

JAMAICA

No. 2 - 2014

I assent,

[L.S.]

(Sgd.) P.L. Allen
Governor-General.

31st day of March 2014

AN ACT to Amend the Financial Administration
and Audit Act.

[1st day of April 2014]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I. *Preliminary*

1. This Act may be cited as the Financial Administration and Audit (Amendment) Act, 2014, and shall be read and construed as one with the Financial Administration and Audit Act (hereinafter referred to as the "principal Act") and all amendments thereto, and shall come into operation on the 1st day of April, 2014.

Short title
and
construction
and
commence-
ment.

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Amendment
to principal
Act.

2. The principal Act is, in relation to the existing provisions and proposed provisions specified in the first column of the Schedule, amended in the manner respectively specified in the second column of the Schedule.

Schedule.

Transitional.

3. Paragraph 4(a) of the amendments in the Schedule that relate to section 48B of the principal Act shall not apply in relation to any examination or reporting obligation of the Auditor-General in respect of any Fiscal Policy Paper pertaining to Estimates of Revenue and Expenditure for any financial year, preceding that commencing on April, 2015.

SCHEDULE

(Section 2)

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Section 48A

1. In subsection (1)-

- (a) insert the following definitions in the appropriate alphabetical sequence-

“contingent liability”, in relation to an obligation of an entity, means-

- (a) a possible obligation that arises from past events and whose existence will have to be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity;
- (b) an existing obligation that arises from past events but is not recognised because-
- (i) it is not probable that an outflow of resources embodying economic benefits will be re-

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quired to
settle the
obligation;
or

(ii) the amount
of the ob-
ligation
cannot be
measured
with suffi-
cient reli-
ability,

and includes debt guarantees,
demand or price guarantees,
and termination clauses or any
other default provisions that
could imply a transfer of liabili-
ties to the Government.

“local authority” means-

(a) in relation to the
parishes of
Kingston and St.
Andrew, the Council
of the Kingston and
St. Andrew
Corporation as
constituted under
the Kingston and
St. Andrew
Corporation Act;

(b) in relation to any
other parish, the
Parish Council of
that parish as
constituted under
the Parish Councils
Act; or

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(c) in relation to a municipality, a Municipal Council established under the Municipalities Act;

“notional account” means an account in which the cumulative deviations (whether negative or positive) from targeted fiscal balances are recorded;

“public debt” means the consolidated debt of the specified public sector, including its Government guaranteed debt (after netting out the cross-holdings of debt of entities within the specified public sector, other than holdings by the Bank of Jamaica);

“public entity” means the Government or a department or an agency of the Government, a local authority or a public body;

“public investment” means non-recurrent expenditure on goods, works and services carried out by any public entity on its own or by one or more public entities in conjunction with one or more non-public entities through public private partnerships, and which is aimed at accumulating new physical or intangible assets or

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enhancing human resource capacities, or improving or rehabilitating existing physical or intangible assets or human resource capacities, to achieve development objectives;

“public investment project” means public investment requiring planning, execution, monitoring and evaluation carried out as an integrated set of activities aimed at meeting a development objective, at a specific cost and within a defined timeframe;

“public private partnership“ means an arrangement governed by a long-term procurement contract between one or more public entities and one or more non-public entities, involving the designing, financing, building and operating of an infrastructure project or the provision of a service, through the appropriate sharing of resources, risks and rewards;

“recalibration” means the process of periodically resetting the minimum fiscal balance required to achieve the debt sustainability target of no more than sixty per cent of gross domestic product by the end of the financial year ending on March 31, 2026 and continuing thereafter;

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“severe economic contraction” means a decline in gross domestic product over four consecutive quarters involving a cumulative reduction that is equal to or greater than three per cent of gross domestic product relative to the corresponding quarter of the preceding financial year, or a one-time quarterly reduction in gross domestic product equal to or greater than two per cent relative to the corresponding quarter of the preceding financial year;

“specified public sector” means the public sector not including any public body certified by the Auditor-General, in the prescribed manner, as primarily carrying out functions that are of a commercial nature that satisfy such criteria as may be prescribed;

(b) delete the definition of “total debt”.

Section 48B

1. Insert next after subsection (1) the following as subsections (1A) and (1B)—

“ (1A) The Minister shall take appropriate measures to ensure that, commencing with the financial year beginning on April 1, 2015, the Estimates of Revenue and Expenditure are tabled simultaneously, in time for their approval by both Houses of Parliament no later than March 31 of the year preceding that to which the Estimates relate.

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(1B) The Minister shall, before September 30 in each financial year, issue to accounting officers, the Budget Call containing the economic and fiscal parameters which will govern the preparation of the Estimates of Revenue and Expenditure for the succeeding financial year and the medium term.”.

2. Delete subsection (2) and substitute therefor the following—

“ (2) Upon presentation of the annual Estimates of Revenue and Expenditure, the Minister shall lay before both Houses of Parliament—

(a) a Fiscal Policy Paper containing the information specified in the Third Schedule and setting out, in accordance with this section—

(i) a Fiscal Responsibility Statement;

(ii) a Macroeconomic Framework; and

(iii) a Fiscal Management Strategy;

(b) a Public Sector Investment Programme, consistent with the requirements specified in the Fourth Schedule, and which shall be accompanied by a report of the Minister on the alignment of expenditure on public investment projects in the preceding financial year with the corresponding programme for that year.”.

Third
Schedule.

Fourth
Schedule.

3. In subsection (4), delete from paragraph (a) the words “total debt” and substitute therefor the words “public debt”.

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4. In subsection (6)—

- (a) delete the words “as soon as is reasonably practicable” and substitute therefor the words “within one week”;
- (b) delete the word “and” at the end of paragraph (a), and delete the full stop at the end of paragraph (b) and substitute therefor a semi-colon;
- (c) insert next after paragraph (b) the following as paragraphs (c) and (d-

“(c) pursuant to his application of criteria prescribed pursuant to regulations made under section 50(1), there are any public bodies that do not form part of the specified public sector, and identifying those bodies (if any) which in the preceding financial year formed part of the specified public sector;

(d) a public private partnership involves only minimal contingent liabilities accruing to the Government.”.

Repeal and
replacement
of section 48C.

Section 48C of the principal Act is repealed and the following substituted therefor-

“ Fiscal
targets. 48C.—(1) Subject to subsections
(2) and (4), the Minister shall take
appropriate measure-

- (a) to attain a fiscal balance, as a percentage of the gross domestic product, as at the end of the financial year

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ending on March 31, 2018 and thereafter, that allows the requirement specified in paragraph (b) to be achieved, and to be maintained or improved thereafter, and the fiscal balance to be attained shall be computed in accordance with the Fifth Schedule;

- (b) to reduce the public debt to sixty percent or less of the gross domestic product by the end of the financial year ending on March 31, 2026 and maintain or improve the ratio thereafter;
- (c) to reduce the ratio of wages paid by the Government as a proportion of the gross domestic product to nine per cent or less by the end of the financial year ending on March 31, 2016, and maintain or improve the ratio thereafter;
- (d) to ensure that neither the Appropriation Act nor any Supplemen-

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tary Estimates of Revenue and Expenditure for any financial year will cause any negative deviations from the fiscal balance to be attained pursuant to paragraph (a);

- (e) to ensure that no deviation is recorded in the notional account until the fiscal accounts for the financial year in question have been finalized.

(2) Subject to subsection (3), compliance with the requirements referred to in subsection (1) (a) and (b) may be suspended on the grounds of any one or more of the following occurrences (hereinafter referred to as "the eventuality"), as determined having regard to subsection (5), namely-

- (a) a period of public disaster within the meaning of section 20 of the Constitution of Jamaica;
- (b) a severe economic contraction;
- (c) a financial sector crisis;
- (d) a public emergency within the meaning of

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section 20 of the
Constitution of
Jamaica; or

(3) Subsection (2)
applies where -

- (a) the Auditor-General has validated in the prescribed manner that the estimated fiscal impact of the eventuality is equal to or greater than one and a half per cent of gross domestic product; and thereafter
- (b) the Minister, having regard to the validation of the Auditor-General, has, in accordance with subsection (4), made an order, subject to affirmative resolution, permitting the requirements to be suspended for an initial period, and, as the case may require, for an extended period.

(4) The initial period during which compliance with the requirements referred to in subsection (1)(a) and (b) may be suspended shall terminate at the end of the financial year following the eventuality;

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however, where the Auditor-General has validated in the prescribed manner that the residual impact of the eventuality is significant enough to warrant the continued suspension of the requirements in subsection (1) (a) and (b), the suspension of the requirements may be continued for an extended period of one more financial year, immediately following the initial period of suspension.

(5) For the purposes of subsection (2)-

- (a) the Planning Institute of Jamaica shall submit to the Minister and the Auditor-General, respectively, a report relating to the eventuality, where it relates to an occurrence specified in paragraph (a) or (b) of that subsection;
- (b) the Bank of Jamaica shall certify, by a written statement of the Governor of the Bank, to the Minister and the Auditor-General, respectively, the information confirming the eventuality, where it relates to an occurrence specified in

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paragraph (c) of that subsection.

(6) The Minister shall, at the end of the initial period, or where applicable, the extended period during which, pursuant to this section, compliance with the requirements specified in paragraphs (a) and (b) of subsection (1) may be suspended, table in each House of Parliament a report in relation to the eventuality, setting out, for the approval of each House of Parliament, recommendations for recalibration of the requirement under subsection (1)(a).

New section
48CA.

Insert the following new section next after section 48C—

“ Automatic
adjustments.

48CA.—(1) Subject to subsection (2) and further to the requirements of paragraph (a) of section 48C(1), the following provisions apply in relation to deviations from the fiscal balance that reduce the fiscal balance below that which is required to be attained pursuant to that paragraph-

- (a) when cumulative deviations from the fiscal balance in the financial year ending on March 31, 2018, or in any financial year thereafter, result in the notional account

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reaching or exceeding one and a half per cent of gross domestic product, but are below three and a half per cent of gross domestic product, there shall be an automatic upward adjustment to the fiscal balance required by section 48C(1)(a) in the succeeding financial year of, at a minimum, 0.75 per cent of the gross domestic product;

(b) when, during any such financial year, it is estimated that the cumulative deviations will reach or exceed three and a half per cent of the gross domestic product as at the end of that financial year, the Minister shall include in the Fiscal Policy Paper, which shall be tabled in February of that financial year a presentation on-

(i) what the projected notional account balance will be as at the end

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of that fi-
n a n c i a l
year;

(ii) measures to
effect an up-
ward adjust-
ment to the
fiscal bal-
ance of at
least one
and a half
per cent of
gross do-
mestic prod-
uct per year,
in order to
a c h i e v e
compliance
with the re-
quirements
in section
48C(1)(a) in
accordance
with para-
graph (f) of
this section.

(c) the measures under
paragraph (b)(ii) shall
take effect on April 1
of the succeeding fi-
nancial year or, as the
case may require, at
the soonest practi-
cable date thereafter
during that financial
year;

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(d) in the event that -

- (i) the Fiscal Policy Paper required by paragraph (b) is not tabled in accordance with that paragraph;
- (ii) in the opinion of the Auditor-General, the measures presented in the Fiscal Policy Paper are not adequate to achieve the outcome required by paragraph (b); or
- (iii) in the opinion of the Auditor-General, those measures are not being implemented in a manner that will achieve the outcome specified in

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paragraph (b), within the time-frame required by this section, the Auditor-General shall report the matter to Parliament forthwith for necessary action to be taken to achieve a cut in primary spending of at least one and a half per cent of gross domestic product per year, in order to achieve compliance with the requirements in section 48C(1)(a), in accordance with paragraph (f); or

- (e) on receiving a report from the Auditor-General pursuant to paragraph (d), the

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Public Administration and Appropriations Committee of the House of Representatives shall consider the report forthwith and recommend to the House the measures to be implemented to achieve the cut in primary spending referred to in paragraph (d);

- (f) the cumulative deviation referred to in paragraph (a) shall be redressed over a period of two financial years.

(2) There shall be a recalibration every three years, or at the end of a period, during which compliance with requirements referred to in section 48C (1)(a) and (b) may be suspended pursuant to section 48C (2).

(3) As part of a recalibration, the balance in the notional account shall be provided for in the adjustments to achieve the required outcome, and the notional account shall be reset to a nil balance accordingly.

(4) When a recalibration occurs, the Auditor-General shall review the clas-

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sification of public bodies to determine whether or not they fall within the specified public sector, and update the classification where necessary, pursuant to the prescribed criteria.”.

Section 48E

1. Delete subsection (3) and substitute therefor the following —

“ (3) The Minister shall cause to be tabled in both Houses of Parliament—

- (a) within six months of the passage of the Appropriation Act for the financial year to which the relevant Estimates of Revenue and Expenditure relate, a Fiscal Policy Paper, which shall, in addition to the matters set out in the Third Schedule, include the economic outturn of the previous financial year, the performance of the first quarter of the financial year, projections to the end of the current financial year; and projections for the succeeding financial year and the medium term;
- (b) during February of each financial year, an updated Fiscal Policy Paper which shall contain projections to the end of the fiscal year that is current as well as projections for the succeeding financial year and the medium term.”.

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2. Delete subsection (4) and substitute therefor the following —

“ (4) For the purposes of subsection (1), each accounting officer shall submit the following to the Minister, in respect of the particular planning period (being not less than three years) and in accordance with the parameters and timeframe specified in the Budget Call-

- (a) a business plan setting out objectives, policies, strategic outcomes and performance targets of the department in respect of which that officer is an accounting officer;
- (b) the budgets associated with the programmes and activities outlined in the business plan; and
- (c) the public investment projects approved for inclusion in the Public Sector Investment Programme.”.

New section
48J

Insert next after section 48I the following as section 48J -

“ Public Investment Management System. 48J.—(1 cause to be established a Public Investment Management System, which shall provide a common framework for the preparation, appraisal, approval and management of public investments in Jamaica, irrespective of source of funding or procurement and implementation modalities.

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(2) The Public Investment Management System shall-

- (a) function as a project governance system and the provisions of the Fourth Schedule shall have effect as to the constitution and operations of the system;
- (b) be operated in accordance with the Public Investment Management Guidelines and such other guidelines as may be prescribed by the Minister.

(3) Government policy with respect to public investment shall be aimed at supporting economic and social development and environmental resilience, while ensuring fiscal prudence, and shall operate within the framework of the Public Investment Management System.”.

Third
Schedule.

Under sub-heading “B. Fiscal Management Strategy”, insert next after paragraph 2, the following as paragraphs 3, 4, 5 and 6—

“3. In respect of the financial year to which the relevant Estimates of Revenue and Expenditure relate, information on the portion of public investment, as a percentage of gross domestic product, to be spent, and information on the

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medium term trajectory for public investment as a percentage of gross domestic product.

4. In respect of the financial year to which the relevant Estimates of Revenue and Expenditure relate, provision of an amount for weather-related risks, which amount shall be transferred to the Contingencies Fund established by section 13 of the Act.

5. In respect of the financial year to which the relevant Estimates of Revenue and Expenditure relate, full disclosure on all contingent liabilities arising from non-guaranteed borrowings, whether for public private partnerships or otherwise.

6. In respect of the financial year to which the relevant Estimates of Revenue and Expenditure relate, full disclosure on the number of public bodies most recently validated by the Auditor-General as not being part of the specified public sector.”.

New Fourth
and Fifth
Schedules.

Insert next after the Third Schedule the following as the Fourth and Fifth Schedules-

“ **FOURTH SCHEDULE** (Section 48B (2))

*Public Investment Management
System*

The Public Investment Management System (hereinafter called the “PIMS”) is the common framework for the preparation, appraisal, approval and management of all public investments in Jamaica, irrespective of the

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source of funding or procurement and implementation modalities.

The PIMS shall encompass the elements set out under the respective headings below:

A. *The Public Sector Investment Programme (hereinafter called the "PSIP")*

This is a rolling five year plan of Cabinet-approved, new and ongoing prioritized public investment projects, reviewed on a regular basis against-

- (i) the strategic objectives of government;
- (ii) the fiscal and debt sustainability agenda;
- (iii) prevailing socio-economic and environmental conditions; and
- (iv) the implementation status and technical capacity of executing agencies.

B. *An Annual PSIP Policy Paper*

This paper is to be developed by the Planning Institute of Jamaica to aid the Cabinet's decision making on the PSIP and shall be presented each year to the Cabinet for discussion and approval, prior to its approval of the Estimates of Revenue and Expenditure for the succeeding financial year, and shall include:

- (a) a diagnosis of PSIP performance;

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- (b) an analysis of the prevailing socio-economic and environmental conditions;
- (c) recommendations for adjustments based on review of recent socio-economic developments or findings;
- (d) a forecast of the likely impact of the continuing PSIP on development indicators; and
- (e) recommendations of prioritization criteria for determining the size and composition of the PSIP.

C. *Public Investment Management Guidelines*

These are the rules, procedures, requirements and guidelines which shall be prescribed for the governance of all public investments (irrespective of source of funding and origin), in ministries, departments, public bodies and public private partnerships.

D. *A Public Investment Management Committee (hereinafter called the "PIMC")*

This committee, the membership of which shall be appointed by the Cabinet, shall have responsibility for-

- (a) the screening of all investment proposals for feasibility and consistency with government's strategic objectives;
- (b) reviewing all projects for technical, financial, economic and environmental feasibility;

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- (c) prioritizing projects for financing and recommending to Cabinet their inclusion in the Public Sector Investment Programme (PSIP); and
- (d) reviewing project performance, monitoring risks to the achievement of objectives and continued relevance to government's policy priorities.

E. *A Public Investment Secretariat*

This unit will undertake the assessment of project proposals presented for screening and appraisal, and provide technical support and advice to the PIMC to facilitate its decision making.

F. *A Public Investment Governance Framework*

This framework shall operate as follows—

- (a) PIMC shall submit recommendations to the Cabinet for approval; and
- (b) the Minister shall update Parliament on the implementation status of the PSIP in each Fiscal Policy Paper update.

G. *A Public Investment Management Information System*

This is the web-enabled system that will serve as the repository of information on all public investment projects (central government, public bodies and public private partnerships), at the various stages of the project cycle (inclusive of concept, feasibility, approval, implementation and evaluation) thereby allowing access for the tracking of status and

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performance information on all projects as they move through the project cycle.

H. *A Public Investment Performance Report*

This is a comprehensive performance report on the Government's Public Investment Programme, which shall be produced and published periodically by the Minister.

I. *A Public Investment Monitoring and Evaluation System*

This entails the systematic collection, analysis and use of project information to enable—

- (a) ongoing review and monitoring of projects during implementation, to ascertain financial and physical progress against set performance objectives, and a determination of whether projects are being executed effectively; and
- (b) ex post assessment of the impact and outcomes of investment projects.

FIFTH SCHEDULE (Section)

Annual Fiscal Balance to be Maintained

The fiscal balance requirement is to be calculated as follows:

$$d_t = \frac{1}{1+n_t} d_{t-1} - fb_t$$

where d_t is the public debt at the end of period t as a ratio of the gross domestic product (GDP) a ratio of GDP in period t , and n_t is the nominal GDP growth rate between periods $t-1$ and t .

The public debt target, represented as d^* and the number of years (N) required to achieve that ceiling, as specified in 48C(suspension on the grounds specified in 48C(2), balance target fb^* required over the period N .

$$fb^* = \frac{-n}{(1 - (1 - n)^N)}$$

The long-run nominal GDP growth rate is represented by n and the initial level of debt-to-GDP ratio is represented by d_0 .

The fiscal balance target referred to in 48C(1 date to achieve the debt ceiling and average economic growth, conditional on the initial level of debt.” .

Passed in the House of Representatives this 18th day of March, 2014 with four (4) amendments.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 21st day of March, 2014 with two (2) amendments.

FLOYD E. MORRIS
President.

On the 25th day of March, 2014 the House of Representatives agreed to the amendments made by the Senate.

MICHAEL A. PEART
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

H. E. Cooke
(*gd*) Clerk to the Houses of Parliament.

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