

PREAMBLE

An Act to regulate the financial management of the Royal Government of Bhutan in order to promote the effective and efficient use of public resources, strengthen accountability and provide statutory authority and control for sound and sustainable fiscal policy.

The Public Finance Act of Bhutan has been passed on the 5th Day of the 5th Month of the Female Fire Pig Year, corresponding to 20th June, 2007, during its 87th session by the National Assembly, Kingdom of Bhutan as follows:

CHAPTER I

PRELIMINARY

Short title, commencement and application

1. This Act shall:
 - (a) be cited as the Public Finance Act, 2007;
 - (b) come into force on this Day 16 of the 6 Month of the Female Fire Pig Year corresponding to 31 of July, 2007;
 - (c) extend to the whole of the Kingdom of Bhutan.

Supersession

2. Supersede all laws, regulations, rules and notifications that are inconsistent with the provisions of this Act, except the Constitution of the Kingdom of Bhutan, or as otherwise specified herein.

Application

3. Apply to all bodies that are supported through the use of public resources, or in respect of which the public is the ultimate bearer of risk.

CHAPTER II

REQUIREMENTS FOR RESPONSIBLE FINANCIAL MANAGEMENT

Principles of responsible financial management

4. The Kingdom of Bhutan shall have a sound system of public finance, based on the principles of:
 - (a) Efficiency;
 - (b) Economy;
 - (c) Effectiveness;
 - (d) Equity;
 - (e) Sustainability;
 - (f) Transparency; and
 - (g) Accountability.
5. The Government shall adopt a sound budgeting and accounting system.
6. The Government's financial management shall be monitored through the reporting requirements and the audit requirements.

Fiscal sustainability and transparency

7. Fiscal affairs shall be managed in accordance with the following fiscal sustainability and transparency principles:
 - (a) Recurrent expenditures shall be met from the internal resources of the country.
 - (b) Over the medium term, the current operating deficit, as determined in the Budget Policy and Fiscal Framework Statement shall be maintained near zero.

- (c) Fiscal policies shall be consistent with a reasonable degree of predictability about the level and stability of tax rates for future years and shall be consistent with the requirements for macro-economic stability.
 - (d) The level of public debt shall be contained such that it will not create undue burden on future generations and threaten national solvency.
 - (e) Meeting the requirements for sustainability of the fiscal balance shall not be achieved at the expense of development projects.
8. The Government shall report to the Parliament any departure from the fiscal sustainability and transparency principles as soon as practicable. Any such departure shall be temporary and the Parliament shall be informed of:
- (a) The reasons for the Government's proposed or actual departure; and
 - (b) The fiscal measures the Government intends to take to return to conformity with the fiscal sustainability and transparency principles as early as possible.

CHAPTER III

RESPONSIBILITIES AND POWERS IN RELATION TO PUBLIC FINANCE

The Parliament

9. Raising of revenues through taxes shall be authorised by the Parliament.
10. The Parliament shall appropriate money for the requirements of the State.
11. The Parliament shall enact laws or resolutions related to public finance only in accordance with the principles of financial sustainability and which are in the best interests of the people of Bhutan.

Lhengye Zhungtshog

12. The Lhengye Zhungtshog shall have the overall responsibility of managing the public finances and related operations in the best interests of the people of the Kingdom of Bhutan and in accordance with the provisions of this Act.

Minister of Finance

13. The Minister of Finance shall table before the Parliament: -
 - (a) The audited Annual Financial Statements of the financial year ended during each summer session;
 - (b) The Budget Policy and Fiscal Framework Statement;
 - (c) The Budget and Appropriation Bill that is consistent with the fiscal sustainability and transparency principles in this Act.
14. The Minister of Finance shall be responsible, *inter alia*, for:

- (a) framing fiscal policies and managing the fiscal affairs of the Government as a whole;
 - (b) proposing taxation measures to the Parliament, and raising other revenues and resources for the Government;
 - (c) facilitating adherence to the fiscal sustainability and transparency principles specified in this Act;
 - (d) co-ordinating the Government's macro-economic policies;
 - (e) reporting on the state of the economy and fiscal position of the Government;
 - (f) directing the Ministry of Finance on matters relating to functions assigned to the Ministry of Finance;
 - (g) the overall performance of the Ministry of Finance.
15. The Minister of Finance shall have the powers necessary to fulfil his responsibilities under this Act. Such powers shall include:
- (a) Approval of borrowings and issuance of public securities subject to concurrence of the Lhengye Zhungtshog;
 - (b) Varying the terms and conditions of public securities and the borrowings in the interest of the Government subject to the necessary consent of the security holders and the lenders;
 - (c) Repayment of loans or conversion of existing loans subject to the necessary consent of the lenders;
 - (d) Lending money on behalf of the Government subject to concurrence of the Lhengye Zhungtshog;
 - (e) Issuing guarantees and indemnities on behalf of the Government subject to concurrence of the Lhengye Zhungtshog;

- (f) Suspending, withdrawing, limiting or placing conditions on any warrant or other authority issued by him if he is satisfied that such action is required by reason of a financial exigency or is in the public interest;
 - (g) Requiring the provision of such information as is necessary by budgetary bodies and state enterprises for the exercise of his powers and the discharge of his responsibilities under this Act;
 - (h) Authorizing the Ministry of Finance to undertake any action that requires ministerial authorization.
16. Except as provided for in the Royal Monetary Authority Act, or any other law relating specifically to financial institutions or financial markets, the Minister of Finance may take any lawful action that he deems necessary in the public interest to address any situation arising in respect of a financial institution or group of institutions, financial security, financial market or related matter.
 17. The Minister of Finance shall be the only Minister who shall hold the powers under section 15.
 18. The Minister of Finance may delegate his powers under this Act, or under other laws, to the Secretary of the Ministry of Finance or other civil servants, provided that the delegation complies with the relevant provisions of this Act.
 19. The Minister of Finance shall establish a macro-economic framework co-ordination committee for the purposes of section 14(d). The committee shall be co-ordinated by the Ministry of Finance, and it shall comprise of members from the key economic agencies of the Government.

Ministry of Finance

20. The Ministry of Finance and its agencies, shall be responsible for the implementation of policies set by the Minister of Finance.
21. The provisions of this Act shall not affect the obligations, rights, privileges, powers and liabilities acquired or accrued by the Ministry of Finance prior to this Act.
22. The provisions of this Act shall not affect the liabilities, rights and obligations of third parties in relation to the Ministry of Finance that were in existence prior to this Act.
23. The responsibilities of the Ministry of Finance shall include:
 - (a) advising and assisting the Minister of Finance;
 - (b) implementing the budget process including preparing the Budget Policy and Fiscal Framework Statement, the budget, the Appropriation Bill and other relevant materials;
 - (c) mobilizing resources, including external assistance, and integrating these funds into the budgeting, reporting and accountability processes prescribed by this Act;
 - (d) facilitating the co-ordination of macro-economic policies;
 - (e) setting rules and interpretations thereof, and setting procedures and standards for effective, efficient and transparent system of financial management and internal control systems and monitoring the performance of such systems;
 - (f) providing the accounting functions for the accounting of the whole of Government;
 - (g) overseeing of the ownership interests in state enterprises;

- (h) monitoring the performance of budgetary bodies and state enterprises on the basis of their strategic plan, budget and financial indicators;
 - (i) ensuring that the budgeting and accounting system of the Government is reliable and produces timely and accurate information;
 - (j) preparation of the consolidated Annual Financial Statements for the Government as a whole;
 - (k) setting rules and procedures for the operations and accounting of Government bank accounts;
 - (l) managing debt, other liabilities and financial assets of the Government;
 - (m) managing the revenue and customs functions;
 - (n) managing and accounting for the assets and liabilities of the Government which are not included in the statement of financial position of budgetary bodies or state enterprises;
 - (o) administering the internal audit service, and issuing internal audit guidelines;
 - (p) managing any other functions assigned to the Ministry of Finance.
24. The Ministry of Finance shall have the powers necessary to fulfil its responsibilities under this Act. Such powers shall include:
- (a) issuing the Financial Rules and Regulations and such other rules, manuals, directives, decrees, instructions or notifications according to the powers in this Act and amending or cancelling them. Such powers shall be exercised only if consistent with the responsibilities of the Minister of Finance and the Ministry of Finance under this Act;
 - (b) requiring the budgetary bodies to follow the financial management and accounting policies of the Government;
 - (c) approving the opening and use of bank accounts by budgetary bodies;

- (d) requiring budgetary bodies, state enterprises and local authorities to furnish information necessary for the discharge of its responsibilities under this Act or any other Act;
 - (e) intervention by taking appropriate steps, which may include steps of withholding of funds to address a serious or persistent material breach of this Act by a budgetary body or a state enterprise.
25. The Ministry of Finance shall provide leadership in the promulgation of accounting standards.
26. The responsibilities and powers of the Ministry of Finance shall be exercised by the Secretary of the Ministry of Finance.
27. The Secretary of the Ministry of Finance may delegate his powers under this Act and other laws, provided that such delegation complies with the relevant provisions of this Act.

Responsibilities and powers of a chief executive of a budgetary body

28. In this Chapter, Secretaries of Ministries, heads of budgetary bodies and heads of state enterprises are referred to as chief executives.
29. A chief executive shall be responsible for managing the financial and related matters including the procurement and disposal of assets of the budgetary body in accordance with the law, regulations, rules, manuals, directives, decrees, instructions or notifications issued by the Ministry of Finance, and with appropriations and other lawful authorities.
30. A chief executive shall ensure that budget proposals are made in accordance and within the ceilings prescribed by the Ministry of Finance.
31. A chief executive shall take effective and appropriate steps to:
- (a) collect all monies due to the Government;

- (b) prevent unauthorized, irregular, fruitless and wasteful expenditure and losses;
 - (c) prevent spending in excess of the amount appropriated;
 - (d) prevent any commitments of the budgetary body to any liability for which money has not been appropriated;
 - (e) safeguard and maintain the assets.
32. A chief executive shall take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals are considered.
33. The powers of a chief executive to fulfil his responsibilities under this Act shall be as prescribed in the Financial Rules and Regulations.

Responsibilities of other officials of a budgetary body

34. Within the area of responsibilities of an official in a budgetary body, he shall:
- (a) ensure that the system of financial management and internal control established for the body is carried out;
 - (b) be responsible for the effective, efficient, economical and transparent use of financial and other resources;
 - (c) take effective and appropriate steps to prevent, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due;
 - (d) comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions; and
 - (e) be responsible for management, including the safeguarding of the assets and the management of liabilities.

Reporting by a budgetary body

35. Each budgetary body shall provide the portfolio Minister and the Ministry of Finance with a half-yearly financial report within the period and in the form as prescribed in the Financial Rules and Regulations.
36. Such report shall contain, among others, particulars of any:
 - (a) material loss, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure that occurred during the year;
 - (b) disciplinary steps taken as a result of such losses;
 - (c) material losses recovered or written off; and
 - (d) other matters that may be prescribed.

Prohibitions on budgetary bodies

37. A budgetary body shall not consume resources other than in accordance with an appropriation or other lawful authority.
38. A budgetary body shall be prohibited from:
 - (a) engaging in the production of goods and services not specified in the budgetary body's programmes and strategic plan;
 - (b) exceeding budget appropriation limits;
 - (c) operating bank accounts without the approval of the Ministry of Finance;
 - (d) engaging in transactions that have the substance of borrowing;
 - (e) allowing a budgetary body bank account to be in overdraft;
 - (f) issuing any guarantees or indemnities;

- (g) investing in financial instruments, including equity instruments, other than cash on deposit with the Ministry of Finance, except for funds under Sections 168 and 169 of this Act;
- (h) engaging in any management or procurement processes that are not in accordance with the law, regulations, rules, manuals, directives, decrees, instructions or notifications; or
- (i) retaining any public money after the end of the financial year to which the money relates unless otherwise authorized by the Ministry of Finance;
- (j) depositing public money in the accounts other than the authorised or in personal accounts.

Responsibilities of local authorities

39. In addition to the responsibilities of budgetary bodies described in Sections 28-36 and Section 40, the local authorities shall have the following responsibilities for public finances:
- (a) setting, varying or annulling local charges that are specifically authorized by law as are necessary to finance the delivery of the services that Local Authorities are specifically responsible for under law;
 - (b) using public resources in accordance with the provisions of this Act and the Financial Rules and Regulations;
 - (c) ensuring the utilization of public resources in a transparent, accountable, effective and efficient manner;

- (d) preparation and submission of the draft annual budget and draft strategic plan of the Local Authority to its governing body for:
 - (i) approval in respect of expenses to be defrayed from local revenues; and
 - (ii) recommendations to the Ministry of Finance in respect of activities to be funded by the Ministry of Finance.
40. Local authorities shall prepare and submit their annual reports to the portfolio Minister and to the Ministry of Finance not later than three months after the end of the financial year.

Royal Audit Authority

41. The Royal Audit Authority shall audit the Government's receipts and payments accounts.

CHAPTER IV GOVERNMENT BUDGET AND REPORTS

Budget System

42. The Government shall have a system of annual budget for its receipts and payments.
43. The Government shall maintain the sanctity of the budgetary system and prevent the proliferation of extra-budgetary funds.
44. The budget shall be prepared in accordance with the Government's Budget Policy.
45. The financial year and the processes of budget preparation shall be as prescribed in the Financial Rules and Regulations.

Budget Policy and Fiscal Framework Statement

46. The Minister of Finance shall submit to the Parliament a Budget Policy and Fiscal Framework Statement outlining the Government's framework for the new budget. The Framework Statement shall include:
 - (a) the strategic priorities by which the Government was guided in preparing the Budget for that financial year and for the medium term;
 - (b) information on the macro-economic situation and outlook, and forecasts for the medium term of the economic aggregates;
 - (c) the Government's planned fiscal aggregates for the medium term including taxation and other revenue measures;
 - (d) information on the actual results for the planned aggregates in Section 48(c) in the previous Budget Policy and Fiscal Framework Statement and comments on significant variances;
 - (e) indicative sector ceilings used in preparing the new budget;

- (f) explanation of how the indicative sector ceilings accord with the fiscal intentions in this Statement.

Budget and Appropriation Bill

- 47. The Minister of Finance shall present to the Parliament the Government's Budget and Appropriation Bill no later than 5 days preceding the budget year.
- 48. The Budget and Appropriation bill shall detail the Government's financial performance intentions in such details as prescribed in the Financial Rules and Regulations and shall include:
 - (a) forecast financial statements in the same form as the annual financial statements, for the forthcoming financial year and two succeeding years following that;
 - (b) sources of funds showing apportionment between donor assistance and other sources of funds;
 - (c) the approved budget and the estimated revision of the budget for the preceding year and the actual results for the year preceding that;
 - (d) a statement of specific fiscal risks, including a statement of contingent liabilities and any potential additional expenses or revenue shortfalls that have not been incorporated into the forecast financial statements;
- 49. The Budget and Appropriation Bill shall specify the number of years each appropriation is sought for.
- 50. The Ministry of Finance shall publish the Budget and Appropriation Bill passed by the Parliament.

Interim expenditure for continuity of Government

51. If the Budget and Appropriation Bill has not been passed by the start of a financial year, the Minister of Finance may authorize the utilization of public funds for the purposes of meeting the current expenditure necessary to maintain the continuity of the Government until the passing of the Budget and Appropriation Bill, whichever is earlier. If one or more parts of the new budget have been approved, they shall be put into effect.
52. The Minister of Finance shall not authorize an amount under Section 51 that exceeds twenty five percent of the total of all Budget and Appropriation Act in the previous financial year.
53. All items of expenditure under the authority of Section 51 shall be treated as a charge against the appropriations for the same or equivalent items within the Budget and Appropriation Bill subsequently passed for the financial year to which such expenditure relates.
54. If for any other reason, there is no Minister of Finance in office, then the Prime Minister may assume the responsibilities of the Minister of Finance under this Act or, if no Government has been formed, then the Secretary of the Ministry of Finance may assume such responsibilities.

Re-appropriations and technical adjustments

55. A budgetary body may re-appropriate funds and make technical adjustments based on the Financial Rules and Regulations issued by the Ministry of Finance from time to time.

Revision of budget and appropriations

56. The Minister of Finance may present to the Parliament revised Budget and Appropriation Bills, outlining changes in appropriations and resource estimates, with full justifications for the revisions. Such bill shall be introduced to the Parliament at the earliest sitting of Parliament after the last sitting.
57. Revisions of the budget and appropriations shall be considered only when circumstances have changed significantly such as:
 - (a) shortfalls in revenues and other resources threatening macro-fiscal sustainability; or
 - (b) significant changes in costs of approved programmes.
58. Budgetary bodies shall not seek supplementary appropriations except when circumstances significantly change, and the Lhengye Zhungtshog has endorsed the change.
59. Except for the provisions under Section 66, no budgetary body shall make commitments or shall incur expenditure against supplementary budget proposals in anticipation of the approval of the proposal until the revised Budget and Appropriations Bill has been passed by the Parliament.
60. The Minister of Finance may authorize a supplementary appropriation without recourse to the Parliament and on the authority of this Section alone for expenditures that are financed by donors or co-financed jointly with the government for a development project that has all the required Government approvals. Such finance shall be based on agreement between the donors and the government. Such appropriations shall be recorded in the revised Budget and Appropriation Bill.

Prohibitions relating to appropriations and public expenditure

61. Budgetary bodies shall expend public money only in accordance with an appropriation under the Budget and Appropriation Act.
62. No budgetary body shall carry out activities for which there is no provision in the Budget and Appropriation Act or other lawful authority.
63. No budgetary body shall make commitments that have financial implications beyond the limits authorized by the Budget and Appropriation Act.
64. The authority of budgetary bodies to consume resources under the Budget and Appropriation Act shall lapse at the end of the financial year to which that Act relates except for multiyear appropriations under Section 49.
65. The accounts of all budgetary bodies shall be subject to audit by the Royal Audit Authority as per the Audit Act of Bhutan 2006. The Auditor General shall ensure the confidentiality of the accounts related to security and intelligence.

Authority for emergency expenditures

66. If, due to an emergency or disaster, an urgent need has arisen for expenditure, for which no budget appropriation has been made and which cannot be postponed without detriment to the public interest, the Minister of Finance may authorize the use of public funds to defray expenditure of such exceptional nature without further authority than this Section provided that:

- (a) a full report of such expenditure and its impact on the Budget Policy and Fiscal Framework Statement is made to the Parliament for ratification through the revised Budget and Appropriation Bill referred to in Section 57; and
- (b) the emergency expenditure is included in the Government's Annual Financial Statements.

Reporting requirement

67. The Minister of Finance shall produce the Annual Financial Statements as prescribed in the Financial Rules and Regulations and which shall include a statement of responsibility for the reliability and completeness of the financial statements signed by the Minister of Finance and the designated executive officer. The financial statements shall, among others, include the following:
- (a) statement of the sources and application of funds showing the revenues, expenditures and financing for the financial year;
 - (b) statement of the amounts outstanding at the end of the financial year in respect of public debt;
 - (c) statement of amounts guaranteed by the Government;
 - (d) statement of the amount outstanding at the end of the financial year in respect of loans provided by the Government;
 - (e) a summary statement of arrears of revenue for each revenue head at the end of the financial year;
68. It shall not be construed that the annual report including the Annual Financial Statements should include any information that is likely to be:
- (a) prejudice substantially the economic interests of Bhutan; or

- (b) prejudice the security or defence of Bhutan or the international relations of the Government; or
 - (c) compromise the Government in a material way in negotiation, litigation, or commercial activity; or
 - (e) result in material loss of value to the Government.
69. The Minister of Finance shall forward the Annual Financial Statements to the Auditor General not later than six months after the end of the financial year to which they relate.
70. The Auditor General shall express an audit opinion within three months of receipt of the Annual Financial Statements of the Government.
71. The Ministry of Finance shall publish the Annual Financial Statements and the audit opinion.

Reporting requirements for portfolio Ministers

72. Each portfolio Minister shall present, to the Lhengye Zhungtshog, a half-yearly report against the portfolio performance intentions specified in the Budget, within the period and in the form as prescribed in the Financial Rules and Regulations.
73. Within three months of the end of each financial year, each portfolio Minister shall present an Annual Portfolio Report on the actual performance against that specified in the Budget to the Lhengye Zhungtshog. The Report shall include:
- (a) a description of the progress achieved against the strategic objectives for the portfolio and the level of achievement;

- (b) a summary of non-financial and financial performance outcome against the forecast performance in the budget for the portfolio;
- (c) a description and budget used for the programmes delivered and an explanation of any variance with the programmes specified in the portfolio budget;
- (d) total revenue generated in the portfolio and an explanation of any variance with the revenue specified in the Budget.

CHAPTER V

STATE ENTERPRISES

Requirements to form state enterprise

74. The Government may establish a state enterprise to undertake significant commercial activities which:
 - (a) are not catered for by the private sector; or
 - (b) are required to be undertaken solely or partly by the Government for reasons of social policy or security; or
 - (c) fall in areas of natural monopoly.
75. If a budgetary body manufactures and/or delivers goods and services in a commercial environment, unless there are compelling reasons to do otherwise, the Government shall:
 - (a) establish a state enterprise to carry out those activities provided the size is large enough in terms of employees or in terms of reach; or
 - (b) transfer those activities to an existing state enterprise.
76. The Minister of Finance in consultation with the relevant sector Minister may initiate the establishment of a state enterprise or the transfer of an activity to a state enterprise.
77. A state enterprise shall be allowed to diversify and grow to an optimum size.
78. The Government shall regulate the prices of goods and services produced by state enterprises which are monopolies.

79. A state enterprise may be dissolved or privatised by divesting the Government's shares once there are enough manufacturers and providers of the same goods and services in the market.

Objective of a state enterprise

80. The primary objective of a state enterprise shall be to operate as a successful business. A state enterprise shall endeavour to earn a similar return on capital over the medium term as that earned by comparable businesses not owned by the Government.
81. Notwithstanding the provisions of Section 80, a state enterprise may also be provided with social mandates to produce and/or deliver goods and services, which may not be profitable.

Shareholder responsibilities for state enterprises

82. The Government's shares in a state enterprise shall be held by the Minister of Finance.
83. The Minister of Finance shall be primarily responsible for monitoring and reporting the performance of the state enterprises as a whole.
84. The Minister of Finance shall be prohibited from being involved in the governance or day-to-day management decisions of the state enterprise.
85. Shares in a state enterprise may not be disposed off without the express written approval of the Lhengye Zhungtshog.

Portfolio Minister's responsibilities

86. The portfolio Minister shall be responsible for monitoring and reporting the performance of the assigned state enterprises.
87. The portfolio Minister shall be prohibited from being involved in the governance or day-to-day management decisions of the state enterprise.

Board of a state enterprise

88. The governing body of a state enterprise shall be a Board of Directors. The responsibilities of the Board of Directors shall be as specified in the Companies Act of the Kingdom of Bhutan, 2000.
89. The Minister of Finance and portfolio Minister shall nominate a list of names to the Lhengye Zhungtshog, who shall then name the directors on the basis of merit.

Chief executive of a state enterprise

90. The Board shall appoint the chief executive as per the Companies Act of the Kingdom of Bhutan, 2000 who shall be responsible for managing the state enterprise.
91. The Chairman of the Board of a state enterprise on behalf of the Board shall review the performance of the chief executive and report to the Lhengye Zhungtshog within six months of the end of each financial year. Such report shall be in the form and manner prescribed by the Ministry of Finance.

General responsibilities of state enterprises

92. The chief executive of a state enterprise shall ensure that the state enterprise has and maintains:
- (a) an effective, efficient and transparent systems of financial and risk management and internal control;
 - (b) a system of internal audit under the control and direction of an audit committee;
 - (c) an appropriate procurement system which is competitive, transparent and cost-effective;
 - (d) a system of properly evaluating all major capital projects prior to final decision;
 - (e) a system of costing for pricing decisions and marketing.

Reporting by a state enterprise

93. A state enterprise shall prepare an annual report including the audited financial statements in accordance with the provisions of the Companies Act of the Kingdom of Bhutan, 2000.
94. The Minister of Finance shall present the annual report of State Enterprises as a whole to the Parliament. Such report shall contain, among others, particulars of any:
- (a) material loss, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure that occurred if any during the year;
 - (b) disciplinary steps taken as a result of losses mentioned in (a) above;
 - (c) material losses recovered or written off; and
 - (d) other matters that may be prescribed by the Ministry of Finance.

95. Nothing in this Act shall be construed as requiring the inclusion of any information in any Statement of Intent or Annual Report including the financial statements that would be likely to prejudice the commercial position of the state enterprise.
96. The accounts of state enterprises shall be audited by the Royal Audit Authority as per the Audit Act of Bhutan 2006.

State enterprise borrowing

97. Notwithstanding the Companies Act of the Kingdom of Bhutan 2000, a state enterprise shall not borrow or create any other actual or contingent liability without the express approval in writing of the Minister of Finance.

Companies with Government as minority shareholder

98. Section 89 shall apply in respect of nominations of Government directors on the Boards of Companies in which the Government is a minority shareholder.

CHAPTER VI

FINANCIAL MANAGEMENT REQUIREMENTS

Application of this Act to management and control of public finances

99. Any expenditure of public money, or dealing in Government assets, or liabilities incurred by and for the Government, irrespective of the source of funding, shall be subject to the financial management and control requirements prescribed in the Financial Rules and Regulations.
100. Any expenditure of state enterprises shall be subject to the financial management and control requirements prescribed in the Financial Rules and Regulations of the respective state enterprises having due regard to economy and efficiency.

Accounting treatment of externally financed activities

101. The Ministry of Finance, on behalf of the Government, shall receive all grants and loans made to budgetary bodies by a foreign government or any other body or person.
102. The Ministry of Finance shall ensure that activities financed by assistance from donors (cash and kind) shall be accounted for in accordance with laws, rules and regulations in force.
103. The Minister of Finance may grant an exemption from the requirements of Section 102 if such exemption is required in the public interest.

Issuance of instructions

104. Without limiting the powers of the Ministry of Finance under Section 24, the Ministry of Finance may issues rules, manuals, directives, instructions or notifications on the specific matters as follows:

- (a) any matter that must be prescribed in terms of this Act;
 - (b) the handling of, and control over, money and property;
 - (c) recovery of losses and damages and procedures for recovery;
 - (d) the writing-off of losses of money or assets or amounts owed to the state;
 - (e) gifts or donations by or to the State;
 - (f) the determination of any scales of fees, other charges or rates;
 - (g) financial management and internal control;
 - (h) channelling of resources received from donors, from extra-budgetary funds and non-budgetary bodies;
 - (i) procurement system which is equitable, transparent, competitive and cost-effective;
 - (j) internal audit functions; and
 - (k) any other matter that may facilitate the application of this Act.
105. The Ministry of Finance may on good grounds approve a departure from a Ministry of Finance regulation or instruction or any condition imposed in terms of this Act and shall promptly inform the Auditor General in writing when it does so.

Government's main funds and related bank accounts

106. The Royal Monetary Authority shall be the Government depository for the purposes of the budgetary operations of the Government.
107. There shall be a principal account of the Government known as the "Consolidated Fund". All fund releases shall be made from this Account.

108. The Government shall maintain the Consolidated Fund account with the Royal Monetary Authority.
109. The following shall be the subsidiary bank accounts of the Government:
 - (a) Government Revenue Account;
 - (b) Government Budget Fund Account;
 - (c) Government Non-revenue Receipts and Deposits Account.
110. Money shall be deposited into the accounts mentioned in Section 109 as follows:
 - (a) All money of revenue nature shall be deposited into the Government Revenue Account. Refunds of any tax or levy or any other refunds approved by the Ministry of Finance shall be made from this Account.
 - (b) All money received as grants, borrowings, recoveries of loan principals and other receipts shall be deposited in the Government Budget Fund Account. Refunds of unutilized grants to the respective donors shall be made from this Account.
 - (c) All money received by any budgetary body as advance or reimbursement from other budgetary bodies shall be deposited in the Government Non-revenue Receipts and Deposits Account.
111. The net balances of the subsidiary bank accounts as given in Section 109 shall be transferred to the Consolidated Fund account on a daily basis.

Release of funds

112. No release of public money from Government Accounts shall be made except with the authorization of the Minister of Finance.

113. The Ministry of Finance shall not release moneys unless:
- (a) an expenditure has been authorized for the financial year by:
 - (i) a Budget and Appropriation Act; or
 - (ii) a Supplementary Appropriation Act; or
 - (iii) any other provision of this Act that authorizes the issuance of warrants.
 - (b) money is required for the purpose of repaying any amounts that are received in error into Consolidated Fund account.
114. The Ministry of Finance shall set and meet reasonable time frames for the release of funds.
115. The Ministry of Finance may withhold releases of funds based on the conditions provided in the Financial Rules and Regulations.

Banking requirements

116. The Ministry of Finance shall be the sole authority for authorizing bank accounts for all budgetary bodies.
117. The Ministry of Finance on behalf of the Government shall have stewardship of all money in all the bank accounts of budgetary bodies.
118. The Ministry of Finance may authorize the opening and operation of bank accounts in countries other than Bhutan for the functions of government.
119. The Ministry of Finance and the Royal Monetary Authority shall appoint agent banks and make such arrangements with them as are necessary for management of budgetary operations.

120. Where separate bank accounts are required to be maintained either in Ngultrums or in foreign currencies by virtue of specific provisions in agreements with donors or others, the Ministry of Finance may authorize such accounts to be held outside the Consolidated Fund account.

Accounting, accounting policies, controls and standards

121. The accounts for all receipts and payments including receipts and payments in other currencies shall be maintained in Ngultrums. Memorandum records shall also be maintained for transactions in other currencies.
122. All budgetary bodies shall base the accounting records on the accounting standards prescribed by the Ministry of Finance.
123. There shall be an executive officer designated by the Ministry of Finance for the following responsibilities:
- (a) development of the public sector accounting profession including the promotion of high standards;
 - (b) issuing government accounting standards;
 - (c) promotion of good financial and other management practices throughout the public sector;
 - (d) administration of the internal audit service.

CHAPTER VII

BORROWINGS, GUARANTEES, SECURITIES AND INVESTMENT

Loans

124. Loans may be raised by the Government only in accordance with the provisions of this Act.
125. The Minister of Finance may raise a loan from any person, organization, or Government, either within or outside Bhutan.
126. The Minister of Finance may borrow money for the following purposes only:
 - (a) to finance budget deficits;
 - (b) to refinance maturing debt or a loan paid before the redemption date;
 - (c) to maintain credit balances in the bank accounts;
 - (d) or any other purpose approved by the Parliament by special resolution.
127. The authority of the Minister of Finance to raise loans under Section 125 shall include the authority to borrow money by way of the issue of public securities such as bills, bonds or commercial paper.
128. For the purpose of this Act, the raising of a loan shall not include the purchase of goods or services or the obtaining of an advance by the Government through the use of a credit card or by a supplier providing credit for the purchase of goods or services.

Borrowings by state enterprises and local authorities

129. State enterprises shall obtain the approval of the Minister of Finance for their intended programme of borrowing, re-financing and repayment of loans and for changes thereto.
130. The approval of the Minister of Finance to any programme of borrowing, refinancing and repayment by a state enterprise shall not imply in any way the existence of a government guarantee for such borrowing.
131. Local authorities may borrow only from the Ministry of Finance. In the case of commercially viable local authority enterprises, local authorities may borrow from financial institutions subject to the approval of the Ministry of Finance.

Guarantees

132. The Minister of Finance may give a guarantee, indemnity, or security upon such terms and conditions as may be appropriate, in respect of the performance of any obligation by a budgetary body, a state enterprise, or organization.
133. Any money paid by the Minister of Finance pursuant to any guarantee, indemnity, or security given under this Section or any other Act shall constitute a debt due to the Government from the organization in respect of whom the guarantee, indemnity, or security was given.
134. Subject to the terms of the instrument authorizing the guarantee, indemnity or security, the debt as specified in Section 133 shall be recovered over such period of time, and on such terms and conditions, as the Ministry of Finance specifies.

Payments for debts, indemnities, guarantees and securities

135. The Minister of Finance may without further appropriation other than this Section authorise the payment of money payable in respect of any:
- (a) loan to the Government;
 - (b) public security; or
 - (c) liability under an explicit written instrument of guarantee or indemnity.

Investments

136. The Ministry of Finance may, without further appropriation other than this Section, invest, for such periods and on such terms and conditions as it deems fit, any surplus monies. Such investment shall be:
- (a) on deposit with any reputable bank;
 - (b) in public securities; or
 - (c) in such other securities as the Minister of Finance may from time to time approve for the purpose.
137. All interest received from investments and all money received from the sale or conversion of securities shall be paid into the Consolidated Fund account.
138. The Ministry of Finance may incur all costs, charges, or expenses in connection with negotiating, placing, managing, servicing, or converting any investment entered into in accordance with Section 136 without further appropriation and such costs, charges or expenses may be paid from the Consolidated Fund account.

CHAPTER VIII

ESCROW MONIES

Definition

139. The following money shall be deemed to be escrow money:
- (a) money that is deposited with the Government pending the completion of a transaction or dispute and which may become repayable to the depositor or payable to the Government or any other person;
 - (b) all money that is paid into a court of law for possible repayment to the litigant or a third party, by virtue of any Act, rule, or authority whatsoever;
 - (c) all money that is paid to the Government in trust for any purpose;
 - (d) money that belongs to or is due to any person and is collected by the Government pursuant to any agreement between the Government and that person;
 - (e) unclaimed money that is due to or belongs to any person and is deposited with the Government.
140. All escrow money held by the Government shall be accounted for separately from public money.
141. The Ministry of Finance, having responsibility over all escrow money, may appoint a Government entity or any agent to manage some or all of it on such terms and conditions as the Ministry of Finance may determine from time to time.

Bank accounts for escrow money

142. All escrow money shall be lodged in Bank Account or Accounts known as Escrow Bank Accounts, to be operated and maintained by the Ministry of Finance or any agent appointed by the Ministry of Finance.
143. The Minister of Finance or the Ministry of Finance may give directions as to any terms and conditions under which an escrow money bank account may be operated.

Investment of escrow money

144. The Ministry of Finance or any agent appointed by the Ministry of Finance for the purpose may from time to time invest any escrow money held by the Government for such periods and on such terms and conditions as it deems fit,
 - (a) on deposit with any bank in Bhutan or any bank outside Bhutan approved by the Minister of Finance for the purpose; or
 - (b) in public securities; or
 - (c) in such other securities as the Minister of Finance may from time to time approve for the purpose.
145. All proceeds of the investments and all money received from any sale or conversion of securities shall be deemed to be escrow money.
146. No person shall have any right of action against the Government or any agent of the Government in respect of any investment or non-investment of any money to which this Section relates.

Unclaimed escrow money

147. Any escrow money that is unclaimed for a period of 3 years (or such longer period as the Minister of Finance directs) after having become repayable to the depositor or payable to any other person entitled thereto, shall, together with interest (if any) added thereto, be deemed to be public money and shall be transferred to the Consolidated Fund account.
148. If any person claims any escrow money which has been deemed to be public money under this Section, and establishes a claim to the satisfaction of the Minister of Finance, the money shall be paid to that person out of the Consolidated Fund account without further appropriation than this Section.

CHAPTER IX GOVERNMENT NON-BUDGETARY FUNDS

Government Trust Funds

Establishment

149. The Government may set aside stock of monies, securities or real property and hold in trust. Such funds shall be known as Government Trust Funds.
150. Government trust funds may be established for designated purposes as deemed necessary by the Government to ensure uninterrupted funding for certain essential programmes.
151. The number of such trust funds shall be kept to a minimum.
152. Government trust funds shall be governed strictly by their constitutions or deeds issued by the Lhengye Zhungtshog.

Capital

153. The capital of Government trust funds shall be constituted by contributions from the Government and/or various donors.
154. Government trust funds may also borrow funds to constitute whole or part of its capital.

Management

155. Government trust funds shall be managed by a Board of Directors.

156. The Minister of Finance and portfolio Minister shall nominate a list of names to the Lhengye Zhungtshog, which shall then name the directors on the basis of merit.
157. The terms and conditions of the Board members shall be as specified in the respective constitutions.
158. The Minister of Finance and the portfolio Minister, on behalf of the Government, shall assess the performance of the Government trust fund Board within three months of the end of each financial year.
159. The Board shall be responsible, among others, for:
 - (a) setting investment policy guidelines for the trust fund;
 - (b) overseeing the management of the trust fund;
 - (c) approving the fund's annual budget and work plan, which shall include among others the budget for operating expenses;
 - (d) determining the amount of trust fund's incomes to be transferred annually to the Ministry of Finance for expenditures in the dedicated sector;
 - (e) reviewing the audit reports of the fund and taking remedial actions where necessary;
 - (f) submitting to the Ministry of Finance the annual accounts.
160. The Board of a Government trust fund shall appoint the chief executive known as the Executive Director, who shall be responsible to the Board for managing the trust fund.

161. The Chairman of the Board of a Government trust fund, on behalf of the Board, shall review the performance of the chief executive within three months of the end of each financial year.

Utilisation of incomes

162. The activities or programmes to be funded from the incomes of Government trust funds shall be included in the annual budgets of the respective implementing agencies.
163. Government trust fund managements shall obtain accounts of expenditure, of the amounts granted to the agencies, not less than on a half-yearly basis and present to the Board.

Accounts and Audit

164. Government trust fund accounts shall be maintained in keeping with sound and established financial norms and practices of the Government.
165. The audit of Government trust funds accounts shall be conducted by the Royal Audit Authority.

Reporting

166. A Government trust fund shall prepare an annual report including financial statements in accordance with the provisions of the trust fund's constitution, and submit to the Minister of Finance and the portfolio Minister.
167. The Minister of Finance shall present the annual report of Government trust funds as a whole to the Parliament.

Other Government Funds

168. A Relief Fund shall be established with the prerogative of the Druk Gyalpo to use it for urgent and unforeseen humanitarian relief.
169. The Government may establish such other funds as may be necessary, but they shall be kept to a minimum.
170. The Ministry of Finance shall establish rules for the administration of such funds.

CHAPTER X

MISCELLANEOUS

Fees and charges

171. The approval of the Minister of Finance shall be obtained unless otherwise authorized by other provisions of this Act, to fix the fees and charges made by budgetary bodies, for services provided to the public.
172. Such fee or charge shall be set at a level no higher than the cost of the most efficient method of providing the service.

Delegation requirements

173. The delegation of power to a subordinate shall be made in accordance with the rules prescribed in the Financial Rules and Regulations or other lawful authority.

Unclaimed money

174. Unless otherwise provided in any Act, at the end of each financial year any money in any bank account of a budgetary body that has remained unclaimed for a period of 3 years from the date it was payable to the person entitled thereto, shall be deemed public money and paid into the Consolidated Fund account.
175. If any person claims any money deposited with the Ministry of Finance under Section 174 and establishes a claim to the satisfaction of the Minister of Finance, the money shall be paid to the person out of the Consolidated Fund account without further appropriation than this Section.

Unclaimed physical property

176. Where any physical property or right belongs to the State as unclaimed physical property, the Minister of Finance may from time to time on behalf of the State, exercise any power, function, and right (including any power of disposal) and undertake and perform any obligation, in respect of or in connection with the property or right that could be exercised, undertaken, or performed by the State based on rules and regulations laid down.
177. Where the Minister of Finance or any Government entity, on the application of any persons, performs any act under section 176, the Minister or Government entity shall be entitled to charge such person with all reasonable fees and costs incurred.

Unresolved financial irregularities

178. The Minister of Finance may, under exceptional circumstances, deal with unresolved financial irregularities, through a committee established for the purpose.
179. The committee referred to in Section 178 shall have the following members:
 - (a) the Minister of Finance, Chairman;
 - (b) the Auditor General;
 - (c) the Finance Secretary; and
 - (d) the Secretary of the Ministry concerned or the chief executive of the budgetary body concerned where the organisation is not part of a ministerial hierarchy.

Write-offs of losses due to acts of nature

180. Losses of public money or public assets due to acts of nature may be written-off by the respective authorities up to the limits prescribed in the Financial Rules and Regulations.
181. Write-offs referred to in Section 180 shall be subject to a documented set of policies and procedures as may be prescribed in the Financial Rules and Regulations.

Responsibility for losses

182. Each person shall be held personally responsible for any loss sustained by the Government due to acts of fraud or negligence on his part.
183. Heads of budgetary bodies shall bear oversight responsibility for any loss sustained by the Government due to lack of:
 - (a) proper internal control system in their respective organisation; or
 - (b) timely action or direction to check such losses.

Offences and Penalties

184. Any act or omission committed in relation to the powers, responsibilities and prohibitions under this Act without lawful authority shall be deemed to be an offence.
185. Any person committing an offence under this Act shall be liable to penalties in accordance with the Penal Code of Bhutan.
186. Any person convicted of an offence under this Act and whose penalty is not specified under the Penal Code of Bhutan or any other Law shall be liable to a fine or imprisonment or both as graded by the court.

Rule Making Power

187. The Ministry of Finance may in accordance with this Act issue rules necessary for effective implementation of its procedures.

Amendments to this Act

188. Any amendment necessary to this Act shall be made by the Parliament.

Authoritative Text

189. In any instance of difference in meaning between the Dzongkha and English text, Dzongkha text shall prevail over English text.

Definitions

190. In this Act, unless the context otherwise requires:
- (a) “Accounting standards” means authoritative statement of how particular types of transactions and other events should be reflected in the financial statements;
 - (b) “annual report” means a yearly report of financial and non-financial performance together with the financial statements;
 - (c) “appropriation” means an authorisation for expenditure of a designated amount of public funds for a specific purpose and under specified conditions;

- (d) “budget” means a plan of intended expenditures along with a plan of how to meet them;
- (e) “budgetary bodies” means all organisations and institutions of the three branches of Government including constitutional bodies, and local authority entities, but not state enterprises;
- (f) “chief executive” means the person who has the responsibility for managing the affairs of a budgetary body or a state enterprise, unless otherwise specified in this Act;
- (g) “Consolidated Fund account” means the principal account of the Government;
- (h) “constitutional body” means a Government body defined as such in the Constitution of Bhutan;
- (i) “donor” means a provider of external resources by way of concessionary loans, grants, materials, technical assistance or other forms of support to the Government;
- (j) “Financial Rules and Regulations” means rules and regulations made by the Ministry of Finance pursuant to this Act;
- (k) “financial statements” means the statement of sources and application of funds showing the revenues and expenditure and financing of a financial year;
- (l) “fruitless and wasteful expenditure” means expenditure which was made in vain and would have been avoided had reasonable care been exercised;
- (m) “Government” means the Royal Government of Bhutan;

- (n) “grant” means any unrequited transfer of money or resources from one government unit to another government unit or, from or to a foreign government, an international organization, or a non-governmental organization;
- (o) “irregular expenditure” means expenditure, other than authorised expenditure, incurred in contravention of a requirement of any applicable rules, regulations or legislation, including this Act;
- (p) “liability” means a liability measured in accordance with generally accepted accounting practice and can in a particular context include a liability that is contingent on an uncertain future event;
- (q) “loan” means any resources raised by way of:
 - i. borrowing;
 - ii. entering into hire purchase agreements;
 - iii. entering into financing lease arrangements; or
 - iv. accepting debt on assignment from other persons.
- (r) “local authority” means Dzongkhags, Gewogs, and municipal bodies established under legal authority;
- (s) “medium term” means a period of three to five years;
- (t) “natural monopoly” means a situation where for technical or social reasons there cannot be more than one efficient provider of a good or service;
- (u) “person” means a natural person;
- (v) “portfolio Minister” means a Minister appointed under lawful authority with responsibility in an area of Government;

- (w) “public money” means all money received by the Government and by budgetary bodies, including the proceeds of all loans raised, grants received money collected for specific purposes and retained in separate accounts by law, and any other money that the Minister of Finance determines as public money, but not money held in trust or custody on behalf of non-government parties, or money received by State Enterprises;
- (x) “public resources” includes public money, stores, property, assets, loans and investments;
- (y) “re-appropriation” means the transfer of funds from one appropriation item to another appropriation item;
- (z) “revenues” includes taxes, fees, charges and income from sales;
- (aa) “secretary” means secretary to the Government;
- (bb) “state enterprise” means a body incorporated under the Companies Act of the Kingdom of Bhutan, 2000 or as amended from time to time or established under any other Act and in which the Government or a state enterprise owns more than fifty percent of the issued share capital;
- (cc) “supplementary appropriation” means an appropriation in order to supplement an appropriation already granted;
- (dd) “unauthorised expenditure” means overspending from an approved budget limit, and expenditure not in accordance with the purpose of an approved expenditure budget.
