

THE FINANCE AND AUDIT (AMENDMENT) BILL
(No. VIII of 2008)

Explanatory Memorandum

The objects of this Bill are to amend the Finance and Audit Act to provide for –

- (a) the introduction of Programme-Based Budgeting (PBB) to achieve improvements in fiscal sustainability, allocative efficiency and improve operational efficiency in Government administration;
- (b) the preparation of estimates of expenditure based on programmes and sub-programmes on a 3-fiscal year rolling basis, specifying the resources to be allocated and the outcomes to be achieved and outputs to be delivered with a view to improving the efficiency and effectiveness of expenditures, the estimates for the first year requiring appropriation by the National Assembly;
- (c) the preparation of estimates of revenue on a 3-fiscal year rolling basis;
- (d) the abolition of Capital Fund and the replacement of the Contingencies Fund by a new provision for contingencies;
- (e) the introduction of fiscal rule to improve fiscal discipline;
- (f) the financial year to be a calendar year with effect from 2010 and a budget for the period of 6 months ending 31 December 2009;
- (g) the Director of Audit to carry out performance audit; and
- (h) matters related thereto.

25 April 2008

R. Sithanen
Deputy Prime Minister, Minister of Finance
and Economic Development

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A Bill

To amend the Finance and Audit Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Finance and Audit (Amendment) Act 2008.

2. Interpretation

In this Act –

“principal Act” means the Finance and Audit Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) by deleting the definitions of “Capital Fund”, “Crown Agents”, “estimates” and “financial year”;
- (b) in the definition of “General Orders”, by deleting the words “the General Orders issued” and replacing them by the words “instructions including instructions in the form of Personnel Management Manual issued”;
- (c) by inserting in the appropriate alphabetical order the following new definitions –

“estimates of expenditure” –

- (a) means the annual estimates of expenditure based on programmes and sub-programmes (programme-based budgeting) prepared on a 3-fiscal year rolling basis, specifying the resources to be allocated and the outcomes to be achieved and outputs to be delivered, the estimates for the first year requiring appropriation by the National Assembly; and
- (b) includes any supplementary estimates of expenditure appropriated by the National Assembly;

“estimates of revenue” means the annual estimates of revenue prepared on a 3-fiscal year rolling basis;

“fiscal year” has the same meaning as “financial year” in section 111 of the Constitution;

“investment project” means an intervention relating to acquisition and or preservation of non-financial assets for meeting defined objectives and consisting of a set of interrelated activities to be carried out within a specified budget and a time-schedule;

“outcome” means the likely or achieved short-term and medium-term effects of an activity’s or intervention’s outputs;

“outputs” –

- (a) means the products, goods and services resulting from the carrying out of an activity; and
- (b) includes changes resulting from activities relevant to the achievement of outcomes;

“programme” means a group of activities or interventions intended to contribute to a common set of outcomes, specific objectives and outputs that are verifiable, consisting of a defined target and a given budget including staffing and other necessary resources;

“sub-programme” means the programme hierarchy which breaks programmes into sub-programmes and which in turn break into activities or interventions and is designed to achieve at least one specific objective.

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended –

- (a) in subsection (1) –
 - (i) in paragraph (b), by deleting the word “recurrent”;
 - (ii) by deleting the words “or to the Capital Fund”;
- (b) in subsection (2)(a), by deleting the words “financial year” and replacing them by the words “fiscal year”.

5. Section 4 of principal Act amended

Section 4 of the principal Act is amended, by deleting the words “financial year” wherever they appear and replacing them by the words “fiscal year”.

6. New section 4A inserted in principal Act

The principal Act is amended, by inserting after section 4, the following section –

4A. Fiscal rule

The public sector debt shall be governed by the ceiling referred to in section 7 of the Public Debt Management Act 2008.

7. Section 5 of principal Act repealed and replaced

Section 5 of the principal Act is repealed and replaced by the following section -

5. Provision for contingencies

(1) There shall be in the estimates of expenditure, in every fiscal year, a provision for contingencies to meet urgent and unforeseen expenditure in accordance with subsection (2).

(2) Where the Minister is of opinion that it is necessary to incur expenditure –

(a) on any service –

(i) which, being a new service, is not provided for in the estimates of expenditure; or

(ii) which will result in an excess of the sum provided for that service in the estimates of expenditure,

and the expenditure cannot, without injury to the public service, be postponed; or

(b) in case of natural disasters or other emergencies requiring exceptional expenditure,

he may, by warrant under his hand, authorise from the provision under subsection (1), the payment of the expenditure.

(3) Subject to subsection (4), the provision under section (1) shall not, in a fiscal year, exceed 3 per cent of the total estimates of expenditure excluding estimates in respect of investment projects for that fiscal year.

(4) The percentage referred to in subsection (3) shall, in each fiscal year, be reduced so that, in the fiscal year ending 31 December 2012, the percentage shall not exceed 2 per cent, and that percentage shall remain the ceiling for every subsequent fiscal year.

(5) Where in any fiscal year, expenditure is required to be incurred in excess of the provision under subsection (1), the expenditure shall, unless determined by the Minister to be incurred for the purposes of section 5(2)(b), be earmarked to be incurred in the following fiscal year.

(6) Where, in a fiscal year, there is an increase in the percentage pursuant to subsection (5), the Minister shall present a plan to the Cabinet describing how, within the 2 fiscal years immediately following that fiscal year, the average annual percentage of the provisions for contingencies to the estimates of expenditure shall be restored to the percentage referred to in subsection (4).

8. Section 6 of principal Act amended

Section 6 of the principal Act is amended –

- (a) in subsection (1)(b), by deleting the words “or the Capital Fund”;
- (b) in subsection (2) –
 - (i) by deleting the words “or an advance to or on account of the Capital Fund,”;
 - (ii) by deleting the words “financial year” and replacing them by the words “fiscal year”.

9. Section 8 of principal Act amended

Section 8 of the principal Act is amended, in subsection (1), by deleting the words “or to the Capital Fund”.

10. Section 9 of principal Act amended

Section 9 of the principal Act is amended, by inserting the following subsection at the beginning, the existing subsection (1) being renumbered (1A) accordingly –

(1) No proposal for the creation of a new Special Fund shall be made save in exceptional circumstances and with the prior approval of the Minister.

11. Section 10 of principal Act repealed

Section 10 of the principal Act is repealed.

12. Section 16 of principal Act amended

Section 16 of the principal Act is amended, by inserting after subsection (1), the following subsection –

(1A) The Director of Audit shall carry out performance audit and report on the extent to which a Ministry, Department or Division is applying its resources and carrying out its operations economically, efficiently and effectively.

13. New section 17A inserted in principal Act

The principal Act is amended, by inserting after section 17, the following section –

17A. Immunity

(1) No action shall lie against the Office of the Director of Audit, the Director of Audit or any officer of his staff, in respect of any act done or omitted to be done by the Office of the Director of Audit and by the Director of Audit or any officer of his staff during or after his appointment, in the execution in good faith, of its or his functions under the Act.

(2) This section shall be in addition to and not in derogation of the Public Officers' Protection Act.

14. Section 19 of principal Act amended

Section 19 of the principal Act is amended –

- (a) in subsections (1) and (4), by deleting the words “financial year” wherever they appear and replacing them by the words “fiscal year”;
- (b) in subsection (3) –
 - (i) by inserting after paragraph (a), the following paragraph -
 - (aa) a statement of receipts and payments;
 - (ii) by deleting paragraphs (c) and (e);
 - (iii) in paragraph (d), by inserting after the words “statement of expenditure”, the words “by programmes and sub-programmes”;
 - (iv) by inserting after paragraph (d), the following paragraph –
 - (dd) a progress report on performance in respect of outcomes achieved and outputs delivered;
 - (v) by deleting paragraph (j) and replacing it by the following paragraph –
 - (j) a statement of public sector debt;
 - (vi) by deleting paragraph (k).

15. Section 20 of principal Act amended

Section 20 of the principal Act is amended, in subsection (1), by deleting the words “financial year” and replacing them by the words “fiscal year”.

16. Section 20A of principal Act amended

Section 20A of the principal Act is amended –

- (a) by deleting the heading and replacing it by the following heading –

Financial activities

- (b) in subsection (1), by deleting the word “trading,”.

17. Section 22 of principal Act amended

Section 22 of the principal Act is amended –

- (a) in subsection (1), by deleting paragraph (e) and replacing it by the following paragraph –

(e) the preparation of estimates of revenue and estimates of expenditure;

- (b) in subsection (2), by adding after the words “the Minister shall direct”, the words “and shall include instructions in the form of the Financial Management Manual (FMM) and the Programme-Based Budgeting Manual (PBBM);

- (c) by adding after subsection (2), the following subsection –

(2A) Every public officer shall, in the performance of his duties, comply with the financial instructions issued under this section.

18. New sections 22A and 22B inserted in principal Act

The principal Act is amended, by inserting after section 22, the following sections -

22A. Investment Project Process Manual (IPPM)

(1) The Minister to whom responsibility for the subject of public infrastructure is assigned shall, after consultation with the Minister, issue instructions including instructions in the form of Investment Project Process Manual for better -

- (a) organising the investment projects process;
- (b) developing a single window system for approval of projects;
- (c) establishing best practices in budget expenditure in respect of investment projects based on Programme-Based-Budgeting principles;
- (d) developing a well defined long-term pipeline of projects;

- (e) ensuring active participation of the implementing Ministry or Department in the process leading to a timely completion of projects within the approved budget.

(2) Every public officer shall, in the performance of his duties, comply with the instructions referred to in subsection (1).

22B. Non-compliance with instructions

Where a public officer does not comply with –

- (a) the General Orders;
- (b) financial instructions issued under section 22; or
- (c) instructions issued under section 22A,

the responsible officer may refer the matter to the appropriate Service Commission for disciplinary action.

19. Section 23A of principal Act amended

Section 23A of the principal Act is amended, by adding the following subsections, the existing provision being numbered (1) accordingly –

(2) The balance of the Capital Fund as at 30 June 2008 shall, on 1 July 2008, be transferred to the Consolidated Fund.

(3) Notwithstanding the repeal of section 5, the total amount of advances made from the Contingencies Fund shall be cleared upon the passing of the Supplementary Appropriation Bill in respect of the financial year ending 30 June 2008.

20. Section 24 of principal Act amended

Section 24 of the principal Act is amended, in subsection (2), by deleting paragraph (b), the word “and” being added at the end of paragraph (a).

21. Transitional provisions

The Minister shall present estimates of revenue and estimates of expenditure in respect of the period of 6 months ending 31 December 2009.

22. Consequential amendments

(1) For the purposes of section 111 of the Constitution, “financial year” means the period of 12 months ending on 31 December in any year.

(2) The Bank of Mauritius Act 2004 is amended –

(a) in section 2, in the definition “Government’s recurrent revenue” –

(i) by deleting the word “recurrent”;

(ii) by deleting paragraph (a) and replacing it by the following paragraph –

(a) means the total estimated –

(i) budget revenue as laid before the National Assembly;

(ii) budget revenue, whether from the recurrent or capital budget, as laid before the Rodrigues Regional Assembly,

for any financial year; but

(b) in section 6(1)(j), by deleting the words “Government’s recurrent revenue” and replacing them by the words “Government’s revenue excluding grants and receipts of a capital nature”.

(3) The International Financial Organisations Act is amended, in section 4, by deleting the words “Capital Fund” wherever they appear and replacing them by the words “Consolidated Fund”.

(4) The Rodrigues Regional Assembly Act 2001 is amended –

(a) in section 51(1)(b), by deleting the words “an advance from the Contingencies Fund” and replacing them by the words “disbursements from the provision for contingencies made pursuant to the Finance and Audit Act”;

(b) in section 52, by inserting after subsection (1), the following subsection -

(1A) Notwithstanding subsection (1), the instructions in the form of Programme-Based Budgeting Manual (PBBM) referred to in section 22(2) of the Finance and Audit Act shall not apply to Rodrigues and the accounts of the Regional Assembly.

(c) by inserting after section 52, the following section –

52A. Other instructions

All instructions issued under section 22A of the Finance and Audit Act shall apply to Rodrigues and the Regional Assembly.

23. Commencement

(1) This Act shall, subject to subsections (2) and (3), come into operation on 1 July 2008.

(2) Section 22(1) shall come into operation on 1 July 2009.

(3) Section 22A of the principal Act shall come into operation on 1 October 2008.