

A BILL

for

AN ACT TO ENACT PUBLIC FINANCE ACT AND TO MAKE BETTER PROVISIONS FOR THE MORE EFFECTIVE CONTROL, MANAGEMENT AND REGULATION OF THE PUBLIC FINANCE AND TO PROVIDE FOR OTHER MATTERS CONNECTED THEREWITH AND TO REPEAL THE PUBLIC FINANCE ACT NO.12 OF 2005.

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ENACTED by the House of Representatives of Zanzibar.

**PART ONE
PRELIMINARY PROVISIONS**

Short title and commencement.

1. This Act may be cited as the Public Finance Act, 2016 and shall come into on the date as the Minister may, by notice published in the Gazette, appoint.

Binding of the Act.

2. This Act binds the Budget Institutions, Public Entities and Local Governments.

Application.

3. (1) This Act applies to:

- (a) ministries, departments, executive agencies, special funds, regulatory authorities and constitutional institutions;
- (b) Local Governments envisaged by section 128 of the Constitution; and
- (c) public entities established under any law of Zanzibar.

(2) In the event of any inconsistency between a provision of this Act and any other law in force which regulates any aspect of the fiscal and financial affairs of Public Institutions, the provision of this Act shall prevail.

Fiscal responsibility principles.

4.(1) For the purpose of the public finance management, the guiding principles of fiscal responsibility are :

- (a) maintaining public debt at levels that are sustainable;
- (b) ensuring that over the medium term, total operating expenses do not exceed total operating revenues;
- (c) ensuring that over the medium term, borrowing is only for the purpose of development spending and not for the purpose of funding recurrent spending;

- (d) ensuring that expenditure on wages and benefits for public officers is not excessive in relation to the size of the economy;
- (e) managing public liabilities and assets, in a manner that does not burden future generations;
- (f) maintaining an adequate level of fiscal reserves to service the external public debt;
- (g) managing fiscal risks prudently; and
- (h) ensuring a reasonable degree of predictability with regard to the level of tax rates and tax bases, taking into account any tax reforms that may be made in the future.

(2) For the purposes of sub - section (1) (c) of this section, “borrowing” does not include short term borrowing in the normal course of management of cash flow.

(3) Without prejudice to sub - section (1) this section, the Minister shall provide criteria, general rules, guidelines and procedures, which are consistent with this Act for the purpose of regulating the attainment of the fiscal principles.

Interpretation.

5. In this Act, unless the context requires otherwise:

“Accountant General” means a public officer appointed under section 15 of this Act;

“Accounting Officer” in relation to a Budget Institution, Local Government and Public Entity, means the public officer referred to in section 22;

“Appropriation Act” means an Act describing the expected annual revenue estimates, the annual expenditure and other payments estimates approved by the House of Representatives;

“approved budget” means an annual budget approved by the House of the Representatives, Local Government Council or any other competent authority;

“appropriation” means a provision in an Act approved by the House of Representatives or Local Government Council or any other competent authority establishing the maximum amount that Public Institutions may incur in making commitments and payments for specific purposes during a twelve (12) months period ending on 30th June of each year;

“borrowing plan” means schedule of anticipated debt financing requirements providing for the size and repayment terms of the

anticipated loans;

“budget deficit” means an indicator which shows that the Government expenditure has exceed revenues;

“budget and economic forum” means a consultative forum contemplated under section 67 of this Act;

“Budget Institution” means ministry, executive agency, regulatory authority, or independent department entitled to a budget allocation through the annual budget appropriation process;

“budget related policy” means a policy of affecting revenue raising measures and expenditures in the annual budget, including:

(a) the taxation and fiscal policy;

(b) the rates policy which the local Government adopt in terms of relevant law; and

(c) the credit control and debt collection policy;

“budget vote” means a budget institution, which is entitled to a separate budget vote in the annual appropriation Act;

“budget year” means the financial year for which an annual budget is to be approved under this Act;

“Council” means the Revolutionary Council as defined by section 43 of the Constitution;

“Chairperson” refers to the Mayor or Chairperson of a City, Municipal, Town and District Council established pursuant to section 128 of the Constitution and relevant law;

“Consolidated Fund” means the fund that includes all the revenues and other funds of the Government as stated in the section 18 of this Act;

“Constitution” means the Constitution of Zanzibar, 1984;

“Controller and Auditor General” means the person appointed as Controller and Auditor General under section 112 of the Constitution;

“creditor”, means a person to whom money is owing by a Public Institution;

“current year” means a financial year which has already commenced but not yet ended;

“debt” means:

(a) a monetary liability or obligation created by a financing

agreement, note, debenture, bond or overdraft, or by the issuance of Budget Institution or Public Entity, or

(b) a contingent liability such as that created by guaranteeing a monetary liability or obligation of another;

“debt management” means the policy, planning and operational functions relating to debt financing, issuing of guarantees, discharging of obligations and related matters;

“debt strategy” means comprehensive tools, plans and measures needed to undertake effective debt management;

“delegation” in relation to a duty, includes a lawful instruction or request to perform or to assist in performing the duty;

“domestic loan” means any loan raised by the Government from inside United Republic of Tanzania;

“development expenditure” means an expenditure for the creation or renewal of assets and which contributes to capital formation;

“financial year” means in relation to:

(a) the Government, a period of twelve months commencing on 1st July of each year;

(b) a public authority or other body, the period specified by or under the relevant law or instrument relating to that authority or body or as determined by the competent authority of that authority or body;

“financing agreement” includes any loan agreement, lease, instalment purchase contract or hire purchase arrangement under which a Public Institution undertakes to repay a long term debt over a period of time;

“fiscal balance” means the residual balance of a budget after deducting expenditure from revenues;

“foreign loan” means any loan raised by the Government from outside United Republic of Tanzania;

“generally accepted accounting practice” means accounting practices and procedures recognized internationally as appropriate for fair presentation of financial information relating to Public Institutions to which this Act applies;

“governing body” means a governing Council for University or board of a Public Entity and shall include:

(a) a board of directors in the case of Public Entities;

(b) commissioners;

(c) a university Council of a public university; or

(d) a board of trustees;

“Government” means the Revolutionary Government of Zanzibar;

“Government securities” means bonds, treasury bills and stocks issued in accordance with provisions of this Act;

“grant” means an arrangement for the provision of financial assistance by the Government under which public money is paid to a grant recipient to achieve goals that are consistent with the policy objectives of the Government;

“internal audit” means a process to measure, evaluate and report to the management of an entity on the efficiency of the system of internal control used to ensure the validity of financial and other information;

“internal control” means a set of systems to ensure that financial and other records are reliable, complete and ensure adherence to the entity’s management policies, the orderly and efficient conduct of the entity, and the proper recording and safeguarding of assets and resources;

“investment” in relation to funds of a Budget Institution or Public Entity, means:

- (a) the placing on deposit of funds of a Budget Institution or Public Entity with a financial institution,
- (b) the acquisition of assets with funds of a Budget Institution or Public Entity not immediately required for disbursement;

“irregular expenditure” in relation to a Budget Institution or Public Entity, means:

- (a) expenditure incurred by a Budget Institution or Public Entity in contravention of, or that is not in accordance with, a requirement of this Act or other laws;
- (b) expenditure incurred by a Budget Institution or Public Entity in contravention of, or that is not in accordance with a requirement of the code of regulation for public servants; or
- (c) expenditure incurred by a Budget Institution or Public Entity in contravention of, or that is not in accordance with, a requirement of the procurement administration policy or any other by-laws giving effect to such policy,

and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a Budget Institution which falls within the definition of ‘unauthorized expenditure’;

“long term debt” means debt repayable over a period exceeding one year;

“Minister” refers to the Minister responsible for finance;

“Ministry” refers to the Ministry responsible for financial matters of the Revolutionary Government of Zanzibar;

“local Government” means a Local Government establishment managed by elected Councillors and includes City, Municipal, Town and District Councils;

“Paymaster General” means the officer referred to in sections 13 and 14 of this Act and vested with the powers to serve as the Principal Secretary in the Treasury who controls the public moneys;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“Programme” means a collection of service delivery activities and associated expenditure items leading to a service delivery outcome;

“Public Entity” means:

(a) Public Corporation ; or

(b) a board, commission, company, constitutional institution, corporation, fund or other entity, other than a Public Corporation, which is:

(i) established in terms of an act of the House of Representatives, and

(ii) fully or substantially funded either from the consolidated fund, or by way of a tax, levy or other money imposed in terms of a law enacted by the House of Representatives;

“Public Institution” includes Budget Institutions, local Government and Public Entity;

“Public money” means all Government monies received or to be received by the Minister, a public officer or any other authorized person and shall include revenues collected by designated Government departments, grants, loans for the Government, and any other money that the Minister may direct to be paid into the

accounts of the Consolidated Fund;

“Public Officer or Officer” means:

- (a) a person holding or acting in the office of emolument in the service of the Government; or a person holding or acting or acting the office of Minister in the Government,
- (b) an employee of anybody corporate such as is referred to in the public authority,
- (c) any person conducting negotiation, for in relation to public contract, or a prospective public contract on behalf of a public body; or a person who is a consultant to public authority;

“resources” includes moneys, inventories, stores, property, assets, loan advances, mineral, natural resources and investments;

“statutory payments” refers to payments by the Government for contract obligations, permanent agreements or special laws, include payments for servicing the public debt, refunds of taxes and other revenues in case they are provided by law, court issued legal claims on the Government and funds on the recurrent budget approved for utilization by organs established by the Constitution;

“responsible Minister” means the Council member in charge of policy directives of a Public Institution;

“Treasury” means the Minister, Paymaster General, Accountant General and includes such officer or officers as may be deputed by the Minister to exercise powers and to perform duties under this Act;

“Treasury Single Account” means the Government main bank account and its sub accounts maintained at the Central Bank;

“Trust Fund” means moneys received by the Government for special purpose according to the respective law or special agreement between the Financier and the Government.

PART TWO

FUNCTIONS AND POWERS OF THE COUNCIL AND EXECUTIVES

Functions of the Council.

6.(1) The Council shall have the following functions:

- (a) to approve the Government’s strategic objectives and priorities for budgetary policies for the next fiscal year and subsequent two successive years after the relevant fiscal year;

- (b) to approve the medium term budget framework and annual budget estimates, especially the targets for aggregate revenues, aggregate expenditures, fiscal balance and part of public debt that the Government is obliged to pay;
- (c) upon request by the Minister, to approve and issue finance regulations for effective implementation of sound public financial management;
- (d) to approve, for submission to the House of Representatives, the annual appropriation bill prepared by the Minister;
- (e) to make recommendations on the allocation of the Government raised revenues in the budget for the benefit of Local Governments.

(2) For the Purposes of full exercise of supervision, control and management of the public finance, the responsible ministers shall:

- (a) be incharge of policies and related policy outcomes of Public Institutions;
- (b) perform their statutory functions within the limits of the budget authorized for the relevant budget vote;
- (c) consider their statutory functions on monthly reports submitted to them.
- (d) be responsible for a Public Entities under their supervision;
- (e) exercise oversight to ensure that Public Entity complies with this Act, other Government directives and the internal regulations of that Public Entity;

(3) The responsible minister shall, while directing the Accounting Officer, be responsible for any resulting unauthorized expenditure, unless has informed the Council in writing of the likelihood of that unauthorized expenditure and that expenditure approved by the Council.

(4) The approval for an unauthorized expenditure referred to in sub section (3) of this section, shall be in writing, and the Accounting Officer must promptly submit a copy of that approval to the Controller and Auditor General.

(5) Any directive by a responsible minister to the Accounting Officer of Public Institution having financial implications for the Public Institution shall be in writing.

(6) A responsible minister for a Budget Institution or Public

Entity shall be required to table in the House of Representatives:

- (a) the annual report and financial statements referred to in section 113 and 114 of this Act, and the audit report on those statements, within one month after the Accounting Officer for the Public Institution or governing body for the Public Corporation received the audit report; and
- (b) the findings of a disciplinary committee, and any sanctions imposed by such a committee, which heard a case of financial misconduct against an Accounting Officer or Governing Body.

(7) If a responsible minister fails to table the annual report and financial statements of the Budget Institution or the Public Entity, and the audit report on those statements, in the House of Representatives, within seven months after the end of the financial year, that responsible minister shall table a written explanation in the House of Representatives setting out the reasons why they were not tabled.

PART THREE THE GOVERNMENT TREASURY

Establishment of the Treasury .

7.(1) There is established an entity of the Revolutionary Government of Zanzibar to be known as the Government Treasury.

(2) The Government Treasury shall consist of:

- (a) the Minister, who shall be the head of the Treasury;
- (b) the Paymaster General;
- (c) the Accountant General ; and
- (d) staff of departments or offices of the Government Treasury responsible for economic and financial matters.

8. The Treasury, acting through the Minister, shall:

General responsibilities of the Government Treasury.

- (a) undertake its functions as provided in this Act;
- (b) promote the object of this Act within the framework;
- (c) ensure the implementation of this Act across all Public Institutions;
- (d) prescribe uniform Treasury norms and standards; and
- (e) enforce this Act and any prescribed norms and standards, including any prescribed standards of accounting practice uniform classification systems, in Public Institutions.

Specific responsibilities of the Treasury.

9.(1) The Treasury shall:

- (a) ensure the formulation, implementation, monitoring and coordination of fiscal and monetary policies that promote macro-economic stability consistent with the fiscal principles set out in this Act;
- (b) co-ordinate inter-Governmental financial and fiscal relations;
- (c) ensure proper coordination and management of the annual budget preparation process to promote efficiency in allocation of public resources towards objectives and priorities of the development strategy within set medium term fiscal objectives;
- (d) prescribe a framework within which Public Institutions and special funds, shall conduct their cash management and banking arrangements;
- (e) formulate and supervise implementation of the debt policy which shall prescribe the framework within which Public Institutions shall borrow or incur debt;
- (f) enhance the control of the House of Representatives over public resources and public moneys by maintaining transparent systems which:
 - (i) provide a full account, to the House of Representatives, of the use of public resources and public moneys,
 - (ii) ensure the exercise of regularity and propriety in the handling expenditure of public money in a transparent, fair, equitable, competitive and cost-effective manner, and
 - (iii) ensure the efficient and cost effective cash management of the Consolidated Fund, any other fund established under this Act and other public moneys;
- (g) make available to the public, information related to regulations under this Act, approved budgets, budget framework paper and reports on budget performance tabled before the House of Representatives, and such other performance information relevant to the public accountability function of the Treasury;
- (h) supervise and exercise control over the implementation of the annual budget by:
 - (i) mobilising and disbursing financial resources to Public Institutions to enable implementation of the budget;
 - (ii) establishing banking arrangements for the

management of the Consolidated Fund;

- (iii) establishing and supervising the implementation of systems for planning, allocating and disbursing financial resources to promote economy, efficiency and effectiveness in the management of the budget; and
- (iv) establishing and supervising the implementation of policies, standards and norms to promote efficiency, transparency and accountability in operations of the budget.

(2) The Treasury shall be responsible for the management of the Consolidated Fund, supervision and control of all matters relating to the financial affairs of the Government.

(3) In accordance with General Accepted Accounting Practices, the Treasury shall prepare and submit to the Controller and Auditor General consolidated annual financial statements of the Government covering the Consolidated Fund and all other funds of Public Institutions.

Powers and duties of the Minister.

10. In order for the Treasury to perform its functions as provided under section 9 of this Act, the Minister shall have the powers of:

- (a) establishing units within Treasury for the purpose of implementing functions under section 9 of this Act;
- (b) ensuring establishment of units in Public Institutions for the implementation of relevant provisions of this Act in collaboration with other Responsible Ministers and the Accounting Officers;
- (c) establishing, after consultations with the responsible Minister for Local Governments, mechanisms for coordinating the implementation of the relevant provisions of this Act that pertain to local Governments;
- (d) making and issuing regulations, instructions or directives, that may appear to the responsible Minister necessary and expedient for the proper carrying out of any matter under this Act, to Accounting Officers;
- (e) providing support to Accounting Officers in the promotion of the objects of this Act.

Minister's power to delegate

11.(1) The Minister may delegate, in writing or through instructions relating to finances, his powers and duties, to the Paymaster General, and other public officers in the Treasury.

(2) Delegation so given does not divest the Minister from the

accountability relating to the exercise of delegated power or the performance of the assigned duties.

(3) The Minister may suspend, change or revoke any delegated power given to any delegated person, or any decision taken by the delegates if it is clear that they did not fulfill their obligations.

Powers and duties of a responsible Minister.

12. The Minister responsible for a Budget Institution or Local Governments shall:

- (a) provide general political guidance over the fiscal and financial affairs of the Public Institution;
- (b) monitor and, to the extent provided in this Act, oversee the exercise of responsibilities assigned under this Act to the Accounting Officer;
- (c) take all reasonable steps to ensure that the Public Institution performs its statutory functions within the limits of the Budget Institution's or Local Government's approved budget;
- (d) within 30 days of the end of each quarter, submit a report to the Treasury on the implementation of the budget and the financial affairs of the Budget Institution or Local Government; and
- (e) exercise the other powers and perform the other duties assigned to the responsible Minister for Budget Institution or Local Government.

Paymaster General

13.(1) The Paymaster General who is also the Principal Secretary in the Treasury shall, in that capacity and subject to the directives of the Treasury, control the issue of public moneys to ministries and departments of the Government, and perform such other functions as the Minister may, by regulations under this Act, prescribe.

(2) The Paymaster General is responsible to the Minister for the effective application of this Act, Regulations, directives and instructions issued under this Act

Powers and Responsibilities of the Paymaster General.

14.(1) The Paymaster General, under the directives and the powers given by the Minister, and within the responsibilities prescribed by the Council for all principal secretaries, has the powers and responsibilities to:

- (a) exercise oversight over the implementation of policies relating to macro-economic and fiscal management and other functions assigned to the Treasury under section 11 of this Act;
- (b) delegate, in writing, part of his powers and tasks to public officers directly under his supervision without prejudice to his responsibilities;

- (c) advise Accounting Officers on any matters concerning the application of this Act and related regulations; and
- (d) serve as the Secretary to the Treasury.

(2) The Paymaster General shall bring to the immediate attention of the Minister any defect in the application of this Act, regulations, directives or instructions issued under this Act that may result in a diminution of control over the resources and finances of the Government.

(3) Subject to provisions of this Act, regulations, directives or instructions issued by the Minister under section 10 of this Act, the Paymaster General may give directives and instructions he considers necessary for the effective and efficient discharge of the intents and purposes of this Act.

(4) The Paymaster General may, from time to time, require an Accounting Officer, or the chief executive of any public institution or any entity that manages assets or liabilities of the Government, to supply any information that the Secretary of the Treasury considers necessary for the purpose of exercising oversight under this Act.

(5) The Paymaster General and any public officer authorised by him, may inspect all offices affected by this Act, and shall be:

- (a) given access at all times to those offices; and
- (b) given all available information he may require with regard to the moneys and records regulated by this Act.

Accountant General.

15. There shall be an Accountant General who shall be appointed by the President from among qualified professionals in accounting, finance and auditing matters.

Powers and Responsibilities of the Accountant General

16.(1) Subject to provisions of this Act, the Accountant General shall be responsible for:

- (a) compilation and management of the accounts of Government;
- (b) custody and safety of public money and property; and
- (c) development and implementation of the Public Institutions revenue and expenditure management systems.

(2) For the purpose of sub section (1), the Accountant General shall serve as an assistant to the Secretary to the Treasury and may give general or specific instructions to Accounting Officers for effective implementation of the provisions of this Act, regulations, directives or instructions issued under it.

(3) Without prejudice to the generality of sub-section (1) of this section, the Accountant General shall undertake responsibilities as prescribed in the Regulations.

(4) Notwithstanding any authorisation by the Paymaster General under this Act, the Accountant General may inspect all offices of Public Institutions and shall be given unhindered access to relevant information.

(5) The Accountant General shall report periodically to the Paymaster on the discharge of his duties under this Act.

(6) Reports required by the Controller and Auditor General from the Treasury shall be provided by the Accountant General.

(7) Recruit, train, promote and transfer of accounting staff in the Public Institution

Financial management competency levels.

17. (1) Senior finance officers of a Public Institution shall meet the prescribed minimum financial management competency levels.

(2) A Public Institution shall, for the purposes of sub section (1), provide resources or opportunities for the training of officers referred to in that sub section to meet the prescribed competency levels.

(3) Delegations made under section 27 of this Act shall be to officials that have the required competencies to perform financial management duties.

PART FOUR

CONSOLIDATED FUND AND SPECIAL FUNDS

Consolidated Fund.

18.(1) Subject to the provisions of section 104 of the Constitution, all revenues or other moneys raised or received for the purposes of the Government, not being revenues or other moneys that are payable by or under any law into some other fund established for any specific purpose or that may, by or under any law , be retained by the authority that received them for the purpose of defraying the expenses of that authority, shall be paid into and out of the Consolidated Fund.

(2) Without prejudice the provisions of sub section (1), the Consolidated Fund shall constitute all revenues and other public monies, domestic and external loans and grants received by the Government.

(3) Moneys may not be withdrawn from the Consolidated Fund except in terms of an appropriation by a law passed by the House of Representatives; or as a direct charge against the Consolidated Fund under the Consolidated Fund services.

(4) Draft legislation that provides for a withdrawal from the Consolidated Fund as a direct charge against the Consolidated Fund, may be introduced in House of Representatives only after the Minister has been consulted by Public Institutions and has consented to the direct charge.

(5) Moneys that shall be paid into the Consolidated Fund is paid into the Fund by depositing it into a bank account of the Fund in accordance with cash management requirements as prescribed in the Regulations of this Act.

Special Funds.

19.(1) The Minister may, by statutory instrument, establish a special fund.

(2) A special fund shall not form part of the Consolidated Fund; and the receipts, earnings and accruals of such funds at the end of the financial year shall not be repaid to the Consolidated Fund.

(3) A statutory instrument made under subsection (1) shall:

(a) state the purposes for which the special fund is being established; and

(b) identify the Accounting Officer responsible for operations of the special fund.

(4) An expenditure shall not be incurred by a special fund except for purposes stipulated in the instrument establishing such special fund and the budget estimates in respect of any financial year for the special fund for that financial year, approved by the Minister with concurrence of the Minister responsible for the special fund, have been tabled before the House of Representatives.

(5) Subject to subsection (3), the Minister may make Regulations and issue directives for the establishment, management, and disestablishment of special funds.

(6) The Minister shall have the power at any time to wind up any fund established under this section; and any funds standing to the credit of such fund at the time of winding up shall be paid into the Consolidated Fund.

(7) An Accounting Officer ministering a special fund, and an Accounting Officer or other public officer ministering an agency, trust or other fund or account not provided for in this section, shall prepare and submit to the Accountant General, with a copy to the Controller and Auditor General, an account of the special fund, agency, trust, other fund or account, in the form that, the Paymaster may direct.

Investment of balances on the Consolidated Fund.

20. (1) Sums standing to the credit of the Consolidated Fund may be invested:

(a) with a financial institution, approved by the Minister, at call;

(b) subject to notice not exceeding twelve months; or

(c) in an investment authorised by the law for the investment of trust funds and approved by the Minister.

(2) The Minister shall establish a framework for regulating investment decisions and the associated monitoring and reporting.

Money by deposit or trust excluded from the Consolidated Fund.

21. (1) For the avoidance of doubt any reference to moneys raised or received by the Government does not include moneys received on deposit or moneys held on trust by or under the control of any court, officer of a court, the Public Trustees, the Official Receiver or any sums of money held on trust by any other officer for purposes other than the purposes of the Government.

(2) The Treasury shall issue regulations to guide Accounting Officers in the management money held in trust.

PART FIVE DESIGNATION OF ACCOUNTING OFFICERS

Accounting Officers.

22. (1) Budget Institution, Public Entity and Local Government shall have an Accounting Officer.

(2) The Paymaster General shall appoint, by name and office in writing, an Accounting Officer who shall be responsible for managing the finances of a Budget Institution.

(3) Chief Executive of the Public Entity or Local Government shall be an Accounting Officer.

(4) Notwithstanding the provisions of sub - section (3) of this section, the Paymaster General may, in exceptional circumstances, instruct in writing that a person other than the Chief Executive of Public Entity or Local Government to be the Accounting officer.

(5) The Paymaster General may at any time withdraw in writing the appointment under this section.

Functions of the Accounting Officer in relation to financial Management.

23.(1) The Accounting Officer of a Public Institution is responsible for managing the financial affairs of the Public Institution, and shall, for this purpose take all reasonable steps to promote the proper utilisation of public resources and to limit financial and all forms of risks in the management of the financial management system of the Public Institution.

(2) For the purposes of sub section (1) of this section, the Accounting Officer shall ensure that Public Institution has and maintains:

- (a) effective, efficient, transparent systems of financial and risk management, and internal control;

- (b) a system of internal audit under the control and directives of an audit committee complying with and operating in accordance with the Regulations and instructions prescribed under this Act;
- (c) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective; and
- (d) a system for properly evaluating all major capital projects prior to a final decision on the project.

Responsibilities of the Accounting Officer in relation to Banking and Cash Management.

24.(1) The Accounting Officer shall follow the rules and regulations provided under this Act in the management of cash and bank accounts.

(2) The Accounting Officers shall take effective and appropriate steps to:

- (a) collect and deposit in the bank account all moneys due to the Public Institutions;
- (b) prevent unauthorized, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct; and
- (c) manage available working capital efficiently and economically.

Responsibilities of the Accounting Officer in relation to asset and liability management.

25.(1) The Accounting Officer of a Public Institution is responsible for the management of:

- (a) the assets of the Public Institution; and
- (b) the liabilities of the Public Institution.

(2) In fulfilling the responsibilities associated with asset management, the Accounting Officer shall maintain an asset register for all assets under the control of the Public Institution.

(3) In managing liabilities, the Accounting Officer shall:

- (a) comply with any tax, levy, duty, pension and audit commitments as may be required by law;
- (b) settle all contractual obligations and pay all moneys owing, within the prescribed or agreed period.

Accounting Officer responsibilities in relation to revenue management.

26.(1) The Accounting Officer is responsible for the management of the revenues of the Public Institution.

(2) The Accounting Officer shall, for the purposes of sub section (1), take all reasonable measures to ensure the establishment and operations of efficient and effective system for collecting and

accounting for revenues.

(3) The Accounting Officer shall take necessary measures to ensure that all revenues received are promptly deposited on the revenue or Consolidated Fund bank account.

(4) The Accounting Officer shall report to the responsible Minister or governing body or the Treasury, any impending under collection of revenue due, and shortfalls in budgeted revenue.

Responsibilities of the Accounting Officer in relation to Expenditure Management.

27.(1) The Accounting Officer of a Public Institution is responsible for the management of the expenditure of the Public Institution.

(2) The Accounting Officer shall ensure the establishment and operation of effective, efficient and transparent systems of financial and risk management and internal control to support expenditure management.

(3) The Accounting Officer shall take effective steps to spend within the budget allocation and prevent over spending, and report to the responsible Minister, governing body and Treasury.

Responsibilities of the Accounting Officer in relation to Budget Preparation.

28.(1) The Accounting Officer of a Public Institution is responsible for preparing the annual budget of the Public Institution.

(2) The Accounting Officer shall take all reasonable steps to ensure that budget preparation conforms to the norms and standards set out in the Regulations, budget call circular or other instructions issued by the Treasury.

(3) In carrying out duties required under sub section (1), the Accounting Officer shall carry out strategic and expenditure reviews to prepare a strategic and operational plan to support funding requests.

Responsibilities of the Accounting Officer in relation to Budget Execution.

29.(1) The Accounting Officer of a Public Institution is responsible for implementing the annual budget of the Public Institution, and shall, for this purpose take all reasonable steps to ensure that:

- (a) budget execution conforms to the norms and standards set out in the Regulations or other instructions issued by the Treasury;
- (b) reasonable capacity and systems are put in place to ensure effective execution of the budget; and
- (c) provide performance reports to the Treasury and the responsible Minister or governing body prescribed budget execution.

(2) The Accounting Officer shall, on the basis of the annual cash flow and procurement plan submitted to the Treasury under section 44

of this Act, execute service delivery objectives of the Public Institution.

General reporting obligations for Accounting Officer.

30.(1) The Accounting Officer shall keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards.

(2) An Accounting Officer shall prepare and submit monthly, quarterly and annual reports as shall be required by the Treasury under this Act and its Regulations.

(3) An Accounting Officer shall submit to the Treasury and Controller and Auditor General annual financial statements within three months after the end of the financial year.

(4) Quarterly and annual reports prepared as part of the general reporting obligations shall include particulars of:

- (a) assets, budget variances and liabilities;
- (b) any material losses through criminal conduct, and any unauthorized expenditure, irregular expenditure and fruitless and wasteful expenditure, that occurred during the financial year;
- (c) any criminal or disciplinary steps taken as a result of such losses, unauthorized expenditure, irregular expenditure and fruitless and wasteful expenditure;
- (d) any material losses recovered or written off; and
- (e) any other matters that may be prescribed by the Treasury.

Power of Accounting Officer to delegate his function or responsibility.

31.(1) An Accounting Officer, for the proper application of this Act in the Public Institution's administration may, in writing, delegate a function or responsibility of Accounting Officer specified in this Act, to a public officer under his control.

(2) Where an Accounting Officer delegates a function or responsibility under sub section (1) of this section, the Accounting Officer shall give such directives as may be necessary to ensure the proper exercise or performance of the function or responsibility.

(3) The delegation under this section shall not divest the Accounting Officer of the responsibility concerning the exercise of the delegated power or performance of the delegated duty.

Control of relief, charitable trusts and other funds.

32. A political institution or an office-bearer of a Public Institution may not set up a relief, charitable trust or other fund of whatever description except in the name of the Public Institution under the control of the Accounting Officer.

PART SIX

PLANNING, BUDGETING AND BUDGET APPROVAL

Promotion of Fiscal
Responsibility principles.

33. The Minister shall:

- (a) formulate and execute the medium term fiscal strategy with fiscal objectives that are consistent with the fiscal responsibility principles specified in section 4 of this Act;
- (b) be supported by the Paymaster General in planning and executing macroeconomic and fiscal strategy, and annual budget.

Treasury to prepare
Budget Framework Paper.

34.(1) The Treasury shall prepare and submit to the Council for approval, a Budget Framework Paper in each financial year.

(2) The Budget Framework Paper shall include:

- (a) actual fiscal performance in the previous financial year compared to the budget appropriation for that year;
- (b) contingent liabilities and fiscal risks;
- (c) a set of the broad strategic priorities and policy goals that will guide the Government in preparing budgets for the coming financial year;
- (d) updated macroeconomic and financial forecasts and information to show changes from the forecasts in the most recent Budget Framework Paper;
- (e) proposals for a Budget Institution on aggregate medium term spending ceilings by vote; and
- (f) the reasons for any deviation from the fiscal responsibility principles or the financial objectives, together with proposals to address the deviation and the time estimated.

(3) Within 10 days after the Budget Framework Paper has been submitted to the Council, the Treasury shall arrange for the paper to be laid before the House of Representatives.

(4) The House of Representatives shall consider the Budget Framework Paper with a view to approving it, with or without amendments, within fourteen days after its submission.

(5) The Treasury shall take into account recommendations made by the House of Representatives when finalising the Budget

Framework Paper for the relevant financial year.

(6) The Treasury shall publish and publicise the Budget Framework Paper within 10 working days after it has been tabled to the House of Representatives.

(7) For the purpose of sub section (1) of this section, an Accounting Officer shall prepare and submit an updated medium term plan, based on ceilings of expenditure provided by the Minister, and to which the Budget Framework Paper shall relate.

(8) On the day the Minister submits the Budget Framework Paper, a pronouncement shall be made by the Minister on revenue raising measures that are in accordance with any international or regional treaty.

(9) The Minister shall, in the preparation of Budget Framework Paper, use the Budget and Economic Forum to advise him on the allocations to Public Institution for the purpose of inclusion in the Budget Framework Paper under sub section (1) of this section.

Grants and loans

35.(1) A Budget Institution may receive a grant or loan from a development partner only if the grant or loan has previously been approved by the Treasury.

(2) The Accounting Officer of Budget Institution shall include all grants or loans and their distribution, in the medium term sector plan of the Public Institution to be submitted to the Minister under section 34(7) of this Act.

(3) Projects relating to the grant or loan under this section, shall be included in the Government Investment Plan, subject to the rules for capital budget appraisal and approval of the Treasury.

(4) The Head on external finance shall maintain a register of grants and loans as prescribed in the Regulations.

Budget Preparation and Approval.

36. (1) Subject to approval to the Budget Framework Paper by the House of Representatives under section 34(4), the Minister shall issue ceilings to Budget Institutions and Local Government and require them to prepare their annual budgets.

(2) Budget Institutions shall submit to the Paymaster General their annual budgets that shall include:

- (a) detailed estimates of revenues covering fees and charges under their responsibilities;
- (b) estimates of recurrent and development expenditure by program;and
- (c) annual work plans and procurement plans.

(3) Pursuant to section 106 of the Constitution, the Minister shall, in consideration of submissions of Budget Institutions in sub - section (2) of this section, cause to be prepared and tabled before the House of Representatives, the annual budget of the financial year, before the commencement of each financial year.

(4) The Minister shall present, along with the annual budget statement:

(a) explanation of deviations from the fiscal rules and objectives, where the Government is unable to comply, and proposals and timing to comply with the fiscal responsibility principle, the fiscal strategy and other requirements under this Act;

(b) the Appropriation Bill necessary to implement the annual budget.

(5) The House of Representatives shall consider and approve the budget on or before the 30th of June to allow it take effect from 1st day of July each year.

Procedures for approval and adoption of annual budgets.

37.(1) The procedure for approval of the Government budget shall follow sections 105 and 106 of the Constitution, and the provisions of this Act.

(2) The House of Representatives may make proposals revising the budget submitted by the Minister, provided that any proposal relating to increase or decrease in expenditure shall be accompanied by a corresponding increase or decrease in revenue.

(3) The House of Representatives has the authority, in the respective capacity, to require Accounting Officers to appear before it and explain policies, programs and utilization of their budget.

(4) Concerning Public Entity, Boards shall approve the annual and revised budget, and they shall establish modalities to revise the budget allocated to them.

(5) The House of Representatives shall put to vote and adopt each Budget Institution's expenditure and revenues estimates.

Spending before budget adoption by the House of Representatives.

38.(1) Subject to section 109 of the Constitution, if the Appropriation Act has not come into force at the commencement of any financial year, the President may authorize a withdrawal from the Consolidated Fund for the purposes of meeting the expenditure necessary to carry on the services of the Government until the expiration of three months from the beginning of that financial year or the coming into operation of that Act.

(2) Funds used by Accounting Officers before adoption of the annual budget shall not exceed in total 25 per cent of the amount

included in the approved revised budget of the preceding year.

(3) Funds used as in subsection 2 of this section, shall be included, under respective votes for the several services in respect of which they were withdrawn, in the Appropriation Bill.

(4) Accounting Officers shall not be spending on new capital projects budgeted for, if Appropriation Bill is not approved.

Annual budget documents to be presented to the House of Representative.

39.(1) Subject to section 105 of the Constitution, the Minister's annual budget statement shall:

- (a) provide an analysis of trends in the performance of economic indicators, and targets for the financial year;
- (b) include a statement of spending priorities for the financial year;
- (c) provide for revenue raising and cost savings measures;
- (d) quantify tax exemptions granted to various categories of tax payers, where applicable;
- (e) include a statement of anticipated deficit, where applicable, and proposals for its financing;
- (f) include a statement for supplementary budget, if any, for the previous year for approval by the House of Representatives.

(2) The annual budget shall be accompanied by:

- (a) detailed revenue estimates including a plan for external financing of the budget in the form of borrowing and grants;
- (b) detailed program for recurrent and capital expenditure estimates by vote;
- (c) a statement of outstanding multi-year commitments;
- (d) budgets of special funds and newly established public entities;
- (e) grants and transfers to Local Governments;
- (f) a statement of the public investment program consistent with the medium term budget framework;
- (g) a disclosure of financial assets, liabilities and contingent liabilities, including stocks, debts and guarantees.

(3) Except for statutory expenditure estimates, all budget votes contained in the estimates shall be included in the Appropriation Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums to the specified programs.

Capital Expenditure plan.

40.(1) Capital expenditures shall be provided for in the general Government budget in the form of multi-year Government Investment Plan.

(2) Plans and projects to be implemented by Budget Institutions shall be, subject to approval based on rules and procedures set out in the Regulations under this Act, included in the Government Investment Plan and medium term sector plan of the Budget Institution.

(3) Capital projects supported by Development Partners and which require Government contribution shall not commence until such time Government contribution is assured through appropriations by the House of Representatives.

PART SEVEN BUDGET EXECUTION

Budget releases.

41. (1) Following the approval of the annual budget, the Paymaster General shall inform the Accounting Officer of each Public Institution of its approved budget program by vote, and shall require an Accounting Officer to prepare cashflow, detailing timing of annual cash disbursements and procurement plans.

(2) The Accounting Officer shall not later than 14 days after receipt of the approved budget from the Minister, submit to the Paymaster General cashflow and procurement plans for the budget year.

(3) Public Institutions shall submit updated quarterly cashflow and procurement plans to the Paymaster General for cash disbursement schedule.

(4) The Paymaster General shall, subject to sub section (3) of this section, authorize execution of the budget based on the approved budget allocation.

.....
(5) The Accountant General shall, subject to sub section (4) of this section, make cash releases to Accounting Officers to incur expenditure up to the limits authorised by the Paymaster General and for the purposes and subject to the conditions contained therein.

(6) An Accounting Officer shall commit budget expenditure within the limits authorized by the Paymaster General.

Spending commitments to be in accordance with

42.(1) The Accounting Officer shall not commit to a liability for which no funds have been appropriated or authorized.

appropriations.

(2) The permitted mode of committing expenditure is through a duly issued purchase order prepared pursuant to Government procurement procedures or recruitment and placement procedures applicable to the civil service.

(3) For the purposes of managing human resources and compensation of employees, Accounting Officers shall, at all times, be guided by an approved human resource plan, fiscal responsibility principles, and public service regulations.

Contracts having future budgetary implications.

43.(1) A Public Institution may enter into contract which will impose financial obligations on the Public Institution beyond a financial year.

(2) For the purpose of sub section (1) of this section, the Public Institution before entering into the contract shall have to inform the Minister for approval.

(3) Where the contract concluded by the Public Institution will impose financial obligations on the Public Institution beyond one year covered in the annual budget for that financial year, it may do so only in accordance with a process prescribed by the Treasury in the Regulations.

PART EIGHT

ESTABLISHMENT OF CONTINGENCY FUND

Contingency Fund.

44.(1) Pursuant to section 108 of the Constitution, a contingency fund is hereby established to cater for unforeseen and unavoidable expenditures.

(2) The Contingency Fund shall consist of monies appropriated from the Consolidated Fund by an Appropriation Act in financial year.

(3) The permanent capital of the contingency fund shall not exceed 2.5 percent of the most recently audited revenues or such other amount as may be prescribed by the Minister with the approval of House of Representatives.

(4) The Minister may make advances from the Contingency Fund on the basis of the set criteria, process and operational guidelines as prescribed in the Regulations approved by the House of Representatives.

(5) In making advances from the Contingency Fund, the Minister shall be satisfied that an urgent and unforeseen need for expenditure has arisen for which there is no specific legislative authority.

Unforeseen or unavoidable supplementary expenditure.

45.(1) The Minister may, upon a request from an Accounting Officer, authorize a supplementary budget for a Public Institution in emergency or other exceptional circumstances provided that the reasons for this additional expenditure were unforeseeable or unavoidable and for which no provision was made in the approved budget.

(2) The additional amounts authorised under sub section

(1) of this section, shall not exceed 10 percent of the approved budget for the Public Institution without prior approval of the Council.

(3) Not later than three months after a payment from the Contingency Fund, the Minister shall submit to the House of Representatives a detailed report in respect of the payment setting out the information prescribed in the Regulations and seek the House of Representatives to approve the payment.

(4) If the House of Representatives does not sit during the period referred to in subsection (3), or is not sitting at the end of that period and the Minister has not sought the approval of the House of Representatives before the end of that period, the Minister shall seek the approval for the payment not later than fourteen working days after the House of Representatives convenes.

(5) If such an payment is not approved within 60 days after the expenditure was submitted to the House of Representatives, the expenditure is unauthorized and shall require the House of Representatives to condone it if found fruitless.

(6) After the House of Representatives approved the payment, the Minister shall cause in Appropriation Bill to be introduced in the House of Representatives in next financial year for the appropriation of the money paid and for the replacement of the Contingency Fund to the extent of the amount of the payment.

Unauthorised Expenditure.

46.(1) Unauthorized expenditure shall not become a charge against the Consolidated Fund or a Local Government revenue fund except when:

- (a) the expenditure is an overspending of a vote and the House of Representatives or Local Government Council, as may deem appropriate, approves, as a direct charge against the Consolidated Fund or the relevant Revenue Fund, an additional amount for that vote which covers the overspending; or
- (b) the expenditure is unauthorised for another reason and the House of Representatives or a Local Government Council, as may be appropriate, authorizes the expenditure as a direct charge against the relevant Consolidated or Revenue Fund.

(2) Where the House of Representatives or a Local Government Council does not approve in unauthorized expenditure in terms of this section as additional amount for the amount of any overspending, that amount becomes a charge against the funds allocated for the future financial years under the relevant vote.

Reallocation of funds appropriated.

47.(1) An Accounting Officer for a Public Institution may utilize a saving in a main program of a vote towards the defraying excess expenditure under another main program within the same vote, unless the Minister or Chairperson directs otherwise.

(2) An Accounting Officer shall not authorize the transfer of amount that is appropriated:

- (a) for transfer to another Public Institution or individual; or
- (b) for capital expenditure, except to defray other capital expenditure.

(3) An Accounting Officer for a Public Institution may reallocate funds between programs, activities, or between principal items in a vote in the budget for a financial year if:

- (a) there are provisions in the budget of a program, activity, or between principal items which are unlikely to be utilized;
- (b) the total sum of all reallocations made to or from a program, activity or between main program of a budget vote does not exceed an amount prescribed in the Regulations or Program Based Budget Manual.

Preparation and presentation of adjustments annual budgets.

48.(1) The Minister or Chairperson may, subject to a mid-year budget execution review report referred to in section 51 of this Act, table an adjusted budget in the House of Representatives or Local Government Council when the Council deems it necessary on the basis of a six-month review report of the budget execution as mentioned.

(2) The proposed revisions to the annual budget shall be consistent with the approved priorities in the medium-term strategic framework and budget framework paper; and if they are different from the approved budget framework, the reasons thereof shall be notified to the House of Representatives or to the relevant Local Government Council.

(3) The proposed adjustments budget may only provide for:

- (a) adjustments required due to significant and unforeseeable economic and financial events affecting the fiscal targets set by the annual budget;
- (b) an expenditure under section 47 of this Act;
- (c) money to be appropriated for expenditure needs

already announced by the Minister or Chairperson of a Local Government Council during the tabling of the annual budget;

- (d) the reallocation of monies between and within votes or to follow the transfer of functions where functions are transferred to another Public Institution;
- (e) the application of savings under a program in a vote for the defrayment of excess expenditure under another program within the same vote under section 48; and
- (f) the carry-over of unspent funds from the preceding financial year to meet commitments already entered into by a particular Public Institution.

(4) The adjusted or revised annual budget shall provide details of funds used in emergency situations.

(5) Adjusted budget supporting an adjustments appropriation bill shall detail the effect of the expenditure changes on performance against the fiscal principles and objectives in the budget framework paper.

Unspent funds and duration of appropriation.

49.(1) The appropriation of funds in an annual or adjusted budget lapses to the extent that those funds are unspent at the end of the financial year to which the budget relates, except in the case of an appropriation for expenditure made for a period longer than that financial year.

(2) The balance of an appropriation that has not been spent or committed at the end of the financial year for which it was appropriated shall lapse at the end of that financial year.

(3) A money appropriated that has been withdrawn from the Consolidated Fund or a Local Government revenue account but has not been spent or committed at the end of the financial year, shall be paid into the Consolidated Fund or Local Government account, as the case may be.

(4) The Minister, through the Regulations, shall provide for the criteria for limited unspent budget carryover.

Budget execution monitoring.

50.(1) The Minister shall, within 4 weeks after the end of each quarter, submit to the Controller and Auditor General and the House of Representatives, a statement on the implementation of the budget in the manner and form determined by the Minister.

(2) The Minister shall, by 31st January each financial year, submit to the House of Representatives and the Controller and Auditor General, a half annual report on the implementation of the Budget.

(3) The report of the Minister under sub section (2) of this section shall provide:

- (a) a statement on performance of fiscal policy;
- (b) a statement on budget performance;
- (c) a statement on the performance of the Government Investment Plan;
- (d) a statement of fiscal risk assessment, and
- (e) a statement of budget revisions.

(4) The Minister shall publish the reports under sub sections (1) and (2) of this section within 15 days following submission to the House of Representatives.

PART NINE BANKING AND CASH MANAGEMENT

Banking arrangements.

51.(1) The banking arrangements of Government shall reflect the principles of a Treasury Single Account, in which all accounts of the Government are essentially managed as one from a cash point of view.

(2) The Paymaster General shall maintain the Consolidated Fund in an account to be known as the Central Exchequer Account, kept at the Central Bank and shall, subject to section 104 of the Constitution:

- (a) facilitate payment into that account all money raised or received by or on behalf of the Government; and
- (b) pay from that Central Exchequer Account without undue delay all amounts that are payable for public services.

(3) The Paymaster General shall ensure that the Central Exchequer Account is not overdrawn at any time.

(4) Where a withdrawal from the Consolidated Fund constitutes a statutory payment, the Paymaster General shall make a requisition for the withdrawal and submit it to the Controller and Auditor General for approval.

(5) A public or official bank account, whether in or outside Zanzibar, shall not be opened without the prior written authorization of the Paymaster General.

(6) The Paymaster General shall establish such accounts with the Central Bank and other banks.

(7) A public or official bank account shall be managed by a Public Institution in accordance with the terms and conditions the Treasury may determine under this Act.

(8) The Central Bank or where applicable, a financial institution that holds a public or official bank account, shall upon request by the Accountant General or the Controller and Auditor General, disclose any financial information regarding the account, within seven days after receiving the request.

(9) The Treasury may prescribe an investment policy for Public Entity authorized to open a bank account or other account in terms of the prescribed framework.

Cash Management.

52. (1) The Paymaster General shall prescribe the framework within which Public Institutions and special Funds shall conduct the banking activities and cash management.

(2) The Paymaster General shall put in place mechanisms that ensure timely availability of cash resources to facilitate the smooth execution of the budget which may include:

- (a) requiring information from Public Institutions deemed necessary by the Minister for the effective operation of the cash management system;
- (b) establishing the institutional and administrative arrangements needed to manage the cash management system within the Ministry;
- (c) consulting the Minister to contract short term borrowing to cover cash shortfalls, and coordinate with the Central Bank on in year liquidity management.

PART TEN BORROWING, LENDING AND DEBT MANAGEMENT

Authority to borrow on behalf of the Government.

53.(1) The Government may, through the Minister, borrow money, or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind the Consolidated Fund to a future financial commitment.

(2) Foreign loans shall be entered into with complete authorization from the House of Representatives.

(3) A Public Institution may not borrow money or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind that Public Institution or the Consolidated Fund to any future financial commitment, unless such borrowing, guarantee,

indemnity, security or other transaction:

- (a) is permitted by this Act;
- (b) in the case of Public Entity, is also permitted by other law not in conflict with this Act; and
- (c) authorized by the House of Representatives.

(4) In the case of Local Government, a Local Government Council may borrow only for development projects and upon written approval by the Minister.

(5) The Minister shall, by use of instructions, determine the maximum amount that a Local Government may borrow without prior authorization from the Treasury.

(6) Public Entities may only borrow through an application of the governing body and the responsible Minister apply to the Minister for authority borrow money, or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind that Public Entity to any future financial commitment.

(7) In the case of the issuing a guarantee, indemnity or security to a Public Entity, the Minister shall act in concurrence of the Minister responsible for that Public Entity.

(8) A Public Entity permitted to borrow money:

- (a) shall, annually, submit to the Treasury a borrowing plan for the year; and
- (b) may not borrow money in a foreign currency above a prescribed limit, except when that Public Entity is a company in which the Government is not the only shareholder.

(9) The Minister may not delegate a power conferred to under this section, except with the prior written approval of the Council.

Debt servicing payments.

54.(1) The Minister or the Chairperson of an Executive Committee of the Local Government shall be the sole authority to ensure that all payments required meeting debt obligations emanating from loans approved by the House of Representatives or a Local Government Council of such an organ are budgeted for and payments made to creditors according to the repayment provisions of the loan agreements.

(2) The terms of the relevant loan agreement shall not be altered without referring the decision to revise or convert a loan into another loan or financial security to the Council or a Local Government Council.

Consequence for failing to comply with borrowing authority.

55.(1) If a person, other than those mentioned in section 54 of this Act, lends money to a Public Institution to which this Act applies or purports to issue, on behalf of such a Public Institution, a guarantee,

indemnity or security, or enters into any other transaction which purports to bind such a Public Institution to any future financial commitment, the lending agreement or the guarantee, indemnity, security or other transaction shall be null and void.

(2) The Minister shall issue regulations in respect of borrowing of money by or for or on behalf of Public Entities.

Setting of general borrowing limits.

56.(1) The House of Representatives shall set the overall general borrowing limit while approving the annual budget revenue and expenditure estimates.

(2) The recommendations to the House of Representatives to set overall general borrowing shall include the Minister's determination of limits on:

- (a) total domestic borrowing, distinguishing between short term, overdrafts and long term debts;
- (b) total foreign borrowing as approved by the Debt Management Committee.

(3) The Minister may also request the House of Representatives, for each annual financial year, to set a separate limit on the total Government securities or guarantees and indemnities in favor of third parties.

Reasons for borrowing.

57.(1) On the basis of measures contained in a public debt strategy presented by the Minister to the House of Representatives for approval, the Government may borrow for:

- (a) financing of annual budget deficits;
- (b) refinancing maturing debt or a loan paid before the redemption date;
- (c) acquisition of foreign currency;
- (d) maintaining credit balances on a bank account of the Consolidated Fund;
- (e) effective regulation of internal monetary conditions should the necessity arise; or
- (f) any other purpose approved by the House of Representatives.

(2) The Minister has the powers to select and recommend, in consultation with the Debt Management Committee, for approval, the form of loan and the terms of borrowing, with the aim of maintaining and improving the Government ratings of debt servicing.

(3) The net amount that the Minister may borrow under this section in any financial year shall not exceed the amount, if any, approved by the House of Representatives by resolution consistent with

set financial objectives for that financial year.

(4) Domestic loans may be raised, by the issue of Government bills, bonds or stock; or any other method the Minister may deem expedient.

(5) In the case of borrowing from the Central Bank, the Minister may borrow for bridging purpose subject to a limit of not exceeding one eighth of average revenue budget of three fiscal years.

(6) The credit facilities with Central Bank for the current year shall be redeemed before submission of the following year's budget estimates to the House of Representatives.

Debt repayment and conditions.

58. The Minister, under the general guidance of the Council decisions on matters relating to the budget, in consultation with the Debt Management Committee, and with the concurrence of the lender, may:

- (a) repay a loan before its maturity date;
- (b) make recommendations to the Council seeking modification to contractual terms and conditions of any existing loan;
- (c) make recommendation to the Council seeking to convert a loan into any other loan or equity; or
- (d) make a recommendation to the Council to consolidate two or more loans into an existing loan or new loan.

Setting aside resources for lending and investment in Public Entities.

59.(1) The Minister, subject to the Council approval and in consultation with the Debt Management Committee, may lend Public Entities, public money or invest public money in equity shares of such Public Entities with the aim of promoting Government policies.

(2) An estimate of the amount committed for lending and shares participation shall be included in the annual budget.

(3) The Minister shall establish, each year, overall limit for resources for lending or equity shares participation; and may a prior, set separate limits for each advance to Public Entities.

(4) Each year, the amount and ceiling on Government lending and equity shares participation shall be determined by the Council and approved by the House of Representatives.

(5) The Consolidated financial statements shall disclose the names of Public Entities in which the Government has equity participation and loan receivables.

Keeping of debt management records.

60.(1) The Minister shall, in consultation with the Debt Management Committee, maintain a detailed record of all public debts and Government securities or guarantees on third party debt, as well as the schedule of payments obligated under that debt.

(2) The Minister shall maintain a detailed record of Government loans to Public Entities and the repayment schedule to the Government of such loans.

(3) In the following budget year, interest and principal payments to the Government shall be recorded in an appropriate register and shall be monitored in the context of the annual revenue receipts.

(4) Public Entities shall maintain detailed records of borrowing accounts and debt servicing, as prescribed by the Minister's instructions, to enable disclosure of indebtedness to the Government and other parties.

Minister to prepare and issue a debt management strategy.

61.(1) The Minister shall prepare and publish a public debt management strategy each year.

(2) The terms and conditions of any borrowing, as well as those of loans the Government may guarantee from time to time may be made public by the Minister in the debt strategy.

(3) In formulating debt management guidelines and implementing the debt management strategy, the Minister shall, each year, consult with the Central Bank and the Debt Management Committee, so as to avoid any possible conflicts among the objectives of fiscal, debt management, trade, monetary and exchange rate policies.

(4) In accordance with written agreement with the Minister, the Central Bank shall provide all the services required for the execution of decisions on effective management of public debt.

Authority to issue guarantees.

62.(1) Where the Minister is satisfied that it is in the public interest, may, with the approval of the House of Representatives, and on behalf of the Government, guarantee the repayment of the principal money on any loan raised either within or outside Zanzibar in the manner and on conditions he may think fit by a Public Entity or Local Government.

(2) The net amount that the Minister may guarantee under this section in any financial year shall not exceed the amount, if any, approved by the House of Representatives by resolution for that financial year.

(3) Guarantees provided to a Public Entity or Local Government shall not be more than 80 per cent of the principal debt raised to finance a capital project.

(4) The Minister shall, at least annually, report the circumstances relating to any payments under a guarantee issued under sub section (1) to the House of Representatives.

(5) Where a guarantee is given under this section, the Public Entity or Local Government for whose benefit that guarantee is given, shall reimburse the Government in the manner the Minister may direct:

(a) sum of moneys which the Government has paid to fulfil the guarantee; and

- (b) expenses which the Government incurs in relation to the guarantee and, in addition, shall pay the Government the interest or service charge in relation to that sum or money paid by the Government or expense incurred by the Government, as the Minister may direct.

(6) Moneys received under sub section (1) of this section shall be paid into the Consolidated Fund or Local Government Account.

Amounts due on loans or guarantees to be charged on the Consolidated Fund.

63. A sum of money due from the Government in respect of any loan either by way of repayment or payment of interest; or by way of interest on or otherwise in respect of Government Securities issued; or in respect of Government guarantee given; and in respect of any expenditure associated with issue of Government Securities shall be charged on and paid out of the Consolidated Fund without further appropriation.

Regulations on public debt and guarantees.

64.(1) The Minister may make regulations for effective implementation of provisions in this Part.

(2) The regulations shall prescribe conditions pertaining to issue of Government securities, terms of reference of Debt Management Committee, and provide for the criteria for issuing Government guarantees, and registration of Government securities.

PART ELEVEN LOCAL GOVERNMENTS AND FINANCIAL MANAGEMENT

Policies and Principles for financial management of Local Governments.

65.(1) Local Government shall, in the management of public finances, observe the fiscal responsibility principles set out in section 4 of this Act.

(2) In pursuance of the objectives in sub section (1) of this section, Local Government shall manage its finances on the basis of a balanced budget ensuring prioritised expenditures within available revenues.

(3) For the avoidance of any doubt, policies and principles relating to public finance under this Act shall apply to Local Government.

(4) The Minister shall, in consultation with the Accountant General, issue accounting policies, classifications, systems and standards to be used by Local Government Councils under this Act.

Budget and Economic Forum.

66.(1) The Minister, in consultation with the Council, shall establish the Budget and Economic Forum.

(2) The Chief Secretary shall chair the Budget and Economic Forum.

(3) The Budget and Economic Forum shall provide a mechanism for consultations to be undertaken by the Minister, the

Minister responsible for Local Government and Chairpersons of Local Governments on fiscal transfers to Local Governments, and interactions between the Central Government and Local Governments planning and budgeting processes.

(4) The Council shall determine the composition, terms of reference, and modalities for operation of the Budget and Economic Forum.

(5) The chairperson shall ensure that the decisions and recommendations of the Budget and Economic Forum are publicised as soon as practicable after they are reached.

Functions of a Local Government Council with respect to public finance.

67. A Local Government Council shall perform the following functions in relation to financial management:

- (a) to approve policies, plans and programs of the Local Government;
- (b) to authorise public expenditure in accordance with section 83 of this Act;
- (c) to exercise general control over public revenue of the Local Government Council in accordance with this Act, and its regulations and other instructions issued by the Minister or other competent authority;
- (d) to approve annual plans and budgets for Local Government expenditures;
- (e) to approve supplementary estimates;
- (f) to consider audit reports of the Local Government and recommend action where necessary.

Functions of the Executive Committee of Local Government Council.

68.(1) Without prejudice to the provisions of other laws, the Chairperson of a Local Government Council, in collaboration with members of the Executive Committee of such Local Government Council, shall:

- (a) provide strategic policy guideline in the use of budget and the management of property of Local Government Council;
- (b) ensure the implementation of Ministerial and Local Government Council's directives;
- (c) promote an effective preparation, management and the use of the budget; and
- (d) table of quarterly and annual financial report to the Local Government Council.

(2) The members of a Local Government Council are prohibited from participating in Local Government procurement process.

Powers and functions of
The Chairperson.

69.(1) The Chairperson shall:

- (a) provide general political guidance over the fiscal and financial affairs of Local Government Council;
- (b) monitor and, to the extent provided in this Act, oversee the exercise of responsibilities assigned under this Act to the Accounting Officer;
- (c) take all reasonable steps to ensure that, Local Government Council performs its statutory functions within the limits of Local Government's approved budget;
- (d) within 30 days of the end of each quarter, submit a report to the Treasury on the implementation of the budget and the financial statement of affairs of the Local Government; and
- (e) exercise the other powers and perform the other duties assigned by the responsible Minister.

(2) On the budget process and related matters, the Chairperson shall:

- (a) provide general political and strategic guidance over the budget process and the priorities that inform the preparation of a budget;
- (b) coordinate the annual revision of Local Government's strategic plan;
- (c) coordinate the preparation of the annual budget;
- (d) determine how the strategic plan is to be taken into account or revised for the purposes of the budget; and
- (e) take reasonable steps to ensure that the Local Government's budget implementation plan is approved by Executive Committee within 28 days after the approval of the budget.

(3) The Chairperson shall report to the Minister responsible for Local Government and the Minister, any delay in the tabling of an annual budget, and the approval of the budget implementation plan.

Delegations of powers
and duties of Chairperson
of Local Government.

70.(1) The powers and duties assigned under this Act to Chairperson of a Local Government, may delegate powers to a member of the Local Government Council or the Accounting Officer.

(2) A delegation under sub section (1) of this section:

- (a) shall be in writing;

- (b) is subject to any limitations or conditions that the Chairperson in consultation with the Executive Committee may impose; and
- (c) does not divest the Chairperson of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) The Chairperson may confirm, vary or revoke any decision taken in consequence of a delegation under this section, but such variation or revocation of a decision may not detract from any rights that may have accrued as a result of the decision.

Chairperson's directives with financial implications.

71.(1) A directive by the Chairperson to the Accounting Officer of a Local Government having financial implications for the Local Government shall be in writing.

(2) If implementation of the directive is likely to result in unauthorized expenditure, the Accounting Officer shall be responsible for any resulting unauthorized expenditure unless the Accounting Officer has informed the Chairperson in writing of the likelihood of that unauthorized expenditure.

(3) A decision of the Chairperson to proceed with the implementation of the directive, and the reasons for the decision, shall be in writing, and the Accounting Officer shall promptly file a copy of this document with the Minister responsible for Local Government, the Minister, and the Controller and Auditor General.

Functions of the Accounting Officer

72. The Accounting Officer of a local Government shall:

- (a) exercise the functions and powers assigned to an Accounting Officer under this Act; and
- (b) provide advice relating to compliance with this Act, to:
 - (i) the Local Government Council members and Local Government executives; and
 - (ii) the Private Institutions contracted by the Local Government to provide services on the basis of Public Private Partnerships or other contractual arrangements.
- (c) in collaboration with a Local Government Council, establish units or roles for the purpose of implementing provisions of this Act relating to a Local Government;
- (d) implement policies, systems, standards and practise as established by the Treasury through this Act and its regulations;
- (e) enhance the control of the Council over public resources and public moneys through the implementation of transparent and accountable systems.

Power of the Accounting Officer to delegate.

73. The Accounting Officer of a Local Government:

- (a) shall, for the proper application of this Act in the Local Government's administration, develop an appropriate system of written delegation that both maximise administrative and operational efficiency and provide adequate checks and balances in the Local Government's financial administration;
- (b) may, in accordance with that system, delegate to an officer of the Local Government's senior management or any other officer of the Local Government:
 - (i) any of the powers or duties assigned to an Accounting Officer under this Act; or
 - (ii) any powers or duties reasonably necessary to assist the Accounting Officer in complying with a duty which requires the Accounting Officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of this Act;
- (c) shall regularly review delegations issued under paragraph (b) and if necessary, amend or withdraw any of those delegations.

Revenue Funds of Local Government.

74.(1) The Local Government Council shall establish a revenue fund and operate it in accordance with principles under this Act.

(2) Local Government's revenues, including from its own generated sources, transfer or grants from the Government and grants or loans from other sources within or outside Zanzibar, shall be deposited in the revenue fund in the Local Government established by the relevant Local Government Council.

(3) The Accounting Officer or his delegate shall be the chief manager of the revenues and expenditures of the revenue fund in the Local Government.

(4) The Minister shall issue regulations to guide the management of the revenue fund.

(5) The Chairperson of a Local Government may, in case of any reason related to financial need, suspend, withdraw, or limit authorization to payment, except for authorization granted by law on compulsory payments.

Fiscal Transfers to Local Government.

75.(1) Pursuant to section 128 of the Constitution, Local Government shall receive transfers from the Government for the purpose of financing its budgets subject to financial provisions of relevant Local Government law.

(2) The Budget Institutions, shall within the budgeting framework provided by the Treasury, determine, based on criteria provided in the relevant Local Government law, moneys to be allocated to Local Government in pursuant of sub section (1) of this section.

(3) Local Government shall apply receipts under fiscal transfer from Government to its expenditures subject to provisions of the Local Government law and criteria agreed with the Government.

Loans and grants from Donors.

76.(1) A Local Government may solicit, receive, budget, utilize and account for donor grants or loans in accordance with the procedures specified in the Regulations made under this Act.

(2) Grants or loans received from Development Partners by a Local Government shall be included in the Local Government's budgets.

(3) A Local Government that receive donor funds shall ensure that those funds are spent solely on the objectives and activities specified in the agreements between the donor and the Government or between the donor and the respective Local Government.

Local Government own Sources of Revenue.

77.(1) The Local Government shall collect revenues for sources assigned to Local Government under the applicable law.

(2) Local Government may enact by laws or make use of applicable regulations issued by under relevant Local Government law.

(3) For the avoidance of any doubt, revenues collected and received by a Local Government are public resources and shall be used, accounted for and reported on within policies, standards and norms established under this Act.

Disposal for Local Government Assets.

78.(1) A Local Government may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose off a capital asset needed to provide the minimum level of basic constitutionally mandated services.

(2) A Local Government may transfer ownership or otherwise dispose off a capital asset other than one contemplated in sub section (1) of this section, but only after the Public Institution :

(a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic constitutionally mandated services; and

(b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

(3) A decision by the Local Government that a specific capital asset is not needed to provide the minimum level of basic constitutionally mandated services, may not be reversed by the Local Government after such asset has been sold, transferred or otherwise disposed off.

(4) The relevant Local Government Council may delegate to the Accounting Officer to make the determinations under this Act in respect of movable capital assets below a specified value.

(5) A transfer of ownership of a capital asset under this Act shall be fair, equitable, transparent, competitive and consistent with the law relating to public procurement and disposal of public assets.

Medium Term,
Development Plans and
Annual Work Plan.

79.(1) A Local Government shall prepare a Budget Framework Paper and an Annual Work Plan that includes:

- (a) strategic priorities and performance targets for the following financial year and in the medium term that reflect the Local Government's priorities and plans;
- (b) revenue projections for the following year and in the medium term;
- (c) proposed revenue and expenditure measures for the following year and in the medium term;
- (d) planned programs to be delivered in the coming financial year and in the medium term;
- (e) payments on behalf of the Local Government including grants, benefits and subsidies to be paid; and
- (f) other relevant matters as shall be prescribed in the Regulations.

(2) In furtherance of sub section (1) of this section, the Treasury shall issue indicative ceilings for planned transfers to a Local Government for the financial year to facilitate the preparation of the medium term budget framework.

(3) The Chairperson shall submit the medium term plan to the Local Government Council for approval.

(4) The Local Government shall submit to the Treasury the approved medium term development plan and the Minister responsible for Local Government by 30th November.

Consultations on budget
priorities and approval.

80.(1) A Local Government Council shall consult local communities and key stakeholders on budget priorities and program proposals in the budget framework paper through an open forum to inform its decisions.

(2) A Local Government Council, within 15 days after receiving the budget framework paper, shall review and grant its approval subject to changes as it may require.

(3) A copy of the budget framework paper of a Local Government shall be provided to the Minister and the Minister responsible for Local Governments.

Annual Budgets of Local
Government.

81.(1) The financial year of a Local Government shall commence at the same time as the Government financial year.

(2) A Local Government Council shall, for each financial year, approve an annual budget before the start of that financial year.

(3) A Local Government's Accounting Officer shall submit to a Local Government Council estimates of the revenue and expenditure for the next financial year, consistent with the budget framework paper approved under section 67 of this Act, to be tabled in a Local Government Council.

(4) A budget for a Local Government shall be prepared in line with guidelines provided by the Treasury under this Act.

(5) The annual budget of Local Government shall provide:

- (a) a summary statement of budget priorities;
- (b) explanation of how the annual budget relates to the fiscal objectives of the Government;
- (c) annual work plan and procurement plan;
- (d) proposed revenue and expenditure measures for adoption by Local Government Council;
- (e) detailed estimates of revenue and expenditure, differentiating between recurrent and capital expenditure;
- (f) proposals for financing any anticipated deficit including proposed borrowing proposals and other forms of public liability;
- (g) a statement of a Local Government's debt position;
- (h) Local Government Council annual expenditure review report;
- (i) particulars of existing and proposed service delivery agreements and amendments proposed to existing service delivery agreements; and
- (j) a statement of outstanding multi-year commitments.

(6) Expenditure estimates shall be organised according to programmatic classification subject to guidelines and standards issued by the Treasury.

Budget preparation and approval by the Local Government.

82.(1) The Minister shall convene a Budget and Economic Forum to consult with local authorities on matters relating to local budget, revenues and financial transfers to their budgets for the financial year, prior to submission of the Budget Framework Paper to the House of Representatives.

(2) Subject to approval to the Budget Framework Paper by the House of Representatives under section 34 of this Act, the Minister shall issue final ceilings for transfers to local Authorities for them to prepare their annual budgets.

(3) An Accounting Officer of a Local Government shall cause to be prepared a Budget Framework Paper and tabled before the Local Government Council, at least one (1) month before the commencement of each financial year.

(4) A Local Government Council shall consider and approve the budget on or before the 30th of June to allow it take effect from 1st day of July each year.

Approval of Annual Budgets for Local Governments.

83.(1) The annual budget of a Local Government shall be approved together with the adoption of resolutions as may be necessary:

- (a) imposing any local tax for the budget year;
- (b) setting any user charges for the budget year;
- (c) approving measurable performance objectives for revenue from each source and for each vote in the budget;
- (d) approving any changes to the strategic plan; and
- (e) approving any changes to the budget related policies.

(2) The Accounting Officer shall submit a copy of the approved annual budget of a Local Government to the Treasury within 15 days after approval by Local Government Council.

(3) The Accounting Officer shall make available to the public the annual budget within 30 days after its approval.

Procedures for approval and adoption of Annual Budgets.

84. (1) The procedure for approval of Local Government budget shall be determined by instructions adopted by their respective Local Government Councils in conformity with principles included in this Act, the general guidelines issued by the Minister and specific law for Local Governments.

(2) A Local Government Council shall have powers to revise the proposed budgets provided that increase or decrease in expenditure proposals shall be accompanied by a corresponding increase or decrease in revenue proposals.

(3) A Local Government Council has the authority to require the Accounting Officer or other delegated Accounting Officer to appear before it and explain policies, programs and utilization of its budget.

(4) If a Local Government Council does not approve an Annual Budget, including revenue raising measures necessary to give effect to the budget, by the first day of the budget year, the Chairperson shall immediately report to the Treasury and the Minister responsible for Local Government who shall provide further guidance.

Failure to adopt procedures for approval

85. If The Chairperson fails to adopt the provisions of section 85 of this Act shall table a written explanation to the Treasury and the Minister

and adoption of Annual Budgets.
Budget implementation.

responsible for Local Government setting out the reasons for failure.

86.(1) Following the approval of the Annual Budget, the Chairperson shall require the Accounting Officer to submit to the Treasury, with copies of an annual cashflow, action plan and detailing timing of cash disbursements within 14 days.

(2) The Accounting Officer shall provide to the Chairperson and Treasury, projections of revenue receipts and cash plans for the Local Government on a quarterly basis.

(3) Subject to confirmation of revenue receipts under transfers from the Government and other sources, the Chairperson shall issue to the Accounting Officer, authorization for execution of the budget based on the approved budget allocations and after examining the cashflow plan used to implement the approved Annual Budget.

Spending commitments to be in accordance with appropriations.

87.(1) The permitted mode of committing expenditure is through a duly issued purchase order prepared pursuant to Government procurement procedures.

(2) The Accounting Officer shall not commit to a liability for which no funds have been appropriated or authorized.

(3) Expenditure for which there is insufficient provision in the approved estimates shall not be incurred until a supplementary estimate has been approved.

(4) Expenditure shall not be incurred on a service which cannot be completed with the funds authorized for it within a financial year.

(5) A commitment involving a supplementary estimate shall not be entered into until the supplementary estimate has been approved by a Local Government Council.

Unforeseen and unavoidable expenditures.

88.(1) The Chairperson shall, in emergency or other exceptional circumstances prepare a request to the Treasury for unforeseeable or unavoidable expenditure for which no provision was made in an approved budget.

(2) If expenditure is incurred before the Treasury makes approval to the effect, the expenditure is unauthorized and shall require a Local Government Council to condone it if found to be basic constitutionally mandated services.

Local Government budget reallocation.

89.(1) In consultation with the Minister responsible for Local Governments, the Minister shall provide guidelines relating to procedures of reallocations of funds from one budgetary category to another in Local Governments' budgets.

(2) Reallocations of funds from one program to another by The Chairperson shall not exceed 10 per cent on gross basis except through express authorisation by Local Government Council.

(3) Notwithstanding the provisions of sub section (1) of this section, reallocation of funds from one program to another is not allowed between the salary and allowances line and other line of recurrent expenditure categories, except where approved by such Local Government Council.

Preparation and presentation of adjustment Local Government budgets.

90.(1) The Chairperson of the Executive Committee of a Local Government Council may, subject to a mid-year budget execution review report referred to in section 93 of this Act, table an adjusted budget in the Local Government Council when Executive Committee deems it necessary on the basis of a six-month review report of the budget execution as mentioned.

(2) The proposed revisions to the Annual Budget shall be consistent with the approved priorities in the Medium Term Strategic Framework and Budget Framework Paper; and if they are different from the approved Budget Framework, the reasons thereof shall be notified to the Local Government Council.

(3) The Regulations to this Act shall provide the scope of adjustments that are eligible.

(4) The adjustments of annual budget shall be submitted to the Local Government Council for approval, and it shall be prepared in the same manner as the original Annual Budget.

(5) The adjusted Annual Budget of the Local Government Council shall be made public.

(6) Each adjusted budget shall be supported by Local Government Council resolution, and shall detail the effect of the expenditure changes on performance against the fiscal principles and the fiscal objectives in the Budget Framework Paper.

(7) When a adjustments budget is submitted to the Local Government Council, it shall be accompanied by:

- (a) an explanation how the adjustments budget affects the annual budget;
- (b) a motivation of any material changes to the Annual Budget;
- (c) an explanation of the impact of any increased spending on the Annual Budget; and
- (d) any other supporting documentation that shall be prescribed by the Treasury .

Reports on failure to adopt or implement

91.(1) The Accounting Officer shall inform the Treasury and the Minister responsible for Local Government, in writing, of:

budget related and other policies.

- (a) any failure by Local Government Council to adopt or implement a budget related policy or a supply chain management policy; or
- (b) any non compliance by the Chairperson or appropriate political structure or office bearer of the Local Government with any such policy.

(2) On the basis of the report under sub section (1) of this section, the Minister may decide to appointment a subcommittee of the Budget and Economic Forum to design for implementation a financial recovery plans to support continued provision of basic services.

(3) The Minister shall prescribe regulations on matters pertaining to material breaches by a Local Government.

Local Government budget monitoring and performance review.

92.(1) The Chairperson shall, within 2 weeks after the end of each quarter, submit to the Local Government Council, a statement on the implementation of the budget.

(2) The Chairperson shall, by 31st January each financial year, submit to the Local Government Council a half annual report, and by 30th November in the proceeding financial year, an annual report on the implementation of the budget.

(3) The report of the Chairperson under sub -section (2) of this section, shall provide:

- (a) a statement on budget performance;
- (b) a financial statement of performance; and
- (c) a statement of budget revisions.

(4) The Chairperson shall make public the reports under sub sections (1) and (2) of this section, within 15 days following submission to the Local Government Council.

Opening of bank accounts.

93.(1) The banking arrangements of a Local Government shall reflect, to the extent possible, the principles of a Treasury Single Account, in which all accounts of a Local Government are essentially managed as one from a cash point of view.

(2) A Local Government shall have a primary bank account and where it has:

- (a) only one bank account, that account is its primary bank account; or
- (b) more than one bank account, it shall designate one of those bank accounts as its primary bank

account.

(3) Moneys and incomes received by Local Government, whether from transfers from the Government, grants or its own sources, investments, dividends, shall be paid into a Local Government's primary bank account.

(4) An organ of the Government may not transfer an allocation of money referred to in sub section (2) of this section to a Local Government except through the Local Government's primary bank account.

(5) The Accounting Officer of a Local Government shall submit to the Treasury in writing, the name of the bank where the primary bank account of the Local Government is held, and the type and number of the account.

(6) If a Local Government wants to change its primary bank account, it may do so only after the Accounting Officer of the Local Government has informed the Treasury in writing, at least 30 days before effecting the change.

(7) A bank account of a Local Government shall neither be overdrawn nor any temporary advance obtained from the bank without the prior permission of the Local Government Council.

(8) Rules and procedures for withdrawal and operation of bank accounts of a Local Government shall be prescribed in the Regulations under this Act.

Relief, charitable trusts
and other funds.

94.(1) A political institution or office bearer of a Budget Institution may not set up a relief, charitable trust or other fund of whatever description, except in the name of Local Government, and only person acting as executive in that Local Government may be the Accounting Officer of such fund.

(2) A Local Government may under section 32 of this Act, open a separate bank account in the name of the Local Government for the purpose of a relief, charitable, trust or other fund.

(3) Money received by the Local Government for the purpose of a relief, charitable trust or other fund shall be paid into a bank account of the Budget Institution or Local Government if a separate bank account has been opened under sub section (2) of this section.

(4) Money in a separate account opened under sub section (2) of this section, may be withdrawn from the account without appropriation in terms of an approved budget, but only:

(a) by or on the written authority of the Accounting Officer acting in accordance with decisions of the Budget Institution or Local Government; and

(b) for the purposes for which, and subject to any conditions on which the fund was established or the

money in the fund was granted.

Withdrawals from Local Government bank accounts.

95.(1) Only the Accounting Officer may withdraw money or authorise the withdrawal of money from any of the Local Government's bank accounts.

(2) The Accounting Officer may do so to defray expenditure in terms of an approved budget and other purposes prescribed in the Regulations.

(3) An authorisation under sub section (1) of this section to a Local Government officer to withdraw money or to authorise the withdrawal of money from a bank account, shall be in accordance with a framework as may be prescribed.

Borrowing by a Local Government.

96.(1) Subject to the relevant provision under the applicable Local Government law, and section 54 of this Act, a Local Government Council may borrow only for development projects only upon authorization by the Minister.

(2) The Minister shall issue instructions to regulate borrowing by a Local Government and shall set limits with which a Local Government Council may borrow.

(3) Local Governments are prohibited from providing debt guarantees.

Debt servicing payments.

97.(1) The Chairperson shall ensure that all payments required to meet debt obligations emanating from loans approved by the Local Government Council are budgeted for and payments made to creditors according to the repayment provisions of the loan agreements.

(2) The terms of the relevant loan agreement shall not be altered without referring the decision to do so to the Minister and Local Government Council.

Debt records and reporting.

98.(1) A Local Government shall maintain detailed records and accounts of all borrowing and debt servicing, as prescribed by the Minister's instructions, to enable appropriate disclosure of indebtedness to the Minister.

(2) The Chairperson shall provide progress reports on the utilisation and servicing of loans.

PART TWELVE PROVISIONS FOR PUBLIC ENTITIES

Governing bodies accountable for the implementation of the Act.

99.(1) Public entities shall have a governing body which shall be accountable for the purposes of this Act.

(2) If the public entities not having a governing body, the

Chief Executive Officer or the other person in charge of the Public Entity , special fund, or executive agency shall play the role of a governing body, unless specific law applicable to that Public Entity designates another person as the governing body.

(3) The Treasury, in exceptional circumstances, may approve or instruct that another functionary of a Public Entity shall be the governing body.

(4) The Treasury may, at any time, withdraw an approval or instructions.

(5) A Public Entity shall inform the Controller and Auditor General promptly and in writing of any approval or instruction has been issued under sub section (3) of this section, and any withdrawal of an approval or instruction.

General financial
management
responsibilities.

100.(1) A governing body shall:

(a) ensure that Public Entity:

- (i) maintains effective, efficient and transparent systems of financial and risk management and internal control;
- (ii) establishes a system of internal audit under the control and directives of an Audit Committee complying with and operating in accordance with regulations and instructions prescribed by the Treasury;
- (iii) institutes an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective; and
- (iv) operates a system for properly evaluating major capital projects prior to a final decision on the projects;

(b) take effectively and appropriate steps to:

- (i) collect all revenue due to the Public Entity concerned;
- (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the Public Entity; and
- (iii) manage available working capital efficiently and economically;

(c) take responsibility for the management, including the safe guarding of the assets and for the management of the revenue, expenditure and liabilities of the Public Entity;

(d) comply with any tax, levy, duty, pension and audit commitments as required by other laws;

(e) take effective and appropriate disciplinary steps against

any employee of the Public Entity who:

- (i) contravenes or fails to comply with a provision of this Act
 - (ii) commits an act which undermines the financial management and internal control system of the Public Entity; or
 - (iii) makes or permits an irregular expenditure or a fruitless and wasteful expenditure;
- (f) remain responsible for the submission by the Public Entity of reports, returns, notices and other information to the House of Representatives and to the Council or Treasury;
- (g) inform the Treasury on any new entity which that Public Entity intends to establish or in the establishment of which it takes the initiative, and allow the Treasury a reasonable time to submit its decision prior to formal establishment; and
- (h) comply, and ensure compliance by Public Entity, with the provisions of this Act and any other laws applicable to the Public Entity.

(2) If a governing body is unable to comply with any of the responsibilities determined under this section, the governing body shall, promptly report the inability, together with reasons, to the responsible Minister and the Paymaster General.

Fiduciary responsibilities.

101.(1) A member of a governing body or, if the governing body is not under corporate body, the individual who is the governing body, may not:

- (a) act in a way that is inconsistent with the responsibilities assigned to a governing body under this Act; or
- (b) use the position or privileges of, or confidential information obtained as, governing body or a member of a governing body, for personal gain or to improperly benefit another person.

(2) A member of a governing body shall:

- (a) disclose to the governing body, direct or indirect, personal or private business interest that member or any spouse, partner or close family member may have in any matter before the governing body; and
- (b) withdraw from the proceedings of the executive authority when that matter is considered, unless the executive authority decides that the member's direct or indirect interest in the matter is insignificant or irrelevant.

Budgeting and corporate

102.(1) The governing body for a Public Entity shall submit to the

plans.

responsible Minister and the Treasury, at least one month before the start of its financial year:

- (a) a projection of revenue, expenditure and borrowings for that financial year in the prescribed format; and
- (b) a corporate plan in the prescribed format covering the affairs of that Public Entity for the following three financial years.

(2) The governing body shall submit to the responsible Minister, at least three months before the start of a financial year, a budget of estimated revenue and expenditure for that financial year, for approval by the Council.

(3) A Public Entity shall submit a budget as stipulated in subsection (2) of this section, may not budget for a deficit and may not accumulate surpluses in excess of its operating requirements unless obtained prior written approval of the Treasury.

(4) The governing body shall responsible for ensuring that expenditure of that entity is in accordance with the approved budget and corporate plan.

(3) The governing body shall submit to the Treasury or the Controller and Auditor General such information, returns, documents, explanations and motivations as may be prescribed or as the Treasury or the Controller and Auditor General may require.

Bank accounts.

103.(1) A Public Entity may open and operate bank accounts which shall be in the name of the entity and with the approval of the entity's governing body.

(2) All money received by a Public Entity shall be paid into its bank account or accounts, and shall be done promptly and in accordance with any requirements that may be prescribed.

(3) A Public Entity shall not open a bank account:

- (a) abroad, unless such opening is approved by the Paymaster General; or
- (b) with an institution not registered as a bank in accordance with the laws of the United Republic of Tanzania.

(4) Money may be withdrawn from a Public Entity bank account only in accordance with requirements that may be prescribed in the enabling Act or this Act.

(5) The Accounting Officer of a Public Entity shall:

- (a) administer all the entity's bank accounts;
- (b) be accountable to the governing body of the entity for the entity's bank accounts; and

- (c) enforce any requirements that may be prescribed under this Act.

Budget execution and monitoring.

104.(1) The Accounting Officer of a Public Entity shall by the 31st day of January of each year submit a report on monthly budget execution statements, efforts to resolve issues in audit reports, and targets set in the business plans to the governing body, Treasury and the responsible Minister.

(2) The report referred to in sub section (1) of this section, shall be made public.

(3) Subject to sub section (1) of this section, the Treasury Registrar shall assess the performance of the Public Entity and report such assessment to the Paymaster General and the Minister.

Annual Report and Financial Statements.

105.(1) The governing body for a Public Entity shall:

- (a) keep full and proper records of the financial affairs of the Public Entity;
- (b) prepare financial statements for each financial year in accordance with the General Accepted Accounting Practices;
- (c) submit those financial statements within three months after the end of the financial year to the Controller and Auditor General for auditing; and
- (d) submit within six months of the end of a financial year to the Treasury, responsible Minister and, if the Controller and Auditor General did not perform the audit of the financial statements, to the Controller and Auditor General:
 - (i) an annual report of the activities of that Public Entity during that financial year;
 - (ii) the financial statements for that financial year after the statements have been audited; and
 - (iii) the report of the auditors on those statements.

(2) The annual report and financial statements referred to this section, shall fairly present the state of affairs of the Public Entity, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year.

(3) The annual report shall include particulars of:

- (a) any material losses through criminal conduct and any irregular expenditure, fruitless and wasteful expenditure that occurred during the financial year;
- (b) any criminal or disciplinary steps taken as a

consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;

(c) any losses recovered or written off;

(d) any financial assistance received from the Government and commitments made by the Government on its behalf; and

(e) any other matters that may be prescribed.

(4) A governing body shall submit the report and statements referred to subsection (3) of this section, to the responsible Minister for tabling in the House of Representatives.

Governing bodies to submit information required by the Treasury.

106. Before the Public Entity concludes any of the following transactions, a governing body shall promptly and in writing inform the Treasury, and submit relevant particulars of the transaction to the responsible Minister for approval of:

(a) establishment or participation in the establishment of a company;

(b) participation in a significant partnership, trust, unincorporated joint venture or similar arrangement;

(c) acquisition or disposal of a significant shareholding in a company;

(d) acquisition or disposal of a significant asset;

(e) commencement or cessation of a significant business activity; and

(f) a significant change in the nature or extent of its interest in a significant partnership, trust, unincorporated joint venture or similar arrangement.

Financial management responsibilities of senior managers in public entities.

107.(1) Each Public Entity's Accounting Officer shall exercise financial management responsibilities assigned to Accounting Officers under Part Five of this Act.

(2) Each officer of a Public Entity exercising financial management responsibilities shall take all reasonable steps within his respective areas of responsibility to ensure that :

(a) the system of financial management and internal control established for the Public Entity is carried out diligently;

- (b) the financial and other resources of the Public Entity are utilised effectively, efficiently, economically and transparently;
- (c) any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented;
- (d) all revenue due to the Public Entity is collected;
- (e) the assets and liabilities of the Public Entity are managed effectively and that assets are safeguarded and maintained to the extent necessary;
- (f) all information required by the Accounting Officer for compliance with the provisions of this Act is timely submitted to the Accounting officer; and
- (g) the provisions of this Act, to the extent applicable to that senior manager or officer, including any delegation under section 109 of this Act are complied with.

(3) Such officer shall perform the functions referred to in sub section (2) of this section, subject to the directives of the Accounting Officer of the Public Entity.

Power to delegate.

108.(1) The governing body may delegate any power or duty assigned to it under this Act.

(2) The governing body of a Public Entity:

- (a) shall, for the proper application of this Act in the Public Entity's administration, develop an appropriate system of written delegation that both maximise administrative and operational efficiency and provide adequate checks and balances in the Public Entity's financial administration;
- (b) may, in accordance with that system, delegate to a member of the Public Entity's senior management or any other officer of the Public Entity:
 - (i) any of the powers or duties assigned to an Accounting Officer under this Act; or
 - (ii) any powers or duties reasonably necessary to assist the Accounting Officer in complying with a duty which requires the Accounting Officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of this Act; and
- (c) shall regularly review delegations issued under sub section (2) (b) of this section and if necessary, amend or withdraw any of those delegations.

PART THIRTEEN
ANNUAL REPORTING, AUDIT AND OVERSIGHT

Internal audit service unit.

109.(1) There shall be established in each Public Institution, as appropriate, an internal audit unit that shall report functionally to Internal Auditor General or a division responsible for Government internal auditors in the Treasury and administratively to an Accounting Officer of the relevant Budget Institution.

(2) Governing bodies of public entities shall establish and maintain internal audit units appropriate to their needs.

(3) Local Government Councils shall establish and maintain internal audit units appropriate to their Local Governments.

(4) The Minister, in collaboration with the Internal Auditor General or any other person responsible for internal audit shall, through a regulation, prescribe the responsibilities and powers of internal audit functions in Public Institutions.

(5) The Internal Audit Unit shall be managed by a qualified person meeting prescribed competency levels in auditing, accounting, and other financial matters.

(6) All other staff of the internal audit unit in a Public Institution may be from any discipline appropriate to the needs of minimum competency requirements.

(7) Internal auditors shall have unfettered access to all pertinent documents and information held by the relevant Public Institution.

(8) In exercise of their duties, internal auditors shall issue, in writing, internal audit reports with recommendations to Accounting Officers.

(9) Reports of internal auditors shall be made available to the Treasury on quarterly basis and available to the Controller and Auditor General annually.

Internal Audit Committee.

110.(1) Each Budget Institution shall have an internal audit committee appointed by the Accounting Officer in consultation with Paymaster General.

(2) Local Government Councils shall appoint appropriate internal audit committees in respect of their Local Governments.

(3) Public entities shall establish internal audit committees reporting to the relevant governing body.

(4) Members of an internal audit committee shall be senior officers serving the other institutions in Public Service.

(5) The chairperson of an internal audit committee shall be independent, be knowledgeable of the status of the position, have the requisite business, financial and leadership skills and may not be a political office bearer.

(6) Members of an internal audit committee shall have unfettered right of access to all documents and information held by the Public Institution.

(7) The Minister shall issue regulations to provide for membership, duration, responsibilities, powers, duties and rights of independent internal audit committees and other terms of service as the laws of Zanzibar permit.

Specification of
Accounting Standards.

111.(1) Without prejudice the provisions of this Act, the Treasury shall issue Treasury Instructions and Guidelines setting out the Accounting Standards, basis and policies applicable to budget institutions, Local Governments and public entities.

(2) The financial reporting standards determined by the Treasury shall be consistent with General Accepted Accounting Practice.

(3) The Accountant General shall advise the Paymaster General on the appropriateness of adopted standards, format, content and frequency of reporting by Public Institutions.

Preparation and
submission of annual
financial Statements.

112. (1) Public Institutions shall submit their Annual Financial Statements to the Controller and Auditor General with copies to the Treasury within three months after the end of financial year.

(2) Public Entities shall prepare and submit to the Treasury and responsible Minister their audited Annual Financial Statements in a period of six months from the end of their financial year.

(3) The procedures for financial management, accounting and reporting by Budget Institutions and Local Governments shall be provided for in the Regulations.

(4) Adjustments impacting on fair presentation of financial statements of a Public Entity shall be effected before finalisation of the annual audit reporting.

(5) Financial statement submitted under this section shall:

(a) where prescribed, be prepared in accordance with the accounting standards internationally acceptable for the public sector, and in all cases, in accordance with any instructions issued by the Treasury;

(b) identify any significant departures from the Accounting Standards as recognized by the accounting profession and approved by the Minister, and shall state the

reasons for those departures; and

- (c) state the basis of accounting used in their preparation, and identify any significant departure from it and the reasons for the departure.

Annual Reports.

113.(1) Public Institution shall prepare an annual report for each financial year.

(2) The purpose of an annual report, the Public Institution shall:

- (a) provide a record of the activities of the Public Institution during the financial year to which the report relates;
- (b) provide an assessment of performance against predetermined objectives and outputs; and
- (c) promote financial governance and accountability to the local community for the decisions made throughout the year.

(3) The annual report of a Public Institution shall include:

- (a) the relevant annual financial statements as audited by the Controller and Auditor General;
- (b) the Controller and Auditor General's audit report on those financial statements;
- (c) the annual non financial performance report showing performance against predetermined objectives and outputs;
- (d) an assessment by the Accounting Officer of any arrears on revenues;
- (e) an assessment by the accounting officer of performance against the measurable performance objectives;
- (f) particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d);
- (g) any explanations that may be necessary to clarify issues in connection with the financial statements;
- (h) the annual internal audit committee report showing the extent to which internal audit committee members have fulfilled their responsibilities; and
- (i) any other information as may be prescribed by the Treasury.

Financial statement by
Public Institutions.

114.(1) Public Institution shall, within a period of three months after the end of each financial year, prepare and submit to the Controller and Auditor General annual financial statements in respect of the past financial year which:

- (a) fairly presents the state of affairs of the Public Institution and every Public Entity, its performance against its budget, its management of revenue, expenditure, assets and liabilities, its business activities, its financial performance, and its financial position as at the end of the financial year; and
- (b) discloses the information required under this Act and the Regulations.

(2) Financial statements referred to in sub section (1), shall include:

- (a) a statement of appropriation comparing budget against actual outturn;
- (b) a statement of financial position showing assets and liabilities;
- (c) a statement of changes in net assets;
- (d) a statement of financial performance;
- (e) a statement of cashflows;
- (f) notes to the annual financial statement providing clarity as to arrears of revenue, movement in fixed assets, contingent liabilities, and inventories; and
- (g) statutory and non statutory, other schedules as may be determined in the guidelines issued by the Accountant General.

(3) A Public Institution which has the sole control of a Public Entity or which has effective control a Public Entity which is as a private company, shall in addition to complying with subsection (1), prepare annual financial statements incorporating the annual financial statements of the Public Institution and of such Public Entity.

(4) Financial statements of Public Institution shall be prepared in accordance with generally recognized accounting practice as prescribed in section 107 of this Act.

(5) Disclosures accompanying financial statements shall include fiscal transfers to and from a Budget Institution and other

information as may be prescribed by the Treasury in the Regulations and guidelines.

Consolidated financial statements.

115. (1) The Accountant General shall prepare and submit to the Controller and Auditor General, not later than 30th December of the following fiscal year, consolidated financial statements.

(2) Consolidated financial statements shall include:

(a) a statement of financial position;

(b) a statement of appropriation comparing budget and actual outturn;

(c) a statement of cashflows;

(d) a statement of receipts and payments;

(e) a statement of financial performance;

(f) disclosure notes and schedules clarifying the matters on outstanding debt, guarantees, accounting policies, revenue arrears, movement in assets, and contracted commitments;

(g) operational review of the activities of Government for the year.

(3) The consolidation procedures and scope shall be determined in the Regulations.

(4) The Controller and Auditor General shall audit and provide to the Paymaster General the audit report within three months from the receipt of the consolidated financial statements.

(5) Audit adjustments impacting on fair presentation of financial statements of the consolidated financial statements shall be effected before finalisation of the annual audit.

Reports of the Controller and Auditor General.

116.(1) On receiving the financial statements prescribed by sections 111 and 112 of this Act, the Controller and Auditor General shall cause them to be examined and audited in accordance with the internationally acceptable auditing standards and shall, within six months, after the end of the financial year to which the financial statements relate, prepare the audit report.

(2) The Controller and Auditor General shall provide the Accounting Officer a signed audit report for inclusion in the annual report as prescribed under this Act.

(3) The Controller and Auditor General shall provide the Accountant General a signed audit report on consolidated annual financial statements prepared in accordance with the requirements of

section 112 of this Act.

(4) The Controller and Auditor General shall, within the nine months after end of the financial year, prepare a report upon the examination and audit of the all annual financial statements of Public Institutions for submission to the House of Representatives.

(5) The Controller and Auditor General may, at any time, if it appears to him desirable, submit to the speaker of the House of Representatives and to the Minister a special report on any matter incidental to his powers and duties under section 118 of this Act and the Controller and Auditor General Act.

(6) Reports issued under this section shall be submitted to the President, responsible Minister and the Minister.

Duties of the Controller and Auditor General.

117. (1) The Controller and Auditor General shall, on behalf of the House of representatives, examine, inquire into and audit the financial statements prepared by:

- (a) the Accountant General;
- (b) Accounting Officers; and
- (c) persons entrusted with the collection, receipt, custody, issue or payment of public moneys, or with the receipt, custody, issue, sale, transfer, or delivery of any stamps, securities, stores or other Government property.

(2) The Controller and Auditor General and any officer authorized by him to perform any duty under this Act, shall perform those duties without fear, favour or prejudice, and a person or authority shall not interfere with or exert or attempt to exert undue influence on them in the exercise of their powers or the performance of their functions.

(3) In exercising his powers of audit and examination of financial statements, the Controller and Auditor General shall, in addition to satisfying himself as to the matters specified for that purpose in any act, satisfy himself that:

- (a) they conform to the requirements of section 6 of this Act;
- (b) the expenditure, assets, liabilities and receipts shown in the financial statements have been dealt with in accordance with proper authority and, in particular, that all expenditure conforms to the authority that governs it;
- (c) the audited financial statements of the Public Institution and all revenues received and public moneys under its control have been handled and conducted with regularity and propriety by the Accounting Officer and or any other responsible public officer; and

- (d) all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of Government resources and property, and that any regulations, directives and instructions relating to them have been duly observed.

(4) If at any time it appears the Controller and Auditor General desirable that any matters relate to public monies or property should be drawn to the attention of the House of Representatives without undue delay, shall prepare a special report relating to such matter and transmit the report to the President, with a copy to the responsible Minister.

Oversight reports.

118. (1) In exercising financial oversight, the relevant Local Government Council and the House of Representatives shall consider the annual report of each Public Institution and the associated audit report.

(2) By no later than three months from the date on which the annual report was tabled, or as soon as it practicable after the relevant Local Government Council or the House of Representatives is constituted after recess, election or other circumstances, it shall adopt an oversight report containing the relevant Local Government Council's or the House of Representatives' comments on the annual report.

(3) The oversight report shall include a statement whether the relevant oversight committee:

- (a) approved the annual report with or without reservations;
- (b) has been rejected the annual report and made a determination for a disciplinary action to be taken; or
- (c) has been referred the annual report back for revision of those components that can be revised, or
- (d) has been considered and adopted a financial improvement plan to address financial management weaknesses identified by the Controller and Auditor General.

(4) The Accounting Officer shall attend relevant oversight committee meetings where the annual report is discussed, for the purpose of responding to questions concerning the report.

(5) In responding to the Controller and Auditor General findings and recommendations, the Accounting Officer shall be required to provide the oversight committee with a financial improvement plan indicating planned actions for addressing significant financial management weaknesses.

PART FOURTEEN COMPLIANCE ENFORCEMENT AND PENALTIES

Financial misconduct by Budget Institution and Local Government. **119.** (1) The Accounting Officer commits an act of financial misconduct if that Accounting Officer deliberately or negligently:

- (a) contravenes a provision of this Act;
- (b) fails to comply with a duty imposed by a provision of this Act as an Accounting Officer of a Budget Institution or a Local Government;
- (c) makes or permits, or instructs another officer of a Budget Institution or a Local Government to make, an unauthorised, irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information in any document which, in terms of a requirement of this Act, to be submitted to:
 - (i) the Minister;
 - (ii) a Chairperson of a Local Government Council;
 - (iii) the House of Representatives;
 - (iv) the Controller and Auditor General
 - (v) the Treasury;
 - (vi) other organ of Government; or
 - (vii) made public.

(2) A senior manager or other officer of a Budget Institution or a Local Government exercising financial management responsibilities and to whom a power or duty was delegated under section 31 of this Act, commits an act of financial misconduct if that senior manager or officer deliberately or negligently:

- (a) fails to carry out the delegated duty;
- (b) contravenes or fails to comply with a condition of the delegated power or duty;
- (c) makes an unauthorised, irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information to the Accounting Officer for the purposes of a document referred to in sub section (1)(d) of this section.

(3) A responsible Minister of a Budget Institution or Chairperson shall:

- (a) investigate allegations of financial misconduct against the Accounting Officer, a senior manager or other officer of the Budget Institution or Local Government unless those allegations are frivolous, vexatious, speculative or obviously unfounded; and

- (b) if the investigation warrants such a step, institute disciplinary proceedings against the Accounting Officer, or that senior manager or other officer in accordance with systems and procedures referred to in this Act and the Civil Service Regulations and the relevant Local Governments law.

Financial misconduct by Public entities.

120. (1) The Accounting Officer of a Public Entity commits an act of financial misconduct if that Accounting Officer deliberately or negligently:

- (a) contravenes a provision of this Act;
- (b) fails to comply with a duty imposed by a provision of this Act as an Accounting Officer of a Public Entity;
- (c) makes or permits, or instructs another officer of the Public Entity to make an irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information in any document which, in terms of a requirement of this Act, to be submitted to:
 - (i) the entity's governing body;
 - (ii) a parent Public Institution;
 - (iii) the Controller and Auditor General; or
 - (iv) made public.

(2) A senior manager or other officer of a Public Entity exercising financial management responsibilities and to whom a power or duty was delegated to, commits an Act of financial misconduct if that senior manager or officer deliberately or negligently:

- (a) fails to carry out the delegated duty;
- (b) contravenes or fails to comply with a condition of the delegated power or duty;
- (c) makes an irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information to the Accounting Officer for the purposes of a document referred to in sub section (1)(d) of this section.

(3) A responsible Minister of a Public Entity or governing body of a Public Entity shall:

- (a) investigate allegations of financial misconduct against the Accounting Officer, a senior manager or other officer of the entity unless those allegations are frivolous, vexatious, speculative or obviously unfounded; and
- (b) if the investigation warrants such a step, institute disciplinary proceedings against the Accounting Officer, senior manager or officer under the provisions of this Act and the relevant Public Entity law.

Offences.

121.(1) The public officer of a Public Institution is guilty of an offence if that public officer:

- (a) deliberately or in a grossly negligent way:
 - (i) contravenes or fails to comply with a provision of this Act;
 - (ii) fails to take reasonable steps to implement the Budget Institution's or Local Government's procurement management policy;
 - (iii) fails to take all reasonable steps to prevent unauthorised, irregular or fruitless and wasteful expenditure; or
 - (iv) fails to take all reasonable steps to prevent corruptive practices in the management of the Public Institution's assets or receipt of money, or in the implementation of the Public Institution's public procurement policy;
- (b) deliberately misleads or withholds information from the Controller and Auditor General on any bank accounts of the Public Institution or on money received or spent by the Public Institution; or
- (c) deliberately provides false or misleading information in any document which, in terms of a requirement of this Act, to be submitted to:
 - (i) the Controller and Auditor General;
 - (ii) the Treasury;
 - (iii) any other Government organ; or
 - (iv) made public.

(3) A member of a Local Government Council or House of representatives is guilty of an offence if that member:

- (a) deliberately influences or attempts to influence the Accounting Officer, a senior manager or any other officer of the Public Institution to contravene a provision of this Act;
- (b) interferes in the financial management responsibilities or functions assigned in terms of this Act to the Accounting Officer of the Public Institution in terms of this Act;
- (c) interferes in the financial management responsibilities or functions assigned in terms of this Act to the accounting officer ; or
- (d) interferes in the management or operational activities of a Public Institution.

Penalties.

122. A person is liable on conviction of an offence of section 122 of this Act to imprisonment for a period not exceeding five years or to a fine not exceeding Tanzania Shillings Two Million (2,000,000), or both.

Regulations on financial misconduct and other matters.

123.(1) The Minister, acting in consultation with the Civil Service Commission, may make regulations prescribing:

- (a) the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct to be reported to the respective Public Institution executive, Public Institution assembly and the Controller and Auditor General, including:
 - (i) particulars of the alleged financial misconduct; and
 - (ii) steps taken in connection with such financial misconduct;
- (b) matters relating to internal investigations by Public Institutions of allegations of financial misconduct;
- (c) criminal charges be laid against a person for financial misconduct;
- (d) criteria for the composition and functioning of a disciplinary committee which hears a charge of financial misconduct;
- (e) the circumstances in which the findings of a disciplinary committee and any sanctions imposed by the governing body to be reported to the

Controller and Auditor-General; and

- (f) any other matters to the extent necessary to enforce the provisions of this Act.

(2) The Minister shall take all proper steps to ensure that any directives given under this Act are brought to the notice of the persons directly affected by them, and such regulations or directives shall be published in any manner which is proper and efficient and in addition to the publication in the Official Gazette.

PART FIFTEEN MISCELLANEOUS PROVISIONS

Abandonment of claims, and write-off of public money and stores.

124. (1) The House of Representatives may, by resolution, authorize the Minister to the extent specified in the resolution to abandon and remit any claims by or on behalf of the Government or any service thereof and to write off losses of moneys or stores belonging to the Government or provided for the public service.

(2) The Minister may, by writing under his hand delegate to an officer any powers which he is authorized to exercise by resolution of the House of Representatives under this section.

Limitation of liability.

125. (1) A Budget Institution, Local Government or any of its administrative structures, political office-bearers or officers, Public Entity or its board of directors or any of its directors or officers, and other organ of the Government or person exercising a power or performing a function in terms of this Act, is not liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.

(2) Without limiting liability in terms of the common law or other legislation:

(a) a Budget Institution or Local Government may recover from a political office-bearer or officer of the Budget Institution; and

(b) a Public Entity may recover from a director or officer of the entity,

any loss or damage suffered by it because of the deliberate or negligent unlawful actions of that political office-bearer or officer when performing a function of office.

Delays and exemptions.

126. The Minister may, by notice in the Official Gazette:

(a) delay the implementation of a provision of this Act for a transitional period not exceeding three years from the date when this Act takes effect; or

(b) where practicalities impede the strict application of a specific provision of this Act, exempt any Budget Institution, Local Government, Public Entity from, or in respect of, such provision for a period and on conditions determined in the notice.

Regulations.

127. The Minister may make regulations for better carrying out the provisions and purpose of this Act.

Repeal and savings.

128. (1) The following Acts are repealed:

(a) The Public Finance Act, No. 12 of 2005;

(b) The Government Loans, Grants and Guarantees Decree, No. 5 of 1978.

(2) Anything done under the laws repealed by subsection (1) of this section, shall be regarded as having been done under this Act.

OBJECTIVES AND REASONS

The main objectives of this Bill are to request the Council to repeal the Public Finance Act number 12 of 2005 and The Government Loans, Grants and Guarantees Decree, 1978. We are humbly request the Council to enact the new Public Finance Act which shall establish Government Treasury and Internal Audit Department; the Department shall be responsible to supervise an internal audit unit in each Public Institution, that shall report functionally to Internal Auditor General or a division responsible for Government internal auditors in the Treasury and administratively to an Accounting Officer of the relevant budget institution.

The functions of the Treasury are:

1. undertake its functions as provided in this Act;
2. promote the object of this Act within the framework;
3. ensure the implementation of this Act across all Public Institutions;
4. prescribe uniform Treasury norms and standards;
5. enforce this Act and any prescribed norms and standards, including any prescribed standards of accounting practice uniform classification systems, in Public Institutions.
6. ensure the formulation, implementation, monitoring and coordination of fiscal and monetary policies that promote macro-economic stability consistent with the fiscal principles set out in this act; co-ordinate inter-Governmental financial and fiscal relations;
7. ensure proper coordination and management of the annual budget preparation process to promote efficiency in allocation of public resources towards objectives and priorities of the development strategy within set medium term fiscal objectives;

This Bill shall intend to address the following issues which were not covered in the previous Act:

- (1) focuses particularly on the principal responsibilities of those involved in preparing and implementing the budget and matters relating to revenue, expenditure, asset management, liability management, accounting, reporting, auditing, and

oversight.

(2) provides the responsibilities of persons entrusted with financial management in relation to public entities and Local Government.

(3) ensure that all revenue, expenditure, assets and liabilities of those public entities are managed efficiently and effectively.

(4) To establish principles, legal provisions, and rules to ensure sound financial management of public financial resources with reference to planning, budgeting, allocation according to service delivery objectives, accounting, monitoring, reporting, and effecting adjustments, if any, considered necessary.

This Bill comprises of Fifteen Parts as follows:

Part one

Preliminary Provisions; Deals with definitions, scope and fiscal responsibility principles guiding the preparation and implementation of the law on integrated financial management.

Part Two

Functions, Power of the Council and Executives; Deals with roles and responsibilities in financial management of the Council members;

Part Three

The Government Treasury; the part deal with the responsibilities of the Government Treasury, Specific responsibilities of the Treasury, Powers and Duties of the Minister, Powers and responsibilities of the Paymaster General, Powers and Duties of Accountant General.

Part Four

Consolidated Fund and Special Funds; the part deal with consolidated fund, investment of balance on the Consolidated fund and special funds.

Part Five

Designation of Accounting officers; Provides for the designation of accounting officers and their responsibilities in relation to planning, budgeting, cash management, asset management, expenditure and revenue management, accounting and reporting. Responsibilities of other officials are also provided.

Part Six

Planning, Budgeting and Budget Approval; provides promotion of fiscal responsibilities, preparation of budget framework paper, budget preparation and approval, spending before budget adoption by House of Representative.

Part Seven

Budget Execution; Deals with budget releases, spending commitments to be in accordance with appropriations and contract having future implications.

Part eight

Establishment of Contingency; provides contingency fund, unforeseen or unavoidable supplementary expenditure, unauthorised expenditure and preparation, budget execution monitoring and presentation of adjustment annual budget

Part Nine

Banking and cash management; provides banking arrangements and cash management.

Part Ten

Borrowing, lending and debt management; Provides authority to borrow on behalf of the Government, principles and practices with regards to borrowing, servicing of debts, consequence for failing to comply with borrowing authority, lending to public enterprises, management of debt records, and debt management strategies of government.

Part Eleven

Local Government Financial Management; Deals with policies and principles for financial management of local Government, functions of local Government Council aspects to public finance, functions of executive committees of local Government Council, delegations of powers and duties of chairperson of local Government.

Part Twelve

Provisions for Public entities; Provides for enhanced financial management practices in the public entities with governing boards, general financial management responsibilities, budget and corporate plans, bank account, budget execution and monitoring and Governing body to submit information require by Treasury.

Part Thirteen

Annual reporting, audit and oversight; Deals with internal audit unit service, audit committees, specifications of accounting standard, preparation, consolidated financial statements, reports of the Controller and Auditor General, duties of the Controller and Auditor General and submission of annual financial statements.

Part Fourteen

Compliance enforcement and sanctions; Sets out the criteria for identifying instances of financial misconduct (non-compliance) by public officials and governing bodies. It also provides for disciplinary process leading to individual and institutional sanctions.

Part Fifteen

Miscellaneous Provisions; Provides for abrogation of laws, written off public money and stores, limitations of liabilities, regulations, repeal and savings

Dr. Khalid Salum Mohamed
MINISTER FOR FINANCE AND PLANNING