

ACT NO. 34 OF 2021

I assent.

J. K. KONROTE
President

[30 July 2021]

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 2021.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette, except for section 35 which comes into force 2 years after the enactment of this Act.

(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 subsection (1)—

(i) in the definition of “borrowing”, deleting “(including by way of bonds or treasury bills)” and substituting “, issuance of debt security”;

(ii) after the definition of “control”, inserting the following new definition—

““debt security” means any bond, note, debenture, bill of exchange, treasury bill or any other security representing part of government debt;”;

- (iii) after the definition of “department”, inserting the following new definition—
 - ““economic shock” means a pandemic, a climate-related event or any unforeseen event that significantly threatens, or has a large-scale adverse impact on, Fiji’s economy;”;
- (iv) after the definition of “Government company”, inserting the following new definition—
 - ““internal auditor” means a person who conducts an internal audit of an entity by gathering relevant and objective information in relation to the entity and independently and objectively evaluating the operations of the entity;”;
- (v) after the definition of “loss”, inserting the following new definitions—
 - ““medium term” means not less than 3 years and not more than 5 years or any other term as may be prescribed by the Minister in the Finance Instructions;
 - “Minister” means the Minister responsible for finance;”;
- (vi) deleting the definition of “permanent secretary” and substituting the following—
 - ““permanent secretary”, in relation to a department, means the person who is responsible under section 127 of the Constitution of the Republic of Fiji for the management of the department;”;
- (vii) after the definition of “person”, inserting the following new definition—
 - ““Procurement Regulations” means the regulations issued under section 30 and in force for the time being;”;
- (viii) deleting the definition of “public money” and substituting the following—
 - ““public money” means all money received by or on behalf of the Government, including the proceeds of all loans raised on behalf of the Government, State revenue and any other money that the Minister or the permanent secretary responsible for finance directs to be paid into any bank account held by the Government, but does not include trust money;”;
- (ix) in the definition of “standard expenditure group”, deleting “annual”;
- (x) in the definition of “State revenue”—
 - (A) in paragraph (a) after “fees”, inserting “and charges”;
 - (B) in paragraph (f), deleting “,” and substituting “;”; and

- (C) after paragraph (f), inserting the following new paragraph—
- “(g) dividends from government investments, profits and repatriation from the Reserve Bank of Fiji, interest income, receipt from repayment of loans and reimbursements,”; and
- (xi) after the definition of “statutory authority”, inserting the following new definition—
- ““Supplementary Appropriation Act” means an Appropriation Act that has been introduced in Parliament as a Bill as part of the budget papers for a supplementary budget under section 13B;”; and
- (b) in subsection (3) after “fee”, inserting “or charge”.

Section 5 amended

3. The Principal Act is amended by deleting section 5 and substituting the following—

“Principles of responsible fiscal management

5. The management of the public finances of the Republic of Fiji, including the preparation and execution of a budget, is to be guided by the following principles—

- (a) Accountability: the Government is accountable to Parliament for the way it carries out its responsibilities in relation to the management of public finances;
- (b) Comprehensiveness: all revenue and expenditure must be included and appropriated in the budget and recorded on a gross basis;
- (c) Fiscal discipline: the budget must be prepared in accordance with a medium term fiscal framework and the Government must ensure that it meets its fiscal objectives as specified in the fiscal strategy subject to economic shocks;
- (d) Specificity: all expenditure of budget sector agencies must be made solely for the specific purpose of appropriations;
- (e) Sustainability: the budget must achieve and maintain a prudent level of outstanding government debt and an appropriate balance between revenue and expenditure subject to economic shocks;
- (f) Transparency: the roles of those entrusted with financial management functions must be clearly specified in this Act or any subsidiary legislation made under this Act, and timely and reliable financial information on the budget, budget sector agencies and off-budget State entities must be made publicly available; and
- (g) Value for money: all expenditure of budget sector agencies must be made through the effective, efficient, economical, equitable and ethical utilisation of financial and non-financial resources to achieve the best possible development outcomes over the life of an activity related to the expenditure.”.

Section 6 amended

4. The Principal Act is amended by deleting section 6 and substituting the following—

“General responsibility of the Minister on fiscal management

6. The Minister is responsible for managing the financial affairs of the Government in accordance with the requirements of the Constitution of the Republic of Fiji, this Act and the principles of responsible fiscal management, including the following—

- (a) managing revenue and expenditure in such a way as to achieve prudent levels of debt;
- (b) managing prudently the fiscal risks of the Government;
- (c) ensuring that a fiscal strategy considers the likely impact of the fiscal strategy on present and future generations and the interaction between fiscal policy and monetary policy; and
- (d) ensuring that the Government’s financial resources are managed effectively and efficiently.”.

Section 6A inserted

5. The Principal Act is amended after section 6 by inserting the following new section—

“Responsibilities of permanent secretary responsible for finance

6A. Subject to the provisions of this Act, the permanent secretary responsible for finance is responsible for the following—

- (a) performing the functions and duties specified under this Act and any subsidiary legislation made under this Act to be the functions and duties of the permanent secretary responsible for finance;
- (b) the administration of the Ministry;
- (c) advising the Minister on matters pertaining to the implementation of this Act and any subsidiary legislation made under this Act; and
- (d) assisting the Minister in the discharge of his or her responsibilities under this Act and any other written law.”.

Section 7 amended

6. Section 7 of the Principal Act is amended by—

- (a) in the heading, deleting “financial” and substituting “fiscal”; and
- (b) deleting “financial management” wherever it appears and substituting “fiscal management”.

Section 10 amended

7. Section 10 of the Principal Act is amended by deleting subsection (3) and inserting the following new subsections—

“(3) Notwithstanding subsection (2), upon the dissolution of a trust, any trust money remaining, that is unclaimed for a period of one year after having become repayable to the depositor or payable to any other person entitled thereto, is, subject to any written law dealing with such trust, together with interest, if any, deemed to be public money and must be paid into the Consolidated Fund.

(4) If any person claims any trust money which has been deemed to be public money under this section, and establishes a claim to the satisfaction of the permanent secretary responsible for finance, the money must be paid to that person out of the Consolidated Fund, without further appropriation than this Act.

(5) Other money within the meaning of this Act may, subject to the Finance Instructions, be paid into the Consolidated Fund.”.

Section 12 inserted

8. The Principal Act is amended before section 13 by inserting the following new section—

“Fiscal strategy

12.—(1) The Ministry must prepare a fiscal strategy which—

- (a) is to be based on the principles of responsible fiscal management;
- (b) sets out the Government’s fiscal objectives for the medium term;
- (c) sets out the Government’s financial targets or limits for the medium term, relating to—
 - (i) revenue, expenditure and borrowing as a proportion of gross domestic product;
 - (ii) government debt stock and government debt servicing as a proportion of gross domestic product; and
 - (iii) contingent liabilities as a proportion of gross domestic product;
- (d) reviews the performance of the previous 2 financial years against the financial targets or limits for the medium term and includes a statement comparing the financial targets or limits with, for each type of financial target or limit, the actual results for the previous 2 financial years; and
- (e) reviews the performance of the current financial year against the financial targets or limits for the medium term and includes a statement comparing the financial targets or limits with an estimate of the results for the current financial year.

(2) The Minister must submit the fiscal strategy to Cabinet for approval no later than 6 months before the annual budget.

(3) The Minister must, at the sitting of Parliament immediately after the fiscal strategy is approved by Cabinet, table the fiscal strategy in Parliament for Parliament’s information only.

(4) The permanent secretary responsible for finance must publish the fiscal strategy on an official government website on the same day the fiscal strategy is tabled in Parliament.”.

Section 13 amended

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

(a) in subsection (2)(c)—

- (i) in subparagraph (viii), deleting “;” and substituting “.”; and
- (ii) deleting subparagraph (ix); and

(b) after subsection (4), inserting the following new subsection—

“(5) The permanent secretary responsible for finance must publish on an official government website—

- (a) the proposed annual budget on the same day the budget papers are tabled in Parliament;
- (b) the annual budget approved by Parliament no later than one week after the date the annual budget is approved by Parliament; and
- (c) a user-friendly summary of the annual budget within one month after the date the annual budget is approved by Parliament.”.

Sections 13A and 13B inserted

10. The Principal Act is amended after section 13 by inserting the following new sections—

“Deviation from fiscal strategy

13A.—(1) The Ministry must not deviate from the fiscal strategy unless—

- (a) an economic shock occurs;
- (b) the effects of the economic shock cannot be accommodated through the annual budget; and
- (c) the deviation is approved by Cabinet.

(2) If the Ministry deviates from the fiscal strategy, the Minister must, as soon as practicable, inform Parliament of the deviation and the reason for the deviation.

Supplementary budget

13B.—(1) The annual budget may be amended during a financial year through a supplementary budget approved by Parliament.

(2) The Minister must table in Parliament a supplementary budget when changing the total expenditure, borrowing or revenue of an annual budget as a result of a deviation from the fiscal strategy.

(3) A supplementary budget must include—

- (a) a Bill for a Supplementary Appropriation Act;
- (b) the budget estimates; and
- (c) the reason for the supplementary budget.

(4) The permanent secretary responsible for finance must publish on an official government website—

- (a) the proposed supplementary budget on the same day the budget papers are tabled in Parliament;
- (b) the supplementary budget approved by Parliament no later than one week after the date the supplementary budget is approved by Parliament; and
- (c) a user-friendly summary of the supplementary budget within one month after the date the supplementary budget is approved by Parliament.”.

Section 17 amended

11. Section 17 of the Principal Act is amended by deleting “permanent secretary” wherever it appears and substituting “responsible authority”.

Section 18 amended

12. Section 18 of the Principal Act is amended by deleting “Annual”.

Section 19 amended

13. Section 19(1) of the Principal Act is amended by deleting “Annual”.

Section 21 amended

14. Section 21 of the Principal Act is amended by—

- (a) in subsection (1), deleting “most recent Annual Appropriation Act or in the budget estimates tabled with the Bill for that Act” and substituting “Appropriation Act in force or in the budget estimates”; and
- (b) in subsection (3), deleting “most recent Annual Appropriation Act” and substituting “Appropriation Act in force”.

Section 22 amended

15. Section 22 of the Principal Act is amended by—

- (a) deleting “most recent Annual Appropriation Act” wherever it appears and substituting “Appropriation Act in force”; and

- (b) in subsection (4), deleting “an Annual Appropriation Act after the authorisation is given, unless it is included in an earlier Appropriation Act” and substituting “the next Appropriation Act after the authorisation is given”.

Section 24 amended

16. Section 24 of the Principal Act is amended by —

- (a) in subsection (2), deleting “an Annual Appropriation Act after the expenditure is incurred and paid, unless it is included in an earlier Appropriation Act” and substituting “the next Appropriation Act after the expenditure is incurred and paid”; and
- (b) in subsection (3), deleting “most recent Annual Appropriation Act” and substituting “Appropriation Act in force”.

Section 27A inserted

17. The Principal Act is amended after section 27 by inserting the following new section —

“Pre-election economic and fiscal update

27A.—(1) The Minister must, within 14 days after the commencement of the campaign period for a general election, ensure that a pre-election economic and fiscal update prepared by the Ministry is published on an official government website.

(2) The pre-election economic and fiscal update must outline—

- (a) the current fiscal performance and outlook of the economy for the medium term;
- (b) the level of debt stock;
- (c) contingent liabilities;
- (d) major fiscal risks; and
- (e) any other socio-economic indicators.

(3) In this section, “campaign period” has the meaning given in section 2 of the Electoral Act 2014.”.

Section 28 amended

18. Section 28(1) of the Principal Act is amended by deleting paragraph (l) and inserting the following new paragraphs—

- “(l) the monitoring, maintenance and management of assets to maximise useful life, including transparency in the sale, transfer and disposal of assets;
- (m) the creation and maintenance of a risk management framework; and
- (n) any other responsibilities assigned by or under other provisions of this Act or any other written law.”.

Section 28A inserted

19. The Principal Act is amended after section 28 by inserting the following new section—

“Procurement plan and cash flow forecast

28A.—(1) The responsible authority for a budget sector agency must provide a procurement plan and cash flow forecast to the Ministry within 2 weeks after the commencement of an Appropriation Act.

(2) If a responsible authority does not provide the procurement plan or cash flow forecast required under subsection (1), the permanent secretary responsible for finance may limit the power of the responsible authority to incur expenditure of money appropriated to the budget sector agency until such time a satisfactory procurement plan or cash flow forecast is provided.”.

Section 29 amended

20. Section 29 of the Principal Act is amended by—

- (a) renumbering the provision as section 29(1); and
- (b) after subsection (1), inserting the following new subsections—

“(2) Subject to this Act, the Minister may limit or suspend any expenditure of money by a budget sector agency or off-budget State entity under an Appropriation Act or budget estimates if—

- (a) the budget sector agency or off-budget State entity contravenes the Constitution of the Republic of Fiji, this Act or any other written law;
- (b) the budget sector agency or off-budget State entity contravenes, or acts against or in opposition to, a government policy approved by Cabinet; or
- (c) the financial situation of the Government warrants the limiting or suspension of the expenditure.

(3) Subsection (2) does not apply to a budget sector agency or off-budget State entity that has been appropriated adequate funding and resources by Parliament in accordance with the Constitution of the Republic of Fiji to enable it to independently and effectively exercise its powers and perform its functions.”.

Part 5 amended

21. Part 5 of the Principal Act is amended by—

- (a) in Division 1 in the heading, deleting “PERMANENT SECRETARIES AND OTHER”; and

(b) in Division 2—

- (i) in the heading after “INSTRUCTIONS”, inserting “AND PROCUREMENT REGULATIONS”;
- (ii) in section 30—
 - (A) in the heading after “Instructions”, inserting “and Procurement Regulations”; and
 - (B) after “Instructions”, inserting “and Procurement Regulations”;
- (iii) deleting section 31 and substituting the following—

*“Application of and compliance with Finance Instructions
and Procurement Regulations*

31.—(1) Subject to section 37A, the Finance Instructions and Procurement Regulations apply to, and must be complied with by, budget sector agencies and may apply differently to different budget sector agencies or classes of budget sector agencies.

(2) In this section, “budget sector agencies” does not include Fiji Roads Authority and Water Authority of Fiji.”; and

- (iv) after section 32, inserting the following new section—

“Contents of Procurement Regulations

32A. Regulations governing procurement under this Act may prescribe matters that are required or permitted by this Act to be prescribed for the purposes of procurement or are necessary or convenient to be prescribed for the purposes of procurement, including any of the following—

- (a) guiding principles that govern procurement;
- (b) establishment and functions of a central regulation and administration office for procurement;
- (c) establishment and functions of the approving authorities for procurement;
- (d) general control of procurement, including the process of sourcing from planning to disposal; and
- (e) disclosure and reporting requirements for procurement for budget sector agencies.”.

Part 6 amended

22. Part 6 of the Principal Act is amended in Division 1 by—

- (a) in the heading, deleting “BOARDS AND OTHER”;

(b) in section 37, deleting paragraph (e) and inserting the following new paragraphs—

“(e) the monitoring, maintenance and management of physical assets to maximise useful life, including transparency in the sale, transfer and disposal of physical assets;

(f) the creation and maintenance of a risk management framework; and

(g) any other responsibilities assigned by or under other provisions of this Act or any other written law.”; and

(c) in section 37A(5), deleting “regulations governing procurement under this Act” and substituting “Procurement Regulations”.

Section 44 amended

23. Section 44(2) of the Principal Act is amended by—

(a) in paragraph (a), deleting “2” and substituting “3”; and

(b) in paragraph (b), deleting “second” wherever it appears and substituting “third”.

Section 50 amended

24. Section 50(2)(a) of the Principal Act is amended by deleting “permanent secretary of” and substituting “responsible authority for”.

Section 52 amended

25. Section 52 of the Principal Act is amended by—

(a) in subsection (2)(a), deleting “chairperson and the permanent secretary” and substituting “responsible authority”; and

(b) deleting subsection (3).

Section 55 amended

26. Section 55 of the Principal Act is amended after subsection (1) by inserting the following new subsections—

“(1A) Subject to the provisions of any other Act and financial asset management strategy, if any, the Minister may invest in a company by way of capital contribution appropriated by Parliament.

(1B) All rights and powers attaching to the shares in a company, including the power of sale or disposition, held by the Government are to be exercised by the Government in accordance with this Act and any subsidiary legislation made under this Act.”.

Section 59 amended

27. Section 59 of the Principal Act is amended by—

(a) in subsection (1)(c), deleting “\$20 million” and substituting “\$50 million”; and

(b) after subsection (2), inserting the following new subsection—

“(3) For the avoidance of doubt, only the net increase in treasury bill stock and any outstanding overdrafts and advances at the end of a financial year are to be attributed to the borrowing limit as specified in an Appropriation Act for that financial year.”.

Section 59A inserted

28. The Principal Act is amended after section 59 by inserting the following new section—

“Debt management strategy

59A.—(1) The Ministry must—

- (a) prepare a debt management strategy which sets out the Government’s plans to source financing and manage associated costs and risks; and
- (b) review any debt management strategy in place and make any amendment, where required.

(2) The objectives of a debt management strategy are to—

- (a) minimise the medium to long term cost of government debt within prudent levels of risk; and
- (b) support the development of a well-functioning domestic market for debt securities.

(3) The permanent secretary responsible for finance must publish the debt management strategy on an official government website.”.

Section 60 amended

29. Section 60 of the Principal Act is amended by—

- (a) deleting the heading and substituting “Debt management operations”; and
- (b) deleting subsection (2) and inserting the following new subsections—

“(2) The Minister must approve debt management operations which include call options, bond switches and buy backs, which are consistent with the debt management strategy to achieve the necessary government objectives to manage debt.

(3) A transaction or an arrangement or operation of a kind referred to in subsections (1) and (2) must not be entered into unless it is consistent with the debt management strategy.”.

Part 9A inserted

30. The Principal Act is amended after section 64 by inserting the following new Part—

“PART 9A—INTERNAL AUDIT

Internal auditors

64A.—(1) The permanent secretary responsible for finance must ensure that an internal audit is conducted to determine whether the financial affairs, operations and activities of a department are being performed economically, effectively and efficiently, in compliance with all relevant written laws and with due regard to the principles of responsible fiscal management.

(2) The Minister may authorise that an internal audit is conducted to determine whether the financial affairs, operations and activities of any other budget sector agency or an off-budget State entity are being performed economically, effectively and efficiently, in compliance with all relevant written laws and with due regard to the principles of responsible fiscal management.

(3) The permanent secretary responsible for finance may authorise that—

(a) a special audit is conducted to determine whether the financial affairs, operations and activities of a budget sector agency or an off-budget State entity are being performed in compliance with all relevant written laws and with due regard to the principles of responsible fiscal management; and

(b) an audit of the accounts of any recipient of a government grant is conducted to the extent necessary to ensure that any condition of the grant has been complied with.

(4) The permanent secretary responsible for finance may, with the agreement of the Minister, appoint a person employed by the Ministry or any other person as an internal auditor to conduct the audits under subsections (1), (2) and (3).

(5) Responsible authorities must give full, free and unrestricted access to all functions, premises, assets, personnel records, accounting records, returns and other documentation and information to an internal auditor appointed that the permanent secretary responsible for finance deems necessary to conduct the audits under subsections (1), (2) and (3).

(6) Notwithstanding subsections (1) to (5), the permanent secretary responsible for finance must not authorise the audit of an independent office unless the audit has been requested in writing by the responsible authority for the independent office.

Internal audit charter

64B. The Ministry must—

- (a) prepare an internal audit charter which sets out—
 - (i) the standards and procedures consistent with international standards and procedures for the professional practice of internal audit; and
 - (ii) the functions and powers of internal auditors; and
- (b) publish the internal audit charter on an official government website.

Internal audit committee

64C.—(1) There must be at least one internal audit committee to have oversight of internal audits and the work of internal auditors.

(2) The Minister must determine the composition, membership and specific functions and powers of each internal audit committee.

Internal audit committee charter

64D. The Ministry must—

- (a) prepare an internal audit committee charter which sets out—
 - (i) the standards and procedures of internal audit committees; and
 - (ii) the general functions and powers of internal audit committees; and
- (b) publish the internal audit committee charter on an official government website.”.

Section 67 amended

31. Section 67 of the Principal Act is amended by—

- (a) in the definition of “surcharge appeal authority” in paragraph (b), deleting “permanent secretary” and substituting “responsible authority”; and
- (b) in the definition of “surcharging authority” in paragraph (b) after “, a”, deleting “permanent secretary” and substituting “responsible authority”.

Section 71 amended

32. Section 71 of the Principal Act is amended by—

- (a) renumbering the provision as section 71(1); and
- (b) after subsection (1), inserting the following new subsections—
 - “(2) The responsible authority for a budget sector agency is responsible for—
 - (a) the recovery of any loss from a surcharged person when the surcharged person dies, retires or is terminated from employment; and
 - (b) informing the surcharging authority of the action taken.

(3) The permanent secretary responsible for finance must have an agreement with budget sector agencies to enforce the recovery of the amount of the surcharge due in the event the surcharged person resigns, retires or is terminated.

(4) The amount of any surcharge made under section 68 may, subject to section 69, be recovered before a court or tribunal of competent jurisdiction by the surcharging authority or any person authorised to act for the Government.

(5) Nothing in this Division prevents the Government from recovering any loss through civil proceedings.

(6) In any action for the recovery of a loss, a certificate signed by the surcharging authority stating the amount of the loss is conclusive evidence of the assessment of the loss.”.

Section 72 amended

33. Section 72(2) of the Principal Act is amended by deleting “permanent secretary” and substituting “responsible authority”.

Section 80 amended

34. Section 80(a) of the Principal Act is amended by deleting “department” and substituting “entity”.

Section 81A inserted

35. The Principal Act is amended after section 81 by inserting the following new section—

“Non-compliance

81A.—(1) If a budget sector agency other than the Ministry or an officer of the budget sector agency fails to comply with a provision of this Act or any subsidiary legislation made under this Act, the permanent secretary responsible for finance must take necessary measures as may be prescribed in the Finance Instructions to ensure compliance with the provisions of this Act and any subsidiary legislation made under this Act.

(2) If the Ministry or an officer of the Ministry fails to comply with a provision of this Act or any subsidiary legislation made under this Act, the internal audit committee must take necessary measures as may be prescribed in the Finance Instructions to ensure compliance with the provisions of this Act and any subsidiary legislation made under this Act.

(3) Nothing in this section prevents the permanent secretary responsible for finance from notifying the responsible authority for the budget sector agency, or the internal audit committee from notifying the permanent secretary responsible for finance, of the non-compliance.”.

Section 85 inserted

36. The Principal Act is amended after section 84 by inserting the following new section—

“Review of this Act

85.—(1) The Ministry must conduct a review of this Act at least once every 5 years.

(2) The Ministry must prepare a report on the review under subsection (1) and submit the report to the Minister.”.

Amendment to all references to “Chief Accountant” and “chief accountant”

37. All written laws and all State documents of any nature whatsoever are amended by deleting “Chief Accountant” and “chief accountant” wherever they appear and substituting “Head of Treasury”, unless the context otherwise requires.

Consequential amendment

38. The Electoral Act 2014 is amended in section 116 by—

(a) after subsection (4B), inserting the following new subsections—

“(4C) If—

- (a) a political party;
- (b) a candidate for election to Parliament; or
- (c) any other person representing, or acting under the direction of, the political party or candidate,

makes a financial commitment, whether orally or in writing, the political party, candidate or other person must immediately provide a written explanation setting out the following information—

- (i) how revenue for the financial commitment is to be raised;
- (ii) how expenditure for the financial commitment is to be made;
- (iii) how expenditure is to be allocated to different sectors and budget sector agencies; and
- (iv) if expenditure exceeds revenue, how the deficit is to be financed.

(4D) For the purposes of subsection (4C), “financial commitment” means any commitment made as part of a campaign for a general election, where the implementation of the commitment after the general election has financial implications.”; and

(b) in subsection (5), deleting “or (4)” and substituting “, (4) or (4C)”.

Passed by the Parliament of the Republic of Fiji this 30th day of July 2021.