

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE PUBLIC MANAGEMENT AND
FINANCE LAW (2010 REVISION) TO RELAX THE VOLUME,
FREQUENCY AND FORMATTING OF REPORTING; AND TO
PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES**

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) BILL,
2011**

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Public Management and Finance Law (2010 Revision) to relax the volume, frequency and formatting of reporting.

Clause 1 provides the short title.

Clause 2 amends section 13 of the principal Law to remove references to sections 28, 43 and 51 of the principal Law which are being repealed.

Clause 3 repeals section 28 of the principal Law to remove the requirement for quarterly consolidated reports.

Clause 4 repeals and replaces subsection 29(2) of the principal Law to allow for annual consolidated unaudited financial statements and annual unaudited schedule of appropriations for the years 2004/5 to 2007/8 and to remove the requirement for an annual consolidated summary of the specific outcomes and audited summary of the output groups, transfer payments groups etc.

Clause 5 amends section 32(f) of the principal Law to remove the reference to section 28 of the principal Law which is being repealed.

Clause 6 repeals section 43 of the principal Law to remove the requirement for ministry or portfolio quarterly reports.

Clause 7 amends section 44 of the principal Law to allow for unaudited financial statements for the years 2004/5 to 2007/8 and to remove the requirement for a ministry or portfolio annual audited statement of outputs delivered, summary of the nature and scope of the activities, the summary of the strategic goals and objectives and the summary of the ownership performance achieved.

Clause 8 repeals section 51 of the principal Law to remove the requirement for statutory authorities and government companies to prepare half-yearly reports.

Clause 9 amends section 52 of the principal Law to allow statutory authorities and government companies to prepare unaudited financial statements for the years 2004/5 to 2007/2008.

Clause 10 amends section 53 of the principal Law to remove references to half-yearly reports which are no longer required in light of the repeal of section 28 of the principal Law.

Clause 11 amends section 54 of the principal Law to remove references which are no longer required in light of the repeal of section 28 and amendment of section 29 of the principal Law.

Clause 12 amends section 60 of the principal Law to remove references which are no longer required in light of the amendment of sections 29 and 44 of the principal Law. Section 60 is also amended to provide that for the financial statements which have not been subject to audit or for which an audit opinion could not be given for the financial years 2004/05 to 2007/08 the Auditor General is required to carry out a risk assessment and identify areas or transactions on which he shall conduct a compliance audit.

Clause 13 amends section 78 of the principal Law to remove the references to section 43 of the principal Law which is being repealed.

Clause 14 amends the Second Schedule to the principal Law in order to change the names of the operating statement and balance sheet to the statement of financial performance and statement of financial position respectively.

Clause 15 repeals the Third Schedule to the principal Law.

Clause 16 amends the Fourth Schedule to the principal Law in order to change the names of the operating statement and balance sheet to the statement of financial performance and statement of financial position respectively and to remove the requirement for statements of financial position, change in net worth, cash flows, commitments, contingent liabilities and other statements as may be required fairly to reflect financial performance and positions for the years 2004/5 to 2007/08.

Clause 17 amends the Fifth Schedule to the principal Law to remove the references to sections 43 and 44 of the principal Law which are being repealed.

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) BILL,
2011**

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 13 - emergency expenditure
3. Repeal of section 28 - government quarterly report
4. Amendment of section 29 - government annual report
5. Amendment of section 32 - duties of Minister of Finance
6. Repeal of section 43 - ministry or portfolio quarterly report
7. Amendment of section 44 - ministry of portfolio annual report
8. Repeal of section 51 - half-yearly report
9. Amendment of section 52 - statutory authority or government company annual report
10. Amendment of section 53 - exclusion of commercially sensitive matters
11. Amendment of section 54 - duties of ministry responsible for finance
12. Amendment of section 60 - powers and duties of Auditor General
13. Amendment of section 78 - law not to affect the independence of Governor
14. Amendment of Second Schedule - forecast financial statements
15. Repeal of Third Schedule - quarterly financial statements
16. Amendment of Fourth Schedule - annual financial statements
17. Amendment of Fifth Schedule - ownership performance measures

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Public Management and Finance (Amendment) Law, 2011. Short title

2. The principal Law is amended in section 13 as follows -

Amendment of section
13 - emergency
expenditure

(a) by repealing subsection (2) and substituting the following subsection -

“ (2) Without affecting the validity of any executive financial transactions entered into under this section, a statement of such of those transactions that have not been appropriated, but (apart from this section) are required to be appropriated, shall be included in the first Government annual report under section 29 after those transactions have been entered into, and the cost of those transactions shall be included in the first Appropriation Bill introduced to the Legislative Assembly after those transactions have been entered into.”; and

(b) in subsection (3) by repealing subparagraphs (i)-(vii) and substituting the following subparagraphs -

- “ (i) a Government annual report is required to be gazetted under section 29;
- (ii) an annual report of a ministry or portfolio, is required to be presented to the Legislative Assembly under section 44;
- (iii) an annual report of a statutory authority or government company, is required to be presented to the Legislative Assembly under section 52; or
- (iv) the Government budgeting process is to be completed in accordance with sections 17 to 22.”.
- Repeal of section 28 - government quarterly report 3. The principal Law is amended by repealing section 28.
- Amendment of section 29 - government annual report 4. The principal Law is amended in section 29 as follows -
- (a) by repealing subsection (2) and substituting the following subsection -
- “ (2) The Government annual report shall report the performance of the core government and the entire public sector and compare it with that proposed in the annual plan and estimates for that financial year, and shall include -
- (a) for the financial years -
- (i) 2004/5 to 2007/8, the unaudited annual consolidated financial statements for the core government and the entire public sector for that year; or
- (ii) 2008/9 and onwards, the audited annual consolidated financial statements for the core government and the entire public sector for that year,
- which shall be prepared on a basis consistent with the forecast financial statements in the annual plan and estimates for that year, and contain the statements and information set out in the Fourth Schedule; and
- (b) for the financial years -
- (i) 2004/5 to 2007/8, the unaudited annual schedule of appropriations; or
- (ii) 2008/9 and onwards the audited annual schedule of appropriations,

used for the year compared with the appropriations granted under the Appropriation Law (together with any supplementary Appropriation Law) for the financial year.”; and

- (b) by repealing subsection (3) and substituting the following subsections -

“ (3) The annual consolidated financial statements and the annual schedule of appropriations referred to in subsection (2) shall be prepared within four months of end of the financial year.

(3A) The annual consolidated financial statements and the annual schedule of appropriations referred to in subsection (2)(a)(ii) and (b)(ii) shall be submitted to the Auditor General for auditing, and the Auditor General shall express an opinion within one month of receipt of the annual consolidated financial statements.”.

5. The principal Law is amended in section 32(f) by deleting the words “sections 28 and 29 are complied with” and substituting the words “section 29 is complied with”. Amendment of section 32 - duties of Minister of Finance
6. The principal Law is amended by repealing section 43. Repeal of section 43 - ministry or portfolio quarterly report
7. The principal Law is amended in section 44 as follows - Amendment of section 44 - ministry of portfolio annual report
- (a) by repealing subsection (2) and substituting the following subsection -
- “ (2) The annual report shall set out the performance of the ministry or portfolio and compare it with that set out in the annual budget statement (including any amendments thereto) for that financial year and shall -
- (a) for the financial years 2004/5 to 2007/8, include unaudited financial statements; or
- (b) for the financial years 2008/9 and onwards , include audited financial statements,
- which shall be prepared on a basis consistent with the forecast financial statements in the annual budget statement for that financial year and contain the statements and information set out in the Fourth Schedule.”; and

- (b) by repealing subsection (3) and substituting the following subsections -

“ (3) The financial statements referred to in subsection (2) shall be prepared within two months of the end of the financial year.

(3A) The financial statements referred to in subsection 2(b) shall be submitted to the Auditor General for auditing, and the Auditor General shall express an opinion within two months of receipt of the financial statements.”.

Repeal of section 51 -
half-yearly report

8. The principal Law is amended by repealing section 51.

Amendment of section
52 - statutory authority
or government company
annual report

9. The principal Law is amended in section 52 as follows -

- (a) in subsection (2) by deleting paragraph (d) and substituting the following paragraph -

“ (d) for the financial years -

(i) 2004/5 to 2007/8, unaudited financial statements; or

(ii) 2008/9 and onwards, audited financial statements,

which shall be prepared on a basis consistent with the forecast financial statements in the authority’s or company’s annual ownership agreement for that financial year and contain the statements and information set out in the Fourth Schedule.”; and

- (b) by repealing subsection (3) and substituting the following subsections -

“ (3) The financial statements referred to in subsection (2)(d) shall be prepared within two months of the end of the financial year.

(3A) The financial statements referred to in subsection 2(d)(ii) shall be submitted to the Auditor General for auditing, and the Auditor General shall express an opinion within two months of receipt of the financial statements.”.

Amendment of section
53 - exclusion of
commercially sensitive
matters

10. The principal Law is amended in section 53 by deleting the words “, half-yearly report”.

11. The principal Law is amended in section 54 by repealing paragraph (g) and substituting the following paragraph -
- Amendment of section
54 - duties of ministry
responsible for finance
- “ (g) prepare annual consolidated financial statements required by section 29(2);”.
12. The principal Law is amended in section 60 as follows -
- Amendment of section
60 - powers and duties
of Auditor General
- (a) by repealing paragraphs (a) and (b) and substituting the following paragraphs -
- “ (a) conduct audits of the financial statements -
- (i) referred to in section 29(2)(a)(ii) in respect of the core government and the entire public sector; and
- (ii) referred to in sections 44(2)(b) and 52(2)(d)(ii) in respect of every ministry, portfolio, statutory authority and government company;
- (b) conduct audits of the annual schedule of appropriation referred to in section 29(2)(b)(ii);”;
- (b) by renumbering section 60 as section 60 (1); and
- (c) by inserting after section 60(1) as renumbered the following subsections -
- “ (2) Notwithstanding subsection (1), for the financial statements which have not been subject to audit or for which an audit opinion could not be given for the financial years 2004/05 to 2007/08, the Auditor General shall carry out a risk assessment and identify areas or transactions on which he shall conduct a compliance audit.
- (3) In performing the risk assessment under subsection (1), the Auditor General shall consult with the Financial Secretary and Chief Officers to identify areas for consideration.
- (4) For the purposes of subsection (2), the objective of a compliance audit shall be to enable the Auditor General to report on the audited entity's compliance with a particular set of criteria when incurring expenditure and such criteria may be derived from relevant financial reporting frameworks, laws, regulations, terms of contracts or funding agreements, or may be other criteria deemed by the Auditor General to be suitable.”.
13. The principal Law is amended in section 78(3) by deleting the words “shall not be required to comply with sections 42, 43 and 44” and substituting the words “shall not be required to comply with sections 42 and 44”.
- Amendment of section
78 - law not to affect the
independence of
Governor

- | | |
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| Amendment of Second
Schedule - forecast
financial statements | 14. The principal Law is amended in the Second Schedule as follows -

(a) in item 1 by repealing paragraphs (a) and (b) and substituting the following paragraphs -
“ (a) a statement of financial performance;
(b) a statement of financial position;”; and
(b) by deleting item 3. |
| Repeal of Third
Schedule - quarterly
financial statements | 15. The principal Law is amended by repealing the Third Schedule. |
| Amendment of Fourth
Schedule - annual
financial statements | 16. The principal Law is amended in the Fourth Schedule in item 1 as follows -

(a) by repealing paragraphs (a) and (b) and substituting the following paragraphs -
“ (a) a statement of financial performance;
(b) a statement of financial position;”;
(b) by deleting the full-stop appearing at the end of paragraph (j) and substituting a comma; and
(c) at the end of item 1 by inserting the following words “except that paragraphs (b) to (g) shall not apply for the financial years 2004/5 to 2007/8. |
| Amendment of Fifth
Schedule - ownership
performance measures | 17. The principal Law is amended in the Fifth Schedule by deleting the references to sections “43” and “44”. |

Passed by the Legislative Assembly the day of , 2011.

Speaker.

Clerk of the Legislative Assembly.