



REPUBLIC OF VANUATU

PUBLIC FINANCE AND ECONOMIC MANAGEMENT (AMENDMENT) ACT NO. 45 OF 2019

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REPUBLIC OF VANUATU

Assent: 10/01/2020
Commencement: 15/01/2020

PUBLIC FINANCE AND ECONOMIC MANAGEMENT (AMENDMENT) ACT NO. 45 OF 2019

An Act to amend the Public Finance and Economic Management Act [CAP 244].

Be it enacted by the President and Parliament as follows-

1 Amendments

The Public Finance and Economic Management Act [CAP 244] is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF PUBLIC FINANCE AND ECONOMIC MANAGEMENT ACT [CAP 244]

1 Subsection 2(1)

Insert the following definitions in their correct alphabetical positions:

““budget year” means the financial year to which an Annual Appropriation Act relates;

“current financial year”, in relation to an Annual Appropriation Act, is the year prior to the year to which an Annual Appropriation Act relates;

“forward estimates” means the forecast of revenue, expenditure and financing for the financial years following a budget year;

“Regulations” means the Regulations made under this Act;”

2 Subsection 10(1)

Delete “2 years”, substitute “4 years”

3 Subsection 12(1)

Repeal the subsection, substitute

“(1) The Minister must table in Parliament a statement of the estimates of all revenues, grants, expenditure and financing by agency and program for:

- (a) the current financial year; and
- (b) the budget year; and
- (c) the following 4 financial years.”

4 Subsections 12(1A) and (5)

Repeal the subsections.

5 Subsection 13(2)

Repeal the subsection, substitute

“(2) The fiscal update must contain fiscal forecasts for the current financial year and a statement of the significant assumptions underlying those fiscal forecasts.”

6 At the end of section 13

Add

“(4) The fiscal forecasts for the current financial year are to be based on the latest information that may affect the estimates, including changes in any or all of the following:

- (a) economic assumptions;
- (b) year to date revenue collections;
- (c) year to date expenditure;
- (d) any supplementary or emergency funding or additional policies;
- (e) any rollover of unexpended amounts from the previous financial year as provided for under section 37.”

7 Paragraph 14(2)(b)

Delete “2 financial years”, substitute “4 financial years”

8 Subsection 16(2)

Repeal the subsection, substitute

“(2) Copies of the report must be made available to the public in any newspaper circulated in Vanuatu and published online as soon as practicable after the report is prepared.”

9 Sections 17 and 18

Repeal the sections, substitute

“17. ANNUAL FINANCIAL REPORTS

(1) As soon as practicable after the end of each financial year and not later than 6 months after the end of that financial year, the Director-General must prepare a consolidated financial report of the Government for that financial year.

- (2) Without limiting subsection (1), the consolidated financial report must contain the following financial statements for the Government:
- (a) a statement of financial position, including all assets, liabilities, fund balances, net assets and equity; and
 - (b) a statement of financial performance, including all revenues, expenses, surplus and deficit; and
 - (c) a statement of cash flows comprising all cash receipts and cash payments; and
 - (d) a statement of borrowings; and
 - (e) a statement of commitments; and
 - (f) a statement of specific fiscal risks; and
 - (g) other statements as required to be consistent with international generally accepted accounting principles and standards; and
 - (h) a statement of accounting policies.
- (3) A financial statement referred to in subsection (2), must compare actual amounts with the relevant budgeted amounts, if applicable.
- (4) The accounting polices applied to the preparation and presentation of the consolidated financial report and financial statements must be consistent with international generally accepted accounting principles and standards.
- (5) The consolidated financial report must disclose any departure from the international generally accepted accounting principles and standards that may materially affect any amount shown in the consolidated financial report.

18. STATEMENT OF APPROPRIATIONS

- (1) The consolidated financial report under section 17, must also include an account to be called the “Statement of Appropriations”.
- (2) The Statement of Appropriations must specify:

- (a) the amounts appropriated for each financial year under all Appropriation Acts; and
- (b) the amounts of actual expenditure against each appropriation classification item included in an Appropriation Act.

18A. REPORT OF AUDITOR-GENERAL

- (1) The Director-General must give the consolidated financial report under section 17 to the Auditor-General as soon as practicable after the consolidated financial report is prepared.
- (2) As soon as practicable after receiving the consolidated financial report, the Auditor-General must examine the financial statements and prepare an audit report.
- (3) The Auditor-General must give a copy of the audit report to the Minister within 4 months after receiving the financial statements.
- (4) The Minister must table the financial statements and the Auditor General's report in Parliament at the next sitting of Parliament after receiving the audit report.
- (5) The Minister must table in Parliament a response to each of the recommendations in the audit report at the next sitting of Parliament after tabling the audit report.

18B. REPORTS BY HEADS OF AGENCIES

- (1) At intervals specified by the Director-General, but in any event on or before the end of each half-year in any financial year, the head of an agency must:
 - (a) report to the Director-General on the matters set out in subsection 17(2) as they relate to the agency in accordance with any instructions under section 63; and
 - (b) provide to the Director-General with any other information requested by the Director-General.

- (2) Within 3 months after the end of each financial year, the head of an agency must present an annual report to the Director-General containing the information specified by the Director-General as it applies to the agency.

18C. ADDITIONAL RESPONSIBILITIES OF HEADS OF AGENCIES

- (1) In addition to section 18B, the head of an agency is responsible for ensuring that:
- (a) all activities of the agency are undertaken in a manner which is consistent with:
 - (i) Government financial and fiscal policies; and
 - (ii) any directions, instructions and guidelines under section 63; and
 - (iii) sound financial management; and
 - (iv) the efficient, effective and ethical use of resources; and
 - (b) adequate arrangements exist within the agency, to ensure the requirements of section 17 are met.
- (2) The head of an agency must ensure that all financial management obligations are met including:
- (a) forecasts provided for budgetary purposes:
 - (i) will be as accurate as possible; and
 - (ii) take account of all relevant information available at the time they are prepared; and
 - (iii) be free from methodological and arithmetic error; and
 - (iv) be subjected to appropriate internal and external quality assurance with respect to methodology and timeliness; and
 - (b) information required to be provided for preparation of the budget and annual financial reports will meet the requirements specified

- by the Director-General with respect to timeliness, completeness, accuracy and format; and
- (c) sound financial management systems and internal controls exist and these are operated so as to provide:
 - (i) timely and materially accurate financial information; and
 - (ii) assurances that the recording of financial transactions are within the agency's authority; and
 - (iii) the proper disclosure of the use of public resources administered by the agency; and
 - (d) the provision of any information required by the agency to enable it to meet reporting requirements; and
 - (e) an appropriate system of risk oversight and management, including:
 - (i) an agency risk and audit committee that complies with the requirements prescribed by the regulations or the Finance Ministry's risk and audit committee, subject to the agreement of the Director-General; and
 - (ii) a system of internal audit under the control and direction of the risk and audit committee complying with and operating in accordance with the regulations.
- (3) If the Director-General draws to the attention of the head of an agency any non-compliance with any of the provisions of this Act or the regulations, the head of the agency must immediately take action to:
- (a) remedy this failure; and
 - (b) explain the failure and the action taken remedy the failure to the Director-General and to the Public Accounts Committee.

18D. SECTIONS 18B AND 18C APPLY TO CERTAIN STATUTORY CORPORATIONS AND OTHER BODIES

- (1) The requirements of sections 18B and 18C also apply to the following Statutory Corporations and other bodies:
- (a) any Statutory Corporation or other body that is wholly owned by the Government;
 - (b) any Statutory Corporation or other body in which the Government has a financial interest;
 - (c) any Statutory Corporation or other body that is the recipient of a grant funded by the Government;
 - (d) any Statutory Corporation or other body prescribed by the regulations;

if in the Director-General's opinion financial information of, or relating to, the Statutory Corporation or other body satisfies subsection (2).

- (2) The financial information satisfies this subsection if:
- (a) it is necessary for the Government to fulfil the requirements of this Act; or
 - (b) there is a need to monitor the performance of the Statutory Corporation or other body for the purposes of this Act.
- (3) The head (however described) of a Statutory Corporation or other body must comply with section 18B or 18C as if he or she were the head of an agency."

10 Subsection 23(1)

Delete "2 financial years", substitute "4 financial years"

11 Paragraphs 23(1)(a), (b) and (c)

Repeal the paragraphs, substitute

- "(a) details of the estimated revenue of each agency; and
- (b) details of the expenditure estimates for each agency; and

- (c) each agency's debt management responsibilities and, if necessary, the details of a financial plan to meet those responsibilities; and
- (d) details of each agency's trust monies, loans, and grants."

12 Part 5 (heading)

Repeal the heading, substitute "**BUDGET POLICY PROCESS**"

13 After section 23 in Part 5

Insert

"23A. NEW POLICY PROPOSALS

- (1) For the purpose of this section, "new policy proposal" means any proposal that requires a decision of the Government that:
 - (a) has a certain or potential financial impact, including on revenue, expenditure, assets, liabilities or equity, on existing estimates within the forward estimates period or beyond; or
 - (b) involves changes in expenditure offset by changes in other expenditure, or user charges or revenue; or
 - (c) creates a legal, financial, contingent or other commitment for the Government; or
 - (d) changes the intent of a previous new policy decision, including proposals that are fully offset, absorbed within existing resources or involve movements between or within programs.
- (2) The Director-General must conduct a financial and policy evaluation of the extent to which a new policy proposal is consistent with the requirements of this Act and the regulations, and provide the evaluation in writing to the Minister as soon as practicable after the evaluation is completed.
- (3) The Minister must provide the evaluation of a new policy proposal to the Council before the Council considers the new policy proposal.
- (4) Agencies must provide all financial and non-financial information to the Director-General to conduct the evaluation within the period, and in the format, determined by the Director-General.

- (5) To avoid doubt, a new policy proposal may arise at any time during the year and may apply in relation to a supplementary appropriation.”

14 Section 31

Repeal the section.

15 Subsection 32A(1)

After “year”, insert “, subject to the approval of Parliament”

16 Subsection 34(1)

Repeal the subsection, substitute

“(1) Subject to subsection (1A), at any time before the end of the sixth month in a financial year, the Government may introduce into the Parliament a Bill for an Act that authorises amounts to be issued from the Public Fund and applied to programs and activities of agencies in that financial year.

(1A) The total amount of funds to be issued from the Public Fund must not exceed 2 percent of the total amount appropriated under the Annual Appropriation Act for that financial year.”

17 Subsection 34C(1)

Delete “Minister may, with the prior approval of the Council of Ministers,”, substitute “Council may”

18 Subparagraph 34C(1)(a)(ii)

Delete “Minister”, substitute “Council”

19 Section 34D

Repeal the section.

20 Subsection 37(1)

After “Council” insert “and the prior written confirmation of the Director-General that sufficient funds are available to accommodate additional expenditure in the next financial year”

21 At the end of section 37

Add

“(3) The allocation of any unexpended amounts for the next financial year must comply with the regulations and any instructions under section 63.”

22 After paragraph 46(1)(e)

Insert

“(ea) budget support funding from international organisations or other governments;”

23 After paragraph 54(2)(f)

Insert

“(fa) for loans raised from sources outside of Vanuatu, ensure that the loan has a grant element of at least 35 percent calculated in accordance with the regulations, and complies with the regulations and any instructions under section 63; and”

24 At the end of section 54

Add

“(5) In this section, the “grant element” of a loan means the difference between the loan’s nominal value (“face value”) and the sum of the discounted future debt-service payments to be made by the borrower, expressed as a percentage of the loan’s face value.”

25 At the end of section 58

Add

“(3) Any loan under subsection (1), must be repaid in currency as determined by the Director-General or in accordance with the loan agreement, and the debt, or a part of the debt, under the loan cannot be converted into equity.

(4) The Minister may write-off any part or all of a loan if the Minister is satisfied that the criteria for the write-off of loans prescribed by the regulations are met, and the Council has given its prior approval to the proposed write-off.”

26 After section 58

Insert

“58A. POWER TO DEDUCT MONIES OWED TO THE STATE

(1) The Director-General may deduct from any payments due, or monies owed, by the Government to a person or entity any amount that is owed by that person or entity to the Government if that amount is in arrears.

- (2) To avoid doubt, subsection (1) applies in relation to grants, loans, indemnities and guarantees.”

27 Subsection 60(1)

Delete “from time to time”

28 Paragraph 60(1)(a)

Delete “of MFEM”

29 Subsection 60(3)

Repeal the subsection, substitute

- “(3) If a guarantee or indemnity is required as security for the raising of a loan under section 54, the Minister must:
- (a) obtain the approval of Parliament to the guarantee or indemnity; and
 - (b) include in the report to Parliament under paragraph 54(2)(h), the full details of the guarantee or indemnity and the reasons why it was necessary in the public interest.”

30 At the end of section 60

Add

- “(5) If the State incurs a debt arising from a guarantee or indemnity, the debt must be repaid in currency as determined by the Director-General and the debt, or a part of the debt, cannot be converted into equity.”

31 Subsection 62

Repeal the section, substitute

“62. POWER OF THE DIRECTOR-GENERAL TO OBTAIN INFORMATION

- (1) The Director-General may, from time to time in writing, request the head of an agency, a Statutory Corporation or any other body that:
- (a) manages any public money or public resources; or

- (b) is wholly owned by the Government or in which the Government has a financial interest; or
- (c) is the recipient of a grant, loan, equity, indemnity or guarantee provided by the Government;

to provide the Director-General with such information as is necessary to enable the preparation of any financial statements or fiscal forecasts, or to comply with any other requirements or obligations under this Act or the regulations.

- (2) A request under subsection (1), must be complied with as soon as practicable after the request is made.
- (3) After consultation with the Minister, the Director-General may withhold any payments or other monies owed to an agency, Statutory Corporation or any other body until requested information required by or under this Act or the regulations is provided to the Director-General.”

32 Section 63 (heading)

Repeal the heading, substitute “Ministry instructions, directions and guidelines”

33 Section 63

After “instructions”, insert “, directions and guidelines”

34 Paragraph 66(1)(a)

- (a) Delete “VT 600,000”, substitute “VT 2,000,000”
- (b) Delete “3 years”, substitute “2 years”

35 Paragraph 66(1)(b)

Delete “VT 1,000,000”, substitute “VT 10,000,000”

36 Paragraph 66(2)(a)

- (a) Delete “VT 1,000,000”, substitute “VT 5,000,000”
- (b) Delete “7 years”, substitute “5 years”

37 Paragraph 66(2)(b)

Delete “VT 2,000,000”, substitute “VT 25,000,000”

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38 Section 67A

Repeal the section, substitute

“68. Publication and inspection of statements and reports

- (1) The Director-General must publish online any statement or report required to be prepared under this Act, as soon as practicable, after it has been prepared.
- (2) The Director-General must publish in the Gazette a notice, in respect of any statement or report required to be prepared under this Act, that states it has been published online and where it can be physically inspected free of charge.
- (3) The Director-General must, for at least 2 months after the date of Gazettal, ensure that opportunities for free inspection are available.”