any information and provide access to any documents that the Permanent Secretary considers necessary.

(3) The Permanent Secretary may delegate in writing any of the Permanent Secretary's responsibilities or powers under this Act to any senior official of the Ministry, consistent with requirements prescribed under Regulations made under this Act provided however that the Permanent Secretary shall remain responsible for his responsibility under this section.

9.—(1) The Accountant General shall be accountable for discharging the responsibilities of the Accountant General and exercising the powers of the Accountant General specified under this Act, Regulations made under this Act, and any other Act in relation to financial administration, with diligence and honesty and shall be subject to discipline under the applicable law for failing to do so.

Responsibilities
of the Account-
ant General.

(2) The Accountant General, under the overall supervision of the Permanent Secretary, shall be responsible for—

- (a) maintaining the accounts of the Government so as to show the current state of the Consolidated Fund and the financial position of the Government;
- (b) receiving and banking, and overseeing the receipt and banking of public money and overseeing its disbursement;
- (c) managing and supervising all accounting operations in respect of all moneys and other assets administered by the Government and all obligations undertaken by

the Government or on its behalf and shall receive and make all the disbursements of moneys of the Government;

- (d) ensuring timely, accurate and proper collection of all revenues and inflows of the government, their deposit in the Consolidated Fund, safe custody and accounting;
- (e) ensuring management and control of all expenditure and outflows of the public money in a timely and accurate manner and as required by the Act and regulations made under it and accounting for these;
- (f) establishing, in coordination with the Director of Audit, and implementing, accounting standards for government accounting and publishing it;
- (g) preparing the Public Accounts and any other financial statements or reports required by the Minister or the Permanent Secretary required by this Act, the Regulations, and any other Act;
- (h) maintaining a system for the examination of payments to reasonably ensure that they are made in accordance with this Act;
- (i) ensuring that a proper system of accounts is established in every department and public body, and that all money received and paid by the Government is brought promptly

and properly to account on the basis of accounting standards as prescribed;

- (j) ensuring the implementation of commitment control system under this Act, Regulations under this Act, and any other relevant law and maintaining and managing the computerized financial management system;
- (k) reporting to the Permanent Secretary, in writing, any apparent defect that is brought to his or her attention in the control of revenue, expenditure, cash and other property of the Government or any breach by a department of this Act, Regulations under this Act, or financial instructions issued pursuant to this Act;
- (l) evaluating the accounting and financial management systems throughout the Government;
- (m) ensuring, that adequate provisions exist for the safe custody of public money, securities, revenue, receipts, accounting documents and other similar documents;
- (n) refusing payment on any voucher that is incorrect or insufficient in content, or that contravenes this Act or financial instructions issued pursuant to this Act or that in his or her opinion is in any way unacceptable in support of the payment of public money;

- (o) such other duties as may be specified under applicable laws or by the Minister or Permanent Secretary that relate to the effective implementation of this Act.

(3) For the proper discharge of his responsibilities under this Act, the Accountant General—

- (a) shall at all times have access to all departments or places where accounting for services takes place and accounting records are kept;
- (b) may require access to records and require any information, records or explanations from any Public Officer or former Public Officer necessary for the performance of the duties of the Accountant General;
- (c) may examine and report to the Permanent Secretary on the financial and accounting operations of a department or public body;
- (d) may station a person employed in the Ministry in any department or place where accounting for a service takes place when the Accountant General considers it necessary to discharge his or her responsibilities;
- (e) within his or her area of responsibility and his or her powers, may issue financial instructions in writing to Accountable Officers and to persons to whom Account-

able Officers have delegated their responsibilities under this Act.

10.—(1) A Public Officer shall be designated as an Accountable Officer by the House of Representatives in the annual or supplementary estimates, or by resolution, in respect of—

Designation and responsibilities of Accountable Officers.

- (a) each expenditure vote or part of an expenditure vote;
- (b) each head or part of a head of statutory expenditure identified in the annual or supplementary estimates; and
- (c) each head of revenue or part of a head of revenue in the annual estimates.

(2) Where a person is designated as an Accountable Officer he or she shall be liable for the entity's responsibilities under this Act, Regulations made under this Act, and other applicable laws.

(3) The Accountable Officer of each entity to which this Act applies, shall—

- (a) be responsible, to the Line Minister, for the preparation of the annual and supplementary estimates, and execution of the budget within the medium-term budget framework;
- (b) ensure that the entity has adequate systems in place for the management of public finances, consistent with this Act, and the medium term framework of the entity;

- (c) ensure that public resources of the entity are used for authorized, efficient, effective and transparent use, and that expenditures are incurred as intended by the annual budget and appropriation in a transparent and accountable manner;
- (d) advise the relevant Line Minister on the formulation of the annual and supplementary budgets, and in ensuring consistency between resource allocation and the policy objectives;
- (e) supervise and oversee all Statutory Bodies, Government owned and controlled corporations and special fund under the control of the entity;
- (f) ensure the effective control of, and accurate accounting for the disbursement of public moneys received by the entity for which he or she is the Accountable Officer.

(4) An Accountable Officer shall be accountable for discharging his or her responsibilities under this Act, any Regulations under this Act, and any financial instructions issued in accordance with the provisions of this Act, with diligence and honesty and shall be subject to discipline under the applicable law for failing to do so.

(5) An Accountable Officer shall not be absolved of his or her responsibilities by reason of the proper discharge of his or her responsibilities under this Act by the Accountant General nor shall the Director of Audit's responsibil-

ity to examine and certify public accounts or to audit other accounts, relieve an Accountable Officer of responsibility for keeping or rendering accounts, from the duty to comply with and to ensure the compliance of subordinate staff with the provisions of this or any other enactment or with any Regulations or directions issued.

(6) An Accountable Officer who disagrees with the interpretation or application of a policy, directive or standard issued by the Minister or a Line Minister, shall seek guidance in writing on the matter from the Attorney General and where the matter remains unresolved, after such guidance is received, the appropriate Minister shall refer the matter to Cabinet for a decision. A decision of Cabinet in this regard shall be in writing and shall be copied to the Director of Audit.

(7) An Accountable Officer may delegate in writing some or all of his or her responsibilities to a Public Officer who reports to such Accountable Officer provided however that prior approval of the Line Minister shall be obtained and such Accountable Officer shall remain liable under this Act, any Regulations made under the Act, or any Act or financial instructions issued pursuant to the provisions of this Act for his responsibilities.

11. In accordance with Article 82 of the Constitution, the Director of Audit shall audit and inspect all accounts of the Government and exercise any such power and perform any such function or duty as specified in this Act and in the manner required under the Audit Act Cap. 22A as shall from time to time be amended.

Responsibilities
of the Director
of Audit.

PART III**MEDIUM TERM BUDGET FRAMEWORK AND
BUDGET PREPARATION**

Fiscal policy-
making Macro-
economic and
Fiscal Forecasts.

12.—(1) For the purpose of effective implementation of this Act, the Minister shall produce macroeconomic and fiscal forecasts which shall cover fully all subsectors of Government, in respect of fiscal forecasts.

(2) The Minister shall cause to be prepared a medium-term fiscal framework based on estimates for the fiscal year and for two consecutive years thereafter, which take into account the economic and development policies that are consistent with the Government's declared medium-term economic and fiscal objectives.

(3) The Minister shall oversee the preparation of the National Budget in the context of the medium-term fiscal framework referred to in subsection (2) for purposes of achieving national objectives over a multi-year period.

(4) The aggregate budget ceilings estimated for the second year of the medium-term fiscal framework shall be the starting point of the budget for the following year. Any change in the budget year ceilings from those estimated in the medium-term framework shall be explained by the Minister.

Multi-Year Com-
mitments.

13.—(1) The Minister shall have exclusive authority to approve multi-year commitments provided that the portion of commitments attributed to the current year are within the expenditure limits approved by Parliament, and is meant for the purpose specified in the annual budget.

(2) For the purpose of this section, multi-year commitments shall include capital investments, obligations of the government under public-private partnerships, and other investment and financing arrangements.

14.—(1) The National Budget shall comprise all revenues and expenditures, on a gross basis, of the Central Government, including transfers of any kind from the National Budget to sub-national governments, autonomous agencies and funds, public or private enterprises or financial institutions, non-government entities or institutions, or private persons.

Gross Budget and Scope of the National Budget.

(2) The National Budget shall, to the extent of the availability of reliable data, include all donor financing provided directly to the Budget in support of the Central Government, general budget support, basket funding of sectors, and funding of government projects.

(3) For the avoidance of doubt, the National Budget shall be a single unified budget distinguishing between recurrent and capital expenditures.

15. —(1) The Minister shall submit to the Standing Committee on Finance at least two months before the end of the fiscal year, the annual estimates of the Government for the following fiscal year.

Calendar.

(2) The preparation of the National Budget shall conform to the process and time set forth in subsection (1) above, which will be further supplemented by a detailed cycle established in a published annual budget calendar in the Regulations accompanying this Act.

16. The budget preparation cycle shall consist of the following two phases—

Budget preparation cycle.

- (a) the preparation of a budget framework paper and the budget circular; and
- (b) the preparation of the detailed annual budget that addresses the policies and priorities set out in the budget framework paper.

Budget Circular. **17.**—(1) For the purpose of guiding covered entities in preparing their budget proposals, the Minister may issue a budget circular, to guide the budget process.

- (2) A budget circular shall—
 - (a) prescribe ceilings on expenditures broken down at the level of detail as determined by the Minister;
 - (b) give detailed policy instructions to be complied with by economic entities in the course of the preparation of their budget;
 - (c) prescribe any other matters as may be deemed appropriate by the Minister.

Preparation of
Detailed Budget
Estimates.

18.—(1) The Minister may require entities covered under this Act to prepare and submit information in a manner prescribed by the Minister to facilitate preparation of the Budget and supporting documents required under section 16 and the First Schedule.

(2) Every public official, including Ministers, Permanent Secretaries, and Accountable Officers with budget responsibilities, or other person to whom the Minister may direct a request or directive under subsection (1), shall produce documents to support the Annual Budget process in the format and by the dates as required by the Minister.

(3) All entities involved in the budget process shall submit their initial estimates including those for capital expenditures within the total expenditure ceilings conveyed to them by the Minister and consistent with such budget classification as the Minister may prescribe.

(4) The Minister shall have the power to reject, and seek resubmission, any initial budget estimates submitted by an entity under subsection (3) which do not conform to any ceilings prescribed by the Minister pursuant to subsection (3).

(5) The head of each economic entity shall be responsible for proper planning of the activities of the entity for the fiscal year to ensure that estimates provided pursuant to this Act are realistic and practical based on available data and realistic assumptions.

(6) The Permanent Secretary shall manage the overall national budget process and in that regard may issue instructions on the requirements for the annual budget process, methodology and documents to all entities involved in the budget process, and determine the method and extent of consultation by the Ministry during the budget process.

PART IV

BUDGET APPROVAL AND APPROPRIATIONS

19. Parliament shall have the sole authority and responsibility to review and approve the proposed Budget prior to the commencement of the fiscal year in accordance with the provisions of the Constitution.

Parliament's
Authority and
Responsibility
to Approve the
Budget.

20. When the Budget estimates have been approved by the House of Representatives, a Bill, to be known as an Ap-

Approval and
Appropriations
Bill.

appropriation Bill, shall be introduced in the House of Representatives, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein and for the fiscal year to which the approved budget relates.

Authorization
of Provisional
Expenditure in
Advance of Ap-
propriation Act.

21.—(1) Where the Appropriation Act for a financial year has not come into operation at the commencement of the financial year for any reason, the Minister is authorized to collect revenues and approve such expenditure necessary to three months from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is the earlier, save and except that—

- (a) such expenditures shall not in total exceed one fourth of the approved Budget of the previous fiscal year; and
- (b) in the case of capital expenditures, only expenditures that in the previous financial year were contemplated to continue shall be authorized for such spending.

(2) On the coming into force of the Appropriation Act, any provisional expenditures pursuant to subsection (1) shall be deemed to have been paid out for corresponding services in the estimates for which provision was made under the Appropriation Act and shall be accounted for accordingly.

Contingency Ap-
propriation.

22.—(1) There is hereby established a Contingencies Fund for the purpose specified in this section.

(2) The annual Appropriation Act shall approve an amount of public funds not lower than two percent of to-

tal annual domestic revenues, as estimated in the approved Budget for the next fiscal year to be paid into the Contingencies Fund.

(3) The Contingencies Fund shall be used solely for urgent and unforeseen expenditures arising from emergency situations for which payments cannot be postponed until the passage of a supplementary budget or the next annual National Budget without seriously affecting the public interest.

(4) In accordance with section 79(2) of the Constitution, where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House of Representatives and, when the supplementary estimate has been approved by the House, a Supplementary Appropriation Bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.

23.—(1) Subject to subsection (2), if in a financial year it is found that the amount appropriated by the Appropriation Act for any purpose is insufficient or that exceptional circumstances as determined by the Minister and approved by Cabinet have arisen for expenditure for a purpose to which none or an insufficient amount has been appropriated by that law, a supplementary estimate showing the sums required shall be laid before the House of Representatives and, when the supplementary estimate has been approved by the House of Representatives, a Supplementary Appropriation Bill shall be introduced in the House of Representatives providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Supplementary
Estimates and
Supplementary
Appropriation
Bills.

(2) Notwithstanding subsection (1)–

- (a) no more than two (2) Supplementary Appropriation Bills may be submitted to the House of Representatives within a fiscal year.
- (b) where the Minister makes a determination, with the approval of Cabinet, that exceptional circumstances exist and that the envisaged increase in expenditures cannot be met through a transfer of appropriations otherwise, the House of Representatives may on consideration of the exceptional circumstances approve supplementary appropriations that exceed the aggregate expenditure ceilings.

(3) The supplementary or amending Appropriation Bill shall be laid in the House of Representatives together with explanatory documents which shall include—

- (a) proposed amendments to the approved budget, any other change in the initial approved budget including changes through virements and real locations and supporting reasons for such proposals and changes;
- (b) any other matters as may be determined by the Minister.

(4) The preparation, approval and execution of a supplementary budget are governed by the provisions of sections 19 through 20 applicable to the approval and sections 27 through 31 applicable to the execution of the annual Budget.

24.—(1) The Minister shall make available to the general public— Publication of Budget.

- (a) the Proposed Budget within one week following its submission to Parliament; and
- (b) the approved budget, within two weeks following its approval by Parliament.

(2) Publication for the purpose of this section shall include without limitation, publication on the official website of the Government.

25.—(1) The Minister shall, no later than two months after the end of the first six-months of the fiscal year, prepare and submit to Cabinet a mid-year fiscal policy review which shall contain— Mid-year Review Report.

- (a) an overview of recent macroeconomic developments and updated macroeconomic forecasts;
- (b) an analysis of the total revenue collections and expenditure performances in the first six months of the fiscal year, and, presentation of a revised budget outlook for the rest of the current fiscal year, and its implications for the medium-term fiscal and budget framework if necessary, and if necessary plans for submitting a proposed supplementary budget for approval by the House of Representatives;
- (c) a discussion of the risks of non-compliance with the budget and fiscal strategy statement;
- (d) an overview of the execution of the Budget and of the budgets of other entities in the Government;

- (e) an assessment of fiscal policies adopted in the budget and fiscal strategy statement and, if necessary, recommendations on changes in the fiscal policy.

(2) As part of the process of discussion and assessment of matters listed under subsections (1) (c) and (e), the Minister shall obtain an opinion of Cabinet and include it in the report as well as his actions concerning this opinion.

(3) The Mid-year review report together with any opinion obtained by Cabinet under sub-section (2) shall be laid by the Minister before Parliament together with the next Supplementary Budget in accordance with section 23.

Fiscal Impact
Analysis of Draft
Legislation.

26.—(1) In each fiscal year, every proposed legislation submitted for approval by Parliament, shall be accompanied by a fiscal impact analysis, stating the proposed legislation's estimated effect on revenues and expenditures for the fiscal year in which the legislation would become effective, as well as the legislation's fiscal impact on multi-year planning and budgeting.

(2) The Minister shall prepare detailed instructions regarding the nature of the analysis to be done and the process of validating the fiscal impact.

(3) The Minister shall provide an opinion to Parliament on the adequacy of such fiscal impact analyses.

PART V

BUDGET EXECUTION

Responsibil-
ity for Overall
Budget Execu-
tion.

27.—(1) The Minister shall be responsible for the overall management of the execution of the National Budget and

its supplements and may for the purpose of ensuring effective budget execution, issue Regulations and instructions to provide guidance on various stages of budget execution, including but not limited to, allotments and commitments, procurement of goods and services, and payments.

(2) The Minister may delegate responsibility for any or all functions related to the execution of the budget to deputies and/or designated officials of the Ministry provided however that such delegation shall not relieve the Minister of overall responsibility under this Act.

(3) Ministers of individual spending Ministries, and other heads of budgetary institutions and agencies which are separately identified in the annual Appropriation Act shall be—

- (a) responsible for the proper and efficient execution of their budget in accordance with this Act, the regulations issued under it, and the instructions and guidelines issued by the Minister;
- (b) fully accountable to the Cabinet and Parliament for their performance in the implementation of their respective budgets.

(4) Ministers and heads of budgetary institutions and agencies may delegate responsibilities for budget execution to designated officials within their ministry/institutions/agencies, consistent with the provisions of subsection (2) above provided however they shall each remain accountable for their respective responsibilities under this Act.

28. Overall execution of the approved budget shall be conducted through the application of the following general principles which shall apply to all relevant transactions—

Principles for
Budget Execution.

- (a) total aggregate allotment for a particular appropriation line may not exceed the amount allocated under the Appropriation Act, as amended through reallocations made pursuant to this Act or Supplementary Appropriation Acts;
- (b) within the aggregate allotment stipulated above, total allotment, and expenditure, against a detailed budget line may not exceed the amount allocated to that line in the annual budget line as amended through reallocations and/or supplementary budgets;
- (c) other than temporary liquidity management operations and subject to these general rules, no payment may be made from the Consolidated Fund except for an item identified in the annual budget estimates as amended from time to time through budgetary reallocations and Supplementary Budgets.

Monitoring and
Justifying Tax
Incentives.

29.—(1) The Minister shall cause to be maintained a public record of any waiver, exemptions, or revisions granted by the government.

(2) Within six months after the coming into force of this Act and every 3 years thereafter, the Minister shall cause to be prepared and submitted to Parliament, a report analyzing the rationale, cost and benefits of existing tax incentives and recommendations for retaining or removing such incentives.

Budget Ex-
ecution through
Consolidated
Fund.

30.—(1) The budget as approved by Parliament shall be executed through the Consolidated Fund established under section 75 of the Constitution and which comprises the Gen-

eral Services Account, and the Development Programme Account.

(2) All revenues and Government borrowing received by or on behalf of the Government shall be paid into the Consolidated Fund and paid out pursuant to appropriations under the Appropriations or Supplementary Appropriation Act or pursuant to an Act of Parliament that authorizes a charge on the Consolidated Fund.

(3) All money referred to as “public money” that is received by or on behalf of Her Majesty for a special purpose including money paid according to the terms of contract or arrangements with the Government, agency of a government, regional or international organization, any loans or grants received by Government shall be paid into the Consolidated Fund and may be paid out of the Consolidated Fund for that purpose, subject to any statute applicable thereto.

31.—(1) Within thirty days after the annual Appropriation Act is adopted by the House of Representatives, each Head of an economic entity shall submit to the Minister forecasts of the financial flows of revenues and expenditures under their responsibility for the current fiscal year, for each month.

Annual Revenue
and Expenditure
Plans.

(2) Cash flow planning and management, including spending plans, shall be established by Regulations made pursuant to this Act, or any other executive order of the Minister.

(3) After the approval of the Annual Budget by the House of Representatives, the Minister shall—

- (a) inform the ministers and heads of spending institutions and agencies of the approved estimates allocated to them;
- (b) where the ministry, institution or agency is responsible for collection of revenues, require them to prepare an annual revenue collection plan broken down by month;
- (c) prepare an annual plan, broken down by month, for collection of tax, customs, excise and non-tax revenues, as well as any other budgetary resources appropriated, including balances in the Consolidated Fund, external grants and domestic and external borrowing;
- (d) prepare an annual debt service plan, broken down by month;
- (e) consolidate and review the plans, and make adjustments, in consultation with stakeholders, to ensure that all obligations can be met in a timely manner during the fiscal year;
- (f) approve and issue the spending plans; and
- (g) prepare and issue allotments based on the agreed plans.

(4) All spending by Ministries and budgetary entities shall be in accordance with the spending plans approved by the Minister. Unless otherwise specified by the Minister by Regulations, the spending plans shall be reviewed monthly

by the Ministries and budgetary institutions and any changes shall be notified to the Minister by the 20th of the month preceding for the following month for the approval of the Minister.

(5) A Line Minister shall be responsible for meeting the stated outputs and outcomes within the cost and time limits under spending plans as approved by the Minister and shall be responsible for informing the Minister of any risk, cost and time overrun of any project and its medium term budget implication, both at the time of mid-year budget review and at the annual budget.

32.—(1) No Public Officer shall have the power to commit the government to a financial liability, including contingent liability, unless specifically authorized to do so under this Act, or Regulations or instructions issued pursuant to this Act and every such commitment shall follow the principles set out in section 28 above.

Commitments
and Commit-
ments Control.

(2) Unless otherwise stipulated in regulations under this Act, all contracts or other arrangements committing the Government to a payment by any entity covered by this Act shall be approved by the Accountable Officer for that entity.

(3) Approvals of commitments shall be subject to availability of sufficient unencumbered or uncommitted appropriation on the budget line(s) against which the commitments are being made and shall be consistent with spending plans approved by the Minister under section 31 (4).

(4) An Accountable Officer shall maintain records of all financial commitments chargeable to each appropriation or item of expenditure and shall ensure that all commitments and expenditure follow the commitment control system as

prescribed under Regulations issued under this Act and any other executive order of the Minister.

Contracts and
Procurement.

33.—(1) An Accountable Officer or a person designated by such Accountable Officer shall be responsible for—

- (a) ensuring that the appropriation required for multi-year contracts are reflected in the budget submissions to the Ministry of Finance, and for reflecting the cash flow requirement of the contracts as required by the Ministry of Finance;
- (b) ensuring that goods and services are procured from suppliers for the Government only in accordance with the provisions of any law regulating public procurement, any Regulations, or other applicable law.

(2) All contracts, including those established through the Local Purchase Order system shall be considered commitments of the Government.

(3) The Minister shall by Regulations—

- (a) prescribe the criteria and procedures for the selection and prioritization of public sector investment projects; and
- (b) prescribe the requirements for reporting on such projects to the Minister.

General War-
rants.

34.—(1) No money shall be expended under an Appropriation Act or a Supplementary Appropriation Act unless the Minister has authorized the Accountant General by general warrant under his hand to pay that money out of the Consolidated Fund.

- (2) A general warrant may reserve specified expenditures and may make provision for expending the reservation.
- (3) Notwithstanding the issue of a general warrant, if, in his or her opinion, financial exigencies of the public interest so require, the Minister may in his or her discretion by written notice reserve at any time any expenditure authorized under an Appropriation Act or a Supplementary Appropriation Act and may in the notice make provision for expending the reservation.
- (4) The Minister shall issue a notice in writing of the reservation of expenditure under subsection (3) which shall be given without delay to the Accountant General and to all Accountable Officers who may be affected by the reservation.
- (5) An expenditure that is reserved by a general warrant pursuant to the provisions of this Act or by notice under subsection (3) may be expended—
 - (a) in accordance with the general warrant or notice; or
 - (b) where no provision is made in the general warrant or notice, in accordance with the directions of the Minister.

35.—(1) The Minister may, by a contingency warrant under the Minister's hand as approved by Cabinet under section 22, make advances out of the Contingencies Fund if the Minister is satisfied that there has arisen an urgent and un-

Contingency
Warrants.

foreseen need for expenditures for which no other provision exists or the existing provision is insufficient or no transfer of appropriations could be made for this purpose pursuant to section 34 of this Act.

(2) Where an advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House of Representatives and, when the supplementary estimate has been approved by the House of Representatives, a Supplementary Appropriation Bill shall be introduced in the House of Representatives for the purpose of replacing the amounts so advanced.

Virement Warrants.

36.—(1) Subject to subsection (2), if, in the opinion of the Accountable Officer, the exigencies of the service render it necessary or expedient to vary the amount assigned to any programme within an expenditure vote as shown in the annual or supplementary estimates of expenditure for a financial year, the Accountable Officer may, subject to any order of the Minister under subsection (3), direct by means of a virement warrant under the Accountable Officer's hand, that savings arising from an item in an expenditure vote contained in the annual or supplementary estimates approved by an Appropriation Act or a Supplementary Appropriation Act be applied in aid of another item in the expenditure vote contained in the annual or supplementary estimates if the amount of the appropriation in the vote is not thereby exceeded.

(2) Subsection (1) shall apply subject to the following—

- (a) no virement of personal emoluments in an expenditure vote shall occur unless it is to

personal emoluments within that expenditure vote;

- (b) virements that involve changes to spending plans approved by the Minister for that entity for the year will require prior approval from the Minister;
- (c) virements may be made from recurrent expenditures to capital expenditures as well as from one capital expenditure to another but not from capital expenditures to recurrent expenditures.

(3) The Minister may by order, limit the amount, in absolute and/or percentage terms that may be vired under subsection (1) in any transaction or on any other basis.

37.—(1) Subject to subsection (2), the Minister may by means of a reallocation warrant under the Minister's hand, direct the Accountant General that savings arising from an expenditure vote approved by an Appropriation Act or a Supplementary Appropriation Act be applied in aid of any item in any other expenditure vote in those estimates or in aid of any new item of expenditure and the amounts to be applied shall be deemed to have been appropriated for that purpose.

Reallocation
Warrants.

(2) A reallocation under subsection (1) may be in respect of a transfer between expenditures of different ministries.

(3) Notwithstanding subsections (1) and (2) no reallocation shall occur—

- (a) so as to transfer savings of salary or other employee benefits unless it is to personal

emoluments within another expenditure vote and in any event no reallocation may occur to increase wages, salaries, emoluments, allowances, or other personnel expenditures;

- (b) from capital expenditures to recurrent expenditures;
- (c) from a public body to a ministry;
- (d) if in the reasonable opinion of the Minister, such reallocation may hinder the effective execution of the budget or will result in the breach of the aggregate expenditure or fiscal balance initially approved.

(4) Without prejudice to this section, further rules for implementing this section may be determined by the Minister.

Departmental
Warrants.

38. An Accountable Officer of a ministry, or department or agency under that ministry (the “first Accountable Officer”) may, by departmental warrant under his or her hand, authorize another Accountable Officer named in that departmental warrant (the “second Accountable Officer”) to incur expenditure against a specific vote under the control of the first Accountable Officer subject to Regulations made by the Minister under this Act, provided that the Line Minister of that Ministry shall approve such warrant.

Lapse of Ap-
propriation or
Warrant at End
of Fiscal Year.

39.—(1) The balance in an appropriation that remains unexpended at the end of the financial year, after adjustment for the recording of debts referred to in subsection (2), and any warrant in relation to the balance of the appropriation, shall lapse.

(2) Subject to the directions of the Permanent Secretary, a debt incurred by the Government before the end of the financial year that remains unpaid at the end of the financial year shall be recorded as a charge against the appropriation to which it relates.

40. A refund of all or part of money received by the Government that is erroneously paid or collected, or that is a drawback, rebate or other amount required or permitted to be refunded under any Act or regulation shall become payable out of the Consolidated Fund on presentation of proof satisfactory to the Accountable Officer that the refund is so payable.

Refunds of money.

41.—(1) Where the Minister is satisfied, on the opinion in writing of the Attorney General, the Accountant General, and the Permanent Secretary, that—

Remission of Money, Settlement or Write-Off of Claims.

- (a) it is necessary to remit all or part of any tax, fee or other amount, other than the amount of a penalty or forfeiture due to the Crown on account of an offence within the meaning of section 72(1)(d) of the Constitution that is imposed, or authorized to be imposed, under this or any other Act, and that such remission is in the public interest or that hardship or that injustice has resulted or is likely to result otherwise;
- (b) a debt owed to Government is unrecoverable or not cost efficient to recover; or
- (c) it is in the public interest to enter into an agreement to settle any claim by Government against a person whether or not proceedings have been commenced,

the Minister may execute such documentation as is necessary on behalf of the Government, effecting such remission of an amount payable or paid, or debt write-off in whole or in part, or settle any debt owed to Government.

(2) Any debt written-off by the Minister shall be without prejudice to the rights of Government to collect the debt written off.

(3) The Accountant General shall ensure that the particulars of the amount written off, and the name of the person or persons affected by, each remission, write-off, or settlement shall be available for inspection by the public in a register maintained at the Treasury in such form as the Minister may prescribe by Regulations, and shall continue to be so available until the Public Accounts containing the summary statement of the remission, write off or settlement is laid before the House of Representatives and for one year thereafter.

(4) The Minister shall make Regulations providing for matters including the procedures for implementation of these provisions.

Settlement of
Claims against
Government.

42.—(1) Subject to this section, the Minister may on the advice of the Attorney General, the Accountant General and the Director of Audit, where money is required to be paid by the Government—

- (a) by an order of a court or tribunal established in accordance with the Law;
- (b) by an arbitration award pursuant to arbitration proceedings established by an Act of Parliament; or

- (c) by a claim made against the Government, which has not yet been heard by a court, tribunal or arbitrator, however, the claim could reasonably be expected to result in an order or award against the Government,

may settle the claim and may, in writing, direct the Accountant General to pay the amount in settlement of the claim out of the Consolidated Fund.

(2) No payment shall be made out of the Consolidated Fund in respect of a claim under subsection (1) that is in excess of the amount available in an appropriation for the purpose.

PART VI

CASH MANAGEMENT

43.—(1) The Minister shall be responsible for ensuring prudent, efficient and cost-effective use of all cash resources of the Government. Duties of Minister.

(2) The Minister shall ensure that cash is made available in a timely manner to settle all duly authorized payments arising from execution of the National Budget.

(3) The Minister may by Regulations provide for an effective cash management system for the Government and shall include—

- (a) the authority of the Minister to require from all users of the budget, the information deemed necessary by the Minister for the effective operation of the cash management system;

- (b) require the Minister to establish the institutional and administrative arrangements needed to manage the cash management system within the Ministry; and
- (c) give the Minister right to information on all bank accounts of Government.

Banking Arrangements.

44.—(1) The banking arrangements of Government will reflect, to the extent possible, the principles of a Treasury Single Account in which all accounts of Central Government are essentially managed as one from a cash point of view and into which all revenues shall be deposited and from which all payments will be made.

(2) All public money shall be credited to the Consolidated Fund which shall be managed and operated under the Treasury Single Account.

(3) No Central Government bank account, whether in or outside the country, shall be opened without the prior written authorization of the Accountant General.

(4) The Accountant General shall designate a bank with which the main bank account of the Government shall be established and shall authorize the opening of sub-bank accounts in domestic and foreign commercial banks, to act as transitory bank accounts to facilitate the collection of revenues, grants or loan funds or processing payments.

(5) The Minister shall make Regulations relating to the effective maintenance of the Treasury Single Account system; and the procedures for opening, closing, and operating Government bank accounts.

45.—(1) For the purpose of this Act, special funds shall mean a fund of public revenues established by or under any other Act or Regulations, for a specific purpose; or a trust fund held by the Government pursuant to a deed of trust. Special Funds.

(2) The Minister may by Regulations establish special funds provided that—

- (a) every Regulation so made shall state the purpose of the special fund to be established, the money to be paid into, and the Public Officer responsible for the administration of the special fund;
- (b) every Regulation made by the Minister under this section shall be approved by the House of Representatives by resolution and until such resolution the special fund may not be established;
- (c) the resolution of the House of Representatives approving the creation of the special fund shall specify a term for which the fund should be maintained and at the end of such term, the fund shall be automatically closed.

(3) A special fund shall be subject to all payment and accounting procedures applicable to public finances under this Act, Regulations or directives made pursuant to this Act, or any other relevant law.

(4) Within a period of two months after the end of the financial year, the Public Officer administering a special fund shall prepare, sign and submit to the Accountant Gen-

eral statements showing the financial position of the fund at the end of the financial year.

(5) The statements required under subsection (4) shall include—

- (a) a statement of assets and liabilities of the special fund;
- (b) a detailed statement of receipts and payment of the special fund; and
- (c) a statement of any investments and any interest or dividends credited to the special fund.

Termination of
Special Funds.

46.—(1) A special fund created under section 45 shall be terminated upon the occurrence of any of the following—

- (a) the money approved by the House of Representatives for that special fund under a resolution pursuant to section 45 (2) (c) is exhausted and no legal provision exists whereby further money may be paid into that special fund;
- (b) the objects for which a special fund referred to in section 45 was established have been fulfilled or cease to exist and, in the opinion of the Minister, there is no likelihood that any objects for which that special fund could lawfully be used will arise in the future;
- (c) the term specified in the resolution of the House of Representatives for that special fund under a resolution pursuant to section 45 (2) (c) has expired.

(2) The Minister shall following the closure of a special fund in accordance with subsection (1) publish a notice in the *Gazette* to that effect.

(3) Any Regulations of the Minister and Resolution of the House of Representatives pursuant to which such special fund was created under section 45 shall forthwith be repealed.

(4) Any credit balance in a closed special fund shall forthwith be transferred to the Consolidated Fund.

47.—(1) For the purpose of this section, a deposit is money other than money that— Deposits.

(a) is required to be deposited in the Consolidated Fund or the Contingencies Fund; or

(b) is to be deposited in a special fund.

(2) Every deposit shall be used only for the purposes specified in this Act or Regulations or directives made thereunder.

(3) Every deposit shall be held by the Accountant General and may with the approval of the Minister, be invested in the manner specified in section 48 provided however that no deposit shall be used to finance appropriations.

48.—(1) Cabinet may authorize the investment of public money forming part of the Consolidated Fund, the Contingencies Fund or held in a Special Fund, Deposit Fund, Sinking Fund or other fund for which provisions are made by or under an Act— Investments.

(a) with a bank, whether at call or subject to notice;

- (b) with a bank, whether at call or subject to notice not exceeding twelve months;
- (c) in deposits with the Eastern Caribbean Central Bank; or
- (d) in a manner authorized for investments of property in the hands of trustees by any law for the time being in force.

(2) Cabinet may, if it is satisfied that it is in the public interest and with the prior approval of the House of Representatives, authorize the Minister to purchase securities in any public company with money from the Consolidated Fund.

(3) Where the Minister has been authorized to purchase securities under subsection (2), he shall without delay—

- (a) submit a report to the House of Representatives containing full details of the securities purchased; and
- (b) lay before the House of Representatives a copy of the agreement made in relation to the purchase together with the most recent annual financial statements of the public company.

(4) The interest or dividends in money received from the investment under subsection (1) from Government money or public money shall be credited to such fund. All investments held by or on behalf of the Government on the date of the coming into operation of this Act shall, if the

same are not held on account of Special Funds be deemed to have been made out of moneys issued from the Consolidated Fund and shall be deemed to form part of the Consolidated Fund and may be retained notwithstanding that such investments are not such as may be made under subsection (1).

PART VII

GOVERNMENT PROPERTY

49.—(1) Books, papers, accounts and documents kept or used by, or received or taken into the possession of any person, who is or has been employed in the collection or management of revenue by virtue of that employment, is property that belongs to Government.

Control of
Government
Property.

(2) The moneys and valuable securities received or taken into the possession of an officer or a person in the cause of employment are money and valuable securities that belong to the Government.

50. An Accountable Officer shall, in relation to their respective departments and under the oversight of the Minister, be responsible for the acquisition, safe custody, control, transfer, and disposal of all Government property in accordance with Regulations made under this Act, other applicable Acts or Regulations.

Responsibilities
of Accountable
Officer.

51. No transfer, lease or loan of property owned by the Government shall be made to any person except in accordance with the law for the time being in force for that purpose. An Accountable Officer shall not acquire, control, transfer, or dispose of any Government property except in accordance with Regulations made under this Act, other applicable Acts or Regulations.

Transaction in
accordance with
the law.

Application of
Government
Property.

52. Government property shall not be applied for any purpose other than towards the furtherance of the Government's programmes and objectives.

Special enquiry.

53.—(1) Where the Minister has good reason to believe that a malfeasance has occurred in connection with government stores, the Minister shall bring this to the notice of Parliament and the Director of Audit.

(2) A Member of Parliament may bring a motion before Parliament requesting the Director of Audit to enquire into and report on the matter.

Minister to Make
Regulations.

54. The Minister may make Regulations governing—

- (a) the acquisition, receipt, custody, control, issue and disposal of Government property;
- (b) the regulation of contracts for such property;
- (c) such accounting procedures as may be necessary for the proper custody and control of such property;
- (d) any other matter which may be necessary for giving effect to this Part.

PART VIII

PUBLIC DEBT AND CONTINGENT LIABILITIES

Section 81 of the
Constitution to
apply.

55. The provisions of section 81 of the Constitution of Grenada shall apply in relation to public debt.

Minister's Ex-
clusive Author-
ity to Borrow for
Government.

56.—(1) No money shall be raised on the credit of the Government except under the authority of this Act or under an Act of Parliament or a resolution of the House of Representatives.

(2) Subject to the provisions of the Act, Regulations under this Act, and in accordance with any other relevant legislation, the Minister when authorized by resolution of the House of Representatives, shall borrow on behalf of the Government of Grenada in any form and from any legitimate source whether domestic or external and for any fiscal purpose, on terms and conditions to be agreed with any creditor an amount not exceeding in the aggregate the sum specified in the resolution.

57. Subject to the provisions of this Act, Regulations under this Act, and in accordance with any other relevant legislation, any money borrowed by the Government shall be paid into and form part of the Consolidated Fund or other Special Fund established for the purpose of section 45.

Proceeds of
Government
Borrowing.

58.—(1) The Minister may with the prior approval of Parliament, exercise the authority to issue a guarantee on behalf of the Government for a loan contracted by a State owned enterprise, Statutory Body, or other entity.

Government
Guarantees,
Indemnities and
other Contingent
Liabilities.

(2) For the avoidance of doubt, only the Minister may enter into any contracts that create or involve direct or contingent financial liabilities for the Government or any Statutory Body.

(3) Any such contract shall comply with the provisions of this Act, Regulations under this Act, and in accordance with any other relevant legislation.

(4) For the purposes of this section, contingent financial liabilities include but are not limited to—

- (a) any guarantee of the performance or payment obligations of a State-owned enterprise, Statutory Body, or other entity;

- (b) any agreement, including any indemnification agreement, to hold another person harmless or to provide insurance or similar protection against risk of loss;
- (c) any guarantee of economic return to another person including any guarantee of profit, income or rates of return;
- (d) any agreement to provide financial support to an entity in connection with specified activities of such other person; and
- (e) any other agreement as provided by regulations under this Act.

Government
Lending.

59. The Minister, in accordance with the provisions of this Act, Regulations under this Act, and in accordance with any other relevant legislation, shall exercise the exclusive authority to lend on behalf of the Government to a State-owned enterprise, Statutory Body, or other entity.

Charges to Con-
solidated Fund.

60.—(1) Liabilities under Government borrowing in accordance with the provisions of this Act, Regulations under this Act, and in accordance with any other relevant legislation and the costs of such borrowing shall be charged on the Consolidated Fund and shall be paid therefrom without further appropriation.

(2) Government liabilities under any guarantees issued by Government or any contingent financial liabilities created by Government in accordance with the Regulations under this Act, and in accordance with any other relevant legislation shall be charged on the Consolidated Fund.

(3) Any Government lending in accordance with this Act, Regulations under this Act, and in accordance with any other relevant legislation shall be made from a credit balance in the Consolidated Fund subject to such amounts being duly appropriated in accordance with the relevant provisions of this Act, and all repayments of the principal and payments of interests, fees, and other charges to Government from a borrower shall be paid into the Consolidated Fund.

61.—(1) The provisions of Part XIII may be supplemented by Regulations specifying in more details matters relating to the management of public debt.

Regulations or other Legislation Pertaining to Public Debt Management.

(2) Without prejudice to the generality of subsection (1), the Minister may make specific Regulations related to the issuance of Government of Grenada bonds and other securities for listing on the Regional Government Securities Market or as directed by the Regional Debt Coordinating Committee.

(3) In the event of any inconsistency between the provisions of any Act of Parliament and the provisions of this Act in relation to public debt management, the provisions of this Act will prevail to the extent of any such inconsistency.

PART IX

GRANTS

62.—(1) The Minister shall, on behalf of Government, any Statutory Body, or State-owned enterprise, receive all grants made by a foreign government or other entity or person in or outside Grenada, after consulting with any Line Minister under whose Ministry a particular grant is to be used.

Grants.

(2) The Minister shall have the exclusive authority to sign any agreements and other documents relating to grants on behalf of Government.

(3) All financial grants received in accordance with this section shall be paid into and form part of the Consolidated Fund.

(4) The Ministry shall ensure that grants are timely disbursed or transferred to the appropriate Line Ministry.

(5) The Line Minister responsible for any purpose for which the grant was made, shall ensure that grants received are used for their intended purposes; consistent with applicable laws and shall submit to the Minister any reports requested by the Minister including at a minimum a report on utilization of grants, and unspent balances under grants.

(6) Every Ministry, Department, or agency of Government, as well as any local government authority, any Statutory Body, or public enterprise that receives a grant, shall submit to the Ministry a record of its use of such grant or grants on a monthly basis and shall upon request submit to the Ministry data on its total grants received and their uses.

(7) Notwithstanding subsection (1), where a donor with the prior written approval of the Minister, pays the cost of supplies of goods, services, or works directly to contractors or to a covered entity, the provisions of subsection (2), (5), and (6) shall apply.

PART X

INTERNAL AUDIT SYSTEM

Internal Audit
System.

63.—(1) There shall be established in each Ministry, Department, agency, or other public body, a system of internal

audit for examining accounting systems, internal controls, risk management and governance processes of the Department to promote compliance with the provisions of this Act, Regulations, directives, and other relevant laws.

(2) An Accountable Officer shall be responsible for establishing and maintaining an internal audit capacity appropriate to the needs of the Department.

(3) The internal audit of Departments and Statutory Corporations and other public bodies provided for by this Act shall be conducted in accordance with any Regulations or other enactment for the time being regulating internal auditing of Departments, Statutory Corporations and public institutions.

(4) A Ministry, Department, agency, or public body shall have an internal auditor who shall assist the Accountable Officer in the discharge of his functions under this Act.

(5) The duties and responsibilities of the internal auditor shall be prescribed by the Minister by Regulations and shall include—

- (a) reviewing budgetary and financial management systems, processes, controls to assess their adequacy and compliance with established laws, rules, regulations and processes;
- (b) advising the Accountable Officer and suggesting remedial steps for any weaknesses and flaws in the management of public finances;

- (c) submitting, on a regular basis, reports in writing to the Accountable Officer designated in respect of that Department;
- (d) submitting quarterly reports to the Permanent Secretary containing the findings of that officer and such recommendations as the officer considers necessary.

(6) A copy of each report made and submitted under this section shall forthwith be transmitted to the Director of Audit by the internal auditor.

PART XI

ACCOUNTING AND REPORTING

Accounting.

64.—(1) The Accountant General shall ensure that the accounting rules and standards for the public accounts adhere to internationally accepted principles.

(2) The Accounting rules and standards for Statutory Bodies and State-owned enterprises shall be in accordance with internationally accepted standards suited for commercial entities.

(3) The Minister, in consultation with the Director of Audit, shall be responsible for establishing the accounting standards and rules for Government through Regulations, instructions and guidelines.

(4) Each Minister or head of a budgetary institution or agency is responsible, under guidance issued by the Minister, for the establishment of an accounting function within the Ministry/institution/agency in accordance with the re-

quirements prescribed in accounting regulations, instructions and guidelines under this Act.

(5) An Accountable Officer shall be responsible for the filing, maintenance and safekeeping of all documents related to public finance transactions, in a manner and for the length of time prescribed in accounting regulations under this Act.

65.—(1) An Accountable Officer or other public official handling public financial transactions shall ensure that financial information is reported in a timely, comprehensive, and accurate manner, in the manner prescribed in this Act, under its regulations, and in instructions issued by the Minister. Reporting.

(2) A covered entity shall where required by the Minister, provide a report on revenues and expenditures performance to the Minister in the terms, format and within the timeframe determined by regulations under this Act.

(3) The Minister shall produce a consolidated quarterly report comparing budget execution and revenue collections to the estimates contained in the National Budget which it shall submit to Cabinet no later than within forty five (45) days of the end of the quarter. The format of these monthly and quarterly reports will be prescribed in regulations under this Act.

66.—(1) Subject to subsection (2), the Accountant General shall within six months after the close of every financial year prepare, and submit to the Director of Audit as many copies as the Director of Audit may require of the Public Accounts of the Government of Grenada for that financial year accounting for all public money, disclosing the basis and accounting standards used in showing the financial po- Public Accounts.

sition of the Government of Grenada as of the close of the financial year.

(2) In the event of exigent circumstances, the Minister may, with prior approval of the House of Representatives in its sole discretion, by direction to the Accountant General, extend the period within which the statements are required to be submitted to the Director of Audit and any direction so given shall be laid before the House of Representatives within thirty days of it being given and if there is no sitting of the House of Representatives, within fourteen days of its next sitting.

(3) All public money shall be accounted for in the Public Accounts of the Government of Grenada.

(4) The Public Accounts to be transmitted by the Accountant General under subsection (1) shall show fully the financial position of the Consolidated Fund and special funds as well as accounts of all economic entities covered by this Act, on the last day of each financial year and shall include reporting against the budget.

(5) The content of the Public Accounts shall include—

- (a) a summary of revenue and expenditures;
- (b) a comparative statement of actual and estimated revenue and expenditures by vote, programme and standard object code;
- (c) a statement of—
 - (i) assets and liabilities;

- (ii) balances of the consolidated fund including all sub-accounts being the contingencies fund, special funds, deposit accounts, and others;
- (iii) a cashflow statement, with reconciliation of cash balances for each account held at each bank;
- (iv) a statement of change in net assets and Consolidated Fund;
- (v) outstanding loans made from the Consolidated Fund, by annual and aggregate receipts and payments;
- (vi) public debt and accumulated sinking fund;
- (vii) contingent liabilities of the Government including guarantees given and other contingent financial liabilities created by Government;
- (viii) investments showing the funds on behalf of which the investments were made;
- (ix) a statement of arrears of revenue, losses of cash and Government property and of abandoned claims during the year, and settlements of claims, debt write-offs, and remission of monies owed to Government;

External Audit
of Public Ac-
counts.

67.—(1) In accordance with section 82 of the Constitution and provisions of the Audit Act Cap. 22A, the Director of Audit shall audit the Public Accounts submitted by the Accountant General under section 66 no later than three months from the date of receipt of such Public Accounts, and in accordance with appropriate internationally recognized accounting standards which shall be disclosed in the Director of Audit’s report.

(2) The Director of Audit shall, not later than three months after the date of receipt of the Public Accounts from the Accountant General, submit his or her audit report to the Minister which report shall include the Director of Audit’s opinion as to whether the financial statements present a “true and fair view” of the financial operations of the Government.

(3) The audit report shall include responses and clarifications furnished by the Minister on the observations and comments raised by the Director of Audit.

(4) The audit report shall include a report on Statutory Bodies reflecting the audit reports made by the Director of Audit for those entities.

(5) The Minister shall submit the audit report for submission to Parliament within seven days and for publication in the *Official Gazette*.

PART XII

STATUTORY BODIES AND STATE-OWNED ENTERPRISES

Interpretation.

68. For the purposes of this Part and as used throughout this Act, the term—

“State-owned enterprise” means an entity whether incorporated under company law being an entity in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of that company through, among other things its representation on the governing board of the entity; or a company, Board or Authority established under special legislation which recovers a significant proportion of its operating costs through charges on users, and is determined by the Minister to be a State-owned enterprise;

“Line Minister” means the Minister responsible for overseeing a Statutory Body of a Government owned or controlled corporation;

“Statutory Body” means a body set up by an Act of Parliament with statutory powers and operational autonomy to carry out Government related functions and which are part of and under the direct control of the Government.

69.—(1) A Statutory Body or a State-owned enterprise as defined in section 68 shall each be subject to relevant provisions of this Act and in that regard, shall—

Application of
Act to Statu-
tory Bodies and
State-Owned
Enterprises.

- (a) be accountable to the relevant Line Minister, and the Minister;
- (b) apply the same financial year as Government’s financial year;
- (c) maintain and keep full and proper records of their respective financial affairs in accordance

with the Regulations under this Act and any applicable law; and

- (d) submit to the Minister such reports and other information as may be requested from time to time under this Act, or Regulations or instructions under this Act.

(2) The Minister shall establish the institutional arrangements on matters pertaining to financial governance and policy formulation and oversight of Statutory Bodies and State-owned enterprises, consistent with the constituent Act of Parliament for the respective entities or the Articles of Incorporation and By Laws.

Role of the
Board of Directors.

70.—(1) The Board of Directors of a Statutory Body or a State-owned enterprise shall establish and maintain policies, procedures, risk management and internal control system and governance and management practices to ensure that the entity operates efficiently in line with the objectives for which it was established and in line with the duties of directors provided for under the constituent Act of Parliament for the respective entities or the Articles of Incorporation and By Laws.

(2) The Minister shall in consultation with the Line Minister, prescribe by Regulations specific financial responsibilities of the Board of Directors of a Statutory Body or a State-owned enterprise provided that such responsibilities do not conflict with the provisions of the constituent Act of Parliament for the respective entities or the Articles of Incorporation and By Laws.

Strategic and
Annual Plans.

71.—(1) The Board of Directors of a Statutory Body and a State-owned enterprise shall—

- (a) submit no later than four months before the beginning of a fiscal year a three year strategic plan to the relevant Line Minister and the Minister reflecting the strategic objectives of the entity over the medium-term and updated on an annual basis; and
- (b) submit no later than four months before the beginning of a fiscal year, a financial plan in the case of a Statutory Body, and a business plan in the case of a State-owned enterprise, to the relevant Line Minister and the Minister, reflecting how the entity proposes to operationalize its strategic objectives over the fiscal year.

(2) The 3 year strategic plan required under subsection (1) shall include at a minimum, forecast financial information, forecast capital expenditure, key performance indicators and performance targets.

(3) Where the Board of Directors of a Statutory Body or State-owned enterprise fails to comply with the provision of subsection (1) (a) or (b), the Minister may in consultation with the Line Minister withhold the release of any subvention due to the entity, and or surcharge the entity and or members of its Board of Directors for each day that the non-compliance remains.

(4) On receipt of such plans, the Line Minister and the Minister shall consult together and shall each indicate their approval or otherwise of the plan to the Board of Directors of the entity within a period of two months after receipt of the plan and in any event no later than the beginning of the fiscal year for which the plan relates.

(5) The Minister may prescribe the format in which the strategic plans and annual business plans required by this section shall be prepared and the procedures for review and approval by the Line Ministries and the Minister.

Reporting
by Statutory
Bodies or by
State-Owned
Enterprises.

72. The Board of Directors of a Statutory Body or a State-owned enterprise shall report on the operations of the entity to the Line Minister and the Minister at the end of the previous quarter and at such other time specified by the Minister or the Line Minister, in relation to its approved business plan for the year, and in accordance with Regulations issued by the Minister specifying the matters to be included in such reports.

Statement of
overall perfor-
mance of Statu-
tory Bodies.

73. The Minister shall present a statement of the overall performance of all and each Statutory Body and State-owned enterprise based on audited financial statements for the preceding year to Parliament alongside the budget proposals for the following financial year.

Financial state-
ment and Audit
of Statutory
Bodies.

74. The Board of Directors of every Statutory Body shall cause to be prepared the annual financial statements of such entity and shall no later than three months from the end of the fiscal year, submit such accounts to the Director of Audit for auditing, with a copy to the Line Minister, and the Minister.

Financial state-
ments and Audit
of State-Owned
enterprise.

75.—(1) The Board of Directors of every State-owned enterprise shall cause to be prepared the annual financial statements of such entity and shall no later than three months from the end of the fiscal year, submit such accounts to the Director of Audit for auditing, with a copy to the Line Minister, and the Minister.

(2) A State-owned enterprise shall make provision for annual audit fees to be charged by the Director of Audit in the conduct of its responsibilities, in accordance with fees determined by the Minister in consultation with the Director of Audit during the budget preparation cycle.

(3) The Director of Audit may appoint a reputable private firm of auditors to audit the accounts of Statutory Bodies or State-owned enterprises on terms to be agreed with such firms provided however that the Director of Audit shall remain responsible for the audit in terms of subsection (1).

76. The Minister may request the Director of Audit to conduct a special review or audit of a Statutory Body or a State-owned enterprise with reasonable notice in writing to the entity for a specific or general purpose, and within a timeframe and on terms and conditions agreed with the Director of Audit including a reasonable fee.

Special Audits.

77.—(1) The Minister shall have the right to issue any financial directive to all or any Statutory Body or State-owned enterprise including without limitation, directives to—

Minister's
Power to Issue
Directives.

- (a) supply any information specified by the Minister;
- (b) submit to any special audit or review by a person appointed by the Minister and such Statutory Body or State-owned enterprise shall comply with such directives.

(2) Any directive issued by the Minister under subsection (1) shall be disclosed in the entity's annual report for the year in which the directive was received and the annual

report shall also disclose the extent to which the directive was complied with by the entity.

(3) A director or the Board of Directors of a Statutory Body or State-owned enterprise that takes action pursuant to a directive of the Minister issued under subsection (1) shall not be held to be in breach of their duties under this Act, the Companies Act, constituent Acts of Parliament establishing such entity or other relevant legislation.

Additional Provisions Applicable to Statutory Bodies.

78.—(1) A Statutory Body shall adopt at a minimum, the same financial management principles as are applicable to Government under this Act, Regulations made under this Act, or other relevant legislation, and shall be subject to the public sector scheme of service and employment laws and regulations that apply thereto.

(2) The funds of a Statutory Body include—

- (a) money that may be provided by Parliament for the corporation;
- (b) moneys accruing to the Statutory Body in the exercise and performance of its functions;
- (c) grants received for its operations through the Minister.

(3) A Statutory Body, by resolution of its Board of Directors, may maintain in its own name, one or more bank accounts in such bank(s) in the country, and shall inform the Minister of such accounts.

(4) A Statutory Body or State-owned enterprise may invest any moneys under subsection (2) in such manner as

the Board of Directors by resolution may approve and in consultation with the Minister may reinvest any of its investments with any viable institution.

(5) A Statutory Body may invest any moneys under subsection (2) in such manner as the Minister may approve and in consultation with the Minister may reinvest any of its investments provided however that a Statutory Body may not invest its money in government securities.

(6) The Minister may make Regulations or issue instructions on the conditions upon which a Statutory Body may undertake contractual commitments.

(7) Notwithstanding the provisions of the law establishing a Statutory Body, the Minister and the Line Minister may in consultation with the Board of Directors of the Statutory Body, direct that the Statutory Body pay to the Government any money administered by it in excess of the amount required for the purposes of its operations or capital expenditures. Any money so paid may be applied as revenue of the Government of Grenada.

(8) Notwithstanding subsection (7), the Minister shall ensure that a Statutory Body is adequately resourced through appropriations to enable them to operate effectively and may upon recommendation of the governing body of the Statutory Body direct it to retain all or part of its revenues for its operations.

(9) The Minister may prescribe in writing, expenditure ceilings for a Statutory Body. A Statutory Body shall not incur any liability or make any commitment above any ceilings prescribed by the Minister in writing without prior approval in writing of the Minister and the Minister shall

have the power to override any financial decision or commitment made by a Statutory Body whether directly by the Minister or acting through the Ministry's representative on the Board of a Statutory Body.

Governing Board. **79.**—(1) The composition of Board of Directors of Statutory Bodies, the procedures for their appointment, and terms and conditions for their appointment, and their duties and responsibilities shall be as provided for under their respective constituent Acts of Parliament or the Articles of Incorporation and By Laws.

(2) The Minister may but shall not be obliged to, nominate a representative of the Ministry being a senior officer of the Ministry, to be appointed to the Board of a Statutory Body if it deems it necessary to do so.

(3) The Board of a Statutory Body shall provide reports on financial matters as may be requested by the Minister from time to time.

Additional Provisions Applicable to State-Owned Enterprises.

80.—(1) The Board of Directors of a State-owned enterprise shall establish and maintain policies, procedures, risk management and internal control systems and governance and management practices to ensure that the entity operates on commercially sustainable basis and provides the best returns to Government as shareholders.

(2) The Minister may but shall not be obliged to, nominate a representative of the Ministry being a senior officer of the Ministry, to be appointed to the Board of a State-owned enterprise, if he deems it necessary to do so and may remove and replace such representative as he finds it necessary to do so in the best interest of the state. A representative of the Minister on such Board may consult with the Perma-

ment Secretary as needed in relation to his responsibilities as a member of the board of such State-owned enterprise provided however that the representative shall be subject to the same duties and responsibilities as are applicable to directors of the entity under this Act, the Companies Act, constituent Acts of Parliament establishing such entity, or other relevant legislation.

81.—(1) The Board of Directors of a State-owned enterprise shall be responsible for setting general policy on dividend in consultation with the Line Minister and the Minister, and ensure that such policy is adopted and respected by the management of the entity, taking due consideration of the financial well-being of the entity.

Dividend
Policy.

(2) Dividends or other profit distribution from a State-owned enterprise paid to Government shall be reflected in the annual national budget presented to Parliament and paid into the Consolidated Fund.

(3) Dividend payments owed to Government shall not be counted against any tax (or other) obligations the State-owned enterprise may have towards the Government.

82.—(1) The Minister may prescribe annual ceilings for borrowing, lending or the creation of contingent liabilities by a State-owned enterprise.

Borrowing,
Lending, Guar-
antees and other
Contingent Li-
abilities.

(2) A State-owned enterprise shall not incur any liability or make any commitment above any ceilings established by the Minister in writing, without prior approval in writing of the Minister and the Minister shall have the power to override any financial decision or commitment made by a State-owned enterprise whether directly by the Minister or

through the Ministry's representative on the Board of such entity.

(3) Except to the extent of a written guarantee or indemnity issued by the Minister on behalf of Government under Part IX of this Act, and any Act of Parliament, the Government shall in no way be liable for the debts of a State-owned enterprise.

PART XIII

RECOVERY OF PUBLIC MONEY OR PROPERTY

Recovery of
public money or
property.

83.—(1) Where there occurs a loss or deficiency in—

- (a) public moneys that have been advanced to a Public Officer of a department; or
- (b) public moneys or other moneys while those are under the control of a Public Officer,

that loss or deficiency shall be a debt due to the Government and may be recovered from the Public Officer by action in a court of competent jurisdiction.

(2) It shall be a defense to an action for the recovery of moneys from a Public Officer under subsection (1), if the Public Officer proves that the loss or deficiency was not caused or contributed to by a failure by the person to fulfill any of his or her duties in relation to those moneys including his or her duties which may be prescribed.

(3) Where loss or destruction of or damage to public property or other property occurs while the property is in the care of a Public Officer of a department, the values of the

property lost or destroyed or, as the case may be, the cost of repairing the damage to that property shall be a debt due to the Government and may be recovered by action in a court of competent jurisdiction from—

- (a) the Public Officer in whose care the property was at the material time; or
- (b) any other Public Officer who by negligence or misconduct causes or contributes to the loss or destruction of or damage to the property.

(4) It shall be a defense to an action for the recovery from a Public Officer moneys under subsection (3) if the Public Officer proves that the loss or destruction of or damage to the property was not caused or contributed to by any failure by the Public Officer to take reasonable steps to prevent that loss, destruction or damage.

(5) Where the negligence or misconduct of a Public Officer was not the sole cause of any loss or destruction of or damage to the property, the Government may recover from the Public Officer so much only of the amounts referred to in subsection (3) as is just and equitable having regard to the contribution made by the Public Officer to the loss, destruction or damage as determined by the court.

(6) For the purpose of this section—

- (a) public moneys or other moneys shall be taken to be under the control of a Public Officer of a department if the moneys have been collected or received by or have come into the custody of the Public Officer

but have not been paid to another person or to the credit of an account as may be prescribed;

- (b) public property or other property shall be taken to be in the care of a Public Officer of a department if the property has been delivered to the Public Officer; and has not been returned to a person entitled to receive it on behalf of the Government.

(7) The foregoing subsections shall not affect a right of the Government to recover an amount from a Public Officer otherwise than under this section but the Government shall not recover amounts from the one Public Officer under this section, in respect of the same loss, deficiency, destruction or damage.

PART XIV

SANCTIONS

Sanctions applicable to Covered Entities.

84.—(1) Subject to the provisions of this Act, Regulations made under this Act, or other applicable law, when an Accountable Officer—

- (a) spends in excess of an appropriation under the Appropriation Act or Supplementary Appropriation Act;
- (b) violates any ceilings imposed on the budgets of the covered entity under this Act, the Regulations or rules issued under this Act, or the Appropriation Act or Supplementary Appropriation Act;

-
- (c) violates any other provisions of this Act, Regulations or rules issued under this Law, or the Appropriations Act or Supplementary Appropriation Act,

the Public Service Commission may impose any of the sanctions in subsection (2) on the officer.

(2) Subject to subsection (1), the Public Service Commission may—

- (a) require the Accountable Officer of an entity under subsection (1) to submit to him for approval an action plan to address such violation or to bring the expenditure back to the level of the forecast;
- (b) require the Accountable Officer to dispose of any property or assets of the economic entity;
- (c) require any financial and/or other information in addition to the requirements under this Act or any other applicable law.

85.—(1) Subject to the provisions of this Act, Regulations made under this Act, or other applicable law, the Public Service Commission shall impose the sanction under subsection (3) in respect of an Accountable Officer, his delegate, or any person who is or was an officer, or any person who, although not a Public Officer, is or was at any material time paid from public funds or is or was at the relevant time responsible for the custody, safekeeping or collection of public or other property or public or other moneys, when a finding is made that such person—

Personal Sanctions - Surcharge.

- (a) has committed or incurred, or has authorized or required a person under his control to commit or incur expenditure in excess of any amount duly authorized at the time of such committal expenditure;
- (b) has issued a local purchase order outside of the FMIS system or other equivalent system from time to time in use by Government; or
- (c) has failed to collect any moneys owing to the Government for the collection of which such person is or was at the time of such employment responsible;
- (d) is or was responsible for any improper payment of public moneys or for any payment of such moneys which was not duly verified in line with existing procedures;
- (e) is or was responsible for any deficiency in, or for the loss, damage, or destruction of, any public moneys, stamps, securities, stores, or other Government property; or
- (f) has caused or permitted the misuse of any Government property whereby the public revenue has suffered loss;
- (g) has made or caused or permitted to be made in any way (including fraud, forgery, misappropriation, theft, burglary or any other way whatsoever) any unauthorized, unvouched, improper, nugatory, unnecessary or otherwise incorrect payment of public money for which he was at

the relevant time responsible or conspiracy to commit such acts;

- (h) has been negligent in the handling or safe-keeping of public moneys or other property for which he was at the relevant time responsible;
- (i) has, by reason of negligence, willful default or lack of supervision, caused or made possible the commission of, by any officer or other person under his supervision or control, any act referred to in this subsection, and loss of public moneys or property or damages to Government have thereby resulted; or
- (j) is otherwise in violation of any provisions of this Act, Regulations, rules, instructions, guidelines, or other directives issued under this Act.

(2) A person alleged to have done or omitted to have done anything under subsection (1) shall be served with no less than fourteen (14) days' notice specifying the matter alleged and providing him an opportunity to make representations before an administrative hearings committee established at the Ministry for that purpose and made up of three neutral persons appointed by the Minister, within the time specified. At the hearing of the matter, the Permanent Secretary shall both present the Government's case against the person notified and the person notified shall respond to such case and present all evidence in support of his defence. Upon hearing both sides, the committee may request further evidence from either side or other persons, and shall investigate the matter in order to make a determination. In the discharge of its duties, the committee may seek the advice

of any public official including without limitation, the Attorney General, the Director of Public Prosecutions or, the Accountant General, the Director of Audit and the Financial Intelligence Unit among others.

(3) If a finding is made by the committee against the person alleged to have done or omitted to have done anything under subsection (1), it shall recommend to the Public Service Commission through the Permanent Secretary that a surcharge may be imposed on such person.

(4) The Minister shall by regulations prescribe the manner in which an amount or a surcharge may be computed and other matters affecting the composition of the committee referred to in subsection (2) and the procedures for its work.

(5) A surcharge imposed under subsection (3) may be sued for and recovered as a debt owed to Government by Government provided however that the Public Service Commission may direct that the amount of the surcharge shall be recovered by the Accountant General by monthly deductions from the salary and other emoluments of such officer in such amounts, not exceeding one-sixth of the amount payable monthly to such officer in respect of salary, as the Public Service Commission shall authorize.

(6) Any surcharge imposed by the Public Service Commission under subsection (3) shall be without prejudice to other sanctions applicable against such an Accountable Officer including without limitation, disciplinary procedures taken by the Public Service Commission or criminal proceedings taken by the Director of Public Prosecutions or other applicable sanctions and claims under this Act, other applicable laws or the common law.

(7) A person who is dissatisfied with any surcharge imposed on him under subsection (3) may, within the period of 14 days after being notified of the surcharge, appeal to the Court and transmit a copy of such appeal to the Public Service Commission, and the Public Service Commission shall thereupon cause a copy of the appeal to be transmitted to the Permanent Secretary and the Attorney General.

(8) The Court may on hearing an appeal filed under subsection (8) where it finds it just and reasonable so to do, make an order confirming the surcharge or release the applicant in whole or in part from such surcharge.

(9) The Permanent Secretary shall publicly disclose the penalties imposed under this section and in addition shall notify in writing within seven days from the date of the surcharge, the Accountable Officer of the person involved (where the person involved is himself not the Accountable Officer), the Accountant-General, and the Director of Audit.

86.—(1) Any officer or employee of a covered entity who, without a reasonable excuse, makes commitments resulting in financial obligations for the government, in contravention of the provisions of this Act shall be guilty of an offence and on conviction be liable to imprisonment not exceeding one year or to a fine not exceeding the value of the assessed impact of the commitment or both.

Personal Sanctions - Criminal.

(2) Any officer or employee of a covered entity who, without a reasonable excuse, authorizes an expenditure exceeding the approved appropriations in the relevant budget, shall be guilty of an offence and on conviction be liable to imprisonment not exceeding one year or to a fine not ex-

ceeding the value of the assessed impact of the commitment or both.

(3) Any person who, without a reasonable excuse, refuses or fails to produce or submit any information which may have financial or budgetary implications which is under his control and is required under this Act or submits false information to satisfy the requirement under this Act shall be guilty of an offence and on conviction be liable to imprisonment not exceeding one year or to a fine not exceeding the value of the assessed impact of the commitment or both

PART XV

MISCELLANEOUS

Delegation.

87. A person to whom powers or functions are conferred under this Act or Regulations under this Act who delegates any such power or function to another official, shall remain liable under this Act for proper exercise of those powers and discharge of those functions.

Power to make Regulations.

88. The Minister may make such regulations and issue directives, orders, or guidelines, as appear to the Minister to be necessary and expedient for the proper carrying out of the intent of this Act.

Application notwithstanding the provisions of other laws.

89. The provisions of this Act shall prevail over the provisions of any other statute to the extent of any inconsistency.

Public Finance Management Act Repealed.

90. The Public Finance Management Act No. 41 of 2014 is hereby repealed.

SCHEDULE

1. The Budget presented by the Minister under section 15 (1) shall include the following—

- (a) a medium-term budget framework paper including macroeconomic and budgetary projections for the budget year and two forward years and consistent with the requirements of any law pertaining to fiscal responsibility as promulgated from time to time;
- (b) the main policies and programs of the government for the ensuing financial year including taxation, other revenues, expenditure, borrowing and other such activities that have budgetary implications;
- (c) revenue estimates, expenditure estimates, financing estimates including estimates of expenditure for each entity and vote which is to be met through the Consolidated Fund and the Development Program Fund, including the purpose for which the expenditure is to be used;
- (d) the actual budget outturn data for the previous budget year based on available data and projected outturns for the current year;
- (e) key fiscal indicators and targets including indicators for the fiscal balance of the Government, the public debt and the public expenditure;
- (f) a statement identifying and analyzing fiscal risks which may have a material effect on the fiscal outlook including details of financial assets, actual and contingent liabilities;
- (g) a statement of outstanding tax arrears owed to Government;
- (h) proposed tax expenditures for the budget year, with details of tax relief and exemptions for the budget year and projected for over the next two fiscal years;
- (i) an Annex showing Government's projected financial transactions including—
 - (i) the stock of outstanding Government borrowing;
 - (ii) the stock of any guarantees issued by Government and other contingent liabilities including those under public-private partnership contracts;

- (iii) plans for external, domestic and total Government borrowing for the next budget year;
- (iv) proposals for the issuance of new guarantees or creation of other contingent liabilities over the next fiscal year;
- (v) a statement on proposed multi-year commitments and information on the previously approved multi-year commitments and the current status of such commitments;
- (vi) plans for approval of new public-private partnership contracts;
- (vii) plans for divestment of government assets;
- (viii) plans of investment in public entities;
- (ix) an evaluation of the sustainability of the public debt and public expenditure of the Government over the long-term; and
- (x) other financing information that the Minister considers necessary;
- (j) an Annex summarizing the financial operations and net financial position of all Statutory Bodies and State-owned enterprises for the previous fiscal year; summarizing the annual financial or business plans and operations of each such entity as forecasted over the next two fiscal years; and indicating in each case the resources to be transferred from the National Budget if at all;
- (k) an Annex identifying in summary form all donor financing, distinguishing financing in support of Central Government from other external financing;
- (l) an Annex showing the financial position at the end of the financial year of every special fund administered by the Government;
- (m) any other matters as may be deemed appropriate by the Minister.

2. Subject to the requirements of this Act and the Regulations made under the Act, the Minister shall determine the form of budget documents or statements required under subsection 2.

3. In addition to the supporting documents specified under subsection (2), the Annual Budget shall be accompanied by—

- (a) an Appropriation Bill as the basis for approving expenditures; and
- (b) draft legislative Bills reflecting any proposed change(s) in the tax and non-tax revenue policy regimes and generally as required for implementing the Budget.

Passed by the House of Representatives this 15th day of May, 2015.

WILLAN THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 22nd day of May, 2015.

WILLAN THOMPSON
Clerk to the Senate.

GRENADA

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**ACT NO. 28 OF 2015**

I assent,



CÉCILE E. F. LA GRENADE
Governor-General.

25th August, 2015.

AN ACT to consolidate and modernise the laws relating to the management of public debt in Grenada in furtherance of the objectives of debt sustainability, and for related matters.

[By Order].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows—

PART I**PRELIMINARY**

1.—(1) This Act may be cited as the

Short title and
commencement.

PUBLIC DEBT MANAGEMENT ACT, 2015.

(2) This Act shall come into force on such a day as the Minister may appoint by Order in the *Gazette*.

Interpretation.**2. In this Act—**

“book-entry” means the recording of the holding and ownership of Government securities in non-certificated form or non-physical form through a computerised system established and maintained by the Minister or his or her agent pursuant to section 14;

“Central Government” means every branch, ministry, department, and agency of Government, and includes all special funds established and maintained by the Government under the Consolidated Fund;

“Central Government debt” means all Central Government direct liabilities and includes advances, arrears, compensation claims, finance leases, Government securities, loans, overdrafts, promissory notes, and suppliers’ credit arrangements;

“Consolidated Fund” means the Consolidated Fund established pursuant to section 75 of the Constitution;

“contingent liabilities” means possible obligations which shall arise by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Government and includes debt guarantees, demand or price guarantees, and termination clauses or other default provisions that could imply a transfer of liabilities to the Government, but excludes letters of comfort;

“Debt Management Unit” means the division of the Ministry with responsibility for debt management;

“Fiscal Responsibility Act” means the Fiscal Responsibility Act, 2015;

“finance lease” means financial arrangements by which capital assets are used by the lessee in exchange for payment of lease fees over the term of the lease, with an option to acquire title to such assets at a pre-agreed price;

“GDP” means the level of nominal gross domestic product measured at market prices that has not been adjusted for inflation, as published from time to time by the Statistical Office;

“Government securities” means securities issued in the name of and on behalf of the Central Government and includes debentures, treasury bills, treasury notes, and treasury bonds;

“line minister” means the minister responsible for overseeing a statutory body, a Government-owned corporation, or a Government-controlled corporation;

“long term” means a period equivalent to or exceeding five fiscal years;

“medium term” means a period not exceeding five fiscal years;

“medium-term debt management strategy document” means a document, referred to in section 5, that

outlines the debt management strategy for a medium term;

“Minister” means the Minister of Finance;

“Ministry” means the Ministry of Finance;

“public-private partnership” means a contract or arrangement governed by a long-term procurement contract between one or more public entities and one or more private entities, for providing or managing a public asset and associated services through the appropriate sharing of resources, risks and rewards;

“public debt” includes all Central Government direct liabilities including advances, arrears, compensation claims, finance leases, Government securities, loans, overdrafts, promissory notes, and suppliers’ credit agreement, and contingent liabilities, but excludes explicit contingent liabilities arising as a result of or in connection with public-private partnerships;

“Public Debt Coordinating Committee” means the Public Debt Coordinating Committee established pursuant to section 27;

“Public Finance Management Act” means the Public Finance Management Act, 2015;

“public sector” means the Central Government, statutory bodies and state-owned enterprises;

“real GDP” means the level of gross domestic product at base year market prices;

“real GDP growth rate” means the rate of change of real GDP on an annual basis;

“state-owned enterprise” means an entity whether or not incorporated under company law, being—

- (a) a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of that company through among other things its representation on the governing board of the entity; or
- (b) a company, Board or Authority established under any special enactment which recovers a significant proportion of its operating costs through charges on users,

and being determined by the Minister to be a state-owned enterprise;

“Statistical Office” means the Statistical Office established pursuant to section 3 of the Statistics Act, Chapter 311;

“statutory body” means a body set up by an enactment with statutory powers and operational autonomy to carry out Government-related functions and which are part of and under the direct control of the Government;

“supplier’s credit agreement” means credit arrangements by which goods or services are supplied on credit for payment at future dates agreed between the supplier and purchaser.

Scope and application of this Act.

3. This Act applies to all matters related to the management of direct and contingent debt liabilities of the public sector and sets out provisions relating to public sector borrowing, contingent liabilities, lending, and related matters.

Objects of this Act.

4. The objects of this Act include—

- (a) ensuring that the financing needs of the Government are met on a timely basis and that its debt service obligations are met at the lowest cost over the medium-to-long term, in a manner that is consistent with an acceptable and prudent degree of risk;
- (b) providing a framework for management of public debt in a manner that achieves and maintains sustainable debt; and
- (c) ensuring that public debt management operations support the establishment of a well-developed domestic debt market in the medium-to-long term.

PART II

DEBT MANAGEMENT STRATEGY AND SUSTAINABILITY ANALYSIS

Medium-term debt management strategy.

5.—(1) The Minister shall cause to be prepared a medium-term debt management strategy document on an annual rolling basis, which shall take into account—

- (a) the macroeconomic framework of the Government;
- (b) the costs and risks embedded in the debt portfolio;

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- (c) estimated future borrowing requirements of the Government;
 - (d) relevant market conditions; and
 - (e) such other factors as may be relevant for the development of the medium-term debt management strategy document.

(2) The medium-term debt management strategy document under subsection (1) shall set out—

- (a) risk-control benchmarks and risk-tolerance benchmarks, including guidelines or ranges for the acceptable market risks in the debt portfolio;
- (b) medium-term targets for the composition, currency mix, interest rate mix, and maturity profile; and
- (c) proposed measures to support development of the domestic public debt market.

(3) The Minister shall lay the medium-term debt management strategy document before Parliament, no later than two months prior to the commencement of every fiscal year.

(4) All public debt permitted under this Act shall be undertaken in compliance with the medium-term debt management strategy document.

6.—(1) For every fiscal year, the Minister shall cause to be prepared a borrowing plan to meet the aggregate estimated borrowing requirements of the public sector for the fiscal year. Annual borrowing plans.

(2) The annual borrowing plan shall be based on the approved medium-term debt management strategy and the annual cash flow forecast for the public sector, and shall include planned borrowing operations over the fiscal year, the debt instruments to be used, and the indicative timing of borrowing.

(3) The borrowing plan shall be updated at least half yearly and approved by the Minister.

(4) The approved borrowing plan and any updates thereof shall be attached to the annual or supplemental budgets, laid in Parliament by the Minister.

Debt sustainability analysis.

7.—(1) The Minister shall cause a debt sustainability analysis to be undertaken for the public sector every fiscal year, which shall take into account—

- (a) the present and forecasted stock of public debt, including contingent liabilities in relation to the baseline;
- (b) forecasted growth of the economy of Grenada and its vulnerability to shocks, including a negative shock to real GDP growth, nominal depreciation, interest rate shock and contingent liability shock; and
- (c) such other factors as may be relevant for the debt sustainability analysis.

(2) The Minister shall submit for approval by Cabinet, no later than two months before the end of the fiscal year for which the debt sustainability analysis is conducted, a report reflecting the results of the debt sustainability analysis conducted and the methodology used.

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PART III
GOVERNMENT BORROWING

8.—(1) Subject to the provisions of this Act and other relevant enactment, and subject to the approved medium-term debt management strategy and borrowing plans under sections 5 and 6 respectively, the Government may borrow from any legitimate source, in such form and on such terms and conditions as may be determined by Cabinet.

Authority of
Government to
borrow.

(2) The Minister on behalf of the Government, on the advice of the Attorney-General—

- (a) shall negotiate and execute all agreements and other documentation for the purpose of borrowing pursuant to subsection (1); and
- (b) may, notwithstanding subsection (1) and pursuant to section 13, determine the form and the terms and conditions of borrowing, where the source of borrowing is an overdraft arrangement, or the execution of a bond market transaction, that is consistent with the borrowing plan under section 6.

(3) Prior to signing of any supplier's credit agreement, or finance lease agreement, the Minister shall cause to be prepared an assessment of the costs and risks to be borne by the Government under such agreement, including a comparison with other available financing options, the results of which shall be documented in writing.

Purpose of
Government bor-
rowing.

9. The Government may borrow under this Act to meet fiscal requirements, which shall include—

- (a) to finance any Government budget deficit;
- (b) to maintain a prudent credit balance on the Consolidated Fund;
- (c) to finance capital projects reviewed and approved by Cabinet;
- (d) to on-lend to statutory bodies;
- (e) to honour obligations under Government guarantees created in accordance with the provisions of this Act;
- (f) to refinance outstanding or maturing public debt, prepay or buy back outstanding public debt, or exchange existing public debt for new public debt;
- (g) to immediately mitigate or eliminate effects caused by a natural or environmental disaster or any other national emergency as may be approved by Cabinet;
- (h) to replenish its foreign currency reserves to strengthen its balance of payments;
- (i) to support, to the extent that market conditions, prudence and policy goals permit, the development of the domestic debt market through a viable interest rate curve for Government borrowing, using appropriate benchmark issues to help track the prevailing costs of short-term, medium-term and long-term financing; and

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- (j) to meet any other purpose as may be approved by Parliament.

10. The Minister may, with the consent of the lender and upon such terms and conditions as the Minister may on behalf of the Government, agree—

Debt management operations.

- (a) to repurchase outstanding Central Government debt;
- (b) to repay or prepay principal and/or interest due on any outstanding Central Government debt;
- (c) to renegotiate the terms and conditions of any outstanding public debt;
- (d) to reopen securities, to reduce fragmented issuance and build larger benchmark securities;
- (e) to convert public debt from one form to another;
- (f) to exchange outstanding Government securities with other types of Government securities on such conditions in accordance with this Act; and
- (g) to consolidate two or more public debt instruments into a single debt obligation.

11.—(1) All monies borrowed by the Government, by way of advances, loans, or the issuance of Government securities in accordance with the provisions of this Act or any other relevant enactment, shall be paid into the Consolidated Fund, and shall be available in any manner in which the Consolidated Fund is available or paid into a special fund for that purpose, if consistent with applicable laws.

Central Government debt obligations and Consolidated Fund.

(2) The principal amount and interest, as provided for by the terms of the transaction, paid on Government borrowing, including Government securities and other expenses and charges related thereto as approved by the Minister, are hereby charged upon and shall be payable out of the Consolidated Fund without further appropriation.

Sustainable debt target.

12.—(1) The ratio of the total of—

- (a) the total stock of public sector debt from domestic or external sources for any purpose, including the total sum of debt guaranteed by the Government including contingent liabilities assumed by the Government;
- (b) the debt and contingent liabilities of statutory bodies and state-owned enterprises; and
- (c) such sums as may be necessary to defray expenses in connection with such liabilities,

to the GDP shall not exceed the public debt target prescribed pursuant to the Fiscal Responsibility Act.

(2) For purposes of computing the ceiling referred to in subsection (1), liabilities denominated in foreign currencies shall be converted into Eastern Caribbean Currency at the official exchange rate prevailing at the time of conversion.

Government securities.

13.—(1) Subject to any other provision of this Act, the Minister may cause to be issued Government securities in the manner provided for by this Act for any purpose specified in section 9, upon terms and conditions negotiated by the Minister.

(2) The general terms and conditions under which Government securities shall be issued shall be evidenced in a prospectus issued and published in one local newspaper and on the website of the Government, prior to the issuance of such Government securities, and such prospectus shall include provisions on—

- (a) the amount sought to be raised from issuance of the Government securities and denominations in which they are available;
- (b) the maturity of the instrument;
- (c) whether the Government security is to be issued on an interest-bearing basis or a discount basis, and the method of computing interest rates;
- (d) dates on which principal and interest will be paid;
- (e) the eligibility of the Government security for stripping into individual principal and interest components after issuance; and
- (f) the procedures for registration of holdings of Government securities.

(3) The Debt Management Unit shall ensure that, before Government securities are issued and at all times before their maturity or earlier redemption, the terms and conditions of all outstanding Government securities published in the form of prospectuses under subsection (2), are published in one local newspaper and on the website of the Government.

(4) The Minister shall prescribe by regulations the modalities and procedures for the issuance, clearing and settlement of Government securities, which shall include—

- (a) whether Government securities will be issued by private or public offering, and whether on tap, by auction, or other methods, and if by auction the modalities for publication of an annual auction calendar;
- (b) whether Government securities will be offered for sale on a competitive or other basis and whether this will be a reopening of an existing issue;
- (c) the eligibility requirements for the purchase of Government securities;
- (d) the method of computing interest rates;
- (e) the methods of clearing and settlement of transactions; and
- (f) the procedure for registration of holdings of Government securities.

(5) The Minister shall have the sole authority to accept or reject on behalf of Government, all bids submitted for Government securities.

Register of
Government
securities.

14.—(1) The Minister shall cause to be established and maintained, a secure computerised system for issuing, recording ownership of, servicing and redeeming all Government securities offered on the domestic, regional, or foreign markets, which shall serve as the electronic register of Government securities.

(2) Ownership of Government securities and any lawful transfers thereof, including transfers by operation of law in the event of gifts and succession, shall be registered and maintained in only book-entry form in the register of Government securities as established pursuant to subsection (1).

(3) A certified copy of an extract from the register stating that an entity has holdings of Government securities shall be evidence of the ownership of the specified Government securities by that entity, unless the contrary is proved.

15.—(1) The Minister may appoint, in addition to the Eastern Caribbean Central Bank, the Eastern Caribbean Securities Exchange or any other entity as the Government's agent to facilitate the issuance, registration, management, redemption and repayment by the Government of Government securities, upon such terms and conditions as may be agreed in an agency agreement entered into by such agent and the Minister acting on behalf of the Government.

Appointment of agents.

(2) An agency agreement under subsection (1) shall set out the duties of the agent, the remuneration for the performance of such duties, and any authorisations and approvals required by the agent for the duties as well as reporting requirements of the agent.

16. Neither the Minister nor his or her agent appointed under section 15 shall be under any obligation with respect to the fulfilment of any trust, whether expressed, implied or constructive, to which any security may be subject, notwithstanding any notice that the security is held subject to a trust.

No responsibility for trust.

17. No stamp duty shall be payable in respect of any Government securities issued or document executed by or under the authority of the Minister under this Act.

Exemption from stamp duty.

Application of
tax on interest
income and de-
duction at source.

18. If any provision is made by or under the law for the time being in force relating to income or investment tax, for the deduction of tax on interest income at source, such provision shall apply to interest income from Government securities earned by the lawful holders thereof to the extent envisaged under the law and shall be deducted at source by the Government or its lawful agent for this purpose and remitted to the tax authorities in accordance with the law relating thereto.

PART IV **GUARANTEES AND OTHER CONTINGENT** **LIABILITIES**

Authority to
guarantee loans.

19.—(1) Subject to the provisions of this Act or any other applicable enactment, the Government may in a fiscal year guarantee in such manner and on such terms and conditions as it thinks fit the repayment of the principal, interest, and other payment obligations under foreign or local loan transactions entered into by a statutory body or state-owned enterprise, subject to the approval of Parliament.

(2) Subject to the provisions of this Act and to the approval of Parliament, the Minister shall have sole authority to guarantee loans on behalf of the Government and to sign agreements and other documentation on behalf of the Government in pursuance of subsection (1).

(3) The Minister shall cause to be established and maintained a register of Government guarantees.

Issuing Govern-
ment guarantees.

20.—(1) An entity applying for a Government guarantee shall apply to the Minister.

(2) The Minister may, subject to approval by Parliament, guarantee liabilities pursuant to section 19 (1), if

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the Minister is satisfied through an evaluation by the Debt Management Unit that—

- (a) the purpose of the underlying loan is for a public purpose and that the proposed guarantee is itself expected to serve a specific public policy purpose and the guarantee is evaluated to be the most appropriate mechanism for achieving that public policy objective;
- (b) the terms and conditions of the underlying loan to be guaranteed are such as are consistent with the Government's public debt management objectives and strategy;
- (c) the borrower has the ability to repay the underlying loan obligations and fulfil all payment and other obligations under such loan and under the guarantee and related agreements;
- (d) the borrower is in full compliance with all fiduciary and corporate governance requirements established by the Minister; and
- (e) it is prudent to guarantee such loan having regard to the debt target prescribed pursuant to the Fiscal Responsibility Act.

(3) Every Government guarantee shall be in writing signed by the Minister on behalf of the Government, specifying the terms and conditions upon which the Government guarantee is issued.

(4) Every Government guarantee shall be supported by appropriate legal documentation prepared by the Attor-

ney-General and executed by the borrower whose loan is to be guaranteed, agreeing to indemnify the Government, and under such legal documentation, the borrower shall commit to repaying the Government any money paid by the Government to the creditor under the Government guarantee in the event of default by such borrower.

(5) The Minister shall sign all documentation relating to guarantees on behalf of the Government.

(6) Subject to subsection (5), the Minister may, in writing, appoint an official of the Ministry or another Government official to sign on his or her behalf such documents, and the signing by the official shall be valid as if it had been signed by the Minister.

(7) The borrower shall pay or reimburse the Government, as the case may be, in such manner as the Minister shall direct, including—

- (a) before the Government guarantee is executed by the Minister, a fee to reflect administrative costs incurred by the Government in issuing the Government guarantee, including a fee for the risks borne by the Government;
- (b) an annual guarantee fee as shall be determined by the Minister;
- (c) all other expenses incurred by the Government in relation to the Government guarantee.

(8) Where any guarantee issued by the Government in accordance with the provisions of this Act is called on for payment, the Government shall make good the obligations

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of the Government under such guarantee to the creditor and immediately notify the borrower accordingly and demand payment in terms of the indemnity provided by the borrower to the Government under subsection (4).

(9) Any sum of money required for fulfilling the Government's obligations under a guarantee under this Act shall be charged on and paid out of the Consolidated Fund without further appropriation.

(10) Where the borrower fails to repay the Government when notified by the Government under subsection (8), the Government shall proceed to recover any amounts paid under the guarantee including through legal proceedings against the borrower, and interest on the amounts paid shall accrue at the current market rate in favour of the Government until the date of final payment by the borrower.

(11) Any sum paid by the borrower to the Government shall be paid into the Consolidated Fund.

PART V

GOVERNMENT LENDING

21.—(1) Where the Minister is satisfied that it is in the public interest, he or she may on behalf of the Government make loans to statutory bodies and state-owned enterprises, subject to such ceiling on Government lending as Parliament may as part of the annual budget approve, on such terms and conditions as may be determined by the Minister and approved by Cabinet.

Lending by
Government.

(2) Before issuing any loan on behalf of the Government under subsection (1), the Minister shall establish through independent evaluation that—

- (a) the proposed loan would serve a specific public policy objective;
- (b) such loan would be the most appropriate mechanism for achieving the specified public policy objective;
- (c) the risk to the Government in providing such loan or credit is consistent with prudent public financial management;
- (d) the terms and conditions of such loan are consistent with Government's public debt management objectives and strategy;
- (e) the borrower has the ability to repay the loan and fulfil all payment and other obligations under the loan, including interest at a market-based rate to reflect the Government's credit risk and funding cost; and
- (f) the borrower is in full compliance with all fiduciary and corporate governance requirements established by the Minister.

(3) Every loan made by the Minister on behalf of the Government pursuant to subsection (1) shall be made from a credit balance on the Consolidated Fund.

(4) Every loan made by the Minister pursuant to subsection (1) shall be made pursuant to a loan agreement in writing and signed by the Minister, and shall set out the terms and conditions of such loan, including the option of the Minister to require full repayment of the loan prior to maturity of the loan, where—

- (a) there is breach of any provision of the loan document on the part of the borrower; or
- (b) there is an adverse material change in the financial circumstances of the borrower or in other circumstances which could prejudice the interest of the Government.

(5) The borrower shall execute in favour of the Government a deed of pledge or other collateral document in respect of assets of a value acceptable to the Government but not less in market value than the sum of the principal and interest under the loan agreement and a prudent margin to protect the Government against market risks.

(6) In addition to the payment of interest commensurate with the Government's credit risk and cost of funds, the borrower shall pay to the Government, in such manner as the Minister shall direct, a fee to reflect the administrative costs incurred by the Government in lending to such borrower.

(7) Where a borrower fails to repay a loan made pursuant to this section in accordance with the loan agreement, after twenty-one days' notice to the borrower, the Government shall proceed to enforce the deed of pledge or other collateral document executed by the borrower in favour of the Government, and notwithstanding the provisions of any other enactment to the contrary, arrange the sale of the pledged or otherwise collateralised assets of the borrower at the open market value of such assets to satisfy—

- (a) any sum outstanding under the loan, including principal, interest, and applicable charges; and

- (b) interest on any defaulted sum from the date of default until the date of final payment by the borrower at the prevailing market interest rate.

(8) Any sum received by the Government from payment by the borrower to the Government or from the sale of pledged or otherwise collateralised assets of the borrower shall be paid into and form part of the Consolidated Fund.

PART VI

ADDITIONAL PROVISIONS GOVERNING BORROWING BY STATUTORY BODIES AND STATE-OWNED ENTERPRISES

Application to statutory bodies and state-owned enterprises.

22.—(1) Borrowing by a statutory body or state-owned enterprise shall be in accordance with this Act, the Public Finance Management Act, the Fiscal Responsibility Act, and other relevant enactment.

(2) Any provision in any enactment or constituent document relating to borrowing by statutory bodies or state-owned enterprises, in existence prior to the commencement of this Act, shall be construed with such modification as necessary to give effect to the provisions of this Act.

Borrowing by statutory bodies and state-owned enterprises.

23.—(1) Subject to this section, a statutory body or state-owned enterprise may borrow funds and obtain overdrafts from any lender and up to such limit as may be determined by the Minister from time to time.

(2) The Minister shall prescribe an annual borrowing limit for every statutory body or state-owned enterprise based on its capacity to repay and such other considerations

as the Minister may determine upon consultation with the line minister responsible for the relevant statutory body or state-owned enterprise.

(3) A statutory body or state-owned enterprise intending to borrow above the limit prescribed by the Minister pursuant to subsection (2) shall obtain prior approval in writing from the Minister through the line minister responsible for the statutory body or state-owned enterprise.

(4) A statutory body or state-owned enterprise shall submit to the Minister a record of its borrowing no later than ten working days from the date of signing a loan agreement, obtaining an overdraft, or issuing securities, as the case may be, and shall, upon request from the Minister, submit to the Ministry any data on total outstanding debt.

(5) All debt liabilities contracted by a statutory body or state-owned enterprise under the provisions of this Act shall be the primary obligations of such entities and without recourse to the Government, and the Government shall in no way be liable for such liabilities unless otherwise expressly guaranteed pursuant to Part IV of this Act.

PART VII

REPORTING AND PUBLICATION

24. The Minister shall cause to be maintained and published on a website of the Government in a timely basis, accurate records of outstanding debt, guarantees, and lending transactions. Records.

25.—(1) The Debt Management Unit shall, no later than one month after the end of every quarter of the fiscal year, Reporting.

prepare for approval by Cabinet, a debt management strategy implementation report which shall outline the outstanding stock of public sector debt, its size and currency composition, interest rate mix, maturity profile and consistency with the approved medium-term debt management strategy.

(2) The Minister shall, simultaneously with the submission of the annual budget, furnish Parliament with—

- (a) an annual report on public debt management activities, Government guarantees and Government lending, which shall include a statement on the extent to which the Government's debt management activities in the fiscal year conformed with the approved debt management strategy and debt management objectives, and reasons for any deviations;
- (b) a report of a schedule of all outstanding public debt, including a classification of borrowing and the purposes for which such borrowing was undertaken, details of all Government securities issued, details of Government securities redeemed, interest payments on Government borrowing, outstanding public debt stock including debt of statutory bodies and state-owned enterprises, and a schedule of related repayment obligations;
- (c) a report of a list of all outstanding loans lent by the Government, including a classification of the loans according to their probability of default;

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- (d) a report of a list of all guarantees issued by the Government, including a classification of guarantees according to their probability of being called; and
- (e) a report of the total loans contracted by statutory bodies and state-owned enterprises.

(3) The Minister shall cause to be made public, in a manner as he or she may determine, the reports required under subsection (2).

PART VIII

DEBT MANAGEMENT UNIT AND COORDINATING COMMITTEE

26. The Debt Management Unit shall, under the supervision of the Minister, perform the functions as set out in the First Schedule.

Debt Management Unit.

27.—(1) For the purposes of this Act, there is hereby established a Public Debt Coordinating Committee.

Public Debt Coordinating Committee.

(2) The composition and functions of the Public Debt Coordinating Committee are set out in the Second Schedule.

PART IX

SANCTIONS

28.—(1) Any Government borrowing, Government guarantees, Government lending, or other related action purported to be undertaken on behalf of the Government by a person other than the Minister or his or her lawful agent, or

Consequences of unauthorised borrowing, guarantees, lending.

otherwise in violation of the provisions of this Act shall be null and void and of no effect.

(2) Any money received on behalf of the Government by way of principal in relation to such void transactions shall become refundable to a creditor and no further payment shall be received on behalf of the Government under such transaction.

(3) Any money paid by the Government by way of principal, interest, charges or other payments in relation to such void transactions shall become refundable and no further payment by the Government shall become due.

(4) The Minister shall within seven days from the occurrence of the events specified in subsection (1), lay before Parliament a report explaining the causes of the breach and the measures taken or proposed to be taken to re-establish compliance with the relevant provisions of this Act.

Breach by official.

29. A person alleged to have been responsible for or involved in a breach specified under section 28, shall be subject to disciplinary action by the Public Service Commission, including dismissal, and prosecution where appropriate, demotion, suspension, or other sanctions applicable to breach of any public financial management requirements under the Public Finance Management Act or other relevant law or administrative code of conduct.

PART X

MISCELLANEOUS

Delegation.

30.—(1) A person to whom powers or functions are conferred under this Act or Regulations made under this Act

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and who delegates any such power or function to another official shall remain liable under this Act for proper exercise of those powers and discharge of those functions.

(2) Subject to the provisions of this Act, the Minister may delegate in writing any of his or her functions or powers under this Act to a public officer, except his or her power of delegation.

(3) The delegation of functions under subsection (1) shall not divest the Minister of the responsibility for the function or the exercise of any power thereunder.

31. The Minister may make regulations generally for the purpose of implementing the provisions of this Act, which shall include— Regulations.

- (a) prescribing the method of issuing, registering ownership, pricing, transfer, conversion, replacement and redemption of Government securities;
- (b) prescribing the mode by which settlement or payment of interest or principal, in respect of which Government securities may be made; and
- (c) prescribing fees and charges for any services provided for in this Act, including services for Government securities dealers and on-lending, if they exist.

32.—(1) The Revised Treasury Bills Act, Chapter 288B is hereby repealed. Repeal and transitional provisions.

(2) Notwithstanding subsection (1), nothing shall affect the validity of any Government borrowing, whether

through Government securities or otherwise, any guarantees issued by the Government, any lending by the Government, any trustee or agent appointed by the Government, or any relevant act done under the repealed enactment before the commencement of this Act.

(3) Any Government borrowing, Government lending, or liability guaranteed by the Government under the enactment repealed under subsection (1) and outstanding immediately before the commencement of this Act shall upon the commencement of this Act remain valid under this Act until maturity, unless they are earlier redeemed, settled, or otherwise lawfully terminated.

FIRST SCHEDULE

Duties of the Debt Management Unit

(Section 26)

The duties of the Debt Management Unit are—

1. to prepare a medium-term debt management strategy on an annual rolling basis and an annual borrowing plan for the Government in accordance with sections 5 and 6 respectively;
2. to prepare the auction calendar for Government securities in accordance with the provisions of section 13 (4) (a);
3. to perform control functions and ensure that debt to be contracted is consistent with the approved medium-term debt management strategy document and sign-off in writing that this is the case;
4. to participate in negotiations with creditors on the instructions of the Minister;
5. to assess the risks in issuing any guarantees, and prepare reports on the method used for every assessment and the results thereof for the attention of the Minister;

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6. to pursue the recovery of any payments including interest and other costs incurred by the Government due to the honouring of outstanding guarantees;
 7. to assess credit and other risks in any lending, and prepare reports on the method used for every assessment and the results thereof for the attention of the Minister;
 8. to prepare annual reports on outstanding loans granted by the Government;
 9. to establish and maintain the schedules and lists relating to public debt required under section 25;
 10. to set up and maintain an electronic monitoring system relating to public sector debt on a real time basis and to obtain relevant public debt information from the Eastern Caribbean Central Bank, the Eastern Caribbean Securities Exchange, and other agents who assist in public debt management;
 11. to monitor, review and analyse debt levels of all statutory bodies and state-owned enterprises and advise the Minister accordingly;
 12. to prepare annual reports on the debt of statutory bodies and state-owned enterprises;
 13. to keep timely, comprehensive and accurate records of outstanding Government guarantees and lending in an appropriate database;
 14. to evaluate loan guarantees and other explicit contingent liabilities consistent with Government debt management objectives;
 15. to evaluate funding requests from state-owned enterprises and statutory bodies;
 16. to analyse projections on funding needs and provide inputs for funding strategy;
 17. to design, price, launch and fund transactions;
 18. to monitor and report on market conditions;
 19. to manage investor-creditor relations;
 20. to implement funding strategies consistent with the medium-term debt management strategy document and the annual borrowing plan;

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Public Debt Management

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21. to advise on Government initiatives to foster developments in the domestic and regional securities market;
 22. to advise the Minister on all debt obligations of the Government;
 23. to prepare and publish public debt statistical bulletins periodically;
 24. to prepare forecasts on public debt servicing and disbursements as part of the yearly budget preparation;
 25. to record and maintain all original agreements and other documentation on all Government borrowing, lending, guarantees and other contingent liabilities, and other relevant public debt management operations;
 26. to compile, verify and report to the Minister on all Government domestic arrears;
 27. to monitor the disbursement of loans raised by the Government to ensure that they are in accordance with agreed disbursement schedule;
 28. to perform such other public debt-related functions as may be determined by the Minister.

SECOND SCHEDULE

Public Debt Coordinating Committee

(Section 27)

I: Composition

1. The Public Debt Coordinating Committee shall consist of seven *ex-officio* members as follows—

- (a) the Permanent Secretary of the Ministry, who shall act as chairperson;
- (b) the Head of the Debt Management Unit of the Ministry;
- (c) the Head of the Budget Department of the Ministry;
- (d) the Head of the Policy Unit of the Ministry;

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- (e) the Accountant General or his or her designate;
- (f) a representative of the Public Sector Investment Programme; and
- (g) a representative of the Attorney-General.

2. Every person appointed to the Public Debt Coordinating Committee will be ex-officio and will hold office for as long as the appointing authority determines.

II: Secretariat

3. The Debt Management Unit of the Ministry shall provide secretariat support for the Public Debt Coordinating Committee.

III: Meetings

4. The Public Debt Coordinating Committee shall meet as and when convened by the Permanent Secretary and at a minimum, once every month;

5. Subject to the provisions of this Act, the Public Debt Coordinating Committee shall regulate its own proceedings.

IV: Terms of Reference

6. The Public Debt Coordinating Committee shall—

- (a) consider proposals for the assumption of new debt obligations;
- (b) review annual borrowing plans prepared by the Debt Management Unit before submission to the Minister;
- (c) review draft medium-term debt management strategy document prepared by the Debt Management Unit;
- (d) consider proposals for debt restructuring and rescheduling and advise the Minister;
- (e) review annual budgetary estimates for debt servicing and advise the Minister;

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- (f) monitor debt service payments and the total debt stock based on reports submitted by the Debt Management Unit;
 - (g) develop a comprehensive policy in respect of Government procedures for guaranteeing debt in accordance with the provisions of this Act and Regulations made under it;
 - (h) monitor the Public Sector Investment Programme for loan disbursements; and
 - (i) undertake any other activity relevant to debt management.

V: Reporting

7. The Public Debt Coordinating Committee shall submit quarterly reports to the Minister before the end of the first month following the end of every quarter.

8. A report submitted to the Minister under paragraph 7 above shall include a summary of the Public Debt Coordinating Committee's deliberations for the immediate past quarter, including details of transactions evaluated, approved, or rejected and the reasons ascribed for every action.

Passed by the House of Representatives this 29th day of May, 2015.

WILLAN THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 5th day of June, 2015.

WILLAN THOMPSON
Clerk to the Senate.

GRENADA

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4/9/2015.

2016 *Public Debt Management (Amendment)* Act 28 983

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment to section 25 of principal Act

2016

Public Debt Management (Amendment)

Act 28 985



GRENADA

ACT NO. 28 OF 2016**I assent,***22nd September, 2016.*

DANIEL CHARLES WILLIAMS
Deputy to the Governor-General.

AN ACT to amend the Public Debt Management Act No. 28
 of 2015.

[23rd September, 2016].

BE IT ENACTED by the Queen's Most Excellent Majesty,
 by and with the advice and consent of the Senate and the
 House of Representatives of Grenada, and by the authority of
 the same as follows—

1. This Act may be cited as the

Short title.

PUBLIC DEBT MANAGEMENT (AMENDMENT)
ACT, 2016,

and shall be read as one with the Public Debt Management
 Act No. 28 of 2015 hereinafter referred to as the “principal
 Act”.

986 *Act 28* *Public Debt Management (Amendment)* 2016

Amendment to
section 25 of
principal Act.

2. Section 25 of the principal Act is amended as follows—

- (a) in subsection (2), by repealing paragraph (a);
- (b) by inserting after subsection (3), the following new subsection—

“(4) The Minister shall, no later than four months after the beginning of the fiscal year, furnish Parliament with an annual report on public debt management activities, Government guarantees and Government lending, which shall include a statement on the extent to which the Government’s debt management activities in the previous fiscal year conformed with the approved debt management strategy and debt management objectives, and reasons for any deviations.”.

Passed by the House of Representatives this 2nd day of September, 2016.

ADRIAN FRANCIS

Acting Clerk to the House of Representatives.

Passed by the Senate this 9th day of September, 2016.

ADRIAN FRANCIS

Acting Clerk to the Senate.

GRENADA

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23/9/2016.

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Act 29 813

ARRANGEMENT OF CLAUSES

PART I PRELIMINARY

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2. Interpretation
3. Scope and application of this Act
4. Act to be read in conjunction with other legislation
5. Objects of this Act

PART II FISCAL RESPONSIBILITY FRAMEWORK

6. Duty of Government to comply with fiscal rules
7. Expenditure and wage rules
8. Prudent debt, contingent liabilities, and primary balance target
9. Receipts and expenditures excluded from fiscal rules and targets
10. Escape clause
11. Recalibration of targets under the fiscal rules

PART III RESPONSIBILITIES FOR IMPLEMENTATION AND MONITORING FISCAL RESPONSIBILITY FRAMEWORK

12. Duties and powers of the Minister for implementation and reporting
13. Statistical data
14. Fiscal Responsibility Oversight Committee

PART IV MISCELLANEOUS

15. Confidentiality
16. Regulations

- FIRST SCHEDULE - FORMULA FOR COMPUTING “DEBT-STABILISING PRIMARY BALANCE”
- SECOND SCHEDULE - FISCAL RESPONSIBILITY OVERSIGHT COMMITTEE

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Fiscal Responsibility

Act 29 815

**ACT NO. 29 OF 2015****I assent,**

CÉCILE E. F. LA GRENADÉ
Governor-General.

25th August, 2015.

AN ACT to establish a transparent and accountable rule-based fiscal responsibility framework in Grenada, to guide and anchor fiscal policy during the budget process to ensure that government finances are sustainable over the short, medium, and long term, consistent with a sustainable level of debt, and for related matters.

[By Order].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows—

PART I**PRELIMINARY**

1.—(1) This Act may be cited as the

FISCAL RESPONSIBILITY ACT, 2015.

Short title and
 commencement.

(2) This Act shall come into force on such a day as the Minister may appoint by Order in the Gazette.

Interpretation.

2. In this Act—

“arrears” means Government obligations from the current and past years that are due but have not been paid;

“borrowing” means the creation of debt obligations through any means including advances, loans, overdrafts, Government securities, payment arrears, finance leases, suppliers credit, and other borrowing from commercial banks, and “borrow” shall be construed accordingly;

“capital expenditure” means non-recurrent expenditure on goods, works and services carried out by the Government or any public entities on its own or by one or more public entities in conjunction which is aimed at accumulating new physical assets with usable value for more than one financial year or improving or rehabilitating such existing physical assets, to achieve development objectives;

“Central Government” means every branch, ministry, department, agency of the Government and includes all special funds established and maintained by the Government under the Consolidated Fund;

“commitment” means a legally binding agreement that will result in payments or other liabilities for the Government or a covered public entity under this Act;

“contingent liabilities” means possible obligations which shall arise by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Government and includes debt guarantees, demand or price guarantees, and termination clauses or other default provisions that could imply a transfer of liabilities to the Government, but excludes letters of comfort;

“covered public entity” means a statutory body or state-owned enterprise for which any of the following applies—

- (a) the entity has received transfers of any kind from the Budget, including subventions or guarantees for any year in the five-year period immediately preceding the fiscal year;
- (b) the entity has, for three consecutive quarters in the preceding fiscal year, not met the quarterly reporting requirements established by the Minister; or
- (c) the audited balance sheet of the entity has recorded a negative equity position as at the end of one of the preceding three financial years;

“Division of Economic Management and Planning” means the division of the Ministry with responsibility for—

- (a) management of debt;

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- (b) preparation, monitoring and implementation of the annual budget;
 - (c) macroeconomic and fiscal surveillance; and
 - (d) monitoring of state-owned enterprises;

“debt-stabilising primary balance” means the primary balance that is consistent with maintaining the debt-to-GDP ratio constant over the medium term, which is computed in accordance with the First Schedule;

“expenditures” means expenditures of the Central Government and covered public entities, and includes—

- (a) interest and non-interest spending;
- (b) current spending under the Recurrent Expenditure Chart of Accounts; and
- (c) capital spending under the Capital Expenditure Chart of Accounts;

“fiscal balance” means the total receipts into Central Government accounts and accounts of covered public entities (excluding debt receipts and unspent grants) less total disbursements (excluding repayment of debt) during the financial year;

“fiscal risk” means the possibility that actual fiscal outcomes will deviate from the fiscal outcomes expected at the time of the presentation of the annual estimates of revenue and expenditure arising from matters such as—

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Fiscal Responsibility

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- (a) economic outcomes differing from the assumptions made in the budget;
 - (b) the structure of public debt;
 - (c) the potential call on explicit Government guarantees and the realisation of other contingent liabilities, including those associated with public-private partnerships; and
 - (d) the occurrence of natural disasters and other ‘acts of God’;

“fiscal target” means a specified quantitative limit against which a particular fiscal variable is measured and monitored;

“GDP” means the level of nominal gross domestic product measured at market prices that has not been adjusted for inflation, as published by the Statistical Office;

“medium term” means a period not exceeding five fiscal years;

“Minister” means the Minister of Finance;

“Ministry” means the Ministry of Finance;

“notional compensation account” means an accounting mechanism for tracking the cumulative deviations (whether negative or positive) of actual fiscal primary balances from targeted primary fiscal balances from the first full year in which the Act has come into effect, and “notional

compensation balance” means the resulting balance reflected on this notional compensation account;

“primary balance” means the overall fiscal balance before interest expense;

“primary expenditure” means the total expenditure less interest payment on debt in a fiscal year;

“public-private partnership” means a contract or arrangement governed by a long-term procurement contract between one or more public entities and one or more private entities, for providing or managing a public asset and associated services through the appropriate sharing of resources, risks and rewards;

“public debt” includes all direct liabilities of Central Government and covered public entities, including advances, arrears, compensation claims, finance leases, Government securities, loans, overdrafts, promissory notes, and supplier’s credit agreements, and contingent liabilities, but excludes explicit contingent liabilities arising as a result of or in connection with public-private partnerships;

“Public Debt Management Act” means the Public Debt Management Act, 2015;

“Public Finance Management Act” means the Public Finance Management Act, 2015;

“public sector” means the Central Government, the National Insurance Scheme, statutory bodies, and state-owned enterprises;

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“real effective interest rate” means the weighted average nominal interest rate on outstanding government debt, as calculated by the Division of Economic Management and Planning using the average inflation rate over the five financial years prior to the current year as a proxy for the expected rate of inflation;

“real expenditures” means expenditures of Central Government and covered public entities, divided by the consumer price index;

“real GDP” means the level of gross domestic product at base year market prices as estimated by the Statistical Office;

“real GDP growth rate” means the rate of change of real GDP on an annual basis;

“real wage bill” means the wage bill divided by the consumer price index;

“recalibration” means the process of periodically resetting the minimum fiscal balance required to achieve the debt sustainability target of no more than fifty-five percent of gross domestic product;

“recovery plan memorandum” means the document that is prepared pursuant to section 10 (5);

“recurrent expenditure” means expenditures that are not capital expenditures, and includes normal overhead and administrative expenses, purchases of non-capital goods, personnel

costs including salaries, emoluments and other benefits of the Government's current and past employees, interest payments, and transfers to covered public entities;

“revenue” means all taxes, tolls, imposts, levies, rates, duties, fees, penalties, royalties, surcharges, forfeitures, rents and dues, proceeds of sale, repayment of loans and all other receipts of the government from whatever sources arising, over which Parliament has the power of appropriation;

“state-owned enterprise” means an entity whether or not incorporated under company law, being—

- (a) a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of that company through, among other things, its representation on the governing board of the entity; or
- (b) a company, Board or Authority established under special legislation which recovers a significant proportion of its operating costs through charges on users,

and being determined by the Minister to be a state-owned enterprise;

“Statistical Office” means the Statistical Office established pursuant to section 3 of the Statistics Act, Chapter 311;

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“statutory body” means a body set up by an enactment with statutory powers and operational autonomy to carry out Government-related functions and which are part of and under the direct control of the Government;

“supplier’s credit agreement” means credit arrangements by which goods or services are supplied on credit for payment at future dates agreed between the supplier and purchaser;

“tax revenue” includes all tax and customs revenue collected and deposited into the Consolidated Fund during a fiscal year, corresponding to line items 110 and 120 of the Chart of Accounts;

“wage bill” means all personal emoluments, wages, allowances, and payments for professional services, made to Government established and un-established employees including project workers employed under the Public Sector Investment Programme, and such payments made to employees of covered public entities, but excludes pensions and National Insurance Scheme payments.

3. This Act governs matters related to the management of public finances and fiscal matters relating to the Central Government and covered public entities.

Scope and application of this Act.

4. This Act shall be read and construed together with the Public Finance Management Act and the Public Debt Management Act.

Act to be read in conjunction with other legislation.

5. The objects of this Act are—

Objects of this Act.

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- (a) to ensure that fiscal and financial affairs are conducted in a transparent manner;
 - (b) to ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications;
 - (c) to ensure that debt is reduced to, and then maintained at, a prudent and sustainable level by maintaining primary surpluses that are consistent with this object; and
 - (d) to ensure prudent management of fiscal risks.

PART II

FISCAL RESPONSIBILITY FRAMEWORK

Duty of Government to comply with fiscal rules.

6. The Minister shall take appropriate measures to ensure compliance with this Act, including taking appropriate measures to ensure the following—

- (a) that the fiscal and financial affairs of the Government are conducted in a transparent manner with full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and the implications for finances;
- (b) that there is observation of the principle of fiscal sustainability by ensuring that debt is reduced to, and then maintained at, a prudent and sustainable level as prescribed pursuant to

section 8 (1), by maintaining primary surpluses that are consistent with this objective;

- (c) that there are no announcements or implementation of any new policy initiative, unless measures that offset the impact of the policy initiative on the primary balance or overall level of spending have been identified;
- (d) that management of fiscal risks is in accordance with regulations and guidelines to be issued by the Minister; and
- (e) that documented public investment procedures are prepared and made available for the submission and approval of all projects submitted for inclusion in the capital expenditure programmes of the Central Government and covered public entities.

7.— (1) The Minister shall take appropriate measures to ensure that—

Expenditure and wage rules.

- (a) the rate of growth of the primary expenditure of the Central Government, and of every covered public entity, shall not exceed two percent in real terms in any fiscal year, when adjusted by the preceding year's inflation rate;
- (b) policy on negotiation of rates of pay and related conditions of employment for persons employed in the Central Government and covered public entities shall be consistent with the targets under section 8 (1) and the policies and plans set out in the Medium Term Fiscal

Framework under section 12 (2) of the Public Finance Management Act; and

- (c) no multi-year commitment shall be entered during a period in which Parliament is dissolved.

(2) For the purposes of subsection (1) (b), the Minister shall, by order subject to negative resolution, establish compensation negotiating cycles that allow for compensation settlement for persons employed by the Government to be incorporated into the Estimates of Revenue and Expenditure for the financial year to which such settlement relates.

(3) The Minister shall take appropriate measures to ensure that the ratio of expenditure on the wage bill shall not exceed nine percent to GDP.

(4) For purposes of determining the maximum wage bill and expenditure in nominal terms for any fiscal year, the consumer price index for the immediately preceding fiscal year shall be used to adjust the real growth rate of primary expenditure for inflation as specified in subsection (1) (a),

Provided that if it appears that the real expenditure or wage bill for a fiscal year actually exceeds two percent in real terms, as a result of a lower inflation rate than anticipated at the beginning of the fiscal year, the fiscal rules in subsection (1) (a) shall not be deemed to have been breached.

Prudent debt, contingent liabilities, and primary balance target.

8.—(1) The Minister shall take appropriate measures to ensure that the ratio of the total of—

- (a) the total stock of public sector debt from domestic or external sources for any purpose, including the total sum of debt guaranteed by

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the Government including contingent liabilities assumed by the Government, but excluding contingent liabilities arising from, as a result of, or in connection with public-private partnerships;

- (b) the debt and contingent liabilities of statutory bodies and state-owned enterprises; and
- (c) such sums as may be necessary to defray expenses in connection with such liabilities,

to the GDP shall not exceed fifty-five percent of GDP.

(2) The Minister shall ensure that contingent liabilities arising from, as a result of, or in connection with public-private partnerships shall not exceed five percent of GDP.

(3) Where the ratio of public debt to GDP for the preceding year reaches fifty-five percent, the Minister shall take appropriate steps to ensure that—

- (a) the targeted primary balance shall be a minimum of three point five percent of GDP;
- (b) upon achievement of the target specified in paragraph (a), the target shall be maintained over the medium term by ensuring compliance with the expenditure growth rule established in section 7 (1) (a);
- (c) as a transitional arrangement, the targeted primary balance shall be at a minimum one point three percent of GDP in the fiscal year ending in December 2015;

-
- (d) a notional compensatory primary balance shall be calculated to reflect the cumulated difference between the actual primary balance and the target primary balance realised in any fiscal year from the first full fiscal year after commencement of this Act;
 - (e) if at any time the notional compensatory balance shows a value greater than three percent of gross domestic product, revenue and/or expenditure corrective policies will be introduced to reduce the notional compensatory primary balance to zero over a period of three fiscal years to achieve compliance with the target, with at least one third of the adjustment in the first year;
 - (f) where the programme established under the Citizenship by Investment Act, 2013 is in effect—
 - (i) forty percent of the monthly inflows into the National Transformation Fund shall be saved for general budget financing purposes, including contingency spending, natural disasters and debt reduction;
 - (ii) at the end of every month, the inflow under subparagraph (i) shall be transferred from the National Transformation Fund account to the Consolidated Fund; and
 - (iii) upon achievement of the debt levels pursuant to subsections (1) and (2),

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the total sum of receipts from the programme, which are used for meeting the primary balance targets shall not exceed the equivalent of one point five percent of GDP.

(4) Upon achievement of the debt levels pursuant to subsections (1) and (2), the Minister shall take appropriate steps to maintain, in compliance with the expenditure growth rule established in section 7 (1) (a), a debt-stabilising primary balance of one percent of GDP which shall be computed in accordance with the First Schedule.

(5) If in a fiscal year the debt level exceeds sixty percent of GDP, the Minister shall undertake appropriate corrective revenue and expenditure measures to reduce the public debt to fifty-five percent of GDP over a period of three fiscal years, with at least one-third of the adjustment in the first year.

9. The following are exempted from the fiscal rules and targets established under this Part—

Receipts and expenditures excluded from fiscal rules and targets.

- (a) grants made to the Government for the financing of capital expenditures in Grenada and the associated expenditures; and
- (b) any capital expenditures made from or under the National Transformation Fund.

10.—(1) The Minister may by Order suspend, for a period not exceeding one fiscal year, fiscal rules, targets and corrective measures under sections 7 and 8, where—

Escape clause.

- (a) a natural disaster, public health epidemic, or war as a result of which a state of emergency

has been declared by the Governor-General pursuant to section 17 (1) of the Constitution;

- (b) real GDP experiences a decline of two percent in a given fiscal year or a cumulative decline equal to or greater than three percent over two consecutive fiscal years;
- (c) the Eastern Caribbean Central Bank has certified in writing that a financial sector crisis has occurred, or is imminent, and the Minister estimates that the fiscal costs of such crisis, including the costs of any related recapitalisation of banks by the Government after all possible private sector solutions have been explored, is likely to equate or exceed four percent of GDP,

if the Minister determines that implementation of the fiscal rules, targets or corrective measures would be unduly harmful to the public finances and macroeconomic or financial stability.

(2) An Order made pursuant to subsection (1) shall, being accompanied by a memorandum pursuant to subsection (3), be subject to approval by Cabinet and laid before Parliament, which shall be subject to negative resolution of Parliament.

(3) A memorandum accompanying a draft order under subsection (2) shall set out—

- (a) the manner in which implementation of the fiscal rule or target would be harmful to the public finances, macroeconomic or financial stability; and

- (b) the estimated levels of expenditure or wages for the period as a result of the relevant circumstances under subsection (1) and the implications for the current fiscal year and the subsequent fiscal year.

(4) Where the Minister has suspended any fiscal rule, target or corrective measure established under section 7 or 8, the Minister shall immediately prepare and lay before the Houses of Parliament for approval a recovery plan memorandum pursuant to subsection (5).

(5) The recovery plan memorandum under subsection (4) shall set out the measures proposed to secure compliance with the fiscal rule, target or corrective measure at the expiration of the period for which Parliament approves the suspension of a fiscal rule, target or corrective measure established under section 7 or 8, including the size and nature of the revenue and expenditure measures.

(6) Subject to subsection (7), in the fiscal year immediately following the period for which fiscal rules and targets are suspended pursuant to this section, the Minister shall implement the measures approved by Parliament under the recovery plan memorandum to ensure full compliance with the fiscal rules and targets under sections 7 and 8.

(7) Where the Minister determines that resumption of the application of fiscal rules, targets or corrective measures at the expiration of the period stipulated in an Order made pursuant to subsection (1) would be unduly harmful to the public finances and macroeconomic or financial stability, the Minister may make a second Order to extend the period for which such fiscal rules and targets are suspended under this section by a period not exceeding one fiscal year.

(8) An Order made pursuant to subsection (7) shall, being accompanied by a memorandum pursuant to subsection (3), be subject to approval by Cabinet and subject to affirmative resolution of Parliament.

Recalibration of targets under the fiscal rules.

11.—(1) Upon achievement of the public debt target prescribed in section 8 (1), the debt-stabilising primary balance shall be recalibrated and every five fiscal years thereafter to ensure that the debt-stabilising primary balance is consistent with a sustainable level of public debt.

(2) As part of the annual budget and any supplementary budget, the Minister shall propose appropriate revenue or expenditure policies to achieve the recalibrated debt-stabilising primary balance to Parliament for approval and implementation over a period of three fiscal years.

(3) The recalibration shall account for—

- (a) the average real GDP growth rate since the fiscal year ended in December 2000 as a proxy for potential output; and
- (b) the average real effective interest rate for the preceding five years or the real effective interest rate for the next five years, as estimated by the Division of Economic Management and Planning, whichever is higher, in accordance with the First Schedule.

(4) Where, at the time of the recalibration, the average real GDP growth rate at constant market prices since the fiscal year ended December 2000 is greater or less

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than two percent by more than half of a percent, the estimated real GDP growth rate used in the expenditure rule, in the wage rule, and in calculation of the debt-stabilising primary balance shall be recalibrated to reflect the expenditure and wage growth rates specified in paragraphs (a) and (b) respectively of section 7.

(5) During a period of transition to the lower primary balance as a result of—

- (a) recalibration of the debt-stabilising primary balance pursuant to section 11; or
- (b) achievement of the public debt target specified in section 8 (1) in the preceding fiscal year for the first time since the commencement of this Act and where a lower primary balance is needed to stabilise debt at the public debt target,

the Minister may adjust expenditures and revenues consistent with the new targeted primary balance in accordance with the First Schedule, with the expenditure rule suspended during this transition and only by the amount necessary to reach the new primary balance.

PART III

RESPONSIBILITIES FOR IMPLEMENTATION AND MONITORING FISCAL RESPONSIBILITY FRAME- WORK

12.—(1) The Minister—

- (a) shall take appropriate measures to ensure transparency in the Government's fiscal operations

Duties and powers of the Minister for implementation and reporting.

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- at every stage of the budget preparation and execution cycle, unless it is reasonably required to withhold publication of information in the interest of national security, or of financial or economic stability;
- (b) may request information from any legal person or legal entity and may request that any legal person or legal entity comply with any relevant provision of this Act;
 - (c) shall prepare and submit to Parliament, along with the presentation of the annual and any supplementary budget, a statement showing the progress made towards compliance with the fiscal rules and targets under sections 7 and 8, in the relevant financial year;
 - (d) shall, at the first sitting of every new Parliament, prepare and submit to Parliament, along with the presentation of the relevant budget and any supplementary thereof, a statement showing the progress made towards compliance with the fiscal rules and targets under sections 7 and 8; and
 - (e) shall prepare and submit to Parliament, with the annual Budget Bill, a fiscal risk statement that shall reflect all decisions by Cabinet and the Minister and circumstances that may have a material effect on the economic and fiscal outlook.
- (2) A report statement pursuant to subsection (1) (c) shall include—

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- (a) a review of performance over the preceding two years in comparison with the fiscal rules and targets under sections 7 and 8;
 - (b) the notional compensation primary balance;
 - (c) explanations for every instance of underperformance or overperformance and implications for future years; and
 - (d) the manner in which the annual budget or supplementary budget laid before Parliament complies with the fiscal rules and targets, and reflects improvement required for full compliance.
- (3) A fiscal risk statement pursuant to subsection (1) (d) shall include—
- (a) the sensitivity of economic and fiscal forecasts to changes in the economic outlook and economic shocks;
 - (b) the exposure of the Government to contingent liabilities, including guarantees and obligations arising from judicial proceedings in progress;
 - (c) fiscal risks arising from the financial sector, statutory bodies, state-owned enterprises, public-private partnerships, and any other institutions;
 - (d) any commitment unaccounted for in the economic and fiscal forecasts;

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- (e) any other circumstance that may have a material effect on economic and fiscal forecasts and is unaccounted for in the economic and fiscal forecasts; and
 - (f) any measures implemented by Cabinet, or the Minister, to manage fiscal risks.
- (4) The Minister may, for the purpose of fulfilling his or her responsibilities under subsection (1)–
- (a) request any financial statement, data, or information associated with fiscal risks from any economic entity, any entity in the public sector or any entity receiving guarantees and loans from the Government; and
 - (b) request information from any domestic or regional authority, including the Eastern Caribbean Central Bank, Eastern Caribbean Securities Exchange, the Grenada Authority for the Regulation of Financial Institutions and any other supervisory entity responsible for the supervision of financial institutions or other business undertakings, about fiscal risks associated with any entity in Grenada under supervision by the domestic or regional authority.

Statistical data.

13.—(1) The Division of Economic Management and Planning shall produce all fiscal data necessary for compliance with the provisions of this Act on a timely and regular basis as may be prescribed by the Minister pursuant to section 16.

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(2) The Statistical Office shall produce macroeconomic data that will be needed to meet the requirements of this Act on a timely and regular basis in accordance with the schedule to be specified in the Regulations to this Act.

(3) Where the Statistical Office is unable to produce the macroeconomic data in a timely manner, the Minister may rely on available estimates which in the professional opinion of the Minister are most credible and accurate in the circumstances.

(4) Where the Minister relies upon any estimate provided pursuant to subsection (2), the Minister shall disclose the source of the estimate in any communication or report that reflects the estimate.

14.—(1) There is hereby established the Fiscal Responsibility Oversight Committee.

Fiscal Responsibility Oversight Committee.

(2) The composition of the Fiscal Responsibility Oversight Committee and related matters are set out in the Second Schedule.

(3) The Fiscal Responsibility Oversight Committee shall—

- (a) monitor compliance with the fiscal rules and targets under sections 7 and 8;
- (b) lay before the House of Representatives for consideration, an annual report on the status of implementation of this Act; and
- (c) upon request by the House of Representatives, lay before the House of Representatives an assessment report on the degree to which economic forecasts set out in the

annual budget or supplementary budget, and supporting documents, comply with the provisions of this Act.

(4) An annual report pursuant to subsection (3) (b) shall include—

- (a) the progress made towards compliance with the fiscal rules and targets established under sections 7 and 8 with respect to the relevant financial year including where applicable a statement on compliance with a fiscal rule or target within the fiscal year;
- (b) outcomes and implications of implementation of this Act;
- (c) advice on measures that ensure compliance in accordance with provisions of this Act;
- (d) the occurrence of circumstances leading to the activation of the automatic correction mechanism for cases of significant observed deviations from the targets included in this Act or the adjustment path towards it in accordance with section 11, and any occurrence or cessation of such circumstances;
- (e) progress made in the period of adjustment towards ensuring that compliance with fiscal rules and targets is being made in accordance with the automatic correction mechanism.

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(5) The Fiscal Responsibility Oversight Committee may request any additional information or documents for the purposes of carrying out its responsibilities under this section.

(6) Where the Fiscal Responsibility Oversight Committee lays before the House of Representatives a report pursuant to paragraph (b) or (c) of subsection (3)–

- (a) the House of Representatives shall cause a copy of the report of the Fiscal Responsibility Oversight Committee to be served on the Minister within seven days of receipt of the report and cause a copy to be published in the Gazette within seven days of receipt of the report;
- (b) the Minister shall make representations in the House of Representatives in response to the contents of the report, including any areas of non-compliance referred to in the report; and
- (c) the Public Accounts Committee, the Standing Orders Committee and the Standing Committee on Finance of Parliament shall proceed to examine the report together and the representations made by the Minister, and shall make recommendations to the House of Representatives on the implementation of measures to ensure compliance with the relevant provisions of this Act.

PART IV
MISCELLANEOUS

Confidentiality.

15.—(1) In furtherance of this Act, the Minister may reserve any information which, in the opinion of the Minister—

- (a) is confidential commercial information; or
- (b) if disclosed, could prejudice national security or defence or have a substantial adverse effect on the Grenadian economy or the Government's ability to manage the Grenadian economy.

(2) A person with responsibility for or involved in management of public debt who discloses any information to any unauthorised person shall be subject to disciplinary action by the Public Service Commission including dismissal, and prosecution where appropriate, demotion, suspension, or other sanctions applicable to breach of any public financial management requirements under the Public Finance Management Act or other relevant law or administrative code of conduct.

Regulations.

16.—(1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations—

- (a) relating to the methodologies and procedures for the computation of the fiscal and other ratios to be used in the preparation of the reports required for measuring compliance with the provisions of sections 7 and 8 of this Act;

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- (b) relating to the discharge of the responsibilities of accountable officers; and
 - (c) prescribing the operational guidelines for the preparation, submission and approval of public investment projects.

FIRST SCHEDULE

Formula for computing “Debt-Stabilising Primary Balance”

(Section 8)

The Debt-Stabilising Primary Balance shall be recalibrated using the following formula—

$$PB=(R-G)/(1+G)*D$$

Where:

- (i) PB is the debt-stabilising primary balance to GDP ratio
- (ii) R is the real effective interest rate
- (iii) D is the debt-to-GDP ratio
- (iv) G is the real GDP growth rate.

SECOND SCHEDULE

Fiscal Responsibility Oversight Committee

(Section 14)

1. Composition (1) The Fiscal Responsibility Oversight Committee shall consist of three members nominated by the House Committee of Parliament on the advice of the Director of Audit, with qualifications in the following areas—

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- (a) accounting,
- (b) economics or business management,
- (c) public administration, or
- (d) law.

(2) The persons appointed shall select a Chairperson from their number.

(3) All persons appointed to the Fiscal Responsibility Oversight Committee shall hold office for as long as the appointing authority determines.

2. Secretariat. The Division of Economic Management and Planning of the Ministry shall provide secretariat support for the Fiscal Responsibility Oversight Committee.

3. Meetings. (1) The Fiscal Responsibility Oversight Committee shall meet as often as is necessary but at a minimum of three times a year;

(2) Subject to the provisions of this Act, the Fiscal Responsibility Oversight Committee shall regulate its own proceedings.

Passed by the House of Representatives this 29th day of May, 2015.

WILLAN THOMPSON

Clerk to the House of Representatives.

Passed by the Senate this 5th day of June, 2015.

WILLAN THOMPSON

Clerk to the Senate.

GRENADA

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Affairs of the Board



GRENADA

ACT NO. 39 OF 2014

I assent,



23rd September, 2014.

CÉCILE E. F. LA GRENADÉ
Governor-General.

AN ACT of Parliament to promote the public interest by prescribing the principles of good governance namely accountability, transparency, integrity and value for money in public procurement and to establish a framework of operational principles and procedures for efficient public procurement and for the disposal of public property by public entities and to provide for other related matters.

[By Order].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada, and by the Authority of the same as follows—

PART I**PRELIMINARY**

1.—(1) This Act may be cited as the

**PUBLIC PROCUREMENT AND DISPOSAL
OF PUBLIC PROPERTY ACT, 2014.**

Short title and
commencement.

(2) This Act shall come into operation on a day which the Minister may by Order, publish in the *Gazette*.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

“Board” means the Public Procurement Board established under section 6;

“Commission” means the Public Procurement Review Commission established under section 8;

“consultancy services” means intellectual and/or professional services and assignments performed by consultants with outputs of advisory, design and transfer of know-how nature;

“corruption” has the meaning assigned to it in the Prevention of Corruption Act, and also includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution;

“Chief Procurement Officer” means the director of the staff of the Board and Secretary to the Board provided for under section 7;

“framework contract” means a contract awarded on the basis of this Act and the Regulations between one or more contracting entities and one or more contractors, suppliers, service providers or consultants the purpose of which is to establish the terms governing orders for the supply of goods and related services or repair and maintenance works to be placed during a given period, in particular with regard to price, and,

where appropriate, the quantity or quantities envisaged;

“goods” includes raw materials, things in liquid or gas form, electricity and services that are incidental to the supply of the goods;

“Minister” means unless the context requires otherwise the Minister responsible for matters relating to procurement;

“Permanent Secretary” means unless the context requires otherwise, the Permanent Secretary responsible for the Ministry of Finance;

“prescribed” means prescribed by the Regulations;

“procurement” means the acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means of any type of works, assets, services, consultancy services or goods including livestock or any combination thereof by a procuring entity commencing with the identification of the need for the works, assets, services, consultancy services or goods and ending with the performances of the related contracts and the term “procure” or “procured” shall be construed accordingly;

“procurement contract” means a contract concluded between a procuring entity and a supplier, contractor, consultant or service provider at the end of the procurement proceedings;

“procuring entity” means a public entity making a procurement to which this Act applies;

“public entity” means—

- (a) the Government or any Ministry or department of the Government or a unit thereof or its attached or subordinate office to which powers of procurement have been delegated;
- (b) any executive agency or company wholly owned and controlled by the Government;
- (c) any company in which more than fifty percent of the paid up share capital is held by the Government or by one or more companies in which the Government holds more than fifty percent of the paid-up share capital;
- (d) any body, board or corporation or authority or trust or autonomous body (by whatever name called) established or constituted under an Act of Parliament;
- (e) any other entity which the Government may, by notification, specify to be a procuring entity for the purposes of this Act, being an entity that receives financial assistance from the Government in so far as the utilisation of such assistance towards procurement is concerned; or
- (f) an entity prescribed as a public entity for the purpose of this paragraph;

“public funds” has the meaning assigned to it in the Public Finance Management Act and also includes monetary resources appropriated to pro-

curing entities through the budgetary process, as well as extra budgetary funds, including aid grants and credits, put at the disposal of procuring entities by foreign donors, and revenues of procuring entities and funds that are—

- (a) received or receivable by the Government, a statutory body, an executive agency or a state controlled enterprise;
- (b) raised by an instrument from which it can be reasonably inferred that the Government accepts ultimate liability in the case of default;
- (c) spend or committed for future expenditure, by the Government, a statutory body or a Government controlled enterprise;
- (d) distributed by the Government, a statutory body or a Government controlled enterprise to a person; or
- (e) raised by a private body in accordance with a statutory instrument, for a public purpose;

“public officer” has the meaning assigned to it under section III of the Constitution;

“public procurement” means procurement involving the use of public funds;

“Regulations” means the procurement regulations made by the Minister in accordance with this Act as may be laid down, amended or otherwise modified from time to time;

“services” means any subjects of procurement or disposal other than works, goods and consultancy services, including goods and works which are incidental to but not exceeding the value of those services;

“state controlled enterprise” means a company that is registered under the Companies Act—

- (a) for a public purpose, or
- (b) where the government or any person controlled by the government is entitled to exercise control directly or indirectly over the affairs of the company;

“statutory body” means any body, board or corporation or authority or trust or autonomous body (by whatever name called) established or constituted under an Act of Parliament;

“works” means the construction, repair, maintenance, renovation or demolition of buildings, roads, highways, ports, airports or other structures and includes—

- (a) the installation of equipment and materials;
- (b) site preparation;
- (c) any construction projects;
- (d) construction work relating to excavation or drilling; and
- (e) other incidental services;

“validity period” means the period during which a tenderer agrees not to increase the cost of its tender or to remove any components of the tender.

3.—(1) The objects of this Act are to promote the public interest by prescribing the principles of good governance, namely accountability, transparency, integrity and value for money in public procurement and to establish procedures for the procurement and the disposal of public property by public entities to achieve the following objectives—

Objects of
the Act and
Illegality.

- (a) maximise economy and efficiency;
- (b) promote competition among suppliers, contractors, consultants and service providers and provide for their fair, equal and equitable treatment;
- (c) promote the integrity and fairness of such procedures;
- (d) increase transparency and accountability in such procedures;
- (e) increase public confidence in such procedures; and
- (f) facilitate the promotion of local industry and economic development.

(2) A public entity shall carry out public procurement and disposal of public property in a manner that is consistent with the objects of this Act.

(3) Any procurement of goods, works or services or disposal of public property that is not done in accordance with this Act and any procurement contract or agreement

that is not entered into in accordance with this Act shall be void and illegal.

Application of
Act.

4.—(1) This Act applies to all public procurement by procuring entities within the meaning of this Act and any activities related thereto and each disposal by a public entity of stores and equipment that are unserviceable, obsolete or surplus.

(2) This Act does not apply to the procurement of goods, works or services under \$15,000.00 or arising out of—

- (a) procurement that is below the approval thresholds prescribed from time to time for a procuring entity which is a state controlled enterprise or a statutory body whereby such procuring entities may approve procurement which is below such threshold values;
- (b) the acquiring of stores or equipment if the stores or equipment are being acquired from a public entity that is disposing of such stores and equipment in accordance with the procedure described in section 57(3)(a);
- (c) the acquiring of services provided by the Government or a department of the Government;
- (d) contracts of employment;
- (e) procurement of items of a sensitive nature for national defence and security purposes or on strategic considerations that the Government may, by general or specific order, specify;

- (f) the acquiring or rental of real property;
- (g) a procurement made under a co-operative procurement agreement under which the Government agrees to procure goods or services through a central organization or a regional organization, using the procurement procedures of the central organization;
- (h) contracts for services by the Department of Public Administration; and
- (i) any other exceptions as prescribed.

5.—(1) If there is a conflict between this Act or the Regulations and any other law of Grenada, in matters relating to public procurement and disposal, this Act and the Regulations shall prevail.

Conflicts with other Acts or international agreements.

(2) The requirements and obligations arising from a treaty or other international agreement to which Grenada is a party are to be applied where the provisions of this Act and the Regulations are inconsistent with it but in all other respects, procurement shall be governed by this Act and the Regulations.

PART II

BODIES INVOLVED IN THE REGULATION OF PUBLIC PROCUREMENT

6.—(1) There is hereby established a body to be called the Public Procurement Board to which section 49 of the Interpretation Act shall apply.

Establishment of Board.

(2) For all procurements above the prescribed thresholds, the Board shall be responsible for—

-
- (a) approving the evaluation committee upon the proposal of the chief accounting officer of the respective procuring entity;
 - (b) providing a “Certificate of Formal Approval” and a “Certificate of ‘No-objection’ for Contract Award” in accordance with the prior review thresholds;
 - (c) providing written approval for the use of procurement methods other than open competitive tendering;
 - (d) issuing and reviewing general procedures in relation to public procurement and the disposal of public property; and
 - (e) approving in respect of each procuring entity, which is a state controlled enterprise or a statutory body, special procedures and guidelines in relation to public procurement and the disposal of public property under sections 17 (7) (b) and (c) and 55 (4) (b) and (c), subject to the approval of the line Minister.

(3) The terms and conditions of the members of the Board are prescribed in the First Schedule and the conduct of business and affairs of the Board are prescribed in the Second Schedule.

(4) In the performance of its functions, the Board shall—

- (a) act expeditiously and take such other steps as it thinks fit in order to minimize any negative

economic impact arising out of the performance of its functions;

- (b) report to the Minister;
- (c) issue directions to public entities to ensure compliance with this Act and the Regulations;
- (d) where a reason exists, notify the relevant authorities and cause to be audited, inspected or reviewed any procurement or disposal of public property transaction to ensure compliance with the provisions of this Act and the Regulations;
- (e) enforce the monetary and prior review thresholds as are prescribed for the application of the provisions of this Act by the procuring entities;
- (f) from time to time stipulate to all procuring entities the procedures and documentation pre-requisite for the issuance of a “Certificate of ‘No Objection’ for Contract Award” under this Act;
- (g) manage public procurement and disposal of public property within its jurisdiction in accordance with the provisions of this Act and the Regulations;
- (h) supervise the implementation of established procurement and disposal of public property policies;
- (i) only in accordance with the Regulations on debarment, debar any supplier, contractor,

consultant or service provider for just cause under this Act and Regulations;

- (j) initiate public procurement policy and propose amendments to this Act or to the Regulations;
- (k) prepare advice for the Cabinet on matters relating to public sector procurement and disposal of public property;
- (l) promote the application of fair, competitive, transparent, value-for money standards and practices for the procurement and disposal of public assets and services;
- (m) monitor and report on the functioning of public procurement and the disposal of public property;
- (n) assist in the implementation and operation of the public procurement system in accordance with this Act and the Regulations and in doing so to—
 - (i) establish and disseminate mandatory forms and templates for use by procuring entities including but not limited to: annual and contract specific procurement plans, standard tender documents for all types of procurement (requests for quotation, tendering, pre-qualification etc.), standard forms of contract, advertisement notices, contract award notices and templates for maintaining records;

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- (ii) provide advice and assistance to procuring entities;
 - (iii) develop, promote and support the training and professional development of persons involved in procurement;
 - (iv) foster improvements with the use of technology in public procurement including electronic trading; and
 - (v) do such other things as it considers necessary or expedient for the efficient performance of its functions under this Act and the Regulations.
- (5) Whenever procurement is centralized as prescribed by the Regulations, responsibility for centralized procurement shall vest with the Board.
- (6) In exercising its functions under subsection (5), the Board shall organise the purchase of common-use items either under individual contract or framework contract arrangements on behalf of selected or all procuring entities.
- (7) When conducting procurement under this section, the Board shall follow the procurement procedures set down in this Act and the Regulations.
- (8) The Board may, upon such terms and conditions as the Board may determine and with the approval of the Minister, hire the services of such consultants, experts or independent

investigators as may be necessary for the proper performance of its functions under this Act and the Regulations.

Staff of Board.

7.—(1) The Board shall have staff which shall provide administrative, secretarial and other support for the Board and shall be responsible for the following functions:

- (a) establish and maintain an archival system of all public procurements and public property disposals, as prescribed by the Regulations;
- (b) establish and/or maintain a single internet portal that shall serve as a primary and definitive source of all information on public procurement and disposal of public property containing and displaying all public sector procurement and disposal of public property information at all times;
- (c) maintain a list of firms and persons that have been debarred from participating in public procurement activities and publish them;
- (d) maintain an up-to-date register of suppliers and contractors in works, goods and services, or any combination thereof, in order to be cognizant at all times of the workload and performance record of each supplier and contractor;
- (e) using information provided by the Board and procuring entities, establish a comprehensive database available for public access with information on procurement processes, submissions received, the award and value of

procurement contracts and such other information of public interest as the Board determines.

(2) The Board shall have such staff as is considered necessary for the efficient performance of its functions and shall incorporate the staff of the Procurement Unit of the Ministry of Finance.

(3) The Chief Procurement Officer shall direct the staff and serve as the Secretary to the Board.

8.—(1) For the purpose of this Act there is hereby constituted a body to be known as the Public Procurement Review Commission to—

Establishment
of Review
Commission.

- (a) resolve disputes arising from candidates who claim to have suffered or to risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by this Act and the Regulations;
- (b) adjudicate the Board's decisions made against procuring entities on investigations and debarment of suppliers, contractors, consultants and service providers from participating in procurement proceedings; and
- (c) such other powers as are provided for under this Act and the Regulations.

(2) Administration and logistical support of the Commission shall be provided by the staff of the Board.

(3) The Commission shall be convened as necessary based on applications for review made in accordance with Part VII.

(4) The rules of procedure of the Commission shall be prescribed by the Regulations.

Composition of
Commission.

9.—(1) The membership of the Commission shall comprise a Chairman and four Commissioners being persons with a minimum of experience of ten years in the disciplines of law, accounting, finance, economics, procurement, engineering and public administration, to be appointed by the Governor-General.

(2) The Chairman of the Commission shall be a retired judge or an attorney-at-law of at least ten years qualification.

Costs of the
Commission.

10. The costs incurred for, and in relation to, the performance of the functions of the Commission shall be a direct charge on the Consolidated Fund.

PART III

REQUIREMENTS AND RESPONSIBILITIES OF PROCURING ENTITIES RELATING TO PUBLIC PROCUREMENT

Requirements
for procuring
entities.

11.—(1) Subject to any exemption allowed by this Act all procurement by procuring entities shall be—

- (a) carried out in conformity with this Act, the Regulations and any directions of the Board or the Commission as the case may be;
- (b) based only on procurement plans supported by prior budgetary appropriations;
- (c) subject to a “Certificate of Formal Approval” or a “Certificate of ‘No-Objection’ for Contract Award” from the Board when the prescribed thresholds are met; and

-
- (d) commenced only when the procuring entity has the funds available to meet the obligations.

(2) Where there are prescribed thresholds in the Regulations, no funds shall be disbursed from the Treasury or any bank account of any procuring entity for any procurement falling above such thresholds unless the cheque, payments or other form of request for payment is accompanied by a “Certificate of Formal Approval” or a “Certificate of ‘No Objection’ to Contract Award”, as the case may be, issued by the Board.

(3) Subject to the prescribed thresholds, any procurement purported to be awarded without a “Certificate of Formal Approval” or a “Certificate of ‘No Objection’ to Contract Award” duly issued by the Board shall be null and void.

(4) Each entity shall establish a tender committee, for the purpose of managing procurement on behalf of the procuring entity.

(5) A tender committee or body established under subsection (4) shall be established in accordance with the Regulations and shall—

- (a) consist of not less than three members;
- (b) have as its secretary, the procurement professional in charge of the tender committee of such public entity.

(6) All procurement for Works contracts shall be undertaken only by the Ministry with the responsibility for Works.

Responsibilities
of procuring
entities.

12.—(1) The chief accounting officer of a procuring entity and any public officer to whom responsibility is delegated shall be primarily responsible and accountable for ensuring that the procuring entity fulfills its obligations under section 11(1) and for any actions taken or omitted to be taken either in compliance with or in contravention of this Act, the Regulations and any directions of the Board or the Commission. In particular, the chief accounting officer shall—

- (a) ensure the establishment of a tender committee for each procuring entity provided it is undertaking public procurement;
- (b) approve the entity's annual procurement plan and ensure its dispatch to the Board for publication;
- (c) for contracts with a value above the prescribed thresholds, ensure the dispatch of the tender evaluation report and contract award recommendation to the Board for formal approval or non-objection, as the case may be, or to the Cabinet as prescribed;
- (d) issue the letter of award to the successful tenderer and inform unsuccessful tenderers of the result; and
- (e) sign the procurement contract.

(2) Each employee of a procuring entity and each member of a committee of the procuring entity shall ensure, within the areas of responsibility of the employee or mem-

ber, that this Act, the Regulations and any directions of the Board, or the Commission are complied with.

(3) With the approval of the Board a procuring entity may decide to use the services of—

- (a) another procuring entity and its tender committee; or
- (b) a procuring agent provided that such procuring agent is selected on a competitive basis in accordance with the procedures set out in this Act and the Regulations and that it complies with the provisions of this Act and the Regulations.

Except that in the case of a procurement for Works, a procuring entity shall use the services of the Ministry responsible for Works as the procuring entity for such procurement.

(4) Except as expressly allowed under the Regulations, a procuring entity shall not enter into a contract for a procurement with—

- (a) an employee of the procuring entity or a member of a committee of the procuring entity;
- (b) a Minister, public servant or a member of a committee of the Government or any department of the Government or a person appointed to any position by the Governor-General or a Minister; or
- (c) a person, including a corporation, who is related to a person described in paragraph (a) or (b).

Whether a person is related to another person for the purpose of sub-section (c) shall be determined in accordance with the Regulations.

(5) Persons, including consultants, who have been engaged by a procuring entity in preparing for a procurement or part of the procurement proceedings thereof shall not make a submission for the procurement in question or any part thereof in any capacity nor shall they co-operate in any manner with suppliers, contractors or service providers in the course of preparing their submissions for such procurement.

(6) A procuring entity shall not request or stipulate that a person should engage a particular supplier, contractor, consultant or service provider as a requirement for participating in any procurement proceedings.

(7) A procuring entity shall comply with—

- (a) such general procedures in relation to public procurement as the Board may issue;
- (b) such special procedures in relation to public procurement approved for a procuring entity which is a state controlled enterprise or a statutory body by the Board and its Line Minister; and
- (c) such guidelines in relation to public procurement approved for a procuring entity which is a state controlled enterprise or a statutory body by the Board and its Line Minister for the purpose of ensuring compliance with this Act and procedures under paragraphs (a) and (b).

(8) Special procedures under subsection (7) (b)–

- (a) shall be prepared by a procuring entity which is a state controlled enterprise or a statutory body and submitted to the Board and its Line Minister for its approval;
- (b) may provide that general procedures under subsection (7) (a) shall apply to a procuring entity subject to such exemptions or amendments as are specified in the special procedures.

(9) Guidelines under subsection (7) (c) shall be prepared by a procuring entity which is a state controlled enterprise or statutory body and submitted to the Board for its approval.

13.—(1) The tender committee shall be responsible for–

Responsibilities
of tender
committees.

- (a) overall procurement planning on behalf of the procuring entity and shall submit the annual procurement plan to the chief accounting officer for approval;
- (b) preparing, in cooperation with the end-user department(s) the procurement plans and tender documents of the procuring entity in respect of each procurement in accordance with the templates issued by the Board;
- (c) preparing the draft contract documents in accordance with the templates issued by the Board;
- (d) ensuring the release of the performance security in accordance with the terms of the contract.

(2) For all contract award procedures, the tender committee shall:

- (a) prepare all requests for quotations, invitations to tender and tendering documents in accordance with the templates issued by the Board;
- (b) publish and dispatch requests for quotation and invitations to tender;
- (c) receive and safeguard quotations, tenders and applications to pre-qualify;
- (d) respond to requests for clarification from tenderers;
- (e) organize and record pre-tender meetings and/or site visits, if any;
- (f) organize the work of the appointed evaluation committee and receive its evaluation report and contract award recommendation;
- (g) for each contract award procedure within the prescribed threshold, nominate and appoint an evaluation committee;
- (h) for each contract award procedure above the prescribed thresholds, nominate an evaluation committee and submit the proposed composition to the Board for approval;
- (i) for contracts with a value below the prescribed threshold—
 - (i) conduct the tender opening; and
 - (ii) approve the tender evaluation report and contract award recommendation;

- (j) prepare and dispatch the evaluation report and contract award recommendation for approval by the chief accounting officer of the procuring entity, Board or the Cabinet, as the case may be;
- (k) publish the contract award notice;
- (l) administer and implement procurement contracts to the extent that it is not carried out by end-user departments; and
- (m) maintain the procurement file and complete the full record of the procurement and submit a summary report of the record to the Board in accordance with this Act and Regulations.

14.—(1) Evaluation committees shall be appointed by the chief accounting officer of the procuring entity for all contracts whose value falls within the prescribed thresholds.

Establishment
and Responsibili-
ties of evaluation
committees.

(2) For all contracts whose value exceeds the prescribed threshold, the chief accounting officer of the procuring entity shall nominate the composition of the evaluation committee and submit this to the Board for approval.

(3) In addition to the obligatory membership of a representative of the tender committee of the procuring entity, the evaluation committee shall be composed of a minimum of three further members which shall include—

- (a) the officer responsible for preparing the requirement/technical specifications;
- (b) the financial officer of the procuring entity;
and

- (c) other members to provide technical, legal or commercial expertise, as appropriate.

(4) The evaluation committee shall include skills, knowledge and experience relevant to the procurement requirement, which may include—

- (a) technical skills relevant to the procurement requirement;
- (b) end user representation;
- (c) procurement and contracting skills;
- (d) financial management or analysis skills;
or
- (e) legal expertise.

(5) The duties of the evaluation committee shall include—

- (a) receiving from the tender committee the tender opening record and tenders;
- (b) evaluating tenders and preparing the tender evaluation report and recommendation for award of a contract and submitting them to the tender committee for onward transmission to the chief accounting officer, Board or Cabinet, as the case may be;
- (c) responding to any queries raised by the approving authority; and
- (d) any other functions specified under this Act and Regulations.

PART IV**FUNDAMENTAL OPERATIONAL PRINCIPLES AND
RULES OF PROCUREMENT**

15.—(1) Except as provided under Part VI of this Act, all public procurement of goods, works and services by all procuring entities shall be conducted by open competitive tendering under Part V.

Operational
Principles
and Rules of
Procurement.

(2) In every case of a procurement to be made under this Act, the procuring entity shall first determine the need for the subject matter of procurement and the procuring entity shall, to the extent possible, take into account the estimated cost of the procurement and shall also decide on the following matters, namely—

- (a) the scope or quantity of the subject matter of procurement, if determined;
- (b) if not by open tendering, the method of procurement to be followed with justification thereof;
- (c) need for pre-qualification, if any; and
- (d) any other matter as may be prescribed.

(3) A procuring entity shall use such standard tender documents as may be prescribed.

16.—(1) Subject to any exemption allowed by this Act no procuring entity may package, divide or structure any procurement as two or more procurements nor use a particular valuation method for estimating the value of procurement for the purpose of avoiding the use of a procurement procedure or take any other action so as to limit competition among

Procurement
not to be split or
inflated.

suppliers, contractors, consultants or service providers or to avoid its obligations under the Act.

(2) In estimating the value of procurement, the procuring entity, shall include the estimated maximum total value of the procurement contract over its entire duration, taking into account all forms of remuneration.

(3) Standard goods, services and works with known market prices shall not be procured above the procuring real market price.

Qualifications
of suppliers,
contractors,
consultants
and service
providers for
procurement.

17.—(1) A procuring entity shall not award a procurement contract to suppliers, contractors, consultants or service providers unless they have the following qualifications—

- (a) the necessary, professional, technical, financial and managerial qualifications, capability, experience, resources, equipment and facilities to perform the procurement contract;
- (b) the legal capacity to enter into the procurement contract;
- (c) are not insolvent, in receivership, bankrupt or in the process of being wound up and are not the subject of legal proceedings relating to any of the foregoing;
- (d) have fulfilled their obligations to pay all required taxes and contributions in Grenada as are applicable;
- (e) neither the person nor any of its management have been debarred from participating in procurement proceedings under Part VIII; and

- (f) neither the person nor any of its directors or officers have been convicted in any country of any criminal offence related to fraud or financial impropriety or making false statements or misrepresentations with respect to their qualifications to enter into a procurement contract, within a period of two years preceding the commencement of the procurement proceedings, or have been otherwise disqualified.

(2) Subject to the right of suppliers, contractors, consultants or service providers to protect their intellectual property or trade secrets, the procuring entity may require them to provide appropriate documentary evidence or other information to establish that they are qualified under sub-section (1).

(3) The criteria under sub-section (1) and any requirements under sub-section (2) shall be set out in pre-qualification documents, if any, and in the tender documents and shall apply equally to all suppliers, contractors, consultants or service providers.

(4) The procuring entity may disqualify a supplier, contractor, consultant or service provider at any time for submitting false, materially inaccurate or incomplete information about his qualifications.

(5) A procuring entity may disqualify a supplier, contractor, consultant or service provider who, without reasonable cause, fails to demonstrate his qualifications when requested to do so.

18.—(1) A procuring entity may engage in a pre-qualification process, prior to soliciting submissions, for the

Pre-qualification
procedures.

purpose of identifying the suppliers, contractors or service providers that are qualified by inviting those interested to submit applications.

(2) For the purpose of sub-section (1), a procuring entity shall solicit submissions to pre-qualify by giving wide publicity and shall set out the pre-qualification criteria to be met in the pre-qualification documents.

(3) The pre-qualification shall be valid for such period as may be specified by the procuring entity in the pre-qualification document.

(4) The procuring entity shall solicit submissions from pre-qualified applicants during the period referred to in sub-section (3) and in case solicitations are not made within such period, the procuring entity shall commence a fresh pre-qualification before soliciting fresh submissions.

(5) The pre-qualification of applicants shall ordinarily be for a single procurement: Provided that during the period of validity of the pre-qualification under sub-section (2), the procuring entity may solicit invitations from the pre-qualified applicants for further requirements of the subject matter of procurement, if, it determines that engaging in fresh pre-qualification shall not result in enhanced competition.

(6) Where a procuring entity has undertaken a pre-qualification process under subsection (1), all suppliers, contractors or service providers who have met the qualification criteria shall be invited to submit a tender in the procurement proceedings.

(7) The procuring entity shall identify the pre-qualified suppliers, contractors and service providers in accordance

with the provisions of Section 19 and the criteria set out in the pre-qualification document.

19.—(1) The procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

Specific requirements and description of subject matter of procurement.

(2) The specific requirements shall include all the procuring entity's technical requirements with respect to the goods, works or services being procured.

(3) The technical requirements shall, where appropriate—

- (a) relate to performance rather than to design or descriptive characteristics; and
- (b) be based on national or international standards.

(4) The technical requirements shall not refer to a particular trademark, name, patent, design, type, producer or service provider or to a specific origin unless—

- (a) there is no other sufficiently precise or intelligible way of describing the requirements; and
- (b) the requirements allow equivalents to what is referred to.

(5) The procuring entity shall set out in the tender documents, or pre-qualification documents if any, the detailed description of the subject matter of the procurement that it will use in the examination of submissions, including

the minimum requirements that submissions must meet in order to be considered responsive and the manner in which those minimum requirements are to be applied.

(6) No description of the subject matter of a procurement that may restrict the participation of suppliers or contractors in or their access to the procurement proceedings, including any restriction based on nationality, shall be included or used in the pre-qualification documents, if any, or in the tender documents.

Verification that
not debarred.

20. A submission made by a supplier, contractor, consultant or service provider shall include a statement verifying that the supplier, contractor, consultant or service provider is not debarred from participating in procurement proceedings under Part VIII and a declaration that the person will not engage in any corrupt practice.

Cancellation
of procurement
proceedings.

21.—(1) A procuring entity may cancel the procurement at any time prior to the acceptance of a successful submission and shall not open any tender after taking a decision to cancel the procurement.

(2) A procuring entity that wishes to cancel procurement proceedings shall give prompt notice of such cancellation to each supplier, contractor, consultant or service provider who made a submission and in the case of open competitive tendering under Part V, shall in addition promptly publish a notice of the cancellation of the procurement in the same manner and place in which the original information regarding the procurement proceedings was published and return any tenders that remain unopened at the time of the decision to the respective suppliers, contractors or service providers.

(3) The procuring entity shall give its reasons for cancelling the procurement proceedings within thirty (30)

days of the request of a person to whom notice is provided pursuant to subsection (2).

(4) The procuring entity shall not incur any liability solely by virtue of its decision to cancel a procurement.

(5) Any procuring entity that cancels a procurement proceeding shall submit to the Board a written report with respect to such cancellation.

22. A procuring entity shall submit to the Board before the end of the prescribed deadline a report of all procurement contracts awarded within the prescribed period.

Report of
procuring
entities.

23.—(1) All public procurement under this Act may be undertaken using electronic processing system.

Use of electronic
processing
system.

(2) Nothing in sub-section (1) shall affect the validity of procurements effected by means that were lawful before the coming into force of this section.

(3) The Minister may make Regulations to give effect to the provisions of this section.

(4) In this section, “electronic processing system” means the online processing of data through a website.

24. Communications between the procuring entity and a person seeking to enter into a procurement contract shall be in writing or by electronic communication followed up by writing and shall be accessible so as to be usable for subsequent reference.

Form of
communications.

25. After the deadline for submissions—

Inappropriate
influence on
evaluations.

(a) no supplier, contractor, consultant or service provider making a submission shall make

any unsolicited communications to the procuring entity or any person involved in the procurement proceedings that might reasonably be construed as an attempt to influence the evaluation and comparison of tenders, proposals or quotations; and

- (b) no person who is not officially involved in the evaluation and comparison of submissions shall attempt, in any way, to influence that evaluation and comparison.

Conflicts of
Interest and
Prohibited
Practices.

26.—(1) An employee or agent of the procuring entity or a member of a committee of the procuring entity who has a conflict of interest with respect to a procurement—

- (a) shall disclose the conflict of interest to the procuring entity.
- (b) shall not take part in the procurement proceedings; and
- (c) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or procurement contract.

(2) Without prejudice to any other legal remedy the procuring entity may have, any contract awarded in contravention of sub-section (1) shall be voidable at the option of the procuring entity.

(3) For the purpose of this section, a person has a conflict of interest with respect to a procurement if the person or relative of the person—

- (a) seeks, or has a direct or indirect pecuniary interest in a supplier, contractor or service

provider who seeks a contract for the procurement; or

- (b) owns or has a right in any property or has a direct or indirect pecuniary interest that results in the private interest of the person conflicting with his duties with respect to the procurement.

(4) In this section, “relative” means—

- (a) a spouse, child, parent, brother or sister;
- (b) a child, parent, brother or sister of a spouse;
- (c) any other prescribed relative.

(5) For the purpose of sub-section (3), the following are persons seeking a contract for procurement—

- (a) a supplier, contractor or service provider submitting a tender; or
- (b) if negotiated tendering is being used, a supplier, contractor or service provider with whom the procuring entity is negotiating.

(6) No supplier, contractor or service provider or any employee or agent thereof shall be involved in any corrupt or fraudulent practice in any procurement proceeding or shall collude or attempt to collude with any person to—

- (a) make any proposed price higher than would otherwise have been the case;
- (b) have that other person refrain from making a submission or withdraw or change a submission; or

- (c) make submission with a specified price or with any specified inclusions or exclusions.

(7) If a supplier, contractor or service provider or any employer or any employee or agent thereof contravenes sub-section (6) the following shall apply—

- (a) both the supplier, contractor or service provider and other person referred to in sub-section (6) shall be disqualified from entering into a contract for the procurement; or
- (b) if a contract has already been entered into with either of the supplier, contractor or service provider and other person referred to in sub-section (6), the contract shall be voidable at the option of the procuring entity.

Confidentiality.

27.—(1) During or after procurement proceedings, neither a procuring entity nor any employee or agent of the procuring entity or member of a committee of the procuring entity shall disclose the following—

- (a) information relating to a procurement whose disclosure would impede law enforcement or whose disclosure would not be in the public interest;
- (b) information relating to a procurement whose disclosure would prejudice legitimate commercial interests or inhibit fair competition;
- (c) information relating to the evaluation, comparison or of tenders, proposals or quotations; or
- (d) the contents of tenders, proposals or quotations.

(2) Other than when providing or publishing information pursuant to this Act, the procuring entity shall treat applications to pre-qualify and submissions in such a manner as to avoid the disclosure of their contents to competing suppliers, contractors or service provider or to any other person not authorised to have access to this type of information.

(3) Any discussions, communications, negotiations or dialogue between the procuring entity and a supplier, contractor or service provider shall be confidential. Unless required by law, no party to any such discussions, communications, negotiations or dialogue shall disclose to any other person any technical, price or other information relating to these discussions, communications, negotiations or dialogue without the consent of the other party.

(4) This section does not prevent the disclosure of information if any of the following circumstances apply—

- (a) disclosure is to an employee or agent of the procuring entity or a member of a committee of the procuring entity involved in the procurement proceedings;
- (b) disclosure is for the purpose of law enforcement;
- (c) disclosure is for the purpose of a review under Part VII;
- (d) the disclosure is pursuant to a court order; or
- (e) the disclosure is allowed under the Regulations.

28. A procuring entity shall keep records as prescribed for all procurement proceedings made within the financial

Procurement
records.

year and the procurement records shall be maintained for a period of at least six years after the resulting contract was entered into or, if no contract resulted, for a period of one (1) year after the procurement proceedings were terminated.

Amendments to
contracts.

29. An amendment to a contract resulting from the use of open competitive tendering or an alternative procurement procedure under Part VI is effective only if—

- (a) the amendment has been approved in writing by the tender committee of the procuring entity; and
- (b) any contract variations are based on the prescribed price or quantity variations for goods, works and services.

PART V

OPEN COMPETITIVE TENDERING REQUIREMENTS

Open
Competitive
Tendering.

30.—(1) Except as provided by this Act all public procurement by all procuring entities shall be conducted by open competitive tendering.

(2) Any reference to open competitive tendering in this Act means the process by which a procuring entity based on previously defined criteria, effects public procurement by offering to every interested supplier, contractor or service provider equal simultaneous information and opportunity to offer the goods, works and services needed.

Requirements
and Procedures.

31.—(1) The procuring entities shall undertake open competitive tendering in accordance with the requirements and procedures as are prescribed in the Regulations.

(2) Open competitive tendering may be carried out in either a single stage or in two stages as prescribed.

32.—(1) Unless otherwise required by funding or other agreements, or as a matter of necessity, only national competitive tendering and local community competitive tendering where domestic suppliers, contractors, consultants or service providers are entitled to participate, shall be used.

Local
Competitive
Bidding.

(2) In applying any preference under this section, a prescribed margin of preference shall be given in the case of national competitive tendering to suppliers, contractors or service providers in the locality of the procurement.

33. Procedures to allow for Regional and International Tendering for the purposes of this Act, shall include the following:

Regional and
International
tendering.

- (a) the invitation to tender and the tender documents must be in English;
- (b) if the procuring entity is required to advertise the invitation to tender, the procuring entity shall also advertise the invitation to tender in one or more English-language newspapers or other publications that, together, have sufficient circulation outside Grenada to allow effective competition for the procurement;
- (c) the period of time between the advertisement under paragraph (b) and the deadline for submitting tenders must be not less than four (4) weeks;
- (d) the technical requirements must, to the extent compatible with requirements under the laws

of Grenada, be based on international standards or standards widely used in international trade;

- (e) a person submitting a tender may, in quoting prices or providing security, use a currency that is widely used in international trade and that the tender documents specifically allow to be used; and
- (f) any general and specific conditions to which the contract will be subject must be of a kind generally used in international tendering.

PART VI

ALTERNATIVE PROCUREMENT PROCEDURES

Selective
tendering.

34. A procuring entity may engage in procurement by means of selective tendering in accordance with this section when—

- (a) because of the complex or specialised nature of goods, works or services is limited to pre-qualified suppliers, contractors or service providers;
- (b) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured;
- (c) there are only a few known suppliers, contractors or service providers of the goods, works or services locally or internationally as may be prescribed in the Regulations; or

- (d) procurement from a category of pre-qualified suppliers, contractors or service providers is necessary in accordance with the provisions of section 18.

35.—(1) A procuring entity may use negotiated procurement as allowed under sub-section (2) or (3) as long as the purpose is not to avoid competition. Negotiated procurement.

(2) A procuring entity may use negotiated procurement when—

- (a) there is only one supplier, contractor or service provider who can supply the goods, works or services being procured or a supplier, contractor or service provider who has exclusive rights in respect of the subject matter of procurement and there is no reasonable alternative or substitute for the goods, works or services;
- (b) owing to a sudden unforeseen event there is an extremely urgent need for the goods, works or services being procured—
 - (i) because of the urgency the other available methods of procurement allowed by the provisions of this Act are impractical or would cause delay; and
 - (ii) the circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.

(3) The following procedure shall apply with respect to negotiated procurement—

- (a) the procuring entity shall negotiate with one or more suppliers, contractors or service providers as appropriate for the supply of the goods, works or services being procured to obtain a competitive price that is best in value for money using standard industry benchmarks;
- (b) the procuring entity shall not use negotiated procurement in a discriminatory manner; and
- (c) the resulting procurement contract must be in writing and signed by both parties.

Request for
quotations.

36.—(1) A procuring entity may engage in procurement by means of a request for quotations for a procurement provided—

- (a) the procurement is for goods and services that are not specially produced to the description of the procuring entity, that are readily available and for which there is an established market; and
- (b) the estimated value of the goods or services being procured is less than or equal to the prescribed maximum value for using requests for quotations.

(2) The procuring entity shall prepare a written request for quotations that sets out the following—

- (a) the name and address of the procuring entity;
- (b) the specific requirements prepared under section 19 relating to the goods or services being procured;
- (c) an explanation of where and when quotations must be submitted; and

- (d) anything else required under this Act or the Regulations to be set out in the request for quotations.

(3) The procuring entity shall deal with the request for quotations in accordance with the following—

- (a) the procuring entity shall send the written request to such persons as the procuring entity determines;
- (b) the request must be sent to as many persons as necessary to ensure effective competition and to at least three persons, unless that is not possible;
- (c) the procuring entity shall send the request to each person early enough so that the person has adequate time to prepare a quotation; and
- (d) each person shall be permitted to submit only one quotation and is not permitted to change its quotation.

(4) The successful quotation shall be the quotation with the lowest price that meets the requirements of the procuring entity as set out in the request for quotations.

(5) The procuring entity shall make its best efforts to check prices to ensure the reasonableness of quoted prices.

(6) The procuring entity shall not negotiate any of the quotations received.

(7) The following shall apply with respect to the procurement contract resulting from a request for quotations—

- (a) the procuring entity shall place a purchase order with the person submitting the successful quotation; and

- (b) the person submitting the successful quotation shall confirm the purchase order in writing.

Low value
procurements.

37.—(1) A procuring entity may engage in procuring by means of a low-value procurement procedure provided—

- (a) the estimated value of the goods, works or services being procured are less than or equal to the prescribed maximum value for that low-value procurement procedure; and
- (b) any other prescribed conditions for the use of the low-value procurement procedure are satisfied.

(2) A regulation prescribing a maximum value for a low-value procurement procedure or prescribing conditions for the use of such a procedure may prescribe different values or conditions for different classes of public entities or different classes of goods, works or services being procured.

(3) The procedure for low-value procurement shall be as prescribed.

Local
Community
Procurement.

38. In circumstances where procurement is conducted in local communities, where the competitive procedures described in this Act are not feasible, goods, works and services the value of which does not exceed such an amount as may be prescribed, may be procured, either—

- (a) in accordance with procedures that promote efficiency through participation of community organizations; or
- (b) through negotiated procurement from direct contracting of suppliers, contractors or ser-

vice providers located in or near the community.

39. Consultancy services shall be procured using the request for proposals method, the procedures for which shall be as prescribed in the Regulations.

Consultancy
Services
Procurement.

40.—(1) Individual consultants are employed on assignments for which (a) a team of experts is not required, (b) no additional outside (home office) professional support is required, and (c) the experience and qualifications of the individual are the paramount requirement.

Individual
Consultants
Procurement.

(2) The specific methods for selection of individual consultants will be as prescribed in the Regulations.

PART VII

CHALLENGE PROCEEDINGS

41.—(1) Subject to the provisions of this Part, any supplier, contractor, consultant or service provider that claims to have suffered or claims that it may have suffered, loss or damage due to the alleged non-compliance of a decision or action of a procuring entity with the provision of this Act or the Regulations, may at any time prior to the signature of a contract challenge the decision or action concerned.

Right to
challenge and
appeal.

(2) Challenge proceedings may be made by way of an application for reconsideration to the procuring entity under section 43, or an application for review to the Commission under section 44.

42.—(1) A procuring entity shall not take any step that would bring into force a procurement contract in the procurement proceedings concerned:

Effect of a
challenge.

- (a) where it receives an application for reconsideration under section 43; or
- (b) where it receives notice of an application for review from the Commission under section 44.

(2) The procuring entity may at any time request the Commission to authorize it to enter into the procurement contract or on the ground that urgent public interest considerations so justify.

(3) The Commission may authorize the procuring entity to enter into the procurement contract where it is satisfied that urgent public interest considerations so justify. The decision of the Commission and the reasons therefor shall be made part of the record of the procurement proceedings, and shall promptly be communicated to the procuring entity, to the applicant and to all other participants in the procurement proceedings.

Application for
reconsideration
by the procuring
entity.

43.—(1) A supplier, contractor, consultant or service provider may apply to the procuring entity for a reconsideration of a decision or an action taken by the procuring entity in the procurement proceedings.

(2) Applications for reconsideration shall be submitted to the procuring entity in writing within five (5) working days of the procuring entity's decision or action giving rise to such application by a supplier, contractor, consultant or service provider.

(3) The procuring entity shall, not later than five (5) working days after receipt of the application—

- (a) dismiss the application; or

- (b) remedy the alleged breaches; and
- (c) notify the applicant and all other participants in the procurement proceedings of its decision.

(4) All decisions of the procuring entity under this section shall be in writing, shall state the action taken and the reasons therefor, and shall promptly be made part of the record of the procurement proceedings, together with the application received by the procuring entity under this section.

44.—(1) A supplier, contractor, consultant or service provider may apply to the Commission for review of a decision or an action taken by the procuring entity in the procurement proceedings, or of the failure of the procuring entity to issue a decision under section 43 of this Act within the time limits so specified.

Application
for review
before the
Commission.

(2) Applications for review shall be submitted to the Commission in writing within the standstill period applied pursuant to this Act or within seven (7) working days after the time when the applicant became aware of the circumstances giving rise to the application or when the applicant should have become aware of those circumstances, whichever is earlier.

(3) Applications for review under section 44 of this Act shall be submitted to the Commission in writing within ten (10) working days after the decision of the procuring entity should have been communicated to the applicant in accordance with sub-section 43(3) of this Act.

(4) Promptly after receipt of the application for review, the Commission shall notify the procuring entity and all identified participants in the procurement proceedings to

which the application relates of the application and its substance.

(5) The procuring entity and all identified participants in the procurement proceedings shall provide the Commission with effective access to all documents relating to the procurement proceedings in its possession, in a manner appropriate to the circumstances.

(6) Following receipt of an application for review, the Commission may order the suspension of the procurement proceedings at any time before the entry into force of the procurement contract for a period not to exceed the time given for the Commission to reach its decision

(7) The Commission may dismiss the application where it decides that:

- (a) the application is manifestly without merit or was not presented in compliance with the deadlines set out in sub-section (2); or
- (b) the applicant is without standing; or
- (c) urgent public interest considerations require the procurement proceedings or the procurement contract, to proceed.

(8) The Commission shall promptly notify the applicant, the procuring entity and all other participants in the procurement proceedings of its decision to award a suspension or to dismiss the application and the reasons therefor and that any suspension in force is lifted.

(9) The decision with regard to suspension shall be given no later than five (5) working days after receipt of the application.

(10) In taking its decision on the substance of an application, the Commission may declare the legal rules or principles that govern the subject matter of the application, shall address any suspension in force and shall take one or more of the following actions, as appropriate:

- (a) prohibit the procuring entity from acting, taking a decision or following a procedure that is not in compliance with the provisions of this Act;
- (b) require the procuring entity that has acted or proceeded in a manner that is not in compliance with the provisions of this Act to act, to take a decision or to proceed in a manner that is in compliance with the provisions of this Act;
- (c) overturn in whole or in part an act or a decision of the procuring entity that is not in compliance with the provisions of this Act;
- (d) confirm a decision of the procuring entity;
- (e) order that the procurement proceedings be terminated;
- (f) dismiss the application;
- (g) require the payment of compensation for any reasonable costs incurred by the supplier, contractor, consultant or service provider submitting an application as a result of an act or decision of, or procedure followed by, the procuring entity in the procurement proceedings that is not in compliance with

the provisions of this Act, and for any loss or damages suffered, which shall be limited to the costs of the preparation of the submission or the costs relating to the application, or both; or

- (h) take such alternative action as is appropriate in the circumstances.

(11) The decision of the Commission under subsection (10) shall be issued within twenty-one (21) working days after receipt of the application. The Commission shall immediately thereafter communicate the decision to the procuring entity, to the applicant, to all other participants in the application for review and to all other participants in the procurement proceedings.

(12) All decisions of the Commission under this section shall be in writing, shall state the action taken and the reasons therefor and shall promptly be made part of the record of the procurement proceedings, together with the application received by the Commission under this section.

Right to judicial
review.

45.—(1) A decision made by the Commission shall, be final and binding on the parties unless an appeal for judicial review thereof is made within fourteen days from the date of the Commission's decision.

(2) Any party to the review aggrieved by the decision of the Commission may appeal to the High Court, and the decision of the High Court shall be final.

(3) A party to the review which disobeys the decision of the Commission or the High Court, as applicable, shall be in breach of this Act and any action by such party contrary

to the decision of the Commission or the High Court, as applicable, shall be null and void.

PART VIII

DEBARMENT FROM PARTICIPATING IN PROCUREMENT PROCEEDINGS

46.—(1) The Board, may debar a person from participating Debarment. in procurement proceedings where it is proven that the person—

- (a) has committed a prescribed offence under this Act;
- (b) has committed a prescribed offence relating to procurement under any law of Grenada;
- (c) has breached a public procurement contract to which it is a party;
- (d) has, in procurement proceedings, given false information about his qualifications;
- (e) has refused to enter into a written procurement contract;
- (f) is unable to furnish a tax compliance or NIS compliance certificate;
- (g) is declared bankrupt; or
- (h) has committed any offence as may be prescribed in Regulations.

(2) Debarment under this section may be imposed by the Board only on the basis of the procedure set out in the prescribed Regulations which secures due process.

(3) A debarment under this section shall be for one or more periods of time, as may be specified by the Board.

Opportunity
to make
representations.

47. Before debarring a person under section 46, the Board shall give that person an opportunity to make representations to the Board.

Request for
review.

48.—(1) A person who is debarred under section 46 may request the Commission to review the debarment.

(2) A request for a review under subsection (1) may only be made within twenty-one days after the person was debarred.

Convening of
review.

49. The Commission shall meet to conduct a review within twenty-one (21) days after receiving the request for the review.

Completion of
review.

50. The Commission shall complete its review within thirty days after receiving the request for the review.

Powers of
Commission.

51. Upon completing a review the Commission may do any or both of the following—

- (a) confirm, vary or overturn the Board's debarment of the person; and
- (b) order the payment of costs as between parties to the review.

Appeals.

52. A party to the review may appeal from the decision of the Commission to the High Court within fourteen days after the decision is made.

List of debarred
persons.

53. The Board shall maintain and make available to public entities a list of persons debarred from participating in procurement proceedings under this Part.

PART IX**DISPOSAL OF STORES AND EQUIPMENT**

54. This Part applies with respect to the disposal of stores and equipment of a public entity that are unserviceable, obsolete or surplus.

Application of
Part.

55.—(1) A public entity shall ensure that this Act and the Regulations and Board are complied with in respect of each of its disposals to which this Part applies.

Responsibility
for complying
with Act.

(2) The chief accounting officer of a public entity shall be primarily responsible for ensuring that the public entity fulfills its obligations under sub-section (1).

(3) Each employee of a public entity and each member of a committee of the public entity shall ensure, within the areas of responsibility of the employee or member, that this Act and the Regulations are complied with.

(4) A public entity shall comply with—

- (a) such general procedures in relation to the retention and disposal of stores and equipment of a public entity as the Board may issue;
- (b) such special procedures in relation to the retention and disposal of stores and equipment of a public entity which is a state controlled enterprise or statutory body approved for that public entity by the Board and its Line Minister; and
- (c) such guidelines in relation to the retention and disposal of stores and equipment of a public entity which is a state controlled enterprise

or a statutory body approved for the public entity by the Board and its Line Minister for the purposes of ensuring compliance with this Act and guidelines under paragraphs (a) and (b).

(5) Special procedures under subsection (4) (b)–

- (a) shall be prepared by the public entity which is a state controlled enterprise or a statutory body and submitted to the Board and its Line Minister for its approval;
- (b) may provide that general procedures under subsection (4) (a) shall apply to a public entity which is a state controlled enterprise or a statutory body subject to such exemptions or amendments as are specified in the special procedures.

(6) Guidelines under subsection (4) (c) shall be prepared by the public entity which is a state controlled enterprise or a statutory body and submitted to the Board for its approval.

Disposal
committee.

56.—(1) A public entity shall establish a disposal committee in accordance with the Regulations for the purpose of recommending the best method of disposing of unserviceable, obsolete or surplus stores or equipment.

(2) The disposal committee shall meet within the prescribed period to report on the items and subject to a technical report, recommend the best method of disposal.

Disposal
procedure.

57.—(1) The employee in charge of unserviceable, obsolete or surplus stores or equipment shall bring the matter to the attention of the disposal committee.

(2) An employee shall comply with subsection (1) within a reasonable time after the stores or equipment become unserviceable, obsolete or surplus.

(3) The disposal committee shall recommend to the accountable officer a method of disposing of the stores and equipment which may include any of the following—

- (a) transfer to another public entity or part of a public entity, with or without financial adjustment;
- (b) sale by public tender;
- (c) sale by public auction;
- (d) destruction, dumping or burying; or
- (e) trade-in.

(4) Within the prescribed time period after receiving the recommendations of the disposal committee the chief accounting officer shall give the committee a written notice as to whether the accountable officer accepts or rejects the recommendations of the committee.

(5) If the chief accounting officer accepts the recommendations of the disposal committee, the stores and equipment shall be disposed of in accordance with those recommendations.

(6) If the chief accounting officer rejects the recommendations of the disposal committee he shall, within the time period referred to in sub-section (4)—

- (a) include, with the notice given to the committee under sub-section (4), written reasons for

rejecting the recommendations of the committee;

- (b) give the Board a copy of the notice under subsection (4) and the written reasons under paragraph (a); and
- (c) refer the matter back to the committee for further consideration.

Directions.

58. The Board may issue written directions to public entities with respect to the disposal of unserviceable, obsolete or surplus stores and equipment.

Restriction
on disposal to
employees.

59. A public entity shall not dispose of unserviceable, obsolete or surplus stores and equipment to an employee of the public entity or a member of a committee of the public entity except as expressly allowed under the Regulations.

Application
of Part VII to
disposals.

60. Part VII applies, with necessary modifications, with respect to disposals of unserviceable, obsolete or surplus stores and equipment in the same manner as that Part applies with respect to procurements.

PART X

MISCELLANEOUS

Consultation
meetings.

61.—(1) The Board shall ensure that meetings are convened at least annually for the purpose of consulting with persons in the public and private sectors who have an interest in the proper functioning of the public procurement system.

(2) The Permanent Secretary or a member of the staff of the ministry selected by the Permanent Secretary, shall chair each meeting convened under this section.

(3) The procedure for conducting a consultative meeting referred to in sub-section (1) shall be as prescribed.

62. All procurement and disposal shall be carried out in accordance with applicable law including but not limited to the Public Service Rules, the Integrity in Public Life Act and the Codes of Ethics that may from time to time be specified by the Board. Ethics applicable.

63.—(1) Any public officer found to be acting contrary to the provisions of this Act or the Regulations in the exercise of his or her duty in respect of any procurement proceedings shall be subject to the disciplinary procedures of the Public Service Commission, including demotion, dismissal and the payment of compensation. Consequence of breaches of this Act or the Regulations.

(2) Any private physical or legal person who has been contracted to carry out any functions by a procuring entity or the Board in respect of any procurement proceedings and who has been found to be acting contrary to the provisions of this Act or the Regulations in the exercise of those functions in respect of any such procurement proceedings shall—

- (a) have his or her contract terminated forthwith;
- (b) repay all fees, emoluments and benefits received from the date of the said breach;
- (c) be liable to pay compensation to the public entity or the Board for any damage suffered by them as a consequence of the unlawful behavior of that person, including the reimbursement of any compensation paid to an aggrieved tenderer in accordance with any order of the Commission under Part VIII; and
- (d) be debarred for a prescribed period.

(3) Where the public officers and persons referred to in sub-sections (2) and (3) are considered to have been in breach of applicable criminal laws relating to fraud and corruption, they shall be referred to the appropriate law enforcement agencies for investigation and prosecution.

Protection from
personal liability.

64. No person shall, in his personal capacity, be liable in civil or criminal proceedings in respect of any act or omissions done in good faith in the performance of his duties under this Act.

Prohibition of
victimization.

65. A person shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

- (a) he, acting in good faith and on the basis of a reasonable belief, has—
 - (i) notified the Director of Public Prosecutions, the Police, the Integrity Commission or the Board that his employer or any other person has contravened or is about to contravene this Act;
 - (ii) done or stated the intention of doing anything that is required to be done in order to avoid having any person contravene this Act; or
 - (iii) refuse to do or stated the intention of refusing to do anything that is in contravention of this Act; or
- (b) his employer or any other person believes that he will do something described in paragraph (a).

66. All delegation of tasks and all staff shall be subject to all rules and procedures of the Department of Public Administration. Delegation of tasks and staff.

67. The Minister may make Regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the foregoing, may make regulations— Regulations.

- (a) governing how decisions relating to procurement are to be made on behalf of public entities, including requiring the creation of specified committees and the assignment of responsibilities and functions within a public entity;
- (b) governing pre-qualification procedures;
- (c) providing for and governing the use of electronic communications and documents in relation to procurement;
- (d) governing the procedures to be followed in reviews by the Commission, including the panels of the Commission to conduct reviews;
- (e) governing how decisions relating to disposals of stores and equipment that are unserviceable, obsolete or surplus are to be made on behalf of public entities, including requiring the creation of specified committees and the assignment of responsibilities and functions within a public entity; and
- (f) prescribing anything that this Act requires or allows to be prescribed.

Availability of
Act.

68. The Board shall ensure that this Act, the Regulations and any directions issued under this Act are accessible to the public.

Transitional
Provisions.

69.—(1) A procuring entity may continue any procurement proceedings in respect of the procurement of goods, services or works commenced before the coming into operation of this Act and which have not been determined, terminated or completed as if this Act were not enacted, but the provisions of this Act shall apply to any contract which is awarded or executed as a consequence of such proceedings.

(2) Where a procurement contract is executed before the commencement of this Act; and the procurement contract is still subsisting; this Act shall apply to the procurement contract as if that procurement contract were executed under this Act.

Public Finance
Management
Regulations to
apply.

70. The Public Finance Management Regulations shall apply to the procurement of goods, works, services and consultancy services under this Act with such modification, adaptations and qualifications as the circumstances require.

Repeal of Public
Procurement
and Contract
Administration
Act.

71. The Public Procurement and Contract Administration Act No. 25 of 2007 is hereby repealed.

SCHEDULE I

(Section 6)

PROVISIONS RELATING TO MEMBERS OF THE BOARD

1. Constitution of Board. (1) The Board shall consist of not less than five and not have more than seven members, and shall include the following as members—

- (a) the Permanent Secretary of the Ministry of Finance;

- (b) the Attorney General;
- (c) the Chief Technical Officer of the Ministry of Works;
- (d) an Attorney-at-law of significant standing experienced in commercial law;
- (e) a member with qualifications and experience in any other field relating to procurement; and
- (f) no more than two other persons.

(2) Members of the Board shall be appointed by the Minister by instrument in writing.

(3) The Minister may, in accordance with sub-section (1) appoint any person to act temporarily in the place of any member who is absent from Grenada or is unable to act.

(4) The Minister shall appoint Alternate members to the Permanent Secretary, the Attorney General and the Chief Technical Officer to—

- (a) exercise that member's powers, and
- (b) carry out that member's duties in relation to the taking of decisions by the members in the absence of the member.

(5) A person who is an alternate member but not a member may be counted as participating for the purposes of determining whether a quorum is participating.

(6) Alternate members shall receive all Board documents and be entitled to attend every meeting of the Board or Committee of the Board on which the related member sits and shall receive such remuneration as the Minister may decide.

2. Tenure. (1) A member shall hold office for a period not exceeding three years and shall be eligible for re-appointment, unless he or she resigns or his or her appointment is revoked before the end of that period.

(2) Subject to sub-section (1) every member is, on the expiration of the period of his or her appointment, eligible for re-appointment for a further period except that the appointment of members should be staggered in such a manner that only half of the Board be eligible for reappointment at any given time.

3. Remuneration. A member of the Board shall be entitled to be paid such remuneration and allowances as may be prescribed.

4. Disqualification from membership of the Board. (1) A person shall be disqualified from being a member of the Board and shall not become or continue to be appointed as a member of the Board if the person—

- (a) has been declared bankrupt pursuant to the provisions of the Bankruptcy Act;
- (b) has been declared by the Court to be physically and mentally incapacitated by reason of unsoundness of the mind;
- (c) has been convicted of a criminal offence except where the offence is a minor traffic offence;
- (d) has been convicted of an offence pursuant to the provisions of this Act;
- (e) has been absent from three consecutive meetings of the Board without reasonable excuse;
- (f) has become incapable, willful or otherwise of carrying out his functions pursuant to the provisions of the Act; or
- (g) is currently employed by the Board.

(2) Notwithstanding subsection 1(e), a person may be eligible for appointment to the Board after the expiry of three years from the date when he or she ceases to be a member.

(3) The appointment of a member shall not be terminated unless that member has been given a reasonable opportunity to make representation.

5. Vacation of office. (1) A member of the Board is taken to have vacated his or her office if the member—

- (a) resigns from his or her position on the Board pursuant to section 7 or 8;
- (b) cannot continue as a member pursuant to section 4; or
- (c) dies.

(2) Where a vacancy is created by the death, resignation or removal from office of a member, a person may be appointed in accordance with section 1 to fill that vacancy.

6. Chairperson and Deputy Chairperson. (1) The Minister shall appoint a Chairperson and a Deputy Chairperson to the Board from amongst the membership of the Board.

(2) The Deputy Chairperson shall act as Chairperson of the Board—

- (a) during a vacancy in the office of the Chairperson;
- (b) during all periods when the Chairperson is absent from duty or, for any other reason is unable to perform the functions of his or her office.

7. Resignation of Chairperson and Deputy Chairperson. The Chairperson or Deputy Chairperson appointed in accordance with section 16 may at any time resign his or her office by instrument in writing addressed to the Minister and upon the receipt by the Minister of the instrument, from the date specified in the instrument of resignation, that person ceases to be Chairperson or Deputy Chairperson and, if the instrument so specifies, he or she also cannot be a member.

8. Resignation of Member. A member, other than the Chairperson or Deputy Chairperson may at any time resign his office by instrument in writing addressed to the Minister and transmit the instrument through the Chairperson and, from the date of the receipt by the Minister of the instrument, the member ceases to be a member.

9. Publication in the *Gazette*. The Minister shall by notice published in the *Gazette*, inform the public of the names of members of the Board as first constituted and every change in membership of the Board.

10. Liability of members of the Board. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done or any default of the Board made, in good faith in the course of the operation of the Board.

SCHEDULE II

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Meetings of the Board. The Board shall meet at least once a month, and at such other times and place as may be necessary or expedient for the transaction of business of the Board.

2. Special Meetings. The Chairperson or, in the event of his or her absence from Grenada or inability to act as such, the Deputy Chairperson may at any time call a meeting of the Board and shall call a meeting within 7 days—

- (a) of the receipt by him or her of a request for the purpose addressed to him or her in writing and signed by 3 other members;
- b) of receiving a direction to that effect addressed to him or her in writing and signed by the Minister.

3. Presiding at meetings. The Chairperson, or in his or her absence the Deputy Chairperson, shall preside at all meetings of the Board and, in the case of the absence of both, the members present and constituting a quorum shall elect a temporary Chairperson from among their number who shall preside at the meeting.

4. Quorum. A simple majority of the members shall constitute a quorum.

5. Voting. All decisions of the Board shall be decided by a majority of members presiding and voting at the meeting, and in the event of an equality of votes, the Chairperson shall have a casting vote.

6. Additional person to attend meetings. (1) The Chairperson may invite any person to attend a meeting of the Board where the Board considers it necessary to do so.

(2) A person referred to in sub-section (1) may take part in the deliberations of the Board but shall not vote on any matter.

7. Minutes. (1) Minutes in proper form of each meeting shall be kept by the Secretary or such officer as the Board appoints for the purpose and shall be confirmed in writing at the next meeting by the Chairperson or Deputy Chairperson.

(2) Confirmed minutes of meetings shall be submitted to the Minister within one month of the date of the meeting at which they were confirmed.

8. Validity of decisions of the Board. An act done or proceeding taken by the Board under this Act or the Regulations may not be questioned on the ground of—

- (a) the existence of any vacancy in the membership of or of any defect in the constitution of the Board; or
- (b) any omission, defect or irregularity that does not affect the merits of the case.

9. Appointment of Committees. (1) The Board shall appoint committees to assist with the proper discharge of its functions subject to such conditions or restrictions as the Board imposes.

(2) The number of members of a Committee appointed by the Board and the terms of office of the members shall be fixed by the Board.

(3) A Committee appointed by the Board under this section may include persons who are not members, but such persons shall not comprise more than one-third of the membership of the committee.

(4) Where a person other than a member is appointed to a committee under subsection (3), the Minister may determine the remuneration and allowances to be paid to that person.

10. Disclosure of Member's interest. (1) This section applies to a member of the Board or a member of a Committee of the Board if—

- (a) the member has direct or indirect interest in a matter being considered, or about to be considered, by the Board or a committee; and
- (b) the interest could conflict with the proper performance of the duties of the member with respect to the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the knowledge of a member, the member shall disclose the nature of the interest to the Board or a Committee meeting.

(3) Unless the Board or the Committee otherwise directs, the member shall not—

- (a) be present at the meeting when the Board or Committee considers the matter; or
- (b) take part in a decision of the Board or Committee with respect to the matter.

11. Financial arrangements. (1) The financial year of the Board shall be the period of twelve months ending on 31st December in each year.

(2) The funds of the Board shall consist of—

(a) money appropriated by Parliament for the purpose of running the Board; and

(b) any other funds as may lawfully accrue to the Board.

(3) The Board shall keep proper records of its accounts in accordance with generally accepted international accounting standards and principles, and such accounts shall be audited annually by the Director of Audit.

12. Annual reports. For each financial year, the Board shall submit an annual report to the Minister as prescribed.

Passed by the House of Representatives this 14th day of August, 2014.

WILLAN THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 25th day of August, 2014.

WILLAN THOMPSON
Clerk to the Senate.

A 15

2016 *Fiscal Responsibility Act (Commencement) Order* SRO. 2

GRENADA

STATUTORY RULES AND ORDERS NO. 2 OF 2016

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM PURSUANT TO SECTION 1(2) OF THE FISCAL RESPONSIBILITY ACT NO. 29 OF 2015, MAKES THE FOLLOWING ORDER—

(Gazetted 15th January, 2016).

1. Citation. This Order may be cited as the

FISCAL RESPONSIBILITY ACT (COMMENCEMENT) ORDER, 2016.

2. Commencement. The Fiscal Responsibility Act No. 29 of 2015 shall be deemed to have come into force on the 1st day of January, 2016.

Made by the Minister this 4th day of January, 2016.

KEITH C. MITCHELL
Minister responsible for Finance.

GRENADA

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A 16

SRO. 1

Income Tax (Amendment) Order

2014

A 35

2015 *Public Procurement and Disposal of* SRO. 14
 Public Property Act (Commencement)
 Order

GRENADA

STATUTORY RULES AND ORDERS NO. 14 OF 2015

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM PURSUANT TO SECTION 1(2) OF THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY ACT NO. 39 OF 2014, MAKES THE FOLLOWING ORDER—

(Gazetted 24th April, 2015).

1. Short title. This Order may be cited as the

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
 PROPERTY ACT (COMMENCEMENT) ORDER, 2015.

2. Commencement . The Public Procurement and Disposal of Public Property Act No. 39 of 2014 shall be deemed to have come into force on the 21st day of April, 2015.

Made by the Minister this 20th day of April, 2015.

KEITH C. MITCHELL
Minister responsible for Finance.

GRENADA

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2015 *Public Procurement and Disposal of Public Property* SRO. 30
(Disposal Committee) Regulations

ARRANGEMENT OF REGULATIONS

1. Citation
2. Definitions
3. Establishment of disposal committee
4. Chairperson
5. Meetings
6. Recommendation of disposal committee
7. Disposal

SRO. 30

GRENADA

STATUTORY RULES AND ORDERS NO. 30 OF 2015

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM BY
SECTION 67 OF THE PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC PROPERTY ACT NO. 39 OF 2014 MAKES THE FOLLOWING
REGULATIONS—

(Gazetted 17th September, 2015).

1. Citation. These Regulations may be cited as the

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
PROPERTY (DISPOSAL COMMITTEE) REGULATIONS, 2015.

2. Definitions. In these Regulations—

“Act” means the Public Procurement and Disposal of Public Property Act, 2014;

“Board” means the Public Procurement Board established under section 6 of the Act;

“chief accountable officer” means the chief executive officer of a procuring entity.

3. Establishment of disposal committee. Every procuring entity shall, for the purposes of section 56 of the Act, establish a disposal committee comprising of at least five members as follows—

- (a) the officer in charge of finance;
- (b) the head of the procurement unit, who shall be the secretary;
- (c) the head of the accounting department; and
- (d) two heads of end user departments, of whom one shall be the head of the end-user department disposing of the stores or equipment.

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(Disposal Committee) Regulations

4. Chairperson. The disposal committee shall select a chairperson from among its members.

5. Meetings. Pursuant to section 56 (2) of the Act, the disposal committee shall first meet within fourteen days of its appointment and subsequently at least once in every quarter.

6. Recommendation of disposal committee. Pursuant to section 57 (4) of the Act, the chief accountable officer shall give the disposal committee written notice as to whether he or she accepts or rejects the recommendations of the disposal committee within fourteen days of receipt of the recommendations.

7. Disposal. (1) Pursuant to section 59 of the Act, a procuring entity may dispose its unserviceable, obsolete or surplus stores and equipment to an employee of the public entity or a member of a board or committee of the public entity, where—

- (a) the time and cost required to dispose to any other person would be disproportionate to the value of the unserviceable, obsolete or surplus stores and equipment to be disposed;
- (b) the employee is in possession of the stores or equipment to be disposed and may be given the first priority to purchase the same; and
- (c) a ‘No Objection’ to said disposal is received from the Board.

(2) Every disposal made by a procuring entity under subregulation (1) shall be reported by the chief accountable officer to the Board within fourteen days of the disposal

Made by the Minister this 15th day of September, 2015.

KEITH MITCHELL

Minister responsible for matters relating to procurement.

GRENADA

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PRINTING OFFICE, ST. GEORGE'S

17/9/2015.

2015 *Public Procurement and Disposal of Public Property* SRO. 31
(Public Procurement Review Commission) Regulations

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5. Vacation of office
6. Effect of vacancy of membership
7. Filling of vacancies
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9. Secretary
10. Oath of secrecy
11. Signing of documents and decisions
12. Meetings
13. Sittings of the Review Commission for Requests for Review
14. Procedures for Application of a Request for Review
15. Filing of a request for review
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2015 *Public Procurement and Disposal of Public Property* SRO. 31
(Public Procurement Review Commission) Regulations

GRENADA

STATUTORY RULES AND ORDERS NO. 31 OF 2015

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM
BY SECTION 67 OF THE PUBLIC PROCUREMENT AND DISPOSAL
OF PROPERTY ACT NO. 39 OF 2014 MAKES THE FOLLOWING
REGULATIONS—

(Gazetted 17th September, 2015).

1. Citation. These Regulations may be cited as the

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
PROPERTY (PUBLIC PROCUREMENT REVIEW COMMISSION)
REGULATIONS, 2015.

2. Definitions. In these Regulations—

“Act” means the Public Procurement and Disposal of Public
Property Act, 2014;

“Board” means the Public Procurement Board established under
section 6 of the Act;

“Chairperson” means the Chairperson of the Review Commission
appointed under regulation 3.

“Chief Procurement Officer” means the director of the staff of the
Board and secretary to the Board provided for under section
7 of the Act;

“Minister” means the Minister responsible for matters relating to
procurement;

“Review Commission” means the Public Procurement Review
Commission established under section 8 of the Act;

“Secretary” means the Secretary to the Review Commission.

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(Public Procurement Review Commission) Regulations

3. Constitution of Review Commission. (1) Pursuant to section 25 of the Act, the Review Commission shall consist of a Chairperson and four other members, and shall include persons with a minimum of ten years experience in the disciplines of law, accounting, finance, procurement, economics, engineering and public administration appointed by the Governor-General.

(2) The names of the members of the Review Commission as first constituted, and every change in the membership thereafter, shall be published in the *Gazette*.

4. Tenure and revocation of appointment. (1) Subject to subregulation (2), a member of the Review Commission shall hold office for a period not exceeding three years and shall be eligible for re-appointment.

(2) The Governor-General may revoke a person's appointment as a member of the Review Commission, if the person—

- (a) is unable to perform the functions of his or her office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of an offence under—
 - (i) the Criminal Code, Chapter 72A;
 - (ii) the Prevention of Corruption Act, Chapter 252A; or
 - (iii) the Act or these Regulations,or an offence involving dishonesty; or
- (d) is absent from three consecutive sittings of the Review Commission without the permission of the Review Commission.

5. Vacation of office. A member of the Review Commission is taken to have vacated his or her post, if the member—

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- (a) resigns his or her position on the Review Commission by signed notice of resignation presented to the Governor-General; or
- (b) cannot continue as a member pursuant to regulation 4 (2).

6. Effect of vacancy of membership. Subject to applicable provisions in these Regulations, the validity of any proceedings of the Review Commission shall not be affected by any vacancy among the members of the Review Commission or by any defect in the appointment of a member of the Review Commission.

7. Filling of vacancies. (1) Subject to subregulation (2), where a member of the Review Commission vacates his or her office pursuant to regulation 5, the Governor-General shall appoint another person to be a member of the Review Commission.

(2) Where a person is appointed to fill a vacancy that has arisen under subregulation (1), that person shall hold office for the remainder of the term of the previous member and shall be eligible for re-appointment.

8. Remuneration of members of the Review Commission. The members of the Review Commission shall be paid such remuneration, fees and allowances as the Minister may determine.

9. Secretary. The Chief Procurement Officer shall appoint a Secretary to the Review Commission from among the staff of the Board, who shall provide administrative support to the Review Commission.

10. Oath of secrecy. Every member of the Review Commission shall—

- (a) have regard and deal with as secret and confidential, all information, books, records or documents relating to the functions of the Review Commission; and
- (b) before assuming office, subscribe to an oath of secrecy as may be prescribed.

11. Signing of documents and decisions. Every document made by and every decision of the Review Commission shall be signed by the Chairperson, or a member of the Review Commission authorised by the Chairperson to act in that behalf, or by the Secretary.

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12. Meetings. (1) The Review Commission shall meet at such times as may be necessary or expedient for the proper carrying out of its functions and the meetings shall be held at such place and time and on such days as the Review Commission shall determine.

13. Sitzings of the Review Commission for Requests for Review. (1) The Review Commission shall sit to hear and determine a request for review.

(2) The Chairperson shall preside at all sittings of the Review Commission.

(3) In the absence of the Chairperson, the Review Commission may designate one member to act as chairperson for the purpose of the sitting.

(4) The quorum at any sitting of the Review Commission shall be three members one of whom shall be the Chairperson or a member designated to act as a chairperson under subregulation (3).

(5) The decision of the Review Commission shall be by a majority of votes of the members present and the Chairperson shall have a casting vote in any case where the voting is equal.

(6) Minutes in proper form shall be kept of the proceedings of the Review Commission.

14. Procedures for Application of a Request for Review. (1) A request for review made under the Act shall—

- (a) state the reasons for the complaint, including any alleged breach of the Act or these Regulations;
- (b) be accompanied by such statements as the applicant considers necessary in support of its request;
- (c) be made within ten business days of—
 - (i) the occurrence of the breach complained of, where the request is made before the making of an award; or
 - (ii) a notification under section 44 (3) of the Act;

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(Public Procurement Review Commission) Regulations

- (d) be submitted in ten bound copies and one soft copy, pages of which shall be consecutively numbered; and
- (e) be accompanied by the fees set out in Part I of the Schedule to these Regulations, which shall not be refundable.

15. Filing of a request for review. (1) Every request for review shall be filed with the Secretary, upon payment of the requisite fees.

(2) The Secretary shall acknowledge filing of a request for review.

16. Notification of a request for review. (1) The Secretary shall, not later than five business days after a request for review has been filed, serve a copy thereof on the chief accountable officer of the procuring entity or the Chief Procurement Officer, as the case may be.

(2) Every copy of request for review served to a procuring entity or to the Chief Procurement Officer pursuant to subregulation (1) shall be accompanied by a notification of the pending review and the suspension of the procurement proceedings of the procuring entity.

(3) Not later than five business days after receipt of a notification of a request for review pursuant to subregulation (1) or such lesser period as may be stated by the Secretary in a particular case, the procuring entity or the Chief Procurement Officer shall submit to the Secretary a written memorandum of response to the reasons for the request together with such documents as the Secretary may specify.

(4) The Secretary shall, within ten business days of the filing of the request, notify every other party to the review of the filing, and the parties may at their own expense obtain copies of the request for review.

(5) The Secretary shall give reasonable notice of the date fixed for hearing to all parties to the review.

17. Filing of Preliminary Objection. (1) A party notified under regulation 16 may file a preliminary objection to the hearing of the request for review to the Secretary not later than five business days from the date of notification.

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(Public Procurement Review Commission) Regulations

(2) A preliminary objection filed under subregulation (1) shall set out the grounds upon which the preliminary objection is based, and shall be served on the applicant at least three business days before the hearing.

(3) The applicant may file a reply to the preliminary objection before commencement of the hearing of the request.

(4) The Review Commission shall hear the preliminary objection and make a determination whether to uphold or dismiss the same, and shall record the reasons for the determination.

(5) Where the Review Commission dismisses the preliminary objection, it shall soon thereafter proceed to hear the request for review as scheduled.

(6) The fees chargeable for filing a preliminary objection shall be as set out in Part II of the Schedule to these Regulations.

18. Hearings. (1) The Secretary shall, at least three business days before the date set for the hearing, invite the members of the Review Commission to attend the hearing.

(2) An invitation under subregulation (1) shall set out the time, date, and place at which the hearing shall take place.

(3) The business of the Review Commission shall be transacted between 8.00 a.m. and 4.00 p.m. on business days, unless otherwise agreed to by the Secretary.

(4) Where a member of the Review Commission has a direct or indirect interest in any matter before the Review Commission, he or she shall declare his or her interest in the matter and shall not participate in the hearing or decision-making process of the Review Commission in relation to that particular matter.

(5) Any party to a request filed under regulation 15 shall, at the hearing thereof, be entitled to be represented by an advocate or any other person of his or her own choice.

(6) Where on the day set for the hearing of a review for which due notification has been given—

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- (a) the applicant appears and the procuring entity fails to appear, the hearing of the request for review shall proceed in the absence of the procuring entity;
- (b) the procuring entity appears and the applicant does not appear, the request for review shall be dismissed;
- (c) the applicant and the procuring entity fail to appear, the request for review shall be dismissed,

unless the Review Commission deems it fit to adjourn the hearing.

(7) At the hearing of the request for review, unless decided otherwise by the Review Commission, the applicant shall be given the first opportunity to present the case in support of the request and the procuring entity shall be given an opportunity to reply thereto.

(8) Where two or more requests for review are instituted arising from the same tender or procurement procedure, the Review Commission may consolidate the requests and hear the requests together as one request for review.

(9) A request for review may be withdrawn at any time before or during the hearing by notice in writing to the Secretary signed by the applicant and, upon such notice being received, the request for review shall be deemed to have been withdrawn.

(10) When a request for review is withdrawn, the Secretary shall forthwith inform the Review Commission and all parties to the review of the withdrawal.

(11) Every hearing of review proceedings shall be open to every party to the review.

(12) The Review Commission may, at the hearing of the request, exclude any person from the hearing whom it deems is unruly or interruptive or to otherwise conduct himself or herself in an unreasonable manner.

(13) The Review Commission may engage an expert to assist it in proceedings in which it feels it lacks the necessary expertise, but the opinion of the expert shall not be binding on the Review Commission.

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(Public Procurement Review Commission) Regulations

(14) The Review Commission shall not be bound to observe the rules of evidence in the hearing of a request under these Regulations.

19. Orders of the Review Commission. An order of the Review Commission certified by both the Chairperson and the Secretary to be a true copy thereof shall in any legal proceedings be prima facie evidence of the issuance of that order.

20. Communications. All communications to the Review Commission relating to matters pending before the Review Commission shall be through the Secretary.

SCHEDULE

PART I

| | |
|--------------------------------------|----------|
| Fees for filing a request for review | \$500.00 |
|--------------------------------------|----------|

PART II

| | |
|---|----------|
| Fees for filing a preliminary objection | \$500.00 |
|---|----------|

Made by the Minister this 15th day of September, 2015.

KEITH MITCHELL

Minister responsible for matters relating to procurement.

GRENADA

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GRENADA

STATUTORY RULES AND ORDERS NO. 32 OF 2015

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM BY SECTION 67 OF THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC PROPERTY ACT NO. 39 OF 2014 MAKES THE FOLLOWING REGULATIONS—

(Gazetted 17th September, 2015)

PART I
PRELIMINARY

1. Citation. These Regulations may be cited as the

PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
PROPERTY REGULATIONS, 2015.

2. Definitions. (1) In these Regulations, unless the context otherwise requires—

“Act” means the Public Procurement and Disposal of Public Property Act, 2014;

“approval thresholds” means the financial limits set down in these Regulations, above or below which certain procurement proceedings may be applied;

“asset” means movable and immovable property, tangible and intangible, including immovable property stores, equipment, shares, intellectual rights vested in the state or proprietary rights;

“Board” means the Public Procurement Board established pursuant to section 6 of the Act;

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“Central Procurement Unit” means the Central Procurement Unit established within the Ministry with responsibility for matters relating to procurement, unless the context requires otherwise pursuant to regulation 9;

“chief accountable officer” means the chief executive of a procuring entity;

“day” means a calendar day;

“evaluation committee” means an evaluation committee established pursuant to regulation 13;

“framework contract” means a contract, between one or more procuring entities and one or more suppliers, for the purpose of establishing the terms governing orders for the supply of goods and related services or repair and maintenance works to be placed during a given period, setting out the price, and, where appropriate, the quantity envisaged;

“Minister” means the Minister with responsibility for matters relating to procurement, unless the context requires otherwise;

“Ministry” means the Ministry with responsibility for matters relating to procurement, unless the context requires otherwise;

“pre-qualification procedure” means the pre-qualification procedure set out in these Regulations;

“procurement cycle” means the cycle that starts with the initiation of the process of an individual procurement requirement and ends when the goods, works or services have been delivered and accepted;

“procurement plan” means the document prepared annually by each procuring entity, to plan all procurement requirements necessary to perform the activity plan of the procuring entity;

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“procurement unit” means a unit established by a procuring entity, which is responsible for the procurement of goods, works or services;

“public-private partnership” means an agreement between a procuring entity and a private party under which—

- (a) the private party undertakes to perform a public function or provide a service on behalf of the procuring entity;
- (b) the private party receives a benefit for performing the function, either by way of—
 - (i) compensation from a public fund;
 - (ii) charges or fees collected by the private party from the users of a service provided to them; or
 - (iii) a combination of such compensation and such charges or fees; and
- (c) the private party is generally liable for the risks arising from the performance of the function, depending on the terms of the agreement;

“tender” means a tender, proposal or quotation, as the case may be, submitted by a tenderer in response to an invitation by a procuring entity;

“tender committee” means a tender committee established pursuant to section 11 (5) of the Act and regulation 12;

“tenderer” means a person submitting a tender;

“user department” means the department in a procuring entity which initiates procurement proceedings.

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(2) Pursuant to section 2 (f) of the Act, “public entity” shall include—

- (a) any body that uses public assets in any form of contractual undertaking including public private partnership,
- (b) a company owned by a public entity to carry out functions that would have otherwise been performed by the public entity; and
- (c) any body in which the Government has a controlling interest.

(3) Words and expressions used in these Regulations and which are used in the Act shall, unless the context otherwise requires, have the same meaning as assigned to it in the Act.

3. Scope of these Regulations. Subject to section 4 (1) of the Act and the exemptions set out in regulation 4, these Regulations govern public sector procurement and disposal of public property in Grenada and apply to all procurement of goods, works, services and other activities carried out by the Government.

4. Exemptions. (1) These Regulations shall not apply to—

- (a) procurement of goods, services and works between Government entities;
- (b) procurement for the production of national honours, medallions and insignias;
- (c) legal services for routine assignments and litigation;
- (d) arbitration and conciliation services;
- (e) outsourcing of Government services to non-governmental organisations and other private entities;
- (f) procurement of goods, works and services by a procuring entity which is a state controlled enterprise or a statutory body where the value of such procurements is below the approval threshold of \$15, 000; or
- (g) any other exemptions issued by instructions or circulars, from time to time, by the Minister.

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(2) Where these Regulations conflict with the procuring rules of a donor or funding agency, the application of which are mandatory pursuant to or under an obligation entered into by the Government, the requirements of those rules shall prevail, but procurement in all other respects shall be governed by the provisions of the Act and these Regulations.

PART II

OVERSIGHT AND INSTITUTIONAL ARRANGEMENTS

5. Oversight by the Board. (1) Pursuant to section 6 (2) of the Act, the Board shall have responsibility for every procurement of goods, works and services, where the value of such procurement exceeds the approval threshold of \$1,000,000, whether the procuring entity is a state controlled enterprise, a statutory body or otherwise.

(2) In respect of every procurement by a procuring entity that is a state controlled enterprise or a statutory body, where the value of such procurement exceeds the approval threshold of \$200,000, the Board shall approve the composition of the evaluation committee and review the Tender Evaluation Report.

(3) Where the Board rejects a Tender Evaluation Report, as prepared by an evaluation committee pursuant to regulation 13 (10), the Board may direct the chief accountable officer to appoint a new evaluation committee to conduct a new evaluation pursuant to regulation 13.

(4) Pursuant to subsections (1), (2) and (3) of section 11 of the Act, with respect to every procurement contract purported to be awarded, where the value of such procurement contract exceeds the approval threshold of \$100,000, issuance of a Certificate of Formal Approval or Certificate of 'No Objection' to Contract Award by the Board is required, whether the procuring entity is a state controlled enterprise, a statutory body or otherwise.

(5) Pursuant to section 11 (2) of the Act, no funds shall be disbursed from the Treasury or any bank account of any procuring entity for a procurement the value of which exceeds the approval threshold of \$100,000, unless the cheque, payment or request for payment is accompanied by a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award issued by the Board.

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6. Approval thresholds. (1) The approval thresholds for methods of procurement, the authorisation levels for awards of contract and for the signing of contracts shall be as set down in these Regulations and the procurement procedures.

(2) Where the value of a proposed procurement does not exceed the approval threshold of \$200,000, the chief accountable officer of the procuring entity shall be the approving authority and shall sign the procurement contract.

(3) Where the value of a proposed procurement exceeds the approval threshold under subregulation (2), prior to execution of a notification of an award letter and a procurement contract, the chief accountable officer of the procuring entity shall review the Tender Evaluation Report and submit to the Board—

- (a) the Tender Evaluation Report;
- (b) his or her written comments; and
- (c) all other required documentation to the Board,

for the issuance of a Certificate of Formal Approval or a Certificate of ‘No Objection’ to Contract Award pursuant to regulation 5.

(4) Every Tenders Evaluation Report shall be approved by the chief accountable officer or the Board, as the case may be, within five business days of receipt of the Tender Evaluation Report.

(5) The person authorised to execute procurement contracts on behalf of the Government shall do so within the time period specified in the contract documents.

7. Responsibilities of chief accountable officer. In addition to the responsibilities stipulated under section 12 (1) of the Act, the chief accountable officer and every public officer to whom responsibility is delegated shall be responsible for—

- (a) in accordance with the Act and these Regulations, appointing a tender committee for procurement of goods, works and services, where the value of such procurement is between the approval thresholds of \$15,000 and \$1,000,000;

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- (b) establishing a procurement unit subject to regulation 8;
- (c) on behalf of the procuring entity, signing contracts for procurement and disposal activities for contracts entered into in accordance with the Act and these Regulations;
- (d) preparing the procurement plans; and
- (e) keeping and managing proper records of procurement proceedings in accordance with these Regulations.

8. Procurement unit. (1) A procuring entity shall, in accordance with this regulation, establish a procurement unit to carry out procurement activities.

(2) The chief accountable officer shall determine the size, location, and structure of the procurement unit, having regard to the procurement requirements of the procuring entity and the availability of trained and experienced officers.

(3) Where the level of procurement activity does not justify the establishment of a procurement unit, the chief accountable officer shall—

- (a) nominate a single public officer to carry out the functions of a procurement unit; or
- (b) apply the provisions of subregulation (4).

(4) Where the chief accountable officer determines that there is insufficient procurement activity in the procuring entity to justify establishment of a procurement unit, the chief accountable officer may make a request for the Central Procurement Unit established pursuant to regulation 9 to carry out the functions of a procurement unit on behalf of the procuring entity.

(5) Every procuring entity that directly purchases works, supplies or services from or through the Central Procurement Unit in accordance with subregulation (4) shall be deemed to have complied with these Regulations insofar as the Central Procurement Unit has complied with these Regulations.

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Regulations*

9. Central Procurement Unit. (1) The Central Procurement Unit is hereby established in the Ministry to carry out any procurement on behalf of a Government department that has not been authorised as a procuring entity or pursuant to a request under regulation 8 (4).

(2) The Central Procurement Unit shall prepare an annual procurement plan of every major item of expenditure for procurements envisaged to be purchased in any financial year, and shall maintain records of particulars with respect to ad-hoc procurements in the format as provided by the Board.

(3) The Central Procurement Unit shall, on behalf of selected or all procuring entities, organise the purchase of common-use items either under individual contract arrangements or framework contract arrangements.

(4) The Central Procurement Unit shall comply with the procurement procedures set down in these Regulations.

10. User Department. A user department shall be responsible for—

- (a) initiating procurement and disposal requirements and forwarding the same to the procurement unit;
- (b) participating in the evaluation of tenders, proposals and quotations;
- (c) reporting to the procurement unit any departure from the terms and conditions of the procurement contract;
- (d) forwarding to the procurement unit details of any required variations to procurement contracts, procurement unit for consideration and action;
- (e) maintaining and archiving records of contract management;
- (f) preparing any reports required for submission to the procurement unit, the tender committee or chief accountable officer;
- (g) undertaking conformity assessments of supplied goods, works and services with the specifications of the contract documents;

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- (h) endorsing the issuance of goods, works and services received notes;
- (i) preparing technical specifications and submitting the same to the procurement unit;
- (j) assisting in the preparation of procurement and disposal plans;
- (k) clarifying matters surrounding tenders, requests for quotations and any other matter as may be required; and
- (l) carrying out any other functions and duties as may be provided under the Act or these Regulations, or as may be stipulated by the Board.

11. Conduct of procurement personnel. (1) Every officer responsible for any aspect of the procurement of a procuring entity, including the requisitioning, planning, preparing and conducting procurement proceedings and administering the implementation of procurement contracts, shall—

- (a) take reasonable steps to ensure that every decision is based on adequate information, and made in good faith, for a proper purpose in accordance with these Regulations and in the best interest of the Government;
- (b) take reasonable steps to ensure fair competitive access by contractors to procurement proceedings and contract awards;
- (c) take reasonable steps to avoid circumstances in which he or she may personally benefit, directly or indirectly through family and associates, as a result of his or her official conduct, or circumstances that would give the appearance of the same;
- (d) not commit corrupt or fraudulent acts, such as the solicitation or acceptance of bribes; and
- (e) not divulge confidential information received in connection with procurement proceedings and tenders, including tenderers' proprietary information.

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12. Tender committee. (1) Pursuant to section 11 (5) of the Act, every procuring entity, including a procuring entity that is a state controlled enterprise or a statutory body, shall establish a tender committee which shall be responsible for every procurement by the procuring entity for which the value exceeds the approval threshold of \$15,000 and does not exceed the approval threshold of \$1,000,000.

(2) The functions of the tender committee are—

- (a) to review, verify and ascertain that all procurement and disposal has been undertaken in accordance with the Act, these Regulations and the terms set out in the tender documents;
- (b) to take reasonable steps to ensure compliance with Government policies, guidelines and procedures relating to procurement;
- (c) to review evaluations conducted by evaluation committees and every accompanying Tender Evaluation Report;
- (d) to take reasonable steps to ensure compliance with any reporting obligations relating to procurement by the procuring entity;
- (e) to approve the selection of the successful tender or proposal;
- (f) to award procurement contracts in accordance with the provisions of the Act and these Regulations;
- (g) to take reasonable steps to ensure that funds are available for the procurement under consideration;
- (h) to take reasonable steps to ensure that the procuring entity does not pay in excess of prevailing market prices;
- (i) to review and approve aggregation of procurements, where proposed;
- (j) to review and approve the use of lots, where packaging into lots has been proposed;

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- (k) to review the selection of procurement method and, where a procurement method other than open competitive tendering has been proposed, to take reasonable steps to ensure that the adoption of the other procurement method is in accordance with the Act, these Regulations and any guidelines as may be stipulated by the Board;
- (l) to approve negotiations under the Act, these Regulations and any guidelines as may be stipulated by the Board;
- (m) to approve the amendment of contracts previously awarded by the tender committee, in accordance with the Act and these Regulations;
- (n) to review the quarterly reports on quotations that have been awarded; and
- (o) to undertake any other functions and duties as are provided under the Act, these Regulations or guidelines as may be stipulated by the Board.

(3) In considering submissions made by the procurement unit or evaluation committees, the tender committee may—

- (a) approve a submission; or
- (b) reject a submission with reasons; or
- (c) approve a submission, subject to minor clarifications by the procurement unit or evaluation committee.

(4) The tender committee shall not—

- (a) modify any submission with respect to the recommendations for a contract award under a Tenders Evaluation Report or in any other respect;
- (b) reject any submission without justifiable and objective reasons;

(5) Where the tender committee rejects the recommendation under a Tenders Evaluation Report, the decision shall be reported to the chief accountable officer of the procuring entity.

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(6) Where tender committee rejects a submission, the evaluation committee may make a resubmission and the tender committee shall provide an explanation and a justification for its decision.

(7) The chief accountable officer of the procuring entity shall appoint an alternate member for each member of the tender committee and only the alternate shall attend any meeting of the tender committee whenever the member is unable to attend.

(8) The quorum of the tender committee shall be three members including the chairperson.

(9) Decisions of the tender committee shall be by consensus and, where there is no consensus, the decision shall be made through voting by simple majority and, where there is a tie, the chairperson shall have a second or casting vote.

(10) Where any member of the tender committee has a direct or indirect interest in any matter, he or she shall declare his or her interest in the matter and shall not participate in the deliberations or decision-making process of the tender committee in relation to that particular matter.

(11) The tender committee may invite independent advisers, or members of the procurement unit to explain submissions or provide technical advice.

(12) The tender committee shall cause to be prepared minutes of all its meetings and such records shall include—

- (a) a register of attendance;
- (b) the date of the meeting;
- (c) a list of all matters considered;
- (d) the decision made for each matter, including any major issues discussed, the reasons for any rejections and any clarifications or minor amendments to which the approval is subject;
- (e) a note on the basis of any evaluation made;
- (f) any conflicts of interest declared by members;

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- (g) any dissenting opinions among tender committee members; and
- (h) such other records as may be necessary.

13. Evaluation committees. (1) Every evaluation committee shall be appointed by the chief accountable officer.

(2) Every evaluation committee shall comprise no less than three members and no more than five members, and shall include—

- (a) the officer responsible for preparing the tender document;
- (b) the financial officer of the procuring entity; and
- (c) at least one member with expertise in at least one of each of the following—
 - (a) technical expertise;
 - (b) law; and
 - (c) commerce.

(3) An evaluation committee subregulation may comprise—

- (a) a separate financial evaluation committee and a separate technical evaluation committee; or
- (b) a combined financial and technical evaluation committee.

(4) No subregulation member of the tender committee of the procuring entity shall be appointed to the evaluation committee.

(5) The duties of every evaluation committee shall include—

- (a) receiving from the procurement unit the tender opening record and sealed tenders;
- (b) evaluating tenders;
- (c) preparing the Tender Evaluation Report which shall include recommendations for award of a procurement contract;

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- (d) submitting for approval the documents under paragraph (c) to the Tender Committee or the Board, as the case may be ;
- (e) responding to any queries raised by the Board; and
- (f) any other functions specified under these Regulations.

(6) Every technical evaluation committee established in accordance with subregulation (3) shall be responsible for–

- (a) the technical evaluation of the tenders or proposals received in strict adherence to the compliance and evaluation criteria set out in the tender documents; and
- (b) performing the evaluation with all due diligence within thirty days after the opening of the tenders.

(7) Every member of the technical evaluation committee shall evaluate tenders or proposals independently and discharge his or her functions prior to sharing his or her analysis, questions and evaluation, including his or her rating, with the other members of the technical evaluation committee.

(8) Every financial evaluation committee established in accordance with subregulation (3) shall be responsible for–

- (a) the financial evaluation of the tenders or proposals received in strict adherence to the compliance and evaluation criteria set out in the tender documents; and
- (b) performing the evaluation with all due diligence within five days after completion of the technical evaluation.

(9) No member of an evaluation committee shall enter into any direct communication with any of the tenderer participating in a tender or proposal that the evaluation committee is considering.

(10) An evaluation committee shall prepare a report on the analysis of the tenders received, and final ratings assigned to each tender and submit the report to the tender committee.

(11) The Tender Evaluation Report prepared under subregulation (9) shall include–

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- (a) the minutes of the opening of the tenders;
- (b) the results of the preliminary evaluation, with reasons for rejection of any tenders, where applicable;
- (c) the scores awarded by each member with respect to each tender;
- (d) a summary of the relative strengths and weaknesses of each tender;
- (e) the total score for each tender; and
- (f) a recommendation to award the tender to the lowest evaluated tenderer or to the tenderer who submitted the tender with the highest total score.

14. Transfer of Procuring Responsibility. (1) Pursuant to the provisions of section 12 (3) of the Act, the Board may transfer the procuring responsibility of a procuring entity to another procuring entity, or procuring agent, who is a third party, if—

- (a) the Board determines that the procuring entity lacks the capacity to comply with the Act, these Regulations or guidelines as may be stipulated by the Board; or
- (b) the chief accountable officer determines that it would be more economical or efficient for the Board to discharge the function and makes such a request to the Board.

(2) Where a chief accountable officer makes a request under subregulation (1) (b) the chief accountable officer shall remain accountable for all decisions taken by the procuring entity to which the function is transferred.

(3) Where the procurement and disposal function is transferred to another procuring entity under subregulation (1) (a), the chief accountable officers of the two procuring entities shall agree on—

- (a) every function that may be excluded from the transfer arrangement;
- (b) the mechanism for implementation of the procurement and disposal requirement;

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- (c) reporting and monitoring procedures and responsibilities;
- (d) every limitation or exception to the transfer; and
- (e) every cost to be paid.

(4) The agreement for transferring the procuring responsibility under subregulation (3) shall be in writing and signed by the chief accountable officer of each of the two procuring entities.

(5) Every procuring agent shall pay a registration fee to be determined by the Board.

(6) The fee under subregulation (5) shall be payable once and only at the time of the initial registration.

(7) The procuring entity shall—

- (a) meet the cost of the services offered by the procuring agent;
- (b) prepare the terms of reference for the procuring agent assignment in accordance with the provisions of the Act and these Regulations;
- (c) be responsible for the actions and performance of the procuring agent.

(8) Where a procuring agent is engaged by a procuring entity, the tender committee shall adjudicate the contract award.

(9) A procuring entity shall not contract out both the procurement functions and the contract management functions to the same procuring agent.

(10) None of the functions of the chief accountable officer or the tender committee shall be contracted out to a procuring agent.

15. Procurement Approvals. (1) Subject to the Act, every approval relating to any procedures in procurement shall be in writing and properly dated, documented and filed.

(2) No procurement approval shall be made to operate retrospectively to any date earlier than the date on which it is made.

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(3) No procurement approval shall be made by a person exercising delegated authority, unless such delegation has been approved by the chief accountable officer.

(4) Every procuring entity shall maintain specimen signatures of all persons authorised to make approvals within the procurement process.

(5) Where a person has been delegated to make an approval in the procurement procedure, the responsibility for each approval shall rest with both the person who delegates the authority and the person to whom the authority is delegated.

PART III

PROCUREMENT PREPARATION AND PLANNING

16. Procurement preparation. (1) Every procuring entity shall use the standard tender documents for procurement as issued by the Board.

(2) The functions of procurement units shall include–

- (a) planning procurement;
- (b) preparing invitations to tender and of tender documents;
- (c) publishing and distributing invitations to tender;
- (d) receiving and safeguarding tender; and
- (e) administering and implementing procurement contracts to the extent that it is not carried out by user departments.

(3) With respect to every procurement contract for which the value does not exceed the approval threshold of \$200,000, the functions of procurement unit shall, in addition to the functions set out under subregulation (2), include–

- (a) conducting the opening of tenders;
- (b) preparing Tender Evaluation Reports; and
- (c) awarding contracts or purchase orders.

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(4) With respect to every procurement contract for which the value exceeds the approval threshold of \$200,000, the functions of procurement unit shall, in addition to the functions set out under subregulation (2), include—

- (a) conducting the opening of tenders;
- (b) performing secretariat services for the evaluation committee.
- (c) preparing contract award recommendations for submission to the Board; and
- (d) issuing the notification of award letter and signing the contract.

17. Procurement competence. (1) Every procurement-related function with respect to a procuring entity shall be carried out by persons trained and knowledgeable in procurement in accordance with the guidelines and qualification requirements as may be stipulated by the Board.

(2) Subject to the provisions of these Regulations, a procuring entity shall be responsible for procurement with the funds at its disposal.

18. Planning procurements. (1) Every procuring entity shall take reasonable steps to ensure that each procurement achieves the maximum value for public expenditure such that the procurement is carried out with available financial resources and other applicable limitations and at the most favourable time.

(2) Every procuring entity shall aggregate procurement requirements in order to achieve economies of scale.

(3) Every procuring entity shall, before commencing a procurement process—

- (a) determine whether or not its requirements can be met by the transfer of goods from another department;
- (b) take reasonable steps to ensure that an accurate estimate of the cost of the procurement, including the cost of contingencies that might reasonably be expected to arise under a contract for the procurement has been prepared; and

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- (c) commit the amount of the estimate in accordance with the provisions of the approved annual estimates.

19. Artificial division of procurements. No procuring entity shall artificially divide an object of procurement with the intention of avoiding the approval thresholds set out in the procedures applied in these Regulations for the purposes of determining the appropriate procurement method.

20. Division into lots. (1) Notwithstanding the prohibition of regulation 19, a procuring entity may divide a procurement requirement, which could be procured as a single procurement contract, into a package, consisting of several lots which are to be tendered together, where it is anticipated that the award of several separate procurement contracts may result in the best overall value for the procuring entity.

(2) A procurement requirement shall not be divided into lots, where—

- (a) the sole purpose of the division is for avoidance of approval thresholds;
- (b) the award of several separate procurement contracts would create problems of compatibility or interchangeability between items procured as separate lots, or would unduly strain contract administration resources;
- (c) the award of several separate procurement contracts would invalidate or otherwise restrict any provider's warranty or liability; or
- (d) the award of several separate procurement contracts would increase the cost of servicing, maintenance or similar requirements.

(3) Where a requirement that could be procured as a single procurement contract is divided into lots, the procuring entity shall—

- (a) permit tenderers to tender for a single lot, any combination of lots or all lots; and
- (b) demonstrate, prior to contract award, that the recommended contract award or combination of contract awards offers the best overall value for the procuring entity.

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21. Annual Procurement Plan. (1) Pursuant to section 11 (b) of the Act, each procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process.

(2) Annual procurement planning shall be integrated with applicable budget processes and based on indicative or approved budgets, where appropriate.

(3) Where appropriate, multi-year procurement plans may be prepared and shall be integrated into the medium term budgetary expenditure framework.

(4) At least thirty days before the close of each financial year, every head of department shall submit an annual procurement plan to the chief accountable officer.

(5) The consolidated annual procurement plan shall be prepared by the procurement unit and approved by the chief accountable officer and, where applicable, approved by the board of directors or a similar body.

(6) Every annual procurement plan under this regulation shall include—

- (a) a detailed breakdown of the goods, works, or services required;
- (b) a schedule of the planned delivery, implementation or completion dates for all goods, works, or services required;
- (c) an indication and justification for whether it shall be procured within a single-year period or under a multi-year arrangement;
- (d) an indication of the items that can be aggregated for procurement as a single package or for procurement through any applicable arrangements for common-user items;
- (e) an indication of the items to be packaged into lots;
- (f) an estimate of the value of each package of goods, works or services required and an indication of the budget available and source of funding; and

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(g) an indication of the anticipated procurement method for each procurement requirement.

(7) Where procurement responsibilities have been transferred pursuant to regulation 14, the optimal period of such transfer shall be established by taking into account seasonal price variations, warehousing and distribution capacity, and product shelf life.

(8) The Board shall issue instructions to every procuring entity in the format for preparing procurement plans.

(9) Every procurement requirement shall be initiated using a purchase requisition, which shall include all necessary information pertaining to the procurement.

(10) When estimating the value of the goods, works or services, the procuring entity shall ensure that the estimate is realistic and based on up-to-date information on economic and market conditions.

(11) Approved procurement requisitions shall be submitted to the procurement unit of the procuring entity to initiate procurement proceedings.

(12) Upon receipt of the approved purchase requisition, the procurement unit shall prepare a procurement plan for each procurement requirement, which shall include an estimate of the time required for every stage in the procurement cycle.

22. Procurement records. (1) Pursuant to section 13 (2) (m) of the Act, the following documents shall be treated as part of the procurement records—

- (a) where the procurement or the disposal requirement involves feasibility studies and surveys directly carried out or accepted by the procuring entity in order to prepare the tender documents, the reports and other documents resulting from these studies and surveys;
- (b) every receipt for the sale of tender documents, request for clarifications and clarifications issued by the procuring entity;
- (c) records of any negotiations; and
- (d) end of activity report as may be stipulated by the Board.

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(2) The Board may issue guidelines relating to the use, record management, filing and storage of procurement documentation.

(3) Every procuring entity shall maintain an individual file for each procurement requirement, which shall contain all information, documents and communications relating to that procurement proceeding and such file shall be marked with the relevant procurement reference number.

23. Procurement documents. (1) The Board shall issue guidelines on the format of procurement documents to be adopted for approvals and the documentation of the procurement procedure.

(2) The Board may issue standard forms by which a procuring entity shall carry out specific procurement procedures.

(3) The documents shall be clear and bear references to the procurement requirement, dates and signatures of authorising officers.

(4) The Board may, from time to time, issue circulars, manuals and guidelines on the content of procurement documents.

24. Pre-qualification procedure. (1) Where a procuring entity conducts a pre-qualification procedure pursuant to the Act, the procuring entity shall publish an invitation to candidates to submit applications to be pre-qualified.

(2) An invitation referred to in subregulation (1) shall include–

- (a) the name, address and contact details of the procuring entity;
- (b) an outline of the procurement requirement, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract;
- (c) a statement of the key requirements and criteria to pre-qualify;
- (d) instructions on obtaining the pre-qualification documents, including any price payable and the language of the documents; and
- (e) instructions on the location and deadline for submission of applications for pre-qualification.

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(3) Where a procuring entity publishes an invitation pursuant to subregulation (1), the procuring entity shall promptly issue a pre-qualification document to every candidate that makes such a request and shall maintain a record of every candidate to which a pre-qualification document is issued.

(4) A pre-qualification document referred to in subregulation (3) shall contain all the information necessary for a potential candidate to prepare and submit an application for pre-qualification.

(5) Without prejudice to the generality of subregulation (4), such information shall include—

- (a) the name, address and contact details of the procuring entity;
- (b) details of the procurement requirements, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract;
- (c) instructions on the preparation of an application for pre-qualification, including any standard forms to be submitted and the documentary evidence and information required from every candidate;
- (d) instructions on the sealing, labeling and submission of an application for pre-qualification, including the location and deadline for submission; and
- (e) information on the manner in which applications are evaluated.

(6) The procuring entity shall allow every candidate at least fourteen days to prepare and submit an application for pre-qualification.

(7) A candidate may request clarification relating to a pre-qualification document and the procuring entity shall promptly respond to every request for any clarification relating to the pre-qualification document received before the deadline for submission.

(8) Every procuring entity shall, in writing, record the findings of its evaluation of each application for pre-qualification using the evaluation criteria in the pre-qualification documents, and shall set out the particulars of every candidate found to be qualified and of every candidate not found to be qualified including the reasons for the finding that the candidate is not qualified.

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(9) The record of findings prepared under subregulation (8) shall be submitted to the tender committee of the procuring entity for approval.

(10) The procuring entity shall invite tenders from only the persons who have been pre-qualified under this Regulation.

25. Domestic preference. (1) Pursuant to section 32 (2) of the Act and where so indicated in the tender documents and in accordance with any rules or schemes for domestic preference issued by the Procurement Division through circulars, a margin of preference may be applied to eligible tenders.

(2) Any rules or schemes issued under subregulation (1) shall clearly set out—

- (a) the eligibility for the margin of preference including with respect to ownership, location of tenderer or production facilities, origin of labour, raw material or components, extent of sub-contracting, association with local partners or any other relevant factor;
- (b) the documentation required as evidence of eligibility for the margin of preference; and
- (c) the percentage of the margin of preference and the manner in which it will be applied during the evaluation.

(3) The percentage of preference in rules or schemes issued by the Board shall be between five and fifteen percent and the Board may review the percentage of preference annually.

26. Termination of contract. (1) A contract document shall set out the grounds on which the contract may be terminated and the procedures applicable to such a termination.

(2) The procurement unit shall make to the tender committee that authorised the contract a request for approval to terminate under subregulation (3), and shall obtain approval from the tender committee prior to terminating the contract.

(3) Every request for approval to terminate shall clearly state—

- (a) the reasons for terminating the contract;
- (b) the contractual grounds for terminating the contract; and
- (c) the cost of terminating the contract.

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PART IV

TENDER PROCESS

27. Conduct of tender process. Every procuring entity shall be responsible for the conduct and management of the entire process for procurement in relation to government contracts for which it is responsible.

28. Standard tender documents. (1) Every procuring entity shall use the relevant standard tender documents for the particular procurement method being utilised.

(2) Pursuant to sections 6 (4) (n) (i) and 15 (3) of the Act, the Board shall prepare and provide standard tender documents for use by procuring entities.

29. Manuals and guidelines. The Board may, in consultation with specific procuring entities, develop internal procurement manuals, administrative guidelines and best practices manuals consistent with the Act and these Regulations and specific to the procuring entities.

30. General conditions of contracts. Every procuring entity shall use the general conditions of contracts as set out in the tender documents, and no condition shall be changed by procurement personnel if, the general provision in the condition contains any of the following—

- (a) operational clauses that establish the relationship between the procuring entity and the suppliers, contractors, or service providers and contain information relating to—
 - (i) definitions;
 - (ii) rights and obligations of both parties;
 - (iii) procedures for shipment and documentation;
 - (iv) delivery and transfer of risk;
 - (v) terms and currencies of payment;
 - (vi) mode and form of dispute settlement;
 - (vii) governing language; and
 - (viii) the applicable law;

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- (b) clauses that establish protection against risks and allocate the risks between the parties, including instructions on—
 - (i) performance security;
 - (ii) retention of payments;
 - (iii) insurance;
 - (iv) inspections and tests;
 - (v) warranty;
 - (vi) protection against third party infringement suits;
 - (vii) force majeure; or
 - (viii) a valid, current tax compliance certificate that the tenderer is required to provide upon tendering;
- (c) variations, including unforeseen or planned changes during the life of the contract which are identified and provided for under the general conditions of contract, such as—
 - (i) quantity changes;
 - (ii) adverse physical conditions;
 - (iii) price adjustments; and
 - (iv) changes in delivery requirements; or
- (d) the method of remedying a clause that deals with a breach of contract on the part of one party, and includes provisions on—
 - (i) forfeiture of performance security;
 - (ii) procedures for payment of damages or penalties for delay;
 - (iii) procedure for suspension or termination of contract; and
 - (iv) non-payment or failure to provide required approvals and information.

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31. Submission of tenders. (1) Every tender shall be submitted in writing, duly signed and in a sealed envelope.

(2) Every tender received after the deadline for submission of tenders shall be returned unopened.

(3) Applications for pre-qualification or tender may be submitted, at the option of the applicant, by hand or mail or by courier, and every invitation for pre-qualification and tendering documents shall so indicate.

(4) Notwithstanding subregulation (3) and subject to any procurement policy laid down by the Board, the tender documents may authorise other methods of submission of tenders, such as by electronic mail, if the Board can take reasonable steps to ensure the confidentiality and security of tenders notwithstanding submission by the method, including prevention of the opening and reading of tenders by anyone until the opening of tenders at the stipulated time.

(5) Every tender shall remain valid for the period of time specified as the tender validity period in the tender documents to which the tender relates, but modification or withdrawal of a tender during the tender validity period is subject to forfeiture of the tender security.

(6) A tender may be received after expiration of the tender validity period, if the tenderer concerned—

- (a) agrees to an extension of the tender validity period of its tender; and
- (b) where a security was required, obtains a corresponding extension of the tender security.

32. Tender opening. (1) Every tender shall be opened at a time and place as specified in the tender documents to which the tender relates, and the time shall coincide with the deadline for submission of tenders, or shall follow immediately thereafter, allowing a minimum time interval for logistical reasons.

(2) Every tender above the approval threshold of \$1,000,000 shall be opened by the Board and every tender below the approval threshold of \$1,000,000 shall be opened by the procuring entity.

(3) At tender opening session, the following information shall be read out loud and recorded—

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- (a) the name of the tenderer;
- (b) the total price of each tender;
- (c) every discount and alternative offered;
- (d) a statement as to the presence or absence of any tender security, where applicable; and
- (e) the contents of essential supporting documents,

except in the case of the use of two-stage tendering by the procuring entity, in which case the procedures set out in regulation 59 shall apply.

(4) A copy of the record shall be made available to any tenderer on request.

(5) No decision regarding the disqualification or rejection of any tender shall be taken or announced in the tender opening session.

(6) After opening of tenders and until the successful tenderer has been notified on preliminary decision on the award, no tenderer shall make any unsolicited communication to the procurement entity or to the Board, or try in any way to influence the examination and evaluation of the tenders by the procuring entity or the Board, as the case may be.

33. Rejection of all tenders. (1) The procuring entity or the Board, as the case may be, may reject all tenders under the following circumstances—

- (a) if the price in the lowest or highest evaluated tender exceeds by a substantial margin the procuring entity's tender cost estimates;
- (b) if all tenders received are not responsive to the requirements in the tender documents; and
- (c) if the procuring entity, after receiving tenders, reasonably concludes that there is lack of competition.

(2) Where all tenders are rejected under subregulation (1), the procuring entity may review and revise the tender documents and, where substantial changes are made to the tender documents, shall invite new tenders on the basis of the new tender documents.

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34. Award of contract. (1) Where tenders have been evaluated and a determination is made on the lowest or highest evaluated responsive tender, and a further decision has been made in respect of the award, the procuring entity shall—

- (a) in accordance with these Regulations, obtain the necessary approvals to award the contract;
- (b) not require the selected tenderer to provide performance security in excess of that specified in the tender documents;
- (c) request the selected tenderer to return the signed contract, together with the required performance security, within the time specified in the tender documents;
- (d) notify the unsuccessful tenderers as soon as possible after receiving the signed contract and the performance security;
- (e) send—
 - (i) the notification of the award;
 - (ii) a contract form; and
 - (iii) a performance security form to the successful tenderer indicating the amount of security in the manner and time specified in the tender documents.

(2) Where the successful tenderer fails to return the signed contract or to provide the required performance security, the procuring entity may—

- (a) forfeit the bid security of the successful tenderer; and
- (b) offer the contract to the second lowest evaluated tenderer, if the procuring entity is satisfied that the second lowest evaluated tenderer is capable of performing satisfactorily.

35. Variation of a contract. Pursuant to section 47 (2) of the Act, any variation of a contract shall be effective, if—

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- (a) the price variation is based on the prevailing consumer price index at the monthly inflation rate issued by the Eastern Caribbean Central Bank;
- (b) the quantity variation for goods and services does not exceed ten percent of the original contract quantity;
- (c) the quantity variation for works does not exceed fifteen percent of the original contract quantity; and
- (d) the price or quantity variation is to be executed within the period of the contract.

36. Reporting requirements. (1) Every procuring entity shall report to the Board every contract awarded by the procuring entity the value of which is above the approval threshold of \$200,000.

(2) Reporting shall be made on a monthly basis using the standard form provided by the Board.

(3) Every procuring entity shall send, not later than seven days after the end of the reference period—

- (a) the completed form directly to the Ministry; and
- (b) a copy of the completed form to the chief accountable officer, as the case may require, in the Ministry responsible for the proposed contract.

PART V

PROCUREMENT METHODS

37. Procurement methods. (1) The following procurement methods apply to procurement of works, goods and services—

- (a) open competitive tendering;
- (b) selective tendering;
- (c) negotiated procurement;
- (d) request for quotations;
- (e) low value procurement;
- (f) request for proposals for consultancy services; and
- (g) local community procurement.

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(2) Each method shall be utilised in accordance with the approval thresholds and in the procurement procedures set out in these Regulations, as well as established criteria through circulars by the Ministry responsible for Finance.

38. Open Competitive Tendering Method. (1) Except as provided under Part VI of the Act and these Regulations, all public procurement of goods, works and services shall be undertaken by the method of open competitive tendering.

(2) Methods of procurement other than open competitive tendering are permitted only in accordance with the provisions of the Act.

(3) The method of open competitive tendering shall apply only to procurement of goods, works and services the value of which exceeds the approval threshold of \$200,000.

39. Invitations to tender. (1) Every procuring entity shall solicit submissions by causing an invitation to tender to be published in accordance with subregulation (2), the provisions of the Act and the other provisions of these Regulations.

(2) An invitation to tender shall set out the following—

- (a) the name and address of the procuring entity
- (b) the tender number assigned to the procurement proceedings by the procuring entity;
- (c) a brief description of the goods, works or services being procured, including the time limit for delivery or completion;
- (d) the nature and time-frame of the procurement, including the place of delivery of goods or services, and the location of any works;
- (e) the manner of obtaining and the price of the tendering documents;
- (f) the place and deadline for submission of tenders;
- (g) such other matters as may be prescribed in the standard forms issued by the Board;

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- (h) a statement that the procuring entity does not bind itself to accept the lowest or any tender;
- (i) a statement that every tenderer or a representative thereof may attend the tender opening session; and
- (j) a statement that the procuring entity may, at any time, terminate the procurement proceedings without entering into a contract.

40. Publication of notice of invitation to tender. (1) Every notice under regulation 39 shall be published in at least one newspaper of general nationwide circulation, and, to the extent feasible, on the internet, including on the website of the procuring entity or of the Board.

(2) Every notice under regulation 39 shall be posted on the premises of the procuring entity at any conspicuous place reserved for this purpose as certified by the chief accountable officer of the procuring entity.

(3) Where there are less than four known providers of the goods, works or services to be procured and no additional tenders are likely to be obtained through open competitive tender, an invitation to tender may be sent directly to all known providers.

(4) Where a procuring entity considers it is necessary to ensure wide competition, the procuring entity may send the notice directly to potential tenderers after the date of publication of the notice.

(5) Where a procuring entity sends a notice under regulation 39 directly to tenderers, the procuring entity shall keep a record of every such tenderer, which shall form part of the procurement record.

(6) Every procuring entity shall provide copies of tender documents expeditiously and in accordance with the invitation to tender.

41. Minimum tender periods. (1) Tender documents shall be ready for distribution prior to the publication of announcement of the invitation to tender.

(2) A tender period shall start on the date of the first publication of the announcement and shall conclude on the date of the tender submission deadline.

(3) The minimum tender period shall be—

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- (a) thirty days for open competitive tendering; and
- (b) forty-five days for regional and international competitive tendering.

(4) In determining the appropriate tendering period for a procurement, a procuring entity shall take into account, in addition to the minimum tendering period—

- (a) the time required for preparation of tenders, taking into account the level of detail required and the complexity of tenders;
- (b) any need for tenderers to submit authenticated legal documents or similar documents as part of tenders and the time required to obtain such documents;
- (c) the location of potential tenderers and the time required to obtain the tender documents and for the delivery and submission of tenders to the procuring entity; and
- (d) any restrictions relating to the time the goods, works or services are required.

42. Tender documents. (1) Every procuring entity shall use standard tender documents as may be prescribed, including any manuals or guidelines pertaining thereto and issued by the Board.

(2) Every procuring entity shall provide, in an expeditious and non-discriminatory manner, the tender documents to all potential tenderers that respond to the invitation to tender or, in the case of selective tendering under regulation 60 to all tenderers that have been pre-qualified.

(3) The tender documents shall set out the information that tenderers are required for submission of a tender that is responsive to the needs of the procuring entity, including the following particulars—

- (a) the nature and time frame of the procurement, including the contractual terms of the procurement, and the manner of entry into force of the contract;
- (b) a statement that tenderer qualification requirements and the documentation required to satisfy those requirements require the tenderer to indicate that

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the tenderer possesses the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience in the procurement object, business reputation and personnel, to perform the contract as set out in the prescribed regulations and standard tendering documents;

- (c) information as to site visits and pre-tender conferences; and
- (d) instructions for preparation and submission of a tender, including the deadline for submission of tenders, and the time and place of tender opening;
- (e) the specific requirements under section 34 of the Act relating to the goods, works or services being procured and the time limit for delivery or completion;
- (f) where works are being procured, relevant drawings and bills of quantities;
- (g) the general and specific conditions to which the contract will be subject, including any requirement that performance security be provided before the contract is entered into;
- (h) information on the components to be reflected in the price, the currency or currencies in which the tender price may be stated, and the currency and related exchange rate to be used for comparison of tenders;
- (i) the criteria and methodology for evaluation of tenders and selection of the successful tenderer, which shall all be quantified in monetary terms or expressed in the form of pass or fail requirements, where possible, otherwise, by relative weights, and when considering evaluation criteria, the procuring entity shall consider only the following—
 - (i) the tender price; and
 - (ii) the cost of operating, maintaining and repairing the goods or works, the time for delivery of the goods, completion of works

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or provision of the services, the functional characteristics of the goods or works, the terms of payment and of guarantees in respect of the goods, works or services;

- (j) any applicable preference for domestic goods, suppliers and contractors;
- (k) any grouping of goods, works or services into lots and packages and the manner of evaluation of the lots and packages;
- (l) a statement on whether alternatives to the technical or contractual specifications would be considered and how any such alternative would be evaluated;
- (m) where suppliers are permitted to submit tenders for only a portion of the goods, works or services to be procured, a description of the portion or portions for which a tender may be submitted;
- (n) the amount and acceptable forms of any required tender, performance or other security;
- (o) the conditions of contract into which the successful tenderer will be entering;
- (p) a notice of conflict-of-interest restrictions and anti-fraud and corruption rules;
- (q) the manner in which tenderers may obtain review of actions, omissions and decisions of the procurement unit;
- (r) a statement on the period during which tenders must remain valid;
- (s) a statement that the procuring entity is not liable for costs incurred by a person in preparing a tender;
- (t) a statement that the procuring entity does not bind itself to accept the lowest or any tender; and
- (u) a statement that the procuring entity may, at any time, terminate the procurement proceedings without entering into a contract.

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(4) Every procuring entity shall make a record of the name, postal address, telephone and facsimile number and email address of every person to whom an invitation to tender is issued and shall file a copy of the record in the procurement records.

43. Fee for tender documents. (1) A procuring entity may charge a fee for providing the tender documents.

(2) In determining the fee payable under subregulation (1), a procuring entity shall have regard only to the costs relating to printing, copying, and distribution or of converting the documents into electronic form.

(3) Where tender documents are obtained electronically, the fee payable under subregulation (2) shall be paid at the time of submission of the tender.

44. Modifications to tender documents. (1) Every procuring entity may, by issuing an addendum, amend its tender documents at any time before the deadline specified for submitting tenders.

(2) Where a procuring entity amends tender documents pursuant to subregulation (1), the procuring entity shall extend the time for the submission of tenders as may be appropriate.

(3) An amendment under subregulation (1) may be made on initiative of the procuring entity or in response to an inquiry.

(4) Where a procuring entity amends tender documents pursuant to subregulation (1), the procuring entity shall promptly provide a copy of the addendum to every person to whom the procuring entity provided copies of the tender documents and the addendum shall be deemed to be part of the tender documents.

45. Tender security. (1) Subject to subregulation (5), a procuring entity may require that a tender security be provided with tenders.

(2) Where a tender security is required pursuant to subregulation (1), every tender not accompanied by an acceptable tender security shall be deemed to be non-responsive and disqualified.

(3) The amount of any tender security shall be expressed either as a fixed amount or as a percentage of the estimated value of the contract and shall not in either case exceed ten percent of the estimated value of the contract.

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(4) Where determining the amount of the tender security under subregulation (2), a procuring entity shall take into account—

- (a) the cost to tenderers of obtaining a tender security;
- (b) the estimated value of the contract; and
- (c) the risk of tenderers failing to fulfill the conditions of their tenders.

(5) A tender security required under subregulation (1) shall be in one of the following forms—

- (a) cash;
- (b) a bank guarantee;
- (c) such insurance company guarantee as may be approved by the Board; or
- (d) a letter of credit.

(6) No tender security shall be accepted under these Regulations, unless the tender security is valid for a period not less than thirty days after the expiry of the tender validity period.

(7) Where a procuring entity extends the tender validity period, the procuring entity shall make a request for every tenderer to extend the period of validity of the tender security of the tenderer.

(8) A procuring entity may, where it deems necessary, verify the authenticity of any tender security.

(9) A tender security shall be forfeited, if the tenderer—

- (a) rejects a correction of an arithmetic error under regulation 15; or
- (b) in the case of a successful tenderer, fails within the specified time period to enter into a written contract as required under regulation 21 or fails to furnish any required performance security.

(10) A procuring entity shall immediately release any tender security, if—

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- (a) the procurement proceedings are cancelled;
- (b) the procuring entity determines that none of the submitted tenders is responsive; or
- (c) a contract for the procurement is entered into.

(11) A procuring entity may require tenderers to, as an alternative to providing tender securities, sign a declaration to the effect that any of the tenderers will be suspended for the period of time specified in the tendering documents from being eligible to tender for any contract with the entity that invited tenders, if the tenderer—

- (a) withdraws or modifies its tender during the tender validity period; or
- (b) is awarded the contract and fails to sign the contract or to submit a performance security before the deadline defined in the tendering documents.

(12) Every procuring entity shall release and return the tender security of the successful tenderer upon signing of the contract and furnishing the required performance security by the successful tenderer.

(13) Every procuring entity shall, as promptly as possible but not later than thirty days after the expiration of the period of bid validity, release and return the tender security of every unsuccessful tenderer.

46. Submission and receipt of tenders. (1) Every tender shall be in writing, be signed and be sealed in an envelope.

(2) Every tender and the envelope in which it is sealed shall bear the tender number assigned to the procurement proceedings by the procuring entity.

(3) Every tender shall be submitted before the deadline for submitting tenders and every tender received after that deadline shall be rejected and returned unopened.

(4) Every procuring entity shall take reasonable steps to ensure that the place for submission of tenders is open, and accessible and shall provide, in that place, a tender box that complies with the prescribed requirements.

(5) Every tender that is delivered shall be placed unopened in the tender box—

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- (a) where delivered by post, by the staff of the procuring entity immediately upon receipt; or
- (b) where delivered otherwise than by post, by the person delivering the tender.

47. Changes to tenders. (1) Before the deadline for submitting tenders, a tenderer may change or withdraw the tender in accordance with the following—

- (a) every change or withdrawal shall be indicated in writing; and
- (b) every change or withdrawal shall be submitted before the deadline for submission of tenders and in accordance with the procedures for submission of tenders.

(2) After the deadline for submission of tenders, a tenderer shall not change, or offer to change, the substance of the tender.

(3) No procuring entity shall at any time attempt to have the substance of a tender changed.

48. Opening of tenders. (1) The chief accountable officer or the Board, as the case may be, in accordance with the approval thresholds set out in these Regulations, shall appoint a tender opening committee comprising—

- (a) not less than three members; and
- (b) at least one member that is not directly involved in the processing or evaluation of the tenders.

(2) After the deadline for submission of tenders, the tender opening committee shall open all tenders received before the deadline.

(3) Any tenderer or a representative thereof may attend the tender opening session.

(4) The tender opening committee shall assign an identification number to each tender.

(5) As each tender is opened, the following particulars shall be read out loud and recorded in a document to be called the “tender opening register”—

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- (a) the name of the tenderer;
- (b) in the case of single stage tendering, the total price of the tender, including any alternatives or discounts offered before the deadline for submission of tenders;
- (c) in the case of two stage tendering, confirmation of receipt of the technical tender envelope and the financial tender envelope, and thereafter in accordance with the procedures set out at regulation 59; and
- (d) where applicable, a statement on the presence or absence of any tender security.

(6) Where a tender consists of numerous items that are quoted for separately, the total price of the tender may not be read out at the tender opening session.

(7) The total price of the tender shall not be read out at the tender opening session of the technical tender in the case of use of two stage tendering.

(8) Every procuring entity shall, on request by tenderer, provide a copy of the tender opening register to the tenderer.

(9) Every member of the tender opening committee shall–

- (a) sign each tender on one or more pages, as determined by the tender opening committee; and
- (b) in each tender, initial against the quotation of the price and any modifications or discounts.

(10) The tender opening committee shall prepare minutes of the tender opening session which shall set out–

- (a) a record of the procedure followed in opening the tenders; and
- (b) the particulars of the tenderers, or their representatives, who attended the opening of the tenders.

(11) Every member of the tender opening committee shall sign the minutes of the tender opening session.

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49. Tender validity period. (1) The tender shall be valid for such period as may be specified by the procuring entity in the tender documents.

(2) Before the expiry of the tender validity period, a procuring entity may request in writing that the tenderers extend the tender validity period for a specified additional period.

(3) The procuring entity shall give to every tenderer a notice of the request for an extension under subregulation (2).

(4) An extension under this regulation is subject to such restrictions and requirements as may be prescribed.

(5) A tenderer may refuse the request to extend the tender validity period without forfeiting its tender security or having the tender securing declaration executed.

(6) A tenderer who agrees to extend the tender validity period shall not be required or permitted to modify its tender but shall be required to extend the validity of its tender security for the period of the extension in compliance with regulation 45.

50. Clarifications and correction of arithmetic errors. (1) A procuring entity may make a written request to a tenderer for clarification of a tender to assist in the evaluation and comparison of tenders.

(2) No procuring entity shall make to a tender any correction, whether or not on the basis of a clarification received as result of a request under subregulation (1), if the correction changes the substance of the tender, unless the change is with respect to an arithmetic error.

(3) Where a correction is made to an error in a tender, the procuring entity shall give to the tenderer prompt notice in writing of the correction of the error.

(4) Where the tenderer rejects a correction made to an error in a tender, the tender shall be rejected and the tenderer's tender security shall be forfeited.

51. Compliance of tenders. (1) Upon opening of a tender under regulation 46, the evaluation committee shall conduct a preliminary evaluation to determine whether—

- (a) the tender conforms to all the mandatory requirements set out in the tender documents;

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- (b) the tender has been submitted in the required format;
- (c) every tender security submitted is in the required form, amount and validity period;
- (d) the tender has been signed by the person lawfully authorised to do so;
- (e) the required number of copies of the tender have been submitted;
- (f) the tender is valid for the period required;
- (g) all required documents and information have been submitted; and
- (h) every required samples have been submitted.

(2) The evaluation committee shall reject every tender that does not satisfy the requirements set out in subregulation (1).

(3) The following do not affect whether a tender satisfies the necessary requirements—

- (a) minor deviations that do not materially depart from the requirements set out in the tender documents; or
- (b) errors that can be corrected without affecting the substance of the tender.

(4) For the purposes of subregulation (3), a deviation shall be—

- (a) quantified to the extent possible; and
- (b) taken into account in the evaluation and comparison of tenders.

(5) Where the procuring entity determines that no tender as submitted satisfied the necessary requirements under this regulation, the procuring entity shall notify every tenderer that no tender was satisfactory.

52. Rejection of tenders. A procuring entity shall reject a tender, if—

- (a) the tenderer that presented the tender is not qualified;

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- (b) the tenderer that presented the tender does not accept a correction of an arithmetical error made pursuant to regulation 50; or
- (c) the tender does not satisfy the necessary requirements under regulation 51.

53. Evaluation of tenders. (1) Every tender rejected pursuant to regulations 51 and 52 shall be compared and evaluated in order to ascertain the successful tenderer in accordance with the criteria and procedures set out in the tender documents.

(2) No criteria or procedure other than those specified in the tender documents shall be used in evaluating tenders.

(3) The criteria, including all non-price criteria, shall be, to the extent possible, objective and quantifiable in monetary terms.

(4) Save as otherwise provided in the Act or these Regulations or in any other enactment, the evaluation criteria shall relate to the subject of procurement and may include—

- (a) the price;
- (b) the cost of operating, maintaining and repairing goods or works;
- (c) the time for delivery of goods, completion of works or provision of services;
- (d) the characteristics of the subject of procurement, such as the functional characteristics of goods or works or the environmental characteristics of the subject of procurement;
- (e) the terms of payment and of guarantees in respect of the subject of procurement; and
- (f) where relevant, quality-based criteria, such as the experience, reliability and professional and technical competence of the tenderer and of the personnel to be involved in providing the subject of procurement.

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(5) Where considered necessary, a procuring entity may specify trials, sample testing and other additional methods of technical evaluation of a tender, provided that the requirement of such trials, sample testing or additional methods of evaluation shall be indicated in the tender documents and a written record of such trials and testing shall be maintained by the evaluation committee.

(6) A procuring entity shall consider a tender satisfying the necessary requirements under regulation 51 as successful—

- (a) where price is the only award criterion, if the tender proposes the lowest price;
- (b) where there are price and other award criteria, if the tender is the most economically advantageous tender ascertained on the basis of the criteria and procedures for evaluating tenders as specified in the tenders documents; or
- (c) where there are no financial criteria, if the tender is the most economically advantageous tender ascertained on the basis of selected non-financial criteria or other parameters for evaluating tenders as specified in the tender documents.

(7) The evaluation committee shall carry out the evaluation within a period of not more than thirty days after the tender opening session, and shall prepare an evaluation report containing a summary of the evaluation and comparison of the tenders.

(8) A procuring entity or the Board, as the case may be, may make a request to a tenderer for clarification of any element of its tender.

(9) A request for clarification under subregulation (8) shall be in writing or by electronic mail, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the procuring entity or the Board in accordance with regulation 50.

(10) No tenderer shall contact the procuring entity or the Board on any matter relating to its tender from the time of opening of its tender to the time the contract is awarded.

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(11) Where a tenderer wishes to bring additional information to the notice of the procuring entity or the Board, the tenderer shall do so in writing.

(12) Where a tenderer does not provide clarifications on its tender by the date and time set out in the request for such clarification, its tender may be rejected.

(13) Any attempt by the tenderer to influence the procuring entity or the Board, as the case may be, in the evaluation of tenders, tender comparison or decisions on acceptance or rejection of tenders shall result in the rejection of the tenderer's tender.

54. Rejection of abnormally low tender. (1) Where a procuring entity or the Board, as the case may be, is of the opinion that the price of a tender is abnormally low, such that it gives rise to concerns as to the ability of the supplier, contractor or service provider to perform the procurement contract, the procuring entity or the Board shall request, in writing from the supplier, contractor or other service provider, further details of the tender.

(2) Where a procuring entity or the Board, having taken into account any information provided by the supplier, contract or service provider following a request under subregulation (1), is of the opinion that the supplier, contractor or service provider who presented the tender may lack the capacity to perform the procurement contract, the procuring entity or the Board, as the case may be, may reject the tender.

(3) The decision of a procuring entity to reject a tender in accordance with this regulation, the reasons for that decision, and all communications with the supplier, contractor or service provider under this regulation shall be included in the record of the procurement proceedings and shall be submitted to the Board, and the decision of the procuring entity and the reasons for the decision shall be promptly communicated to the respective supplier, contractor or service provider.

55. Notification of award of contract. (1) Every procuring entity shall, before the expiry of the tender validity period, shall notify the successful tenderer that its tender has been accepted, and shall notify every other tenderer that their tenders were not successful.

(2) Upon the entry into force of a procurement contract, the procuring entity shall promptly publish as prescribed, notice of the award of the procurement contract, specifying the name of every supplier,

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contractor or service provider with whom the procurement contract was entered into, the goods or services to be supplied, the works to be effected, the date of the award of the contract and the contract price.

56. Creation of contract. (1) The procuring entity shall enter into a written contract with the successful tenderer based on the tender documents, the successful tender and any clarifications or corrections under regulation 50.

(2) The written contract under subregulation (1) shall be entered into within the period specified in the notification under regulation 55 which shall not be before at least fourteen days after the date of receipt of the notification.

57. Refusal to sign contract. (1) Where the successful tenderer refuses to enter into a written contract as required under regulation 56 or fails to provide any required security for the performance of the procurement contract, the procuring entity shall notify, under regulation 55 (1), the tenderer that, in accordance with the evaluation under regulation 53, would have been successful had the successful tender not been submitted.

(2) Regulations 53 and 54 and this regulation shall apply, with necessary modifications, with respect to the tender of the tenderer notified under subregulation (1).

(3) This regulation does not apply to tenders, if the tender validation period with respect to the tenders has already expired.

58. Regional or international competitive tendering. (1) Where there are no local suppliers, contractors or service providers who have the capacity or capability to undertake a procurement, regional or international tendering may be used.

(2) In the case of regional or international tendering, the method of open competitive tendering shall be used in accordance with these Regulations.

59. Single stage and two stage tendering. (1) Subject to the provisions of the Act and the requirements for open competitive tendering, a procuring entity may—

- (a) where all elements are to be evaluated together, call for tenders in one envelope containing the technical aspects and financial aspects and the price; or

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- (b) where it is of the opinion that it is essential to evaluate the technical aspects before considering the financial aspect, call for tenders in two envelopes as follows—
 - (i) the first envelope containing the technical tender which shall set out the technical, quality and performance aspects, commercial terms and conditions; and
 - (ii) the second envelope containing the financial tender which shall set out the price and other financial details.

(2) Where a procuring entity calls for tenders in accordance with subregulation (1) (b)–

- (a) the technical tenders shall be opened first in the presence of the tenderers or representatives thereof who choose to attend, and every tenderer or representative thereof who so attended shall sign a register evidencing their attendance;
- (b) where applicable, every technical tender shall then be evaluated based on the provisions specified in regulation 53; and
- (c) the financial tenders shall remain unopened in the custody of the procuring entity or the Board, as the case may be, until the time of the opening of the financial tenders, which shall be after evaluation of the technical tenders has been completed.

(3) Where a procuring entity calls for tenders in accordance with subregulation (1) (b), with respect to the tenderers whose technical tenders were found acceptable under subregulation (2)–

- (a) procuring entity shall, in writing, notify the tenderers of the time and date and location of the opening for the financial tenders; and
- (b) the financial tenders shall be opened and evaluated in the presence of the tenderers or representatives thereof who choose to attend.

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(4) A procuring entity may choose to procure the subject of procurement using the method of two stage tendering, where–

- (a) it is not feasible for the procuring entity to formulate detailed specifications or identify specific characteristics for the subject of procurement, without receiving inputs regarding its technical aspects from tenderers; or
- (b) the character of the subject of procurement is subject to rapid technological advances or market fluctuations or both; or
- (c) the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of items in quantities sufficient to establish commercial viability or to recover research and development costs; or
- (d) the tenderer is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement.

60. Selective tendering method. (1) Every procuring entity, including every procuring entity that is a state controlled enterprise or a statutory body, shall use the procurement method of selective tendering for the procurement of goods, works or services only the value of which exceeds the approval threshold of \$200,000.

(2) A procuring entity may use selective tendering in the case of a procurement the value of which exceeds the approval threshold of \$1,000,000, if the procuring entity, before using the procedure–

- (a) obtains the written approval of its tender committee or the Board;
- (b) records in writing the reasons for using the selective tendering procedure; and
- (c) satisfies the conditions provided in section 34 of the Act.

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(3) Save as is otherwise provided in these Regulations, the procedure for open competitive tendering as set out under the Act and in these Regulations shall, for the purposes of section 34 of the Act, apply mutatis mutandis to selective tendering.

(4) Where selective tendering is used pursuant to section 34 (b) of the Act, the procuring entity shall issue no less than five invitations to tender to the suppliers, contractors or service providers who are already identified for the subject of procurement in accordance with the provisions of section 18 of the Act.

(5) Where selective tendering is used pursuant to section 34 (c) of the Act, the procuring entity shall invite tenders from all the known suppliers of the goods, works or services.

(6) A procuring entity shall, for the purpose of identifying pre-qualified contractors pursuant to section 34 (d) of the Act, use the pre-qualification procedures set out under section 18 of the Act or otherwise as permitted in these Regulations.

(7) The minimum time for the submission of tenders for selective tendering for the purposes of section 34 of the Act shall be a period of twenty days, or thirty days in the case of regional or international tendering.

61. Request for quotations. (1) Pursuant to section 36 of the Act, the procurement method of request for quotations may be used by a procuring entity, including a procuring entity that is a state controlled enterprise or a statutory body, for procurements of goods, works and services, if the value of such procurements does not exceed the approval threshold of \$200,000.

(2) For the purposes of determining the persons to be given a request for quotations under section 36 of the Act, the procuring entity shall—

- (a) prepare a list of qualified persons;
- (b) submit the list prepared under paragraph (a) to the tender committee for approval; and
- (c) take reasonable steps to ensure a fair and equal rotation among the persons on the list kept under paragraph (a) in respect to giving the requests for quotations.

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(3) With respect the persons on the list prepared under subregulation (2), the procuring entity shall—

- (a) give the request to no less than three persons but as many person as necessary to reasonably ensure effective competition, unless that is not possible, and with adequate time to prepare a quotation; and
- (b) permit each person to submit one quotation, which shall not be altered or negotiated.

(4) A request for quotations prepared by a procuring entity under section 36 of the Act and referred in regulation (3) shall set out—

- (a) the name and address of the procuring entity;
- (b) the specific requirements prepared under section 34 of the Act relating to the goods to be procured; and
- (c) particulars of the location at which and time period in which quotations shall be submitted.

(5) A request for quotations prepared by a procuring entity under section 36 (3) (a) of the Act shall set out—

- (a) a requirement that quotations be submitted in sealed envelopes; and
- (b) the mode of delivery of the sealed envelopes to the procuring entity.

(6) The opening, evaluation and comparison of quotations received pursuant to a request for quotations under section 36 of the Act shall be carried out jointly by the procurement unit and the user department of the procuring entity.

(7) Where the procurement unit is of the view that the successful quotation is higher than the prevailing market price, the procurement unit shall reject the quotations and repeat the process by giving a fresh request for quotations to a set of new persons in the list which shall be approved by the tender committee.

(8) No procuring entity shall accept a quotation under section 36 (4) of the Act, if the quotation is above the prevailing real market price.

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(9) Pursuant to regulations 5 (4), the issuance of a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award is required for all procurement contracts resulting from a request for quotations the value of which exceeds the approval threshold of \$100,000.

(10) The successful quotation shall be the quotation with the lowest price that meets the requirements set out in the request for quotations and the following shall apply with respect to the contract resulting from a procurement by a request for quotations—

- (a) the procuring entity shall place a purchase order with the person submitting the successful quotation; and
- (b) the person submitting the successful quotation shall confirm the purchase order in writing.

(11) A purchase order referred to in subregulation (10) shall include—

- (a) the quoted price;
- (b) the contract number;
- (c) the name of the contractor or of the supplier;
- (d) the name of the officer of the contractor or of the supplier who signed the contract;
- (e) the terms; and
- (f) the date of delivery.

(12) Where in the interest of effective competition, it is reasonably necessary for foreign persons to participate, the following shall apply—

- (a) the request for quotations shall be in English;
- (b) the technical requirements shall, to the extent compatible with requirements under the law of Grenada, be based on international standards or standards widely used in international trade;

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- (c) a person submitting a quotation may, in quoting prices or providing security, use a currency that is widely used in international trade and that the request for quotations specifically allows to be used; and
- (d) any general and specific conditions to which the contract will be subject shall be of a kind generally used in international trade.

62. Negotiated procurement method. (1) Pursuant to section 35 of the Act, the procurement method of negotiated procurement may be used by a procuring entity, including a procuring entity that is a state controlled enterprise or a statutory body, for procurement of goods, works and services the value of which is between the approval thresholds of \$15,000 to \$1,000,000.

(2) Where a procuring entity uses negotiated procurement, the procuring entity shall record the reasons upon which it makes a determination that the relevant condition set out in section 35 (2) of the Act has been satisfied.

(3) The issuance of a Certificate of Formal Approval or a Certificate of 'No Objection' to Contract Award by the Board is required for all procurement contracts resulting from the use of the method of negotiated procurement.

(4) A procuring entity shall not enter into a contract under section 35 (c) of the Act, unless the procuring entity is satisfied that the contract—

- (a) meets the requirements of the procuring entity as specified under subregulation (1); and
- (b) is at the prevailing real market price.

63. Low-value procurements method. (1) For the purposes of section 37 (2) of the Act, the maximum value for a low-value procurement procedure shall be \$25,000.

(2) The low-value procurement procedure may be used, where—

- (a) no benefit would accrue to the procuring entity in terms of time or cost implications if the procuring entity uses requests for quotations or any other procurement method;

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- (b) the procedure is not being used for the purpose of avoiding competition; or
- (c) the use of the procedure has been recommended by the tender committee after a market survey.

(3) For the purposes of section 37 (3) of the Act, the following procedure shall apply in respect to low-value procurement–

- (a) the procurement unit of a procuring entity shall procure the goods, works or services from a reputable outlet or provider;
- (b) an original invoice or receipt for the low-value procurement of goods, works or services and the price paid shall be obtained and signed by the chief accountable officer of the procuring entity undertaking the procurement.

64. Consultancy services. Pursuant to section 39 of the Act, consultancy services shall be procured by using the procurement method of a request for proposals.

65. Request for proposals method. (1) The request for proposals method shall be used for the procurement of consultants providing intellectual and professional services.

(2) For the purposes of procuring the services of a consultant, the procuring entity shall prepare a shortlist of not less than three but not more than six consulting firms, to the greatest extent feasible, comprising consultants of the same category, and similar capacity and business objectives, to which it shall provide the request for proposals for services, and the short-list shall be established from among those who have capacity to perform the required services, as demonstrated in their submissions.

(3) Where the estimated value of the procurement exceeds the approval threshold of \$100,000, in order to establish the short-list, the procuring entity shall seek expressions of interest by publishing a notice in a local or international newspaper of wide circulation, and where appropriate, the notice may also be published in a relevant trade publication or technical or professional journal.

(4) For procurement of a value not exceeding the approval threshold of \$100,000–

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- (a) the shortlist may be established from market knowledge or other sources of information; and
- (b) in the case of procurements which have an estimated value exceeding the approval threshold, or are particularly complex, an advertisement shall also be utilised.

(5) The request for proposals shall provide shortlisted tenderers with the information necessary to enable them to participate in the procurement proceedings, and to submit proposals that are responsive to the needs of the procuring entity, and which shall set out—

- (a) the name and address of the procuring entity;
- (b) the nature, time frame and location of the services to be provided, terms of reference, required tasks and outputs;
- (c) the procedures and criteria to be used to evaluate and compare the proposals, including—
 - (i) the procedures and criteria for evaluating the technical proposals which shall include a determination of whether the proposal is responsive;
 - (ii) the procedures and criteria for evaluating the financial proposals; and
 - (iii) any other additional method of evaluation, which may include site visits interviews or presentations, and the procedures and criteria for that additional method;
- (d) a statement giving notice of the restriction, in regulation 70 on entering into other contracts;
- (e) a statement that the procuring entity is not liable for costs incurred by an applicant in preparing his or her proposal;
- (f) a statement that the procuring entity may, at any time, cancel the procurement proceedings, without entering into a procurement contract;

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- (g) a statement that the procuring entity does not bind itself to accept the lowest or any proposal;
- (h) final selection procedures to be applied;
- (i) notice of conflict-of-interest restrictions and anti-fraud and anti-corruption rules, including the grounds for potential debarment from future participation in procurement of goods, services or works that may result from the assignment under consideration;
- (j) such matters as may be prescribed in the standard tender documents issued by the Board; and
- (k) a statement that the price of a proposal shall be considered by the procuring entity after completion of the technical evaluation.

66. Methods of selection and conditions for use of selective tendering. (1) The preferred methods of selection shall be as follows—

- (a) Quality and Cost-based Selection, which uses a competitive process among shortlisted consultants that takes into account the quality of the proposal and the cost of the services in the selection of the successful consultant; and
- (b) Selection under Fixed Budget, which shall be used where the assignment is simple and can be precisely defined, and when the budget is fixed.

(2) The Least Cost Selection shall be used with the prior approval of the chief accountable officer and shall be appropriate for assignments of a standard or routine nature including financial audits, architectural and engineering design for non-complex works, where well-established practices and standards exist and in which the contract amount is small.

67. Evaluation of proposals. (1) A procuring entity shall, in the request for proposals in accordance with regulation 66 (5) (iii), establish criteria to evaluate the proposals and assign the relative weight to be accorded to each criterion and the manner in which each criterion is to be applied in the evaluation of—

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- (a) the qualifications, experience, reliability, professional and managerial competence of the consultant or service provider and of the personnel to be involved in providing the services;
- (b) the effectiveness of the proposal submitted by the consultant or service provider in meeting the needs of the procuring entity; and
- (c) the proposal price, including any ancillary or related cost.

(2) A procuring entity may accord a margin of preference for local content in accordance with section 32 (2) of the Act, and where this is done this shall be reflected in the record of the procurement proceedings.

(3) Proposals received under regulation 66 shall be examined in accordance with the procedures and criteria for evaluating the proposals as set out in the request for proposals.

(4) An evaluation committee shall be appointed to carry out the evaluation of the proposals received in response to each request for proposals, the composition of which shall be in accordance with subsections (1), (2) and (3) of section 14 of the Act.

(5) For each proposal, the procuring entity shall evaluate the technical proposal to determine whether the technical proposal is responsive and, if this is so, the procuring entity shall assign a score to the technical proposal, in accordance with the procedures and criteria set out in the request for proposals.

(6) Where a evaluation committee determines that a proposal is responsive, the procuring entity shall open the financial proposal and evaluate and assign a score to the financial proposal, in accordance with the procedures and criteria set out in the request for proposals.

(7) Where the request for proposals provides for additional methods of evaluation, including site visits, interviews and presentations, the procuring entity shall conduct such methods in accordance with the procedures and criteria set out in the request for proposals.

(8) The successful proposal shall be the responsive proposal with the highest score determined by the procuring entity by combining,

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for each proposal, in accordance with the procedures and criteria set out in the request for proposals, the scores assigned to the technical and financial proposals under subregulations (5) and (6) and the results of any additional methods of evaluation under subregulation (7).

(9) The procuring entity shall rank the responsive proposals according to their scores so as to arrive at a merit list.

68. Notification of successful proposal. (1) The procuring entity shall notify the person who submitted the successful proposal and whose proposal is ranked as first on the merit list that its proposal was successful.

(2) At the same time at which the person who submitted the successful proposal is so notified, the procuring entity shall notify all other persons who submitted proposals that their proposals were not successful.

69. Negotiations with submitter of successful proposal. (1) The procuring entity shall negotiate with the person who submitted the successful proposal and may request and permit changes.

(2) Where the negotiations with the person who submitted the successful proposal do not result in a procurement contract, the procuring entity shall negotiate with the person who submitted the proposal that would have been successful had the successful proposal not been submitted and whose proposal is ranked as second on the merit list, and subregulation (1) and this subsection will apply, with necessary modifications, with respect to those negotiations.

70. Contract requirements. (1) The procurement contract resulting from a procurement by a request for proposals may not vary from the requirements of the terms of reference, the request for proposals or the terms of the successful proposal, except in accordance with the following—

- (a) the procurement contract may provide for a different price, if there is a proportional increase or reduction in what is to be provided under the contract; and
- (b) the variations must be such that, had the proposal as varies been evaluated again under regulation 10, the proposal would have been the successful proposal.

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- (2) The procurement contract must be in writing.
- (3) The procurement contract must set out—
 - (a) the maximum amount of money that can be paid under the contract; or
 - (b) the maximum amount of time that can be paid for under the contract.

71. Regional or international competition for consultancy services. If there will not be effective competition unless foreign persons participate, the following shall apply—

- (a) the notice inviting expressions of interest and the request for proposals must be in English;
- (b) in addition to the advertisement required under regulation 65 (3), the procuring entity shall also advertise the notice inviting expressions of interest in one or more English-language newspapers or other publications that, together, have sufficient circulation outside Grenada to allow effective competition for the procurement;
- (c) the technical requirements must, to the extent compatible with requirements under the law of Grenada, be based on international standards or standards widely used in international trade;
- (d) a person submitting a proposal may, in quoting prices or providing security, use a currency that is widely used in international trade and that the request for proposals specifically allows to be used; and
- (e) any general and specific conditions to which the contract will be subject must be of a kind generally used in international trade.

72. Restriction on entering into certain related contracts. A person who enters into a procurement contract resulting from a request for proposals shall not enter into any other contract for the procurement of goods or works that follows from or is related to that original procurement contract.

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73. Individual consultants procurement. (1) This regulation shall be construed pursuant to section 40 (2) of the Act.

(2) A procuring entity that proposes to use an individual consultant as an independent contractor shall comply with this regulation.

(3) A procuring entity may engage an individual consultant on contracts that relate to advisory services assignments or technical opinions on specific matters in which specialist individual knowledge is the most outstanding issue, for which—

- (a) the experience and qualifications of the individual shall be dominant;
- (b) no support from a home office is needed for the individual;
- (c) teamwork or a multidisciplinary approach is not necessary.

(4) For the hiring of individual consultants, the procuring entity shall first prepare brief terms of reference for the assignment, including the scope of work and its estimated budget and the procuring entity shall request expressions of interest from suitable consultants, or advertise, if necessary, requesting them to submit their curriculum vitae.

(5) Subject to subregulation (4), individual consultants who have expressed interest in the assignment, shall then be selected, on the basis of comparison of their qualifications, for the assignment.

(8) Suitability of the candidates under subregulation (4), shall be evaluated on the basis of—

- (a) academic background;
- (b) experience; and
- (c) knowledge of local conditions, where necessary.

74. Local community procurement. (1) Local community procurement may be used in local communities for procurement of goods, works and services the value of which does not exceed the approval threshold of \$100,000.

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(2) Local community procurement may be used where involvement and knowledge of community needs, local issues, and community participation are paramount in the preparation, implementation and operation of community development projects.

(3) The request for quotations method set out at regulation 61 shall apply for local community procurement with quotations being obtained from contractors, suppliers, or service providers within the particular community.

Made by the Minister this 15th day of September, 2015.

KEITH MITCHELL

Minister responsible for matters relating to procurement.

GRENADA

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GRENADASTATUTORY RULES AND ORDERS NO. 33 OF 2015

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM UNDER SECTION 88 OF THE PUBLIC FINANCE MANAGEMENT ACT NO. 17 OF 2015, MAKES THE FOLLOWING REGULATIONS—

(Gazetted 17th September, 2015).

PART I
PRELIMINARY

1. **Citation.** These Regulations may be cited as the

PUBLIC FINANCE MANAGEMENT REGULATIONS, 2015.

2. **Definitions.** (1) In these Regulations—

“Act” means the Public Finance Management Act No. 17 2015, and includes regulations, directives, orders, instructions and guidelines made thereunder, unless the context requires otherwise;

“approved plan” means the Corporate Plan, the Strategic Plan and the Annual Plan for a Covered Entity including the Business Plan for a State-Owned Enterprise, the Financial Plan for a Statutory Body, the Annual Plan for a Ministry and any other form of Annual Plan approved by the Minister responsible for the Covered Entity;

“Comptroller of Customs” has the meaning assigned to it under the Customs Act, 2015;

“Comptroller of Inland Revenue” has the meaning assigned to it under the Income Tax Act, Chapter 149;

“construction” means the erection, reconstruction, installation, repair, renovation, extension, or demolition of a building, structure or works, and includes services such as mapping, drilling, soil testing, site preparation, excavation, demolition, maintenance and other similar activities furnished in connection therewith if the value does not exceed the value of the construction;

“Covered Entity” means ministries, departments, agencies, entities, institutions of executive, legislative and judicial branches of the central and all local governments, all autonomous bodies under government control, state owned enterprises, and any entity or individual who receives or uses public money, and all officers and employees in those entities;

“enactment” includes regulations, directives, orders, instructions and guidelines under an Act unless the context requires otherwise;

“fixed amount receipt” means a fixed amount receipt referred to in regulation 133;

“goods” means chattels, and includes services incidental to the supply of goods if the value of those services does not exceed the value of the goods;

“Government bank account” means a bank account opened on behalf of the Government, at a bank or financial institution, by the Accountant General;

“legal tender” means—

- (a) notes for any amount issued or deemed to have been issued by the Eastern Caribbean Central Bank; and
- (b) coins issued or deemed to have been issued by the Eastern Caribbean Central Bank for the payment of any amount not exceeding—
 - (i) \$10.00, in the case of coins of a denomination 25 cents or more, and
 - (ii) \$2.00 dollars in the case of coins of a lower denomination;

“Line Minister” means—

- (a) the minister with responsibility for the Vote; or
- (b) when used in relation to a Statutory Body or a State-Owned Enterprise, the Minister with responsibility for the Statutory Body or State-Owned Enterprise;

“Minister” means the Minister with responsibility for Finance;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for Finance, unless the context requires otherwise;

“pre-printed cheque form” means a pre-printed cheque form—

- (a) for drawing a cheque on a Government bank account manually and includes a counterfoil or a duplicate; or
- (b) for printing a cheque drawn on a Government bank account on the system;

“public investment” means non-recurrent expenditure on goods, works, and services carried out by any public entity on its own or by one or many public entities in conjunction with one or more non-public entities through public-private partnerships, and which is aimed at—

- (a) accumulating new physical or intangible assets;
- (b) enhancing human resource capacities; or
- (c) improving or rehabilitating existing physical or intangible assets or human resource capacities,
- (d) to achieve development objectives;

“public sector investment project” means public investment requiring planning, execution, monitoring and evaluation carried out as an integrated set of activities aimed at meeting a development objective, at a specified cost and within a defined timeframe;

“public-private partnership” means a long-term contract between a private party and a Government agency, for providing or managing a public asset and associated services, in which the private party bears significant risk and management responsibility;

“receiver of revenue” has the meaning assigned to it under the Act, and includes a sub-accountant;

“services” means an object of procurement, other than construction or goods, and includes consultancy services, insurance coverage, telephone service, internet service, electricity and other similar services but does not include contracts of employment in the public service;

“sub-accountant” means a public officer who is authorised directly by the Accountant General to exercise the powers of the Accountant General or specified powers to the Accountant General or a sub-treasury;

“system” means the treasury financial information system of the computer system of the Government.

(2) For the purposes of these Regulations, the Accountant General, the Comptroller of Customs, the Comptroller of Inland Revenue, an Accountable Officer, or a public servant, or other person who receives money paid to a Covered Entity, other than a State-Owned Enterprise, shall be deemed to be the collector of revenue.

PART II

ROLES AND RESPONSIBILITIES FOR MANAGEMENT OF PUBLIC FINANCES

3. Roles of Permanent Secretary of Finance. In addition to the roles and responsibilities in the Act, the Permanent Secretary shall—

- (a) provide fiscal policy advice to the Minister;
- (b) prepare the medium-term fiscal framework, including macroeconomic and fiscal forecasts, the budget framework paper and National Budget documents;
- (c) ensure the proper functioning of the public finance management systems and processes;
- (d) assess the plans, budgets, in-year reports and Annual Reports of Covered Entities; and
- (e) monitor the performance of Covered Entities with regard to plans, budgets and requirements of the Act.

4. Roles of Permanent Secretaries of line ministries and CEOs. The Permanent Secretary of, and every Chief Executive Officer or Head of, a Covered Entity, in addition to responsibilities under the Act or any other enactment, shall—

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- (a) be responsible for the Accountable Officer requirements in section 10 of the Act when appointed as an Accountable Officer; and
 - (b) manage the Covered Entity to achieve the performance specified in the National Budget and the approved plan for the Covered Entity.

5. Role of boards. The directors of a board of a Covered Entity shall, collectively and individually, govern the Covered Entity to achieve the performance specified in the approved plan for the Covered Entity.

6. Delegation. (1) Where these Regulations require or permit the Minister, or another specified public officer, to perform a function, the provision shall be interpreted to permit the Minister or that public officer to delegate the function to another public officer.

(2) The Accountant General may delegate in writing any of his or her responsibilities or powers under the Act to any senior official of the Ministry, including a sub-accountant, consistent with these Regulations and, notwithstanding the delegation, the Accountant General shall remain liable under section 87 of the Act for the proper exercise of those responsibilities and powers.

(3) Notwithstanding subregulations (1) and (2), the Accountant General shall not delegate the following responsibilities—

- (a) prescribing forms under regulation 96 (1) or any other provision of these Regulations relating to the prescription of forms;
- (b) his or her authority to permit the use of a reproduction of a signature;
- (c) his or her authority to open, operate and close Government bank accounts;
- (d) his or her authority to allow the manual operation of the system;
- (e) his or her authority to allow access to the system;
- (f) his or her authority for establishing protocols to protect the system;
- (g) his or her authority to perform an annual security assessment in accordance with regulation 228.

(4) A person to whom an authority is delegated under this regulation shall not further delegate that authority to any other person unless the person so delegating permits.

(5) The person making a delegation shall remain responsible for the functions delegated notwithstanding the delegation.

7. Duty of diligence and honesty. The following public officers shall, with diligence and honesty, discharge his or her responsibilities and exercise his or her powers under the Act and every other enactment—

- (a) the Accountant General and every delegate thereof;
- (b) every Accountable Officer and every delegate thereof;
- (c) the Comptroller of Customs and the Comptroller of Inland Revenue and every delegate thereof acting as collectors of revenue;
- (d) every Head of any other Covered Entity and every delegate thereof,

and non-compliance with any such enactment shall be subject to the appropriate disciplinary action under the enactment.

PART III

MEDIUM-TERM BUDGET FRAMEWORK AND BUDGET PREPARATION

Division 1

Medium term fiscal framework

8. Contents of Medium Term Fiscal Framework. (1) The medium-term fiscal framework document shall contain—

- (a) a medium-term macroeconomic forecast referred to in section 12 (1) of the Act, setting out actual, estimated and projected values of the following economic variables for the budget year and two forward years, which shall include—
 - (i) gross domestic product and its components;

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- (ii) inflation;
 - (iii) employment and unemployment;
 - (iv) exchange rates with major trading partners;
 - (v) interest rates;
 - (vi) money supply;
 - (vii) assumptions and methodologies underpinning the forecasts; and
 - (viii) information on the longer term macroeconomic forecasts;
- (b) medium-term fiscal forecasts referred to in section 12 (1) of the Act, setting out actual, estimated, and projected values of the following fiscal variables for the budget year and two subsequent years, which shall include—
- (i) aggregate revenues;
 - (ii) aggregate expenditures;
 - (iii) fiscal balance for the overall budget;
 - (iv) primary balance;
 - (v) the level of debt by external source, domestic source and total; and
 - (vi) sensitivity analysis taking account of possible changes in macroeconomic conditions;
- (c) a statement of the Government's overall measurable medium-term fiscal policy objectives, which shall include intentions for debt/GDP, expenditure/GDP, expenditure on personnel/GDP, fiscal balance/GDP, primary balance/GDP, contingent liabilities from private public partnership (nominal), and guarantees (nominal) in sufficient detail to meet the requirements of any enactment regulating fiscal responsibility as may be promulgated from time to time;
- (d) a summary of the fiscal policies for revenue, debt, deficit and expenditure with expenditure ceiling for votes and for expenditure on personnel;

- (e) an assessment of the consistency of the planned fiscal policy with the fiscal principles and rules in any enactment regulating fiscal responsibility as may be promulgated from time to time and the Government's medium-term fiscal policy objectives in the most recent medium-term fiscal framework document, including ceilings from the previous medium-term fiscal framework;
- (f) information on reasons for any deviations from the fiscal principles and rules and the Government's medium-term fiscal policy objectives in the most recent medium-term fiscal framework document, a description of the plans to address any such deviations, and the expected time to achieve this;
- (g) a fiscal risk which shall include—
 - (i) the sensitivity of economic and fiscal forecasts to changes in the economic outlook and economic shocks;
 - (ii) the exposure of the Government to contingent liabilities, including guarantees and obligations arising from judicial proceedings in progress;
 - (iii) fiscal risks arising from the financial sector, Statutory Bodies, State-Owned Enterprises, public-private partnerships, and any other institutions;
 - (iv) any commitment unaccounted for in the economic and fiscal forecasts;
 - (v) any other circumstance that may have a material effect on economic and fiscal forecasts, and is unaccounted for in the economic and fiscal forecasts; and
 - (vi) any measures implemented by Cabinet, or the Minister, to manage fiscal risks;
- (h) a statement of responsibility signed by the Permanent Secretary attesting to the reliability and completeness of the information in the medium-term fiscal framework and its compliance with the law.

9. Process for Medium Term Fiscal Framework. (1) Every fiscal year, the Permanent Secretary shall cause to be prepared the medium-term fiscal framework document, which shall be approved by Cabinet not later than the 31st day of July.

(2) Upon its approval by Cabinet and simultaneously with the laying of the Estimates of Revenue and Expenditure—

- (a) the medium-term fiscal framework document shall be laid before Parliament, for information; and
- (b) not later than one week after it has been laid before Parliament, the Permanent Secretary shall cause the medium-term fiscal framework document to be published on an official website of the Government.

10. Requirements for multi-year commitments. The annexes to the National Budget shall include a statement on proposed multi-year commitments and information on the previously approved multi-year commitments and the current status of such commitments.

11. Ceilings for multi-year commitments. In exercise of his or her power under section 13 of the Act to approve multi-year commitments, the Minister shall ensure that multi-year commitments for the medium term are within the ceilings approved by Parliament.

12. Budget calendar. A detailed budget calendar shall be specified in the budget circular that is consistent with the timelines in Appendix C to these Regulations.

Division 2

Budget Framework Paper

13. Contents of budget framework paper. The budget framework paper shall set out the following—

- (a) a summary of macroeconomic and fiscal forecasts from the medium-term fiscal framework document as updated;
- (b) a summary of fiscal policy and the statement of the medium-term fiscal objectives from the medium-term fiscal framework;

- (c) a comparison between the performance and the medium-term fiscal framework and the National Budget of the current year based on projections from the most current available information;
- (d) the Government's priorities for the National Budget, including information on the funds available for new policies or projects and a prioritised list of proposed spending for such funds;
- (e) proposed efficiencies and spending reductions;
- (f) ceilings to be approved in the National Budget for expenditure, debt and other ceilings as may be required by any enactment regulating fiscal responsibility as may be promulgated from time to time;
- (g) fiscal risk information as specified in the Act and any other applicable enactment updated from the medium-term fiscal framework where relevant; and
- (h) other information as the Minister may consider necessary.

Division 3 ***Expenditure Estimates***

14. Contents of the expenditure estimates. The expenditure estimates forming part of the National Budget shall set out—

- (a) the appropriations arranged by Expenditure Vote under the responsible administrative Ministry or other Covered Entity;
- (b) the outcomes and outputs associated with the money to be expended by each Expenditure Vote;
- (c) expenditure for each Expenditure Vote presented in a form to support performance based budgeting linking financial and non-financial performance for each Expenditure Vote, from a date to be determined by the Minister;
- (d) additional details on expenditure for each Expenditure Vote presented by aggregated economic classifications which shall distinguish between—

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- (i) personnel expenditure;
 - (ii) non-personnel recurrent expenditure showing operational expenditure for the entity administering the Expenditure Vote distinct from funds to be paid to other entities or individuals, including in the form of transfers and subsidies; and
 - (iii) capital expenditure; and
 - (e) other information as the Minister may consider necessary.

15. Appropriations pertaining to expenditures. For the avoidance of doubt—

- (a) enactments that provide for appropriation of sums for the service of Grenada shall continue to be the legal basis to control expenditure together with the virement reallocation; and
- (b) the source of revenue is not appropriated.

Division 4

Corporate and Annual Work Plans for ministries and departments

16. Corporate and Annual Work Plan for Ministry or Department. (1) In every fiscal year, each Ministry and Department shall submit a three-year corporate plan to the Ministry not later than the twenty-sixth day of June.

- (2) The corporate plan under subregulation (1) shall include—
 - (a) strategic outcomes for the medium term that are aligned with the overall national development outcomes;
 - (b) details of services to be delivered, including—
 - (i) the outcomes relevant to the services provided;
 - (ii) the outputs to be provided;
 - (iii) measurable indicators of performance, where feasible; and
 - (iv) the budget allocated to the outputs and outcomes;

- (c) capital developments;
- (d) human resource and information and communication technology needs;
- (e) risks and risk management intentions; and
- (f) financial resources required.

(3) Every Ministry and Department shall, on the basis of the corporate plan under subregulation (1), develop an annual work plan which will inform the resources required for the budget year and which shall include—

- (a) priorities and actions for the budget year;
- (b) expected results;
- (c) the timeframe;
- (d) the responsible officer; and
- (e) resources tied to budget submission.

(4) Every annual work plan shall be approved by the Line Minister.

(5) Every Permanent Secretary and Head of Departments shall—

- (a) take reasonable steps to ensure that the annual work plan and draft Annual Budget comply with the budget circular and other directives, orders, instructions and guidelines under the Act;
- (b) update the annual work plan to reflect the National Budget approved by Parliament; and
- (c) not later than one week after the approval of the National Budget by Parliament, publish the corporate plan on the official website of the Government.

PART IV

BUDGET APPROVAL AND APPROPRIATIONS

17. Publication of National Budget. (1) For the purposes of section 24 of the Act, the requirement to make available to the general public the Proposed Budget within

one week following its submission to Parliament shall apply to when the Proposed Budget, as approved by the Standing Committee on Finance, has been presented to Parliament.

(2) For the avoidance of doubt, the Government shall not be required to make the budget approved by the Standing Committee on Finance available to the general public prior to the presentation of the Budget Speech.

18. Name of medium term fiscal document. For the avoidance of doubt, reference to the “fiscal strategy statement” and the “medium-term fiscal and budget framework” in section 25 of the Act means the medium-term fiscal framework document.

PART V

BUDGET EXECUTION

Division 1

Warrants

19. Restrictions on reallocation warrants. (1) The Minister shall not approve a reallocation warrant if the total of all reallocation warrants in any financial year exceeds ten percent of the approved expenditure for the National Budget for that financial year.

(2) Every reallocation in excess of the amounts specified in this regulation shall be authorised by Supplementary Estimates and a supplementary appropriation Bill.

20. Numbering of warrants. (1) The following types of warrants issued in a financial year shall be numbered individually as a series in ascending numerical order—

- (a) contingencies warrants; and
- (b) reallocation warrants.

(2) Virement warrants and departmental warrants shall be numbered in ascending numerical order by Covered Entity.

21. Distribution of copies of warrants and reservations and updating system.

(1) The Minister shall take reasonable steps to ensure that, immediately after the Minister or authorised authority signs—

- (a) a general warrant;
- (b) a provisional general warrant;
- (c) a notice of reservation under section 34 (3) of the Act in respect of a general warrant;
- (d) an authorisation to expend in accordance with the general warrant, a notice of reservation under section 34 of the Act, or the directions of the Minister under section 34 (5) (b) of the Act;
- (e) a notice of reservation under section 34 (3) of the Act in respect of a provisional general warrant;
- (f) an authorisation to expend in accordance with the provisional general warrant, a notice of reservation under section 34 (3) of the Act, or directions of the Minister under that section,

the system is updated to reflect the warrant, and a copy of each warrant is sent to the Accountant General, each affected Accountable Officer and the Director of Audit.

(2) The Accountable Officer shall, immediately after signing a virement warrant, send the virement warrant to the Minister and a copy of the virement warrant to the Accountant General and the Director of Audit.

(3) The Minister shall, immediately after receipt of the virement warrant, take reasonable steps to ensure that the system is updated to reflect the virement warrant.

22. Expenditure of reserved money where no provision in warrant or notice.

(1) Where expenditure is reserved by—

- (a) a general warrant;
- (b) a provisional general warrant;
- (c) a notice under section 34 (3) of the Act in respect of a general warrant;
or

- (d) a notice under section 34 (3) of the Act in respect of a provisional warrant,

and no provision is made to authorise the expenditure in the warrant or notice or by direction of the Minister, the Accountable Officer designated in respect of the Expenditure Vote may, in the form prescribed by the Minister, apply to the Minister through the Permanent Secretary, for authority to expend the reservation.

(2) An application under sub-regulation (1) shall set out the reasons that the expenditure of the reservation is necessary.

(3) Where an application for authority to expend a reservation has been approved, the Minister shall cause a copy of the direction of the Minister to expend the reservation to be sent to the Accountant General, the Permanent Secretary, the Director of Audit and the affected Accountable Officer.

(4) Where an application for authority to expend a reservation has been denied, the Minister shall cause a notice to be sent to the Accountant General, the Permanent Secretary, the Director of Audit and the affected Accountable Officer.

Division 2

Payment of Remissions, Refunds and Settlement of Claims against Government

23. Remission of money paid under section 41 of the Act. (1) Pursuant to section 41 of the Act, the collector of revenue with responsibility for the head of revenue may, through the Permanent Secretary, apply to the Minister for a remission of a tax, fee or other amount including interest or a penalty that has been paid.

(2) An application under subregulation (1) shall set out particulars of—

- (a) the tax, fee or other amount, including interest or penalties, if any, proposed to be remitted;
- (b) the conditions, if any, to which the remission is subject; and
- (c) such other information as the Accountable Officer or the Minister considers appropriate.

(3) Where a remission is granted under section 41 of the Act, the collector of revenue shall without unreasonable delay submit to the Accountant General—

- (a) evidence that the remission was granted by the Minister;
- (b) a statement of the conditions, if any, to which the remission is subject; and
- (c) a statement of the particulars of the remissions that complies with section 41 (3) of the Act.

(4) The Accountant General shall take reasonable steps to ensure compliance with section 41 of the Act.

24. Remission of money paid under section 72 (1) (d) of the Constitution.

Where a penalty or a forfeiture of money has been paid and remitted under section 72 (1) (d) of the Constitution, the Accountant General shall refund the amount remitted and the accounting requirements of section 41 (3) of the Act shall apply.

25. Refunds under section 40 of the Act. (1) In accordance with section 40 of the Act, the Accountant General may refund from the Consolidated Fund all or part of any money received by the Government if—

- (a) the money is erroneously paid or collected; or
- (b) the money is a drawback, rebate or other amount required or permitted to be refunded under any enactment.

(2) Where a refund is made pursuant to section 41 of the Act, the Accountant General shall take reasonable steps to ensure that the particulars of the refund are recorded and accounted for.

26. Settlement of claims against Government under section 41 (1) of the Act.

(1) The Accountant General shall pay all applicable money to settle a claim pursuant to section 41 (1) (c) of the Act.

(2) The Attorney-General may request that payment of a claim under section 41 of the Act be subject to the execution of releases and other documents as he or she considers appropriate as a condition precedent.

(3) Where a payment is made under section 41 (1) (c) of the Act to settle a claim, the Accountant General shall ensure that the particulars of the payment are recorded and accounted for.

27. Settlement of claims against Government under section 42 of the Act. Where the Minister has settled a claim pursuant to section 42 of the Act, the Accountant General shall pay the settlement amount from the Consolidated Fund after receipt of a copy of the release and other documents as the Attorney General considers appropriate.

Division 3

General Provisions Respecting Payment under Division 5, 6 or 7

28. Application of this Division. This Division applies to payments made under Divisions 5, 6 and 7.

29. Payments to representative of person entitled to receive payment. (1) Subject to subregulation (4), where an Accountable Officer is directed to make payment to a representative of a person entitled to receive payment, the Accountable Officer shall take all reasonable steps to ensure that he or she makes payment to the authorised representative of the person.

(2) Authorisation of a representative shall be effected in writing, and subject to subregulation (3), shall be signed by the person entitled to receive payment, and may be in the form of—

- (a) a power of attorney, authority, direction or order to pay, conferring authority on the person's representative to receive payment;
- (b) letters of administration, with or without a will annexed, or grant of probate, in the case of a deceased person;
- (c) the direction of a trustee in bankruptcy, in the case of a bankrupt person;
- (d) the direction of a liquidator or other person authorised by law, in the case of an insolvent person;
- (e) the direction of a parent or guardian of a minor entitled to receive payment; or
- (f) the direction of a person authorised by law to act on behalf of any other person.

(3) An Accountable Officer who is directed to make payment to a representative of a person entitled to receive a payment shall keep the original or a certified or notarised copy of the document authorising payment to be made to the representative.

(4) Where an Accountable Officer is uncertain about whether the representative is authorised to receive payment on behalf of a person, the Accountable Officer may require the representative to enter into an agreement to indemnify the Government in the event that it is found that the representative was not authorised to receive the payment.

30. Manual operation of financial information system when computer system not operational. (1) Notwithstanding any provision in Division 5, 6 or 7, the Accountant General may authorise the manual operation of the financial information system or any part thereof if—

- (a) the financial information system or part thereof is not operational; and
- (b) the Accountant General thinks it fit to wait until the financial information system or part thereof resumes operation.

(2) The Accountant General shall take reasonable steps to ensure compliance at all times with subregulation (1), including procedures and documents as may be appropriate.

(3) Where for any reason and for any period of time the financial information system or any part thereof ceases to be operational, the Accountant General shall, in consultation with the Permanent Secretary, establish, and revise from time to time as necessary, protocols for updating the financial information system and such protocols shall include a protocol for identifying the data as an update.

(4) Immediately after the financial information system or part thereof resumes operation, the Accountant General shall take reasonable steps to ensure that the financial information system is updated in accordance with protocols established under subregulation (3).

Division 4

Payment for Construction, Goods, Services and other Purposes

31. Application of this Division. This Division applies to all payments made from—

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- (a) the Consolidated Fund, other than payments required or permitted under Division 6 and Division 7;
 - (b) a deposit; or
 - (c) a special fund, except to the extent that—
 - (i) the Minister, pursuant to subsection (2) or (3) of section 45 of the Act, has made other provisions, or
 - (ii) section 47 of the Act applies.

32. Payments to be made on the authority of Accountant General or Accountable Officer. Every payment made shall be made on the authority of the Accountant General or an Accountable Officer.

33. Certification of payment for construction, goods or services and other purposes. No payment shall be made out of the Consolidated Fund, a deposit or a special fund, unless, in addition to a payment instruction and any other certification required under these Regulations, an Accountable Officer certifies—

- (a) in the case of a payment for construction, the supply of goods or the rendering of services, that the procurement complies with the Public Procurement and Disposal of Public Property Act, 2014 and every regulation made thereunder;
- (b) that the construction has been done, the goods supplied or the services rendered, as the case may be, and that the price charged is according to the contract or, if not specified by the contract, is reasonable;
- (c) where, pursuant to the contract, a payment is to be made before the completion of the construction, the delivery of the goods or the rendering of the services, as the case may be, that the payment is according to the contract;
- (d) where payment is made in advance of verification, that the claim for payment is reasonable; or
- (e) in the case of any other payment, that the payee is eligible for or entitled to the payment.

34. All payments to be by system-readable instruction unless otherwise permitted. All payment instructions shall be system-readable and shall be transmitted electronically, unless the Accountant General authorises the use of a payment instruction referred to in regulation 35 (a).

35. Forms of payment instructions. The following forms of payment instructions may be used—

- (a) a payment voucher in paper form prescribed by the Accountant General;
- (b) a system-readable instruction transmitted electronically.

36. Contents of payment instructions and supporting documentation. (1) A payment instruction shall set out the following—

- (a) the person to whom payment is to be made;
- (b) where the payment instruction is a payment voucher referred to in regulation 35 (a), particulars of the basis of the payment such as the date, hour, number, quantity, distance and rate so as to enable them to be checked without reference to any other document;
- (c) where the payment instruction is a system-readable instruction referred to in regulation 35 (b), such particulars of the basis of the payment as may be included in the system-readable instruction;
- (d) the amount of the payment in numbers and, where the form permits it, in words;
- (e) evidence that the appropriate person has authorised the payment; and
- (f) the expenditure classified in accordance with the estimates and chart of accounts.

(2) The payment instruction shall be supported by the appropriate certificates and other documentation respecting the payment, including any authorisation to make payment to a representative of the person entitled to be paid.

37. Certification of payment instructions. An Accountable Officer who signs or authorises a payment instruction shall certify that the information set out in the payment instruction is correct and complete.

Division 5

Payment of Salaries, Wages, Allowance and Reimbursements

Subdivision 1

Payment of Salaries, Allowances and Reimbursements of Public Officers and Wages, Allowances and Reimbursements of other Government Employees

38. Application of this Subdivision. This subdivision applies to—

- (a) the payment of salaries, allowances and reimbursable expenses to public officers; and
- (b) the payment of wages, allowances and reimbursable expenses to non-established employees.

39. Responsibilities of Chief Personnel Officer relating to public officers. The Chief Personnel Officer shall—

- (a) be responsible for the due administration of the Public Service Orders and the laws in respect of the payment of salaries, allowances and reimbursements to public officers;
- (b) keep a central personnel file with respect to each public officer in which shall be recorded clearly and accurately up-to-date particulars relating to the employment of the public officer; and
- (c) without unreasonable delay furnish to the Accountable Officer of the Covered Entity at which the public officer is employed all information relevant to the employment of the public officer, including particulars of his or her salary, allowances and reimbursable expenses and any changes to the information, and shall send a copy of that file to the Accountant General, the Director of Audit and the Department of Public Administration.

40. Responsibilities of Accountable Officer relating to Public Officers. (1) The Accountable Officer shall keep records, manually or electronically, of the particulars relating to the salaries, allowances and reimbursements of each public officer in his or her Covered Entity including—

- (a) each post held by the public officer and the date on which he or she commenced holding it and the date on which he or she ceased to hold it;
- (b) any other post in which the public officer acts or to which he or she is assigned;
- (c) the rate of salary and any allowance payable to the public officer under subregulation (a) or (b);
- (d) the deductions required to be made from each public officer's salary, and the amount of each deduction;
- (e) the date on which an increment of salary of the public officer becomes payable;
- (f) the leave due to and taken by the public officer and the type and amount thereof;
- (g) absences other than leave.

(2) The Accountable Officer shall without unreasonable delay provide such information as may be required by the Chief Personnel Officer relating to the employment and the salaries, allowances and reimbursable expenses of each public officer in his or her Covered Entity, including—

- (a) the person's assumption of an acting position for which the person will be paid an additional amount of salary or allowances;
- (b) the person's resignation;
- (c) the person's death;
- (d) the leave that a public officer has taken;
- (e) absences from services; and

- (f) the person's intention to take extended leave and whether it is paid or unpaid.

(3) The Accountable Officer shall without unreasonable delay transfer all personal information of a transferred officer to the receiving Accountable Officer.

41. Responsibilities of Accountant General relating to payroll. The Accountant General shall for each pay period—

- (a) prepare the payroll setting out the salary, allowances and reimbursements to which each public officer is entitled and, in doing so—
 - (i) make the deductions required or permitted by law or permitted by an agreement;
 - (ii) where appropriate, prorate salaries and allowances; and
 - (iii) inquire whether any public officer has an indebtedness to the Government and whether and to what extent that indebtedness should be set off against the salaries and allowances due to the public officer and, if so, shall show on the payroll the amount deducted from the salaries and allowances due to the public officer; and
- (b) without unreasonable delay forward to the Accountable Officer of each Covered Entity the portion of the payroll that relates to the public officers employed in the Covered Entity.

42. Responsibilities of Accountable Officer relating to payroll. The Accountable Officer shall, without unreasonable delay after receipt of that portion of the payroll that relates to the public officers employed in his or her Covered Entity ("the departmental payroll")—

- (a) review the departmental payroll;
- (b) resolve any discrepancies between his or her records and the departmental payroll;
- (c) take reasonable steps to ensure that salaries and allowances to which an employee is entitled are prorated, when necessary;

- (d) take reasonable steps to ensure that all reimbursements claimed by a public officer are correct; and
- (e) report to the Accountant General the results of the review under paragraph (a).

43. Responsibility of Accountable Officer to keep records for non-established employees. Every Accountable Officer shall keep records respecting all non-established employees in his or her Covered Entity and shall ensure that the records are up to date and show clearly and accurately particulars, in respect of each employee, that include the following—

- (a) where the employee is paid on the basis of hours or days worked, the following particulars in respect of each pay period for non-established employees paid hourly or daily, as the case may be—
 - (i) the days and hours worked;
 - (ii) the number of hours paid at an hourly wage or the number of days paid at a daily wage;
 - (iii) the rate of the hourly or daily wage;
 - (iv) the total amount of the hourly or daily wages;
 - (v) the number of hours of overtime worked;
 - (vi) the hourly rate of overtime paid; and
 - (vii) the total amount of overtime paid;
- (b) where the employee is paid on the basis of an annual rate, the following information in respect of each pay period—
 - (i) the percentage or fraction of the annual rate paid;
 - (ii) the number of hours of overtime worked;
 - (iii) the hourly rate of overtime paid; and
 - (iv) the total amount of the overtime paid;

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- (c) where the employee is paid other than on the basis of time worked, the basis upon which he or she is paid and the total amount payable on that basis and any other amount payable for work by the employee;
 - (d) the deductions required by law or by agreement to be made from each employee's wages;
 - (e) the type of leave due and taken by the employee;
 - (f) the gratuity due to the employee, where applicable;
 - (g) the benefits due to the employee; and
 - (h) any allowances and reimbursable expense payable to the employee.

44. Responsibility to prepare timesheet for non-established employees. (1)

Where a person is delegated by an Accountable Officer to supervise non-established employees, the person shall maintain a timesheet for each pay period and such time sheet should be up-to-date and shall show clearly and accurately the following particulars in respect of each employee—

- (a) where the employee is paid on the basis of hours or days worked, as the case may be—
 - (i) the days and hours worked;
 - (ii) the number of hours or days to be paid at the hourly or daily wage;
 - (iii) the rate of the hourly or daily wage;
 - (iv) the total amount of the hourly or daily wage;
 - (v) the number of hours of overtime worked; and
 - (vi) the hourly rate of overtime paid;
- (b) where the employee is paid on the basis of an annual rate—
 - (i) the percentage or fraction of the annual rate paid;
 - (ii) the number of hours of overtime worked;
 - (iii) the hourly rate of overtime paid;

(iv) the total amount of the overtime paid; and

(v) leave taken;

(c) where an employee is paid other than on the basis of time worked, the basis upon which he or she is paid and the total amount payable on that basis and any other amount payable for work done by the employee.

(2) The timesheet referred to in subregulation (1) (a) shall be prepared daily, where the work is being done—

(a) for each non-established employees paid an hourly wage; and

(b) for non-established employees paid a daily wage when overtime is worked.

(3) The Accountable Officer shall take reasonable steps to ensure that, before the payroll is prepared, every timesheet is verified by another public officer.

45. Preparation and certification of payroll. A person who is delegated by the Accountable Officer to supervise non-established employees shall—

(a) prepare the payroll for non-established employees, which shall include particulars of—

(i) the deductions required by law or agreement made from each employee's wages; and

(ii) one-off allowances;

(b) inquire of the Accountant General whether any employee has an indebtedness to the Government and whether and to what extent that indebtedness should be set off against the wages due to the employee and, if so, shall indicate on the payroll the amount deducted from the wages due to the employee;

(c) ensure that the payroll is verified by another public officer for accuracy and resolve any differences of opinion that may arise;

(d) then, resolve any difference of opinion with the other public officer and shall certify the payroll under his or her hand as true and correct; and

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- (e) pay the amount due to the employer for that purpose or without unreasonable delay transmit the payroll to the Accountant General with a payment instruction.

46. Responsibilities of Accountant General relating to payment. The Accountant General shall, after making the deductions required or permitted by law or permitted by an agreement—

- (a) pay the public officers in accordance with the reviewed departmental payroll referred to in regulation 42; and
- (b) where required by an Accountable Officer, after making the deductions required or permitted by law or permitted by an agreement, pay the non-established employees in accordance with the payment instruction referred to in regulation 45.

47. Delayed claims for allowances or reimbursements. No allowance in excess of one thousand dollars shall be paid after the expiration of three months from the date on which the allowance becomes payable, where the allowance—

- (a) is payable to a public officer and is required to be claimed; or
- (b) is a reimbursement,

without the approval in writing of the Permanent Secretary.

48. When salary, wages, allowances or reimbursements cannot be paid. (1) Where a salary, allowance or reimbursement is payable to a public officer, or a wage, allowance or reimbursement is payable to a non-established employee, and the payment cannot be made to the public officer or non-established employee, as the case may be, before the expiration of three months or the end of the financial year, whichever is the earlier, the payment shall be made to the Accountant General and credited to the Deposits: Unpaid Salaries, Wages and Allowances and Reimbursements account.

(2) Where a public officer or a non-established employee claims an amount referred to in subregulation (1), the Accountant General shall prepare a payment instruction to charge the amount to Deposits: Unpaid Salaries, Wages, Allowances and Reimbursements account.

Subdivision 2***Emoluments, Allowances and Reimbursements of Members of Parliament***

49. Application of this Subdivision. This Subdivision applies to the payment of emoluments, allowances and reimbursable expenses to Members of Parliament.

50. Responsibilities of Clerk of Parliament. The Clerk of Parliament shall, in relation to the Members of Parliament—

- (a) be responsible for the due administration of the emoluments, allowances and reimbursements payable by law to each Member of Parliament;
- (b) keep a central file consisting of clear, accurate and up-to-date records of particulars relating to the emoluments, allowances and reimbursements payable by law to each Member of Parliament;
- (c) furnish to the Accountant General a payroll setting out the emoluments, allowances and reimbursements payable by law to each Member of Parliament and;
- (d) where appropriate, prorate emoluments and allowances for the first and last month of service.

51. Responsibilities of Accountant General relating to payment. In accordance with the instructions for the payroll prepared by the Clerk of Parliament in relation to members of Parliament, the Accountant General shall, after making the deductions required by law, pay the members of Parliament the emoluments, allowances and reimbursements.

Division 6**Pension and Gratuities****Subdivision 1*****Payment of Pensions and Gratuities to Public Officers***

52. Application of this Subdivision. This subdivision applies to the payment of pensions and gratuities to public officers under any enactment providing for the payment of pensions and gratuities.

53. Notice of retirement. (1) Where a public officer intends to retire from the public service during the following financial year, the public officer shall, not later

than six months before the end of the financial year, give notice of his or her intention to the Accountable Officer of his or her Covered Entity.

(2) The Accountable Officer shall, not later than four months before the end of the financial year, submit to the Chief Personnel Officer a list of the names of every public officer in the Accountable Officer's Covered Entity who has given notice of intention to retire from the public service during the following financial year and the proposed date of retirement for each public officer.

(3) Notwithstanding anything in this regulation, where a public officer, by virtue of the circumstances of his or her retirement, cannot give the notice in accordance with subregulation (1), the public officer shall give notice, as is reasonable in the circumstances, and the Accountable Officer shall forthwith give notice to the Chief Personnel Officer of the name of the public officer who is retiring and the proposed date of retirement.

54. Responsibilities of Chief Personnel Officer. (1) The Chief Personnel Officer shall be responsible for the due administration of all laws regarding pensions and gratuities of public officers.

(2) The Chief Personnel Officer shall—

- (a) keep clear, accurate and up-to-date records of particulars relating to the employment of each public officer and sufficient to determine the pension and gratuity, as the case may be, of each public officer;
- (b) keep record of particulars of the retirement of each public officer including—
 - (i) the name, date of birth and address of the public officer;
 - (ii) the date of retirement and the post held on the date of retirement;
 - (iii) the reason for retirement;
 - (iv) the date on which the pension shall become payable to the public officer; and
 - (v) the file reference number;

- (c) consult with each public officer regarding the option of payment by pension or by pension and gratuity;
- (d) calculate and record the amount of the pension, or pension and gratuity, payable for each public officer; and
- (e) furnish to the Accountant General the calculations setting out the pension, or pension and gratuity payable, to each public officer.

(3) The Chief Personnel Officer shall, without unreasonable delay, transmit to the Accountant General any information relating to a public officer that would affect his or her pension.

55. Responsibilities of Accountant General relating to payment of pensions and gratuities. The Accountant General shall—

- (a) review the calculations made by the Chief Personnel Officer pursuant to regulation 54;
- (b) refer the calculations to the Director of Audit for certification of the calculations; and
- (c) after making the deductions required by law, pay the pension or the pension and gratuity, as the case may be, to the public officers who have retired.

56. Pensions and gratuities that cannot be paid. Where payment of a pension or gratuity cannot be made to, or is not collected by, the public officer entitled to receive it within a reasonable time after it becomes due, the Accountant General shall hold it in an account established for that purpose.

Subdivision 2

Payment of Pensions and Gratuities to Members of Parliament, the Governor-General and Judges

57. Application of this Subdivision. This Subdivision applies to the payment of pensions or pensions and gratuities to Members of Parliament, the Governor-General and Judges.

58. Responsibilities of the Clerk of Parliament, the Head of the Office of the Governor General and the person responsible for payment of pensions and gratuities to Judges. (1) The Clerk of Parliament shall—

- (a) be responsible for the due administration of the pensions and gratuities payable by law to Members of Parliament;
- (b) in respect of each Member of Parliament, maintain a central file consisting of clear, accurate and up-to-date records of particulars relating to the pensions and gratuities payable by law to the Member of Parliament;
- (c) calculate and record the amount of the pension or pension and gratuity for each Member of Parliament;
- (d) furnish to the Accountant General instructions setting out the pension or pension and gratuity payable to each Member of Parliament; and
- (e) without unreasonable delay, transmit to the Accountant General any information relating to a Member of Parliament that would affect the pension or the pension and gratuity of the Member of Parliament.

(2) The head of the Office of the Governor-General shall—

- (a) be responsible for the due administration of the pensions and gratuities payable by law to the Governor-General;
- (b) maintain a central file consisting of clear, accurate and up-to-date records of particulars relating to the pensions and gratuities payable by law to the Governor-General;
- (c) calculate and record the amount of the pension or pension and gratuity for the Governor-General; and
- (d) furnish to the Accountant General instructions setting out the pension or pension and gratuity payable to the Governor-General; and
- (e) without delay, transmit to the Accountant General any information relating to the Governor-General that would affect the pension or the pension and gratuity of the Governor-General.

(3) The person responsible for payment of pensions and gratuities in relation to a Judge of the Eastern Caribbean Supreme Court functioning in the High Court of Grenada shall—

- (a) be responsible for the due administration of the pensions and gratuities payable by law to every such Judge;
- (b) in respect of every such Judge, maintain a central file consisting of clear, accurate and up-to-date records of particulars relating to the pensions and gratuities payable by law to the Judge;
- (c) calculate and record the amount of the pension or pension and gratuity for every such Judge;
- (d) furnish to the Accountant General instructions setting out the pension or pension and gratuity payable to every such Judge; and
- (e) without delay, transmit to the Accountant General any information relating to such a Judge that would affect the pension or the pension and gratuity of the Judge.

59. Responsibilities of Accountant General relating to payment. In accordance with the information provided pursuant to section 58, the Accountant General shall, after making the deductions required by law, pay to Members of Parliament, the Governor-General or the Judge of the Eastern Caribbean Supreme Court the pensions and gratuities due and outstanding.

60. Pensions and gratuities that cannot be paid. Where payment of a pension or gratuity cannot be made to, or is not collected by, a person entitled to receive it within a reasonable time after the day it is due, the Accountant General shall hold it in an account established for the purpose.

Division 7

Forms of Payment, Right of set off and Related Matters

Subdivision 1

Forms of Payment

61. Payments to be made by cheque and exceptions. (1) Subject to subregulation (2), all payments by the Government from the Consolidated Fund, a deposit or a special fund shall be made by cheque.

(2) Subregulation (1) does not apply to a payment—

- (a) made in cash under a warrant;
- (b) required or permitted to be made by direct deposit under Subdivision 3; or
- (c) by electronic means, by credit card in the name of the Government or by other means that is approved under regulation 30.

Subdivision 2

Payment by Cheque

62. Use of system to print cheques and exceptions. (1) Subject to subregulation (2), cheques drawn on a Government bank account shall be printed by the system.

(2) Subregulation (1) does not apply—

- (a) to cheques drawn on a Government bank account that is operated by an Accountable Officer under the authority of the Accountant General; or
- (b) to the circumstances referred to in regulation 30.

63. Ordering pre-printed cheques forms for printing on system. No person other than the Accountant General shall order pre-printed cheque forms for printing cheques drawn on a Government bank account using the system.

64. Cheques to be printed by system in ascending order of serial numbers. Pre-printed cheques forms drawn on a Government bank account and designed to be printed on the system shall be printed in ascending order of their serial numbers.

65. Procedure for spoiled cheques printed on system. Where a cheque printed by the system is spoiled, whether by the printing process or by the discovery of an error in the cheque or otherwise, the Accountant General or his or her designate shall—

- (a) write or stamp across the face of the cheque the word “CANCELLED” in upper case letters;
- (b) initial the face of the cheque; and

- (c) retain the cheque together with other spoiled cheques.

66. Ordering prepaid cheque forms designed to be drawn manually. No person, other than the Accountant General or an Accountable Officer authorised by the Accountant General to operate the relevant Government bank account, shall order pre-printed cheques forms designed to be used to draw cheques manually on a Government bank account.

67. Requirements of pre-printed cheque forms to be drawn manually. Every pre-printed cheque form designed to be used to draw cheques manually on a Government bank account shall—

- (a) be numbered serially in ascending order at the time of printing; and
- (b) have a counterfoil or be capable of producing one or more duplicate copies.

68. Cheques to be drawn in ascending order of serial numbers. Every pre-printed cheque drawn manually on a Government bank account shall be drawn in ascending order of their serial numbers.

69. Counterfoil to be completed; duplicate copy to be legible. (1) Where a pre-paid cheque form has a counterfoil, the person drawing the cheque shall enter particulars of the cheque on the counterfoil and initial it.

(2) Where a pre-printed cheque form is capable of producing one or more duplicates, the person drawing the cheques shall ensure that particulars of the cheque are legible on every duplicate and shall initial every duplicate.

70. Procedure for spoiled cheques drawn manually. Where a cheque drawn manually is spoiled, whether in the process of being drawn or by the discovery of an error in the cheque or otherwise, the Accountable Officer who has immediate responsibility for the drawing of the cheque shall—

- (a) write or stamp across the face of the cheque the word “CANCELLED” in upper case letters;
- (b) initial the face of the cheque; and
- (c) attach the cheque securely to the matching counterfoil or duplicate.

71. Taking books of pre-printed cheques apart. (1) Where pre-printed cheque forms designed to be drawn manually are bound in a book, no public officer shall divide, take apart or otherwise disassemble the book either before or after cheques are issued.

(2) No public officer shall divide, take apart or otherwise disassemble a book of pre-printed cheque forms designed to be drawn manually either before or after any cheque is issued.

72. Retention and checking of counterfoils or duplicates in used pre-printed cheques books. The Accountable Officer shall—

- (a) retain the counterfoil or duplicate or duplicates remaining in the book of pre-printed cheques after the pre-printed cheques have been drawn manually, together with any spoiled cheques, until they have been verified by the Director of Audit; and
- (b) send the counterfoil or duplicate in the book of pre-printed cheques, together with any spoiled cheques, to the Accountant General without delay after they have been verified.

73. Duplicate of lost cheques drawn on Government bank account. (1) In accordance with the Bills of Exchange Act, Chapter 31, where a cheque drawn on a Government bank account is alleged to have been lost, the person to whom the cheque was made payable (the “payee”) may apply to the Accountant General to furnish a duplicate of the cheque.

(2) Upon an application pursuant to subregulation (1), the Accountant General shall issue a duplicate of the cheque, if the payee enters into an agreement in the form approved by the Accountant General to indemnify the Government against all persons in case the cheque alleged to have been lost should be found again.

74. Number of signatures on cheques. A cheque drawn on a Government bank account shall be signed by at least two public officers.

75. Signing cheques at the Treasury. (1) The Accountant General shall sign every cheque drawn on a Government bank account under his or her direct authority at the Treasury.

- (2) The signature of the Accountant General on a cheque drawn on a Government bank account may be an electronic reproduction of his or her signature.
- (3) The Accountant General may authorise in writing one or more public officers who may, in addition to the Accountant General, sign cheques drawn on a Government bank account under the direct authority of the Accountant General at the Treasury.
- (4) The Accountant General may limit an authorisation under subregulation (3) by the amount of a cheque which the public officer may sign or in any other manner as the Accountant General may consider fit.
- (5) A public officer shall not sign a cheque drawn on a Government bank account under the direct authority of the Accountant General at the Treasury except in accordance with a written authorisation by the Accountant General under this regulation.

76. Signing cheques on bank accounts operated by Accountable Officer. (1) Where an Accountable Officer is authorised to open or operate a Government bank account, the Accountable Officer shall—

- (a) be one of the signing officers; and
 - (b) authorise in writing one or more other public officers, in addition to the Accountable Officer, to sign cheques drawn on the Government bank account.
- (2) An Accountable Officer may limit an authorisation under subregulation (1) (b) by the amount of a cheque which the public officer may sign.
- (3) A public officer shall not sign a cheque on a Government bank account authorised to be opened or operated by an Accountable Officer outside the Treasury except in accordance with a written authorisation by the Accountable Officer under this regulation.

Subdivision 3
Payment by Direct Deposit

77. Salaries, allowances and reimbursements required to be paid by direct deposit. Subject to regulation 79, all salaries and allowances of public officers, and reimbursements to public officers included in a payroll, shall be paid by direct deposit by the Accountant General to the account of the public officer in a bank or other financial institution.

78. Other payments that may be made by direct deposit. The Accountant General may authorise direct deposits to be made in a bank or other financial institution to the account of a person to whom a payment is due—

- (a) where payments are of a continuous or recurring nature;
- (b) in compliance with the conditions of a contract or agreement; or
- (c) on the specific written instruction of the person to whom the payment is due.

79. Exception to regulation 77 and 78. Notwithstanding regulation 77 and 78, the Accountant General may make payments other than by way of direct deposit to an account in a bank or other financial institution if—

- (a) the system or that part of the system used for the preparation of direct deposit instructions is not operational and the payment cannot reasonably be delayed until it is operational;
- (b) a payment is required to be made between the times direct deposits are usually made by the Accountant General;
- (c) the Accountant General cancels or suspends direct deposit instructions under regulation 83 (2); or
- (d) the bank or other financial institution to which the direct deposit instructions are directed is not able to give effect to those instructions.

80. Responsibility for inaccuracies in information, notice of change or correction of information. (1) A person to whose account a direct deposit is made or to be made is responsible for the accuracy of the information submitted to the Accountable Officer with respect to the bank or other financial institution and the

number of the account in the bank or other financial institution to which the payment by direct deposit is or is to be made.

(2) Where there is a change or correction of information in relation to a payment by direct deposit required or permitted under these Regulations, the person to whom the payment is to be made shall give to the Accountant General at least ten days' notice of the change or correction of the information.

81. Form of deposit. (1) Every direct deposit shall be made on an electronic medium and the instrument of deposit shall be in the form prescribed, and contain the information or transactions as set out, in regulation 84.

(2) The Accountant General shall take reasonable steps to ensure that the medium containing direct deposit instructions or transactions are kept secure while in his or her custody and while in transit to the bank or other financial institution at which the deposit are to be made.

82. Authentication of direct deposit. (1) Every medium containing direct deposit instruction transactions shall—

- (a) contain internal labels or records indicating, in respect of each file of instructions or transactions—
 - (i) the originator of the file;
 - (ii) the date that the file was created;
 - (iii) the creation sequence number of the file;
 - (iv) the number of debit transactions;
 - (v) the total value of the debit transactions;
 - (vi) the number of credit transactions;
 - (vii) the total value of the credit transactions;
 - (viii) the bank or other financial institution at which the medium is to be delivered for processing; and
 - (ix) such other information as the Accountant General may require; and

- (b) when delivered to the bank or other financial institution for processing, be accompanied by a transmittal document signed by the Accountant General or a public officer authorised by the Accountant General.

(2) Where a direct deposit is to be made at a bank or other financial institution, the Accountant General shall notify the bank or other financial institution of the name and specimen signature of each officer authorised by the Accountant General to sign the transmittal documents.

83. Cancellation or suspension of direct deposit instructions. (1) Where money ceases to be payable, or ceases to be payable by direct deposit—

- (a) in the case of the payment of salaries, allowances and reimbursements of public officers or of pensions or gratuities, the Chief Personnel Officer; or

(b) in any other case, the Accountable Officer responsible for the payment, shall notify the Accountant General that the direct deposit instructions should be cancelled.

(2) Notwithstanding subregulation (1), the Accountant General may at any time cancel or suspend direct deposit instructions, if he or she considers it appropriate for any sufficient reason, including a reasonable belief that there has been impropriety or a breach of security.

Subdivision 4

Payment by Electronic means, Government Credit Card or other means

84. Payment by electronic means, Government credit card, etc. The Accountant General may authorise payment by electronic means, by credit card in the name of the Government or by other means in such circumstances and on such conditions as the Accountant General considers appropriate, including reimbursement of the Government by the person to whom the payment is made in the case of payment by electronic means.

Subdivision 5

Unauthorised Payment or Overpayments

85. Steps to be taken when unauthorised payment or overpayment discovered.

(1) A public officer who discovers that an unauthorised payment or an overpayment has been or is in the process of being made shall forthwith notify the Accountable Officer responsible for authorising the payment.

(2) Where an Accountable Officer has been notified that an unauthorised payment or an overpayment has been or is in the process of being made, the Accountable Officer shall forthwith—

- (a) notify the Accountant General that the authorised payment or overpayment was made or is in the process of being made and give particulars of the payment;
- (b) advise the person to whom the payment was made or is in the process of being made that an unauthorised payment or overpayment was made, give particulars of the payment and, where appropriate, demand return of the unauthorised payment or overpayment; and
- (c) take steps to determine the responsibility, if any, of the public officer who caused the unauthorised payment or overpayment to be made.

(3) Upon notification pursuant to subregulation (2) (a), the Accountant General shall forthwith—

- (a) ascertain whether the payment was made by cash, cheque, direct deposit or other means;
- (b) where the payment is in the process of being made by cheque, take all appropriate steps to countermand the payment of the cheque at the bank or other financial institution on which the cheque was drawn;
- (c) where the payment is in the process of being made by direct deposit, take all appropriate steps to stop the crediting of the direct deposit to the account at the bank or other financial institution to which the deposit was directed to be made; and
- (d) where the payment is in the process of being made by other means, take all appropriate steps to stop the payment from being made.

86. Crediting of unauthorised payment or overpayment, from Consolidated Fund when recovered. (1) An unauthorised payment or overpayment which was made from the Consolidated Fund that is recovered shall be credited in the accounts of the Government.

(2) An unauthorised payment or overpayment from a deposit or a special fund that is recovered shall be credited to the deposit or special fund.

Subdivision 6

Agreement for Payment by Instalments

87. Agreement under section 41 (1) of the Act. (1) Where a person owes money to the Government in a specific amount (referred to as the person's "indebtedness"), the Minister may, pursuant to section 41 (1) of the Act, enter into an agreement with the person for the payment by instalments of the indebtedness or the balance of the indebtedness to the Government on such terms and conditions as the Minister considers appropriate.

(2) The Minister may vary an agreement under subregulation (1) by a subsequent agreement.

(3) Subject to subregulation (5), where a person enters into an agreement under subregulation (1) or a variation of the agreement under subregulation (2), the Accountant General shall not exercise the Government's right of set off against that indebtedness except to the extent, if any, set out in the agreement or variation of the agreement.

(4) Where an individual owes money to the Government and is owed money by the Government for living, health or education purposes, the Minister shall, in entering into an agreement under subregulation (2) or a variation of an agreement under subregulation (3)—

- (a) have regard to the individual's financial circumstances as disclosed to the Accountant General; and
- (b) exercise the rights of the Government in a manner that does not cause undue hardship to the individual and those other individuals for whose support the individual is financially responsible.

(5) Subject to regulation 94 and the authorisation of the Permanent Secretary, where a person owes money to the Government and enters into an agreement under subregulation (2), the Accountant General may exercise the Government's right of set off against the indebtedness as if no agreement has been made, if—

- (a) in the opinion of the Permanent Secretary, the person breaches the terms of the agreement; or
- (b) the Accountant General has reason to believe that the agreement is based on false or misleading information respecting the financial circumstances of the person.

Subdivision 7 ***Exercise of Right of Set Off***

88. Exercise of right of set off. (1) Subject to regulation 89, the other provisions under these Regulations and any other enactment, where—

- (a) a person owes money to the Government ;
- (b) the person is owed money by the Government in a specific amount; and
- (c) no agreement has been entered into under Subdivision 6 by the Government and the person,

the Accountant General may exercise a right of set off in relation to the indebtedness.

(2) Where the Accountant General intends to exercise the Government's right of set off against the indebtedness of a person, the Accountant General shall first give notice of the intention to exercise the Government's right of set off, in accordance with regulation 90.

(3) Where the Government exercises the right of set off under subregulation (1), the Accountant General shall give notice in writing to the person—

- (a) stating that the Government has exercised the right of set off against the person under this regulation;
- (b) indicating the specific amount owing by the Government and the reason it is owing; and

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- (c) indicating whether, after exercise of the right of set off—
- (i) there is a balance payable by the Government to the person, and indicating the amount of the balance; or
 - (ii) there is a balance payable by the person to the Government, and indicating the amount of the balance; or
 - (iii) there is no balance payable by the Government or the person.

89. Set off when person owes money to Government. Where a person owes money to the Government in a specific amount (referred to as the person's "indebtedness"), the Accountant General may, subject to regulation 94, exercise the Government's right to set off the indebtedness against any money owing by the Government to the person—

- (a) in the absence of an agreement under Subdivision 6 and a notice under regulation 88 (2), if the indebtedness is the result of—
 - (i) a cheque that is dishonoured on presentation for payment by reason of insufficient funds or any other reason;
 - (ii) failure to pay the fee under regulation 185 for the dishonour of a cheque; or
 - (iii) an unauthorised payment or an overpayment referred to in regulation 85.
- (b) if there is an agreement under Subdivision 6 respecting the indebtedness, to the extent, if any, permitted by the agreement or as permitted under regulation 87 (5);
- (c) if a notice under regulation 88 (2) has been issued and the person does not respond before the deadline for response;
- (d) if a notice under regulation 88 (2) has been issued with respect to the indebtedness, and the person responds before the deadline for response but the person fails to enter into an agreement under Subdivision 6 in reasonable time.

90. Notice of intention to exercise right of set off. (1) A notice of intention of the Government to exercise the right of set off shall be in such form as the Accountant General may prescribe and shall set out the following—

- (a) particulars of the indebtedness of the person to the Government, including the amount and nature thereof as is sufficient to identify the indebtedness;
- (b) a statement of the deadline for response to the notice by the person, which shall not be less than seven business days after the date of service of the notice;
- (c) a statement to the effect that the Accountant General on behalf of the Government intends to exercise the Government's right of set off against any money owed by the Government to the person unless, not later than the deadline for response in accordance with paragraph (b), the person responds to the notice in any manner as follows—
 - (i) paying the indebtedness in whole or in part;
 - (ii) disputing the Government's entitlement or the amount of the indebtedness; or
 - (iii) entering into an agreement under regulation 87 with the Government for payment by instalments of the indebtedness;
- (d) a statement to the effect of inviting the person to discuss the matter of the indebtedness and its payment by attending at or contacting the Treasury during normal business hours;
- (e) a statement to the effect that, if the person wishes to dispute the Government's entitlement to or the amount of the indebtedness, the person shall make a written statement to the Accountant General, setting out all grounds of dispute;
- (f) a statement to the effect that, if the person enters into an agreement under regulation 87, the Government commits to waiving the exercise its right of set off against the indebtedness, except as provided in the agreement and in regulation 87 (5) and unless the agreement is violated; and

- (g) a statement to the effect that the money owed by the Government to the person will be encumbered until the resolution of the matter of the indebtedness.

(2) The Accountant General shall serve notice under subregulation (1) by one of the following methods—

- (a) personally;
- (b) by letter sent by prepaid post address to the person at his or her address last known to the Accountant General; or
- (c) by any means of communication that furnishes a written acknowledgement of delivery.

(3) A notice served under subregulation (2) (a) on a person that is not an individual shall be served—

- (a) in the case of a company, on a member of the board of directors or an officer of the company; or
- (b) in the case of an association, on a member of the board of management or an officer of the association;
- (c) in the case of a partnership, on one of the partners.

(4) A notice served pursuant to subregulation (2) (b) is deemed to have been received by the person three days after the letter was posted.

91. Response to notice before deadline. (1) Where a person responds to a notice under regulation 90 by satisfying the indebtedness in full as stated in the notice not later than the deadline for response, the notice shall become null and void upon satisfaction of the indebtedness.

(2) Where a person responds to a notice under regulation 90 by disputing the Government's entitlement to or the amount of the indebtedness, the Accountant General shall—

- (a) give the person a reasonable opportunity to be heard on grounds of dispute of the person and the exercise of the Government's right of set off; and

- (b) investigate the matter to the extent that the Accountant General considers appropriate.

(3) Where a person responds to a notice under regulation 90 by disputing the Government's entitlement to the indebtedness or the amount of the indebtedness under subregulation (2) the notice shall become null and void.

(4) Upon investigation of the matter, where the Accountant General determines that there is merit to any ground of dispute, the Accountant General shall—

- (a) in consultation with the appropriate public officers, take any corrective measure as the Accountant General considers appropriate;
- (b) in writing, notify the person of the conclusion of the investigation of the Accountant General, any related determination and any subsequent corrective measure taken; and
- (c) if the Accountant General determines that there remains an outstanding debt owed by the person to the Government, give notice of the intention to exercise the Government's right of set off, in accordance with regulation 90, and the notice shall reflect the effect of every corrective measure taken in accordance with paragraph (b).

(5) In any other case, the Accountant General may, without prejudice to any other right of the Government at law—

- (a) accept part payment of the indebtedness;
- (b) within a reasonable time after the person responds as determined by the Accountant General, enter into an agreement under Subdivision 6 for the satisfaction of the indebtedness by payment by instalments, the exercise of the Government's right of set off under this Subdivision or any other means; and
- (c) subject to regulation 94 and after a reasonable time after the person responds as determined by the Accountant General, exercise the Government's right of set off against the indebtedness or balance of the indebtedness.

92. Response to notice after deadline for response but before set off. Where a person responds to a notice under regulation 90 after the deadline for response but before the Government exercises its right of set off, the Accountant General may in his or her discretion treat the notice as if it had been received before the deadline for response.

93. Written explanation when right of set off has been exercised. Where the Accountant General exercises the Government's right of set off against the indebtedness of a person, the Accountant General shall without reasonable delay give notice in writing to the person that the Government has exercised its right of set off which shall include the following—

- (a) particulars of the indebtedness prior to the exercise of the Government's right of set off, including the amount thereof and the nature thereof, as is sufficient to identify the indebtedness;
- (b) particulars of the money owed to the person in respect of which the Government's right of set off has been exercised and the nature of the money owed, as is sufficient to identify the money owed by the Government;
- (c) if, after the exercise of the Government's right of set off, there is a balance payable to the person by the Government, particulars indicating—
 - (i) that the indebtedness to the Government has been discharged;
 - (ii) the new amount of money owed to the person by the Government; and
 - (iii) the manner in which the new amount of money to the person by the Government was generated;
- (d) if, after the exercise of the Government's right of set off, there is a balance payable by the person to the Government, particulars indicating—
 - (i) the amount of the new balance of the indebtedness, and
 - (ii) the manner in which the new balance of the indebtedness was generated;

- (e) if, after the exercise of the Government's right of set off, the indebtedness is satisfied in full by the money owed to the person by the Government and there is no balance owing by the Government or the person, particulars indicating—
 - (i) that the indebtedness has been discharged in full;
 - (ii) that there is no balance of money owed to the person by the Government;
 - (iii) the manner in which assertions in subparagraphs (i) and (ii) were determined; and
- (f) if the Government's right of set off is being exercised under regulation 89, a statement that this is the case.

94. Set off against payment for living, health or education purposes owing to an individual. In exercising the Government's right of set off, where the amount owing by the Government is owing to an individual and is for living, health or education purposes, the Accountant General shall have regard to the individual's financial circumstances, as disclosed to the Accountant General, and endeavour to exercise the rights of the Government so as not to cause undue hardship to the individual and those other individuals for whose support the individual is financially responsible.

95. Exercise of Government's right of set off valid except when bad faith shown. Notwithstanding anything in this Subdivision or Subdivision 6, no exercise of the Government's right of set off is invalid by reason of non-compliance with this Subdivision or Subdivision 6, unless it is shown that it was exercised in bad faith.

Subdivision 8

Form and retention of documents and electronic data

96. Form of Documents. (1) Except as provided in subregulation (2), accounts, instruments and other documents necessary or advisable for the administration of the Act and these Regulations with regard to matters under the responsibility of the Accountant General shall be in the form prescribed by the Accountant General.

- (2) The Minister may prescribe the form of—

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- (a) warrants to be used under the Act;
 - (b) notices of reservation in respect of a general warrant or in respect of a provisional general warrant under section 34 of the Act;
 - (c) application to expend a reservation under a general warrant or a provisional general warrant; and
 - (d) other documents as specified in the Act.

(3) The Accountant General or the Minister, as the case may be, may prescribe under subregulation (1) or (2) respectively one form for manual use and a different form for electronic use.

97. Signing on behalf of Accountant General. (1) Subject to these Regulations, the Accountant General may, in the discharge of his or her responsibilities or in the exercise of his or her powers under the Act or these Regulations, authorise in writing one or more public officers to sign documents on his or her behalf.

(2) An authorisation under subregulation (1) may be general or specific.

(3) No public officer shall sign any document on behalf of the Accountant General except in accordance with a written authorisation under subregulation (1).

98. Reproduction of Signatures. (1) Where under the Act or these Regulations there is a requirement for the Accountant General or a public officer to sign a document, the signature shall be manual, unless—

- (a) these Regulations require or permit the use of a reproduction of the signature; or
- (b) the Accountant General authorises in writing the use of a reproduction of the signature.

(2) An authorisation by the Accountant General to use a reproduction of a signature under subregulation (1) (b) may be general or specific and may permit the use of a reproduction by electronic or mechanical means.

(3) A public officer shall not use the reproduction of a signature, except—

- (a) if required or permitted under a provision of these Regulations and in accordance with the requirements of that provision; or

(b) in accordance with a written authorisation of the Accountant General under subregulation (1).

99. Effect of electronic signature reproduced after person ceases to be a public officer. Where a reproduction in electronic form of a signature of a public officer referred to in regulation 7 (1) (a) or (b) has been reproduced on a document within fourteen days after the public officer—

(a) ceases to be a public officer; or

(b) ceases to hold the title or office,

shall not be invalid by reason only that the person ceases to be a public officer or to hold the public office.

PART VI CASH MANAGEMENT

100. Authority to open, operate and close bank accounts. (1) No person shall open a bank account on the behalf of the Government of Grenada except in a bank licensed under the Banking Act, 2015.

(2) The Accountant General shall not authorise any person other than an Accountable Officer to open or operate a Government bank account.

(3) An Accountable Officer who receives a direction by the Accountant General in regard to banking matters shall, without delay comply with such directions.

(4) The Accountant General may issue financial instructions relating to the effective maintenance of the treasury single accounting system, including the procedures for opening, operating and closing Government bank accounts.

(5) Any bank that holds public money in an account shall provide information on such account to the Accountant General in the manner and by the time requested by the Accountant General.

(6) Any bank that holds public money in an account shall comply with instructions from the Accountant General to close or transfer money from such account and any other instructions from the Accountant General that are consistent with the contract between the bank and the Government.

101. Cash books to be maintained by Accountant General. (1) The Accountant General and each Sub-Accountant shall ensure that a cash book in the form prescribed by the Accountant General is properly maintained for each Government bank account managed by the Accountant General.

(2) The Accountant General and each Sub-Accountant shall ensure that all public monies received by the Government are, without unreasonable delay, brought properly to account in the cash book.

102. Cash Books to be maintained by Accountable Officer. (1) Every Accountable Officer shall ensure that a cash book in the form prescribed by the Accountant General is properly maintained for each Government bank account managed by the Accountable Officer.

(2) Every Accountable Officer shall ensure that all public money received by him or her is without unreasonable delay brought properly to account in the cash book.

103. Overdrafts by Accountant General. (1) The Accountant General shall ensure that no Government bank account managed directly by the Accountant General is overdrawn, except under the written authority of the Minister.

(2) Where a Government bank account managed directly by the Accountant General is, or is expected to be, overdrawn to an extent greater than that which is prescribed by the Minister, the Accountant General shall promptly report that matter to the Permanent Secretary, and the Accountant General shall take corrective action in accordance with the directions of the Permanent Secretary.

104. Overdrafts by Accountable Officer prohibited. Where the Accountant General has delegated authority to manage a Government bank account to an Accountable Officer, the Accountable Officer shall take reasonable steps to ensure that the Government bank account is not overdrawn, including—

- (a) monitoring the bank balance regularly; and
- (b) where a Government bank account is, or is expected to be, overdrawn, promptly reporting that matter to the Accountant General and taking corrective action as directed by the Accountant General in consultation with the Permanent Secretary.

105. Registered banks and investment grade requirements. (1) Cabinet shall take reasonable steps to ensure that any bank in which funds under a proposal under section 48 of the Act are approved to be invested shall be a bank that is—

- (a) licensed pursuant to the Banking Act, 2015; or
- (b) licensed by the regulatory authority of the country in which the bank has its head office.

(2) Cabinet shall take reasonable steps to ensure that any proposal under section 48 of the Act to invest funds in securities in a public company under section 48 of the Act shall be approved for submission to Parliament only if Cabinet is satisfied that such securities have an investment grade rating which shall be a rating from an international rating agency that indicates very high credit quality.

PART VII

GOVERNMENT PROPERTY

106. Limit on disposal of property. (1) All Stores and Equipment shall be disposed of in accordance with the Public Procurement and Disposal of Public Property Act, 2014 and the Regulations made thereunder.

107. Registers of physical and financial assets. (1) An Accountable Officer shall maintain an up-to-date register of physical assets and financial assets.

(2) The Accountant General may issue financial instructions specifying the form of the registers of physical and financial assets.

PART VIII

GRANTS

108. Recording and reporting grants. (1) Every Accountable Officer shall record grants in kind in accordance with financial instructions issued by the Accountant General.

(2) Every Accountable Officer shall notify the Permanent Secretary and the Accountant General of every grant received by the Accountable Officer on the behalf of the Government.

(3) Every Accountable Officer shall include every grant intended to be received in the budget submission and the formal plans and reports required by the Act and these Regulations.

(4) Every Accountable Officer shall maintain up-to-date records of the receipt and expenditure of grant funding.

(5) Every Accountable Officer shall provide information on grants to the Ministry in the form and by the time requested.

(6) The Permanent Secretary shall include all grants planned to be received in the forthcoming financial year in the National Budget.

(7) The Accountant General shall report on the expenditure of grants in the Public Accounts.

PART IX

INTERNAL AUDIT SYSTEM

109. Centralised internal audit function. The Minister and the Permanent Secretary shall ensure that, while the decentralised internal audit system anticipated by section 63 of the Act is implemented, the Ministry maintains a centralised internal audit function for the Government.

110. Ministry responsible for finance role for internal audit. The decentralised internal audit function anticipated by section 63 of the Act may include the retention of some centralised internal audit functions in the Ministry.

111. Shared internal audit services. The requirement under section 63 (4) of the Act for each entity to have an internal auditor may include having access to shared or centralised internal audit services.

112. Internal audit reports. An internal auditor in a Covered Entity shall report—

- (a) for employment and management purposes and for professional guidance, to the official in the Ministry who is responsible for the Government-wide function of internal audit; and
- (b) for the purposes of delivering internal audit services, to the Permanent Secretary or Head of the Covered Entity.

PART X
ACCOUNTING AND REPORTING

Division 1
General

113. Accounting Unit. (1) There shall be an accounting function for each Covered Entity under the overall supervision of the Accountable Officer for the Covered Entity.

(2) The Accountable Officer shall ensure that proper arrangements are in place for the accounting function to operate.

114. Public money received to be properly accounted for. All public money received by or on behalf of the Government shall be accounted for in the form prescribed by the Accountant General.

115. Form of accounts. (1) Accounts shall be maintained in the form prescribed by the Accountant General which shall be consistent with international accounting standards.

(2) The Accountant General shall implement the requirement to report on the Public Accounts in accordance with section 66 of the Act.

(3) Without limiting the generality of subregulation (1), the Accountant General may authorise accounts to be kept—

- (a) in bound or loose-leaf registers;
- (b) on photographic film or microfiche; or
- (c) on the system or in a form that is readable by the system if it is capable of reproducing information required in intelligible written form within a reasonable period of time.

116. Accounts and accounting records. (1) The pages of all accounts kept in paper form must be serially numbered or ordered.

(2) No public officer shall—

- (a) remove a card or loose-leaf used for keeping or storing accounting records in paper form with the intent of not replacing it;

- (b) destroy a card or loose-leaf used for keeping or storing accounting records in paper form; or
- (c) alter or delete historic electronic accounting information;

unless he or she does so with the authority of the Accountant General, a collector of revenue or an Accountable Officer responsible for the accounting records, as the case may be.

117. Appropriation (Expenditure Vote) accounting. (1) Every Accountable Officer, for each Expenditure Vote to which he or she is designated, shall take reasonable steps to ensure that the Expenditure Vote account for each financial year is up-to-date and indicates clearly and accurately—

- (a) the amount of the Expenditure Vote in the Appropriation Act classified in accordance with the estimates;
- (b) the amount by which the Expenditure Vote changes, and the amount of every change within the Expenditure Vote, by any type of warrant, classified in accordance with the estimates prepared in connection with the warrant;
- (c) the amount by which the Expenditure Vote is changed by in the Expenditure Vote, in the supplementary estimates approved by the House of Representatives classified in accordance with the supplementary estimates taking into account any amount that has already been included in the Expenditure Vote under paragraph (b);
- (d) the reservations of expenditures, if any, by general warrant or by notice under section 34 (3) of the Act and any authorisation to expend the reservation;
- (e) virements made under section 36 of the Act;
- (f) reallocations made under section 37 of the Act;
- (g) adjustments to the Expenditure Vote;
- (h) transfers to and from the Expenditure Vote;
- (i) payments made from the Expenditure Vote;

- (j) total expenditures from the Expenditure Vote by detailed object code;
- (k) actual balance in the Expenditure Vote;
- (l) commitments made against the Expenditure Vote; and
- (m) the available balance shown by detailed object code within the Expenditure Vote.

(2) Subregulation (1) shall apply, with such modifications as are appropriate in the circumstances, to expenditures authorised by the Minister by provisional warrant under section 21 of the Act.

118. Statutory charge accounting. Every Accountable Officer shall, in respect of each item of expenditure charged on the Consolidated Fund by law to which he or she is designated as Accountable Officer, take reasonable steps to ensure that the statutory charge account is up-to-date and indicates clearly and accurately—

- (a) the amount included in the estimates for the item of expenditure classified in accordance with the estimates;
- (b) adjustments to the item of expenditure;
- (c) transfers to and from the item of expenditure;
- (d) payments made from the item of expenditure;
- (e) the actual balance in the item of expenditure;
- (f) commitments made against the item of expenditure; and
- (g) the available balance in the item of expenditure shown by detailed object code.

119. Reconciliation. Without delay after the end of each month, the Accountable Officer shall take reasonable steps to ensure that the Expenditure Vote account and statutory charge account are reconciled with the Accountant General's accounts.

120. Expenditure review and appropriate action. (1) Every Accountable Officer shall—

- (a) undertake a regular review of each Expenditure Vote account and each statutory charge account to which the Accountable Officer is designated; and

- (b) where it appears likely that there will be insufficient money on a statutory charge account to meet anticipated expenditures for the remainder of the year, take appropriate action.

(2) In the case of an Expenditure Vote account, the following types of measures constitute appropriate action—

- (a) measures to reduce expenditure;
- (b) measures to identify sufficient money to meet the anticipated expenditures for the remainder of the year; or
- (c) measures specified under paragraphs (a) and (b).

(3) In the case of a statutory charge account, notifying the Permanent Secretary as to the anticipated insufficiency and the reason for such insufficiency constitutes appropriate action.

121. Control of commitments. (1) No Accountable Officer shall enter into a contract or other arrangement providing for a payment that is to be charged to an appropriation, deposit or special fund, unless there is a sufficient balance available in the appropriation, deposit or special fund to discharge any debt that, under the contract or other arrangement, will be incurred during the financial year in which the contract or other arrangement was entered into.

(2) Without limiting the generality of subregulation (1), every Accountable Officer may, without unreasonable delay, commit an appropriation, deposit or special fund by the amount of—

- (a) a contract for a procurement of construction, or goods under which the Government has incurred a liability that it has not paid; or
- (b) any other arrangement under which the Government intends to incur a contractual liability to a person and has taken steps to identify the person and the amount.

(3) Every Accountable Officer may, in addition to committing an amount referred to in subregulation (2), commit an appropriation, deposit or special fund by any other amount.

(4) Every Accountable Officer shall refer to the procedure provided by the Accountant General under the relevant enactment for commitments on contracts for goods and services.

122. Charges incurred by external agents. Where a charge is incurred by an external agent or agency against any loan or grant for a service in respect of which an appropriation has been made, the Accountable Officer shall cause the charge to be brought to account against the appropriate vote.

123. Suspense accounts. (1) The Accountant General may authorise the opening of a suspense account in respect of expenditure or revenue incidental to the business of the Government, if—

- (a) in the case of expenditure, the incidence of the charge is unknown;
- (b) in the case of revenue, it is uncertain where the revenue is to be credited.

(2) Every suspense account opened under subregulation (1) shall be cleared without unreasonable delay and in any event not later than 30 days after it was set up or the end of the financial year, whichever occurs first.

(3) The Accountant General shall take reasonable steps to determine the incidence of the charge or the account to which the revenue is to be credited, as the case may be, so as to clear the suspense account.

124. Recording and payment or settlement of debts at year end. (1) In accordance with section 39 of the Act, every Accountable Officer, in respect of the account to which he or she is designated and a debt incurred by the Government before the end of the financial year that remains unpaid at the end of the financial year—

- (a) not later than the end of the financial year, record the debt as a charge against the appropriation to which it relates; and
- (b) cause the debt to be credited to a below the line accounts payable account.

(2) Payment may be made from the below the line accounts payable account for the purpose of paying or settling the debt in accordance with subregulation (1).

125. Improper attempts to prevent lapse of appropriation. (1) Every Accountable Officer shall take reasonable steps to ensure that no action is taken that would have the

effect of preventing the lapse of an appropriation or part of an appropriation in respect of which he or she is the Accountable Officer.

(2) Without limiting the generality of subregulation (1), every Accountable Officer shall take reasonable steps to ensure that—

- (a) available balance in an appropriation shall not be credited to a deposit or suspense account for the purpose of setting up any reserve to be used to meet future commitments or for any other purpose; and
- (b) stores shall not be drawn from unallocated stores or purchased for use before they are required so as to utilise balances in the Expenditure Vote account which would otherwise lapse at the end of the financial year.

126. Improper attempts to permit over-expenditure of appropriation. (1) Every Accountable Officer shall take reasonable steps to ensure that no other action is taken that would have the effect of permitting the over-expenditure of an Expenditure Vote for which he or she is the Accountable Officer.

(2) Without limiting the generality of subregulation (1), an expenditure properly chargeable to the account of a financial year shall not be deferred or placed in a suspense account or other account for the purpose of avoiding an over-expenditure in the Expenditure Vote account for that financial year.

127. Alteration of audited accounts and documents. No person shall alter any account or document audited by the Director of Audit without the consent in writing of the Director of Audit.

128. Use of green pencil and ink. No person, other than the Director of Audit, an employee of the Audit Department or a professional auditor engaged by the Director of Audit to audit the accounts of the Government or Statutory Bodies, shall use a green pencil or green ink on account books or records.

Division 2

Receiving public money paid to the Government- General requirements

129. Public notice regarding receipts. Every collector of revenue shall display in each office at which public money is paid to the Government a notice to the effect that every person who pays money to the Government is entitled to an official receipt.

130. Receipt to be given for all public money. Where a collector of revenue or a receiver of revenue collects or receives public money, whether from a member of the public or from another public officer, the collector of revenue or receiver of revenue, as the case may be, shall issue a receipt to the person or public officer, as the case may be.

131. Types of receipts. (1) Every receipt for public money shall be in a form required under Division 3 of this Part.

(2) Subregulation (1) shall not apply to a fixed amount receipt that is required or permitted to be given as evidence of payment under an enactment

Division 3 ***Fixed Amount Receipts***

132. Form and content of fixed amount receipt forms. (1) Every receipt for a fixed amount shall be in such form as the Accountant General prescribes (“fixed amount receipt form”) and the Accountant General may prescribe a pre-printed form intended for manual use and a different form intended for generation by the system.

(2) Every receipt under subregulation (1) shall include—

- (a) the amount paid;
- (b) a statement describing the nature of the payment; and
- (c) the section and the Act or other legal authority authorising the collection of revenue.

133. Accountant General to order fixed amount receipt forms. No public officer, other than the Accountant General, shall make an order for pre-printed fixed amount receipt forms to be printed.

134. Additional requirements for pre-printed fixed amount receipt forms. In addition to the requirements of regulation 132, pre-printed forms for fixed amount receipts shall—

- (a) have a counterfoil or counterfoils;

- (b) at the time of printing, be numbered serially in ascending order on each fixed amount receipt form and on each counterfoil; and
- (c) be bound into books.

135. Stock register of books of fixed amount receipt forms by Accountant General. (1) The Accountant General shall maintain a separate stock register, in such form as the Accountant General prescribes, for each type of book of fixed amount receipt form that he or she has in stock.

(2) For the purposes of subregulation (1), a stock register is separate if it consists of separate entries on separate pages or folios notwithstanding all the entries are in the same book or document.

136. Government Printer to advise on issuance of fixed amount receipt forms. The Government Printer shall without unreasonable delay advise the Director of Audit of the particulars of each issuance of books of fixed amount receipt forms by sending to the Director of Audit a copy of the issue voucher.

137. Books of fixed amount receipt forms to be checked on receipt from Government Printer. (1) The Accountant General shall without unreasonable delay verify that—

- (a) the books of fixed amount receipt forms received from the Government Printer are in accordance with regulations 132 and 134 and are not otherwise faulty; and
- (b) the quantity of books of fixed amount receipt forms specified by the Government Printer has been received.

(2) The Accountant General shall without unreasonable delay return to the Government Printer each book of fixed amount receipt forms that is not in accordance with regulations 132 and 134 or is otherwise faulty.

(3) The Accountant General shall without unreasonable delay report to the Director of Audit the particulars of each book of fixed amount receipt forms that is returned to the Government Printer.

(4) The Government Printer shall without unreasonable delay—

- (a) destroy every book of fixed amount receipt forms that is returned; and

- (b) notify the Director of Audit in writing that he or she has complied with paragraph (a).

(5) Where the Government Printer has destroyed a book of fixed amount receipt forms under subregulation (4) (a), the Government Printer—

- (a) may print one book of fixed amount receipt forms with the same sequence of numbers as was allocated to a book that was destroyed; and
- (b) shall without unreasonable delay notify the Director of Audit in writing that he or she has re-used a sequence of numbers allocated to a book that was destroyed.

138. Stock registers to be up to date and to show certain information. The Accountant General shall take reasonable steps to ensure that every stock register of books of fixed amount receipt forms is up-to-date and indicates clearly and accurately particulars of the quality of books of fixed amount receipt forms that are—

- (a) in accordance with regulations 34 and 36 or are not otherwise faulty together with their serial numbers and the date they were received from the Government Printer;
- (b) issued together with their serial numbers, the date of issuance and the public officer to whom they were issued and his or her Covered Entity; and
- (c) remaining in stock together with their serial numbers.

139. Issuance of fixed amount receipt forms to Accountable Officers. The Accountant General shall not issue books of fixed amount receipt forms to any person other than a collector of revenue.

140. Books of fixed amount receipt forms to be checked when issued from Treasury. Where the Accountant General issues books of fixed amount receipt forms to a collector of revenue, the collector of revenue shall, before the books are taken away from the Treasury—

- (a) verify that—

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- (i) every book of fixed amount receipt forms received from the Treasury is in accordance with regulations 34 and 36 and is not otherwise faulty, and
 - (ii) the quantity of books of fixed amount receipt forms specified by Accountant General has been received;
 - (b) refuse every book of fixed amount receipt forms that is not in accordance with regulations 132 or 134 or is otherwise faulty;
 - (c) verify that he or she has the correct quantity of books of fixed amount receipt forms that are in accordance with regulations 132 and 134 and are not otherwise faulty; and
 - (d) sign the record required by the Accountant General evidencing that the collector of revenue has received the quantity of books of fixed amount receipt forms.

(2) The Accountant General shall without unreasonable delay return to the Government Printer any books of fixed amount receipt forms that are not in accordance with regulations 132 and 134 or are otherwise faulty.

(3) The Accountant General shall without unreasonable delay return to the Director of Audit particulars of the books of fixed amount receipt forms that were returned to the Government Printer.

(4) The Government Printer shall without unreasonable delay—

- (a) destroy any book of fixed amount receipt forms that is returned; and
- (b) notify the Director of Audit in writing that he or she has done so.

(5) The Government Printer—

- (a) may reprint a book of fixed amount receipt forms that has the same sequence of numbers as a destroyed book; and
- (b) shall without delay notify the Director of Audit in writing that he or she has done so.

141. Stock register of collector of revenue. (1) Every collector of revenue shall maintain a separate stock register in the form prescribed by the Accountant General for each type of book of fixed amount receipt forms that he or she has in stock.

(2) Every collector of revenue shall maintain up-to-date records in each stock register for the book of fixed amount receipt forms that he or she has in stock, which shall indicate clearly and accurately particulars of the quantity of books of fixed amount receipt forms—

- (a) received from the Accountant General, the serial numbers of the books received and the date the books were received from the Accountant General;
- (b) issued, the serial numbers of the books issued, the date of issuance of the books and the public officer to whom the books were issued;
- (c) returned and the serial numbers of the books returned; and
- (d) remaining in stock and the serial numbers of the books in stock.

142. Prohibition against disassembling fixed amount receipt books. No public officer shall divide, take apart or otherwise disassemble a book of fixed amount receipt forms either before or after the fixed amount receipt forms are used.

143. Verification of counterfoils. Where all fixed amount receipt forms in a book have been used, the collector of revenue shall—

- (a) retain the book of counterfoils remaining after the fixed amount receipt forms have been used, until the book has been checked by the Director of Audit;
- (b) without unreasonable delay, submit for verification to the Director of Audit the book of counterfoils book; and
- (c) return the book to the Accountant General without unreasonable delay after it has been verified by the Director of Audit.

144. Half-yearly information returns of books of fixed amount receipt forms. (1) Every collector of revenue shall in each financial year make, in triplicate in the prescribed form, an information return of books of fixed amount receipt forms recorded in his or her stock register and shall submit the information return to the Accountant General—

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- (a) in respect of fixed amount receipt forms recorded from January 1 to June 30, not later than the following July 7; and
 - (b) in respect of fixed amount receipt forms recorded from July 1 to December 31, not later than January 7 of the following year.
- (2) If the day mentioned in subregulation (1) (a) or (b) is not a business day, the information return shall be filed on the following business day.
- (3) The information return under subregulation (1) shall set out the books of fixed amount receipt forms recorded in his or her stock register at the beginning and at the end of the applicable period, with particulars as to—
- (a) which books were used, partially used or unused; and
 - (b) the serial numbers of the fixed amount receipt forms in each book that was used, partially used and unused.
- (4) The collector of revenue shall submit two copies of the information return to the Accountant General and retain one copy of the information return.
- (5) Every information return under subregulation (1) shall be verified by the Accountant General against his or her records and any discrepancy shall be promptly investigated and reported to the Director of Audit.
- (6) Upon receipt of the two copies of the information return in accordance with subregulation (4), the Accountant General shall—
- (a) retain one copy of the information return; and
 - (b) endorse one copy of the information return with receipt acknowledged and send it to the collector of revenue, who shall retain the copy in his or her records.

145. Accountant General to order system-generated fixed amount receipt forms. No public officer, other than the Accountant General, shall make an order for system-generated fixed amount receipt forms to be printed.

146. Director of Audit to be advised. Where an order is made pursuant to regulation 145, the Accountant General shall send a copy of the order to the Director of Audit.

147. Issuance of pre-printed fixed amount receipts. Pre-printed fixed amount receipt forms shall be issued in ascending order of serial number and every fixed amount receipt form and its counterfoil shall be initialled by a collector of revenue.

148. Issuance of system-generated fixed amount receipts. System-generated fixed amount receipts shall be issued in ascending order of serial number and every system-generated receipt shall be stamped and initialled by a collector of revenue.

Division 4

Receipts other than Fixed Amount Receipts

149. Definition of “receipt” for this Division. In this Division, “receipt” means a written or printed acknowledgement for the payment of money paid to the Government, other than a fixed amount receipt.

150. Form and content of receipts. (1) Every receipt shall be in such form as the Accountant General prescribes and the Accountant General may prescribe a pre-printed form intended for manual use and a different form intended for generation by the system.

(2) Subject to subregulation (1), every receipt shall set out—

- (a) the name of the person who pays the public money or on whose behalf the public money is paid;
- (b) the amount paid;
- (c) a notation describing the purpose of the payment; and
- (d) the signature of the collector of revenue or receiver of revenue or other public officer giving the receipt, as the case may be.

(3) The use of an electronic signature for the Comptroller of Customs or the Comptroller of Revenue on electronic receipts shall be sufficient to satisfy the requirements of section 22 (b) of the Electronic Transactions Act No. 21 of 2013.

151. Accountant General to order pre-printed receipt forms. No person, other than the Accountant General, shall make an order for pre-printed receipt forms to be printed.

152. Additional requirements of pre-printed receipt forms. In addition to the requirements of regulation 155, pre-printed receipt forms shall—

- (a) have a counterfoil or be capable of producing one or more duplicates;
- (b) at the time of printing be numbered serially in ascending order on the pre-printed receipt forms and on the counterfoil or on every duplicate; and
- (c) be bound into books.

153. No receipt to be combined with other document. No pre-printed receipt form shall form part of another document such as a licence, permit, registration or customs entry or an application for a licence, permit, registration or other similar document.

154. Pre-printed receipt forms to be used only for intended purpose. A pre-printed receipt form that is designed for evidencing the receipt of public money for a specific purpose, in specified circumstances or by a specific Covered Entity, shall not be used for evidencing the receipt of money for any other purpose or by any other Covered Entity, as the case may be.

155. Stock register of receipt books. (1) The Accountant General shall maintain a separate stock register, in such form as the Accountant General prescribes, for each type of book of pre-printed receipt forms that he or she has in stock.

(2) For the purposes of subregulation (1), a stock register is separate if it consists of separate entries on separate pages or folios notwithstanding all the entries are in the same book or document.

156. Government Printer to advise on issuance of books of pre-printed receipt forms. The Government Printer shall send to the Director of Audit a copy of the issue voucher of every issuance of books of pre-printed receipts forms.

157. Books of pre-printed receipt forms to be checked on receipt from Government Printer. (1) The Accountant General shall without unreasonable delay verify that—

- (a) books of pre-printed receipt forms received from the Government Printer are in accordance with regulations 150 and 152 and are not otherwise faulty; and

- (b) the quantity of books of pre-printed receipt forms specified by the Government Printer has been received.

(2) The Accountant General shall without unreasonable delay return to the Government Printer every book of pre-printed receipt forms that is not in accordance with regulations 150 and 152 or is otherwise faulty.

(3) The Accountant General shall without unreasonable delay report to the Director of Audit particulars of every book of pre-printed receipt forms that is returned to the Government Printer.

- (4) The Government Printer shall without unreasonable delay—

- (a) destroy every book of pre-printed receipt forms that is returned;
and
- (b) notify the Director of Audit in writing that he or she has complied with paragraph (a).

(5) Where the Government Printer has destroyed a book of pre-printed receipt forms under subregulation (4) (a), the Government Printer—

- (a) may print a book of pre-printed receipt forms with the same sequence of numbers as was allocated to a book that was destroyed;
and
- (b) shall without unreasonable delay notify the Director of Audit in writing that he or she has used a sequence of numbers allocated to a book that was destroyed.

158. Stock registers to be up to date and to show certain information. The Accountant General shall take reasonable steps to ensure that every stock register of books of pre-printed receipt forms is up-to-date and indicates clearly and accurately particulars of the quantity of books of pre-printed receipt forms—

- (a) that are in accordance with regulations 150 and 152 and are not otherwise faulty together with their serial numbers and the date they were received from the Government Printer;
- (b) issued together with their serial numbers, the date of issuance and the public officer to whom they were issued and his or her Covered Entity;
and

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- (c) remaining in stock together with their serial numbers.

159. Issuance of receipt forms to collector of revenue or receiver of revenue.

The Accountant General shall not issue books of pre-printed receipt forms to any person other than a collector of revenue or a receiver of revenue.

160. Books of pre-printed receipt forms to be checked when issued from Treasury. (1) Where the Accountant General issues books of pre-printed receipt forms to a collector of revenue or receiver of revenue, he or she shall—

- (a) before the books are taken away from the Treasury, verify that—
- (i) every book of pre-printed receipt forms received from the Treasury is in accordance with regulations 150 and 152 and is not otherwise faulty; and
 - (ii) the quantity of books of pre-printed receipt forms specified by the Accountant General has been received;
- (b) refuse every book of pre-printed receipt forms that is not in accordance with regulations 150 and 152 or is otherwise faulty;
- (c) verify that he or she has the correct quantity of books of pre-printed receipt forms that are in accordance with regulations 150 and 152 and are not otherwise faulty; and
- (d) sign the record required by the Accountant General evidencing that the collector of revenue or receiver of revenue, as the case may be, has received that quantity of books of pre-printed receipt forms.

(2) The Accountant General shall without unreasonable delay return to the Government Printer any books of pre-printed receipt forms that are not in accordance with regulations 150 or 152 or are otherwise faulty.

(3) The Accountant General shall without unreasonable delay report to the Director of Audit particulars of the books of pre-printed receipt forms that are returned to the Government Printer.

- (4) The Government Printer shall without unreasonable delay—

- (a) destroy any book of pre-printed receipt forms that is returned; and

(b) notify the Director of Audit in writing that he or she has done so.

(5) The Government Printer—

(a) may reprint a book of pre-printed receipt forms that has the same sequence of numbers as a destroyed book; and

(b) shall without delay notify the Director of Audit in writing that he or she has done so.

161. Stock register of a collector of revenue or receiver of revenue. (1) A collector of revenue or receiver of revenue shall maintain a separate stock register in the form prescribed by the Accountant General for each type of book pre-printed forms that he or she has in stock.

(2) Every collector of revenue or receiver of revenue shall maintain up-to-date records in each stock register for the book of pre-printed forms that he or she has in stock, which shall indicate clearly and accurately particulars of the quantity of books of pre-printed receipt forms—

(a) received from the Accountant General, serial numbers of the books received and the date the books were received from the Accountant General;

(b) issued, the serial numbers of the books issued, the date of issuance of the books and the public officer to whom the books were issued; and

(c) remaining in stock together with their serial numbers.

(3) For the purposes of subregulation (1), a stock register is separate if it consists of separate entries on separate pages or folios even though all the entries are in the same book or document.

162. Prohibition against disassembling pre-printed receipt forms book. No person shall divide, take apart or otherwise disassemble a book of pre-printed receipts forms and counterfoils or duplicates either before or after the receipts are used.

163. Verification of counterfoils or duplicates in used pre-printed receipt books. Where all pre-printed receipt forms in a book have been used, the collector of revenue or receiver of revenue, as the case may be, shall—

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- (a) retain the book of counterfoils or duplicate receipts, together with any receipts cancelled under subregulation 169 (2), remaining after the receipts in the book of pre-printed receipt forms have been used until the book has been checked by the Director of Audit;
 - (b) without unreasonable delay, submit for verification to the Director of Audit the book of counterfoil or every duplicate receipt in respect of the book, including every cancelled receipt in the book; and
 - (c) return the book and every cancelled receipt to the Accountant General without unreasonable delay after they have been verified by the Director of Audit.

164. Information return of receipt books no longer required by reason of obsolescence, etc. (1) Every collector of revenue or receiver of revenue, as the case may be, shall in every financial year—

- (a) retain the unused and partially used books of pre-printed receipt forms, together with any receipts cancelled under regulation 169 (2), that he or she no longer requires by reason of obsolescence or any other cause, until they have been checked by the Director of Audit;
- (b) without unreasonable delay, submit for verification to the Director of Audit the books of pre-printed receipt forms, and every receipt cancelled under regulation 169 (2), that he or she no longer requires by reason of obsolescence or otherwise; and
- (c) make, in triplicate in the prescribed form, an information return of every book and shall submit the information return to the Accountant General.

(2) The information return under subregulation (1) shall set out the serial numbers of the receipts in the unused books and, in the case of partially used books, the serial numbers of the receipts that are used and those that are unused.

(3) The collector of revenue or receiver of revenue, as the case may be, shall retain one copy of the information return and submit to the Accountant General the unused and partially used books together with two copies of the information return.

(4) Upon receipt of the two copies of the information return in accordance with subregulation (3), the Accountant General shall—

- (a) retain a copy of the information return; and
- (b) endorse one copy of the information return with receipt acknowledged and send it to the collector of revenue or receiver of revenue, as the case may be, who shall retain the copy in his or her records.

165. Half-yearly information returns of receipts books. (1) Every collector of revenue or receiver of revenue, as the case may be, shall in every financial year make, in triplicate in the form prescribed by the Accountant General, an information return of books of pre-printed receipt forms recorded in his or her stock register and shall submit the information return to the Accountant General—

- (a) in respect of pre-printed receipt forms recorded from January 1 to June 30, not later than the following July 7; and
- (b) in respect of pre-printed receipt forms recorded from July 1 to December 31, not later than January 7 of the following year.

(2) If the day mentioned in subregulation (1) (a) or (b) is not a business day, the information return shall be filed on the following business day.

(3) The information return under subregulation (1) shall set out the books of pre-printed receipt forms recorded in his or her stock register at the beginning and at the end of the applicable period with particulars as to—

- (a) which books were used, partially used or unused; and
- (b) the serial numbers of the pre-printed receipts forms in each book that was used, partially used or unused.

(4) The collector of revenue or a receiver of revenue, as the case may be, shall submit two copies of the information return to the Accountant General and retain the one copy of the information return.

(5) Every information return under subregulation (1) shall be verified by the Accountant General against his or her records and any discrepancy shall be promptly investigated and reported to the Director of Audit.

(6) Upon receipt of the two copies of the information return in accordance with subregulation (4), the Accountant General shall—

(a) retain one copy of the information return; and

(b) endorse one copy of the information return with receipt acknowledged and send it to the collector of revenue or the receiver of revenue, as the case may be, who shall retain the copy in his or her records.

166. Accountant General to order system-generated receipt forms. No public officer, other than the Accountant General, shall make an order for system-generated receipt forms to be printed.

167. Director of Audit to be advised. Where an order is made pursuant to regulation 145, the Accountant General shall send a copy of the order send to the Director of Audit.

168. Issuance of pre-printed receipts. (1) Pre-printed receipts shall be issued in ascending order of serial number and each shall be signed legibly at the time of issuance by the public officer issuing it.

(2) Where a pre-printed receipt has a counterfoil, the public officer issuing the receipt shall enter the same information on the counterfoil and initial it at the time of issuance.

(3) Where a pre-printed receipt has a duplicate or duplicates, the public officer issuing the receipt shall verify that the information on the receipt is legible on the duplicate or duplicates and shall initial the duplicate or duplicates at the time of issuance.

169. Corrections and cancellation of incorrect or spoiled pre-printed receipts. (1) No pre-printed receipt form, counterfoil or duplicate shall be corrected.

(2) Where a pre-printed receipt cannot be issued because it is incorrect or spoiled, the collector of revenue or receiver of revenue authorised to issue the receipt shall—

- (a) write or stamp the word “CANCELLED” in upper case letters across the face of the receipt form and the counterfoil or every duplicate that bears the same serial number;
- (b) sign the face of the receipt form and the counterfoil or every duplicate; and

- (c) attach securely the cancelled receipt form to the counterfoil or duplicate in the book of pre-printed receipt forms.

(3) No pre-printed receipt shall be cancelled after the end of the transaction day on which the original of the pre-printed receipt form was issued.

170. System-generated receipts to be issued in order of serial numbers signed. System-generated receipts shall be issued in ascending order of serial number and every system-generated receipt shall be stamped and signed legibly at the time of issuance by the public officer issuing it.

171. Corrections and cancellation of incorrect or spoiled system-generated receipts. (1) No system-generated receipt shall be corrected.

(2) Where a system-generated receipt cannot be issued because it is incorrect or spoiled, the collector of revenue or the receiver of revenue authorised to issue the receipt shall—

- (a) write or stamp the word “CANCELLED” in upper case letters across the face of the printout of the receipt;
- (b) sign the face of the printout of the receipt; and
- (c) retain the printout of the receipt with other cancelled printouts of receipts.

(3) No system-generated receipt shall be cancelled after the end of the transaction day on which the original of the system-generated receipt was issued.

172. Copy of lost pre-printed or system-generated receipt. (1) Where a pre-printed receipt or system-generated receipt has been issued and lost, upon an application by the person to whom the receipt was issued, a collector of revenue or the receiver of revenue authorised to issue the receipt may furnish a true and certified copy of the receipt certified as a copy or duplicate under his or her hand on Covered Entity stationery or on a photocopy of the counterfoil or duplicate of the pre-printed receipt, as the case may be.

(2) No copy of a receipt shall be issued from a book of pre-printed receipts forms.

(3) Subject to subregulation (6), where a collector of revenue or the receiver of revenue, as the case may be, is directed to receive a payment from a representative

of a person required to make payment, the collector of revenue or the receiver of revenue, as the case may be, shall take all reasonable steps to ensure that he or she issues a receipt to the authorised representative of the person.

(4) Authorisation of a representative shall be effected in writing, and subject to subregulation (7), shall be signed by the person required to make the payment, and may be in the form of—

- (a) a power of attorney, authority, direction or order to pay, conferring authority on the person's representative to receive the receipt;
- (b) letters of administration, with or without a will annexed, or grant of probate, in the case of a deceased person;
- (c) the direction of a trustee in bankruptcy, in the case of a bankrupt person;
- (d) the direction of a liquidator or other person authorised by law, in the case of an insolvent person;
- (e) the direction of a parent or guardian of a minor entitled to receive payment; or
- (f) the direction of a person authorised by law to act on behalf of any other person.

(5) A collector of revenue or the receiver of revenue who is directed to receive a payment from and issue a receipt to a representative of a person required to make a payment shall keep the original or a certified or notarised copy of the document authorising the payment by and issue of the receipt to the representative.

(6) Where a collector of revenue or the receiver of revenue is uncertain about whether the representative is authorised to receive a receipt on behalf of a person, the collector of revenue or the receiver of revenue, as the case may be, may mandate that the representative enter into an agreement to indemnify the Government in the event that it is found that the representative was not authorised to receive the receipt.

Division 5

Payment to Government by Cash, Negotiable Instrument or other means

173. Prohibition on accepting unauthorised forms of payment. No public officer shall accept payment or part payment to the Government unless it is required or permitted under regulation 174, 175, 176, 177 or 178.

174. Acceptance of payment in legal tender. (1) Every collector of revenue or a receiver of revenue—

- (a) shall accept payment or part payment in legal tender; and
- (b) may accept payment or part payment in coins that would be legal tender but for the fact that they exceed the amounts specified in the definition of “legal tender” in regulation (2).

(2) Before accepting payment or part payment in notes or coins that are legal tender, a collector of revenue or a receiver of revenue shall examine the notes or coins to determine whether they are damaged or incomplete to such an extent as to be unacceptable and shall perform the checks required by the Accountant General to ascertain whether the notes or coins are counterfeit.

(3) No collector of revenue or a receiver of revenue shall accept in payment or part payment a note or coin that is damaged or incomplete or that he or she has reason to believe may be counterfeit.

175. Payment in legal tender of the United States of America. (1) Subject to subregulation (2), a collector of revenue or a receiver of revenue—

- (a) shall accept payment or part payment at face value in notes that are legal tender of the United States of America, if the enactment pursuant to which the payment is required provides that the payment may be made in a specified amount of dollars of the United States of America; or
- (b) may in any other case accept payment or part payment in notes that are legal tender of the United States of America for the amount in those notes as would be the equivalent of the amount prescribed in Eastern Caribbean dollars had the notes been exchanged by the Government’s principal banker into Eastern Caribbean dollars, including any commission payable to the banker.

(2) Before accepting payment or part payment in notes that are legal tender of the United States of America, a collector of revenue or a receiver of revenue shall examine the notes to determine whether they are damaged or incomplete to such an extent as to be unacceptable and perform the checks required by the Accountant General to ascertain whether the notes are counterfeit.

(3) No collector of revenue or receiver of revenue shall accept in payment or part payment a note that is damaged or incomplete or that he or she has reason to believe may be counterfeit.

176. Payment by negotiable instrument. (1) Subject to subregulation (2), a collector of revenue or receiver of revenue may accept payment or part payment by negotiable instrument, if—

- (a) the negotiable instrument is made payable to the Accountant General, to the Government or to a payee that the bank, into which the negotiable instrument is to be deposited, treats as equivalent to the Accountant General or the Government;
- (b) the negotiable instrument is—
 - (i) a personal cheque that is drawn on a bank in Grenada by a person whose name is not on the most current list referred to in regulation 179 (2);
 - (ii) a certified cheque drawn on a bank within or outside Grenada;
 - (iii) a banker's draft or manager's cheque drawn on a bank within or outside Grenada;
 - (iv) an international postal note from outside Grenada or a postal order or money order from the Post Office of Grenada or of the United Kingdom, the United States of America, Canada or a member or associate member of the Organisation of Eastern Caribbean States; or
 - (v) a traveller's cheque; and
- (c) the person who tenders the negotiable instrument in payment or part payment, on request—
 - (i) presents photographic evidence of identity satisfactory to the collector of revenue or receiver of revenue; and

- (ii) furnishes information, such as local address, permanent address, telephone number, passport information or particulars of the driver's licence of the person.

(2) Notwithstanding the enactment prescribing payment to the Government specifies that payment may be made in dollars of the United States of America, no collector of revenue or receiver of revenue shall not accept payment or part payment by negotiable instrument in dollars of the United States of America, unless the amount of the negotiable instrument is the equivalent of the amount prescribed in Eastern Caribbean dollars has the negotiable instrument been exchanged by the Government's principal banker into Eastern Caribbean dollars, including any commission which the banker may charge.

177. Authorisation required to accept payment in other currency or by other negotiable instrument. (1) A collector of revenue or receiver of revenue may, subject to—

- (a) the consent and to such conditions in respect of the payment of commission on the exchange and the rate of exchange as may be imposed in writing by the Accountant General; and
- (b) regulations 174, 175 and 176,

accept payment or part payment in notes that are legal tender, or by negotiable instrument in the currency, of another country.

(2) Before a collector of revenue or receiver of revenue accepts payment or part payment in notes that are legal tender of a country referred to in regulation (1), he or she shall—

- (a) examine the notes to determine whether they are damaged or incomplete to such an extent as to be unacceptable; and
- (b) perform the checks required by the Accountant General to ascertain whether the notes are counterfeit.

(3) No collector of revenue or receiver of revenue shall accept in payment or part payment a note that is damaged or incomplete or that he or she has reason to believe may be counterfeit.

178. Acceptance of payment by direct debit, credit card or other similar means.

A collector of revenue or receiver of revenue may accept payment to the Government by direct debit, credit card or other similar means, in such circumstances and on such conditions as the Accountant General considers appropriate, including reimbursement by the payer of any amount by which the payment recovered by the Government is reduced by reason of the use of the direct debit, credit card or other similar means.

179. Persons from whom a personal cheque may not be accepted. (1) No collector of revenue or a receiver of revenue shall accept a personal cheque, other than a certified personal cheque, from any person whose name is on the current list referred to in subregulation (2).

(2) The Accountant General shall make and maintain a list on the system comprising the names of persons from whom no personal cheque, other than a certified personal cheque, shall be accepted in payment or part payment to the Government.

(3) The Accountant General may insert on the list referred to in subregulation (2) the name of a person, if the Accountant General is satisfied that—

- (a) a personal cheque by that person has on presentation for payment been dishonoured for insufficient funds or any other reason;
- (b) the person is adjudged bankrupt or insolvent; or
- (c) there is any other sufficient reason to do so.

(4) The Accountant General shall delete from the list referred to in subregulation (2) the name of a person, if the Accountant General is satisfied that—

- (a) the name was inserted on the list in error;
- (b) in the case of a personal cheque dishonoured upon presentation for payment by reason of insufficient funds or any other reason,
 - (i) the person has paid the fee under regulation 87 and has made every necessary payments in respect of which the cheque that was dishonoured;
 - (ii) the circumstances that caused the cheque to be dishonoured have been otherwise rectified;

- (c) in the case of a person who is adjudged bankrupt or insolvent, that the order by which the person was adjudged bankrupt or insolvent has been discharged; or
- (d) in the case of another sufficient reason, that the reason is no longer sufficient.

(5) The Accountant General may make and maintain a list on the system comprising the names that were inserted on and deleted from the list referred to in subregulation (2).

180. Change for payments made in currency other than Eastern Caribbean dollars. Notwithstanding anything in this Division, where a person makes payment in a currency other than legal tender, the collector of revenue or receiver of revenue may make change in legal tender.

181. Prohibition on substitution of one currency for another. Except as provided in regulation 180, a collector of revenue or a receiver of revenue shall not substitute, or permit any person to substitute, notes or coins in the currency received by or on behalf of the Government for notes or coins of another currency.

182. Cheques to be crossed. Every collector of revenue or receiver of revenue shall, immediately upon receipt, cross every cheque received in payment to or on behalf of the Government by putting two parallel transverse lines across the face of the cheque.

183. Procedure on dishonour of cheque deposited to account operated directly by Accountant General. Where a cheque given in payment to the Government is deposited in a Government bank account operated directly by the Accountant General and dishonoured on presentation for payment by reason of insufficient funds or any other reason, the Accountant General shall without unreasonable delay—

- (a) advise the person who gave the cheque that it has been dishonoured on presentation for payment and give particulars of the cheque and the reason for dishonour and demand payment;
- (b) take reasonable steps to determine the responsibility, if any, of the collector of revenue or receiver of revenue or his or her delegate who accepted the cheque; and

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- (c) take reasonable steps to collect the amount of the dishonoured cheque and any fee and other charges related to the dishonoured cheque.

184. Procedure on dishonour of cheque deposited to account operated by Accountable Officer. Where a cheque given in payment to the Government is deposited in a Government bank account operated by an Accountable Officer and dishonoured upon presentation for payment by reason of insufficient funds or any other reason, the Accountable Officer shall without unreasonable delay—

- (a) give notice to the Accountant General that the cheque has been dishonoured on presentation for payment, accompanied by particulars of the name and contact information of the person who presented the cheque and particulars of the cheque and the reason for dishonour;
- (b) advise the person who gave the cheque that it has been dishonoured on presentation for payment and give particulars of the cheque and the reason for dishonour and demand payment;
- (c) take steps to determine the responsibility, if any, of the collector of revenue or the receiver of revenue or his or her delegate who accepted the cheque; and
- (d) take steps to collect the amount of the dishonoured cheque and any fee and charges relating to the dishonoured cheque.

185. Fee for dishonoured cheques. (1) In addition to any bank charges directly related to the dishonoured cheque and the face value of the dishonoured cheque, a person who pays a cheque to the Government which gets dishonoured upon presentation for payment shall pay to the Government a fee of one point five percent of the value of the cheque or one hundred dollars, whichever is higher.

(2) A fee payable under subregulation (1) shall be a civil debt due to the Government.

186. Cheques not to be encashed by public officers. No public officer shall cash a cheque for any person, whether or not the person is a public officer, using cash that is public money.

Division 6***Accounting for and Banking of Public Money***

187. Procedure for accounting for and banking public money. (1) A collector of revenue or a receiver of revenue who receives public money shall without unreasonable delay after receiving it—

- (a) record in his or her cash book the amount of the public money and the serial number of the receipts issued for it in ascending order of the serial numbers; and
- (b) either—
 - (i) pay the public money to the Accountant General or to a Sub-Accountant and comply with regulation 188;
 - (ii) deposit the public money in a Government bank account operated directly by the Accountant General in accordance with regulation 189 and comply with regulation 190; or
 - (iii) where a collector of revenue or receiver of revenue is an Accountable Officer, deposit the public money in an account operated by him or her as Accountable Officer and comply with regulation 191.

(2) The Accountant General may issue financial instructions for procedures for packaging, transporting and handling monies in the process of being collected and banked.

188. Verification by Accountant General or Sub-Accountant of money received.

(1) Where public money received by a collector of revenue or receiver of revenue is paid to the Accountant General or to a Sub-Accountant, it shall be accompanied by—

- (a) the books from which the receipts were issued and the cash book; or
- (b) a system-generated printout indicating particulars of all receipts issued for the public money certified by the Accountable Officer.

(2) The Accountant General or the Sub-Accountant, as the case may be, shall—

- (a) in the case of pre-printed receipts, verify every receipt recorded in the cash book against the counterfoils or duplicates in the receipts books, being sure that all receipts in the series are used or cancelled, and against the public money received;

- (b) in the case of system-generated receipts, verify the certified system-generated print out against the public money received and keep the certified system-generated print out; and
- (c) issue to the Accountable Officer a Treasury receipt with the amount of the public money paid shown on it.

189. When money deposited in bank account operated directly by the Accountant General. (1) When a collector of revenue or receiver of revenue chooses to deposit the public money in a Government bank account operated directly by the Accountant General, the collector of revenue or receiver of revenue—

- (a) shall, without delay or in any event not later than the following business day, prepare a bank deposit slip in duplicate for the public money and make the deposit into the Government bank account as directed by the Accountant General under section 9 of the Act; and
- (b) at the time of deposit, obtain evidence, such as the stamp of the bank and initials of the bank teller, on the duplicate bank deposit slip verifying the deposit of the public money in the Government bank account.

(2) Any alterations on a bank deposit slip referred to in subregulation (1) (a) shall be initialised by the person preparing the bank deposit.

190. Verification by Accountant General of deposit. (1) When public money received by a collector of revenue or receiver of revenue has been deposited in a Government bank account operated directly by the Accountant General, the collector of revenue or receiver of revenue shall without delay take the following to the Accountant General or to a Sub-Accountant—

- (a) the duplicate bank deposit slip referred to in regulation 189 (1) (b);
- (b) either—
 - (i) the books from which the receipts for the public money were issued and the cash book in which the receipts are recorded; or
 - (ii) a system-generated print out showing particulars of all receipts issued for the public money and certified by the collector of revenue or receiver of revenue.

(2) The Accountant General or the Sub-Accountant, as the case may be, shall—

- (a) in the case of pre-printed receipts, verify the bank deposit slip against the receipts recorded in the cash book and against the counterfoils or duplicates in the books from which the receipts were issued;
- (b) in the case of the system-generated receipts, verify the bank deposit slip against the certified system-generated print-out; and
- (c) take the bank deposit slip and, in the case of paragraph (b), the system-generated print out and issue a Treasury receipt for them to the collector of revenue or receiver of revenue.

191. Reconciliation of bank accounts operated by Accountable Officer. Every Accountable Officer who operates a Government bank account under the authority of the Accountant General shall—

- (a) at the end of every month, reconcile the balance in the Government bank account as shown in the bank statement with the balance shown in the cash book for the Government bank account;
- (b) prepare a reconciliation statement for the Government bank account; and
- (c) without unreasonable delay copy to the Accountant General the reconciliation statement for the Government bank account.

Division 7

Fees and Commissions Deducted at Source, Remission of Unpaid Money, Write-offs and Settlements of Claims by Government

192. Fees and commissions deducted at source. (1) Where the Minister, by an agreement or directive, authorises the retention of a fee or commission for services to the Government in respect of one of its activities, the Accountable Officer with responsibility for payment of the money to the Accountant General shall—

- (a) take reasonable steps to ensure that the retention of the fee or commission was authorised; and

(b) furnish evidence of that fact to the Accountant General.

(2) The Accountant General shall take reasonable steps to ensure that the accounts of the Government reflect appropriately the amount of money before the deduction of the fee or commission and the amount of the fee or commission.

193. Remission of unpaid money under section 41 of the Act. (1) An application for a remission under section 41 of the Act of a tax, fee or other amount, including interest or penalty, that has not been paid shall be made to the Minister, through the Permanent Secretary, by the collector of revenue with responsibility for the head of revenue in relation to which the remission is proposed to be granted.

(2) The application shall set out particulars of—

- (a) the tax, fee or other amount, including interest or penalties, if any, proposed to be remitted;
- (b) the name of the person or persons affected by the remission;
- (c) the conditions, if any, to which the remission is subject; and
- (d) such other information as the collector of revenue or the Minister considers appropriate.

(3) Where a remission is granted under section 41 of the Act, the collector of revenue shall without unreasonable delay submit to the Accountant General—

- (a) evidence that the remission was granted by the Minister;
- (b) a statement of the conditions, if any, to which the remission is subject; and
- (c) a statement of the particulars of the remission that complies with section 41 (2) of the Act.

(4) The Accountant General shall take reasonable steps to ensure compliance with section 41 (3) of the Act without unreasonable delay.

194. Remission of penalty or forfeiture under section 72 (1) (d) of the Constitution. Where a penalty or a forfeiture of money that has not been paid has been remitted under section 72 (1) (d) of the Constitution, the collector of revenue shall, in respect of the amount remitted, submit evidence to the Accountant General that the

remission was granted by the Governor-General and a statement of the particulars of the remission.

Division 8

Revenue Collection

195. Duty to collect revenue and initiate write-offs. (1) Every collector of revenue shall, in respect of revenue for which he or she is responsible—

- (a) collect all revenue and all interest and penalties accruing and outstanding on such revenue;
- (b) make and maintain sufficient records to indicate the money owing or falling due to the Government in the course of the financial year and particulars of any interest and penalties;
- (c) issue notices or demands for payment of the money owing to the Government including any interest and penalties to the appropriate person at the appropriate time in accordance with the Act, regulation, agreement or authority under which the money is due or, if no date is specified, a timely manner;
- (d) issue appropriate reminder notices and further demands in respect of payment of the money owing to the Government, including any interest and penalties;
- (e) where a fee for a licence, permit, registration, approval or other authorisation for the exercise of a privilege is due or about to fall due—
 - (i) give notice to the public;
 - (ii) take reasonable enforcement measures to ensure that the person ceases or does not commence the exercise of the privilege, including requesting action by the police, as is reasonable in the circumstances; and
 - (iii) if he or she continues or commences to exercise the privilege contrary to law, take appropriate enforcement action, including the laying of criminal charges;

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- (f) having regard to the amount and likelihood of recovery, collect the money owing to the Government, including any interest and penalties is actively pursued as permitted by law;
 - (g) subject to the discretion of the Director of Public Prosecutions and before the expiration of the limitation imposed by law, prosecute persons who have contravened the law in respect of which a fee for a licence, permit, registration, approval or other authorisation for the exercise of a privilege is due or about to fall due; and
 - (h) record the date and particulars of—
 - (i) every notice and demand for payment issued pursuant to paragraph (c);
 - (ii) every reminder notice and further demand pursuant to paragraph (d);
 - (iii) every notice issued pursuant to paragraph (e) (i);
 - (iv) every enforcement measure taken pursuant to paragraph (e) (ii);
 - (v) every step taken to collect money owing to the Government pursuant to paragraph (f); and
 - (vi) every prosecution that was commenced pursuant to paragraph (g).

(3) Every collector of revenue, in respect of revenue for which he or she is responsible, shall implement procedures to have all or part of a particular amount of money owing to the Government written off by a designated authority by reason of the money being uncollectible or because the collection of the money is not cost effective.

196. Interest on overdue accounts. (1) Subject to subregulation (2), interest shall be paid on money due and owing to the Government at the rate per annum of two percent above the rate of interest payable by the Government to its principal banker on its overdraft on the business day immediately preceding the thirtieth day of June or the thirty-first day of December, as the case may be, and shall be compounded annually.

(2) Subregulation (1) shall not apply—

- (a) if another enactment requires or authorises the imposition of interest on money owed or liable to be paid to the Government;

- (b) if a contract under which the money is due and owing provides for the payment of interest at another rate;
- (c) to claims for reimbursement in respect of aid projects;
- (d) to an amount that is less than \$200.00; or
- (e) to an unauthorised payment or overpayment, until notice of the overpayment is given by the Accountant General to the person in receipt of the unauthorised payment or overpayment.

(3) For the purposes of subregulation (2) (e), the Accountant General may cause the notice to be served on the person in receipt of the unauthorised payment or overpayment—

- (a) personally;
- (b) by letter sent by prepaid post addressed to the person at his or her address last known to the Accountant General; or
- (c) by any means of communication that furnishes a written acknowledgement of delivery.

(4) A notice served under subregulation (2) (a) on a person that is not an individual shall be served—

- (a) in the case of a company, on a member of the board of directors or an officer of the company; or
- (b) in the case of an association, on a member of the board of management or an officer of the association;
- (c) in the case of a partnership, on one of the partners.

(5) A notice served pursuant to subregulation (3) (b) is deemed to have been received by the person three days after the letter was posted.

197. Claims for reimbursement to be made promptly. Where a project is financed on the basis that the money or part of the money for the project will be expended at first instance by the Government and the Government will be reimbursed by another government, agency of another government or other organisation funding

the project, the Accountable Officer designated in respect of the expenditure shall take reasonable steps to ensure that—

- (a) every claim for reimbursement of the Government in respect of its expenditures is promptly submitted for reimbursement; and
- (b) every reimbursement received is correctly accounted for and paid into the Consolidated Fund.

198. Annual returns of arrears of revenue and monthly reports of recovery of arrears of revenue. (1) Every collector of revenue shall, in respect of revenue for which he or she is responsible, submit—

- (a) not later than thirty days after the end of the reporting financial year, to the Permanent Secretary and the Accountant General, in the form prescribed by the Accountant General, a return of arrears of revenue for the reporting financial year and the previous five financial years; and
- (b) not later than seven days after the last day of every month, a report of arrears of revenue from the reporting financial year that are recovered in the month.

(2) If the day mentioned in subregulation (1) (a) or (b) is not a business day, the return shall be filed on the following business day.

(3) Where, in respect of revenue for which a collector of revenue is responsible, no arrears of revenue have accrued in the financial year or there is no recovery of arrears in the month, the collector of revenue shall submit a nil annual return or a nil monthly report.

Division 9

Accounting records

199. Custody of accounting records. (1) The Accountant General, every Sub-Accountant, the Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer is responsible for the care and safe-keeping of receipts, payment instruments and other accounting records in his or her custody and shall retain them until they are destroyed in accordance with regulation 200.

(2) Where a receipt, payment instrument or other accounting record is in the form of electronic media, the information contained therein shall be reproduced on microfilm or printed form for retention until the microfilm or printed form is destroyed.

(3) The electronic media may be reused after the information contained in it has been reproduced on microfilm or printed form.

200. Destruction of accounting records. (1) Accounting records may, with the approval of the Minister, be destroyed after—

- (a) the expiration of twenty years in the case of Principal Treasury ledgers, cash registers and journals;
- (b) the expiration of seven years in the case of abstract, subsidiary journals, cheques, receipt forms and counterfoils;
- (c) the expiration of five years in the case of payment instruments, and subsidiary records;
- (d) the expiration of twenty years for special ledgers and records, including Savings Bank records;
- (e) the closing of the last accounts for loans, register and trust fund registers.

(2) Where, in the opinion of the Minister, a receipt, payment instrument or other accounting record, or a reproduction made in accordance with regulation 199, is required for the purpose of any litigation, inquiry, investigation or other examination, he or she may direct the Accountant General or Accountable Officer, as the case may be, to delay the destruction of the receipt, payment instrument or other accounting record until it is no longer needed for that purpose.

Division 10 **Security, shortages and losses**

Subdivision 1 ***General requirements***

201. Definitions. In this Division—

“Board” means a board of survey described in subdivision 6;

“cheque” means—

- (a) a cheque drawn manually on a Government bank account;
- (b) printed by the system and drawn on a Government bank account;
- (c) a cheque in the process of being drawn; or
- (d) a spoiled cheque.

“formal agreement” means a written agreement between the Government and another person, but excludes an agreement executed by the parties for consideration of an amount less than \$20,000;

“receipt book” means—

- (a) a book of pre-printed fixed amount receipt forms including a book of counterfoils remaining after the fixed amount receipt forms have been used; and
- (b) a book of pre-printed receipt forms (and cancelled receipts) including a book of counterfoils or duplicates remaining after the pre-printed receipt forms have been used;

“secure equipment” means a cash register, cash box with a lock or other similar thing that locks;

“security” means a bond, debenture, promissory note, treasury bill, shares, equities, or other document evidencing a debt, whether or not secured against property or guaranteeing the performance of an obligation, and includes documents commonly known as securities;

“security device” includes a lock and other equipment, but excludes a safe.

202. Security of the Treasury and Sub-Treasuries. The Accountant General shall take reasonable steps to—

- (a) restrict entry into that part of the Treasury or a Sub-Treasury where accounting activities are conducted to authorised public officers and other authorised persons by implementation of an appropriate combination of security devices, secure equipment and administrative procedures;

- (b) secure the Treasury and each Sub-Treasury from unauthorised entry at all times by implementation of an appropriate combination of security devices, secure equipment and administrative procedures;
- (c) restrict access to keys, combinations or other means of access to security devices securing the Treasury or a Sub-Treasury referred to in paragraph (a) or (b) to prescribed public officers; and
- (d) maintain up-to-date records of all the public officers in possession of all keys or combinations or other means of access to the security devices.

203. Security of money in the Treasury and Sub Treasuries. The Accountant General shall take reasonable steps to ensure that—

- (a) where the Treasury or a Sub-Treasury is open, money received and held in the course of business is secured from loss by theft or otherwise by an appropriate combination of security devices, secure equipment and administrative procedures; and
- (b) money received or held at the Treasury or a Sub-Treasury that cannot be deposited on the day of receipt or is not required to be deposited in a Government bank account is secured from loss by thief or otherwise by being placed in a safe, if one is reasonably available, or otherwise in a secured room.

204. Security of Receipt books at the Treasury and Sub-Treasury. (1) The Accountant General shall take reasonable steps to ensure that—

- (a) by implementation of appropriate administrative procedures, every receipt book is kept secure from loss by theft or otherwise or from unauthorised access by appropriate administrative procedures, where receipt books are required for immediate use at the Treasury or Sub-Treasury; and
- (b) every receipt book is returned to as soon as possible to and kept secure in a secured room or a safe, where the receipt book is not required for immediate use at the Treasury a Sub-Treasury.

(2) This regulation shall not apply to a receipt book consisting only of counterfoils or duplicates, which may include cancelled receipts, if the receipt book has been audited by the Director of Audit.

205. Security of cheques forms and cheques at the Treasury. (1) The Accountant General shall establish and implement appropriate administration procedures to ensure that—

- (a) where required for immediate use at the Treasury, cheque forms are kept secure from loss by theft or otherwise or from unauthorised access;
- (b) cheques that are in the process of being drawn manually or printed on the system are kept secure from loss by theft or otherwise or from unauthorised access or from being cashable until issued so long as they are in the custody of the Treasury;
- (c) where required for immediate use at the Treasury, cheque forms and cheques referred to in paragraph (b) are kept secure from loss by theft or otherwise or from unauthorised access; and
- (d) where not required for immediate use at the Treasury, cheques are returned as soon as possible to, and kept secure in, a secured room or safe.

(2) This regulation shall not apply to a cheque drawn on a Government bank account if the cheque has been issued to a payee.

206. Security of formal agreements at the Treasury. (1) The Accountant General shall establish and implement appropriate administrative procedures to ensure that—

- (a) where required for immediate use at the Treasury, formal agreements in the possession of the Accountant General are kept secure; and
- (b) where not required for immediate use, formal agreements in the possession of the Accountant General are returned as soon as possible to, and kept secure in, a strong room, secured room or safe.

(2) The Accountant General shall keep a register of formal agreements, in which he or she shall record—

- (a) sufficient information to identify the formal agreement;
- (b) the date of receipt of the formal agreement; and

- (c) where the formal agreement is given to a person outside the Treasury, the name of the person to whom it is given and the date on which it is received.

(3) The person to whom a formal agreement is given shall give the Accountant General a written acknowledgement of receipt setting out his or her name and the date on which it was received.

(4) This regulation shall not apply to a formal agreement that is required or permitted by law to be filed in a registry established by law.

207. Security of securities at the Treasury. (1) The Accountant General shall establish and implement appropriate administrative procedures to ensure that—

- (a) where required for immediate use at the Treasury, securities in the possession of the Accountant General are kept secure; and
- (b) where not required for immediate use, securities in the possession of the Accountant General are returned as soon as possible to, and kept secure in, a secured room or safe.

(2) The Accountant General shall cause a register to be kept of securities, in which shall be recorded—

- (a) sufficient information to identify the security;
- (b) the date of receipt; and
- (c) where the security is given to a person outside the Treasury, the name of the person to whom it is given and the date on which it is received.

(3) The person to whom the security is given shall give the Accountant General a written acknowledgement of receipt setting out his or her name and the date on which it is received.

208. Security of accounting records at the Treasury and Sub-Treasuries. (1) This regulation applies to accounting records for a financial year until the completion of the audit for that financial year by the Director of Audit.

(2) In this regulation, “accounting records” means accounting records in paper form.

(3) The Accountant General shall establish and implement appropriate administrative procedures to ensure that accounting records are kept secure.

209. Security of keys, combinations, etc. at the Treasury. The Accountant General shall—

- (a) take reasonable steps to ensure that all keys, combinations or other means of access to security devices, secure equipment, a strong room, a secured room or a safe referred to in any of regulation from regulation 203 to 207 are given to appropriate public officers; and
- (b) cause to be kept up-to-date records of the public officers in possession of all keys, combinations or other means of access to security devices, secure equipment, a strong room, a secured room or a safe.

210. Responsibilities of Sub-Accountants. Regulations 202, 203, 204, 208 and 209 shall apply with appropriate modifications as the circumstances require to each Sub-Accountant in respect of the Sub-Treasury for which he or she is responsible.

Subdivision 2

Security of Accounting Units and Formal Agreements and Securities in Covered Entity

211. Security of accounting units. The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps to ensure that—

- (a) entry into the accounting unit is restricted by an appropriate combination of security devices, secure equipment and administrative procedures;
- (b) at all times when it is not open to the public, the accounting unit is secure from unauthorised entry, by an appropriate combination of security devices, secure equipment and administrative procedures;
- (c) keys, combinations or other means of access to security devices securing the accounting unit referred to in paragraph (a) or (b) are given to appropriate public officers; and

- (d) up-to-date records of the public officers in possession of all keys or combinations or other means of access to the security devices are kept.

212. Security of money in accounting units. (1) The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps to ensure that, money received and held in the course of business is secured from loss by theft or otherwise by an appropriate combination of security devices, secure equipment and administrative procedures.

(2) The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps to ensure that, if money is received or held at the accounting unit at the end of the business day and—

- (a) cannot, or is not required to, be paid to the Accountant General or to a Sub-Accountant;
- (b) cannot, or is not required to, be deposited in a Government bank account operated directly by the Accountant General; or
- (c) cannot, or is not required to, be deposited into an account operated for the time being by the Accountable Officer, where the Accountable Officer is a collector of revenue,

the money is secured from loss by theft or otherwise by being placed in a safe, if reasonably available, or otherwise in a secured room.

213. Security of receipt books in accounting units. (1) The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps in accordance with appropriate administrative procedures to ensure that—

- (a) where required for immediate use in the accounting unit, every receipt book is kept secure from loss by theft or otherwise or from unauthorised access; and
- (b) where not required for immediate use in the accounting unit, every receipt book is returned as soon as possible to, and kept secure in a safe, if one is reasonably available, or otherwise in a secured room or equivalent place of security.

(2) This regulation shall not apply to a receipt book consisting only of counterfoils or duplicates, which may include cancelled receipts, if the receipt book has been audited by the Director of Audit.

214. Security of cheque forms and cheques for bank account operated by Accountable Officer. (1) Every Accountable Officer who operates a Government bank account shall ensure that, in accordance with appropriate administrative procedures—

- (a) cheque forms required for immediate use in the accounting unit are kept secure from loss by theft or otherwise or from unauthorised access;
- (b) cheques that are in the process of being drawn manually are kept secure from loss by theft or otherwise, from unauthorised access or from being cashable until issued so long as they are in the custody of the Accountable Officer;
- (c) cheques referred to in paragraph (b) required for immediate use in the accounting unit are kept secure from loss by theft or otherwise or from unauthorised access; and
- (d) cheque forms and cheques that are not required for immediate use in the accounting unit are returned as soon as possible to, and kept secure in, a safe, if one is reasonably available or otherwise in a secured room or equivalent place of security.

(2) This regulation shall not apply to a cheque drawn on a Government bank account if the cheque has been issued to a payee.

215. Formal agreements to be deposited with the Accountant General. The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer in the possession of a formal agreement shall without unreasonable delay transmit the formal agreement to the Accountant General and the Accountant General shall give a written acknowledgement of receipt for the formal agreement.

216. Security of formal agreements in Covered Entities. Pending compliance with regulation 215, the Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps in accordance with appropriate administrative procedures to ensure that—

- (a) formal agreements in his or her possession and required for immediate use in the Covered Entity are kept secure; and

- (b) formal agreements in his or her possession and not required for immediate use in the Covered Entity are returned as soon as possible to, and kept secure in, a safe, if one is reasonably available or otherwise in a secured room or equivalent place of security.

217. Securities to be deposited with the Accountant General. The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer in the possession of a security shall without unreasonable delay transmit the security to the Accountant General and the Accountant General shall give a written acknowledgement of receipt for the security.

218. Security of securities in Covered Entities. Pending compliance with regulation 217, the Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps in accordance with appropriate administrative procedure to ensure that—

- (a) securities in his or her possession and required for immediate use at a Covered Entity are kept secure; and
- (b) securities in his or her possession and required for immediate use are returned as soon as possible to, and kept secure in, a safe, if one is reasonably available or otherwise in a secured room or equivalent place of security.

219. Security of accounting records in accounting units. (1) This regulation applies to accounting records for a financial year until the completion of the audit for that financial year by the Director of Audit.

(2) In this regulation, “accounting records” means accounting records in paper form.

(3) The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall take reasonable steps in accordance with appropriate administrative procedures to ensure that accounting records are kept secure.

220. Security of keys, combinations, etc. in relation to regulation 211 to 219. The Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer shall—

- (a) take reasonable steps to ensure that all keys, combinations or other means of access to security devices, secure equipment, a strong room,

secured room or a safe referred to in any of regulation from 211 to 219 are given to appropriate public officers; and

- (b) cause to be kept up-to-date records of the public officers in possession of all keys, combinations or other means of access to security devices, secure equipment, strong rooms, secure rooms or safes.

Subdivision 3

Miscellaneous security provisions

221. Minimum requirements of strong rooms, secured rooms and safes. (1) Without limiting the generality of the obligations set out in this Part, the Accountant General, every Sub-Accountant and every collector of revenue shall take reasonable steps to ensure that the conditions of every strong room, secured room or safe referred to in this Part are in accordance with the requirements of this regulation.

(2) Every strong room, secured room and safe shall be secured by a minimum of—

- (a) a combination lock; or
- (b) two or more different locks.

(3) Every safe shall be part of, or attached securely to, the building in which it is located.

(4) Every strong room and secured room shall be constructed of steel reinforced concrete or equivalent.

222. Loss of keys. (1) Where a key to a strong room, secured room or safe is lost or appears to be lost, the public officer with responsibility for the key shall forthwith—

- (a) report the loss or apparent loss of the key to the Accountant General, the Comptroller of Customs, the Comptroller of Inland Revenue or the Accountable Officer, as the case may be; and
- (b) furnish a detailed explanation of the circumstances of the loss or apparent loss of the key.

(2) The Accountant General, the Comptroller of Customs, the Comptroller of Inland Revenue or Accountable Officer, as the case may be, shall without unreasonable delay—

- (a) consider the explanation of the circumstances of the loss or apparent loss of the key as given by the public officer and make such other inquiries as appear appropriate;
- (b) determine and take such steps as are appropriate to secure the contents of the strong room, secured room or safe in the short term, including sealing the strong room, secured room or safe, removing its contents to a secured place under such security as appears appropriate and informing every other public officer in possession a key to the strong room, secured room or safe; and
- (c) determine and take such steps as are appropriate to secure the contents of the strong room, secured room or safe in the long term, including whether the lock needs to be replaced or altered and new keys issued.

(3) Where there is a possibility that the key may reasonably be expected to come into the possession of an unauthorised person who may use it to open the strong room, secured room or safe, the locks shall be replaced.

(4) Where a public officer finds a key that was lost or apparently lost, the public officer shall return it to the Accountant General, Comptroller of Customs, Comptroller or Inland Revenue or Accountable Officer, as the case may be.

(5) A public officer who is responsible for the loss of a key to a strong room, secured room or safe may be required to satisfy the cost of the measures necessary to remedy the loss, including the replacement or alteration of the lock and provision of new keys.

223. Replacement and repair of safes, secured rooms, strong room, security devices, etc. The Accountant General, the Comptroller of Customs, the Comptroller of Inland Revenue or an Accountable Officer, as the case may, in accordance with such conditions as he or she may impose, authorise—

- (a) the installation, inspection, repair, maintenance or replacement of a strong room, secured room or safe, or a security device on a strong room, secured room or safe; and

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- (b) the replacement of keys or any other access to a security device.

224. Private money and effects. No person shall keep private money or personal effects in any secured room, safe, cashbox or other secured place, or in secured equipment in the Treasury, a Sub-Treasury or an accounting unit.

Subdivision 4 *Security of system*

225. Access to system and to specific functions by unauthorised persons. (1) Except as provided by these Regulations, no person shall—

- (a) obtain access to the system without being authorised to do so under regulation 226; or
- (b) obtain access to a function of the system that is not specified in his or her authorisation.

(2) The Accountant General, the Comptroller of Customs, the Comptroller of Inland Revenue and every Accountable Officer, as the case may be, shall take reasonable steps to ensure that—

- (a) no person has access to the system unless that person is authorised under regulation 226; and
- (b) no person has access to any function of the system unless the person's authorisation under regulation 226 specified the function of the system.

226. Authorisation of access to system. (1) Except as provided by this regulation, no person shall have access to the system without the authorisation of the Accountant General.

(2) The Accountant General may authorise access to the system for the purposes of discharging his or her responsibilities and exercising his or her powers under the Act, these Regulations or the financial instructions or under any other Act or regulations in relation to financial administration.

(3) In addition to the authorisation of the Accountant General in respect of the activities of the Department of Audit as a line agency—

- (a) the Director of Audit,;
- (b) every employee of the Department of Audit; and
- (c) every professional auditor or other person engaged by the Accountant General and authorised by the Director of Audit,

may obtain access to the system to the extent necessary for the purpose of discharging his or her responsibilities as auditors.

(4) In addition to the authorisation of the Accountant General in respect of the activities of a Covered Entity responsible for support of the system as a line agency, the Head of the Covered Entity and his or her employees are authorised to access the system for the purpose of discharging their responsibilities to provide support for the system.

(5) The Permanent Secretary may, after consulting with the Accountant General, authorise any person to access the system.

(6) An authorisation under this regulation shall be in writing and shall specify the functions of the system to which the person is authorised to access.

(7) Where an authorisation is given by a person referred to in subregulation (3), (4) or (5), a copy of the authorisation shall be submitted without unreasonable delay to the Accountant General.

227. Security of system, back-up, etc. (1) The Accountant General shall take reasonable steps to ensure that—

- (a) the system is protected against the loss, corruption or infection of system software or data by a power surge, power reduction or power outage, by a virus, by someone hacking into the system or by any other cause; and
- (b) the system, and any tape, disk, diskette or any other medium on which data from the system is stored, is protected against loss by theft or otherwise or from damage or destruction.

(2) The Accountant General shall, with the approval of the Permanent Secretary, establish from time to time protocols for protecting the system software and data against loss, corruption or infection, which shall include protocols with respect to—

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- (a) protection of the system against the loss, corruption or infection of system software or data by a power surge, power reduction or power outage, a virus, by someone hacking into the system or by any other cause;
 - (b) protection of the system, and any tape, disk, diskette or any other medium on which data from the system is stored, against loss by theft or otherwise or from damage or destruction; and
 - (c) backing up the system, including—
 - (i) the tape, disk, diskette or any other medium on which system data is to be backed up;
 - (ii) the frequency with which backups of system data are to be conducted, which shall be not less frequently than every day that Government offices are open for business;
 - (iii) the period for which backup tapes, disks, diskettes or any other media of storage are to be retained before being reused;
 - (iv) the number of backups to be done, which shall not be less than two;
 - (v) the storage of the backups, at least one of which shall be in a secure place on-site and one of which shall be in a secure place off-site;
 - (vi) recording the identity of the person who produced the backup; and
 - (vii) labelling the backups with sufficient information to restore the system data.
- (3) The Accountant General shall take reasonable steps to ensure implementation and compliance with the protocols.

Subdivision 5

Annual security assessment

228. Annual security assessment. (1) In consultation with the Comptroller of Customs, the Comptroller of Inland Revenue, Accountable Officers and the Head of the Covered Entity responsible for support of the system, the Accountant General shall annually, or more often as necessary—

- (a) conduct a security assessment of—
 - (i) the Treasury, each Sub-Treasury, every accounting unit and each department, and
 - (ii) the system, in relation to the requirements of this Part having regard to the risks in the security arrangements and the cost and other measures necessary to address the risks; and
- (b) prepare a security assessment report setting out the findings of the assessment under paragraph (a) and any recommendations to address any security issues identified as a result of the assessment, which shall include a summary of the steps that need to be taken, and by whom, to address the security issues.

(2) A security assessment report under this regulation may contain recommendations for the amendment of these or any other regulations under the Act.

(3) Every security assessment report under this regulation shall be sent to the Permanent Secretary who, after such consultations as appear to him to be appropriate, shall determine what action shall be taken in relation to the security assessment report.

Subdivision 6 ***Boards of survey***

229. Board to conduct survey. (1) Every financial year, the Permanent Secretary shall appoint a Board to, after the close of business on the last business day of the year or before the commencement of business on the first business day of the following year, conduct a survey of the money held by the Accountant General, each Sub-Accountant, each Accountable Officer and each Collector of Revenue, in accordance with subregulation (2).

- (2) A Board appointed under this Subdivision shall—
 - (a) count the money held;
 - (b) reconcile the balance of the money counted with the balance shown in the cash book and bank statement and any warrant; and
 - (c) prepare a report pursuant to regulation 234.

(3) The Permanent Secretary may at any time appoint a Board to conduct a survey in accordance with subregulation (2) in respect of money in the custody of an Accountable Officer and may direct such a Board to conduct a surprise survey.

(4) The Accountant General may, in consultation with the Permanent Secretary, appoint a Board to conduct a survey of fixed assets, stock or inventory of consumable assets, or money located in any department during the year and report with recommendations on the condition of each item.

(5) Where the Permanent Secretary or Accountant General indicates that the Board is to conduct a surprise survey under subregulation (3), every member of the Board shall make the utmost effort to keep their appointment confidential.

230. Constitution of Boards. (1) A Board appointed under regulation 229 shall consist of—

- (a) a person who is qualified as an auditor; or
- (b) not less than two public officers, one of whom shall be designated as the chairperson of the Board.

(2) Where a public officer appointed to a Board under regulation 229 discovers that he or she is unable to serve on the Board, the public officer shall report immediately to the Permanent Secretary that he or she is unable to serve.

231. Attendance of Board members. The Chairperson of a Board under regulation 229 with more than one member shall arrange the time and place of assembly with the other members.

232. Presence of Accountant General, Comptroller of Customs, the Comptroller of Inland Revenue or Accountable Officer. For the duration of survey under regulation 229, the Accountant General, Sub-Accountant or Accountable Officer, as the case may be, in whose charge the money being surveyed is, shall be present.

233. Money transactions during survey. (1) For the duration of a survey under regulation 229, no money transaction shall take place with respect to the money being surveyed, without the approval and subject to any conditions imposed by the Board or the Chairperson of the Board.

(2) Where a survey under regulation 229 extends beyond one day, the strong room, secured room or safe containing the verified portion of the stock shall be sealed by the Board at the end of each day for the duration of the survey.

(3) The seal shall not be broken except in the presence of the Board.

234. Report of Board. (1) Every report of a Board appointed under regulation 229 shall set out the following—

- (a) the date and hour of the commencement and completion of the survey;
- (b) where the survey is for the purpose referred to in regulation 203 (b), whether a shortage or loss of money has occurred;
- (c) where a shortage or loss has occurred, particulars of—
 - (i) the shortage or loss;
 - (ii) the circumstances of the shortage or loss so far as they can be ascertained;
 - (iii) the relevant security arrangements and an assessment of their adequacy and recommendations for improvements in those arrangements; and
 - (iv) every person who is or may be responsible for the money of which there is a shortage or loss, an assessment of the extent of the responsibility and a recommendation as to the action to be taken, if any, against the person or persons;
- (d) where the survey is for the purpose referred to in regulation 203 (b), set out its recommendations;

(2) Every report of a Board appointed under regulation 229 shall be signed by every member of the Board and shall be in quadruplicate.

(3) The Board or Chairperson of the Board, as the case may be, shall without unreasonable delay submit the report to the Permanent Secretary, the Accountant General, the Director of Audit and the Accountable Officer.

235. Substantial shortages or losses to be reported immediately. Where a Board appointed under regulation 229 discovers a substantial shortage or loss of money,

it shall immediately report the shortages to the Accountable Officer, the Permanent Secretary, the Accountant General and the Director of Audit.

236. Handing over and handing over statement. (1) Where the responsibilities of a public officer (in this regulation called “first public officer”) are assumed by another public officer (in this regulation called “second public officer”) by reason of the first public officer’s going on leave, being absent, being transferred or otherwise leaving his or her position, the first public officer shall—

- (a) in the presence of the second public officer, verify that the following items are accurate, complete and balance, where appropriate—
 - (i) money, cash books, warrants, bank deposit slips and related records;
 - (ii) books of receipt forms and registers of receipt forms;
 - (iii) pre-printed cheques forms designed to draw cheques manually on a Government bank account, cancelled cheques and related records;
 - (iv) pre-printed cheques forms designed for printing cheques drawn on a Government bank account on the system;
 - (v) after the close of business on the last business day of the year or before the commencement of business on the first business day of the following year, of the money held by the Accountant General and each Sub-Accountant for the purpose referred to in regulation (2);
 - (vi) securities;
 - (vii) virement and departmental warrants;
 - (viii) procurement documents;
 - (ix) other accounting and financial records not mentioned in subregulation (1) (a) (i) to (viii);
 - (x) copies of regulations, financial instructions from the Accountant General, Finance Circulars and other related documents; and

- (xi) keys and particulars of combinations and other means of access to security devices and secure equipment; and
- (b) complete a handing over statement in the form prescribed by the Accountant General, setting out particulars of—
 - (i) the items handed over by the first public officer to the second public officer; and
 - (ii) any deficiencies or discrepancies in the items checked and verified.
- (2) Where the first public officer and second public officer agree that the handing over certificate is in accordance with what is to be handed over, they shall both sign it and the first public officer shall date it.
- (3) Where the first public officer is unable to carry out his or her responsibilities under subregulations (1) and (2), the Accountable Officer shall appoint a Board comprising two public officers to carry out the first public officer's responsibilities.
- (4) The Board referred to in subregulation (3) shall without unreasonable delay—
 - (a) carry out its responsibilities under subregulation (3);
 - (b) prepare a report of its findings; and
 - (c) submit the report to the Accountant General.
- (5) Where the second public officer is unavailable to carry out his or her responsibilities under subregulation (1), the Accountable Officer shall appoint a public officer to carry out the second officer's responsibilities.

237. Shortages and losses discovered other than by a Board or on handing over. (1) This regulation applies to shortages and losses discovered on handing over under regulation 236 or by a Board under this Subdivision.

(2) Where an officer discovers a shortage in or loss of money, receipt books, cheques forms, cheques or securities or other similar items, the officer shall without unreasonable delay make a report to the Accountant General, Sub-Accountant, Comptroller of Customs, Comptroller of Inland Revenue or Accountable Officer, as the case may be.

(3) A report under subregulation (2) shall be in writing and shall include particulars of the following—

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- (a) the money, receipt books, cheques forms, cheques or securities or other similar items short or lost;
 - (b) the circumstances of the shortage or loss, including where and when it occurred, if that can be ascertained;
 - (c) the circumstances of the discovery of the shortage or loss, including the reason for any delay in its discovery;
 - (d) whether any items referred in subregulation (a) have been recovered and, if so, the circumstances of the recovery;
 - (e) the relevant security arrangements and an assessment of the adequacy of the security arrangements; and
 - (f) every person who is or may be responsible and an assessment of the extent of the responsibility of every such person.

(4) The Accountant General, Sub-Accountant, Comptroller of Customs, Comptroller of Inland Revenue or Accountable Officer, as the case may be, to whom the report is made shall immediately submit a report to the Permanent Secretary and Director of Audit.

(5) Where the Permanent Secretary receives a report under subregulation (4), the Permanent Secretary shall investigate the matter and shall, in consultation with the Director of Audit and the Accountant General, Accountable Officer, as the case may be, determine the action to be taken against each person who is or may be responsible.

238. Write off of Shortages and Losses. The Permanent Secretary may, with the approval of the Minister, authorise the write-off of the shortage or loss, if the Permanent Secretary is satisfied that the shortage or loss is not recoverable.

Division 11

Reporting

Subdivision 1

Reporting including quarterly reports

239. Reporting requirements including quarterly reports. (1) In addition to reports on revenues and expenditures of a Covered Entity under section 65 of the Act and reports on the operations of a Statutory Body or a State-Owned Enterprise

under section 72 of the Act, the Minister may request reports from a Covered Entity on wider aspects of public finances including performance against approved plans for a Covered Entity.

(2) In addition to consolidated quarterly reports on budget execution and revenue collection compared to the estimates under section 65 of the Act, the Minister shall provide information on non-financial performance related to the funds expended by the Government.

(3) The quarterly reports to Cabinet under section 65 (3) of the Act shall set out—

- (a) information on government expenditure, revenues, assets and liabilities compared to the National Budget including the annexes;
- (b) information on performance against the outputs and other non-financial performance indicators specified in the National Budget;
- (c) variance analysis; and
- (d) comments on significant variances and plans to address these if relevant.

Subdivision 2 ***Annual reporting***

240. Annual reporting. (1) Every Ministry or Department shall submit an Annual Performance Report which shall include particulars on the following—

- (a) progress with the strategic priorities in the Annual Work Plan;
- (b) programmes delivered with measurable indicators of actual performance for outputs and outcomes;
- (c) progress with significant capital developments;
- (d) challenges and constraints;
- (e) risk management; and
- (f) financial performance.

(2) Not later than the thirtieth day of April, the Line Minister shall lay the Annual Report of the Ministry or Department before Parliament.

(3) Every Accountable Officer with respect to a Ministry or Department shall cause the Annual Report with respect to the Ministry or Department to be published on an official website of the Government not later than one week after the Annual Report is laid before Parliament.

Subdivision 3

Citizen friendly budget and reporting information

241. Citizen-friendly documents. (1) The Permanent Secretary shall publish on an official website of the Government summaries of the National Budget, Mid-Year Review, Annual Report of the Government and the Public Accounts.

(2) The documents required under subregulation (1) shall be in plain English and presented in a form that is easy to read and understand.

(3) Each document under subregulation (1) shall be published on an official website of the Government not later than one month after the date required in law for publication of the official version of the document.

PART XI

STATUTORY BODIES AND STATE-OWNED ENTERPRISES

242. Statutory Body Strategic Plan and Financial Plan. (1) The Board of each Statutory Body shall prepare a medium-term Strategic Plan that shall include—

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

- (i) the outputs to be provided;
- (ii) measurable indicators of performance, where feasible; and
- (iii) the budget allocated to the outputs or groups of outputs;
- (d) summary of payments on behalf of the Government, including grants, benefits and subsidies to be paid;
- (e) significant capital developments;
- (f) description of intentions to develop capability for physical, intellectual, human and other resources including measurable indicators, where feasible;
- (g) statement of risks and intended management of these risks;
- (h) forecast financial statements for the forthcoming financial year and the following two years, from a date to be determined by the Minister;
- (i) financial and other assumptions;
- (j) other matters required by the Minister or the Line Minister; and
- (k) unless directed otherwise by the Minister, additional information prescribed for a plan in the establishment law for the Statutory Body.

(2) The Board of each Statutory Body shall prepare a Financial Plan focused on the forthcoming financial year that shall contain—

- (a) a description of how the strategic objectives will be operationalised; and
- (b) information supporting the forecast financial statements in the Strategic Plan.

(3) The Board of each Statutory Body shall—

- (a) establish with the Line Minister the draft Strategic Plan, the Financial Plan and the draft Annual Budget; and
- (b) in a manner to be determined by the Line Minister, consult on any significant changes in the Strategic Plan and the Financial Plan.

(4) In every financial year, the Chief Executive Officer of each Statutory Body shall—

- (a) submit the draft Strategic Plan, Financial Plan and draft Annual Budget to the Ministry with responsibility for the Statutory Body and to the Ministry not later than the thirty-first day of August; and
- (b) publish the Strategic Plan and the Financial Plan on the official website of the Government not later than one week after the Strategic Plan and the Financial Plan has been laid before Parliament.

(5) The Line Minister shall lay the Strategic Plan and the Financial Plan before Parliament, for information.

243. Statutory Body Annual Report. The Board of each Statutory Body shall prepare an Annual Report containing sufficient information to indicate financial and non-financial performance compared to the Strategic Plan and the Financial Plan, and which shall include particulars on the following—

- (a) progress with the strategic priorities in the Strategic and Financial Plan;
- (b) outputs delivered with measurable indicators of actual performance for outputs or groups of outputs;
- (c) payments made on behalf of the Government or the Ministry including grants, benefits and subsidies to be paid;
- (d) progress with significant capital developments;
- (e) advances or issues in capability for physical, intellectual, human and other resources, including measurable indicators, where feasible;
- (f) risk management and position;
- (g) financial performance which shall include audited financial statements from a date to be specified by the Minister;
- (h) the auditor's report on the financial statements;
- (i) financial and other assumptions;

- (j) other matters required by the Minister or the Line Minister; and
- (k) unless directed otherwise by the Minister, additional information prescribed for a plan in the establishment law for the Statutory Body.

244. Statutory Body report tabled in Parliament. Every Line Minister shall, not later than seven days after receiving the audited accounts, lay the Annual Report with respect to the Statutory Body for which he or she is responsible before Parliament.

245. Publication of Statutory Body Annual Report. The Chief Executive Officer shall cause the Annual Report to be published on an official website of the Government not later than one week after the Annual Report has been laid before Parliament.

246. State-Owned Enterprise Strategic Plan. The Board of each State-Owned Enterprise shall prepare a Strategic Plan for the State-Owned Enterprise, which shall include particulars on the following—

- (a) the objectives of the State-Owned 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 those terms;
- (d) the accounting policies;
- (e) the expected performance for the medium term of the group 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 sources and revenue sources, intended to be distributed to the Government;
- (g) the type of information to be provided to the Line Minister and the Minister by the State-Owned 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 State-Owned Enterprise subscribes for, purchases, or otherwise acquires shares in any company or other organisation;

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- (i) any activities for which the Board seeks compensation from the Government, whether or not the Government has agreed to provide such compensation; and
 - (j) such other matters as are agreed by the Line Minister, the Minister and the Board.

247. State-Owned Enterprise Business Plan. The Board of each State-Owned Enterprise shall prepare a Business Plan, which shall set out—

- (a) a description of how the strategic objectives will be operationalised;
- (b) detail for the forthcoming financial year of the expected performance targets and other measures by which the performance of the group may be judged in relation to its objectives in the Strategic Plan;
- (c) forecast financial statements, including an estimate of the anticipated profit for each of the three forthcoming financial years with sufficient detail for the first forthcoming financial year to enable meaningful assessment against those expectations after the end of that financial year;
- (d) any proposed major financing transactions;
- (e) statement of risks and intended management of these;
- (f) other matters as are agreed by the Line Minister, the Minister and the Board; and
- (g) unless directed otherwise by the Minister, additional information prescribed for a plan in the establishment law for the State-Owned Enterprise.

248. Agreement on plans with Ministers. (1) The Line Minister and the Minister shall agree on the Strategic Plan and the Business Plan with the Board of each State-Owned Enterprise.

(2) Where the Line Minister and the Minister cannot agree on matters relating to the Strategic Plan and the Business Plan, the Cabinet shall decide on the matters.

249. Tabling State-Owned Enterprise plans in Parliament. The Minister shall lay the Strategic Plan and the Business Plan for each State-Owned Enterprise before Parliament, for information.

250. Publication of State-Owned Enterprise plans. The Chief Executive Officer of the State-Owned Enterprise shall publish the Strategic Plan and the Business Plan on an official website of the Government not later than one week after the Strategic Plan and the Business Plan have been laid before Parliament.

251. State-Owned Enterprise Annual Report. Every State-Owned Enterprise shall prepare an Annual Report containing sufficient information to indicate financial and non-financial performance compared to the Strategic Plan and Business Plan, and which shall include—

- (a) a report of the operations of the State-Owned Enterprise and those of its subsidiaries during that financial year, with information as is necessary to enable an informed assessment of the operations of the State-Owned Enterprise and its subsidiaries, including a comparison of the performance of the State-Owned Enterprise and its subsidiaries with the Strategic Plan and Business Plan;
- (b) the dividend payable to the Government by the State-Owned 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 such other statements as may be necessary to indicate the financial position of the State-Owned Enterprise and its subsidiaries and the financial results of their operations during the financial year;
- (d) risk management and position;
- (e) the auditor's report on the financial statements; and
- (f) such additional information as may be necessary to enable an informed assessment of the activities of the State-Owned Enterprise against the Strategic Plan and Business Plan.

252. Tabling State-Owned Enterprise Annual Report in Parliament. The Minister shall lay the Annual Report of the State-Owned Enterprise before Parliament not later than seven days after receiving the audited accounts.

253. Publication of State-Owned Enterprise Annual Report. The Chief Executive Officer of the State-Owned Enterprise shall publish the Annual Report on an official website of the Government not later than one week after it has been laid before Parliament.

254. Monitoring by representative of Minister. (1) A representative appointed to the Board of a Statutory Body by the Minister under section 79 of the Act shall have a monitoring role and shall vote on decisions or resolutions of the Board.

(2) The Chairperson of the Board of a Statutory Body shall take reasonable steps to ensure that a representative appointed under section 79 or 80 of the Act is notified of all meetings of the Board and receives the same information as other members of the Board.

255. Policy requirements for State-Owned Enterprises and Statutory Bodies. (1) The Minister shall be responsible for the policy relating to the management of public finances and performance for State-Owned Enterprises and Statutory Bodies.

(2) The policy requirements set by the Minister may include—

- (a) accountability requirements to Ministers, shareholders, the public and Parliament;
- (b) corporate governance;
- (c) roles and responsibilities of Ministers, Boards and staff;
- (d) remuneration of staff and members of Boards;
- (e) planning;
- (f) performance expectations, including dividends;
- (g) business case requirements;
- (h) investments;
- (i) liability management, including borrowing;

- (j) management of financial, physical, human and intellectual assets;
- (k) risk management, including for liabilities;
- (l) reporting;
- (m) information provision;
- (n) disclosures;
- (o) monitoring;
- (p) reviews of investment;
- (q) reviews of performance; and
- (r) other matters as may be considered necessary by the Minister.

(3) The dividend policy set by the Board of Directors of a State-Owned Enterprise in consultation with the Line Minister and the Minister under section 81 of the Act shall be consistent with the dividend policy issued by the Minister.

PART XII

SANCTIONS

256. Institutional sanctions. (1) In addition to the sanctions that may be applied to a Covered Entity under section 84 of the Act, the Minister may apply sanctions to a Covered Entity that has—

- (a) approved the commitment of expenditure for a future year that has not been authorised by the Minister as an approved multiyear commitment;
- (b) approved expenditures in excess of an appropriation under an Appropriation Act or other lawful authority;
- (c) vired expenditures without the lawful authority;
- (d) approved the contracting of debt beyond the debt limits set pursuant to these Regulations, the Act or other enactment;

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- (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 these Regulations or the Act;
 - (i) created liabilities in excess of its ability to finance these;
 - (j) failed to adequately address issues raised by the Director of Audit 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 these Regulations or the Act.

(2) The Minister may apply the following sanctions to a Covered Entity to which subregulation (1) 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 for approval prior to its approval by the Board or Council of the Covered Entity;
 - (c) suspend the ability to use virement powers;
 - (d) withhold funds;
 - (e) suspend all authorisations to borrow;
 - (f) treat any debt defaults as a charge on future revenues;
 - (g) temporarily place staff of the Ministry or appointees in the Covered 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 member of the Board or the Chief Executive Officer;
- or

(i) remove a member of the Board.

(3) Where a Covered Entity incurs debt in excess of an ability to service such debt or in contravention of the debt level permissible under an enactment or set by the Government, the Minister shall direct the Covered Entity to adhere to a programme of debt reduction.

PART XIII

PUBLIC SECTOR INVESTMENT PROGRAMME SELECTION AND PRIORITISATION CRITERIA AND PROCEDURE AND REPORTING

257. Definitions and miscellaneous provisions. (1) In this Part—

“POC” means Public Sector Investment Programme Operations Committee;

“PPCC” means Priority and Planning Consultative Committee;

“project bank” means a web-based repository of all concept notes, project proposals, feasibility studies and other project documentation;

“PSIP” means the Public Sector Investment Programme, which is a progressing three-year plan of Cabinet-approved, new and ongoing prioritised public sector investment projects.

(2) The PSIP, for which 0.25% of the national budget shall be set aside for pre-investment financing, is the guiding framework for the preparation, appraisal, approval and implementation of all public investments in the Tri-island State of Grenada, Carriacou and Petit Martinique regardless of the source of funding and implementation modality.

(3) Every financial year, the Department responsible for the preparation and management of the PSIP shall present to the Minister a PSIP policy paper setting out all projects approved for inclusion in the budget prior to the presentation of the Estimates of Revenue and Expenditure for the ensuing period.

(4) In accordance with section 33 (3) of the Act, this Part applies to the procedure for the selection and prioritisation of the PSIP projects, including Public Sector Investment Projects and Public Private Partnerships.

(5) The PSIP criteria and report requirements are set out in Appendix D to these Regulations

258. Identification and Development. (1) Project ideas and concepts shall be generated by ministerial technical teams, Statutory Bodies and State-Owned Enterprises, bi-lateral and multi-lateral development partners in consultation with key stakeholders and submitted to the head of the respective organisations or implementing organisation for preliminary screening and the preliminary process shall utilise the criteria checklist to screen submissions.

(2) Unsatisfactory project ideas and concepts shall be discarded.

(3) Satisfactory project ideas and concepts shall be submitted to the Department responsible for the preparation and management of the PSIP, through the project bank, for further development by the Line Ministries, Statutory Bodies, State-Owned Enterprises, and or development partners in collaboration with the Department of Economic and Technical Cooperation and social partners.

259. Project Appraisal and PSIP Screening. (1) The Department responsible for the preparation and management of the PSIP shall appraise all project proposals in conjunction with Policy Unit, Debt Management Unit, National Climate Change Council, Social Partners, Social Development and other relevant organisations.

(2) Appraisal reports and letters of support from social partners shall be forwarded to the PPCC.

(3) The PPCC shall be appointed by Cabinet and shall consist of Permanent Secretaries of the major government ministries as well as the Cabinet Secretary

(4) The Permanent Secretary shall be the Chairperson on the PPCC and the Head of Budget shall be the Secretary to the PPCC.

(5) The PPCC have responsibility for—

- (a) the final screening of all Public Sector Investment Projects and Public Private Partnerships for financial, economic, environmental and social feasibility; and

- (b) to ensure consistency with the priorities and strategic objectives of the Government.

(6) Every unsatisfactory project proposal shall be returned to the project bank with recommendations for modification and resubmission.

(7) Where a project proposal is resubmitted and is inconsistent with the recommendations for modification, the proposal shall be rejected.

(8) Every project approved by the PPCC shall be placed into the PSIP pipeline and forwarded to Cabinet, and the “PSIP pipeline” refers to projects that have been approved for the PSIP but for which funding has not yet been identified or finalised.

260. Project Approval and Financial Mobilisation. (1) The Chairperson of the PPCC shall submit project proposals, letters of support and appraisal reports to the Cabinet for approval

(2) After deliberation by Cabinet, the Cabinet Conclusion shall be returned to the Chairperson of the PPCC for the mobilisation of funding.

(3) Where a project is approved and funding is identified, the Permanent Secretary shall request a “letter of no objection” from Cabinet to issue to the identified funding source to facilitate financial disbursement.

(4) Every approved project for which funding have been identified shall form part of the National Budget.

261. Project Implementation and Governance. (1) The project executing agency furnish the Chairperson of the POC with annual work plans and quarterly progress reports for all projects being implemented that vividly outline milestones for the past, current and future quarters, budget expended for the period, challenges and recommendations.

(2) The POC shall meet monthly and be co-chaired by the Minister with responsibility for Implementation and the Head of the Department responsible for the preparation and management of the PSIP.

(3) The POC shall consist of designated Programming Officers from Covered Entities and a Budget Officer shall be the Secretary of the Committee.

(4) A designated Programming Officer refers to officers within a Covered Entity or development partners that are assigned to the PSIP management.

(5) The POC, in collaboration with social partners, shall review the quarterly progress reports and, whenever required, make recommendations through the Chairperson of the POC to the national implementation entity or executing agency and Cabinet.

(6) The Chairperson of the POC shall furnish Cabinet with PSIP performance or progress reports bi-annually.

APPENDIX A

LIST OF SPECIMEN FORMS

Provisional General Warrant

General Warrant

Departmental Warrant

Departmental Virement Warrant

Finance Virement Warrant

Reallocation Warrant

Contingencies Warrant

**APPENDIX B
SPECIMEN FORMS**

SPECIMEN 01

Date:.....

**GRENADA
PROVISIONAL GENERAL WARRANT, 20.....**

.....
MINISTER OF FINANCE

PLACE: MINISTRY OF FINANCE
DATE:
TO: ACCOUNTANT GENERAL

Pending approval of the State's 20____ Estimates of Revenue and Expenditure and the issue of the General Warrant, you are hereby authorised to incur expenditure for the continuation of certain services which existed on 31st December, 20____. This includes the payment of normal salaries and increments, allowances and pensions at the rates existing, and within the limits approved.

As for any payments properly made, this Warrant together with the Accounts, Certificates and Acquittances prescribed in the said Laws and Instructions shall be your warrant and discharge.

SPECIMEN 02

**GRENADA
GENERAL WARRANT 20.....**

.....
MINISTER OF FINANCE

PLACE: MINISTRY OF FINANCE
DATE:
TO: ACCOUNTANT GENERAL

You are hereby authorised and required to pay during the year 20....., the Personal Emoluments, Pensions and Other Charges specified in the Estimates of Revenue and Expenditure, which were approved by the House of Representatives on, 20....., the Senate on, 20....., and gazetted on, 20..... amounting to \$....., in accordance with the Public Finance Management Regulations, 2015 and other Financial and Accounting instructions in force.

2015

Public Finance Management Regulations

SRO. 33

And for so doing, together with the proper accounts, certificates and acquittance shall be your sufficient warrant and discharge.

SPECIMEN 03

DEPARTMENTAL WARRANT**NO: of 20.....**

To

.....

You are hereby authorised to incur expenditure during 20....., up to maximum amount (s) shown in the schedule below and in accordance with the appropriate authorities, under the following Programmes and Categories of the current year's Expenditure Estimates:—

| Programme | Category | Amount Allocated | |
|-----------|----------|------------------|---|
| | | \$ | ¢ |

You are required to keep a Vote Account in respect of each of the following allocations and to report to me whenever it may appear that the amounts provided will prove insufficient for the service of the year. You will be held responsible for any expenditure incurred without prior authority. This procedure does not alter the present procedure whereby claims are first submitted to the Treasury for scrutiny.

(It is designed only to ensure better financial control).

.....
Permanent Secretary /Head of Department

Date

SPECIMEN 04

DEPARTMENTAL VIREMENT WARRANT
NO..... OF 20.....

To:

Authority is requested to transfer the sum of

\$.....

From: Sub-Category.....

To: Sub-Category.....

of Programme.....

Vote.....

Provision under the relevant sub-categories is as follows:

| | Sub-Category | Sub-Category |
|------------------------------------|--------------|--------------|
| | | |
| | \$ | \$ |
| Approved Estimate | | |
| Add: Additional Provisions | | |
| | | |
| | | |
| | | |
| Total | | |
| Less: Reductions | | |
| | | |
| | | |
| Total | | |
| This Virement | | |
| | | |
| Total available | | |
| This transfer is required because: | | |

Date

.....

Finance Officer

TO: FINANCE OFFICER

Your application above is/is not approved.

Date

.....

Accountable Officer

(These authorities must be prepared in quadruplicate and numbered as a series in ascending numerical order by department).

Distribution of copies as detailed in Financial Regulations.

2015

Public Finance Management Regulations

SRO. 33

SPECIMEN 05

FINANCE VIREMENT WARRANT**NO..... OF 20.....**

TO

Authority is requested to transfer the sum of \$.....

From: Programme/Project..... Account..... SOF.....

To: Programme/Project..... Account..... SOF.....

of Vote.....

Provision under the relevant programmes /project is as follows:

| | Programme/ Project | Programme/ Project |
|------------------------------------|-----------------------|-----------------------|
| | | |
| | \$ | \$ |
| Approved Estimate | | |
| Add: Additional Provisions | | |
| | | |
| | | |
| | | |
| | | |
| Total | | |
| Less Reductions | | |
| | | |
| | | |
| Total | | |
| Amount to be transferred | | |
| Balance as at this date | | |
| This transfer is required because: | | |

Date

Finance Officer

TO: FINANCE OFFICER

Your application above is/is not approved.

Date

Accountable Officer

(These authorities must be prepared in quadruplicate and numbered as a series in ascending numerical order by department).

Distribution of copies as detailed in Financial Regulations.

SPECIMEN 06

REALLOCATION WARRANT**NO:..... of 20.....**

TO THE ACCOUNTANT GENERAL

WHEREAS it has become necessary in the interest of the Public Service to incur certain expenditure which has not been authorised by an Appropriation Act or by a Warrant issued under the authority of Part V of the Public Finance Management Act No. 17 of 2015, I hereby authorise you under the powers conferred on me by Section 37 (1) of the Public Finance Management Act No. 17 of 2015, to pay from the Consolidated Fund a sum not exceeding that set out in Section A below for the purposes specified therein subject to the amount quoted as savings under Section B being deducted from the voted provision.

And for so doing, this together with proper Accounts, Certificates and Acquittances shall be your sufficient warrant and discharge.

..... 20...

.....
Minister of Finance

- | | | | |
|----|--|---------------|-----------|
| A. | Vote Programme/Project | Account..... | SOF..... |
| | Amount provided in the Estimates | | \$..... |
| | Add: Supplementary Provision: | | |
| | Supplementary Estimates | ..... | ..... |
| | Virement Warrants | ..... | ..... |
| | Total | | \$ |
| | Less: Warrants | ..... | ..... |
| | Total provided for year | | \$ |
| | Additional amount required |  | ..... |
| | Total required for year | | \$ |
| | NOTE: Amount spent to date | | \$..... |
| | Available balance | | \$..... |
| B. | Savings totalling \$..... can be found under Vote | | |
| | Programme/Project | Account | SOF |
| | Available balance under this Account now stands at \$..... | | |
| C. | This application has been made necessary because | | |
| D. | This application cannot wait until next financial year because | | |
| E. | Minister of Finance, | | |

2015

Public Finance Management Regulations

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Warrant submitted for your signature please

.....
Date

.....
Permanent Secretary (Finance)

(These authorities must be prepared in quadruplicate and numbered as a series in ascending numerical order). Distribution of copies as detailed in Financial Regulations.

SPECIMEN 07

CONTINGENCIES WARRANT**NO:..... of 20.....****TO THE ACCOUNTANT GENERAL**

WHEREAS it has become necessary in the interest of the Public Service to incur certain expenditure which has been authorised by the Appropriation Act issued under the authority of Part IV, Section 22 (1) of the Public Finance Management Act No. 17 of 2015, I hereby authorise you under the powers conferred on me by Section 35 (1) of the Public Finance Management Act 17 of 2015, to pay from the Consolidated Fund a sum not exceeding that set out in Section A below for the purposes specified therein.

And for so doing, this together with proper Accounts, Certificates and Acquittances shall be your sufficient warrant and discharge.

..... 20...

.....
Minister of Finance

| | | | |
|--------------|----------------------------------|--------------|----------|
| A. Vote..... | Programme/Project | Account..... | SOF..... |
| | Amount provided in the Estimates | | \$..... |
| | Add: Supplementary Provision: | | |
| | Supplementary Estimates ..... |  | ..... |
| | Virement Warrants ..... |  | ..... |
| | Total | | \$ |
| | Less: Warrants ..... |  | ..... |
| | Total provided for year | | \$ |
| | Advance ..... |  | ..... |
| | Total required for year | | \$ |
| | NOTE: Amount spent to date ..... |  | ..... |
| | Available balance | | \$..... |

- B. The amount of \$..... should be deducted from the Contingencies Fund, Vote..... Programme/Project..... Account..... SOF..... Available balance under this Account now stands at \$.....
- C. Explain why the advance is necessary and why it is considered urgent and unavoidable?
- D. Explain why the provision was unforeseen at the time of the budget?
- E. Permanent Secretary (Finance)

I hereby request an advance from the Contingency Fund for the reasons stated above. My Minister concurs.

.....
Date Permanent Secretary/Head of Department

Department/Ministry of.....

F. Minister of Finance,

Warrant submitted for your signature please

.....
Date Permanent Secretary (Finance)

(These authorities must be prepared in quadruplicate and numbered as a series in ascending numerical order). Distribution of copies as detailed in Financial Regulations.

APPENDIX C

BUDGET CALENDAR

| Key Tasks | Action Required | Key Responsibility | Timeline |
|---|---|----------------------------------|----------|
| 1. Consideration of Input by Social Partners and Other Stakeholders | Invite Budget Proposals from Social Partners and Other Interest Groups | Corporate Communications Officer | May |
| | Receive stakeholders' input for consideration and inclusion into the Budget | Policy Unit | July |

| | | | |
|--|--|--|-------------------------|
| 2. Consideration of New Spending Proposals for following year; and Supplementary Estimates for current year | Submission of Finance Circular along with Supplementary Template to Ministries and Departments | Permanent Secretary, MoF | May |
| | Ministries and Departments submit Supplementary Estimates for current year requests | Permanent Secretaries and Heads of Departments | June |
| | Ministries and Departments submit New Spending Proposals | Permanent Secretaries and Heads of Departments | June |
| | Cabinet approves Supplementary Estimates and new Spending Requests | Cabinet | July/ August |
| | Standing Committee of Finance approves Supplementary Estimates | Finance Committee | August |
| | Supplementary Estimates approved by the House of Representatives | House of Representatives | August/September |
| 3. Medium Term Fiscal Framework and Budget Framework Paper | Preparation of macroeconomic and fiscal forecasts | Policy Unit and Statistics Division | July |
| | Preparation of Medium Term Fiscal Framework | Policy Unit | July |
| | Preparation of Budget Framework Paper | Chief Budget Officer | July/August |
| | Submission of Medium Term Fiscal Framework and Budget Framework Paper to Cabinet | Permanent Secretary, MoF | July/ August |
| | Approval of Medium Term Fiscal Framework and Budget Framework Paper | Cabinet | July/ August |

| | | | |
|--|---|---|--------------------|
| 4. Budget Retreat | MoF distributes Budget Call Circular, which includes indicative expenditure ceilings, instructions and template forms for the preparation of the budget | Permanent Secretary, MoF | July/August |
| | Budget priorities and macro-economic and fiscal outlook presented to Ministries and Departments | Ministry of Finance Team | August |
| | Discussion of expenditure priorities, fiscal constraints and the way forward | Permanent Secretary, MoF | August |
| 5. National and Public Consultations | Public discussions with key stakeholders including civil society organisations | Corporate Communications Officer, Budget Unit and Policy Unit | September |
| | National Consultations | Budget Team | September |
| 6. Ministries and Departments Submit Budget Estimates | Ministries and Departments submit budget and forward year estimates in accordance with instructions | Permanent Secretaries and Heads of Departments | September |
| | MoF examines Ministries' and Departments' budget submissions | Budget Unit | September |
| 7. Budget Consultations with Line Ministries and Departments | Initial discussions between MoF and Line Ministries and Departments regarding the Budget Allocation | Budget Unit | September |
| | Meeting with Senior Managers Board (SMB) | Permanent Secretary, MoF | September |

| | | | |
|---|---|---|--------------------------|
| 8. Submission of Draft Budget to Cabinet | Submission of draft budget to Cabinet for approval | Minister of Finance | October |
| | Cabinet approves budget | Cabinet | October |
| | | | October |
| 9. Budget Submitted and Approved By Parliament Finance Committee | Minister of Finance submits budget to Parliamentary Finance Committee | Minister of Finance | October |
| | Finance Committee approves budget | Finance Committee | November |
| 10. Budget Speech and Appropriation Bills Tabled in Parliament and Approved | Submission of Budget to Parliament | Minister of Finance, Printery Ministry of Legal Affairs | November |
| | Presentation of Budget Speech | Minister of Finance | November |
| | Houses of Representatives debates and approves budget | House of Representatives | November/December |
| | Senate debates and approves budget | Senate | December |
| 11. Governor – General's Assent | Appropriation Act assented to by the Governor General | Office of the Governor General | December |
| 12. Gazette | Appropriation Act gazetted | Government Printery | December |
| 13. General Warrant Issued | Minister of Finance issues General Warrant | Minister of Finance | December |

APPENDIX D**CRITERIA FOR THE SELECTION AND PRIORITISATION OF PUBLIC SECTOR INVESTMENT PROJECTS**

| | | |
|----------------------|------------------------|---|
| Key For Criteria 1-6 | No/None/Not/Not Likely | 0 |
| | Partially/Somewhat | 1 |
| | Yes/Highly Likely | 2 |

Criteria for New Projects

| Appraisal Criteria | Notes for Criteria | Reference Point for Appraisal (Documents Needed) |
|---|---|---|
| 0. Project Type | What is the type of the project? • Infrastructural • Service • Hybrid etc. | Project Concept Note/Proposal |
| 1. Relevance | If relevance is not confirmed the project is rejected at this point | |
| Grenada GPRS National Sustainable Development Plan 2030 Whole of Government Key Priority Area (KPA) | Whether the project emanates from GPRS/Whole of Government/NSDP 2030 and its KPA or not | 1.Project Document (Project Log-Frame) 2.GPRS National Priorities 3.Whole-of-Government 18 National Strategic Outcomes 4.National Sustainable Development Plan |
| Sectoral Level | Whether the project implements sector strategy or not | 1.Project Outline 2. Ministry Strategic/Corporate Plan |
| Needs Level | Whether the need of the project is critical or not | 1. Project Outline (Background and Project Rationale) 2.Relevant sector policy |

| | | |
|---|--|--|
| 2. Effectiveness | If the project is not designed properly, it should be rejected and sent back for adjustments | |
| Input to Output (Logical flow) | How likely it is that stated inputs (staff, equipment etc.) will result in stated outputs (activities and participation)? | 1. Project Description 2. Project Log-frame |
| Outputs to Outcome (Logical flow) | Are stated outputs guarantee to realise the project outcomes (Learning, Action, condition) in terms of quantity and quality? | 1. Project Description 2. Project Log-frame |
| Adequacy and clarity of indicators | Are the given indicators SMART? | 1. Project Indicators |
| 3. Efficiency | | |
| Input/output ratio (Cost Effectiveness) | Are they efficient? <i>*Standardised unit cost of investments should be submitted by line ministries for appraisal.</i> | 1. Project Budget (Project costing sheet) 2. Cost Benefit Analysis 3. Internal Rate of Return 4. Net Present Worth/Value 5. Sensitivity Analysis |
| Institutional capacity | Is the proposed project executing agency capacity demonstrated? | Ministerial Meeting with relevant Permanent Secretary |
| Time efficiency (do outputs have to be achieved over that period) | Is the allotted time for outputs to be achieved reasonable? | Project Outputs and Indicators |
| 4. Sustainability | | |
| Financial sustainability | Is the post project operation and maintenance cost demonstrated? | Project Budget (Performa Cash Budget) |

| | | |
|--|---|---|
| Institutional and Management sustainability | Is institutional ability for post project operation demonstrated or limited? | Project Operational Plan |
| Acceptability | Is the project acceptable in terms of socially, environmentally, community point of view? | 1. Project Environmental Impact Assessment 2. Project Social Impact assessment |
| 5. Impact (Does this project represent a potential shift in paradigm) | | |
| Transformative | Can this project be up scaled or replicated and does it contribute to global low-carbon development pathways? | |
| Capacity Building | Is there a Potential for knowledge and learning? | |
| Investment Climate | Does this project contribute to an enabling environment? | |
| Governance | Does this project contribute to regulatory framework and policies? | |
| 6. Country Ownership | | |
| Social Compact | Were civil society organisations and other relevant stakeholders engaged in the development of this project? | |

| | |
|----------|--|
| DECISION | (<15)NOT APPROVED, (≥ 15 <22) PIPELINE, (≥ 22)TO BE FUNDED |
|----------|--|





| | | |
|----------------------|----------------------|---|
| Key For Criteria 1-2 | No | 0 |
| | Partially / Somewhat | 1 |
| | Yes | 2 |

PSIP Appraisal Criteria for
On-going Projects

| Appraisal Criterion | Notes for Criterion | Reference point for Appraisal (Documents Needed) |
|--|---|--|
| 1. Continued Project Relevance | Is the project still relevant with respect to addressing GPRS, Whole-of-Government, Sector Policy/Strategy and other emerging issues? | |
| Externalities (Needs) | Are there any externalities which affect the priority and continuation of the project? Was there change of situation (political and non-political) which affects the needs of the project? | Documents Quarterly Performance / Progress Report Project |
| 2. Project Performance | How has the project performed in the previous year? | |
| Absorption/ utilisation of previous FY's funding (a) Disbursement / Funding | 2= Utilised 80% of funding or over, 1=used between 40% and 79% of approved budget, 0= used 39% or less of approved budget Previous Fiscal Year means at the time of appraisal, previous Fiscal Year and 1 st Quarter of current Fiscal Year | 1. Quarterly National Implementation Entity progress Reports 2. Minutes of PSIP Operations Committee Meetings |

| | | |
|--|--|--|
| Resource/results (outputs and outcomes if any) ratio (based on previous one year) Achievements against annual targets. | 3= Achieved more than the target, 2= Achieved the target, 1= Achieved below target, 0=no achievement Funding vs. Results, if funding is 10% and results 10%, the Project is not penalised for 10% results achieved. | Quarterly National Implementation Entity progress Reports |
| Time efficiency (based on entire history of project implementation) Cumulative achievements against deadline targets | Is the project likely to be completed within the planned project life or not? | 1. Quarterly National Implementation Entity Progress Reports 2. Minutes of PSIP Operations Committee Meetings |
| Compliance with social and environmental safeguards | Are there any known hiccups and delays as a result of social and environmental concerns? | 1. Quarterly National Implementation Entity Progress Reports 2. Minutes of PSIP Operations Committee Meetings |
| Other Considerations | Other points to be considered for continuation of project. | |
| Readiness of the project | Whether the project is ready for implementation: <ul style="list-style-type: none"> • Has an agreement / MOU signed? • Has the project commenced? • Are designs available? • Has the land acquired? • Has the procurement started? | 1. Quarterly National Implementation Entity Progress Reports 2. Minutes of PSIP Operations Committee Meetings |

| | | |
|--|---|--|
| Sustainability measure put into place? | Has sustainability measure put into place as planned? | 1. Quarterly National Implementation Entity Progress Reports 2. Minutes of PSIP Operations Committee Meetings |
| Implementation bottlenecks | Whether there are factors negatively affecting the performance of project and their gravity | 1. Quarterly National Implementation Entity Progress Reports 2. Minutes of PSIP Operations Committee Meetings |
| DECISION | ≥ 15 CONTINUE, 9-14 PEND, <8 DISCONTINUE | |

| | | | | | |
|------------------------|---|---|---|---|-------------|
| Project Name | | | | Project Co-ordinator | |
| Project Scope | Goal(s) | Deliverable(s) | Task(s) | Cost(s) | Deadline(s) |
| | | | | | |
| Budget Expended | Budget expended for the Period | | | Budget Expended to Date | |
| | | | | | |
| Project Overall Status | Traffic Light | | | Project Number | |
| | Good | Delayed | | | |
| Indicate with tick → |  |  |  |  | |
| | | | | | |
| Project Summary | | | | | |

| | | | | |
|--|-----------|------|-------------|-------------|
| Milestones scheduled for previous 3 month period | Milestone | Risk | Target Date | Achievement |
| | | | | |
| Milestones scheduled for 3 month period ended | Milestone | Risk | Target Date | Achievement |
| | | | | |
| Milestones scheduled for next 3 month period | Milestone | Risk | Target Date | Achievement |
| | | | | |
| Challenges Encountered | | | | |
| Recommendations | | | | |

Made by the Minister this 10th day of September, 2015.

KEITH MITCHELL
Minister responsible for Finance.

GRENADA

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17/9/2015

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12/8/2016.

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2016 *Public Debt Management Regulations* SRO. 46

GRENADA

STATUTORY RULES AND ORDERS NO. 46 OF 2016

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM UNDER
SECTION 31 OF THE PUBLIC DEBT MANAGEMENT ACT NO. 28 OF 2015,
MAKES THE FOLLOWING REGULATIONS—

(Gazetted 19th August, 2016).

1. Citation. These Regulations may be cited as the

PUBLIC DEBT MANAGEMENT REGULATIONS, 2016.

2. Definitions.—(1) Words, terms and expressions which are used in these Regulations and which are used in the principal Act and which are given a definition in that Act shall have the same meaning in these Regulations as they have in that Act, unless otherwise provided in these Regulations.

(2) Notwithstanding subregulation (1), in these Regulations—

“Act” means the Public Debt Management Act No. 28 of 2015;

“Fiscal Responsibility Act, 2015” means the Fiscal Responsibility Act No. 29 of 2015;

“National Budget” means the National Budget for the purposes of the Public Finance Management Act, 2015;

“Permanent Secretary” means Permanent Secretary with responsibility for the Ministry of Finance;

“Public Finance Management Act, 2015” means the Public Finance Management Act No. 17 of 2015; and

“Regional Debt Coordinating Committee” means a regional group comprising of the permanent secretaries or their designates from each member country of the Eastern Caribbean

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Currency union, with responsibility for monitoring and oversight of the Regional Government Securities Market and debt developments in the region.

3. Preparation of medium-term debt management strategy.—(1)

For the purpose of the preparation of the medium-term debt management strategy document in accordance with section 5 of the Act, the Debt Management Unit shall coordinate with the Macroeconomic Policy Unit and the Eastern Caribbean Central Bank.

(2) The Debt Management Unit shall submit the draft medium-term debt management strategy document to the Public Debt Coordinating Committee no later than the first day of September.

(3) The Public Debt Coordinating Committee shall review and submit to the Minister the revised medium-term debt management strategy document received under subregulation (2), which may include suggested revisions and comments of the Public Debt Coordinating Committee no later than the first day of October.

(4) Cabinet shall consider and approve the medium-term debt management strategy document no later than the fifteenth day of October.

(5) The medium-term debt management strategy document as approved shall be laid before Parliament as a separate element of the National Budget but simultaneously with the other elements of the National Budget.

(6) No later than twenty days after the medium-term debt management strategy document has been laid before Parliament, the Permanent Secretary shall cause the medium-term debt management strategy document to be published on the website of the Government.

(7) In every fiscal year, the medium-term debt management strategy document shall be updated as often as may be necessary.

4. Preparing the annual borrowing plan.—(1) For the purpose of the preparation of the annual borrowing plan in accordance with section 6 of the Act, the Debt Management Unit shall prepare an annual borrowing plan which shall include the following information—

(a) the planned borrowing operations over the fiscal year;

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- (b) the debt instruments to be used;
- (c) the indicative time of borrowing; and
- (d) the auction calendar.

(2) In the preparation of the annual borrowing plan, the Debt Management Unit shall coordinate with the Budget Unit, the Macroeconomic Policy Unit, the Accountant General and the Eastern Caribbean Central Bank.

(3) Preparation of the auction calendar for debt security issues in the Regional Government Securities Market shall be in accordance with the rules agreed upon in the Regional Debt Coordinating Committee.

(4) The Debt Management Unit shall submit the annual borrowing plan to the Public Debt Coordinating Committee no later than the thirtieth day of November and the annual borrowing plan shall reflect the medium-term debt management strategy as approved under regulation 3 (3).

(5) The Public Debt Coordinating Committee shall review and submit to the Minister for approval the annual borrowing plan document no later than the fifteenth day of December.

(6) At least once in every six months in every fiscal year, the annual borrowing plan shall be updated and any such update shall be consistent with the relevant supplementary estimates.

5. Undertaking the debt sustainability analysis.—(1) For the purpose of undertaking the debt sustainability analysis in accordance with section 7 of the Act, the Macroeconomic Policy Unit shall coordinate with the Debt Management Unit and the Eastern Caribbean Central Bank.

(2) The Macroeconomic Policy Unit shall undertake the debt sustainability analysis simultaneously with the preparation of the medium-term fiscal framework and the results of the debt sustainability analysis conducted and the methodology used shall be in writing and shall be submitted to Cabinet for approval no later than the thirty-first day of July of each fiscal year.

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6. Loan negotiations and liability management operations.—(1) In the furtherance of section 8 of the Act and subject to subregulation (2), the Debt Management Unit shall, on the instructions of the Minister or his or her designate, conduct all negotiations for borrowings and for debt management operations.

(2) Prior to the commencement of negotiation for any new borrowing, the Debt Management Unit shall submit to the Public Debt Coordinating Committee for its consideration a proposal for the borrowing which shall set out—

- (a) the purpose of the borrowing;
- (b) an analysis of the terms and conditions being proposed;
- (c) the cost risk assessment of the new borrowing;
- (d) the impact on the overall public debt stock;
- (e) an analysis of the consistency with the Approved Medium Term Debt Management Strategy; and
- (f) any other relevant information as the Public Debt Coordinating Committee may require.

(3) Upon completion of the negotiation of new borrowing, the agreed minutes shall be prepared and signed by the designated Government representative and submitted to the Public Debt Coordinating Committee.

(4) In the case of debt restructuring, the negotiations conducted by the Debt Management Unit shall be conducted in accordance with written instructions of the Minister.

7. Bids submitted in auctions of government debt securities. In the furtherance of section 13 (5) of the Act, the Permanent Secretary, in consultation with the Debt Management Unit, shall accept or reject, on behalf of the Minister, all bids submitted for Government securities.

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8. Assessment of the cost and risk in entering into a supplier's credit agreement or finance lease agreement.—(1) For the purposes of section 8 (3) of the Act, the Permanent Secretary on the instructions of the Minister shall cause to be conducted a cost and risk assessment prior to entering into a supplier's credit agreement or finance lease agreement, which shall include investigation of whether there are other financial options that are more cost-effective for the Government.

(2) The cost and risk assessment referred to under subregulation (1) shall include the following—

- (a) an analysis of the cost of the facility being considered in terms of ability to service;
- (b) identification of all risks involved in the facility; and
- (c) recommendation on the way forward and other options for financing.

(3) Upon completion of an assessment, pursuant to section 8 (3) of the Act, the signed document shall be recorded as alternative financing in the public debt stock.

9. Borrowing by statutory bodies and state-owned enterprises.—(1) For the purposes of section 23 (2) of the Act, the Debt Management Unit shall monitor, review and analyse the debt levels of every statutory body and every state-owned enterprise, by considering factors including the following—

- (a) the capacity of the statutory body or state-owned enterprise to repay;
- (b) whether the statutory body or state-owned enterprise has defaulted on any payment obligation; and
- (c) the public debt limits prescribed under the Fiscal Responsibility Act, 2015,

with consideration to the strategic plan or business plan of the statutory body or state-owned enterprise.

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(2) Further to subregulation (1), the Debt Management Unit shall, no later than the thirty-first day of July, submit a report to the Minister, advising on an appropriate annual borrowing limit for the statutory body or state-owned enterprise.

(3) A statutory body or state-owned enterprise shall submit the annual borrowing plan to the Debt Management Unit no later than six months before the beginning of the fiscal year.

(4) Upon receipt of the report under subregulation (1) and after consultation with the line Minister responsible for the relevant statutory body or state-owned enterprise, the Minister shall, no later than the fifteenth day of August, determine and prescribe the annual borrowing limit for the statutory body or state-owned enterprise.

10. Public debt statistical bulletins. No later than one month after the end of each quarter of the fiscal year, the Debt Management Unit shall prepare and publish a public debt statistical bulletin for the quarter which shall set out the following—

- (a) the outstanding stock of all public sector debt;
- (b) the size and currency composition of the public sector debt;
- (c) the interest rate mix of the public sector debt; and
- (d) the maturity profile of the public sector debt.

12. Forecasts on loan disbursements.—(1) For the purposes of continuous collection of data for preparation of forecasts on public debt servicing and disbursements as part of the National Budget, no later than seven days after each month, the Ministry with responsibility for Economic Development shall submit to the Debt Management Unit a report to update on the following—

- (a) extensions of disbursement schedules; and
- (b) forecasted disbursements of project finance loans.

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(2) The Accountant General shall submit to the Ministry with responsibility for Economic Development and the Debt Management Unit, information on actual disbursement received by project within two days of receipt.

Made by the Minister this 15th day of August, 2016.

KEITH C. MITCHELL
Minister responsible for Finance.