

BELIZE:

FINANCE AND AUDIT (REFORM) ACT, 2005

NO. 12 OF 2005

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No. 12 of 2005

**I assent,
SIR COLVILLE N. YOUNG**

*Governor-General
1st April, 2005*

AN ACT to make new and better provisions regulating public revenue, expenditure and contracts; to repeal the Finance and Audit Act, Chapter 15 of the Substantive Laws of Belize, Revised Edition 2000-2003; to clarify the legal status of the Financial Orders and Stores Orders; and to provide for matters connected therewith or incidental thereto.

(Gazetted 9th April , 2005.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:-

**PART I
PRELIMINARY**

1. This Act may be cited as the

Short title.

FINANCE AND AUDIT (REFORM) ACT, 2005

Interpretation.

2. (1) In this Act, unless the context otherwise requires -

“Accounting Officer” means the public officer who is the head of a Government Ministry or Department charged with the responsibility of controlling the various votes of the Financial Estimates of Revenues and Expenditure falling within his Ministry or Department, as the case may be, in accordance with those Financial Estimates and the written instructions issued from time to time by the Ministry responsible for Finance;

“Chief Executive Officer” includes the Cabinet Secretary, the Financial Secretary, the Solicitor General and a Chief Executive Officer;

“contract” or “government contract” means a written or oral agreement for the procurement or sale by the Government of goods or services, or a combination of goods and services, setting out the conditions of the contract, the specification or description of the goods or services, or the goods and services, procured or sold under the contract, but does not include anything regulated under the National Lands Act or Regulations made thereunder, which shall subject to the provisions of this Act to the contrary, continue to be regulated by the procedures specified in, and the provisions of, the National Lands Act and Regulations made thereunder to the exclusion of this Act;

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“Financial Estimates” or “Estimates” means the financial Estimates of revenue and expenditure referred to in section 115 of the Belize Constitution;

“Financial Orders” and “Stores Orders” means administrative instructions made from time to time by the Minister of Finance, directed only to public officers, for their internal guidance in the handling, processing, receipt, acquisition or disposal of public revenues, property and contracts as provided in this Act;

“financial year” in respect of the Government, means the twelve months ending on the 31st March in any year or such other date as may from time to time be prescribed by any law enacted by the National Assembly;

“limited tendering procedure” means a tendering procedure

(a) of procurement set out in section 20 of this Act whereby no tender is called by the Government or whereby suppliers are invited individually by the Government to submit a tender for a contract; or

(b) of sale set out in section 20 of this Act whereby no tender is called by the Government or whereby purchasers are invited individually by the Government to submit a tender for a contract;

“Minister” means the Minister responsible for Finance;

“open tendering procedure” means a tendering procedure

(a) of procurement of goods or services, or a combination of goods and services by contract by the Government; or

(b) of sale of goods or services, or a combination of goods and services by contract by the Government;

in accordance with section 19 of this Act;

“procurement” means a procurement of goods or services, or a combination of goods and services by contract by the Government;

“public moneys” means

CAP. 4.

(a) all revenues or other moneys raised or received by Belize referred in section 114(1) of the Belize Constitution;

(b) any other moneys held, whether temporarily or otherwise, by any person, for and on behalf of the Government;

“selective tendering procedure” means a tendering procedure

(a) of procurement of goods or services, or a combination of goods and services by the Government whereby only suppliers invited to do so by the Government may submit a tender for a contract;

(b) of sale of goods or services, or a combination of goods and services by the Government whereby only purchasers invited to do so by the Government may submit a tender for a contract;

“Special Fund” means a Fund referred to in section 9 of this Act;

“statutory body” means a body established by virtue of an Act to perform public functions, but does not include a town, city or village council;

“statutory expenditure” means expenditure which is charged on the Consolidated Revenue Fund established under section 114(1) of the Belize Constitution, by virtue of the provisions of this Act or any other law.

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(2) In this Act, a reference to a Government Ministry includes a reference to a Government Department, and *vice versa*.

(3) Where in any law reference is made to the expression “General Revenue” or to any of its variations and cognate expressions, such reference shall be read and construed by any court of law or any person or Government Ministry as a

reference to the Consolidated Revenue Fund established under section 114(1) of the Belize Constitution.

CAP. 4.

(4) In this Act, reference to a contract, procurement or sale means reference to a contract, procurement or sale for consideration.

PART II FINANCE

3. (1) Pursuant to section 114(1) of the Belize constitution, all revenues or other moneys raised or received by Belize, not being revenues or other moneys payable under the Belize Constitution or under any other law into some specific public fund established for that purpose, shall be paid into and form one Consolidated Revenue Fund.

**Consolidated
Revenue
Fund**
CAP. 4.

(2) No warrant shall be issued and no moneys shall be withdrawn from the Consolidated Revenue Fund except to meet expenditure that is charged upon the Consolidated Revenue Fund by the Belize Constitution, this Act or any other law, or where the issue of the warrant and withdrawal of those moneys has been authorized by an appropriation law made pursuant to section 116 of the Belize Constitution, or is authorized to meet a statutory expenditure not elsewhere provided in this section.

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CAP. 4.

(3) The moneys referred to in subsection (2) shall not be withdrawn except upon the authority of a warrant duly executed under the hand of the Minister or a person authorized by him in writing.

(4) Moneys standing to the credit of the Consolidated Revenue Fund during any financial year shall, except for the day-to-day cash requirements of the Government, be kept

(a) if deposited in Belize, on account at a bank or financial institution operating under the Banks and Financial Institutions Act; or

(b) if deposited outside Belize, on account at a bank or financial institution which operates under a legal framework similar to the Banks and Financial Institutions Act.

(5) The moneys standing to the credit of the Consolidated Revenue Fund referred to in subsection (4) may be invested, on the authority of the Cabinet, with a bank or financial institution, either at call or subject to notice, or with any Fund administered by the Crown Agents, or in any of the investments authorized by law for the investment of trustee funds, and such investments, together with any interest received therefrom, shall form part of the Consolidated Revenue Fund.

Issue of
money before
passing of
Appropriation
Act.

4. If the Appropriation Act for any financial year has not come into operation by the beginning of that financial year, the Minister may by warrant under his hand authorize the withdrawal from the Consolidated Revenue Fund of moneys to meet such expenditure as may be necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year, or the coming into operation of that Appropriation Act, whichever is the earlier:

Provided that-

- (a) no expenditure upon any goods or service for which no provision has been made in an Act in force during the previous financial year shall be deemed to be authorized by this section; and
- (b) the expenditure so authorized for any goods or service shall not exceed one-third of the amount voted for that service in the previous year; and
- (c) all moneys withdrawn from the Consolidated Revenue Fund in pursuance of the said warrants shall be deemed to have been issued in anticipation of grants being made by the National Assembly in the Appropriation Act for the financial year in which the withdrawal took

place, and on the coming into operation of such Act the warrant shall cease to have effect, and withdrawals thereunder shall be deemed to have been made for the purposes of such Act and shall be accounted for accordingly.

5. (1) If the Minister is satisfied that there has arisen an urgent and unforeseen need for expenditure which-

Special
Warrants.

- (a) being in respect of a new service or new goods is not provided for in any Act, or
- (b) will result in an excess of the sum provided for that service or those goods in any Act,

and which cannot without serious injury to the public interest be postponed until the next meeting of the House of Representatives called for consideration of supplementary estimates, he may by Special Warrant under his hand and in anticipation of grants being made by the National Assembly authorize the issue of moneys from the Consolidated Revenue Fund in such amounts as may be necessary to meet that need.

(2) Each Special Warrant shall specify under which heads and subheads of the expenditure estimates the expenditure authorized shall be recorded and such expenditure shall be accounted for in the same manner as if it had been authorized by an Appropriation Act.

(3) All authorizations by Special Warrant shall be reported to the House of Representatives at its next meeting where practicable, and at the next meeting of the House of Representatives called for supplementary estimates the Minister shall ask the House of Representatives to confirm the appropriation from the Consolidated Revenue Fund by enactment of a Supplementary Appropriation Act:

Provided howsoever that all such authorizations by Special Warrant must be reported to and confirmed by the House of

Representatives within three months of the date of any such Special Warrant.

(4) Authorizations by Special Warrant which have not been confirmed by the enactment of a Supplementary Appropriation Act shall not at any time exceed in the aggregate an amount equivalent to *ten per centum* of the amount voted for the respective head of the approved expenditure estimates for the year, or the sum of five hundred thousand dollars in the case of new goods or a new service.

Advances.

6. (1) The Minister may, by advance warrant, authorize the issue from the Consolidated Revenue Fund and other public funds of Belize advances-

- (a) on behalf of, and recoverable from, other Governments;
- (b) to or on account of trust or other funds administered by the Government, or to, or on behalf of, public bodies or institutions or individuals, where such advances are in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made;
- (c) to members of the National Assembly for the purpose of meeting conference expenses abroad subject to advances being repaid immediately on return, and for the purpose of purchasing motor vehicles under terms and conditions approved by the Minister;
- (d) to public officers for the purposes and under the conditions set out in the Public Service Regulations for the time being in force.

(2) The total advances under paragraphs (c) and (d) of subsection (1) shall not after repayments have been deducted

exceed at any time five hundred thousand dollars without the prior approval of the National Assembly.

7. (1) The National Assembly may, subject to subsection (2), from time to time by resolution authorize the Government to borrow monies or to raise loans and to offer security for such monies or loans, from any public or private bank or financial institution or capital market in or outside Belize, upon such terms and conditions and in an amount not exceeding in the aggregate the sum specified in that behalf in the resolution, to meet current or capital requirements.

Loans to
Government.

(2) Any agreement, contract or other instrument effecting any such borrowing or loan to the Government of or above the equivalent of ten million dollars shall only be validly entered into pursuant to a resolution of the National Assembly authorizing the Government to raise the loan or to borrow the money:

Provided that the Government shall not use any money borrowed under this section to meet its "recurrent expenditure" (as defined in the financial regulations made under section 23(4)) except

(a) to refinance existing public debt; and

(b) to amortize and service principal payments to existing public debt.

Provided further that, subject to the foregoing the Government may raise loans, borrow monies and secure financing to meet its capital requirements in amounts of less than ten million dollars at anyone time without the authority of a resolution as aforementioned on the condition that the total aggregate amount so raised or borrowed in any one fiscal year does not exceed ten million dollars.

(3) A resolution referred to in subsection (1) or (2) shall not have effect for any period exceeding twelve months.

(4) The principal and debt charges of all the monies and loans so authorized shall constitute a charge on the Consolidated Revenue Fund.

(5) Where, by resolution in accordance with this section or in pursuance of this Act, power to borrow money or to raise loans is conferred on the Government, the power may be exercised by means of a fluctuating overdraft.

(6) Before the Government offers any guarantee or some other form of security in support of any loan made directly to a private sector entity or statutory body by any public or private bank, financial institution or capital market in or outside Belize, the Government shall seek the approval of the National Assembly, signified in a resolution made in that behalf, specifying

(a) the terms and conditions under which the Government shall make the guarantee;

(b) that the National Assembly is satisfied that the loan will lead to the growth of the economy of Belize:

Provided that the National Assembly shall only issue a resolution under this subsection if the National Assembly is satisfied that

(a) the lending institution requires as part of its overall lending policies or in respect of the specific loan, a sovereign guarantee by the Government of Belize; and

(b) the private sector entity or the statutory body which will be the recipient of the loan has the financial ability to make payments in respect of the loan, including assets of a value equivalent to the extent of the Government guarantee.

(7) Every resolution of the National Assembly referred to in this section shall be published in the *Gazette* within two weeks of the making thereof.

(8) Where the Government borrows money in amounts of less than ten million dollars as provided in the second *proviso* to subsection (2), the Government shall, within three months of the borrowing, publish a notice in the *Gazette* specifying

(a) the date of the loan;

(b) the amount of the loan;

(c) the parties to the loan;

(d) the purpose of the loan; and

(e) the terms and conditions of the loan.

(9) The Government shall, in a report specifying the details in paragraphs (a) to (e) of subsection (8), inform the National Assembly of any loan referred to in the second *proviso* to subsection (2), within three months of the making of the loan.

(10) The House of Representatives shall, before adopting a resolution under this section, refer the resolution to the Finance and Economic Development Committee for consideration and report to the House at its next sitting.

8. (1) Subject to the provisions of sections 9 and 10, any moneys, being or not being moneys raised or received for the purposes of the Government, which may be deposited with any person authorized to receive such moneys by the Government, or with the Accountant General or other public officer authorized to receive such deposits by the Accountant General or by Financial Orders or the Public Service Regulations for the time being in force (such moneys being hereinafter referred to as deposits), shall not form part of the Consolidated Revenue Fund and shall not be applied in any way for public purposes of Belize except as provided in this section.

Deposits.

(2) Deposits shall be kept in a special account or accounts authorized by the Government, or may be invested in like manner to that permitted by section 3 in respect of the Consolidated Revenue Fund, or may be used to finance temporary advances.

(3) Any interest or dividend received in respect of any deposit shall be credited to the Consolidated Revenue Fund for the public purposes of Belize.

(4) Any deposit, not being moneys raised or received for the purposes of the Government, which is unclaimed for five years shall be credited to the Consolidated Revenue Fund for the public purposes of Belize:

Provided that if any person entitled thereto subsequently proves to the satisfaction of the Accountant General his claim to such deposit, the deposit may be refunded to him.

(5) Subject to the provisions of this section, the Accountant General is hereby authorized to administer and, in appropriate cases, to refund deposits to those who may be entitled to them.

**Special
Funds.**

9. (1) The proceeds of any loan raised under an Act which specifies the purposes to which the loan is appropriated and applied, shall be paid into a Special Fund to be established by the Accountant General in respect of that loan.

**First
Schedule.**

(2) The funds specified in the First Schedule are hereby established as Special Funds. The Minister may by Order published in the *Gazette* from time to time establish additional Special Funds which shall thereby be deemed to be included in the First Schedule; or may in like manner remove a fund from the list specified in the First Schedule, which fund shall thereby cease to be a Special Fund.

(3) Special Funds shall not form part of the Consolidated Revenue Fund and shall be kept in separate accounts with the Accountant General.

(4) A Special Fund shall be administered in the manner provided by the law, or trust instrument, creating it or which relates to it:

Provided that in the absence of any law or trust instrument, or if the better carrying out of such law or trust instrument so requires, the Minister shall by Regulations provide for the administration of the Special Fund, or for the better administration of the Special Fund, as the case may be.

(5) Subject to the provisions of this section and of any other law, Special Funds may be invested in like manner to that permitted by section 3 in respect of the Consolidated Revenue Fund.

(6) Any interest or dividend received in respect of any Special Fund shall be credited to the account of that Special Fund and shall become in all respects part of that Special Fund.

10.(1) There is hereby established a fund to be known as the Development Fund.

**Development
Fund.**

(2) The Development Fund shall consist of the following moneys-

- (a) such moneys as may be appropriated for development purposes by law;
- (b) grants or loans to Government for development purposes by any other government, body or person;
- (c) moneys received from the proceeds of loans raised for development purposes;
- (d) moneys received by way of interest or dividend on any investment or loan of any moneys belonging to the Development Fund;

(e) moneys earned by or received reimbursement of any project financed wholly or in part from the Development Fund.

(3) The Development Fund shall not form part of the Consolidated Revenue Fund and shall be kept in a separate account with the Accountant General.

Second
Schedule.

(4) The Development Fund shall be operated in accordance with the rules set out in the Second Schedule.

Second
Schedule.

(5) The rules set out in the Second Schedule may be amended by the Minister from time to time by notice published in the *Gazette*:

Provided that the House of Representatives shall first by resolution approve any such amendment.

(6) Subject to the provisions of this section and of any other law, moneys held for the Development Fund which are not required for immediate use for development purposes may be invested in like manner to that permitted by section 3 in respect of the Consolidated Revenue Fund.

PART III **AUDIT AND ACCOUNTS**

Powers of
auditors.

11. Anything which under the authority of this Act or of any other law may be done by the Auditor General, other than the certifying of and reporting on public accounts to the National Assembly, may be done by any officer of his staff authorized thereto by him.

Duties of
Auditor
General.

12. (1) The Auditor General shall, on behalf of the National Assembly, and in such manner as he deems necessary, audit the accounts of all Accounting Officers and of all 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 of any kind whatsoever and shall also ascertain whether-

- (a) all reasonable precautions have been taken to safeguard the collection of public moneys and that the laws, directions and instructions relating thereto have been duly observed;
- (b) all public moneys disbursed have been expended and applied under proper authority and for the purpose or purposes intended by such authority; and
- (c) all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of Government property, including stamps, securities and stores, and that the laws, instructions and directions relating thereto have been duly observed.

(2) The Auditor General shall not be required to undertake any examination of accounts partaking of the nature of a pre-audit which involves acceptance by him of responsibility which would preclude him from full criticism of any accounting transaction after such transaction has been duly recorded.

(3) The Auditor General shall not be required to undertake any duties outside those appertaining to his post, if he considers that such duties are incompatible with the responsibilities of his office.

13. (1) In the exercise of his duties under this Act, the Auditor General may-

- (a) call upon any public officer for any explanations and information he may require in order to enable him to discharge his duties;

**Powers of
Auditor
General.**

- (b) authorize any public officer to conduct on his behalf any inquiry or examination of audit, and such officer shall report thereon to the Auditor General;
- (c) without payment of any fee, cause a search to be made in and extracts to be taken from any book, document, or record in any public office;
- (d) lay before the Attorney General a case in writing as to any question regarding the interpretation of any law concerning the powers of the Auditor General or the discharge of his duties, and the Attorney General shall give a written opinion upon such case.

(2) In the exercise of his duties under this Act, the Auditor General or any person duly authorized thereto by him shall have access to all books, vouchers, documents, cash, stamps, securities, stores or other Government property of any kind whatsoever, including in electronic form, in the possession of any public officer.

(3) In the exercise of his duties under this Act, the Auditor General shall not be subject to the direction or control of any other person or authority.

**Frauds,
losses, etc.**

14. If at any time it appears to the Auditor General that any fraud, or serious loss or serious irregularity has occurred in the receipt, custody or expenditure of public moneys or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property of any kind whatsoever, or in the accounting for the same, he shall immediately bring the matter to the notice of the Minister.

**Annual
Accounts.**

15. (1) Within a period of three months after the close of each financial year the Accountant General shall sign and submit to the Auditor General accounts showing fully the financial position of the Consolidated Revenue Fund and other public funds of Belize on the last day of such financial year.

(2) Notwithstanding the provisions of subsection (1), the National Assembly may by resolution, on the written request of the Accountant General, for good and sufficient reason, extend the period within which the accounts shall be presented to the Auditor General, and copies of the resolutions shall forthwith be presented by the Clerk of the National Assembly to the Minister, the Accountant General and the Auditor General. An extension granted by the National Assembly under this subsection shall be for a period not exceeding three months.

(3) The accounts shall include-

- (a) an abstract by heads of revenue and expenditure for the financial year compared with the estimates;
- (b) a statement of the assets and liabilities of the country at the close of the financial year, including the balance in the Consolidated Revenue Fund;
- (c) a detailed statement by heads and subheads of revenue and expenditure for the financial year compared with the financial estimates;
- (d) a statement of expenditure to, and the amount outstanding at, the end of the financial year in respect of the public debt;
- (e) a statement of all losses (including abandoned claims) of public moneys, stamps, securities, stores or other property of the Government written off during the financial year; and
- (f) such other statements as the National Assembly or the Public Accounts Committee of the House of Representatives may from time to time require.

Annual
certificates
and reports of
Auditor
General.

16. (1) Within ninety days after receiving the accounts mentioned in section 15 (1), the Auditor General shall send to the Minister copies of the accounts submitted by the Accountant General together with a certificate of audit and a report upon his audit of all accounts relating to the public moneys, stamps, securities, stores and other property of the Government and the Minister shall cause them to be laid before the next meeting of each House of the National Assembly without alteration. If the Minister fails to lay them before the National Assembly at the next regular meeting of the National Assembly, the Auditor General shall send copies to the Speaker for presentation to the House of Representatives and to the President for presentation to the Senate.

(2) Notwithstanding the provisions of subsection (1), the National Assembly may by resolution, on the written request of the Auditor General, for good and sufficient reason extend for a further sixty days the period within which such reports shall be transmitted and copies of the resolutions shall forthwith be presented by the Clerk of the National Assembly to the Minister and to the Auditor General.

(3) The Auditor General may at any time, if it appears to him to be desirable, send a special report on any matter incidental to his powers and duties under the provisions of this Act to the Minister for presentation to the National Assembly.

CAP. 4.

(4) In his report to the National Assembly in pursuance of the provisions of section 120 of the Belize Constitution and subsection (1), the Auditor General shall, if he thinks the circumstances warrant it, call attention to any case in which in the course of the audit of the accounts reported on he has observed that-

- (a) the accounts have not been properly kept;
- (b) any public money was not duly accounted for;
- (c) the checks against irregularity and fraud were inadequate or ineffective,

- (d) the laws, directions and instructions relating to finance and accounts appear to be inadequate; or where adequate have not been carried out;
- (e) there has been apparent neglect in the assessment or collection of revenue;
- (f) any disbursement of public moneys exceeded the proper authority or was not applied for the purposes intended by such authority or was not properly vouched or certified;
- (g) there has been apparent waste or extravagance in the Administration of government property.

(5) In addition to subsection (4), the Auditor General shall call attention to any other matter which he considers should be brought to the notice of the National Assembly.

PART IV
GOVERNMENT PROCUREMENT AND SALE
CONTRACTS

17. (1) Subject to this Act, the Government shall have power to acquire, hold and dispose of, by sale or otherwise, property of any kind, and all property owned by the Government shall be held in the name of the Government of Belize.

Capacity of
the
Government
to enter into
contracts.

(2) The Government shall have power to enter into procurement or sale contracts using either the limited tendering procedure, the open tendering procedure, or the selective tendering procedure.

(3) All contracts made, whether in or outside Belize, for and on behalf of the Government shall, if reduced to writing, be made in the name of the Government and may be lawfully signed by a Minister, or an Ambassador or High Commissioner or Chief Executive Officer or Permanent Representative:

Provided however, that any other public officer may sign a contract if duly authorized in writing by the Minister, either specifically in any particular case, or generally for all contracts below a certain value in a Ministry.

(4) In making an authorization under subsection (3), it shall be sufficient for the Minister to name the office held by such public officer and the Minister shall cause such authorization to be published in the *Gazette*.

(5) All contracts made outside of Belize for and on behalf of the Government by a person either generally or specifically authorized in writing in that behalf by the Minister shall, so far as they come within the jurisdiction of Belize, be deemed to be government contracts.

(6) No Minister, Chief Executive Officer, Ambassador, High Commissioner, Permanent Representative, or any other public officer duly authorized in writing by the Minister, shall be liable to be sued personally upon any contract which he makes in that capacity for and on behalf of the Government in accordance with this Act.

**Duties of the
Contractor
General.**

18. (1) The Government shall, before disposing of any public assets of or above the value specified in section 22 (1), seek the written comments of the Contractor-General, which shall be submitted to the National Assembly before the disposal of the assets is effected.

(2) The Government shall submit any contract referred to in section 19, 20 or 21 to the Contractor-General for review and comments before the contract is executed.

(3) If the Contractor-General is of the view that any contract referred to in this section is not in the best interests of the Government, or is not in the national interest of Belize, he shall state that fact and the reasons therefor in writing, and submit his comments to each House of the National Assembly for debate before the contract is executed.

(4) If the Contractor-General is of the view that any contract referred to in this section is in the national interest, he shall issue a certificate to that effect and submit it to the Financial Secretary. Such a certificate shall be conclusive evidence that the contract is in the national interest.

19. (1) Whenever the Government decides to enter into a contract using the open tendering procedure, the Government shall ensure that-

**Open tendering
procedure.**

- (a) any conditions for participation in the tendering procedure for the procurement or sale in question are published in adequate time to enable any interested supplier or purchaser, as the case may be, to initiate and, to the extent that it is compatible with the efficient operation of the procurement or sale process, complete the applicable qualification procedure;
- (b) any conditions for participation in the tendering procedure are limited to those which are essential to ensure the supplier's or purchaser's capacity to fulfill the contract in question;
- (c) any conditions for participation in the tendering procedure (including the provision of financial guarantee, technical qualifications and information necessary to ascertain the financial, commercial and technical capacity of a supplier or purchaser, as the case may be, as well as the verification of qualifications) do not discriminate against any applicable supplier or purchaser;
- (d) the financial, commercial and technical capacity of a supplier or purchaser is judged on the basis of the supplier's or purchaser's global business activity taking into account the legal relationship between the bodies involved in the supply, performance or purchase of the goods or services, or goods and services, as the case may be;

- (e) the process of, and the time required for, the qualification of suppliers or purchasers is or are not used to keep any applicable supplier or purchaser from being considered for the purposes of the procurement;
- (f) any applicable supplier or purchaser who, in the qualification of suppliers, is able to show that he meets the conditions for participation in the tendering procedure is considered a qualified supplier or purchaser for the procurement or sale;
- (g) any request by an unqualified applicable supplier or purchaser to participate in the tendering procedure is given due consideration if there is sufficient time for the supplier or purchaser to complete the applicable qualification procedure;
- (h) if the Government maintains a permanent list of qualified suppliers or purchaser's, an applicable supplier or purchaser may apply at any time to be included in that list, and is so included within a reasonable time after he has successfully completed the applicable qualification procedure;
- (i) an applicable supplier or purchaser who has requested to become a qualified supplier or purchaser is notified of the decision made on the request; and
- (j) an applicable supplier or purchaser who is included in a permanent list of qualified suppliers or purchasers is notified as soon as possible after the list ceases to be used or his name is removed from the list.

(2) The Government may, for the purposes of subsection (1), treat a supplier or purchaser as ineligible to participate in the open tendering procedure or to short-list the supplier or purchaser in the list of eligible suppliers or purchasers where-

- (a) the supplier or purchaser, being an individual, is bankrupt or has made any composition or arrangement for the benefit of his creditors;
- (b) the supplier or purchaser, being a company, has passed a resolution or is the subject of an order by the court for the company's winding up otherwise than for the purposes of *bona fide* reconstruction or amalgamation, or has had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company's business or any part thereof;
- (c) the supplier or purchaser has been convicted of a criminal offence relating to the conduct of his business of profession;
- (d) the supplier or purchaser is guilty of serious misrepresentation in supplying any information required by the Government.

(3) The Government shall, through the appropriate Ministry-

- (a) consider the tenders supplied by suppliers or purchasers;
- (b) identify suppliers or purchasers who should be short-listed and interviewed, where appropriate;
- (c) award the contract to a suitable supplier or suppliers or to a suitable purchaser or purchasers; and
- (d) notify unsuccessful suppliers or purchasers in writing.

(4) A notice under subsection (3) *(d)* shall not state reasons why a supplier was unsuccessful in the open tendering procedure.

(5) Any procurement or sale contract of or above five million dollars shall be subject to the open tendering procedure.

(6) A contract referred to in subsection (5) shall be laid by the Minister on the table of both Houses of the National Assembly within one month of its execution. Each House of the National Assembly shall examine the contract and other documents submitted to the House by the Minister in order for the House to determine if the contract complies with subsection (5), but if such contract does not comply with that subsection, such non-compliance shall not prejudice the rights of the other party to the contract unless the party knew before entering into the contract that it did not comply with the requirements of subsection (5).

The selective tendering procedure.

20. (1) When undertaking a procurement or sale using the selective tendering procedure, the Government shall ensure that the number of applicable suppliers or purchasers invited to submit a tender is sufficient to ensure competition without affecting efficiency in the tendering process.

(2) The Government shall select suppliers or purchasers to be invited under this section to submit a tender in respect of a procurement or sale using, among others, the following guidelines-

- (a)* the need for fairness and non-discrimination;
- (b)* the relevant market for the procurement or sale;
- (c)* the need for expediency in the public interest;
- (d)* the number of suppliers or purchasers available in Belize in the relevant market;
- (e)* the knowledge of government procedures by the applicable suppliers or purchasers; and

(f) any other relevant factors.

(3) Where a permanent list of qualified suppliers or purchasers is maintained, the Government may select the supplier or purchaser from that list, and award the contract accordingly.

(4) Section 19(3) and (4) shall, *mutatis mutandis*, apply to the selective tendering procedure.

21. (1) The Government shall use the limited tendering procedure for procurement or sale in the following circumstances-

Limited
tendering
procedure.

(a) where the open tendering procedure or selective tendering procedure was used but no tender was received;

(b) where, in the view of the Government, the tenders received under the open tendering procedure or the selective tendering procedure-

(i) are collusive; or

(ii) are not in compliance with any condition specified in the invitation to tender;

(c) where, for technical reasons, or for reasons connected with the protection of exclusive rights including rights under an existing contract with an optional renewal clause, or by reason of being a work of art, the goods or services to be procured or sold can only be procured from one supplier or sold to one purchaser;

(d) where, for reasons of extreme urgency brought about by events unforeseeable by the Government, or in the public interest, the goods or services

(i) cannot be procured in time using the open tendering procedure or the selective tendering procedure; or

(ii) should be promptly disposed of by sale;

(e) where the goods to be procured are required by the Government as a parts replacement for, or addition to, existing goods or installations, and when to obtain the goods from a person other than the original supplier would result in the Government obtaining goods not meeting the Government's requirements of interchangeability with the existing goods or installation;

(f) where the service to be procured is an extension of an existing service, and when to obtain the service from a person other than the original supplier will result in the Government obtaining a service not meeting the Government's requirements of interchangeability with existing goods, installation or service, or any of them in combination;

(g) where the goods or services to be procured are a prototype, or subject to intellectual property rights, or a first product or service which is to be manufactured or performed, as the case may be, in pursuance of an experiment, study or original development; or

(h) where the Government decides

(i) in writing, due to national security, or to national emergency reasons to use the limited tendering procedure; or

(ii) to purchase goods or services needed for the day-to-day operations of the Government.

(2) In this section, “original development” includes the limited production or supply of the prototype or first product or service in question for the purposes of incorporating the results of any field test and of demonstrating that the prototype, product or service is suitable for mass-production or mass-supply of an acceptable quality standard, but does not include mass-production or mass-supply of the prototype, product or service for the purposes of establishing commercial viability or of recovering research and development costs.

(3) Subsection (1) *(e)*, *(f)*, *(g)* and *(h)* shall not apply to a sale contract.

22. (1) The Government shall, before disposing of any public assets with an aggregate value of or above two million dollars, obtain the approval of the National Assembly, to be signified by a resolution made in that behalf and published in the *Gazette*.

Disposal of
Public assets.

(2) The disposal of national land, or any dealing or transaction relating to national land, shall continue to be dealt with under the procedures specified in, and the provisions of the National Lands Act and Regulations made thereunder:

Cap. 191.

Provided that the sale or lease of any national land in excess of five hundred acres, or any caye of whatever size, by Government shall first be authorized by a resolution of the National Assembly.

23. (1) It is hereby declared that Financial Orders and Stores Orders are administrative instructions solely for the internal use and guidance of public officers only in the-

Status of
Financial
Orders and
Stores
Orders.

(a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public moneys and the guidance of all persons concerned therein;

(b) the record, examination, inspection and departmental check of all receipts and expenditure and the keeping of necessary books and accounts;

- (c) the forms for all books and documents whatever required under the provisions of this Act or of the Financial Orders and Store Orders;
- (d) the purchase, safe custody, issue, sale or other disposal or write-off of public stores and other property of the Government, and the proper accounting for, and stock-taking of, such stores and property;
- (e) the preparation of estimates of revenue and expenditure.

(2) Financial Orders and Stores Orders, including instructions amending the same from time to time, shall be published in a manner to be directed by the Minister.

(3) The Financial Orders and Stores Orders which were in force immediately prior to the commencement of this Act shall continue to have effect as administrative instructions to public officers to the extent that they are not inconsistent with this Act or are not revoked from time to time by new instructions issued by the Minister under this Act, or by new financial and stores regulations made by the Minister under this section.

(4) Regulations made by the Minister under subsection (3) shall be subject to affirmative resolution.

**Surcharge by
Services
Commission.**

24. If it appears to the Financial Secretary that any person who is or was a public officer -

- (a) has or had failed to collect any moneys owing to the Government for the collection of which such person is or was at the time of such employment responsible;
- (b) is or was at the time of such employment responsible for any improper payment of public moneys;

- (c) is or was at the time of such employment responsible for any deficiency in, or for the loss or unauthorized destruction of, any public moneys, stamps, securities, stores or other Government property,

and if, within a period specified by the Financial Secretary, an explanation satisfactory to him is not furnished by that person with regard to such failure to collect, improper payment, deficiency, loss, or unauthorized destruction, as the case may be, the Financial Secretary shall refer the matter to the relevant Services Commission for consideration, and if the Services Commission is satisfied on a balance of probabilities that the views of the Financial Secretary are proved, it shall impose a disciplinary surcharge against that person equivalent to the amount not collected or the amount of such improper payment, or the amount of the deficiency, loss or unauthorized destruction, as the case may be.

25. Where any law authorizes a Minister or other public authority to waive the payment of fees, the Minister responsible for administering the law which provides for the payment of the fee shall, every three months, publish a notice in the *Gazette* specifying

- (a) the amount of fees waived within the last three months; and
- (b) the persons in respect of whom the fees were waived.

26. (1) The Finance and Audit Act shall stand repealed upon the commencement of this Act.

(2) This Act shall be cited as the Finance and Audit Act, Chapter IS of the Substantive Laws of Belize, Revised Edition 2000 - 2003.

27. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Gazette*.

Waiver of fees to be published in the *Gazette*.

Repeals and assignment of new Chapter Number
CAP. 15.

Commencement.

FIRST SCHEDULE**[Section 9(2)]***Special Funds*

Currency Fund.
 Special (post Disaster) Reconstruction Fund
 Official Charities Fund.
 Savings Bank.
 Police Welfare Fund.
 Prison Officers' Reward Fund.
 Any fund established under the Sugar Industry Act.

SECOND SCHEDULE**[Section 10 (4) and (5)]***Rules for the Operation of the Development Fund*

1. In these Rules "Fund" means the Development Fund, "Assembly" means the National Assembly.

Interpretation.

2. (1) No moneys shall be withdrawn from the Fund for the purpose of meeting any expenditure except upon the authority of a warrant under the hand of the Minister.

Development Fund, how withdrawn.

(2) Subject to the provisions of these Rules, no such warrant shall be issued unless the expenditure has been authorized by the National Assembly in accordance with the provisions of these Rules.

3. (1) The Minister shall cause to be prepared in each financial year estimates of the revenue and expenditure of the Fund for the next following financial year.

Estimates of revenue and expenditure.

(2) The proposals for all expenditure contained in the Estimates shall be submitted to the Assembly together with a statement showing the estimated balance of the Fund at the commencement of the current financial year and the anticipated

revenue accruing to, and the anticipated expenditure from, the Fund during the current financial year.

Procedure where expenditure not yet authorized by National Assembly.

4. (1) If the expenditure of sums necessary to finance the continued construction or provision of development works for which provision was made from the Fund in the previous financial year is not authorized by the Assembly by the beginning of a financial year, the Minister may by warrant authorize the issue from the Fund of such sums as are necessary to finance the continued construction or provision of such works to be carried out for a period of four months or until the expenditure of sums necessary to finance the continued construction or provision of such works has been authorized by the Assembly, whichever is the shorter period.

(2) Notwithstanding the provisions of the preceding paragraph, no sum may be issued under this Rule in excess of an amount equivalent to twenty *per centum* of the estimated total cost of the project of such development works as already approved by the Assembly.

Minister may authorize expenditure.

5. (1) The Minister may by warrant authorize the expenditure of an additional sum during the current financial year which when added to the expenditure incurred on any project of development works in previous financial years and to the expenditure already authorized for the current financial year does not cause to be exceeded the latest estimated total cost for that project as already approved by the Assembly.

(2) No warrant shall be issued under this Rule for expenditure which if incurred at once would result in the balance of the Fund being overspent, taking account of all other expenditure already authorized for the current financial year.

Procedure in urgent or special cases.

6. (1) If the Minister is satisfied that there has arisen an urgent and unforeseen need for expenditure which-

(a) is of a special character and is not provided for in the expenditure already authorized by the Assembly; or

(b) will result in the expenditure already authorized by the Assembly for a project of development works being exceeded,

and which cannot or cannot without serious injury to the public interest be postponed until adequate provision can be made by the Assembly, the Minister may by warrant authorize the issue from the Fund of such sums as may be necessary.

(2) No warrant shall be issued under this Rule for expenditure which if incurred at once would result in the balance of the Fund being overspent, taking account of all other expenditure already authorized for the current financial year.

7.(1) All authorizations by warrant under the provisions of Rule 4, 5 or 6 shall be reported to the House of Representatives at its next meeting; and at the next meeting of the House of Representatives called for consideration of supplementary estimates shall be submitted for the approval of the Assembly.

**Authorizations
to be
approved by
National
Assembly.**