

PUBLIC FINANCE AND AUDIT (AMENDMENT) BILL 1989

(NAME OF BILL)

CONTENTS: Bill
 Objects and Reasons
 Notice of Presentation
 Covering letter from Minister to Clerk to Parliament
 (Authorisation from Minister of Finance under s.60 of Constitution)

✓ FROM: PS/Finance & Economic Planning
 [Redacted] [Signature]

✓ TO: Minister
 (for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)

✓ TO: Minister of Finance
 (for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)

✓ TO: Clerk to National Parliament
 (for certificate by Speaker) [Signature] 14.8.89

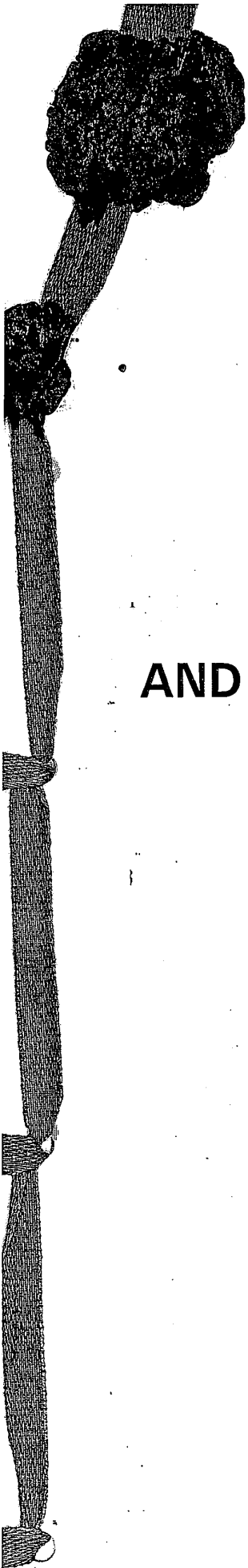
TO: Attorney General's Chambers
 (for printing)

✓ TO: Clerk to National Parliament
 (for reference during 1st, 2nd and 3rd Readings)
 (Date passed: 17.8.89 Act No. 11.89.) [Signature] 17.8.89

✓ TO: Attorney General's Chambers
 (for checking before Assent) 7/9/89

✓ TO: Governor General
 (for Assent) 7/9 [Signature] 7/9

TO: Clerk to National Parliament
 (for distribution: 1 copy Attorney General's Chambers
 1 copy Ministry
 1 copy Parliament Office
 1 copy Registrar of the High Court)



PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1989

(NO. 11 OF 1989)



PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1989

(NO. 11 OF 1989)

Passed by the National Parliament this seventeenth day of August 1989.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

*J.M. Tuhaika
Clerk to the National Parliament*

Assented to in Her Majesty's name and on Her Majesty's behalf this seventh day of September 1989.

*G.G.D. Lepping
Governor-General*

Date of commencement: see section 1.

AN ACT to amend the Public Finance and Audit Act, 1978.

ENACTED by the National Parliament of Solomon Islands.

PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1989

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement.
2. Insertion of new section 19A in Act No. 21 of 1978.
3. Insertion of new sections 20A, 20B, 20C and 20D.
4. Insertion of new sections 40A, 40B and 40C.

1. This Act may be cited as the Public Finance and Audit (Amendment) Act 1989 and shall come into operation on such day as the Minister may appoint by notice in the Gazette.

Short title.

2. The Public Finance and Audit Act 1978 (hereinafter referred to as the "principal Act") is hereby amended by inserting therein immediately after section 19 the following new section as section 19A -

Insertion of new section 19A in Act No. 21 of 1978.

"Statement of deficiency or shortfall in collection. 19A. If at the close of account for any financial year it is found that there is a deficiency or shortfall in the collection of the estimated revenue prescribed by section 102 of the Constitution, such deficiency or shortfall shall be included in a statement together with the report of the Public Accounts Committee and be presented to Parliament."

3. The Principal Act is hereby amended by inserting therein immediately after section 20 the following new sections as sections 20A, 20B, 20C and 20D respectively -

Insertion of new sections 20A, 20B, 20C and 20D in the principal Act.

"Surcharge and notification. 20A. (1) Subject to subsection (2), if it appears to the Minister that any person who is or was a public officer -

- (a) has failed to collect any moneys owing to the Government, the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of public moneys or for any payment of such moneys which is not duly vouched;
- (c) is or was guilty of negligence or misconduct in relation to any deficiency in or for the destruction, damage or loss of any public moneys, stamps, securities, stores or other Government property; or
- (d) is or was responsible for causing any financial loss to the Government through failure to obey any order or instructions properly given or issued to him,

shall be guilty of misconduct in office and further if, within a period of one month from the date of the notice under subsection (2), an explanation

satisfactory to the Minister is not furnished to him by such person with regard to the failure to collect, the improper payment, the payment not duly vouched, the deficiency, destruction, damage or loss or the failure to obey the order or instructions, the Minister may surcharge such person a sum not exceeding the amount not collected, the amount improperly paid, the amount not duly vouched, the amount of deficiency or loss, the value of the property destroyed or lost, the cost of damage or the amount of the financial loss, as the case may be, and the Minister shall then notify such person of the surcharge.

(2) No person shall be surcharged under subsection (1) unless the Minister has notified the person of the conduct in respect of which the surcharge is intended to be made and the person has been requested to furnish an explanation with regard to the conduct.

Appeal
against
surcharge.

20B. (1) Any person aggrieved by any surcharge made against him under section 20A(1) may appeal to the High Court within one month from the date that he was notified of the surcharge under that section.

(2) On any appeal under subsection (1), the High Court may confirm, vary or quash the surcharge.

With-
drawal
of
surcharge.

20C. (1) The Minister may, at any time after a surcharge has been made under section 20A withdraw the surcharge if it appears to him that the surcharge has been made by mistake or that the circumstances do not justify the surcharge.

Recovery
of
amount
surcharged.

20D. (1) The amount of any surcharge made under section 20A which has not been quashed by the High Court under section 20B(2) or withdrawn under section 20C shall be a debt due to the Government from the person surcharged and, notwithstanding any law to the contrary, the Minister may direct that the amount be recovered from the salary, allowance or pension payable to the person by the Government.

(2) Where the Minister directs that the amount surcharged be recovered under subsection (1), the recovery shall be made -

- (a) in the case of salary or allowance, by deducting therefrom in equal monthly installments an amount not exceeding one-fourth of the net monthly salary or allowance, as the case may be; and
- (b) in the case of pension, by withholding the pension or deducting such part thereof as is sufficient to satisfy the amount of the surcharge that remains unrecovered.

(3) Where the person surcharged ceases or has ceased to be a public officer, the amount surcharged may be sued for and recovered from the person in any court of competent jurisdiction at the suit of the Government.

(4) Where an action is brought under subsection (3), it shall be sufficient if, in the absence of proof to the contrary, it is proved on behalf of the Government that the person was a public officer and that -

- (a) in the case of an action in respect of a loss or deficiency in public moneys, the person was guilty of one or more of the conducts referred to in paragraph (a) to (d) of section 20A(1) in relation to the loss or deficiency of the moneys, the subject of the action; and
- (b) in the case of an action in respect of loss or destruction of or damage to Government property -
 - (i) the property, the subject of the action, was at the material time in the charge of the person; and
 - (ii) the person was guilty of negligence or misconduct which caused or contributed to the loss, or destruction of or damage to the property.

(5) Where, in an action brought under subsection (3) in respect of loss or destruction of or

damage to property, it is proved that the negligence or misconduct of the person was not the sole cause of the loss or destruction of or damage to the property, the subject of the action, the Government shall be entitled to judgement for so much only of the cost of, or the cost of replacing or repairing, the loss, destruction or damage as is just and equitable having regard to the contribution made by the person to the loss, destruction or damage as determined by the court.”.

Insertion
of new
sections
40A, 40B
and 40C.

4. The principal Act is hereby amended by inserting therein immediately after section 40 the following new sections as sections 40A, 40B and 40C respectively -

“Public officers to answer queries etc. raised by Auditor-General within reasonable period.

40A. (1) In exercising the powers conferred upon the Auditor-General under Parts VI, VII and VIII of this Act, the Auditor-General may stipulate a reasonable period within which any public officer shall answer any queries raised, or submit to him for inspection any records, books, vouchers or other documents pertaining to the audit.

(2) Any public officer may, at any time within the stipulated period apply to the Auditor-General for an extension of the period within which the public officer is required to comply with the requirements of subsection (1).

(3) The application under subsection (2) shall include detailed reasons and other relevant information in support of the application.

(4) The Auditor-General may, after consultation with the Minister extend the period within which a public officer is required to comply with the requirements of subsection (1).

(5) Where the Auditor-General extends the period within which a public officer is required to comply with subsection (1), the public officer shall comply with that subsection or requirement within the extended period.

Offences.

40B. Any public officer who contravenes or fails to comply with the provisions of section 40A is guilty of misconduct in office.

Refer-
ence
to mis-
conduct
in office.

40C. The references to 'misconduct in Office' in sections 20A and 40B shall for the purposes of this Act be construed as acts of misconduct specified in Chapter VIII of the Constitution or the Public Service Commission Regulations 1979 or any other rules or regulations applying to public officers.''

