

*Public Finance Management Act*

**SAINT LUCIA**

**No. of 2020**

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**SAINT LUCIA**

No. of 2020

**AN ACT** to provide for public finance management, for the establishment of a Contingencies Fund, Sinking Fund, special fund or trust fund, the execution of appropriations, the oversight of statutory bodies and for related matters.

[ ]

**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:

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### **PRELIMINARY**

#### **Short title**

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

#### **Interpretation**

2. In this Act —

“accountable officer” means a public officer or accounting officer who —

(a) is concerned in or responsible for the collection, receipts, custody, issues 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 the Government or to any public officer in his or her official capacity either alone or jointly with any other public officer or any other person;

(b) works under the direction and supervision of an accounting officer;

“Accountant General” means the public officer appointed as Accountant General in the Ministry responsible for finance;

“accounting officer” means —

(a) in the case of a ministry or department, the Permanent Secretary;

(b) in the case of a government agency without a Permanent Secretary, a public officer who is the head of the government agency or performs the duties of a head of the government agency;

(c) in the case of a statutory body, the chief executive officer or the person in charge of the statutory body unless the enactment relating to the statutory body designates another person to be accounting officer;

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- “Appeals Tribunal” means the Appeals Tribunal established under section [ ];
- “appropriation bill” means a bill introduced in Parliament, providing for the issue from the Consolidated Fund of the sums necessary to meet the estimates of expenditure and the appropriation of those sums, under separate classifications votes for the several services required under section 79 of the Constitution of Saint Lucia, Cap. 1.01;
- “budget” means the estimates approved by Parliament for a financial year;
- “business days” does not include Saturdays, Sundays or Bank Holidays;
- “Central Public Procurement Board” has the meaning assigned to it under the Public Procurement Act, Cap. 15.10;
- “collector of revenue” means a public officer designated under section [ ] who is responsible for collecting public monies, securities or other negotiable instrument for or on behalf of Government;
- “Commission” means —
- (a) the Public Service Commission under section 85 of the Constitution of Saint Lucia, Cap. 1.01;
  - (b) the Judicial and Legal Services Commission under section 18 of the Supreme Court Act, Cap. 2.01; or
  - (c) the Teaching Service Commission under section 92 of the Constitution of Saint Lucia, Cap. 1.01;
- “Consolidated Fund” means the Consolidated Fund formed under section 77 of the Constitution of Saint Lucia, Cap. 1.01;
- “Contingencies Fund” means the Contingencies Fund established under section [ ];

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“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, and
  - (iv) any other prescribed agreement;

“department” means the department assigned for the business of the Government under section 62 of the Constitution of Saint Lucia, Cap. 1.01;

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

“Director of Finance” means the public officer appointed by the Public Service Commission to hold the office of Director of Finance within the Ministry responsible for finance;

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

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

- (a) results in loss or threatens injury on a scale which requires emergency intervention by the state; and
- (b) may result from fire, accident, an act of terrorism,

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storm, hurricane, pollution, disease, earthquake, drought, flood, the widespread dislocation of the essential services and scarcity of essential supplies;

“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 system, electronic or otherwise, that is adopted or authorized by the Accountant General under section [ ] which facilitates the efficient and effective management of public monies;

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

“fiscal policy” means a fiscal policy formulated under section [ ];

“fiscal risk” means the possibility that an actual fiscal outcome deviates from the fiscal outcomes expected at the time of the presentation of the estimates arising from matters including —

(a) economic outcomes differing from the assumptions made in the budget;

(b) the structure of public debt;

(c) the potential call on explicit Government guarantees and the realization of other contingent liabilities;

(d) the occurrence of a disaster and other acts of God;

(e) the declaration of a state of emergency for the purposes of Chapter 1 of the Constitution of Saint Lucia, Cap. 1.01;

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“fiscal target” means a specified quantitative limit against which different types of revenue or expenses are measured and monitored;

“gender equality” means consideration for 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 debt financing;

(b) includes securities issued by the Government;

“Internal Audit Unit” means the Internal Audit Unit established under section [ ];

“Inquiry Committee” means the Inquiry Committee established under section [ ];

“Minister” means the Minister responsible for finance;

“Ministry” means the Ministry assigned for any business of the Government under section 62 of the Constitution of Saint Lucia, Cap. 1.01;

“multi-year commitment” includes/means [ ];

“multi-year contract” includes/means [ ];

“payment instrument” includes —

(a) a payment voucher in the prescribed form;

(b) a procurement invoice;

(c) a machine-readable instruction that is transmitted electronically by a data communication network or is recorded on magnetic tape, disk, diskette or other electronic device;

(d) any other instrument that is approved by the Accountant General to facilitate payment by the Government for goods and services;

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

“Public Accounts” means the Public Accounts under section [ ];

“Public Accounts Committee” means the Select Committee established by Parliament under Standing Order 67 of the House of Assembly Standing Orders, 1979;

“public asset” —

(a) means property, whether moveable, immovable or 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) sovereign books, papers and documents;

“public finance management” means —

(a) the collection and safe custody of public money in a transparent and accountable manner;

(b) the formulation of budgets to allocate resources;

(c) incurring expenditure to deliver public policy in an efficient manner;

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- (d) borrowing and investing public money; and
- (e) producing annual financial accounts and statements certified by audit to present a true and fair picture of the national finances or reports;

“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 purpose of the Government,
  - (ii) money or funds held, temporarily or otherwise, by a person in an official capacity, alone or jointly with another person, whether or not that person is a public officer,
  - (iii) revenue;

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

“publish” in relation to a document, includes —

- (a) publishing a document in a newspaper, Government Gazette or other publication of general circulation;
- (b) publication of 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 or government agency or in the archives of that agency;
- (d) posting the document on the Government website;
- (e) if the document relates only to a country government or any of its agencies —
  - (i) publishing the document in a newspaper or other publication of general circulation in the country,

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(ii) making the document available for reference at a public library or office of the country government or that office,

(iii) posting the document on a country government website;

“receiver of revenue” means the Accountant General or any officer designated by him or her for the purpose of receiving monies, securities or other financial instruments collected by collectors of revenue;

“repealed Act” means the Act repealed under section [ ];

“responsible Minister” means the Minister assigned to a Ministry other than the Minister responsible for finance;

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

“Secretary” means the Secretary of the Appeals Tribunal appointed under section [ ];

“Sinking Fund” means a Sinking Fund established under section [ ];

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

“special fund” means a fund established under section [ ];

“statutory body” —

(a) means a body set up by an enactment with powers and operational autonomy —

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

(ii) for a public purpose or to carry out Government-related functions,

for market-based for profit or non-market not for profit and which is part of and under the direct control of the Government, a government corporation,

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company, board, commission or agency;

(b) includes —

(i) a governing body of a town, district or area within Saint Lucia,

(ii) a board, commission or an agency;

“statutory expenditure” means an expenditure that is charged on the Consolidated Fund by —

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

(b) any other enactment;

“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 for the rectification of grounds for surcharge;

“trust fund” means —

(a) a fund established by an Act other than an Appropriation Act; or

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

“warrant” means —

(a) a General Warrant under section [ ];

(b) a Provisional Warrant under section [ ];

(c) a Contingency Warrant under section [ ];

(d) a Virement Warrant under section [ ];

(e) a Reallocation Warrant under section [ ]

(f) an Advance Warrant under section [ ];

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(g) an Imprest Warrant under section [ ].

### **Act binds the Crown**

3. This Act binds the Crown.

### **Conflict of laws**

4. Where a conflict exists between this Act and any other law, this Act prevails.

## **PART I ADMINISTRATION**

### **Functions of the Minister**

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

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

- (a) follow a fiscal policy to ensure macro-economic and fiscal stability and growth;
- (b) commit to a sustainable fiscal situation, including budget balance 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 operation;
- (g) formulate, develop and implement macro-economic and fiscal policy consistent with the economic growth and stability policy of the Government, and for this purpose he or she shall govern, supervise and monitor the public monies of the Government of Saint Lucia;

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- (h) advise Cabinet on the allocation of public assets;
- (i) present the estimates to Parliament, and supervise and monitor the implementation of the appropriation in an efficient, effective, transparent and accountable manner;
- (j) provide a mid-year report of the fiscal operations and implementation of the appropriation to Parliament;
- (k) manage public assets and contingent liabilities under this Act;
- (l) efficiently and effectively manage funds of the Government, manage revenue and expenditure including monitoring and evaluating the execution of the budget of the Government and for ensuring fiscal policy objectives;
- (m) ensure accounting for finances of the Government through Public Accounts, and laying the report of the Director of Audit before Parliament;
- (n) coordinate international financial relations;
- (o) supervise and guide the financial operation of a Government agency;
- (p) ensure implementation of this Act; and
- (q) perform any other function conferred on him or her by any other law or incidental to the functions specified in paragraphs (a) to (p).

### **Powers of the Minister**

- . 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

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- (c) issue a directive to a Government agency —
  - (i) to supply specified information,
  - (ii) to refrain from spending above a specified expenditure ceiling or making a financial commitment above a specified limit, without his or her prior written approval,
  - (iii) in the case of a statutory body, to submit the accounts of the statutory body to an independent auditor for a special audit or review,
  - (iv) in the case of a disaster, for public financial management prior to and after a disaster,
  - (v) in the case of an emergency, for public financial management during a state of emergency.

### **Delegation of functions and powers**

(1) The Minister may delegate, in writing, any of the functions or powers under this Act, to the Permanent Secretary in the Ministry responsible for finance.

(2) Notwithstanding subsection (1), the Minister remains responsible under this Act.

### **Functions of the Director of Finance**

- . The Director of Finance is responsible for —
  - (a) taking steps to ensure that a directive and instruction given by the Minister and Rules or Regulations made are —
    - (i) brought to the notice of persons directly affected, and
    - (ii) are complied with;
  - (b) advising the Minister 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;

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- (e) advising all accounting officers, including the Accountant General on the implementation and administration of this Act;
- (f) carrying out any function assigned to him or her under this Act.

### **Powers of Director of Finance**

.—(1) The Director of Finance shall —

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

(2) The Director of Finance may delegate, in writing, a power under subsection (1) to a public officer in the Ministry responsible for finance.

### **Powers of Accountant General**

.—(1) 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) require an accounting, financial or transaction-related information, record or explanation from a Government agency, and from a public officer, serving or retired, as may be necessary to perform his or her duties; and

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- (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 is —
  - (i) incorrect or insufficient in content,
  - (ii) contravenes financial instructions issued under this Act,
  - (iii) in his or her opinion, unacceptable in support of of the payment of public money, or
  - (iv) that contravenes this Act.

### **Functions of the Accountant General**

.—(1) Without prejudice to section [ ], the Accountant General shall, for the purposes of this Act, be 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 is maintained and followed by a Government agency of all appropriations made by Parliament;
- (b) preparing Public Accounts for presentation to the Director of Audit;
- (c) making banking arrangements for public money;
- (d) ensuring prompt receipt and deposit of public money into the Consolidated Fund, Contingencies Fund, Sinking Fund, special fund or trust fund;
- (e) ensuring that adequate internal control systems are established and maintained for inflow and outflow of public money, including the use of commitment control system forms

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- and the maintenance of a financial management system;
- (f) ensuring pre-audit or examination of payment instruments to ensure 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 of this Act, Regulations, directives or instructions in the collection of revenue, expenditure, custody of cash, banking arrangements, public assets and other Government funds;
  - (i) ensuring adequate provision exists for the safe custody of public assets, revenue, financial documents, accounting documents and similar documents;
  - (j) ensuring that an outflow and commitment from the Consolidated Fund, the Contingencies Fund, the Sinking Fund, special fund and trust fund are made in accordance with this Act;
  - (k) maintaining the integrity of the Consolidated Fund, Contingencies Fund, Sinking Fund, special fund and trust fund;
  - (l) providing accounting services to government agencies 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.

### **Functions of accounting officer**

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

- (a) preparing estimates of the revenue and expenditure and supplementary estimates and to execute the appropriations for a Government agency;

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- (b) ensuring that a Government agency has a well-functioning financial management system that is efficient and effective, and adheres to propriety and regulatory norms;
- (c) providing proper accounts and financial information pertaining to a Government agency;
- (d) complying with instructions of the Director of Finance and the Accountant General in respect of public finance management;
- (e) designate an officer under his or her control to be a collector of revenues for the collection of any item of revenue for which he or she is accountable;
- (f) supervising and guiding accountable officers of a Government agency to comply with this Act;
- (g) ensuring that effective internal control systems are in place and being adhered to;
- (h) providing a written response to queries received from the Director of Audit, Director of Finance and Accountant General within fourteen days and if a complete reply cannot be given an interim reply shall be supplied;
- (i) collecting, receiving and having custody of public assets;
- (j) implementing all financial operations by using the financial management system for accounting, preparation and execution of the budget;
- (k) ensuring compliance with the Act;
- (l) ensuring that all control systems are functioning well;
- (m) assisting the the chief executive officer or the person in charge of the statutory body in the measurement of performance of the statutory body;
- (n) overseeing all subordinate entities including autonomous agencies and statutory bodies supervised by a Government agency;

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- (o) ensure that all payments from monies under his or her control are properly authorized;
- (p) ensuring the timely reconciliation of all Government accounts including the bank accounts of a Government agency;
- (q) on the request of the Director of Audit, ensuring his or her financial and accounting records are produced for audit,
- (r) carrying out any other functions assigned under this Act.

(2) An accounting officer may delegate his or her functions under subsection [(1)(h) to (n)], in writing, to another public officer under his or her supervision.

(3) The designation of a collector of revenue under subsection (1)(e) for the collection of any item of revenue shall not abate or abridge the personal accountability of the accounting officer making the appointment in respect 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 conversant with the Act, and any rules, regulations or directions made or given under it.

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**PART II  
PUBLIC MONIES**

*Division 1  
Consolidated Fund*

**Payment into the Consolidated Fund**

(1) Subject to the Constitution and except as otherwise provided in this Act, all revenues 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 like method.

**Payment from the Consolidated Fund**

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

- (a) to meet expenditure which is chargeable upon it by the Constitution or any enactment;
- (b) where the payment has been authorised by an Appropriation Act or by a warrant under the hand of the Minister given in accordance with this Act;
- (c) for the purpose of repaying any monies received in error into the Consolidated Fund; or
- (d) for the purpose of paying such sums as may be required for any refund, rebate or drawback where the payment of that refund, rebate or drawback is provided for in any enactment;

(2) Monies shall not be paid out of the Consolidated Fund except in the manner prescribed by this Act.

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(3) Any monies forming part of the Consolidated Fund which are —

- (a) deposited with a bank or other financial institution; or
- (b) invested in an authorised manner,

shall not, for the purpose 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 Constingencies Fund**

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

#### **Administration of Contingencies Fund**

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

(2) The permanent capital of the Contingencies Fund shall not exceed [ ] or such other amount as may be prescribed by the Accountant General with the approval of Parlaiment.

(3) The Accountant General shall keep the Contingencies Fund in a separate account, maintained at a bank account approved by the Minister and shall pay —

- (a) into that account all monies appropriated to that Contingencies Fund by an appropriation law/Act;
- (b) from the Contingencies Fund, without delay, all advances made under section [ ].

#### **Financial statement in respect of Contingencies Fund**

.—(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.

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(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 that Contingencies Fund;
- (b) the person to whom the payment was made;
- (c) the purpose for which the payment was made;
- (d) if the person to whom the payment was made has spent the money for that purpose, a statement to that effect;
- (e) if the person to whom the payment was made has not yet spent the money for that purpose, a statement specifying the reasons for not having done so; and
- (f) a statement indicating how the payment conforms to section [ ].

### **Transfer to the Contingencies Fund**

. 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.

### **Advance from the Contingencies Fund**

.—(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 [ ];
- (c) monies cannot be deferred without serious detriment to the public service.

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

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(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 shall lapse and shall cease to have effect and the advance shall be deemed to have been made for the purpose of the appropriation and shall be accounted for accordingly.

### *Division 3 Sinking Fund*

#### **Establishment of Sinking Fund**

.(1) The Minister may establish a Sinking Fund when debt is being raised.

(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 the Sinking Fund is only for repayment of debt.

#### **Administration of Sinking Fund**

. A Sinking Fund must be administered in the prescribed manner.

### *Division 4 Special Fund*

#### **Establishment of a special fund**

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

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- (2) The 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 considered to be a special fund and to have been established under subsection (1) and the balance standing to the credit of that fund at the close of account on the day prior to the commencement of this Act is considered to have been established under subsection (1) with respect to each special fund.

**Payment and accounting procedures applicable to a special fund**

.—(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 (4) 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.

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### **Closure of special fund**

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

- (a) the money approved by Parliament for that special fund is exhausted;
- (b) a report from the responsible Minister to indicate that the purpose for which the special fund was established has been fulfilled or no longer exist 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 that special fund has expired.

(2) The Minister shall, by notice published in the *Gazette*, following the closure of a special fund under subsection (1), give notice within one month of the date of the closure of a special account.

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

### *Division 5* *Trust Fund*

### **Trust fund**

.—(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 that 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.

## *Public Finance Management Act*

(6) A fund established prior to the commencement of this Act is considered to be a trust fund 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 such trust fund.

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

### **PART III FISCAL POLICY**

#### **Fiscal policy**

. The Minister shall formulate a fiscal policy for the financial year and the two subsequent financial years.

#### **Fiscal policy statement**

(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) shall —

- (a) review the performance of the budget in the previous six months, and its impact on the remainder of the financial year and in the two subsequent financial years based on the prescribed fiscal targets and the fiscal policy;
- (b) contain —
  - (i) a statement on the changes to the economy from the previous review, and reasons for the change,
  - (ii) a statement on the fiscal risks to the economy, and public debt,
  - (iii) 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,
  - (iv) 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.

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### **Strategic plan and annual operation plan**

. A Government agency shall prepare, in the prescribed manner,

—

- (a) a strategic plan;
- (b) an annual operational plan;
- (c) a medium-term expenditure framework.

## **PART IV PREPARATION FOR BUDGET**

### **Fiscal and budget survey**

.—(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 of —

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

### **Budget circular**

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

## *Public Finance Management Act*

### **Guidelines**

.—(1) 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.

(2) An accounting officer shall prepare the estimates in accordance with the guidelines issued under subsection (1).

### **PART V APPROVAL OF ESTIMATES**

#### **Estimates**

. Estimates must —

- (a) comprise revenue and inflows, including donor funds, and expenditure and outflows of the Government, including transfers to lower levels of Government, and other transfers;
- (b) be transparent, accountable; programme, 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 and for the two subsequent financial years, have an indicative aggregate expenditure ceiling;
- (e) contain the estimates balance and the financing required to finance the estimates; and
- (f) contain specific objects of expenditure and specific amounts of appropriation allocated for the specific purpose.

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### **Approval of Estimates**

.—(1) For the purposes of section 79(1) of the Constitution of Saint Lucia, Cap. 1.01, estimates shall be prepared and laid before Parliament no later than thirty days before the end of each financial year.

(2) When the estimates of expenditure, other than expenditure charged on the Consolidated Fund by the Constitution or any other enactment, have been approved by the House of Assembly, a bill known as an Appropriation Bill shall be introduced in the House of Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required for the purposes specified in an Appropriation Bill.

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

(4) If due to a declaration of emergency under section 17 of the Constitution of Saint Lucia, Cap. 1.01, the Minister is unable to cause to be prepared and laid before Parliament estimates, 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 (3), Parliament shall approve the estimates and appropriation Bill no later than thirty days after the end of the financial year.

(6) If the 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, authorise 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 law, 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;

## *Public Finance Management Act*

- (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**

. The appropriation bill shall appropriate a sum not less than half a per cent or a prescribed percentage of the total domestic revenue, as estimated to be paid into the Contingencies Fund.

### **Supplementary Estimates**

.—(1) Without prejudice to section 79(3) of the Constitution of Saint Lucia, Cap. 1.01 —

- (a) Parliament may approve supplementary estimates that exceed the initially approved aggregate budget ceiling but the supplementary estimates must not exceed the percentage of the initially approved estimates as the Minister by Order specifies;
- (b) no more than two supplementary appropriation bills may be introduced in Parliament in a financial year;
- (c) the supplementary appropriation bill must be introduced in Parliament, together with explanatory documents, which includes —
  - (i) proposed amendments to the appropriation law,
  - (ii) other changes to the appropriation law through reallocation with explanations for the changes.

(2) A supplementary estimate may be required for unforeseen and unavoidable expenditure which includes —

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

(3) An Order made under subsection (1)(a) is subject to the

## *Public Finance Management Act*

affirmative resolution of Parliament.

(4) Sections [19 and 20] apply to this section.

### **Publication**

. The Permanent Secretary shall make available to the general public by a public medium —

- (a) the estimates, as soon as it is approved by the standing finance committee;
- (b) the appropriation law, as soon as it is approved by Parliament.

## **PART VI EXECUTION OF APPROPRIATION**

### **Execution of appropriation**

.—(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 the Government agency of the approval of the respective votes in the appropriation.

(3) The Minister may delegate one or more of his or her responsibilities for execution of the appropriation to the Permanent Secretary in the Ministry responsible for finance.

(4) An accounting officer responsible for a Government agency identified in the appropriation law is responsible for the execution of the appropriation.

### **Prohibition against exceeding total budget**

.—(1) A Government agency included in the appropriation law shall not exceed the total budget appropriated to it under the appropriation.

(2) An appropriation must be spent only for the purpose it was appropriated.

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### **Warrants for withdrawal from Consolidated Fund**

. The Minister may, in the prescribed manner and form, 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**

.—(1) The Minister may authorize the Accountant General by General Warrant, to withdraw from the Consolidated Fund money for services appropriated under the appropriation law.

(2) The Minister may 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**

. Where an appropriation law has not come into operation due to extraordinary circumstances under section 20, the Minister shall authorize the Accountant General to withdraw from the Consolidated Fund sums as may be authorized by a Provisional Warrant.

### **Contingencies Fund Warrant**

.—(1) The Minister may, if satisfied that —

- (a) no monies have been appropriated or for which the sum appropriated is insufficient;
- (b) funds cannot be reallocated as provided for in section [31], and funds cannot be deferred without serious detriment to the public service;
- (c) there has arisen an urgent and unforeseen need for expenditure for which no other provision exists,

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

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

(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 shall lapse and shall cease to have effect and the advance is deemed to have been made for the purpose of the appropriation and shall be accounted for accordingly.

(5) In 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**

.—(1) Subject to subsections (2), (3) and (4), an accounting officer may vary the amount appropriated for a classification within an expenditure classification for a financial year by means of a Virement Warrant, if exigencies of the service make it necessary to do so.

(2) A Virement Warrant must direct that saving 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 is not exceeded.

(3) A Virement Warrant —

- (a) for the variation of a personnel emolument in an expenditure classification, must not occur unless it is to personnel expenditure within that classification;
- (b) must not change the policy intent without prior approval of the Minister;

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- (c) must not be made from capital expenditure to recurrent 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**

.—(1) The Minister may, by a Reallocation Warrant direct the accounting officer that savings arising from an 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 to another Ministry;
- (b) must not occur so as to transfer savings of salaries or other employee benefits, unless it is to personnel emoluments in another classification;
- (c) must 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 or breaches the aggregate expenditure ceiling or causes fiscal imbalance.

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

### **Support for warrant**

. A warrant must be supported by the availability of approved estimates.

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### **Suspension, cancellation, limitation or conditions of warrant**

. The Minister may suspend, cancel, limit, or place a condition on 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 suspension, cancellation, limitation or condition is required due to a state of emergency declared under the Constitution of Saint Lucia, Cap. 1.01, or is in the public interest.

### **Financial management system**

.—(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 [Part XIV]

### **Lapse of appropriation and warrant**

.—(1) 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, lapses.

(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**

.—(1) The responsible Minister shall approve multi-year commitments that are within the aggregate ceiling approved by Parliament.

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

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this Act.

(3) Subject to this Act, a contract and other arrangement committing the Government to a payment, by a Government agency, shall be approved by the accounting officer.

(4) Approval of a commitment, by an accounting officer, is subject to 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 and instructions issued by him or her.

(5) An accounting officer shall maintain a record of a commitment and shall follow the prescribed financial management system.

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

### **Investment project**

. An accountable officer or a person designated by an accountable officer is responsible for —

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

## **PART VII INTERNAL AUDIT UNIT**

### **Establishment of the Internal Audit Unit**

.—(1) There is established an Internal Audit Unit to provide risk-based audit coverage of a Government agency.

- (2) The Internal Audit Unit comprises of internal auditors.
- (3) The Internal Audit Unit established under subsection (1) must

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conduct internal audit activity, in the prescribed manner and form, in accordance with international internal auditing standards for regulating internal auditing of a Government agency.

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

#### **Deposit**

.—(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 [44] but a deposit must not be used to finance appropriations.

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

(4) Notwithstanding subsection (1), the Accountant General shall refund a deposit under section 41 to a person who claims to the satisfaction of the Accountant General that he or she has an absolute right to that deposit.

#### **Banking arrangement**

.—(1) 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.

(2) 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 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.

(3) 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.

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(4) 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.

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

### **Refund of money**

. 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 permitted 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**

.—(1) Subject to this section, 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 to abandon or remit a claim by or on behalf of the Government or a public service provided where the amount in a case 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

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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 moveable property belonging to the Government or provides for the public service, or to 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 referred to under subsections (2) and (3) are, or prima facie appear 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 claim against the Government**

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

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

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### **Investment**

.—(1) Parliament may, by affirmative Resolution authorize the Minister to invest public money 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, authorize the investment of public monies in a bank or the purchase of securities in a company.

(3) Where the Minister is authorized to invest monies in a bank or purchase securities in a company under subsection (2), he or she shall immediately —

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

(4) The interest or dividend received from the investment under subsection (1) and (2) must be credited to the Consolidated Fund, the Contingencies Fund or special fund from where the investment was made.

(5) An investment held by or on behalf of the Government on the date of commencement of this Act is deemed to have been made out of money issued from the Consolidated Fund and forms part of 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 special funds.

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

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**PART IX  
ASSET MANAGEMENT**

**Acquisition, use and safe custody**

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

(2) An accounting officer shall, in the case of a government agency that is under the oversight of the Director of Finance, be responsible for the acquisition, safe custody, control, transfer and disposal of all government property in the prescribed manner.

(3) No transfer, lease, loan or gift of property owned by the Government shall be made to a person, except in accordance with this Act.

**Recovery of public assets**

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

- (a) public money that has been advanced to a public officer of a Government agency; or
- (b) public money 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 action in a court of competent jurisdiction.

(2) It is a defence to an action for the recovery of public money from a public officer under subsection (1), if the public officer proves that the loss or deficiency was not caused or contributed to by a failure by him or her to fulfill a duty in relation to the public money.

(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 action in a court of competent jurisdiction from —

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- (a) the public officer in whose care 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 to an action for the recovery from 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 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 as determined by the court.

(6) For the purposes of this section —

- (a) public money is 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 care 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.

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### **Enquiry and report on malfeasance**

. 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**

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

### **Disposal of assets**

(1) Where a transaction involves the disposal of a public asset the principles of honesty, accountability, transparency, fairness and equity apply to the same extent as such principles apply to the public procurement of the asset.

(2) Where a procuring entity intends to dispose of a public asset, the accounting officer of the procuring entity 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 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 designate an appropriate officer to —

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

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(6) Subject to subsection (7) and the approval of the Director of Finance, a department of the Government 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.

(7) Where a department of Government makes a grant under subsection (6), that department of Government must give written notice to the Accountant General and the Director of Audit.

(8) 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.

### **Risk of default**

. The Minister shall ensure that the Government is not at a risk of default.

## **PART X PUBLIC DEBT AND CONTINGENT LIABILITY**

### **Borrowing**

.—(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 establish, with the approval of Parliament, a ceiling on aggregate amount of annual borrowings and stock of debt in the public sector, including a statutory body.

(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**

.—(1) The Minister may, by 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;

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- (b) the purchase of securities issued by a Government or government agency;
- (c) on-lending to any statutory body or public corporation;  
or
- (d) making advances or payments to public officers as authorised by an enactment or the Staff Orders;
- (e) eliminating or mitigating the effects of a disaster.

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

(3) In this section “Staff Orders” means the staff orders for the Public Service of Saint Lucia.

### **Proceeds of Government borrowing**

. 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**

.—(1) The Minister may grant a guarantee in accordance with an enactment or with the prior approval of Parliament.

(2) The Minister shall establish, by a Resolution of Parliament, a ceiling on the aggregate amount of a guarantee given by the Government and may, with the prior approval of Parliament, revise the ceiling.

(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.

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### **Government lending**

.—(1) The Minister may, with the approval 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**

.—(1) Subject to this section, the Minister may, by an advance warrant, authorise 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 subsections (1)(c) and (1)(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.

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### **Imprest warrant**

.—(1) The Minister may, by an imprest warrant, authorise the Accountant General to issue imprests from the Consolidated Fund to officers for any purpose for which monies have been appropriated.

(2) Any 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) Despite subsection (2), where any 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 and Planning determines.

### **Charges on Consolidated Fund**

.—(1) The repayment of a liability arising from Government borrowing under this Act or another enactment is a charge on 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 is a charge on the Consolidated Fund.

(3) All debt charges for which Saint Lucia is liable shall be a charge on 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**

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

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**PART XI  
GRANTS**

**Receipt of grant**

.—(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**

.—(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 the grant**

.—(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 contractors or to a covered entity, the provisions of signage, responsibility and record shall be as prescribed under this Act.

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**PART XII**  
**ACCOUNTING, REPORTING AND AUDIT OF PUBLIC**  
**ACCOUNTS**

**Accounting**

.—(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**

.—(1) The Accountant General shall within three months after the close 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 money 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 within the time stipulated under subsection (1), the Minister may, with prior approval of Parliament, by direction to the Accountant General, extend the period within which the Public Accounts are required to be submitted to the Director of Audit, but no more than 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, within fourteen days of its next sitting.

(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, special funds and trust funds and accounts of a Government agency, on the last day of each financial year and must include reporting against the budget.

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(5) Without prejudice to 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 were 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 Equity;
- (l) an annual abstract of revenue and expenditure by head; and
- (m) other statements as Parliament may require.

(6) The Accountant General may secure the services of skilled professionals in the field of accounting to assist with the preparation

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of the Public Accounts.

### **Reporting**

.—(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 responsible for Finance, provide a report on the performance of revenue and expenditure to the Minister in the terms, format and within the prescribed timeframe.

(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**

.—(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;

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- (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 statutory body**

.—(1) A statutory body shall —

- (a) be subject to the financial oversight of, and be accountable to the responsible Minister and accounting officer, the responsible Minister 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 years of the following financial year 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**

. 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**

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. 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 board or controlling body of statutory body**

. Notwithstanding the provisions of the enactment establishing the statutory body, the Director of Finance, Director of Audit and Accountant General 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 and operational and business plan**

.—(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 and operational plan or a 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 and operational plan or business plan the responsible Minister and the Minister shall

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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 and operational plan or business plan required by this section must be prepared and the procedures for review and approval by a Ministry and the responsible Minister.

### **Accounts and audit**

.—(1) The board or controlling body of a statutory body shall report 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, and in accordance with Regulations made by the Minister specifying the matters to be included in such reports.

(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 appoint reputable private firms 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 engaged by the Director of Audit or engaged under law, for auditing.

(6) A statutory body shall make provision for annual audit fees

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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**

.—(1) A statutory body shall adopt finance management under this Act or any other enactment, and is subject to the public sector scheme of service and employment laws and regulations that apply.

(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.

(3) A statutory body shall open a bank account with the prior 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 or issue instructions 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 Consolidated Fund 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

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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) 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**

.—(1) The board or controlling body of a statutory body shall establish a general policy on dividend in consultation with the responsible Minister and the Minister, and ensure that the policy is adopted and respected 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, guarantees and other contingent liabilities**

.—(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) The Minister may override a financial decision or commitment

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made by a statutory body.

(4) 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**

.—(1) The Chief Justice shall appoint an Inquiry Committee that consists of three persons.

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

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

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

#### **Functions of Inquiry Committee**

. The Inquiry Committee is responsible for —

- (a) investigating a matter referred to it by the Director of Finance;
- (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 [ ];
- (d) reporting its findings and recommendations in writing to the Director of Finance.

#### **Powers of the Inquiry Committee**

. The Inquiry Committee may, in conducting an enquiry into a matter referred to it under section [ ] —

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- (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**

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

- (a) the public officer; and
- (b) a person of interest.

(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**

.—(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

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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**

#### **Power to surcharge**

.—(1) If, at any time, it appears to the Director of Finance that 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 surcharge against that officer the amount which appears to him or her to be the loss suffered by the Government, or the value of the Public asset lost or damaged, or a lesser amount as the Director of Finance determines.

(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 and Planning.

(3) A public officer shall not be surcharged under this section without being heard.

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

#### **Grounds for surcharge**

. A public officer may be surcharged under section 70 on the following grounds —

- (a) failure to collect money owing to the Government, the collection of which the public officer is or was at the time responsible for;
- (b) payment of public money in excess of authorized amounts;

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- (c) making, allowing or directing payment of public money without proper authority, or proper evidence that the amount was due;
- (d) payment of public money 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 money with other money;
- (i) contravention of this Act; or
- (j) failure to comply with a directive or instruction from the Director of Finance.

### **Notification of surcharge**

.—(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 such surcharge.

### **Withdrawal of surcharge**

.—(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 under section [72] of that fact.

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### **Recovery of surcharge**

.—(1) The Accountant General, on being notified of a surcharge under section [72], shall 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 [75] for the lodging of 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**

. A public officer who is aggrieved by a surcharge made against him or her under section 70 may appeal to the Appeals Tribunal, within thirty business days from the date on which he or she is given written notice of the surcharge.

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### **PART XVI APPEALS TRIBUNAL**

#### **Establishment of Appeals Tribunal**

.—(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 [70].

(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**

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

#### **Functions of Appeals Tribunal**

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

#### **Powers of Appeals Tribunal**

- . 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;

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- (d) call on or invite a person or public officer to assist in matters relating to the appeal;
- (e) affirm or set aside a decision of the Director of Finance;
- (f) remit the matter to the Director of Finance for reconsideration;
- (g) confirm the surcharge or direct that the public officer surcharged be released wholly or in part from the surcharge as may appear to be just and reasonable.

### **Removal and resignation**

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

- (a) failing to execute his or her functions as a member by reason of infirmity or mental illness;
- (b) misconduct;
- (c) failing to execute his or her functions as a member without reasonable excuse.

(2) A member of the Appeals Commission 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**

.—(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**

.—(1) A person who is aggrieved by a decision of the Director of Finance, may appeal in writing to the Appeals Tribunal within one month in which he or she is notified of the surcharge.

(2) An application for an appeal must —

- (a) contain the date on which it is signed by the aggrieved

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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 to from the Appeals Tribunal, and

(vii) the reasons in detail for the appeal and materials in support of the application for an appeal.

### **Transmission of appeal documents**

. 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**

.—(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.

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(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**

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

- (a) affirm;
- (b) set aside; or
- (c) vary,

the decision appealed.

(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**

. 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**

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. 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**

.—(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.

## *Public Finance Management Act*

### **Repeal**

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

### **Transition**

.—(1) A loan raised by the Government under the Finance (Administration) Act, Cap. 15.01 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 Finance (Administration) Act, Cap. 15.01 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**

. 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.

Passed in the House of Assembly this    day of                    , 2020.