THE PUBLIC BODIES MANAGEMENT AND ACCOUNTABILITY ACT

The Public Bodies (Financial Distribution) Regulations, 2012

In exercise of the power conferred upon the Minister by section 24 of the Public Bodies Management and Accountability Act, and of every other power hereunto enabling, the following Regulations are hereby made: -

1. These Regulations may be cited as the Public Bodies (Financial Distribution) Regulations, 2012, and shall come into operation on the 30th day of April, 2012.

2. In these Regulations, unless the context otherwise requires –

"profits or surplus", in relation to a self-financing public body, means audited after-tax net profits or surplus;

"self-financing public body" means a public body that generates adequate revenues to sustain its operations, and is not financed from the Consolidated Fund, under normal circumstances;

"normal financial distributions" are payments from audited profits or surpluses, which are expected to be maintained in the future;

"special financial distributions" are separate one-off contributions, which are made from retained earnings or windfall profits.

3. – (1) Subject to paragraph (2), these Regulations apply to self-financing public bodies, regardless of their mode of formation, source of financing or function.

(2) The Minister may exempt a self-financing public body from the provisions of paragraph (1), either indefinitely or for a limited period.

4. Public bodies shall distribute profit or surplus for subsidiaries in accordance with the provisions of these Regulations.

5. Notwithstanding any other Act, the Financial Secretary may, at any time, require a self-financing public body to pay to the credit of the Consolidated Fund, at such times and in such manner as the Financial Secretary directs, such amount by way of a special financial distribution as the Financial Secretary may determine and notify to the public body.

6. Every self-financing public body shall manage its financial performance in a manner that will enable it to make regular payments from profits or surplus into the Consolidated Fund, either directly or indirectly through its parent company, in the case of a subsidiary.

7. - (1) Financial distribution targets for each self-financing public body shall be based on its profits or surpluses for the financial year ending on the 31^{st} day of March in each financial year.

(2) A self-financing public body formed after the date of commencement of these Regulations, may be allowed a grace period for compliance with these Regulations in order to build up profitability, capital base and cash flow, as the Financial Secretary may determine.

8. Estimates of annual normal financial distribution shall be included in the corporate plan for each planning period of a self-financing public body.

9. The Board of Directors of a self-financing public body shall seek to allocate a minimum of five *per cent* of profit or surplus for transfer to the Consolidated Fund, no later than six months after the close of each financial year.

10. Additional payments over and above the minimum shall be considered, based on the financial performance of the self-financing public body.

11. Normal financial distribution shall be recommended by the Board of Directors of each self-financing public body with the agreement of the Financial Secretary.

12. The Minister shall ensure that the funding requirements of every self-financing public body are managed in a manner that will balance the funding needs of the self-financing public body and the Government's revenue requirements.

13. In determining financial distribution targets, account shall be taken of the Government's preference for regular transfers from surplus, rather than capital gains and for a reasonably stable stream of income from self-financing public bodies.

14. In setting targets, consideration shall be given to the amount of excess cash available to the self-financing public body after allowing for -

(a) adequate working capital;

(b) funding of approved capital investments (to be included in the corporate plan for the self-financing public body);

(c) foreign currency exposure (where applicable);

(d) an appropriate contingency for financial flexibility; and

(e) an appropriate debt to equity ratio.

15. Public bodies shall not retain large amounts of cash or financial investments in excess of requirements –

(a) for working capital;

(b) for the funding of an approved capital expenditure programme;

(c) to provide for contingencies; and

(d) to maintain an appropriate level of financial flexibility.

16. Financial distribution targets may make allowance for any extraordinary provision for development projects approved by the Cabinet so, however, that every effort shall be made to manage capital needs so as not to affect approved levels.

17. Calculations of distributable profit or surplus shall be based on audited net profit or surplus, after taking account of provisions for losses in previous years, to the extent that such losses have not been made good from profits earned subsequently.

18. Where there are significant variations in revenues or capital expenditures, adjustments may, with the approval of the Minister, be made to vary the amount of agreed contribution to the Consolidated Fund.

Dated this 10th day of April, 2012.

Minister of Finance and Planning