



MINISTRY OF FINANCE
Government of the Virgin Islands

Virgin Islands
Public Finance Management
(Amendment) Act, 2012

No. 9 of 2012

VIRGIN ISLANDS

PUBLIC FINANCE MANAGEMENT (AMENDMENT) ACT, 2012

ARRANGEMENT OF SECTIONS

Section

- 1.Short title.
- 2.General amendments.
- 3.Section 3 amended.
4. Section 16 amended.
5. Section 17 amended.
6. Sections 17A and 17B inserted.
7. Section 18 amended.
8. Sections 36A, 36B, 36C and 36D inserted.
9. Section 44 amended.
10. Sections 45A and 45B inserted.
11. Section 46 amended.

No. 9 of 2012

**Public Finance Management
(Amendment) Act, 2012**

**Virgin
Islands**

I Assent

**(Sgd.) Boyd McCleary, CMG, CVO,
Governor.
14th November, 2012**

VIRGIN ISLANDS

No. 9 of 2012

An Act to amend the Public Finance Management Act, 2004 (No. 2 of 2004).

[Gazetted 26th November, 2012]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title.

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2012.

General
amendments.
No. 2 of
2004.

2. The Public Finance Management Act, 2004 (referred to in this Act as “the principal Act”) is amended by replacing the following references wherever they occur

(a) the words “Legislative Council” with the words “House of Assembly”;

(b) the words “Executive Council” with the word “Cabinet”;

(c) the words “Virgin Islands (Constitution) Order, 1976” with the words “Virgin Islands Constitution Order, 2007”.

Section 3
amended.

3. Section 3 of the principal Act is amended by inserting the following new definitions in the proper alphabetical order:

““budget” means the financial plan for the delivery of the Government’s programmes and policies for a fiscal year;

“budget document” means the document prepared in accordance with section 36B;

“Minister” means the Minister to whom the responsibility for Finance is assigned;”.

4. Section 16 of the principal Act is amended by inserting after subsection (5), the following new subsection: Section 16 amended.

“(6) Yearly appropriations to the reserve fund shall be at least two percent of the budgeted expenditure.”

5. Section 17 of the principal Act is repealed and the following section substituted: Section 17 amended.

“Additional powers and responsibilities of the Minister.

17. The Minister shall

- (a) ensure that the Financial Secretary prepares and submits a macro-fiscal report to the Minister every six months;
- (b) submit a macro-fiscal report to Cabinet within thirty days after receipt;
- (c) ensure that, at least every six months, the Financial Secretary prepares combined financial statements to be submitted to the Minister within thirty days after the end of the period to which the financial statements relate at the end of each quarter;
- (d) present to the House of Assembly, within thirty days after receipt, the combined financial statements prepared by the Financial Secretary pursuant to this Act. ”.

6. The principal Act is amended by inserting after section 17, the following new sections:

Sections 17A and 17B inserted.

“Economic and Fiscal Advisory Council.

17A. (1) The Minister may from time to time appoint an Economic Advisory Council for the purpose of advising on economic and fiscal issues.

(2) The Council shall consist of such number of persons as the Minister may determine and who possess the requisite skills and expertise in financial and economic matters.

Strategic Plan.

17B. The Minister shall, within six months after a General Election, cause to be prepared and published a Strategic Plan for the term of office of the Government, which relates to the financial affairs of the Government.

7. Section 18 of the principal Act is amended by

Section 18 amended.

- (a) renumbering the section as subsection (1); and

- (b) inserting after subsection (1) so renumbered the following new subsection:

“(2) Every accounting officer shall prepare and submit monthly financial statements and statistics to the Financial Secretary in such form as the Financial Secretary may instruct, in respect of but not limited to

- (a) liquid assets fund balances and variance analysis;
- (b) revenue and capital and recurrent expenditure, outturn and forecast reports and accompanying variance analysis.”.

Sections 36A,
36B, 36C and
36D inserted.

8. The principal Act is amended by inserting after section 36, the following new sections:

“Basis of
public
accounts.

36A.(1) All accounts shall be prepared in accordance with the international financial reporting standards and in accordance with specific guidelines as prescribed by regulations made under this Act.

(2) Accounting Officers shall

- (a) measure the performance of government departments and other bodies in receipt of public funds and shall ensure that Ministries remain within their expenditure budgets;
- (b) allocate expenditure budgets, profile expenditure and monitor outturn against profile;
- (c) determine revenue targets, profile receipts and monitor outturn against profile;
- (d) track and quantify, the evolution of risk to determine the value of actual and contingent liabilities to assess calls on current expenditure budgets;
- (e) undertake timely internal and external audits and act on the findings

and shall provide the information to the Financial Secretary in accordance with a schedule provided by the Financial Secretary.

Budget
document.

36B(1) The Minister shall cause to be prepared and shall submit to the House of Assembly annually, a budget document which details the Government’s fiscal objectives with respect to the

funds to be spent.

(2) The budget document shall include

- (a) a Budget Policy Statement;
- (b) a Medium Term Fiscal Plan (MTFP); and
- (c) a Multi-year Budget Document.

(3) The budget shall include the

- (a) cash flow for the Government, and
- (b) individual cash flow statements for each Ministry.

(4) The Minister shall present the budget policy statement and medium term fiscal plan to the House of Assembly for approval, prior to the multi-year budget document being tabled in the House of Assembly.

(5) The budget policy statement shall set out the overarching policy goals that will guide the Government's priorities for the forthcoming budget term.

36C (1) The Minister shall, within six months of the beginning of the financial year, table the Medium Term Fiscal Plan in the House of Assembly.

Medium term
fiscal plan.

(2) The Medium Term Fiscal Plan shall be prepared in accordance with specific guidelines as prescribed by regulations made under this Act and shall include but not be limited to the following:

- (a) a statement of the Government's economic and fiscal objectives;
- (b) a summary of the broad outcomes, the specific outcomes, and the links between them, that the Cabinet intends to achieve in the next financial year and for at least the following two financial years;
- (c) a summary of recent economic statistics, trends and forecasts;
- (d) a statement of past fiscal performance, an analysis of variance from previous plans and projections on future fiscal targets;

- (e) a statement of existing public sector borrowing, including
 - (i) borrowing by statutory bodies, whether guaranteed by the Government or not; and
 - (ii) the amount, currency, date and origin of issue, maturity and interest rate structure of each loan;
 - (f) a statement of expenditure and revenue arrears;
 - (g) an analysis of operating expenditure needs for the next financial year and for each of the following two financial years;
 - (h) a statement of the Government's strategy for managing contingent and actual liabilities and progress in delivering the strategy;
 - (i) a capital investment plan for the next financial year and for each of the following two financial years;
 - (j) new and continuing major projects for the next financial year and for each of the following two financial years;
 - (k) anticipated revenue and expenditure measures for the next financial year and for each of the following two financial years;
 - (l) quantified risk assessments, including consideration of the actuarial risks posed by pensions and health care insurance;
 - (m) a statement of the current fiscal position and forecasts for the next financial year and for each of the following two financial years in accordance with regulations made under this Act.
- (3) The Minister shall cause the Medium Term Fiscal Plan to be updated semi-annually and shall table the updated plan in House of Assembly within three months after the update.

Allocations
for projects.

36D. (1) The Minister shall be responsible for justifying allocations for projects in every budget cycle, and shall ensure that all unexpended balances return to the Consolidated Fund.

(2) The Financial Secretary shall advise the Minister on allocations for projects in every budget cycle based on written justifications received from accounting officers.

(3) Accounting Officers shall make justifications to the Financial Secretary for allocations for projects in every budget cycle, who shall then advise the Minister.

9. Section 44(1) of the principal Act is amended by

Sections 44
amended.

(a) deleting the full stop after paragraph (e) and substituting it with a semi-colon;

(b) inserting after paragraph (e) the following:

“ (f) prescribing for anything which under this Act may be prescribed.”.

10. The principal Act is amended by inserting after section 45, the following new sections:

Sections
45A and
45B
inserted.

“ Risk management. 45A. (1) The Financial Secretary shall carry out tri-annual assessments on liabilities to the Government including, but not limited to, pensions, healthcare and contractual obligations.

(2) The liabilities referred to in subsection (1) shall be analysed in a manner commensurate with the risks involved.

(3) The evaluation of pensions and insurance shall be based on actuarial assessments.

(4) Ministries and statutory bodies shall provide to the Financial Secretary,

(a) within six months of the end of the financial year

(i) annual audit reports;

(ii) debt and public private partnerships breakdown;

(b) annual updates on GDP component figures, employment, and the performance of key sectors where the budget documentation does not separately identify that information.

(5) The Minister shall, after consultation with the Financial Secretary, ensure that specific and deliberate allocations are made to repay loans by ensuring that arrangements are made to repay the loan principal including

(a) agreeing to a fully amortized structure with the lending

institution; or

- (b) establishing a dedicated sinking fund with a binding contribution schedule capable of offsetting the outstanding principal repayment on maturity of the debt.

Major
projects.

45B. (1) Every major project embarked upon by the Government shall be consistent with the strategic plan and shall include a business case and appraisal.

(2) The requirements of the business case and appraisal referred to in subsection (1) shall be provided for by regulations made under this Act.

(3) Every project shall be subject to analytical assessments before being considered for financing.

(4) The assessments referred to in subsection (3) shall be subject to the following conditions:

(a) where a project exceeds five percent of the annual budgeted revenues of the budget, that project shall be subject to an assessment by registered professionals who will use established industry standards and procedures in carrying out the assessment.

(b) public private partnerships shall be subject to in-depth reviews on all aspects of the project and the relationship with the Government, before being brought to the Cabinet for consideration.”.

Section 46
amended.

11. Section 46 of the principal Act is amended by deleting

(a) the words “the Public Service Commission Regulations, 1969” and inserting the words “relevant law addressing the conduct of disciplinary action against public officers”;

(b) the words “S.R.O. 29 of 1969” in the marginal notes.

Passed by the House of Assembly this 15th day of October, 2012.

(Sgd.) Ingrid Moses-Scatliffe,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.