

PUBLIC FINANCE MANAGEMENT (AMENDMENT) ACT, 2021

No. 12



of 2021

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of long title of Cap. 54:01
3. Amendment of section 2 of the Act
4. Amendment of section 6 of the Act
5. Amendment of section 8 of the Act
6. Amendment of section 10 of the Act
7. Amendment of section 14 of the Act
8. Insertion of section 14A in the Act
- 8A. Insertion of sections 14B, 14C, 14D and 14E in the Act
9. Amendment of section 59 of the Act

An Act to amend the Public Finance Management Act.

Date of Assent: 08.10.2021

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2021 and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. The Public Finance Management Act (hereinafter referred to as "the Act") is amended by substituting for the long title appearing therein, the following new long title —

Amendment of long title of Cap. 54:01

"An Act to make provision for the control and management of public moneys and public supplies, for the disposal of public supplies and for matters connected therewith and incidental thereto."

3. Section 2 of the Act is amended by inserting in their correct alphabetical order, the following new definitions —

Amendment of section 2 of the Act

"disposal" means the divestiture of public assets, including intellectual property rights and goodwill, and any other rights of the State, by any means, including sale, rental, lease, licences, tenancies, franchises, auction or any combination thereof, however classified; and "local authority" has the same meaning assigned to the term in the Local Government Act;"

Cap. 40:01

4. Section 6 (4) of the Act is amended in paragraph (c) by substituting for the words "issue and use of all public supplies;" appearing therein, the words "issue, use and disposal of all public supplies;"

Amendment of section 6 of the Act

Amendment of section 8 of the Act

5. Section 8 of the Act is amended by substituting for the words “issue or use of public supplies” wherever the words appear in the section, the words “issue, use or disposal of public supplies”.

Amendment of section 10 of the Act

6. Section 10 of the Act is amended in paragraph (b), by substituting for the words “issued or used in Government Offices” appearing therein, the words “issued, used or disposed of in Government Offices”.

Amendment of section 14 of the Act

7. Section 14 of the Act is amended in subsection (2), by substituting for the words “control and issue of supplies.” appearing therein, the words “control, issue and disposal of supplies.”.

Insertion of section 14A in the Act

8. The Act is amended by inserting immediately after section 14, the following new section —

“Disposal of public supplies

14A. (1) An accounting officer shall be responsible for ensuring that public supplies identified as redundant, obsolete, surplus or unserviceable are disposed of —

(a) in such manner as may be prescribed; and
(b) in a manner that ensures accountability and transparency.

(2) The provisions of PART XI of the Public Procurement and Asset Disposal Regulations shall apply with respect to disposal of public supplies.

(3) The proceeds from the disposal of public supplies under subsection (1), shall be paid into the Consolidated Fund with the exception of proceeds from the disposal of public supplies from a —

(a) local authority;
(b) statutory body wholly owned by the Government; and
(c) private entity in which the Government is a shareholder.

(4) An accounting officer shall, each financial year, prepare a disposal plan to guide the disposal, retirements and transfer of public supplies.”.

Cap. 42:08 (Sub. Leg.)

Insertion of sections 14B, 14 C, 14D and 14E in the Act

8A. The Act is amended by inserting immediately after section 14A, the following new sections —

“Preference Schemes

14B. (1) The Minister shall —

(a) in consideration of the economic and social development factors, prescribe preferences and reservations in the disposal of public supplies; and
(b) prescribe the scope and application of the preference schemes and reservations under paragraph (a).

(2) A disposing entity shall, in disposing public supplies, comply with the provisions of this Act in respect of the preferences and reservations schemes.

Disposal Committees

14C. An accounting officer shall, by Regulations, establish a Disposal Committee for the purpose of undertaking disposal functions under this Act.

Lodging of complaints 14D. (1) Any person who is aggrieved by any decision of the disposing entity with regard to the disposal of public supplies shall within 14 days of the decision of the disposing entity lodge a written complaint to the accounting officer for review.

(2) Any person who is aggrieved by a decision of the accounting officer may appeal to the Disposal Appeals Committee within 14 days of the notification to him or her of the accounting officer's decision.

Disposal Appeals Committee 14E. The Minister shall, by Regulations, establish a Disposal Appeals Committee which shall hear and determine appeals made against decisions of the accounting officer with regard to the disposal of public supplies.”.

9. Section 59 of the Act is amended by inserting immediately after subsection (7), the following new subsections —

“(8) Any disposal of assets which commenced under the Public Procurement and Asset Disposal Act shall be dealt with by the accounting officer in accordance with this Act.

(9) Any responsibility or function of any committee with regards to the disposal of any assets under the Public Procurement and Asset Disposal Act shall be deemed to be transferred to the accounting officer under this Act.”.

Amendment
of section 59
of the Act
Cap. 42:08

PASSED by the National Assembly this 1st day of September, 2021.

BARBARA N. DITHAPO,
Clerk of the National Assembly.