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I Assent

[L.S.]

NEVILLE CENAC,
*Governor-General.**December 2, 2020.*

SAINT LUCIA

No. 14 of 2020

AN ACT to provide for the administration of public finance management; the formulation of a fiscal policy and the issuance of a Fiscal Policy Statement; the preparation for budget; the approval of Estimates; the execution of the appropriation law; the regulation and control of public monies by the establishment of a Contingencies Fund, sinking fund, special fund or trust fund, cash management, including, banking, deposit, refund, set-off, write-off and investment of public monies; the management of public debt and contingent liability; grants; the accounting, reporting and auditing of Public Accounts; the oversight of statutory bodies; surcharge; the functions of the Internal Audit Unit; the establishment of the Inquiry Committee and Appeals Tribunal; public asset management and for related matters.

[4th December, 2020]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

PRELIMINARY**Short title**

1. This Act may be cited as the Public Finance Management Act, 2020.

Interpretation

2. In this Act —

“accountable officer” —

(a) means a public officer or accounting officer who —

(i) is concerned with or responsible for the collection, receipt, custody, issue or payment of public monies, stores, stamps, investments, securities, or negotiable instruments, whether the property of the Government or on deposit with or entrusted to —

(A) the Government;

(B) a public officer in his or her official capacity either alone or jointly with any other public officer or any other person,

(ii) ensures 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 requirements of the contract as required by the Ministry of finance,

(iii) ensures that goods and services are procured from suppliers for the Government only in accordance with the law for regulating public procurement;

(b) includes —

(i) a collector of revenue, or

(ii) a public officer who works under the direction and supervision of an accounting officer;

“Accountant General” means the public officer who is appointed as the Accountant General in the Ministry of finance;

“accounting officer” means —

- (a) in the case of a ministry, department or office the Permanent Secretary;
- (b) in the case of a ministry, department or office without a Permanent Secretary, a public officer who is the head or performs the duties of a head of the ministry, department or office;
- (c) in the case of a statutory body, the Chief Executive Officer or a person who is the head of the statutory body, unless the enactment relating to the statutory body specifies another person to be the head of the statutory body;

“Appeals Tribunal” means the Appeals Tribunal established under section 99;

“Appropriation Act” —

- (a) means an Act which authorizes the application of a sum out of the Consolidated Fund to provide for the services of the Government for a financial year; and
- (b) includes a Supplementary Appropriation Act;

“Appropriation Bill” means a bill introduced in Parliament providing for the —

- (a) issue from the Consolidated Fund of the sums necessary to meet the estimates of expenditure of the Government for a financial year; and
- (b) appropriation of sums under paragraph (a) in separate classification votes for services and purposes as required under section 79 of the Constitution of Saint Lucia, Cap. 1.01;

“budget” means the Estimates approved by Parliament for a financial year;

“Central Public Procurement Board” has the meaning assigned to it under the Public Procurement and Asset Disposal Act, Cap. 15.10;

“Chairperson” —

- (a) in relation to the Inquiry Committee, means the Chairperson appointed under section 87(2);
- (b) in relation to the Appeals Tribunal means the Chairperson designated under section 99(2);

“collector of revenue” means a public officer who is designated under section 12(1)(f) and is responsible for the collection, receipt and custody of public monies, securities or other negotiable instruments for or on behalf of the Government;

“Consolidated Fund” means the Consolidated Fund established under section 77 of the Constitution of Saint Lucia, Cap. 1.01;

“Constituency Council” means a Council established under section 4 of the Constituency Councils Act, Cap. 17.19;

“Contingencies Fund” means the Contingencies Fund established under section 15;

“contingent liability” —

- (a) means a financial liability of the Government that arises on the outcome of a future event;
- (b) includes —
 - (i) a guarantee of payment obligations of a statutory body,
 - (ii) an agreement to provide financial support to a statutory body in connection with a specified activity,
 - (iii) a liability arising from a public-private partnership agreement,
 - (iv) a liability arising from a prescribed agreement;

“department” means a department of Government assigned to the Prime Minister or any other Minister with the responsibility for any business of the Government under section 62 of the Constitution of Saint Lucia, Cap. 1.01;

“Director of Audit” means the public officer who is referred to under sections 84 and 90 of the Constitution of Saint Lucia, Cap. 1.01;

“Director of Finance” means the public officer who is appointed by the Public Service Commission to hold the office of Director of Finance in the Ministry of finance;

“Director of Public Procurement” means the public officer appointed by the Public Service Commission to hold the office of Director of Public Procurement in the Ministry of finance;

“disaster” means the occurrence or threat of occurrence of an event or other calamity posing a significant widespread threat to human life, property or the environment, whether caused by an act of God or otherwise, which results —

(a) in —

(i) loss, injury or threat of injury, disease or death,

(ii) damage to property, infrastructure or the environment,

that exceeds the ability of those affected to cope with the effects of the disaster by using only their own resources;

(b) from an accident, act of terrorism, a fire, storm, hurricane, pollution, disease, earthquake, drought, flood or the widespread dislocation of the essential services and scarcity of essential supplies;

“Eastern Caribbean Central Bank” means the Eastern Caribbean Central Bank established under Article 3 of the Agreement establishing the Eastern Caribbean Central Bank made on the 5th day of July 1983 the text of which is set out in the Eastern Caribbean Central Bank Agreement Act, Cap. 19.07;

“essential” service” means a service established, maintained or operated by the Government, or by a public or private enterprise, or otherwise, for —

(a) the collection, storage, purification or distribution of water for use by the public or a class of the public;

(b) the removal or handling of deceased persons or disposal of dead animals;

- (c) the provision of electricity;
- (d) the provision of telecommunications;
- (e) the transportation of a class of the public;
- (f) the provision of trucking services related to the movement and delivery of essential services and the food chain;
- (g) the provision of cleaning services;
- (h) the provision of fire, police, correctional services, private security services and services by the Castries City Police;
- (i) the operation of points of entry to allow only for cargo handling and departure of persons from Saint Lucia;
- (j) any other prescribed service;

“essential supplies” means the inputs required to carry out an essential service for the preservation of life;

“Estimates” —

- (a) means the estimates of revenue, capital expenditure and current expenditure referred to under section 79(1) of the Constitution of Saint Lucia, Cap. 1.01;
- (b) includes a Supplementary Estimate;

“financial management system” means a method, electronic or otherwise, that is adopted or authorized by the Accountant General under sections 10(2)(e) and 11(b);

“financial year” means a period of twelve months ending on the 31st day of March in a year;

“fiscal policy” means a fiscal policy formulated under section 26;

“fiscal risk” means the uncertainty arising from unforeseen economic developments that are not included in the budget and requires spending or a commitment as a result of —

- (a) economic outcomes that differ from the budget;
- (b) the structure of public debt;

- (c) the potential call on explicit Government guarantees;
 - (d) the realization of other contingent liabilities;
 - (e) the occurrence of a disaster; or
 - (f) the declaration of a state of emergency for the purposes of Chapter 1 of the Constitution of Saint Lucia, Cap. 1.01;
- “fiscal target” means the specified quantitative limit to assist in achieving fiscal and debt sustainability objectives against which specified fiscal variables are measured and monitored;
- “gender equality” means the state of equal access to resources and opportunities in considering the interests, needs and priorities of men and women;
- “Government Agency” means a ministry, department, office or statutory body whether located in or outside Saint Lucia;
- “Government Borrowing” —
- (a) means a loan or other debt financing;
 - (b) includes securities issued by the Government;
- “Internal Audit Unit” means the Internal Audit Unit under section 48;
- “Inquiry Committee” means the Inquiry Committee appointed under section 87;
- “Minister” means the Minister responsible for finance;
- “ministry” means the Ministry of Government assigned to the Prime Minister or any other Minister with responsibility for the business of Government under section 62 of the Constitution of Saint Lucia, Cap. 1.01;
- “multi-year commitment” means a commitment by the Government for the purchase of goods and services from a supplier for which the expenditure which was incurred in one period will become due and paid over a period extending beyond the financial year in which the purchase was made;

“multi-year contract” means a contract for the supply of goods, works, and services between the Government and a contractor for which the contract period is more than one financial year but does not exceed five consecutive financial years;

“negotiable instrument” means a bill of exchange, cheque and promissory note or other instrument under the Commercial Code, Cap. 244 of the Revised Laws of Saint Lucia 1957;

“payment instrument” includes —

- (a) a payment voucher;
- (b) a procurement invoice;
- (c) a machine-readable instruction that is transmitted electronically by a data communication network or recorded on magnetic tape, disk, diskette or other electronic device;
- (d) any other instrument that is approved by the Accountant General under section 10(2)(g);

“Permanent Secretary” means the public officer whose office is referred to as the office of a permanent secretary under section 69 of the Constitution of Saint Lucia, Cap. 1.01, unless otherwise specified;

“Public Accounts” means the Public Accounts under section 75;

“Public Accounts Committee” means the Public Accounts Committee established under section 67 of the House of Assembly Standing Orders, 1979;

“public asset” —

- (a) means property, whether movable or immovable, intangible, financial or non-financial that is owned in whole or in part by the Government;
- (b) includes —
 - (i) bank deposits,
 - (ii) equipment,

- (iii) investments,
- (iv) negotiable instruments,
- (v) public money,
- (vi) plant,
- (vii) receivables,
- (viii) stores,
- (ix) stamps,
- (x) securities,
- (xi) books, papers and documents;

“public finance management” means —

- (a) the collection, receipt and safe custody of public monies in a transparent and accountable manner;
- (b) the formulation of a budget to allocate resources;
- (c) incurring expenditure to deliver on the public policy of the Government in an efficient manner;
- (d) borrowing and investing public monies; and
- (e) preparing annual financial accounts and statements of Government finances;

“public monies”—

- (a) means money that belongs to the Government or is held or to be held in trust by the Government for another person or entity;
- (b) includes —
 - (i) money raised or received for the purposes of the Government,
 - (ii) money or funds held, temporarily or otherwise, by a public officer in an official capacity, either alone or jointly with another person, whether or not that other person is a public officer,
 - (iii) revenue;

“public officer” means a person holding or acting in a public office;

“public-private partnership” has the meaning assigned to it under the Public Procurement and Asset Disposal Act, Cap. 15.10;

“publish” in relation to a document, includes —

- (a) publishing a document in a newspaper, *Gazette* or other publication of general circulation;
- (b) publishing an abridged or summary version of a document without losing the core content of the document;
- (c) making a document available for reference at a public library, Government Agency or in the archives of that Government Agency;
- (d) posting a document on the Government’s official website;

“receiver of revenue” means —

- (a) the Accountant General;
- (b) a public officer who is designated under section 11(f) and is responsible for receiving monies, securities or other negotiable instruments for or on behalf of the Government;
- (c) a collector of revenue;

“repealed Act” means the Act repealed under section 113;

“responsible Minister” means the Minister assigned to a department or ministry other than the Minister;

“revenue” means a receipt of income, including a tax, fee, interest, grant, royalty, surcharge, proceeds of forfeiture, rent and due, proceeds of sale and other sources of income in which Parliament exercises the power of appropriation;

“Secretary” —

- (a) in relation to the Inquiry Committee, means the Secretary appointed under section 87(3);
- (b) in relation to the Appeals Tribunal, means the Secretary of the Appeals Tribunal appointed under section 105;

“securities” has the meaning assigned to it under the Securities Act, Cap. 12.18;

“sinking fund” means a sinking fund established under section 20;

“social inclusiveness” means a process for analyzing the projected impact and benefit to the needs of a marginalized group of persons or other groups of persons;

“special fund” means a special fund established under section 22;

“statutory body” —

(a) means a body set up, for market-based for profit or non-market-based not for profit, by an enactment with powers and operational autonomy —

(i) to provide goods and services to the public,

(ii) for a public purpose, or

(iii) to carry out a Government-related function, and is under the control of the Government;

(b) includes —

(i) a Constituency Council or other governing body of an area in Saint Lucia,

(ii) a board, commission or an agency,

(iii) a company in which the Government owns share capital;

“statutory expenditure” means expenditure that is required or authorized as a charge on the Consolidated Fund by —

(a) the Constitution of Saint Lucia, Cap. 1.01;

(b) any other enactment;

“Supplementary Appropriation Act” means an Act to authorize the application of a supplementary sum out of the Consolidated Fund to supplement an appropriation that has been made by an Appropriation Act;

“Supplementary Appropriation Bill” means the bill referred to under section 79(3) of the Constitution of Saint Lucia, Cap. 1.01;

“Supplementary Estimate” means a Supplementary Estimate referred to under section 79(3) of the Constitution of Saint Lucia, Cap. 1.01;

“surcharge” means an amount imposed on a public officer by the Director of Finance under section 93;

“trust fund” —

(a) means a trust fund established in accordance with section 25 under an enactment other than an Appropriation Act;

(b) includes money held or deposited with or entrusted to the Government under the terms of a deed of trust, trust instrument, agreement, written or implied, or an arrangement governing the use of money so held;

“warrant” means —

(a) a General Warrant under section 39;

(b) a Provisional Warrant under section 40;

(c) a Contingencies Fund Warrant under section 41;

(d) a Virement Warrant under section 42;

(e) a Reallocation Warrant under section 43;

(f) an Advance Warrant under section 67;

(g) an Imprest Warrant under section 68.

Act binds the Crown

3. This Act binds the Crown.

Conflict of laws

4. Where this Act conflicts with any other law, this Act prevails.

**PART I
ADMINISTRATION**

Functions of the Minister

5.—(1) The Minister is responsible for public finance management.

(2) Without limiting the generality of subsection (1), the Minister shall —

- (a) formulate, develop and implement macro-economic and fiscal policy consistent with the economic growth and stability policy of the Government;
- (b) commit to a sustainable fiscal situation, including a balanced budget and the level of public debt over the financial year and the two subsequent financial years and fiscal targets;
- (c) manage fiscal risk;
- (d) promote efficient and effective revenue and expenditure management;
- (e) consider the impact of fiscal policy on current and future generations;
- (f) promote transparency and accountability in fiscal policy and fiscal operations;
- (g) advise Cabinet on the allocation of public assets;
- (h) present the Estimates to Parliament,
- (i) supervise and monitor the implementation of the Appropriation Act and the fiscal policy objectives in an efficient, effective, transparent and accountable manner;
- (j) provide a mid-year report of the fiscal operations and implementation of the Appropriation Act to Parliament;
- (k) manage public assets and contingent liabilities under this Act;
- (l) account for Government finances through Public Accounts and laying the report of the Director of Audit before Parliament within the prescribed time period;
- (m) coordinate international financial relations;

- (n) supervise and guide the financial operation of a Government Agency;
- (o) ensure implementation of this Act; and
- (p) perform any other function conferred on him or her by any other law.

Powers of the Minister**6. The Minister may —**

- (a) request information from a Government Agency or an accounting officer;
- (b) issue instructions to the Director of Finance to ensure budget and accounting systems follow a system of classification which is transparent, accountable and consistent with international principles; and
- (c) issue a directive to a Government Agency —
 - (i) to supply specific information,
 - (ii) to refrain from spending or making a financial commitment above the estimates of expenditure approved by Parliament, without his or her prior written approval,
 - (iii) in the case of a statutory body, to submit its financial accounts to an independent auditor for a special audit or review,
 - (iv) in the case of a disaster, for public finance management prior to, during and after a disaster,
 - (v) in the case of a state of emergency, for public financial management during a state of emergency.

Delegation of functions and powers

7.—(1) The Minister may, subject to any terms and conditions that the Minister specifies, delegate, in writing, to the Permanent Secretary in the Ministry of finance any function or power that the Minister is authorized to exercise or perform under this Act.

(2) The Minister is not authorized to delegate a power to make regulations or a power to delegate under subsection (1).

Functions of the Director of Finance

8. The Director of Finance is responsible for —

- (a) taking steps to ensure that directives and instructions given by the Minister under section 6(b) and (c) and Regulations made under section 111 are —
 - (i) brought to the notice of persons directly affected, and
 - (ii) complied with;
- (b) advising the Minister, the Accountant General and accounting officers on the implementation and administration of this Act;
- (c) advising the Minister on fiscal and financial management issues;
- (d) assisting the Minister in the discharge of his or her functions under this Act;
- (e) carrying out a function assigned to him or her under this Act.

Powers of the Director of Finance

9.—(1) The Director of Finance shall —

- (a) certify withdrawals made or authorized from the Consolidated Fund;
- (b) issue instructions for the operation, maintenance and disposal of public assets;
- (c) inspect a Government Agency and public property;
- (d) have access to information, documents and records that he or she requires with regard to public assets in the custody of an accounting officer or a collector of revenue.

(2) The Director of Finance may delegate, in writing, to a public officer in the Ministry of finance a power that the Director of Finance is authorized to exercise or perform under this Act.

(3) The Director of Finance is not authorized to delegate a power to delegate under subsection (2).

Functions of the Accountant General

10.—(1) Notwithstanding section 12(5), the Accountant General is, for the purposes of this Act, the chief accounting officer and performs a supervisory function with respect to the collection, expenditure and accounting for public monies.

(2) Without limiting the generality of subsection (1), the Accountant General is responsible for —

- (a) maintaining accurate and complete accounts by ensuring that a proper system of accounting for all appropriations made by Parliament is maintained and followed by a Government Agency;
- (b) preparing Public Accounts for presentation to the Director of Audit;
- (c) making banking arrangements for public monies;
- (d) ensuring prompt receipt and deposit of public monies into the Consolidated Fund, Contingencies Fund, sinking fund, special fund or trust fund;
- (e) adopting or authorizing a financial management system that ensures adequate internal control systems are implemented and maintained for inflow and outflow of public money;
- (f) ensuring pre-audit or examination of payment instruments for compliance with this Act;
- (g) approving payment instruments to facilitate payment by the Government for goods and services;
- (h) reporting to the Director of Finance, in writing, a breach in the collection of revenue, expenditure of public monies, custody of cash, banking arrangements, public assets and other Government funds;
- (i) ensuring adequate provision is made for the safe custody of public assets, revenue, financial documents, accounting documents and other similar documents;
- (j) ensuring that an outflow and commitment from the Consolidated Fund, the Contingencies Fund, a sinking fund, special fund and trust fund are made in accordance with this Act;

- (k) maintaining the integrity of the Consolidated Fund, Contingencies Fund, a sinking fund, special fund and trust fund;
- (l) providing accounting services to a Government Agency in connection with the collection of revenue and the expenditure of public monies;
- (m) maintaining the financial accounts of Government, including, revenue, assets and liabilities;
- (n) carrying out any other function assigned to him or her under this Act.

Powers of the Accountant General

11. The Accountant General shall —

- (a) establish accounting policies and forms of accounts consistent with international accounting standards;
- (b) adopt or authorize the use of a financial management system by giving written notice to all the accounting officers of a Government Agency;
- (c) have access to a Government Agency where accounting takes place and accounting records are kept;
- (d) request accounting, financial or transaction-related information, records or an explanation from a Government Agency, a public officer or a retired public officer as may be necessary to perform his or her duties;
- (e) issue written accounting instructions, including, accounting methodology and forms of accounting;
- (f) receive public monies into and make payments from the Consolidated Fund or designate an officer as a receiver of revenue;
- (g) refuse payment of a payment instrument that —
 - (i) is incorrect or insufficient in content,
 - (ii) in his or her opinion, is unacceptable in support of the payment of public monies, or
 - (iii) contravenes this Act.

Functions of accounting officer

12.—(1) An accounting officer is responsible for —

- (a) preparing Estimates in accordance with the guidelines issued under section 30;
- (b) executing the appropriations for a Government Agency;
- (c) ensuring that a Government Agency has a well-functioning financial management system that is efficient and effective;
- (d) providing proper accounts and financial information pertaining to a Government Agency;
- (e) complying with instructions of the Director of Finance and the Accountant General in respect of public finance management;
- (f) designating a public officer under his or her control to be a collector of revenue;
- (g) supervising and guiding accountable officers of a Government Agency to comply with this Act;
- (h) ensuring that effective internal audit control systems are in place;
- (i) providing a written response to queries received from the Director of Audit, Director of Finance and Accountant General within fourteen days of receipt of a query, and if a complete response is not possible providing an interim response;
- (j) collecting, receiving and having custody of public assets;
- (k) implementing all financial operations by using the financial management system for accounting, preparation and execution of the budget;
- (l) assisting the Chief Executive Officer, a person who is the head of a statutory body or the person specified in an enactment as the head of the statutory body in measuring the financial performance of that statutory body;

- (m) overseeing all subordinate entities, including, autonomous agencies and statutory bodies supervised by a Government Agency;
- (n) ensuring that all payments from public monies under his or her control are properly authorized;
- (o) ensuring the timely reconciliation of all Government accounts, including, the bank accounts of a Government Agency;
- (p) on the request of the Director of Audit, ensuring his or her financial and accounting records are produced for audit;
- (q) prepare, in the prescribed manner, a strategic plan, an annual operational plan and a medium-term expenditure framework;
- (r) ensuring compliance with this Act;
- (s) carrying out any other function assigned under this Act.

(2) An accounting officer may delegate to another public officer under his or her supervision a function that the accounting officer is authorized to exercise or perform under subsection (1), in writing, .

(3) The designation of a collector of revenue under subsection (1)(f) shall not abate or abridge the personal accountability of the accounting officer making the designation in respect of the collection of that item of revenue.

(4) Where an accounting officer delegates his or her functions under subsection (2), the accounting officer and the public officer are responsible under this Act.

(5) An accounting officer is answerable to the Public Accounts Committee for the efficient management of and accounting for public monies entrusted to him or her.

(6) An accounting officer shall ensure that all accountable officers are familiar with this Act and Regulations made under section 112 or any directions or instructions given under this Act.

PART II
PUBLIC MONIES

Division 1
Consolidated Fund

Payment into the Consolidated Fund

13.—(1) Subject to the Constitution of Saint Lucia Act, Cap. 1.01 and except as otherwise provided in this Act, all revenue and other monies raised or received for the purposes of the Government, not being revenue or other monies which are payable by or under an enactment into some other fund established for a specific purpose, shall be paid into and form part of the Consolidated Fund.

(2) For the purposes of subsection (1), “monies raised or received” includes monies received by way of a grant, donation, gift or other method.

Payment from the Consolidated Fund

14.—(1) Monies shall not be paid out of the Consolidated Fund except —

- (a) to meet expenditure which is chargeable on it under the Constitution of Saint Lucia, Cap. 1.01 or another enactment;
- (b) where the payment has been authorized by an Appropriation Act or by a warrant approved by the Minister under this Act;
- (c) for repaying monies received in error into the Consolidated Fund; or
- (d) for paying such sums as may be required for a refund, rebate or drawback where the payment of that refund, rebate or drawback is provided for in an enactment.

(2) Monies shall not be paid out of the Consolidated Fund except in accordance with this Act.

- (3) Monies forming part of the Consolidated Fund which are —
- (a) deposited with a bank or other financial institution; or
 - (b) invested in an authorized manner,

shall not, for the purposes of this section, be considered to have been issued from the Consolidated Fund by reason only of that deposit or investment.

Division 2
Contingencies Fund

Establishment of Contingencies Fund

15. For the purposes of section 81 of the Constitution of Saint Lucia, Cap. 1.01, there is established a Contingencies Fund.

Transfer to the Contingencies Fund

16. The Minister may, by an affirmative Resolution of Parliament, transfer from the Consolidated Fund a prescribed sum as may be required for the operation of the Contingencies Fund.

Administration of Contingencies Fund

17.—(1) The Accountant General shall administer the Contingencies Fund.

(2) The Minister, after consultation with the Accountant General, may, by Order published in the *Gazette*, specify the amount for permanent capital in the Contingencies Fund.

(3) The Accountant General shall keep the Contingencies Fund separate from other accounts, maintained at a financial institution approved by the Minister and shall —

- (a) pay into that account all monies appropriated to the Contingencies Fund by an Appropriation Act;
- (b) without delay, pay from the Contingencies Fund, all advances made under section 19.

Financial statement in respect of Contingencies Fund

18.—(1) Not later than three months after the end of each financial year, the Accountant General shall prepare and submit to the Director of Audit financial statements for that year in respect of the Contingencies Fund.

(2) The Accountant General shall include the following information in the financial statements submitted under subsection (1) —

- (a) the date and amount of each payment made from the Contingencies Fund;
- (b) the person to whom the payment is made;
- (c) the purpose for which the payment is made;
- (d) a statement of the purpose for which the money was spent, if the person to whom the payment is made has spent the money;
- (e) if the person to whom the payment was made has not spent the money, a statement specifying the reasons for not spending the money.

Advance from the Contingencies Fund

19.—(1) The Minister may, in the case of an urgent or unforeseen need for expenditure, by a Contingencies Fund Warrant and in anticipation of the grant of an appropriation by Parliament, authorize an advance from the Contingencies Fund where —

- (a) no monies have been appropriated or for which the sum appropriated is insufficient;
- (b) funds cannot be reallocated as provided for under section 43;
- (c) public monies cannot be deferred without serious detriment to the public service.

(2) The total of the sums authorized under subsection (1) to be advanced from the Contingencies Fund shall not exceed the total sum authorized under section 17.

(3) Where an advance is made from the Contingencies Fund under this section a Supplementary Estimate of the sum required for the service for which such advance was made shall be laid before Parliament as soon as possible but in any event not later than four months from the date on which the Contingencies Fund Warrant was issued and shall be included in a Supplementary Appropriation Bill for appropriation.

(4) On the grant of an appropriation to meet the expenditure in respect of which an advance is made under this section, the

Contingencies Fund Warrant authorizing that advance lapses and ceases to have effect and the advance is deemed to have been made for the purpose of the appropriation and shall be accounted for in the prescribed manner.

Division 3
Sinking Fund

Establishment and transfer of a sinking fund

20.—(1) The Minister may, by an affirmative Resolution of Parliament —

- (a) establish a sinking fund when debt is being raised;
- (b) transfer from the Consolidated Fund a sum as may be required for the operation of a sinking fund.

(2) A sinking fund established under subsection (1) must correspond to the debt instrument, with annual amounts approved by Parliament being transferred to a sinking fund to allow for the retirement of a debt instrument.

(3) A withdrawal from a sinking fund is only for repayment of a debt.

Administration of a sinking fund

21. A sinking fund must be administered in the prescribed manner.

Division 4
Special Fund

Establishment of a special fund

22.—(1) The Minister may, by an affirmative Resolution of Parliament, establish a special fund to collect money that must be used for a specific purpose.

(2) A Resolution under subsection (1) must state —

- (a) the purpose of the special fund;
- (b) the money to be paid into the special fund;
- (c) the means of collecting money to be paid into the special fund;

- (d) the source of the monies of the special fund;
- (e) the accounting officer responsible for the administration of the special fund;
- (f) the term for which the special fund should be maintained.

(3) Notwithstanding subsection (1), a fund established under an enactment prior to the commencement of this Act is to be treated as a special fund.

(4) A special fund established prior to the commencement of this Act is considered to be a special fund under this Act and the balance standing to the credit of each fund at the close of account on the coming into operation of this Act is considered to be held by the Government for the purposes specified in respect of each special fund.

Payment and accounting procedures applicable to a special fund

23.—(1) A special fund is subject to the payment and accounting procedures applicable under this Act.

(2) Within a period of one month after the end of the financial year, the accounting officer administering a special fund shall prepare, sign and submit to the Accountant General statements showing the financial position of the special fund at the end of the financial year.

- (3) The statements under subsection (2) must include —
- (a) a statement of the assets and liabilities of the special fund;
 - (b) a detailed statement of receipts and payments of the special fund; and
 - (c) a statement of investments and interest or dividends credited to the special fund.

Closure of a special fund

24.—(1) A special fund shall be closed by the Minister on the occurrence of the following —

- (a) the money approved by Parliament for the special fund is exhausted;
- (b) if the Minister receives a report from the responsible Minister to indicate that the purpose for which the special

fund was established has been fulfilled or no longer exists and, in the opinion of the Minister, there is no likelihood that a purpose for which that special fund could lawfully be used will arise in the future; or

(c) the term specified in the Resolution of Parliament for the special fund has expired.

(2) The Minister shall, within thirty days of the date of the closure of a special fund under subsection (1), cause the closure of a special fund to be published in the *Gazette*.

(3) A credit balance in a closed special fund shall immediately be transferred to the Consolidated Fund.

Division 5
Trust Fund

Trust fund

25.—(1) A trust fund does not form part of the Consolidated Fund.

(2) A trust fund shall not receive money out of the Consolidated Fund.

(3) This Act does not extend, abridge or alter the terms of a trust or authorize the making of any rules or the giving of a directive or instruction requiring a person to obey that rule, directive or instruction, in relation to money held on trust which contravenes or is inconsistent with the terms of the trust.

(4) A public officer shall not accept an appointment as a trustee without the written approval of the Minister.

(5) An appointment contrary to subsection (4) is void.

(6) A trust fund established prior to the commencement of this Act is considered to be a trust fund under this Act and the balance standing to the credit of each fund at the close of account on the coming into operation of this Act is considered to be held by the Government for the purposes specified in respect of each trust fund.

(7) The responsible Minister shall cause a trust fund to be published in the *Gazette*.

**PART III
FISCAL POLICY**

Fiscal policy

26.—(1) The Minister shall formulate a fiscal policy for the financial year and the two subsequent financial years immediately following the financial year.

(2) A fiscal policy under subsection (1) must be submitted to Cabinet for approval.

Fiscal Policy Statement

27.—(1) The Minister shall issue a Fiscal Policy Statement no later than one month after the end of the first six months of each financial year.

(2) The Fiscal Policy Statement under subsection (1) comprises —

- (a) a review of the performance of the budget in the previous six months, and its impact on the remainder of the financial year and the two subsequent financial years immediately following the financial year, based on the prescribed fiscal targets and the fiscal policy;
- (b) a statement on the changes to the economy from the previous review, and reasons for the change;
- (c) a statement on the fiscal risks to the economy, and public debt;
- (d) a statement on the impact of the change on the economy in the coming six months of the financial year and the two subsequent financial years immediately following the financial year;
- (e) a statement to identify fiscal risks and the proposed policy to address fiscal risks and public debt for the remainder of the financial year and the two subsequent financial years immediately following the financial year;
- (f) a macro-economic forecast;
- (g) a statement of the annual programmes that are intended to present investment projects for implementation in the public sector.

**PART IV
PREPARATION FOR BUDGET**

Fiscal and budget survey

28.—(1) The responsible Minister may cause the prescribed fiscal and budget survey to be issued prior to the circulation of the budget circular.

(2) A fiscal and budget survey issued under subsection (1) comprises —

- (a) a review of the budget performance of the previous six months;
- (b) the main budgetary developments, fiscal actions required in the following year and a broad guidance for the formulations of the budget;
- (c) an outline of the economic and budget priorities of the Government, including the challenges of preparing the budget;
- (d) recommendations for gender equality;
- (e) the fiscal and debt targets.

Budget circular

29. The Permanent Secretary in the Ministry of finance shall disseminate a budget circular in the prescribed form for the formulation of the budget.

Guidelines

30. The Permanent Secretary shall issue, in the prescribed manner, guidelines for a Government Agency to prepare —

- (a) performance indicators and targets;
- (b) a monthly budget report;
- (c) estimates of revenue and expenditure.

PART V
APPROVAL OF ESTIMATES

Estimates**31.** Estimates must —

- (a) comprise revenue and inflows, including donor funds, and expenditure and outflows of the Government;
- (b) be transparent, accountable, output and performance oriented and follow an internationally accepted budget classification system;
- (c) distinguish between current expenditure and capital expenditure;
- (d) have an aggregate expenditure ceiling for the financial year and for the two subsequent financial years immediately following the financial year and an indicative aggregate expenditure ceiling;
- (e) contain the Estimate's balance and the financing required to finance the Estimates; and
- (f) contain specific items of expenditure and amounts of appropriation allocated for a specific purpose.

Approval of Estimates

32.—(1) For the purposes of section 79(1) of the Constitution of Saint Lucia, Cap. 1.01, the Minister shall, no later than thirty days before the end of each financial year, lay Estimates before Parliament.

(2) When the estimates of expenditure, other than expenditure charged on the Consolidated Fund by the Constitution of Saint Lucia, Cap. 1.01 or any other enactment, have been approved by Parliament, a bill known as an Appropriation Bill shall be introduced in Parliament, 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 services required for the purposes specified in the Appropriation Bill.

(3) Parliament shall approve the Appropriation Bill no later than the last day of each financial year.

(4) If an emergency is declared in accordance with section 17 of the Constitution of Saint Lucia, Cap. 1.01, and the Minister is unable to lay the Estimates before Parliament, he or she shall seek immediate approval of Parliament for an extension, with reasons for seeking the extension, by a new date, no later than fifteen days before the end of the financial year.

(5) Where Parliament approves an extension of time under subsection (4), Parliament shall, no later than thirty days after the end of the financial year, approve the Estimates and Appropriation Bill.

(6) If approval of the Estimates is delayed due to an emergency declared under section 17 of the Constitution of Saint Lucia, Cap. 1.01, and the Appropriation Bill has not been approved, the responsible Minister may, by Provisional Warrant, authorize the collection of revenue and expenditure that is necessary to carry on the services of Government for three months from the beginning of the financial year, or coming into force of the Appropriation Bill, whichever is earlier, except that —

- (a) expenditure shall not in total exceed one fourth of the money authorized by the appropriation law of the previous financial year;
- (b) in the case of capital expenditure, expenditure on projects that in the previous financial year were included in the appropriation law for that financial year will be continued.

(7) On the coming into force of the appropriation law, expenditure under subsection (6) is deemed to have been paid out for corresponding services provided in the Estimates and the appropriation law.

Appropriation for Contingencies Fund

33. The Appropriation Bill shall make allocations for a sum not less than half of a per cent or a prescribed percentage of the total domestic revenue in the Estimates to be paid into the Contingencies Fund.

Supplementary Estimate

34.—(1) Without prejudice to section 79(3) of the Constitution of Saint Lucia, Cap. 1.01 and subject to this section, the Minister shall

cause to be prepared and laid before Parliament a Supplementary Estimate.

(2) A Supplementary Estimate under subsection (1) shall be in the form as the Minister determines.

(3) Parliament may approve a Supplementary Estimate that exceeds the initially approved aggregate budget ceiling, if unforeseen and unavoidable expenditure arises, including —

- (a) expenditure that could not be accommodated in the appropriation law due to natural and other unforeseen events;
- (b) tariff and price increases.

(4) The Minister may, by Order published in the *Gazette*, specify a percentage of the initially approved Estimates for which a Supplementary Estimate may be approved.

(5) An Order under subsection (4) is subject to an affirmative Resolution of Parliament.

(6) No more than two Supplementary Appropriation Bills may be introduced in Parliament during a financial year.

(7) The Supplementary Appropriation Bill must be introduced in Parliament, together with explanatory documents, which include —

- (a) the proposed amendments to the appropriation law;
- (b) other changes to the appropriation law through reallocation.

Publication of Estimates

35. The Permanent Secretary shall make available to the general public by a public medium the Estimates, as soon as it is approved by the Standing Finance Committee.

PART VI EXECUTION OF APPROPRIATION LAW

Execution of appropriation law

36.—(1) The Minister is responsible for the overall management of the execution of the appropriation law.

(2) The Minister shall notify each accounting officer responsible for a Government Agency of the approval of the respective votes in the appropriation law.

(3) An accounting officer who is responsible for a Government Agency that is identified in the appropriation law is responsible for the execution of the appropriation law.

Prohibition against exceeding allocation in the budget

37.—(1) A Government Agency included in the appropriation law shall not exceed the amount allocated to it in the budget.

(2) An appropriation in the appropriation law must be spent only for the purpose it is appropriated.

Warrants for withdrawal from Consolidated Fund

38. The Minister may, in the prescribed form and manner, make a withdrawal from the Consolidated Fund under section 78 of the Constitution of Saint Lucia, Cap. 1.01 by a —

- (a) General Warrant;
- (b) Provisional Warrant.

General Warrant

39.—(1) Subject to sections 44, 45, and 46 the Minister may authorize the Accountant General by General Warrant, to pay out of the Consolidated Fund money for services approved under the appropriation law.

(2) The Minister may, by a General Warrant, limit or suspend an expenditure excluding a statutory expenditure, with or without cancellation of a General Warrant, if in his or her opinion the financial exigencies of the Government so require.

Provisional Warrant

40. Subject to sections 44, 45, and 46, where an appropriation law has not come into operation under section 32 due to a disaster or a state of emergency declared under section 17 of the Constitution of Saint Lucia, Cap. 1.01, the Minister shall, by a Provisional Warrant, authorize the Accountant General to pay out of the Consolidated Fund sums as may be authorized.

Contingencies Fund Warrant

41.—(1) Subject to sections 44, 45, and 46, the Minister may, if satisfied that —

- (a) no funds have been appropriated or for which the sum appropriated is insufficient;
- (b) funds cannot be reallocated as provided for in section 43, and funds cannot be deferred without being detrimental to the public service;
- (c) there has arisen an urgent and unforeseen need for expenditure for which no other provision was made,

by a Contingencies Fund Warrant, and in anticipation of the approval of an appropriation by Parliament, make a withdrawal from the Contingencies Fund to meet such need.

(2) The total of the sums authorized to be advanced from the Contingencies Fund shall not exceed the total sum authorized under the appropriation law.

(3) Where an advance is made from the Contingencies Fund under this section a Supplementary Estimate of the sum required for the service for which such advance was made shall be laid before Parliament as soon as possible but in any event not later than four months from the date on which the Contingencies Fund Warrant was issued and shall be included in a Supplementary Appropriation Bill for appropriation.

(4) On the grant of an appropriation to meet the expenditure in respect of which an advance was made under this section, the Contingencies Fund Warrant authorizing that advance lapses and ceases to have effect and the advance is deemed to have been made for the purpose of the appropriation and shall be accounted for in the prescribed manner.

(5) For the purposes of this section, “urgent” means the country is impacted by a disaster and life or quality of life is seriously compromised by the disaster.

Virement Warrant

42.—(1) Subject to subsections (2), (3) and (4) and sections 44, 45, and 46, an accounting officer may vary the amount appropriated for a

classification vote within an expenditure classification for a financial year or to make provision for a new purpose within that expenditure classification by means of a Virement Warrant, if exigencies of the public service make it necessary to do so.

(2) A Virement Warrant must direct that savings arising from an item in the expenditure classification, contained in the appropriation law, be applied to another item in the expenditure classification in the Estimates or Supplementary Estimate except that the amount in the appropriation law is not exceeded.

(3) A Virement Warrant under subsection (1), must not —

- (a) in the case of a variation of a personnel emolument in an expenditure classification, occur unless it is to personnel expenditure within that classification;
- (b) change the policy intent without prior approval of the Minister;
- (c) be made from capital expenditure to current expenditure.

(4) The Minister may, by Order published in the *Gazette*, limit the amount that may be varied under a Virement Warrant under subsection (1).

Reallocation Warrant

43.—(1) Subject to subsections (2) and (3) and sections 44, 45, and 46, the Minister may, by a Reallocation Warrant, direct the accounting officer that savings arising from an item in the expenditure classification approved by an appropriation law, be applied in aid of an item in another expenditure classification in the Estimates, or to a new item of expenditure and the amount to be applied is deemed to have been appropriated for that purpose.

(2) A Reallocation Warrant under subsection (1) —

- (a) may be applied to expenditure of one ministry, department or office to another ministry, department or office;
- (b) shall not transfer savings of salaries or other employee benefits, unless it is to personnel emoluments in another expenditure classification;

(c) shall not be made —

- (i) from capital expenditure to current expenditure,
- (ii) if, in the opinion of the responsible Minister, the reallocation hinders effective execution of the appropriation law or breaches the aggregate expenditure ceiling or causes fiscal imbalance.

(3) If the Minister directs the accounting officer under subsection (1), the responsible Minister shall, within three months commencing from the day the Reallocation Warrant is made and by an affirmative Resolution, lay the Reallocation Warrant in Parliament.

Support for warrant

44. A warrant must be supported by the Estimates for a financial year.

Limitations, conditions, suspension or cancellation of warrant

45. The Minister may limit or place a condition on, suspend, or cancel a warrant, except for money charged on the Consolidated Fund under the Constitution of Saint Lucia, Cap. 1.01, if the responsible Minister is satisfied that the limitation, condition, suspension or cancellation, is required due to a state of emergency declared under section 17 of the Constitution of Saint Lucia, Cap. 1.01, or is in the public interest.

Lapse of appropriation and warrant

46.—(1) Except as provided under this Act, the balance in an appropriation that remains unexpended at the end of the financial year, after adjusting the record of debt under subsection (2), and a warrant in relation to the balance of the appropriation shall lapse and ceases to have effect at the end of the financial year.

(2) Subject to the directions of the Permanent Secretary in the Ministry responsible for finance, a debt incurred by the Government in connection with the purchase of goods and services before the end of the financial year that remains unpaid at the end of the financial year must be recorded as a charge against the appropriation to which it relates.

(3) Within thirty days after the end of the financial year or such longer period as may be authorized by the Minister, the arrears of payment recorded as a charge under subsection (2) must be discharged or settled.

Commitments

47.—(1) The responsible Minister shall approve multi-year commitments that are within the aggregate ceiling approved under the appropriation law.

(2) A public officer shall not commit the Government to a liability or contingent liability, unless specifically authorized to do so under subsection (3).

(3) Subject to this Act, the accounting officer shall approve a contract and other arrangement made by a Government Agency that commits the Government to a payment.

(4) Approval of a commitment under subsection (3) is subject to the availability of sufficient unencumbered and uncommitted appropriation against which the commitment is made and the commitment must be consistent with the multi-year commitments approved by the responsible Minister under subsection (1).

(5) An accounting officer shall maintain a record of commitments in the prescribed manner.

(6) All contracts, including contracts established through the local purchase order system are considered commitments of the Government.

**PART VII
INTERNAL AUDIT UNIT**

Internal Audit Unit

48.—(1) For the purposes of this Act, the Internal Audit Unit of the Ministry of Finance serves as the Internal Audit Unit.

(2) The Internal Audit Unit comprises internal auditors appointed by the Public Service Commission.

Functions of Internal Audit Unit

49.—(1) The Internal Audit Unit is responsible for —

(a) conducting internal audit activity —

(i) in the prescribed manner,

(ii) in accordance with international standards for regulating internal auditing of a Government Agency;

- (b) providing risk-based audit coverage of a Government Agency;
 - (c) preparing an audit report on the annual financial statements and financial position of a Government Agency;
 - (d) submitting, every six months, an internal audit report to the Director of Finance for a Government Agency.
- (2) An internal audit report under subsection (1) includes —
- (a) the findings of the Internal Audit Unit, after conducting an internal audit of a Government Agency;
 - (b) whether, in the opinion of the auditor, the financial statements reflect a true and fair view of the state of affairs of the Government Agency and of its results for the period ended;
 - (c) recommendations to the Director of Finance for a Government Agency to establish internal audit controls.
- (3) Notwithstanding subsection (1)(b), the Internal Audit Unit may inform the Director of Finance of a matter arising out of an internal audit at any time it considers necessary.
- (4) The Director of Finance, on receipt of an internal audit report under this section shall —
- (a) within three months of receipt of an internal report, provide the Government Agency with a copy of the internal audit report, including the actions to be taken;
 - (b) provide a copy of the internal audit report and a report of the actions taken to the Minister at the end of each financial year.

Powers of Internal Audit Unit

50. An internal auditor shall —

- (a) examine the books and records of a Government Agency in accordance with international standards relating to auditing;
- (b) carry out any other examination or establish any procedure in any particular case.

PART VIII
CASH MANAGEMENT, BANKING, DEPOSIT, REFUND,
SET-OFF, WRITE-OFF AND INVESTMENT

Deposit

51.—(1) A deposit must be held by the Accountant General.

(2) The Accountant General may, with the approval of the responsible Minister, invest a deposit under section 56 but a deposit shall not be used to finance appropriations.

(3) A deposit that remains unclaimed for five years shall be paid into the Consolidated Fund.

(4) Notwithstanding subsection (3), the Accountant General shall refund a deposit under section 53 to a person who claims to the satisfaction of the Accountant General that he or she has an absolute right to that deposit.

(5) For the purposes of this section, “deposit” does not include monies raised or received for the purposes of Government and paid into the Consolidated Fund, except —

- (a) dividends received on an investment; and
- (b) unclaimed deposits.

Banking arrangement

52.—(1) For the purposes of this section —

“banking arrangements” means a commitment to extend credit, to issue a letter of credit or other credit or liquidity facility to purchase any obligation of or for the benefit of the Government or to extend other financial accommodation;

“the principles of a Treasury Single Account” includes the use of essential tools for consolidating and managing the cash resources of Government for minimizing borrowing costs.

(2) The banking arrangement of the Government must reflect, to the extent possible, the principles of a Treasury Single Account, in which bank accounts of the Government are managed as one from a cash point of view, into which revenue is deposited and payment is made.

(3) The Minister shall designate a bank with which the main bank account of the Government is established and shall authorize the opening of such bank accounts in domestic and foreign banks, whether or not located in Saint Lucia, as are essential in the opinion of the Accountant General, to act as transitory and transactional bank accounts to facilitate the collection of revenue or processing of payments.

(4) A Government Agency shall not open a bank account with a financial institution, whether in or outside Saint Lucia, without the prior written authorization and direction of the Accountant General.

(5) The Accountant General may —

- (a) prior to opening a bank account, assess the financial soundness of a bank that the Government intends to carry on business with;
- (b) where a Government Agency has a bank account, require information from the bank regarding the bank account;
- (c) close or change the details of a bank account.

(6) The Accountant General shall ensure timely reconciliation of a bank account of the Government.

Refund of money

53. A refund of all or part of money received by the Government which was erroneously paid or collected or that is a drawback or rebate or other amount that is required or authorized to be refunded by another enactment becomes payable out of the Consolidated Fund at the satisfaction of the Accountant General, subject to the money being provided for in the appropriation.

Set-off or write-off of debt, claim, settlement

54.—(1) Subject to this section and on a case-by-case basis, the Minister may, by an affirmative Resolution of Parliament, write off losses of public monies, public assets or other moveable property belonging to the Government or provided for the public service, or abandon or remit a claim by or on behalf of the Government or a public service provided where, the amount is ten thousand dollars or more.

(2) The Permanent Secretary in the Ministry responsible for finance may, with the approval of the Minister —

- (a) set-off the whole or part of the amount due by a tax payer to the Crown against a sum due to the tax debtor by the Crown if the Government holds, controls, has custody of, or has monies belonging to a tax debtor and is due to make a payment to the tax debtor;
- (b) write-off losses of public monies, stores or other movable property belonging to the Government or provided for the public service, or to abandon or remit a claim by or on behalf of the Government or a public service where the amount exceeds five thousand dollars.

(3) The Director of Finance may write-off losses of public monies, stores or other movable property belonging to the Government or provided for the public service, or abandon or remit any claim by or on behalf of the Government or any public service provided where the amount in a case does not exceed five thousand dollars.

(4) Notwithstanding subsections (2) and (3), where the loss is or *prima facie* appears to be, on account of theft, fraud, embezzlement or other like act, there shall be no set-off, write-off of the loss unless Parliament, by an affirmative Resolution approves the same.

(5) A write-off or set-off under this section shall be notified immediately to the Accountant General and the Director of Audit.

(6) An amount paid for write-off for false claims or misrepresentation of facts is recoverable.

Settlement of claims against the Government

55.—(1) Subject to this section, the Minister may, on the advice of the Attorney General, the Accountant General and the Director of Audit, settle a claim and direct the Accountant General, in writing, to pay the amount in settlement of the claim out of the Consolidated Fund, where money is required to be paid by the Government —

- (a) by an order of a court;
- (b) by a decision or order of a tribunal established by an enactment;

- (c) by an arbitration award pursuant to arbitration proceedings established by an enactment;
- (d) by an out of court settlement, if a claim against the Government, has not been heard by a court, tribunal or arbitrator and the claim is reasonably expected to result in an order or award against the Government.

(2) A payment must not be made out of the Consolidated Fund for a claim under subsection (1), if in excess of the amount available in an appropriation for that purpose.

Investment

56.—(1) The Minister may, by affirmative Resolution of Parliament, invest public monies forming part of the Consolidated Fund —

- (a) with a bank, whether at call or subject to notice not exceeding twelve months;
- (b) in a manner authorized for investments of property in the hands of trustees by law.

(2) The Minister may, if he or she is satisfied that it is in the public interest and with the prior approval of Parliament under subsection (1), invest public monies forming part of the Consolidated Fund in—

- (a) a bank;
- (b) the purchase of securities in a company;
- (c) deposits with the Eastern Caribbean Central Bank;
- (d) securities issued by another Government or agency of that other Government.

(3) Where the Minister invests public monies under subsection (2), he or she shall immediately —

- (a) submit a report to Parliament containing full details of the investment; and
- (b) lay before Parliament a copy of the agreement made in relation to the purchase of securities and the most recent annual audited financial statements of the company.

(4) The interest or dividends received from the investment under subsection (1) must be credited to the Consolidated Fund, the

Contingencies Fund or a special fund from where the investment was made.

(5) An investment held by or on behalf of the Government on the commencement of this Act is deemed to have been made out of public monies issued from the Consolidated Fund and may be retained notwithstanding that the investment is not made under subsection (1), except if the investment is not held on account of a special fund or trust fund.

(6) The Director of Finance shall keep proper records of an investment under this section and submit to the Accountant General, for safe custody, all proper records in respect of all investments under this Act.

PART IX ASSET MANAGEMENT

Acquisition, use and safe custody of public assets

57.—(1) Public assets shall not be applied for any purpose other than towards the furtherance of the government's programmes and objectives.

(2) An accounting officer is, in the case of a Government Agency that is under the supervision of the Director of Finance, responsible for the acquisition, safe custody, control, transfer and disposal of all public assets in the prescribed manner.

Debt due to Government

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

- (a) public monies that has been advanced to a public officer of a Government Agency; or
- (b) public monies while under the control of a public officer,

that loss or deficiency is a debt due to the Government and may be recovered from the public officer by a surcharge under Part XV.

(2) It is a defence for a public officer under subsection (1), if the public officer proves that the loss or deficiency was not caused or contributed to by his or her failure to fulfill a duty in relation to the collection, receipt or custody of public monies.

(3) Where loss or destruction of or damage to public assets, other than public money, occurs while the public asset is in the care of a public officer, the value of the public asset lost or destroyed or the cost of repairing the damage to the public asset is due to the Government and may be recovered by a surcharge under Part XV from —

- (a) the public officer in whose custody the property was at the time; or
- (b) a public officer who by negligence or misconduct causes or contributes to the loss or destruction of or damage to the public asset.

(4) It is a defence for a public officer under subsection (3) if the public officer proves that the loss, destruction of or damage to the public asset 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 the loss, destruction or damage to the public asset, the Government may recover from the public officer so much of the amounts under subsection (3) as is just and equitable having regard to the contribution made by the public officer to the loss, destruction or damage.

(6) For the purposes of this section —

- (a) public monies are under the control of a public officer of a Government Agency if the money is collected or received by or comes into the custody of the public officer but has not been paid to another person or to the credit of a prescribed account;
- (b) a public asset is in the custody of a public officer of a Government agency if the public asset is delivered to the public officer, and has not been returned to a person entitled to receive it on behalf of the Government.

(7) This section does 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 public officer under this section, in respect of the same loss, deficiency, destruction or damage twice.

Enquiry and report on malfeasance

59. Where the Minister has reasonable evidence to believe that a malfeasance has occurred in connection with public assets, the Minister shall request the Director of Audit to enquire into and report on the matter.

Accounting procedure

60. The prescribed accounting procedure must be used for the proper custody and control of public assets.

Disposal of assets

61.—(1) Where a transaction involves the disposal of a public asset the principles of honesty, accountability, transparency, fairness and equity applies.

(2) Where a Government Agency intends to dispose of a public asset, the accounting officer of the Government Agency shall, for the purpose of ensuring that there are no risks or liability issues that are likely to arise from a disposal of the asset, give written notice to the Director of Finance and the Director of Public Procurement of the intended disposal not less than thirty days before initiating the disposal.

(3) A person involved in the disposal of a public asset shall not in any manner, be interested in buying, directly or indirectly, such asset or obtain an advantage or revenue from the disposal of the asset.

(4) The Director of Finance shall —

- (a) designate an appropriate officer to determine the appropriate method for disposal of public assets which are unserviceable or in surplus to the needs of the Government; and
- (b) where the disposal is to be made through sale and the value exceeds ten thousand dollars, obtain prior approval of the Central Public Procurement Board.

(5) The Director of Finance shall, after consultation with the Central Procurement Board, dispose of an asset by sale where its value exceeds ten thousand dollars.

(6) Subject to subsection (7), a Government Agency shall dispose of assets which are surplus to the needs of a Government Agency at fair market value.

(7) Subject to subsection (8) and the approval of the Director of Finance, a Government Agency may grant, without charge, any stores not required for the purposes of the Government to an institution or organization in Saint Lucia established solely or principally for educational, scientific, cultural or charitable purposes.

(8) Where a Government Agency makes a grant under subsection (7), that Government Agency must give written notice to the Accountant General and the Director of Audit.

(9) Where the value of the asset being granted exceeds fifty thousand dollars, the Director of Finance shall first obtain the written approval of the Minister.

PART X PUBLIC DEBT AND CONTINGENT LIABILITY

Annual borrowings

62.—(1) Subject to this Act and in accordance with any other enactment, the Minister may, within the annual limit approved by Parliament, borrow money on behalf of the Government in a form and from a domestic or external source and for a fiscal purpose, on terms and conditions to be agreed with a creditor.

(2) The Minister shall, by an affirmative Resolution of Parliament, establish a ceiling on the aggregate amount of annual borrowings and stock of debt in the public sector.

(3) Debt raised by a statutory body, that is not funded by Government, is not a charge on the Consolidated Fund.

Loans and authority to sign loans

63.—(1) The Minister may, by an affirmative Resolution of Parliament, borrow from a bank or other financial institution for any of the following purposes —

- (a) the capital or current expenditure of Government;
- (b) the purchase of securities issued by a Government or Government agency;
- (c) on-lending to a statutory body or public corporation;

- (d) making advances or payments to public officers as authorized by an enactment or the Public Service Staff Orders; or
- (e) eliminating or mitigating the effects of a disaster.

(2) The Minister may, in writing, authorize the Director of Finance or Head of a Foreign Mission to sign on his or her behalf a loan agreement or guarantee made under this section and section 65.

Proceeds of Government borrowing

64. Subject to this Act and in accordance with any other enactment, money borrowed by the Government must be paid into and form part of the Consolidated Fund.

Government guarantee, indemnity and other contingent liability

65.—(1) The Minister may, by an affirmative Resolution of Parliament, grant a guarantee in accordance with an enactment.

(2) The Minister shall, by an affirmative Resolution of Parliament, establish and review a ceiling on the aggregate amount of a guarantee given by the Government.

(3) A Resolution of Parliament under subsection (2) must give details of —

- (a) the amount guaranteed;
- (b) the terms and conditions of the guarantee;
- (c) the person or the legal entity in whose name the guarantee is intended; and
- (d) the object and reasons for giving of the guarantee.

Government lending

66.—(1) The Minister may, by an affirmative Resolution of Parliament, lend money on behalf of the Government to a statutory body under this Act or another enactment.

(2) Government lending under this Act or another enactment must be made from the Consolidated Fund subject to the amount being appropriated under this Act, and the repayment of principal and

payment of interest, fees, and other charges to the Government from a borrower must be paid into the Consolidated Fund.

Advance warrant

67.—(1) Subject to this section and sections 44, 45, and 46 the Minister may, by an advance warrant, authorize the Accountant General to make disbursements of monies forming part of the Consolidated Fund or of other public monies for the purpose of making advances —

- (a) on behalf of, and recoverable from, other Governments and organisations;
- (b) to, or on account of, trusts and other funds administered by the Government;
- (c) to, or on behalf of, public bodies and institutions where those advances are, in the opinion of the Minister, in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which those advances are made;
- (d) to public officers for any purpose and on terms as may be determined; or
- (e) for the purpose of expenditure authorized by an enactment which permits the raising of loans in anticipation of raising a loan.

(2) The total of the sums issued and disbursed for the purpose of making advances under subsection (1)(c) and (d) shall not exceed in the aggregate at any time, after deducting repayments, two per cent of the recurrent revenue for the previous financial year.

Imprest warrant

68.—(1) Subject to sections 44, 45 and 46, the Minister may, by an Imprest Warrant, authorize the Accountant General to issue imprests from the Consolidated Fund to officers for any purpose for which monies have been appropriated.

(2) An officer to whom an imprest is issued under subsection (1) shall retire that imprest before the end of the financial year in which the imprest was issued or, if some earlier date is specified in the imprest warrant, on or before that earlier date.

(3) Notwithstanding subsection (2), where an officer fails to retire an imprest in accordance with that subsection, the Accountant General shall recover the amount of the imprest by deduction from the salary or other emoluments of that officer in such manner as the Director of Finance determines.

Charges on Consolidated Fund

69.—(1) The repayment of a liability arising from Government borrowing under this Act or another enactment shall be charged on and paid out of the Consolidated Fund.

(2) A payment made by the Government under a guarantee issued by the Government or a contingent liability created by the Government in accordance with the Regulations under this Act, and in accordance with another enactment shall be charged on and paid out of the Consolidated Fund.

(3) All debt charges for which the Government is liable shall be charged on and paid out of the Consolidated Fund.

(4) For the purposes of this section debt charges include interest, sinking fund charges, the repayment or amortization of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created by the debt charge.

Public debt management

70. Public debt must be managed in accordance with a law relating to the management of public debt.

PART XI GRANTS

Receipt of grant

71.—(1) The Minister shall, on behalf of the Government or a statutory body, receive a grant made by a foreign government or other entity or person within or outside Saint Lucia, in consultation with the responsible Minister under whose Ministry the grant is to be used.

(2) The Minister may sign an agreement and any other document relating to a grant on behalf of the Government.

(3) A financial grant received under this section shall be paid promptly into and forms part of the Consolidated Fund.

Responsibility of responsible Minister with respect to a grant

72.—(1) A responsible Minister shall ensure that a grant received is used for the intended purpose and is consistent with the laws of Saint Lucia.

(2) A responsible Minister shall, on the request of the Minister, submit a report, including a report on utilization of the grant, and unspent balances under the grant.

Record of use of a grant

73.—(1) An accounting officer of a Government agency that receives a grant, shall submit to the Permanent Secretary in the Ministry responsible for finance —

- (a) information on a grant received;
- (b) a record of the use of a grant in a quarterly expenditure report.

(2) An accounting officer, on the receipt of a grant, shall obtain from the Accountant General, the appropriate classification for recording and disbursement of a grant.

(3) Notwithstanding the Minister's ability to receive a grant, where a donor, with the prior written approval of the Minister, pays the cost of supplies of goods, services or works directly to a contractor or Government Agency, the use of the grant must be recorded in the prescribed manner.

PART XII
ACCOUNTING, REPORTING AND AUDITING PUBLIC
ACCOUNTS

Accounting

74.—(1) The Accountant General shall ensure that the accounting rules and standards for the Public Accounts are consistent with internationally accepted principles and standards, as adopted for Saint Lucia.

- (2) An accounting officer shall —
- (a) establish the prescribed accounting function within the Government Agency;
 - (b) file, maintain and keep secure documents related to public finance transactions, in the prescribed manner and for the prescribed time.

Public Accounts

75.—(1) The Accountant General shall, within three months after the end of a financial year, prepare and submit to the Director of Audit a copy of the Public Accounts for that financial year that gives an account for public monies and shows the financial position and performance of the Government as of the close of the financial year.

(2) In the event that the Accountant General is unable to provide the Public Accounts under subsection (1), the Minister may, by giving a direction to the Accountant General, extend the specified period under subsection (1) for a further period not exceeding six months after the end of the financial year.

(3) A direction under subsection (2) shall be laid before Parliament within thirty days of it being given and if there is no sitting of Parliament, at the next sitting of Parliament.

(4) The Public Accounts to be transmitted by the Accountant General under subsection (1) must show the financial position of the Consolidated Fund, Contingencies Fund, Sinking Fund, a special fund and trust fund and accounts of a Government Agency, on the last day of each financial year and must include reporting against the budget.

(5) Notwithstanding subsection (4), the Public Accounts must include —

- (a) a comparative statement of actual and approved estimates of revenue and expenditure, including —
 - (i) actual and estimated revenue by sub-heads,
 - (ii) actual and estimated expenditure by sub-heads;
- (b) a statement of assets and liabilities or financial position;

- (c) a statement of the financial position balances of the Consolidated Fund, the Contingencies Fund, the Sinking Fund, special funds, trust funds and deposit accounts;
- (d) a statement of cash flows;
- (e) a statement of outstanding loans made from the Consolidated Fund, by categories and annual aggregate;
- (f) a statement of public debt;
- (g) a statement of contingent liabilities of the Government, including guarantees given and other contingent liabilities of the Government;
- (h) a statement of investments showing the funds on behalf of which the investments are made;
- (i) a statement of arrears of revenue, outstanding expenditure, losses of cash and public assets, and of abandoned claims during the financial year, and settlements of claims, set-offs, debt write-offs, and remission of monies owed to Government;
- (j) a statement of the financial and fiscal position of statutory bodies;
- (k) a statement of changes in net financial assets and equity;
- (l) an annual abstract of revenue and expenditure by head; and
- (m) other statements as Parliament may require.

(6) The Accountant General may obtain, through the Public Service Commission, the services of persons qualified in the field of accounting to assist with the preparation of the Public Accounts.

Reporting

76.—(1) An accounting officer shall ensure that financial information is reported in the prescribed manner and in accordance with instructions issued under this Act.

(2) A Government agency shall, as required by the Permanent Secretary in the Ministry of finance, provide a report on the performance of revenue and expenditure to the Minister in the terms, format and within the prescribed period.

(3) The Minister shall present a consolidated quarterly report in the prescribed form comparing execution of appropriations to the estimates which shall be submitted to Parliament no later than two weeks after the end of the quarter of the financial year.

Audit of Public Accounts

77.—(1) In accordance with section 84(2)(b) of the Constitution of Saint Lucia, Cap. 1.01 and the Audit Act, Cap. 15.19, the Director of Audit shall —

- (a) audit the Public Accounts submitted by the Accountant General, no later than three months from the date of receipt of the Public Accounts, in accordance with the accounting standards adopted by the Government;
- (b) no later than three months after the date of receipt of the Public Accounts from the Accountant General, submit an audit report to the Minister.

(2) On receipt of an audit report under subsection (1)(b), the Minister shall lay the audit report in Parliament in accordance with section 84(4) of the Constitution of Saint Lucia, Cap. 1.01.

(3) An audit report under subsection (1)(b) must —

- (a) disclose the accounting standards adopted by the Government;
- (b) include the opinion of the Director of Audit as to whether the financial statements present a true and fair view of the financial operations of the Government;
- (c) include responses and clarification furnished by the Accountant General on the observations and comments raised by the Director of Audit during the audit;
- (d) be published within seven days of its submission to Parliament.

PART XIII STATUTORY BODY

Responsibilities of a statutory body

78.—(1) A statutory body shall —

- (a) be subject to the financial oversight of, and be accountable to the responsible Minister, accounting officer, and any other person or entity designated by the Minister;
- (b) have the same financial year as the Government;
- (c) maintain proper accounting records consistent with internationally accepted accounting principles and standards for the purpose of recording all transactions relating to its undertakings, funds, activities and property;
- (d) submit, on the request of the Minister, reports and other information required under this Act;
- (e) submit estimates of revenue and expenditure for two subsequent financial years for approval of the Minister.

(2) Notwithstanding subsection (1), the Minister shall, in consultation with the responsible Minister, prescribe specific responsibilities as it relates to public finance management of the board or controlling body of a statutory body.

Institutional arrangements

79. The responsible Minister may establish institutional arrangements on matters pertaining to financial governance, policy formulation and oversight of a statutory body.

Operation on commercially sustainable basis

80. The board or controlling body of a statutory body shall establish and maintain policies, procedures, risk management, internal control systems, governance and management practices to ensure that the statutory body operates efficiently in line with the objectives for which it was established, on a commercially sustainable basis and provides the best returns to Government as shareholders and other stakeholders.

Representation on a board or controlling body of a statutory body

81. Notwithstanding the provisions of the enactment establishing the statutory body, the Permanent Secretary must be appointed as a member of the board or controlling body of a statutory body that presents a fiscal risk to the Government.

Strategic, financial, operational and business plan

82.—(1) The board or controlling body of a statutory body shall submit to the responsible Minister and the Minister —

- (a) a three year strategic plan reflecting the strategic objectives of the statutory body over the financial year and the two subsequent financial years; and
- (b) no later than four months before the beginning of a financial year, a financial, operational or business plan, reflecting proposals to operationalize the statutory body's strategic objectives over the financial year.

(2) The three-year strategic plan under subsection (1)(a) must include forecast fiscal aggregates, including capital expenditure, key performance indicators and performance targets and be updated on an annual basis.

(3) Where the board or controlling body of a statutory body fails to comply with subsection (1)(a) or (b), the responsible Minister may, in consultation with the Minister, take corrective action as may be appropriate.

(4) On receipt of a strategic plan, financial, operational or business plan the responsible Minister and the Minister shall approve or disapprove the strategic plan, financial and operational plan or business plan and provide reasons for the approval or disapproval to the board or controlling body of the statutory body within a period of two months after receipt of the plan and in any event no later than the beginning of the financial year to which the plan relates.

(5) The Minister may prescribe, in consultation with the responsible Minister, the format in which a strategic plan, financial, operational plan or business plan required under this section must be prepared and the procedures for review and approval by a Ministry and the responsible Minister.

Accounts and audit

83.—(1) The board or controlling body of a statutory body shall make a report, in the prescribed form, on the financial operations of the statutory body to the responsible Minister and the Minister quarterly and at such other time specified by the Minister or the responsible Minister, in relation to its approved business plan for the financial year.

(2) The responsible Minister shall present a statement of the overall performance of each statutory body based on audited financial statements for the preceding financial year to Parliament together with the estimates for the following financial year.

(3) A statutory body shall prepare and submit annual audited accounts to the Accountant General no later than three months from the end of the financial year.

(4) The Director of Audit may hire a private firm of auditors to audit the accounts of a statutory body on terms to be agreed with the firms but the Director of Audit remains responsible for the audit under subsection (1).

(5) The board or controlling body of a statutory body shall cause to be prepared the annual financial statements of a statutory body and shall, no later than three months after the end of the financial year, submit such accounts to the Director of Audit, or the audit firm hired by the Director of Audit for auditing.

(6) A statutory body shall make provision for annual audit fees to be charged by the audit firm conducting the audit of its accounts, or 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 preparation of Estimates.

(7) The Minister may request the Director of Audit to conduct a special review or audit of a statutory body with reasonable notice in writing to the statutory body 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.

Financial management

84.—(1) A statutory body shall adopt the financial management system under this Act or any other enactment.

(2) The funds of a statutory body include —

- (a) money accruing to the statutory body in the exercise and performance of its functions;
- (b) grants received for its operations from the Appropriation Act.

(3) A statutory body shall not open a bank account without the prior written approval of the Accountant General.

(4) A statutory body may not invest money except with the prior approval of the Minister.

(5) The Minister may make Regulations on the conditions on which a statutory body may undertake contractual commitments.

(6) Notwithstanding the provisions of an enactment for establishing the statutory body, the Minister and the responsible Minister may, in consultation with the board or controlling body of a statutory body, direct that the statutory body pay to the Government money in excess of the amount required for the purposes of its operations or capital expenditure and the money paid may be applied as revenue of the Government.

(7) Notwithstanding subsection (6), the Minister shall ensure that a statutory body is adequately resourced through appropriations to enable the statutory body to operate effectively and may, on the recommendation of the board or controlling body of the statutory body, direct the statutory body to retain all or part of its savings for its operations.

(8) The Minister may prescribe expenditure ceilings for a statutory body.

(9) A statutory body shall not incur any liability or make any commitments above a prescribed ceiling without prior approval in writing of the Minister and the responsible Minister.

(10) Where a statutory body fails to comply with subsection (9), the Minister may override any financial decision or commitment made by a statutory body whether directly by the Minister or acting through a representative of the Ministry on the board or controlling body of a statutory body.

Dividend policy

85.—(1) The board or controlling body of a statutory body shall establish a general policy on dividends in consultation with the responsible Minister and the Minister, and ensure that the policy is adopted by the management of the statutory body, taking due consideration of the financial well-being of the statutory body.

(2) Dividends or other profit distribution from a statutory body paid to the Government must be reflected in the estimates 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 statutory body may have towards the Government.

Borrowing, lending, guaranteeing and other contingent liabilities

86.—(1) The Minister may make Regulations to prescribe annual ceilings for borrowing, lending or contingent liabilities by a statutory body.

(2) A statutory body shall not incur liability or make a commitment above the prescribed ceilings, without prior approval in writing of the Minister.

(3) Except to the extent of a written guarantee or indemnity issued by the Minister on behalf of the Government and any law relating to public debt management, the Government is not liable for debt of a statutory body.

**PART XIV
INQUIRY COMMITTEE**

Appointment of Inquiry Committee

87.—(1) The Chief Justice shall appoint an Inquiry Committee that comprises —

- (a) a representative of the Attorney General's Chambers;
- (b) a senior representative of the public service;
- (c) a person qualified in the field of accounting or finance.

(2) The Chief Justice shall appoint the Chairperson of the Inquiry Committee.

(3) The Committee shall appoint a Secretary from amongst its members.

(4) A member of the Inquiry Committee holds office for a period of two years and is eligible for reappointment.

Functions of Inquiry Committee

88. The Inquiry Committee is responsible for —

- (a) investigating a matter referred to it by the Director of Finance under section 93;

- (b) hearing the facts surrounding a matter referred to it under paragraph (a);
- (c) determining whether a public officer is liable under the grounds for surcharge under section 94;
- (d) reporting its findings and recommendations in writing to the Director of Finance.

Powers of the Inquiry Committee

89. The Inquiry Committee may, in conducting an enquiry into a matter —

- (a) request a person to provide information relating to the matter;
- (b) call on or invite a person or public officer to assist in the enquiry of the subject matter.

Proceedings of Inquiry Committee

90.—(1) The Secretary shall, within fourteen days, before a meeting of the Inquiry Committee, serve a notice on —

- (a) the public officer; and
- (b) any other person of interest in the matter.

(2) A notice under subsection (1) must specify the time and place of the meeting.

(3) The testimony of a witness must be taken under oath, administered by the Chairperson of the Inquiry Committee and a witness called may be cross-examined, and be called to give evidence in defence and to reply.

(4) The Inquiry Committee may cause the evidence given before it or any part of it to be taken down in shorthand and transcribed or to be recorded electronically or by any other means.

(5) The Chairperson of the Inquiry Committee shall, within seven days of the completion of an inquiry, report its findings and recommendations to the Director of Finance.

Notice of decision

91.—(1) The Director of Finance shall give written notice of its decision within seven days of receipt of the findings and recommendations of the Inquiry Committee to —

- (a) the public officer surcharged;
- (b) the accounting officer of the relevant Department;
- (c) Accountant General;
- (d) Director of Audit; and
- (e) the Permanent Secretary of the Department of the Public Service.

(2) A notice under subsection (1) must specify —

- (a) the grounds for surcharging the public officer;
- (b) the surcharge amount;
- (c) that the surcharge amount is payable to the Accountant General.

**PART XV
SURCHARGE**

Liability for non-compliance with financial management system

92.—(1) A public officer shall not violate the controls of the financial management system.

(2) A public officer who contravenes subsection (1) is liable to be surcharged under this Part.

Power to surcharge

93.—(1) If, at any time, a public asset has been lost or damaged, and if, within a period specified by the Director of Finance an explanation satisfactory to him or her is not furnished by a public officer with regard to such loss or damage, the Director of Finance shall in accordance with section 91, surcharge that officer.

(2) Subject to subsection (3), a public officer who contravenes this Act is liable to a surcharge in such sum as may be determined by the Director of Finance.

(3) A public officer shall not be surcharged under this section without an opportunity to make an oral representation.

(4) Where a public officer is not surcharged under this section, and the Director of Finance reasonably believes that a public asset has been damaged or lost by the public officer, the Director of Finance shall notify the Public Service Commission.

Grounds for surcharge

94. A public officer may be surcharged on the following grounds —

- (a) failure to collect money owing to the Government;
- (b) payment of public monies in excess of authorized amounts;
- (c) making, allowing or directing payment of public monies without proper authority, or proper evidence that the amount was due;
- (d) payment of public monies without obtaining proper evidence of the identity of the payee;
- (e) responsibility for a deficiency in, loss or destruction of or damage to public assets;
- (f) failure to provide accurate accounts by a public officer whose duties require him or her to prepare the accounts;
- (g) signing an incorrect or false certificate on a payment instrument;
- (h) mixing public monies with other money;
- (i) failing to comply with a directive or instruction from the Director of Finance; or
- (j) contravention of this Act.

Notification of surcharge

95.—(1) The Director of Finance shall give written notice of a decision to surcharge to —

- (a) the public officer surcharged;
- (b) the Accountant General;
- (c) the Director of Audit.

(2) A notice under subsection (1) must include the grounds on which the surcharge is based and the amount of the surcharge.

Withdrawal of surcharge

96.—(1) The Director of Finance may at any time withdraw a surcharge in respect of which a satisfactory explanation is subsequently received or if it otherwise appears to him or her that a surcharge is not warranted in the circumstances.

(2) Where a surcharge is withdrawn under subsection (1) the Director of Finance shall give written notice to the persons specified under section 95.

Recovery of surcharge

97.—(1) The Accountant General shall, on being notified of a surcharge under section 95, cause the amount of the surcharge to be recovered from the public officer surcharged in such a manner as the Director of Finance directs.

(2) Recoveries shall not be made under subsection (1) until after the expiration of the period allowed under section 98 for lodging an appeal, and where the person surcharged appeals under that section, recoveries shall not be made until and unless the surcharge has been confirmed or otherwise determined.

(3) Subject to subsection (4), the amount of a surcharge made under this Part shall be recovered as the Director of Finance directs and may be deducted from the salary, pension or other emoluments of the person surcharged.

(4) The following rules apply with respect to the recovery of a surcharge —

- (a) a monthly instalment payable in respect of a surcharge shall not exceed one fourth of the gross monthly salary or pension of the public officer surcharged; and
- (b) where the public officer surcharged is due to be paid money by the Government other than by way of salary or pension or other emolument, the Director of Finance may require the amount of the surcharge imposed on the public officer to be deducted from the money in whole or in part as he or she considers just and reasonable.

(5) This section does not prejudice the right of the Government to sue for and recover the amount of a surcharge as a civil debt due to the Crown.

Appeal against surcharge

98. A public officer who is aggrieved by a surcharge made against him or her may appeal against the surcharge within thirty days from the date on which he or she is notified of the surcharge under section 95.

PART XVI APPEALS TRIBUNAL

Establishment of Appeals Tribunal

99.—(1) There is established an Appeals Tribunal for the purpose of hearing an appeal of a public officer who is aggrieved by a surcharge made against him or her under section 95.

(2) The Appeals Tribunal consists of three persons appointed by the Chief Justice —

- (a) a senior officer from the Department of Public Service;
- (b) a person qualified in accounting or finance;
- (c) an attorney-at-law of at least five years experience.

(3) The Chief Justice shall designate the Chairperson of the Appeals Tribunal.

Tenure of Appeals Tribunal

100. The members of the Appeals Tribunal hold office for a term of two years and are eligible for reappointment.

Functions of Appeals Tribunal

101. The Appeals Tribunal is responsible for hearing an appeal against a decision of the Director of Finance.

Powers of Appeals Tribunal

102. The Appeals Tribunal may —

- (a) request a person to provide information relating to the matter;

- (b) summon the attendance of a person to give evidence on oath or affirmation;
- (c) adjourn or postpone a sitting;
- (d) call on or invite a person or public officer to assist in matters relating to the appeal
- (e) make a decision under section 108.

Removal

103. A member of the Appeals Tribunal may be removed from office by the Chief Justice on the grounds of —

- (a) being declared a bankrupt under the Commercial Code, Cap. 244 of the Revised Laws of Saint Lucia 1957 or any other enactment;
- (b) being declared by a court or a health practitioner to be physically or mentally incapacitated by reason of unsoundness of mind;
- (c) being convicted of a criminal offence, except where the offence is a minor traffic offence or has been spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act, Cap. 3.13;
- (d) failing to execute his or her functions as a member without providing an excuse.

Resignation

104.—(1) The Chairperson of the Appeals Tribunal may at any time resign from office by giving written notice to the Chief Justice and the resignation takes effect from the date of receipt of the notice by the Chief Justice.

(2) A member of the Appeals Tribunal may at any time resign from office by giving written notice to the Chief Justice, through the Chairperson, and the resignation takes effect from the date of receipt of the notice by the Chief Justice.

Secretary of Appeals Tribunal

105.—(1) The Appeals Tribunal shall appoint a Secretary.

(2) The Secretary shall keep a written record of all proceedings of the Appeals Tribunal that must be confirmed by the Chairperson.

Application for an appeal

106.—(1) A person who is aggrieved by a decision of the Director of Finance under section 95, may make an application for an appeal in the prescribed form.

(2) An application for an appeal must —

- (a) contain the date on which it is signed by the aggrieved person;
- (b) state, in relation to the aggrieved person, the following —
 - (i) the name,
 - (ii) the profession,
 - (iii) the date that the decision of the Director of Finance was made,
 - (iv) the person or authority from whose decision the appeal is made,
 - (v) the decision which the aggrieved person seeks from the Appeals Tribunal,
 - (vi) an address to which a notice or other document may be sent from the Appeals Tribunal, and
 - (vii) the reasons in detail for the appeal, and
- (c) be supported by relevant documents, materials or other information.

Transmission of appeal documents

107. The Secretary shall send one copy of the application for an appeal and any other document that is relevant to the appeal to each of the following persons —

- (a) the members of the Appeals Tribunal;
- (b) the Director of Finance; and
- (c) any other person who was a party to the proceedings in which the decision was taken.

Hearing of Appeals Tribunal

108.—(1) The Secretary to the Appeals Tribunal shall advise the parties by notice in writing of the date and place at which the appeal has been set down for hearing at least seven days before the date fixed for the hearing of an appeal.

(2) At a hearing by the Appeals Tribunal, the parties are entitled to appear in person or by a representative.

(3) Subject to subsection (4), the hearing of the Appeals Tribunal is public.

(4) The Appeals Tribunal may, on application, take measures or make an order that the Appeals Tribunal considers necessary to ensure the confidentiality of the proceedings if it is satisfied that financial, personal or other matters may be disclosed and are of a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the inquiry be conducted in public.

Decisions of Appeals Tribunal

109.—(1) After considering the evidence and representations made on behalf of a party to the proceedings, the Appeals Tribunal may —

- (a) remit the matter to the Director of Finance for his or her reconsideration;
- (b) affirm the surcharge;
- (c) vary or set aside a decision of the Director of Finance;
- (d) direct that the public officer be released wholly or in part from the surcharge, as may appear to be just and reasonable.

(2) The Appeals Tribunal shall publish the decision within a period of seven days of the appeal, or an extended period that the parties decide by mutual agreement.

(3) The decision of the Appeals Tribunal is by a majority of votes of those members present and voting and, in addition to an original vote, the Chairperson has a casting vote in any case in which the voting is equal.

(4) The decisions of the Appeals Tribunal shall be authenticated by the signature of the Chairperson and the Secretary.

Costs

110. The Appeals Tribunal may assess its costs of processing an appeal against the losing party if it concludes that unreasonable conduct by that party contributed to the costs of the appeal.

Decision final

111. The Appeals Tribunal has exclusive jurisdiction to hear and determine all questions of fact or law in relation to a matter over which it is given jurisdiction and, subject to judicial review, decisions of the Appeals Tribunal are final.

PART XVII MISCELLANEOUS

Regulations

112.—(1) The Minister may make Regulations for giving effect to this Act.

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

- (a) to prescribe appropriate accounting systems and procedures in accordance with international accounting standards;
- (b) to prescribe procedures for the issue of and accounting for, warrants authorizing disbursement from appropriations;
- (c) for the submission of reports or returns by accounting officers containing such information as the Minister requires;
- (d) management of public assets;
- (e) for financial management applicable for pre-disaster and post-disaster activities;
- (f) for the linking of fiscal principles to fiscal policy, and the assessment of fiscal performance, so as to ensure that fiscal principles determine the formulation of fiscal policy and are used to evaluate fiscal performance;

- (g) administration of the Contingencies Fund;
- (h) administration of the Sinking Fund;
- (i) setting out the criteria and procedures for the selection and prioritization of public sector investment projects;
- (j) for the reporting requirements on public sector investment projects.

Repeal

113. The Finance (Administration) Act, Cap. 15.01 is repealed.

Transition

114.—(1) A loan raised by the Government under the repealed Act and in respect to which a liability is subsisting immediately before the commencement of this Act is deemed to be a loan raised under this Act, notwithstanding that the amount of the loan or an obligation by the Government of Saint Lucia in respect of the loan exceeds a limitation imposed by this Act.

(2) A bill, bond and other securities issued under the repealed Act and subsisting immediately before the commencement of this Act, continues in effect and is binding in the same manner and to the same extent as if issued under this Act.

(3) A statutory body which has a financial year that is not in accordance with the financial year in this Act, shall within three years after the commencement of this Act, align its financial year with the financial year in this Act.

(4) The Accountant General shall submit statements of accounts for audit according to law as at the closing date of that financial year and not under this Act for the accounts of a financial year ending prior to the commencement of this Act for which financial statements have not been submitted for audit.

Savings

115. A statutory instrument made under the repealed Act and in force immediately prior to the coming into operation of this Act shall, so far as it is not inconsistent with this Act, continue in force as if made under this Act.

No. 14] *Public Finance Management Act* [2020

Passed in the House of Assembly this 24th day of November, 2020.

ANDY G. DANIEL,
Speaker of the House of Assembly.

Passed in the Senate this 26th day of November, 2020.

JEANNINE GIRAUDY-MCINTYRE,
President of the Senate.