

BILL NO. 25 OF 2016

A BILL

FOR AN ACT TO AMEND THE FINANCIAL MANAGEMENT ACT 2004

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Financial Management (Amendment) Act 2016.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.
- (3) In this Act, the Financial Management Act 2004 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—
 - (a) in the definition of “Annual Appropriation Act”, deleting “the House of Representatives” and substituting “Parliament”;
 - (b) deleting the definition of “chief executive officer” and substituting the following—

““permanent secretary” means—

 - (a) in relation to a department, the person who is responsible under section 127 of the Constitution of the Republic of Fiji for the management of the department; and

- (b) in relation to any other state entity, the person designated as or performing the functions of the head of the entity, however that designation is expressed;”;
- (c) in the definition of “company”, deleting “Companies Act (Cap. 247)” and substituting “Companies Act 2015”;
- (d) in the definition of “department”, deleting “section 110 of the Constitution” and substituting “section 127 of the Constitution of the Republic of Fiji”;
- (e) in the definition of “financial year”, deleting “a year ending on and including 31st December or such other date” and substituting “a 12-month period beginning on and including 1 August and ending on and including 31 July, or such other dates”;
- (f) in the definition of “quarter”, deleting “March, June, September or December” and substituting “October, January, April or July”; and
- (g) deleting the definition of “parliamentary body” and substituting the following—

““constitutional body” means any body created or continued under the Constitution of the Republic of Fiji;”

Section 10 amended

3. Section 10 of the Principal Act is amended by deleting “section 176 of the Constitution” and substituting “section 140 of the Constitution of the Republic of Fiji”.

Section 11 amended

4. Section 11 of the Principal Act is amended by deleting “section 177 of the Constitution” and substituting “section 141 of the Constitution of the Republic of Fiji”.

Section 12 deleted

5. The Principal Act is amended by deleting section 12.

Section 13 amended

6. Section 13 of the Principal Act is amended by—

- (a) in subsection (1)—
 - (i) deleting “On or before 30th November in” and substituting “Prior to the beginning of”; and
 - (ii) deleting “the House of Representatives and the Senate” and substituting “Parliament”; and
- (b) in subsection (2), deleting “section 176(2) of the Constitution” and substituting “section 140(2) of the Constitution of the Republic of Fiji”.

Section 19 amended

7. Section 19 of the Principal Act is amended in subsection (3) by deleting “the year” and substituting “the financial year”.

Section 21 amended

8. Section 21 of the Principal Act is amended in subsection (5) by deleting “section 103 of the Constitution” and substituting “section 92 of the Constitution of the Republic of Fiji”.

Section 23 amended

9. Section 23 of the Principal Act is amended by—

- (a) in subsection (1), deleting “section 178 of the Constitution” and substituting “section 142 of the Constitution of the Republic of Fiji”; and
- (b) deleting “the year” and substituting “the financial year” wherever it appears.

Section 33 amended

10. Section 33 of the Principal Act is amended by deleting “Public Service Act 1999” and substituting “Civil Service Act 1999”.

Section 43 amended

11. Section 43 of the Principal Act is amended by—

- (a) in subsection (1), deleting “the House of Representatives” and substituting “Parliament”; and
- (b) in subsection (2)(b), deleting “the House” and substituting “Parliament”.

Section 44 amended

12. Section 44 of the Principal Act is amended by—

- (a) in subsection (1), deleting “the House of Representatives” and substituting “Parliament”; and
- (b) in subsection (2)(b), deleting “the House” and substituting “Parliament”.

Section 45 amended

13. Section 45 of the Principal Act is amended by deleting “the House of Representatives” and substituting “Parliament” wherever it appears.

Section 48 amended

14. Section 48 of the Principal Act is amended in subsection (1)(f) by deleting “specified in the most recently tabled strategic policy statement under section 12”.

Section 49 amended

15. Section 49 of the Principal Act is amended by—

- (a) deleting “the House of Representatives” and substituting “Parliament” wherever it appears;
- (b) in subsection (3)(b), deleting “the House” and substituting “Parliament”; and
- (c) in subsection (4)(a), deleting “the year” and substituting “the financial year”.

Section 51 amended

16. Section 51 of the Principal Act is amended in subsection (2)(b) by deleting “the House of Representatives” and substituting “Parliament”.

Section 55 amended

17. Section 55 of the Principal Act is amended in subsection (1)(c) by deleting “the House of Representatives” and substituting “Parliament”.

Section 59 amended

18. Section 59 of the Principal Act is amended by deleting “the House of Representatives” and substituting “Parliament” wherever it appears.

Section 62 amended

19. Section 62 of the Principal Act is amended in subsection (1) by deleting “the House of Representatives” and substituting “Parliament”.

References to chief executive officer

20. The Principal Act is amended by—

- (a) except in paragraph (b)(ii) of the definition of “responsible authority”, deleting “chief executive officer” and substituting “permanent secretary” wherever it appears; and
- (b) deleting “chief executive officers” and substituting “permanent secretaries” wherever it appears.

References to parliamentary body

21. The Principal Act is amended by—

- (a) deleting “parliamentary body” and substituting “constitutional body” wherever it appears; and
- (b) deleting “parliamentary bodies” and substituting “constitutional bodies” wherever it appears.

Section 84 amended

22. The Principal Act is amended by deleting section 84 and substituting the following—

“Transitional provision for change in financial year

84.—(1) For the purpose of this section, “2016 financial year” means the period beginning on and including 1 January 2016 and ending on and including 31 July 2016.

(2) The financial year for any entity that tables an annual report containing its audited accounts in Parliament shall continue as it currently is unless otherwise provided for in any written law or determined by the Minister or the governing body of the entity, as applicable.

(3) Section 43(1) does not apply for the 2016 financial year and the Minister must table in Parliament an appropriation statement for the following periods—

(a) 1 January 2016 to 31 March 2016; and

(b) 1 April 2016 to 31 July 2016.

(4) Section 44 does not apply for the 2016 financial year.

(5) For the purpose of section 48(1) for the 2016 financial year, the “2 previous financial years” shall be taken to be—

(a) 1 August 2014 to 31 July 2015; and

(b) 1 August 2015 to 31 July 2016.”

Schedule 3 deleted

23. The Principal Act is amended by deleting Schedule 3.

Consequential

24.—(1) The Interpretation Act (Cap. 7) is amended by deleting the definition of “financial year”.

(2) The Audit Act (Cap. 70) is amended by—

(a) in section 6(1)(b)(ii), deleting “under the Financial Management Act 2004”;

(b) in section 2, inserting the following new definition—

““financial year” means the financial year to which the audit relates;”;

(c) in section 12(1), inserting “financial” before “year”.

FINANCIAL MANAGEMENT (AMENDMENT) BILL 2016

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Financial Management (Amendment) Bill 2016 (**'Bill'**) seeks to amend the Financial Management Act 2004 (**'Act'**).
- 1.2 As announced on 28 March 2016, the Government intends to change the fiscal year from '1 January to 31 December' to '1 August to 31 July'.

2.0 CLAUSES

- 2.1 As a result of the change in fiscal year, the following sections of the Act are amended.
- 2.2 The definition of "financial year" in section 2 of the Act is amended so that it reads:
- "financial year" means a 12-month period beginning on and including 1 August and ending on and including 31 July, or such other dates as the Minister may from time to time determine, either generally or for any particular state entity.
- 2.3 Given the change to the definition of "financial year", the definition of "quarter" is amended so that it reads:
- "quarter" means a period of 3 months ending with the month of October, January, April or July.
- 2.4 Section 12 of the Act, which currently requires the Minister to table a strategic policy statement in Parliament, will be deleted. This is because the requirements of section 12, which essentially relate to the Government's broad objectives, financial targets and limits for the following financial years, as well as comparative figures, will be outlined in the annual budget that the Minister tables in Parliament.

- 2.5 It is rather short-sighted and unreasonable to set targets without thoroughly ascertaining the overall fiscal policies and the intended initiatives for the new budget. On the other hand, all new policy initiatives will be thoroughly assessed to ensure it is fiscally sustainable and is aligned to the policy priorities of the State.
- 2.6 Section 13(1) of the Act is amended given the change in the definition of “financial year”. With the amendment, the Minister will be required to table in Parliament the budget papers for an annual budget for the next financial year prior to the beginning of the financial year.
- 2.7 All references to “House of Representatives” and “Senate” in the Act are amended to “Parliament”.
- 2.8 All references to “parliamentary body” and “parliamentary bodies” in the Act are amended to “constitutional body” and “constitutional bodies” respectively.
- 2.9 All references to “chief executive officer” and “chief executive officers”, in the context of a head of a department or state entity, are amended to “permanent secretary” and “permanent secretaries” respectively.
- 2.10 The Act is also amended in various sections where references to the 1997 Constitution and the Companies Act (Cap. 247) are made. The amendments provide for analogous provisions in the Constitution of the Republic of Fiji and the Companies Act 2015.
- 2.11 Transitional provisions have also been inserted to ensure the proper transition into the new fiscal year.
- 2.12 The Interpretation Act (Cap. 7) and the Audit Act (Cap. 70) are also amended to ensure consistency.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for finance.

A. SAYED-KHAIYUM
Attorney-General

