

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE PUBLIC MANAGEMENT AND  
FINANCE LAW (2005 REVISION) AS A CONSEQUENCE OF THE  
CREATION OF THE CONSTITUTIONAL OFFICE OF MINISTER  
CHARGED WITH RESPONSIBILITY FOR FINANCE; AND TO MAKE  
PROVISION FOR INCIDENTAL AND CONNECTED MATTERS**



**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) (NO. 2)  
BILL, 2009**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill amends the Public Management and Finance Law (2005 Revision). The amendments are consequential upon the creation of the constitutional office of Minister charged with responsibility for finance.

Clause 1 of the Bill provides the short title and makes provision in respect of the commencement of the legislation.

Clause 2 amends section 2 of the principal Law in order to define and re-define certain expressions for the purposes of the legislation.

Clause 3 amends miscellaneous provisions of the principal Law to transfer various functions from the Financial Secretary to the Minister responsible for finance. The functions transferred relate to the following matters, among others -

- (a) the amounts in respect of which appropriations may be granted (section 9(3)(h) of the principal Law);
- (b) the authorisation of certain executive financial transactions (section 11(4));
- (c) the budget process (section 17(1));
- (d) duties during the Legislative Assembly review phase (section 21(a));
- (e) duties relating to the annual plan and estimates (section 24(1), (4) and (5));
- (f) the presentation of a supplementary annual plan and estimates (section 25(2));
- (g) advice to the Governor in Cabinet in respect of the budget process (section 32);
- (h) the delegation of duties (section 33);
- (i) powers relating to specific financial transactions (section 34);
- (j) the power to advise the Governor in Cabinet in respect of the making of regulations (section 35);
- (k) the power to give directions to protect the core government's financial interests (section 36);
- (l) the regulation of chief officers, ministries and portfolios (sections 39(3) and 41(1), (6) and (7));
- (m) the prescription of fees payable for copies of various public documents (sections 23(3), 24(6), 25(4), 26(3), 28(4), 29(5), 42(5), 43(5), 44(6), 49(5), 50(5), 51(5) and 52(6));

- (n) budget information relating to the Office of the Complaints Commissioner (section 45(3));
- (o) the exclusion of commercially sensitive matters from certain documents (section 53);
- (p) the power to request information for Government reporting (section 56);
- (q) rights in respect of bona vacantia (section 75);
- (r) forecast financial statements (paragraph 4 of the Second Schedule); and
- (s) annual financial statements (paragraph 3 of the Fourth Schedule).

Clause 4 amends miscellaneous provisions of the principal Law to transfer various functions from the Financial Secretary to the chief officer of the Ministry of Finance. The functions transferred relate to the following matters, among others -

- (a) the supply of various public documents (sections 23(3), 24(6), 25(4), 26(3), 28(4) and 29(5) of the principal Law);
- (b) the publication in the Official Gazette of a pre-election economic and financial update (section 26(1));
- (c) the receipt of certain information, from the Public Accounts Committee, in relation to the Audit Office (section 67(2)(c) and (d));
- (d) trust assets (section 70(2), (3) and (4), 73 and 74(3)); and
- (e) the operation of trust bank accounts (section 71(2)).

Clause 5 of the Bill amends section 27 of the principal Law to enable the chief officer (Public Finance) of the Ministry of Finance, instead of the Financial Secretary, to determine whether certain information can be excluded from forecast financial statements.

Clause 6 amends miscellaneous provisions of the principal Law -

- (a) to refer to the chief officer of the Portfolio of Finance and Economics as the chief officer (Public Finance) of the Ministry of Finance; and
- (b) to refer to the Portfolio of Finance and Economics as the Ministry of Finance.

Clause 7 amends section 35 of the principal Law to change a reference from the Portfolio of Finance and Economics to the Ministry of Finance in respect of certain regulation making powers.

Clause 8 amends section 42 of the principal Law to delete the reference to the Portfolio of Finance and Economics in respect of finalised annual budget statements.

Clause 9 amends section 58 of the principal Law to insert a reference to the appropriate provision of the Cayman Islands Constitution Order 2009, in respect of the office of Auditor General.

Clause 10 amends section 60 of the principal Law to empower the Auditor General to conduct value for money audits into the financial dealings of various entities.

Clause 11 amends section 72 of the principal Law to enable the chief officer (Public Finance) of the Ministry of Finance, instead of the Financial Secretary, to place trust assets, consisting of money, on deposit with a bank.

Clause 12 amends section 74 of the principal Law to protect the Minister of Finance and the chief officer (Public Finance) of the Ministry of Finance from liability in certain cases involving trust assets.

Clause 13 contains transitional provisions.

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) (NO. 2)  
BILL, 2009**

**ARRANGEMENT OF CLAUSES**

1. Short title and commencement
2. Amendment of section 2 of the Public Management and Finance Law (2005 Revision) - definitions
3. Amendment of miscellaneous provisions of the principal Law - transfer of powers from the Financial Secretary to the Minister of Finance
4. Amendment of miscellaneous provisions of the principal Law - transfer of powers from the Financial Secretary to the chief officer (Public Finance) of the ministry responsible for finance
5. Amendment of section 27 - information to be included in forecasts
6. Amendment of miscellaneous provisions of the principal Law - change of names
7. Amendment of section 35 - power to make regulations
8. Amendment of section 42 - annual budget statement
9. Amendment of section 58 - independence of Auditor-General
10. Amendment of section 60 - powers and duties of Auditor-General
11. Amendment of section 72 - deposit of trust assets consisting of money
12. Amendment of section 74 - unclaimed trust assets
13. Transitional provisions

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Public Management and Finance (Amendment) (No. 2) Law, 2009.

Short title and  
commencement

(2) This Law shall come into force immediately after the coming into force of the Cayman Islands Constitution Order 2009.

S.I. 2009 No. 1379

2. The Public Management and Finance Law (2005 Revision), in this Law referred to as the “principal Law”, is amended in section 2 as follows -

Amendment of section 2  
of the Public  
Management and  
Finance Law (2005  
Revision) - definitions

- (a) in the definitions of the terms “centralised accounting information system” and “centralised banking system” by deleting the words “Portfolio of Finance and Economics” wherever they appear and substituting the words “ministry responsible for finance”;
- (b) in paragraph (b)(iii) of the definition of the term “chief officer” by deleting the words “Portfolio of Finance and Economics” and substituting the words “ministry responsible for finance”;
- (c) by deleting the definition of the term “Constitution” and substituting the following definition -

“ “Constitution” means the Constitution” set out in Schedule 2 to the Cayman Islands Constitution Order 2009;”

- (d) by deleting the definition of the term “minister” and substituting the following definition -

“ “minister” means a member of the Legislative Assembly who has been appointed to the Governor in Cabinet in accordance with section 44 of the Constitution;”; and

- (e) by inserting, after the definition of the term “minister”, the following definition -

“ “Minister of Finance” means the minister charged with responsibility for finance under section 54 of the Constitution;”.

Amendment of miscellaneous provisions of the principal Law - transfer of powers from the Financial Secretary to the Minister of Finance

3. The principal Law is amended as follows -

- (a) in sections 9(3)(h), 11(4), 17(1), 21(a), 24(1), (4) and (5), 25(2), 33, 34, 35, 36, 39(3), 41(1), (6) and (7), 42(5), 43(5), 44(6), 45(3), 49(5), 50(5), 51(5), 52(6), 53, 56(1) and 75 by deleting the words “Financial Secretary” wherever they appear and substituting the words “Minister of Finance”;
- (b) in sections 23(3), 24(6), 25(4), 26(3), 28(4) and 29(5) by deleting the words “by the Financial Secretary” wherever they appear and substituting the words “by the Minister of Finance”;
- (c) in the heading appearing above section 32 by deleting the words “Financial Secretary” and substituting the words “Minister of Finance”;
- (d) in the marginal note to section 32 and in section 32 by deleting the words “Financial Secretary” wherever they appear and substituting the words “Minister of Finance”; and
- (e) in paragraph 4(a)(i) of the Second Schedule and paragraph 3(a)(i) of the Fourth Schedule by deleting the words “Financial Secretary” wherever they appear and substituting the words “Minister of Finance”.

Amendment of miscellaneous provisions of the principal Law - transfer of powers from the Financial Secretary to the chief officer (Public Finance) of the ministry responsible for finance

4. The principal Law is amended as follows -

- (a) in sections 23(3), 24(6), 25(4), 26(3), 28(4) and 29(5) by deleting the words “and the Financial Secretary” wherever they appear and substituting the words “and the chief officer (Public Finance) of the ministry responsible for finance”;
- (b) in sections 26(1), 67(2)(c) and (d), 70(2), (3) and (4), 71(2), 73 and 74(3), by deleting the words “Financial Secretary” wherever they appear and substituting the words “chief officer (Public Finance) of the ministry responsible for finance”.



5. The principal Law is amended in section 27(2) by deleting the words appearing above paragraph (a) and substituting the following words -
- Amendment of section 27 - information to be included in forecasts
- “ (2) Subsection (1) does not apply to the extent that the chief officer (Public Finance) of the ministry responsible for finance determines, after consultation with the Financial Secretary, that compliance with that subsection will be likely to -”.
6. The principal Law is amended as follows -
- Amendment of miscellaneous provisions of the principal Law - change of names
- (a) in sections 32(d), 41(5) and 55(1)(a) by deleting the words “Portfolio of Finance and Economics” wherever they appear and substituting the words “ministry responsible for finance”;
  - (b) in sections 41(3)(b), 55(1)(b) and 56(1) by deleting the words “chief officer of the Portfolio of Finance and Economics” wherever they appear and substituting the words “chief officer (Public Finance) of the ministry responsible for finance”;
  - (c) in the heading to Part VI by deleting the words “Portfolio of Finance and Economics” and substituting the words “Ministry responsible for Finance”; and
  - (d) in the marginal note to section 54 and in section 54 by deleting the words “Portfolio of Finance and Economics” wherever they appear and substituting the words “ministry responsible for finance”.
7. The principal Law is amended in section 35(a) by deleting the word “portfolio” and substituting the word “ministry”.
- Amendment of section 35 - power to make regulations
8. The principal Law is amended in section 42(4) by repealing paragraph (b) and substituting the following paragraph -
- Amendment of section 42 - annual budget statement
- “(b) signed by the chief officer and by the following persons on behalf of the Governor in Cabinet -
- (i) in the case of the annual budget statement of the Portfolio of Internal and External Affairs and the Portfolio of the Civil Service, the Deputy Governor;
  - (ii) in the case of the annual budget statement of the Portfolio of Legal Affairs, the Attorney-General or, where the Attorney-General is the chief officer, the Governor; and
  - (iii) in the case of the annual budget statement of a ministry, the relevant minister; and”.
9. The principal Law is amended in section 58(4) by deleting “section 55B” and substituting “section 114”.
- Amendment of section 58 - independence of Auditor-General

Amendment of section  
60 - powers and duties  
of Auditor-General

10. The principal Law is amended in section 60(c) as follows -

- (a) by inserting after the words “conduct investigations” the words “, and value for money audits,”; and
- (b) in subparagraph (iii) by inserting after the words “its functions” the words “ and in its financial dealings”.

Amendment of section  
72 - deposit of trust  
assets consisting of  
money

11. The principal Law is amended in section 72 as follows -

- (a) in subsection (1) by deleting the words “Financial Secretary” and substituting the words “chief officer (Public Finance) of the ministry responsible for finance, after consultation with the Financial Secretary,”; and
- (b) in subsection (2) by deleting the words “Financial Secretary” and substituting the words “Minister of Finance, the Financial Secretary or the chief officer (Public Finance) of the ministry responsible for finance”.

Amendment of section  
74 - unclaimed trust  
assets

12. The principal Law is amended in section 74(4) by deleting the words “nor the Financial Secretary” and substituting the words “, the Minister of Finance, the Financial Secretary, the chief officer (Public Finance) of the ministry responsible for finance”.

Transitional provisions

13. (1) Every matter commenced under the former Law and partly dealt with when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force.

(2) Every matter commenced under the former Law and not wholly or partly dealt with when the new Law comes into force, is to be taken to be a matter commenced under the new Law and the provisions of the new Law are to apply accordingly.

(3) In this section -  
“former Law” means the principal Law in force immediately before the date of commencement of this Law; and

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the       day of       , 2009.

Speaker.

Clerk of the Legislative Assembly.