

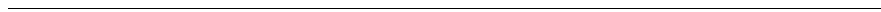
M O N T S E R R A T

**PUBLIC FINANCE (MANAGEMENT AND
(ACCOUNTABILITY) (AMENDMENT) ACT**

No. 9 of 2021

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Public Finance (Management and Accountability) (Amendment)
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I ASSENT

(Sgd.) Andrew Pearce
GOVERNOR

DATE: 26/05/2021

M O N T S E R R A T

No. 9 of 2021

AN ACT TO AMEND THE PUBLIC FINANCE (MANAGEMENT AND ACCOUNTABILITY) ACT (CAP. 17.07) WITH RESPECT TO INTERNAL AUDIT AND FOR RELATED MATTERS.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the authority of the same as follows:—

1. Short title

This Act may be cited as the Public Finance (Management and Accountability) (Amendment) Act, 2021.

2. Interpretation

In this Act “**principal Act**” means the Public Finance (Management and Accountability) Act (CAP. 17.07).

3. Section 2 amended

Section 2 of the principal Act is amended—

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(a) by inserting, in the correct alphabetical order, the following definition:

“**agency**” includes a Ministry, department, statutory body, Government-owned company, public organisation and similar entities;”;

(b) by deleting the definition of “**internal audit**” and substituting the following:

“**internal audit**” means the activities and functions that seek to improve the operations of Government and agencies through a systematic and disciplined approach of evaluating the effectiveness of their governance, risk management, controls and processes;”

(c) in the definition of “**internal control**”, by deleting the words “the entity’s management policies” and substituting “relevant policies and procedures of Government and the applicable agency”; and

(d) in the definition on “**public moneys**” and “**public funds**”, by deleting all the words occurring after “(d) distributed by an agency to a person for a public purpose”.

4. Section 8 amended

Section 8 of the principal Act is amended—

(a) in subsection (3), by deleting paragraph (d); and

(b) in subsection (4)(b), by deleting “(d),”.

5. Section 9 amended

Section 9 of the principal Act is amended—

(a) by deleting subsections (1) and (2) and substituting the following:

“(1) The Financial Secretary shall, with the prior approval of the Minister, designate an

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accounting officer for each agency and public fund.

(2) An accounting officer shall—

(a) control and be accountable to the Legislative Assembly, through the Public Accounts Committee or such other Committee as may be established by the Legislative Assembly, for the use or disposal of any public moneys, public property and other resource which—

(i) is voted to the agency or public fund through the Consolidated Fund, Development Fund or other public fund authorised by law; and

(ii) the relevant agency collects, obtains, receives, holds, is issued or assigned, has access to, uses or is permitted to use.

(b) be transparent and cooperate completely with the Internal Audit Unit and the Internal Audit Committee, with respect to an internal audit of the agency or public fund and the implementation of recommendations for the improvement of the agency's internal controls, risk management, governance and processes.”;

(b) in subsection (4)(b) by deleting the words “and internal audit”; and

(c) by deleting subsection (8).

6. Section 10 replaced

Section 10 of the principal Act is deleted and the following is substituted:

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“10. Internal Audit Unit

- (1) The Financial Secretary shall establish an Internal Audit Unit to perform the internal audit functions and activities for all agencies and public funds.
- (2) The Internal Audit Unit shall report and be accountable to the Financial Secretary on matters concerning the administration of the Unit but for the purpose of performing internal audits shall operate independently.
- (3) The Internal Audit Unit shall be appropriately resourced to effectively performs its functions and activities.
- (4) For the purpose of performing an internal audit, the Internal Audit Unit, is authorised to—
 - (a) access the office or other premises occupied by an agency; and
 - (b) take or require from an agency—
 - (i) a document, record or other information, including a document, record or information in an electronic or other form, or a copy of the document, record or information; and
 - (ii) an explanation or other information from the accounting officer or other officers or employees.”.
- (5) In performing the internal audit function, the Internal Audit Unit shall be guided by the general principles of internal audit, including—
 - (a) integrity;
 - (b) due professional care;

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- (c) objectivity and avoidance of undue influence;
- (d) alignment with the strategies, objectives, and risks of the organization being audited;
- (e) effective communication;
- (f) risk-based assurance;
- (g) demonstration of quality and continuous improvement;
- (h) insightfulness, proactivity, and future-focused; and
- (i) promotion of organizational improvement.”.

7. Section 10A inserted

The principal Act is amended by inserting, immediately after section 10, the following section:

“10A. Internal Audit Committee

- (1) The Governor, acting on the advice of Cabinet, shall establish an Internal Audit Committee for the purpose of providing independent oversight, and advice to the Cabinet on the framework and system of internal audit, control, governance, compliance and risk management in the Government and agencies.
- (2) There shall be five members of the Internal Audit Committee who shall be appointed from among persons who possess an extensive knowledge and comprehensive understanding of the public sector environment or substantial experience working in the public sector at a senior professional or senior management level, as follows:

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- (a) one member with at least 15 years of experience in public sector finance or audit, who shall be the Chairperson;
 - (b) one member with at least 15 years of experience in accounting or business management;
 - (c) one member with at least 10 years of experience in information and communications technology;
 - (d) one member who is an attorney-at-law with at least 15 years of experience in public or administrative law; and
 - (e) one member with at least 15 years of public service experience in a minimum of three different functional areas of the public sector, including labour, education, health, finance, sport, public administration, communications, trade, public works or tourism.
- (3) A member of the Internal Audit Committee shall be appointed for an initial period of three years or less and on the expiration of this term may be appointed for two successive terms.
- (4) Immediately upon or prior to the appointment of a person as a member to the Internal Audit Committee, that person shall enter into a non-disclosure agreement with the Government to, among other things, accept liability for and indemnify the Government from damage resulting from unauthorised disclosure or breaches of confidentiality by that member.
- (5) Without limitation to subsection (1), the Internal Audit Committee shall review and monitor—

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- (a) the effectiveness of the Internal Audit Unit in the performance of internal audit functions and activities;
 - (b) the adequacy of risk management arrangements and procedures;
 - (c) the extent to which risk management is used to inform decision-making;
 - (d) the operation and effectiveness of the internal processes and procedures;
 - (e) the implementation and effectiveness of policies and standards on ethics and values;
 - (f) the effectiveness of the design, implementation and operation of internal controls, including security for information technology;
 - (g) the framework for management reporting and communication to ensure proper accountability and reliability of financial and other records;
 - (h) the effectiveness of systems for monitoring compliance with relevant laws, regulations and government policies;
 - (i) the system for investigation and follow-up on non-compliance and risks identified; and
 - (j) the responsiveness to address internal and external audit findings and the implementation of recommendations.
- (6)** For the purpose of performing its function, the Internal Audit Committee, is authorised to—

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- (a)* access the internal audit reports and related documents of the Internal Audit Unit;
 - (b)* interview an officer of the Internal Audit Unit on the scope, procedures, conduct, observations and finding of an internal audit; and
 - (c)* interview any officer or employee of an agency on a matter that is related to its role and functions.
- (7)** The Internal Audit Unit shall be the secretariat to the Internal Audit Committee.
- (8)** The operations and administration of the Internal Audit Committee shall be in accordance with the Charter of the Internal Audit Committee set out in Schedule 2.
- (9)** Subject to subsection 10, the Governor, acting on the advice of the Cabinet and after consultation with the Internal Audit Committee, may amend Schedule 2 by Order to revise the Charter of the Internal Audit Committee as considered necessary.
- (10)** Schedule 2 or the Charter of the Internal Audit Committee shall not be amended by an Order under subsection (9), if the effect of the amendment is to nullify, remove, reduce, abrogate or abridge an obligation of a member of the Internal Audit Committee with respect to confidentiality or conflict of interest.”

8. Schedule amended

The principal Act is amended—

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- (a) in the Schedule by deleting the heading “**SCHEDULE**” and substituting “**SCHEDULE 1**”; and
- (b) by deleting the word “Schedule” wherever it occurs and substituting “Schedule 1”.

9. Schedule 2 inserted

The principal Act is amended by inserting, immediately after the Schedule 1, the following:

“SCHEDULE 2

(Section 10A)

INTERNAL AUDIT COMMITTEE CHARTER

The Internal Audit Committee (“Committee”) established under section 10A of this Act, in carrying out its purpose to provide oversight, and advice to the Cabinet on the framework and system of internal audit, control, governance, compliance and risk management in the Government and agencies, shall operate and be administered in accordance with this Charter.

Accountability and Reporting

1. (1) The Committee is accountable to the Cabinet for the effective discharge of its functions and shall report to the Minister at least once annually on its performance, activities, reviews, findings and recommendations.

(2) Despite paragraph (1), the Committee shall, without any unnecessary delay, provide the Minister with reports on findings and issues identified which could present a material risk to the Government.

(3) Upon receipt of a report of the Committee under paragraph (1) or (2), the Minister shall promptly submit the report to the Cabinet.

Remuneration of members

2. Members of the Committee shall be paid such remuneration as the Governor, acting on the advice of the Cabinet, approves.

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Meetings of the Committee

3. (1) The Internal Audit Committee may meet as frequently as required to properly fulfil its functions and duties but shall meet at least four times each year.

(2) As far as practicable, the Committee shall agree to the meeting schedule and Agenda for each year in advance and any member of the Committee may propose matters for inclusion on the Agenda for a meeting.

(3) A member shall be provided with briefing material sufficiently ahead of the meeting date to allow for adequate preparation for the meeting by at least 5 business days before the meeting.

(4) The Chairperson may at any time, and shall, on the written request of the Cabinet or three members of Committee, call a special meeting of the Committee.

Chairperson or Deputy Chairperson

4. The Chairperson shall chair meetings of the Committee except that in the absence of the Chairperson, a Deputy Chairperson shall be elected from among the members present at that meeting to chair that meeting.

Meeting Quorum

5. (1) The quorum for a duly constituted meeting of the Committee is three members.

(2) Despite paragraph (1), each member is expected to attend every meeting of the Committee either in person or via an electronic or other communication medium that allows for live two-way audio and visual communication.

Vacancy in Membership

6. The validity of any meeting, decision or act of the Committee shall not be affected by a vacancy in its membership or by a defect in the appointment or qualification of any of a member.

Attendance of Meetings by Non-Members

7. (1) The Committee may co-opt a person to act as an adviser at a meeting.

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(2) The Committee may invite to a meeting an accounting officer, officer of an agency or other person who is concerned with a matter being considered by the Committee to attend the meeting and provide information or opinion on the relevant matter.

(3) A person who is invited to or co-opted at a meeting of the Committee is not entitled to vote on any matter or decision of the Committee.

Role of the Secretariat in Meetings

8. (1) The Secretariat, in consultation with the Chairperson shall prepare and circulate meeting notices, invitations, agendas, briefing material, request for information to relevant persons on behalf of the Committee.

(2) The Secretariat shall accurately prepare and maintain a record of the minutes of every meeting.

(3) The minutes of a meeting shall include a record of the non-members, who attended the meeting and the matter or decisions for which they were present as well as any disclosure of any potential conflict of interest and abstentions from voting because of a potential conflict of interest.

Conflict of Interest

9. (1) A member of the Committee who is directly or indirectly interested in a matter being considered by the Committee shall disclose the nature of the interest at a meeting of the Committee and shall not be present or participate in any discussion or decision of the Committee in respect of that matter.

(2) Paragraph (1) applies whether the interest or the conflict of interest is real, potential, perceived, pecuniary or non-pecuniary.

(3) A member who fails to disclose an interest under paragraph (1) is liable to be removed from the Committee.

Confidentiality

10.(1) A member of the Committee shall respect the ownership of information received as a member of the Committee and shall not disclose the information received to anyone without authority of the Cabinet unless there is a legal obligation to do so.

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(2) A member of the Committee shall be prudent in the use and protection of information received and document acquired in the course of their duties.

(3) A person shall not, while or after being a member of the Committee use information received in the course of duty—

- (a) for any personal or professional gain, whether pecuniary or non-pecuniary; or
- (b) in any manner that would be contrary to purpose of the Committee or the internal audit function or is detrimental to an agency or a public fund.

Other Procedures

11. Subject to the Act and this Charter, the Committee shall regulate its own methodology, procedures and operation processes.

(Sgd.) Charliena White

SPEAKER

Passed by the Legislative Assembly this 18th day of May, 2021.

(Sgd.) Judith Baker

CLERK OF LEGISLATIVE ASSEMBLY