

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

PUBLIC TREASURY (ADMINISTRATION AND PAYMENTS) AMENDMENT ACT 2014

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WHEREAS it is expedient to amend the Public Treasury (Administration and Payments) Act 1969;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Public Treasury (Administration and Payments) Act 1969 (the "principal Act"), may be cited as the Public Treasury (Administration and Payments) Amendment Act 2014.

Amends section 1

2 The principal Act is amended in section 1 by inserting in the appropriate alphabetical order the following definitions—

“consolidated financial statements” means the aggregate of the financial statements of the Consolidated Fund and the financial statements of all controlled public authorities;

“controlled public authority” means a public authority, generally or for any specified period of time, classified as a controlled public authority by the Minister by Order under section 4A(2); ”.

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Inserts section 4A

3 The principal Act is amended by inserting after section 4 the following section—

“Accountant-General to prepare consolidated financial statements

4A (1) The Accountant-General shall, in respect of the administration of the accounts of all Government Departments and public authorities, exercise authority as follows—

- (a) to prepare consolidated financial statements;
- (b) to determine and recommend to the Minister, based on the records and information obtained and accessed from public authorities under this section, the public authorities to be classified under subsection (2) as controlled public authorities;
- (c) to have access at all times to the records which are required and necessary for purposes of paragraphs (a) and (b);
- (d) to require from any officer or employee of a Government Department or public authority information and explanations that such an officer or employee possesses by virtue of his employment, which information is necessary for the purposes of paragraphs (a) and (b);
- (e) in order to obtain adequate records and information as required under this subsection—
 - (i) to issue policies and guidelines and establish procedures for the recording and reporting of revenues, expenditure, assets, liabilities and equity;
 - (ii) to carry out consultations and provide directions with respect to the accounting standards and policies for the keeping of the accounts.

(2) The Minister may, by Order published in the Gazette, on the recommendations of the Accountant-General as provided under subsection (1)(b), classify any public authority as a controlled public authority, generally or for a specified period of time, in the case where—

- (a) the Government has power to direct the financial and operating policies of the public authority;
- (b) the operational benefits of the public authority accrue or may accrue to the Government; and
- (c) the risk of loss from the activities of the public authority would have to be borne by the Government.

(3) The negative resolution procedure shall apply to the Order made under subsection (2).”.

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Inserts section 32AA

4 The principal Act is amended by inserting after section 32A the following section—

“Consolidated financial statement to be delivered to Minister

32AA (1) The Accountant-General shall deliver to the Minister and the Auditor-General consolidated financial statements with respect to all Government Departments and controlled public authorities for each financial year.

(2) Each consolidated financial statement to be delivered to the Minister and the Auditor-General under subsection (1) shall be prepared in accordance with the reporting standards adopted by the Accountant-General and based on the Public Sector Accounting Standards set by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada.

(3) The Auditor-General shall examine and prepare a report in writing on the consolidated financial statements and he shall submit the report to the Minister.

(4) The Minister shall cause the consolidated financial statements together with the report of the Auditor-General to be laid before the Legislature as soon as practicable.”.

Amends section 33A

5 The principal Act is amended in section 33A—

(a) by repealing subsection (1)(b) and substituting the following—

“(b) fails to produce documents or information or otherwise obstructs the Financial Secretary or the Accountant-General or any member of their staff, as the case may be, in carrying out functions under sections 3 or 4A of this Act; or”;

(b) in subsection (2) by deleting “section 3 or section 32B” and substituting “sections 3, 4A or 32C”.

Commencement

6 The provisions of this Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette, and the Minister may appoint different days for the coming into operation of different provisions.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Public Treasury (Administration and Payments) Act 1969 to provide for the issue of consolidated financial statements based on the Public Sector Accounting Standards set by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada.

Clause 1 provides a citation for the Bill.

Clause 2 amends the principal Act in section 1 by inserting definitions for the term “consolidated financial statements” and “controlled public authority” that are referred to in the two new provisions inserted into the principal Act by this Bill.

Clause 3 amends the principal Act by inserting a new section 4A. The new section 4A under subsection (1) provides authority for the Accountant-General, for the purpose of the administration of the accounts of all Government Departments and public authorities, to prepare the consolidated financial statements as well as to determine the public authorities to be classified by the Minister as controlled public authorities. To be able to conduct his functions under this new section the Accountant-General is empowered to have access at all times to all the records required and to require and receive in a timely manner accurate information from all Government Departments and public authorities. In this regard the Accountant-General is empowered to require any officer or employee of any Department and public authority to provide information in the possession of such officer necessary for the preparation of the consolidated financial statements. The Accountant General is further empowered to issue policies and guidelines as well as carry out consultations and issue directions.

Under the new section 4A(2) the Minister is empowered to classify, by Order published in the Gazette, public authorities as controlled public authorities generally or for a specified time. Public authorities to be classified shall be those identified by the Accountant-General and recommended by him to the Minister for classification. Public authorities classified as controlled public authorities shall be public authorities which are, or are to be during the period of their classification, subject to financial and operating policies directed by the Government and to have operational benefits accrue to, and risk of loss borne by, the Government. The Order to be made by the Minister shall be subject to the negative resolution procedure.

Clause 4 amends the principal Act by inserting a new section 32AA. Under this new section the Accountant-General is required to deliver in each financial year to the Minister and the Auditor-General consolidated financial statements with respect to all Government Departments and controlled public authorities. The consolidated financial statements to be delivered to the Minister and the Auditor-General are required to be prepared in accordance with the reporting standards adopted by the Accountant-General and based on the Public Sector Accounting Standards set by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada. The section further requires that the Auditor-General

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shall prepare a report on the consolidated financial statements and submit it to the Minister. The Minister is then required to lay the consolidated financial statements together with the report of the Auditor-General before the Legislature as soon as practicable.

Clause 5 amends the principal Act in section 33A to provide that the failure to produce documents or information or to otherwise obstruct the conduct of the functions of the Accountant General under section 4A is an offence. The amendment to the section further provides that the alteration, destruction or concealment of documents or information in order to prevent compliance with section 4A is an offence. In this amendment a cross reference wrongly stated to be to section 32B is corrected by making the reference, instead, to section 32C.

Clause 6 provides for the Minister to cause the Act to come into operation on a date or dates as the Minister may determine.