

FISCAL RESPONSIBILITY BILL, 2018

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FISCAL RESPONSIBILITY BILL, 2018

A BILL FOR AN ACT TO ESTABLISH THE PRINCIPLES AND PROCEDURES OF RESPONSIBLE FISCAL MANAGEMENT AND TO FACILITATE EFFECTIVE PARLIAMENTARY AND PUBLIC SCRUTINY OF THE FISCAL PERFORMANCE OF THE GOVERNMENT

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act shall be cited as the Fiscal Responsibility Act, 2018.
- (2) Subject to subsection (3), this Act shall come into force on the 1st day of July, 2018.
- (3) Part III of this Act shall come into force on the 1st day of July, 2019.

2. Interpretation.

In this Act —

“annual budget” means the annual estimates of revenues and expenditures and other annual budget documents submitted to Parliament in accordance with Article 129 of the Constitution;

“chief executive officer” means the chief manager and includes permanent secretaries, chief executives of public bodies, management heads of constitutional bodies, management heads of local government and chief executives of government owned or controlled companies;

- “consolidated public sector”** means the central government, local governments, public corporations and government owned or controlled companies;
- “domestic debt”** means central government debt to a resident creditor;
- “external debt”** means central government debt that is not domestic debt;
- “financial year”** means the twelve months beginning 1st July in any year;
- “fiscal balance”** means unless otherwise explicitly stated, the balance of revenues and expenditure;
- “Fiscal Responsibility Council”** means the council established pursuant to section 16;
- “fiscal objectives”** means the measurable fiscal indicators for the fiscal policy to achieve the fiscal responsibility principles formulated in accordance with the *First Schedule* and stated in the fiscal strategy report;
- “fiscal policy”** means decisions or actions undertaken by public authorities regarding public revenue, expenditure, assets and liabilities to influence the economy and achieve public policy objectives;
- “fiscal procedures”** means the preparation, submission and publication of the reports, forecasts, assessments and statements required under this Act;
- “fiscal responsibility principles”** means the specific principles of responsible fiscal management in section 7;
- “fiscal risks”** means the exposure of the government to short-term and medium-term deviations in fiscal variables compared to what was anticipated in the budget, the financial accounts, the fiscal strategy report or other statements or projections of public finances;
- “fiscal strategy report”** has the meaning given in section 10;
- “fiscal sustainability”** means the ability to conduct a given fiscal policy for a significant period of time in a manner that does not breach the general principles in section 6 and specific principles of responsible fiscal management in section 7;
- “General principles”** means principles referred to in section 6;
- “Local government”** means the district councils, town committees and family island administrators defined in the Local Government Act (*Ch. 37*);
- “medium-term”** means a period of three consecutive financial years;
- “Minister”** means the Minister responsible for the management of public finances;
- “Ministers”** means ministers other than the Minister;

- “Ministries”** means ministries other than the Ministry;
- “Ministry”** means the Ministry charged with responsibility for the management of public finances;
- “primary balance”** means overall fiscal balance excluding interest expenses;
- “primary expenditure”** means expenditure excluding interest expenses;
- “public body”** means a ministry, department, the senate, the house of assembly, a constitutional body, non-profit making statutory body, public corporation, any commission, authority, committee or other body, whether paid or unpaid, appointed by the Governor-General or a Minister of the Government; or any other governmental entity;
- “public debt”** means all liabilities that require payments of interest or principal by the public sector to a resident or non-resident creditor, currently or in the future and includes the debt specified in Article 134 of the Constitution;
- “public moneys”** means all revenues, resources and receipts of any kind in cash or cash equivalent, including financial assets, of the Government;
- “public office holder”** means the holder of an elected or appointed office in the Parliament, the Senate, the Judiciary, Government, a Government appointee to a board or commission or other advisory or governance position, and includes but is not limited to Ministers, constitutional office holders, and appointees to Government advisory bodies and to boards of public bodies and government owned or controlled companies and the staff supporting the public office holder;
- “public officer”** means a person holding or acting in any public office as defined in Article 137 of the Constitution;
- “published”** means published —
- (a) on an official website of the Government for a minimum period of five years; and
 - (b) making the document available for inspection in print form in a readily accessible place;
- “total expenditure”** means the sum of recurrent and capital expenditure less debt principal repayment and acquisition of financial assets.

3. Objectives of Act.

The objectives of this Act are —

- (a) to establish the principles and procedures of responsible fiscal management;
- (b) to guide the formulation and implementation of fiscal objectives;

- (c) to guide the annual budget within a medium-term fiscal framework; and
- (d) to facilitate effective parliamentary and public scrutiny of the fiscal performance of the Government.

4. Application of Act.

Unless otherwise stated, this Act shall apply to all public entities, public officers and public office holders responsible for receiving, using or managing public resources, revenues or moneys at all levels of Government, including —

- (a) the executive and its agencies, entities and institutions, including all departments and ministries;
- (b) the legislature and its agencies, entities and institutions;
- (c) the judiciary and its agencies, entities and institutions;
- (d) constitutional and semi-autonomous agencies and special funds under the control of the government;
- (e) decentralized agencies and local governments, including their subsidiary bodies;
- (f) public bodies; and
- (g) government owned or controlled companies and their subsidiaries.

PART II - PRINCIPLES AND PROCEDURES FOR RESPONSIBLE FISCAL MANAGEMENT

5. Management of public finances and resources.

- (1) The Government shall be responsible for conducting its fiscal policy and the management of the public finances and resources of the Government in accordance with the principles and procedures in this Act.
- (2) The Government shall manage the public finances and determine the fiscal policy in accordance with —
 - (a) the general principles in section 6;
 - (b) the fiscal responsibility principles in section 7; and
 - (c) the fiscal objectives and other requirements of this Act.
- (3) The Minister, all other Ministers and chief executive officers of all public bodies, local government, and government owned or controlled companies shall be responsible for the management of public resources and public moneys in a manner consistent with this Act.

- (4) A public officer or public office holder shall not expend public money, create debt, enter into any commitments or otherwise create liabilities for the Government without lawful authority.
- (5) The Minister may delegate any of the Minister's functions under this Act to deputies or officials within the Ministry except the function to make regulations and functions of a political nature in the exclusive responsibility of a minister, and the minister shall remain responsible for the delegated function at all times.

6. General principles of responsible fiscal management.

The general principles of responsible fiscal management are —

- (a) accountability, which means the Prime Minister, the Minister, all other Ministers and the heads of local governments are accountable to Parliament for the way the Government and the local governments, respectively, carry out their responsibilities with respect to managing fiscal policies;
- (b) intergenerational equity, which means the management of fiscal policies of the Government shall be conducted in a manner that takes into account the impact on the welfare of the current population and future generations;
- (c) responsibility, which means the management of public assets and liabilities, including natural resources and fiscal risks shall be conducted to maintain fiscal and environmental sustainability;
- (d) stability, which means fiscal policy shall be conducted in a manner that does not cause destabilizing changes in the macroeconomic and fiscal indicators;
- (e) transparency, which means —
 - (i) the roles and responsibilities of all government entities, public officials and public office holders with respect to the management of fiscal policy are clearly established and defined;
 - (ii) timely financial and non-financial information related to the management of fiscal policy is made available so as to permit effective public scrutiny of the conduct of fiscal policy and the state of the public finances; and
 - (iii) public officials and public officer holders do not withhold financial or other performance information without lawful cause; and
- (f) inclusive growth, which means economic growth benefits the whole population.

7. Fiscal responsibility principles.

The fiscal responsibility principles are —

- (a) achieving and maintaining a sustainable fiscal balance;
- (b) achieving and maintaining prudent levels of public debt; and
- (c) prudently managing fiscal risks.

8. Fiscal objectives.

- (1) The Government shall set fiscal objectives for the fiscal responsibility principles in the fiscal strategy report in accordance with the *First Schedule* which shall include information pertaining to setting fiscal objectives in the fiscal strategy report and shall include one or more medium term fiscal objectives.
- (2) During the period in which the Government does not comply with the requirements for the fiscal objectives contained in the *First Schedule*, the Government shall implement a fiscal adjustment plan to be specified in the next fiscal strategy report which shall include the fiscal adjustment measures and the time to achieve compliance, provided that if section 13 applies the procedure in that section shall be applied.
- (3) The Government shall ensure the fiscal adjustment plan contains intended actions to return to compliance with the requirements for the fiscal objectives in the *First Schedule* as soon as practicable.

9. Preparation of fiscal strategy report.

The Minister shall be responsible for preparing and submitting a fiscal strategy report on behalf of the Government in accordance with section 10 to the Fiscal Council and Parliament which is consistent with the principles and procedures in this Act.

10. Submission and approval of fiscal strategy report.

- (1) No later than the 1st Tuesday of November of each financial year, the Minister shall present a fiscal strategy report to the Cabinet for its approval containing the information specified in the *Second Schedule*.
- (2) Once the fiscal strategy report has been approved by the Cabinet and no later than the 3rd Wednesday of November of each financial year, the Minister shall submit the fiscal strategy report to the Parliament and the Fiscal Responsibility Council.
- (3) On the day of laying of the fiscal strategy report in Parliament, the Minister shall cause the fiscal strategy report to be published.

- (4) The Parliament shall debate the fiscal strategy report and shall inform the Minister no later than the 31st day of January of any recommendations on the fiscal strategy report.
- (5) If the Minister decides to amend the fiscal strategy report in response to the recommendations made by the Parliament, such amendment shall be made and a revised fiscal strategy report shall be tabled in Parliament as soon as practicable and published on an official website of the government within one week of tabling.
- (6) Each financial year the Minister shall prepare and implement the annual budget of the Government in accordance with this Act and the fiscal objectives in the fiscal strategy report.
- (7) The Minister may by order subject to affirmative resolution of the House of Assembly amend the *Second Schedule*.

11. Pre-election economic and fiscal update.

- (1) The Financial Secretary shall, not earlier than thirty working days, nor later than twenty working days, before the day appointed as polling day in relation to any general election of members of the Parliament, arrange to be published on an official website of the Government, a Pre-election Economic and Fiscal Update which shall include the information specified in the *Third Schedule*.
- (2) The Pre-election Economic and Fiscal Update should not receive prior approval of or notice to the Cabinet.

12. Mid-year review.

- (1) The Minister shall submit to Parliament no later than the last Wednesday of February of each financial year, a mid-year review of the progress against —
 - (a) the requirements of sections 7 and 8;
 - (b) the fiscal responsibility principles; and
 - (c) the fiscal strategy report.
- (2) The mid-year review referred to in subsection (1) shall —
 - (a) contain the information specified in the *Fourth Schedule*; and
 - (b) be published on an official website of the government within one week of tabling.
- (3) The Minister may by order subject to affirmative resolution of the House of Assembly amend the *Fourth Schedule*.

13. Exceptional circumstances.

- (1) The Government may temporarily depart from the requirements for the fiscal objectives in the *First Schedule* only when sudden and unexpected events arising from external shocks resulting in a significant economic downturn, national security considerations, or natural disasters so require, provided that the Minister provides a fiscal adjustment plan to Parliament about —
 - (a) the reasons for departing from the requirements for the fiscal objectives in *First Schedule*;
 - (b) the measures the Government intends to take to return to compliance with the requirements for the fiscal objectives in *First Schedule*; and
 - (c) the period of time the Government expects to take to return to compliance with the fiscal objectives.
- (2) The Minister shall submit to Parliament the fiscal adjustment plan referred to in subsection (1) and provide a copy to the Fiscal Council —
 - (a) within thirty days following the decision adopted by the Cabinet under subsection (1); or
 - (b) in the next annual fiscal strategy report, whichever is earlier.
- (3) Upon submission to Parliament of the fiscal adjustment plan in subsection (1), the Minister shall cause the adjustment plan to be published on an official website of the Government.

14. Fiscal impact analysis.

- (1) Any minister of the Government proposing legislation or making a spending proposal to the Cabinet that has not been approved in the annual budget shall include a fiscal impact analysis stating —
 - (a) the estimated effect on the public finances in the financial year in which the legislation or spending proposal would incur expenditure; and
 - (b) the estimated fiscal effects on the public finances for the following three financial years.
- (2) Prior to submitting the proposed legislation or a spending proposal to the Cabinet, the Minister of the Government shall provide the legislation or spending proposal and fiscal impact analysis to the Minister responsible for finance for review.
- (3) The fiscal impact analysis shall be prepared and submitted according to the requirements determined by the Minister by way of an order under this Act.

- (4) The fiscal impact analysis shall be provided to Parliament with the proposed legislation.

15. Breach of fiscal responsibility principles or fiscal objectives.

- (1) If the Government is in breach of —
- (a) the fiscal responsibility principles in section 7;
 - (b) the requirements for the fiscal objectives in the *First Schedule*; or
 - (c) the fiscal adjustment plan required by section 8(2),
- the Minister shall appear before the Public Accounts Committee of Parliament to explain the cause of the breach and the fiscal adjustment plan.
- (2) If the Public Accounts Committee is not satisfied the Minister has a realistic adjustment plan, the Committee may recommend that Parliament considers a resolution to —
- (a) require the Minister to take action to improve the fiscal adjustment plan and the fiscal situation; or
 - (b) require additional reporting to the Parliament on progress with the fiscal adjustment plan.
- (3) The Public Accounts Committee may recommend to the Minister that consideration be given to applying a financial or other penalty to a public office holder or public official deemed responsible by the Public Accounts Committee for a failure to comply with a requirement of this Act.
- (4) Before making a determination of responsibility, the Public Accounts Committee shall provide the public office holder or public official with a right to be heard and shall ensure due process in making the determination.
- (5) A public office holder or public official who has had a penalty imposed subsequent to a determination by the Public Accounts Committee under this section shall have a right of appeal to the Supreme Court.

PART III – ESTABLISHMENT, FUNCTIONS AND CONSTITUTION OF FISCAL RESPONSIBILITY COUNCIL

16. Establishment of Fiscal Responsibility Council.

There is hereby established an independent body to be known as the Fiscal Responsibility Council (hereinafter referred to as “the Council”).

17. Functions of Council.

- (1) The Council shall have responsibility to assess compliance with the general principles, fiscal responsibility principles and fiscal objectives and to advise on fiscal and budgetary matters of the Government including reviewing the —
 - (a) fiscal strategy report;
 - (b) annual budget;
 - (c) mid-year review;
 - (d) pre-election economic and fiscal update;
 - (e) Government annual accounts;
 - (f) reports on deviations from the fiscal responsibility requirements; and
 - (g) fiscal adjustment plan of the Government in response to deviations.
- (2) The Council may hire experts on contract to assist the Council in carrying out its functions.
- (3) The Council shall determine its meeting and other procedures consistent with law and good practice.

18. Power of Council to request information.

- (1) The Council shall have the authority to request the Minister to create and to provide the Council with economic and fiscal forecasts and analysis as may be required for the Council to comply with its responsibilities and functions under this Act and the Council may request the Minister to provide fiscal projections based on alternative assumptions and scenarios.
- (2) Subject to laws on information, all public officials and public office holders shall provide information and documentation required by the Council to comply with its functions and responsibilities under this Act in the form and by the time required by the Council and this section relates to existing information and does not require public officials or public office holders to provide new or additional analysis except as provided for in subsection (1).

19. Constitution of Council.

- (1) The Council shall consist of five members appointed by the Governor-General on advice of the Speaker of the House (hereinafter referred to as “the Speaker”) of whom —
 - (a) one person shall have qualifications and experience in law nominated by the Bar Association;

- (b) one person shall have qualifications and experience in business nominated by the Chamber of Commerce;
 - (c) one person shall have qualifications and experience in economics nominated by the University of The Bahamas;
 - (d) one person shall have qualifications and experience in accounting nominated by The Bahamas Institute of Chartered Accountants; and
 - (e) one person shall have qualifications and experience in finance nominated by the Certified Financial Analysts' Society of The Bahamas.
- (2) The Council shall appoint one of the members as Chairperson of the Council by a majority vote of the members.

20. Tenure of Council members.

- (1) A member of the Council shall hold office for such period, not exceeding three years, as the Governor-General may direct in the instrument appointing such member, but such member shall be eligible for re-appointment.
- (2) In making the initial appointments to the Council the Governor-General on the advice of the Speaker shall vary the length of the term of appointment for Council members so the end of the period of appointment does not occur in the same year for all members.
- (3) The Governor-General acting on the advice of the Speaker shall in determining a term of appointment or reappointment, seek to ensure that no more than three of the existing members' terms of appointment expire in any one year.

21. Removal and resignation of Council members.

- (1) A member of the Council may be removed from office by the Governor-General on the advice of the Speaker if the member —
 - (a) is incapable of performing the functions of office by reason of mental or physical incapacity;
 - (b) is guilty of misconduct under any Act, or regulations governing the public service;
 - (c) has committed a financial offence;
 - (d) has committed an offence punishable by imprisonment;
 - (e) has been absent from three consecutive meetings of the Council without acceptance of an apology by the Council; or
 - (f) the Speaker considers the member unsuited to the position after considering reviews of performance of the Council and the member.

- (2) A member of the Council may at any time resign from office by notice in writing to the Governor-General which shall take effect on the date specified by the notice.

22. Accounts of Council.

- (1) The budget of the Council including the stipends for members of the Council and the operating expenses of the Council shall be presented by the Council to the Speaker for review and approval for inclusion in the annual budget and the Ministry of Finance may provide an opinion on the budget proposal.
- (2) The stipends for members of the Council shall be at a level comparable to stipends for members of parliamentary and government bodies undertaking work of similar nature, complexity and amount.
- (3) The accounting and administration functions for the Council shall be carried out by the accounting officer responsible for accounting for the House of Assembly.
- (4) The Council shall comply with the Government budgeting, accounting reporting and financial management requirements and the financial statements of the Council shall be audited by the Auditor-General.

23. Reports of the Council.

- (1) The Council shall —
 - (a) submit to the Parliament by the 31st day of January in every year a report containing an assessment of the fiscal strategy report of the Government against the general principles, fiscal responsibility principles and fiscal objectives;
 - (b) submit to the Parliament by the 31st day of March in every year a report containing an assessment of the mid-year review against the general principles, fiscal responsibility principles and fiscal objectives;
 - (c) submit to the Parliament by the 31st day of July in every year a report containing an assessment of the annual budget of the Government against the general principles, fiscal responsibility principles and fiscal objectives;
 - (d) submit to the Parliament a report containing an assessment of the Government annual accounts, the general principles, fiscal responsibility principles and fiscal objectives no later than one month after the Government Accounts have been published; and
 - (e) publish in a timely manner reports to fulfil its functions under this Act on the fiscal adjustment plan of the Government in response to deviations.

- (2) The reports of the Council referred to in subsection (1)(a) to (d) shall be published on an official website of the Council on the same day as the report was provided to the Government or to the Parliament.
- (3) The Parliament through its committee may hold a hearing open to the public on any of the matters relating to the reports of the Council and may invite ministers, officials and Council members to appear before the committee.
- (4) The Council may provide at any time, at its own initiative or upon request, advice to the Government on matters related to its functions under this Act.
- (5) The Council shall ensure it communicates its reports to the public in an effective manner.

PART IV - MISCELLANEOUS

24. Regulations.

- (1) The Minister may make regulations generally as may appear to the Minister to be necessary and expedient for the proper implementation of the intent and objectives of this Act.
- (2) Any regulations made pursuant to subsection (1) shall be subject to affirmative resolution of the House of Assembly.
- (3) In subsection (2), the expression “subject to affirmative resolution of the House of Assembly” in relation to regulations means that any such regulations shall not come into operation until approved by a resolution of the House of Assembly.

25. Conflict.

Where any law in force prior to the commencement of this Act conflicts with any of the provision of this Act, this Act shall prevail.

FIRST SCHEDULE

(section 8, 13 and 15)

FISCAL OBJECTIVES

Fiscal objectives in the Fiscal Strategy Report

1. The Government shall state the fiscal objectives to achieve the fiscal responsibility principles in the Fiscal Strategy Report.
2. The fiscal objectives shall be set in accordance with the fiscal responsibility principles and this schedule.

Fiscal objectives for debt

3. The long term debt fiscal objective is to reduce debt from 57 percent of GDP in FY2016/17 to a debt level of no more than 50 percent of GDP and the Government shall state the financial year by which this long term debt objective is intended to be achieved in the fiscal strategy report.
4. The fiscal objectives for debt shall be expressed as a percentage of GDP and as a nominal debt limit in the Fiscal Strategy Report and shall be included in the Annual Budget each year consistent with this Act.

Fiscal balance

5. The fiscal objective for the fiscal balance is to reduce it from a deficit of 5.8 percent of GDP in FY2016/17 to a fiscal balance that does not exceed a deficit of 0.5 percent from FY2020/21 onwards.

(i) Transition

As achieving the fiscal objectives for the debt and fiscal balance requires significant fiscal adjustments in the FY2018/19 to FY2020/21 period, a gradual adjustment towards these objectives would allow time for the public sector and the economy to achieve the fiscal objective in an orderly manner. Accordingly, the fiscal objective for the fiscal balance for the years FY2018/19 and FY2019/20 shall not exceed a deficit of 1.8 percent of GDP and 1.0 percent of GDP, respectively.

(ii) Compliance Margin

Fiscal measures, being based on estimates and forecasts, are subject to some degree of uncertainty about their impact on the fiscal balance. When assessing the achievement of the fiscal objectives, a compliance margin is necessary to accommodate this uncertainty, which shall not exceed 0.5% of GDP for the fiscal balance objective.

The compliance margin means that section 8(2) shall not apply if the final outcome for the fiscal balance in any given year, including the transition period, is within the compliance margin.

6. The fiscal objective for the fiscal balance shall be expressed as a nominal deficit limit set in the Fiscal Strategy Report and the Annual Budget each year consistent with this Act and for assessing compliance with this Act, the nominal

fiscal balance shall be interpreted taking account of the effect of the compliance margin.

Expenditure

7. After the attainment of a deficit of no more than -0.5% of GDP the fiscal objective for current expenditure shall be set taking into account the desirability of having the rate of growth in such expenditure no more than the estimated long term nominal growth in GDP and should be explicitly stated in the Fiscal Strategy Report of the first fiscal year in which the fiscal balance condition is met.
8. The fiscal objective for current expenditure shall be expressed as a nominal expenditure limit set in the Fiscal Strategy Report and the Annual Budget each year consistent with this Act.

Review

9. The Government shall review the requirements in this Schedule in 2023 and every five years thereafter.
10. The Government may amend this Schedule by Order subject to affirmative resolution of the House of Assembly following a review under paragraph 9 of the Schedule.

Interpretation

11. For the purposes of this Schedule —
 - “**debt**” means all direct charge on the central government that require payments of interest and principal to both resident and non-resident creditor;
 - “**fiscal balance**” means total revenues and grants minus total expenditure where revenues and grants are computed as total revenues less borrowings, refunds, and sales of financial assets.

SECOND SCHEDULE

(section 10)

CONTENTS OF A FISCAL STRATEGY REPORT

1. The fiscal strategy report shall contain a report for the recently concluded financial year which shall include —

- (a) analysis of any difference in results from the macroeconomic forecasts and fiscal forecasts in the previous fiscal strategy report;
 - (b) a summary of budget execution compared to the appropriations and statutory expenditure;
 - (c) summary of the performance compared to the general principles in section 6, the fiscal responsibility principles in section 7 the fiscal objectives in the previous fiscal strategy report;
 - (d) reasons for any deviations from the general principles, fiscal responsibility principles and fiscal objectives in the previous fiscal strategy report with a fiscal adjustment plan to address any such deviations, and the expected time to achieve this;
 - (e) report on the extent to which the risks identified in the previous fiscal strategy report were realised and the effect on fiscal performance; and
 - (f) other matters on performance the Minister considers relevant.
2. The fiscal strategy report shall contain medium-term macroeconomic forecasts setting out actual, estimated and projected values of the following economic variables for no less than the previous two years, the current year, and the next three years including—
 - (a) gross domestic product and its components;
 - (b) inflation;
 - (c) employment and unemployment;
 - (d) exchange rates with major trading partners;
 - (e) interest rates; and
 - (f) money supply and monetary conditions including credit to the private sector;and for (a) to (f) the source of the data shall be identified, and for historical information, a statement provided of whether it is official or estimated in cases where official data are not available.
3. The fiscal strategy report shall contain information on the longer term macroeconomic forecasts.
4. The fiscal strategy report shall contain a statement of assumptions and methodologies underpinning the economic forecasts.
5. The fiscal strategy report shall contain medium-term fiscal forecasts setting out actual, estimated, and projected values of the following fiscal variables for no less than the previous two years, the current year, and the next three years including —
 - (a) revenues by type;
 - (b) aggregate expenditures by economic, administrative, and functional classifications;

- (c) fiscal balance for the overall budget;
 - (d) a summary of the sources of budget financing;
 - (e) the level of debt by external source, domestic source and total;
 - (f) level of financial and performance guarantees;
 - (g) the accounting principles and methods used in the fiscal strategy report and key assumptions on which the above numbers are based;
 - (h) sensitivity analysis taking account of possible changes in macroeconomic conditions; and
 - (i) any other information the Minister determines is material to the fiscal forecasts.
6. The fiscal strategy report shall contain fiscal forecasts for the longer term that have been used in formulating the fiscal policies in the fiscal strategy report and such forecasts shall take account of the impacts of changes in demographics and other factors.
7. The fiscal strategy report shall contain a statement of intention with regard to the general principles in section 6 of the Act.
8. The fiscal strategy report shall contain a statement of intention with regard to the fiscal responsibility principles in section 7 of the Act consistent with the first schedule.
9. The fiscal strategy report shall contain a description of the fiscal policy including—
- (1) a table containing the fiscal information for the previous two years, the current year and the forthcoming three years and longer term where relevant including —
 - (a) aggregate Government expenditure as a percentage of GDP and in nominal terms;
 - (b) expenditure as a percentage of GDP and in nominal terms;
 - (c) primary expenditure as a percentage of GDP and in nominal terms;
 - (d) Government expenditure on wages and benefits as a percentage of GDP and in nominal terms for all positions funded from the annual budget including all positions funded by direct charge on the Consolidated Fund and all positions funded by appropriation;
 - (e) Government revenues as a percentage of GDP and in nominal terms;
 - (f) overall fiscal balance as a percentage of GDP and in nominal terms;
 - (g) Government debt as a percentage of GDP and in nominal terms;

- (h) Government arrears as percentage of budget expenditure and in nominal terms;
 - (i) Government guarantees as a percentage of GDP and in nominal terms; and
 - (j) Government net worth as a percentage of GDP and in nominal terms when net worth can be measured; and
- (2) Table of fiscal objectives to measure the fiscal position of the government against the fiscal responsibility principles consistent with the *First Schedule* for the forthcoming year and each of the next three years which shall at a minimum include measurable fiscal objectives for the fiscal balance, debt, guarantees, expenditure growth rate, wage expenditure limit and any measures for an adjustment plan if in force;
- (3) information on the fiscal policies for medium-term including—
- (i) the revenue policy with planned changes to taxes and policies affecting other revenues and intentions regarding revenue collection activities;
 - (ii) policy on the fiscal balance;
 - (iii) debt policy with a summary of the debt management strategy, a summary of the debt sustainability analysis, debt ceilings, and guarantee ceilings; and
 - (iv) expenditure policy including expenditure priorities linked to ceilings;
- (4) an assessment of the consistency of the planned fiscal policy aggregates and measurable fiscal objectives in paragraph 9(2) of this Schedule with the fiscal responsibility principles and the requirements in the *First Schedule*;
- (5) a medium-term expenditure framework stating the Government's annual and medium-term expenditure intentions and an explanation of any changes in the proposed ceilings from the previous fiscal strategy report including —
- (a) the aggregate expenditure ceiling to be used in the preparation of the annual budget which shall include indicative ceilings for two further outer years;
 - (b) ceilings for central Government expenditure by Ministry and other budget entity for the budget year and next two years to be used as the basis for the preparation of the annual budget;
 - (c) forecast non-financial performance information at a suitable level of aggregation linked to the budget to show what is planned to be provided and achieved for the proposed expenditure, for strategic changes only; and

- (d) information on major public investments including priorities and rationale for these and forecast costs for the forthcoming budget year and two outer years related to expenditure ceilings.
- 10. The fiscal strategy report shall contain a fiscal risk statement with quantified risks where practicable including—
 - (a) contingent liabilities;
 - (b) any commitments not included in the fiscal forecasts;
 - (c) all other circumstances which may have a material effect on the fiscal and economic forecasts and which have not already been incorporated into the fiscal forecasts; and
 - (d) risk management intentions.
- 11. The fiscal strategy report shall contain a statement of responsibility signed by the Minister and the Financial Secretary attesting to the reliability and completeness of the information in the fiscal strategy report and its compliance with the law.
- 12. If the Government is unable to provide any of the information required by this Schedule the Ministry shall state in the fiscal strategy report the reasons for any missing information and shall ensure that such information is available as soon as practicable for future fiscal strategy reports.
- 13. For the purposes of this Schedule —
 - “**current expenditure**” means spending for acquisition of all goods and services, personnel cost including salaries, emoluments and other employee benefits; and transfer payments, inclusive of interest payments, subsidies, transfers to non-financial public enterprises, public corporations, to households, abroad and to non-profit institutions which excludes all outlays that result in debt reduction and the acquisition of financial assets;
 - “**debt**” means all direct charge on the central government that require payments of interest and principal to both resident and non-resident creditor;
 - “**fiscal balance**” means total revenues and grants minus total expenditure where revenues and grants are computed as total revenues less borrowings, refunds, and sales of financial assets;
 - “**Gross Domestic Product**” means the nominal value of all goods and services produced in the economy within a year, as compiled by the Department of Statistics and in the absence of official statistics, estimates produced by the Ministry of Finance shall be utilized and subsequently updated once the official statistics are available and until quarterly official GDP statistics become available, estimates

for the fiscal year shall be derived by taking the average of the current and the preceding calendar years.

THIRD SCHEDULE

(section 11)

CONTENTS OF A PRE-ELECTION UPDATE REPORT

The pre-election update report shall contain —

- (a) updated macroeconomic forecasts and assumptions from the fiscal strategy report or mid-year review, whichever is the most recent;
- (b) updated fiscal information including—
 - (i) Government revenue outturn and forecasts for the current year and next three years;
 - (ii) Government expenditure outturn and forecasts for the current year and next three years including for expenditure, primary expenditure and expenditure on wages and related personnel costs;
 - (iii) approval of new spending since the annual budget including major investment and service projects and policies;
 - (iv) fiscal balance forecast for the current year, fiscal balance for past two years, and forecast next three years;
 - (v) net and gross debt for the current year and next three years;
 - (vi) level of guarantees;
 - (vii) tax relief, remissions, and other waivers;
 - (viii) the outstanding stock of arrears for all government entities including showing separately all new unpaid invoices since the stock of arrears was last reported; and
 - (ix) other significant financing matters that have occurred or are planned; and
- (c) an update of the fiscal risk position compared to the fiscal strategy report and the annual budget;
- (f) a statement of responsibility signed by the Minister that the Pre-Election Economic and Fiscal Update includes —
 - (i) all policy decisions with material economic or fiscal implications that the Government has made before the day on which the contents of the Pre-Election Economic and Fiscal Update was finalised; and
 - (ii) all other circumstances with material economic or fiscal implications of which the Minister was aware before that day; and

- (g) a statement of responsibility signed by the Financial Secretary that the Pre-Election Economic and Fiscal Update has been prepared by the Ministry—
 - (i) using its best professional judgments; and
 - (ii) on the basis of economic and fiscal information available to it before the week on which the contents of the Pre-Election Economic and Fiscal Update was finalised; and
- (h) a statement of the accounting and other standards applied which shall be the accounting standards adopted for the Government consistent with internationally accepted standards and where such standards are not used, then an explanation of the deviation shall be provided.

FOURTH SCHEDULE

(section 12)

CONTENTS OF A MID-YEAR REVIEW

The mid-year review shall provide an update to the fiscal strategy report and the annual budget and shall include the following information —

- (a) updated macroeconomic forecasts and assumptions from the fiscal strategy report and annual budget;
- (b) updated fiscal information from the annual budget including —
 - (i) Government revenue outturn and forecasts for the current year and next three years;
 - (ii) Government expenditure outturn and forecasts for the current year and next three years including for expenditure, primary expenditure and expenditure on wages and related personnel costs;
 - (iii) approval of new spending since the annual budget including major investment and service projects and policies;
 - (iv) fiscal balance forecast for the current year, fiscal balance for past two years, and forecast next three years;
 - (v) net and gross debt for the current year and next three years;
 - (vi) level of guarantees;
 - (vii) tax relief, remissions, and other waivers;
 - (viii) the outstanding stock of arrears for all government entities including showing separately all new unpaid invoices since the stock of arrears was last reported; and
 - (ix) other significant financing matters that have occurred or are planned; and

- (c) information on virements, reallocations, use of the Contingency Fund, use of the Reserve Appropriation, use of the Supplementary Estimates and any other matters required to be reported by this Act;
- (d) an update of the fiscal risk position compared to the fiscal strategy report and the annual budget;
- (e) progress on Government priorities;
- (f) any actual or expected significant differences for non-financial performance indicators that were presented in the fiscal strategy report or the Estimates and other annual budget documents of Ministries in the annual budget with an explanation of any deviations; and
- (g) updated information on the matters set out in paragraph 9(1) and (2) of the *Second Schedule* and where there has or is likely to be a breach of the fiscal responsibility principles or the fiscal objectives, the mid-year review shall contain a fiscal adjustment plan required by sections 8 and 13 of the Act.

OBJECTS AND REASONS

This Act seeks to provide for fiscal responsibility and transparency in the management of public finances.

Clause 1 seeks to provide for the short title and commencement.

Clause 2 seeks to provide for the definitions of terms used in the Act.

Clause 3 seeks to set out the objectives that the Act seeks to achieve including to establish the principles and procedures of responsible fiscal management to guide the formulation and implementation of fiscal objectives, to guide the annual budget within a medium-term fiscal framework and to facilitate effective parliamentary and public scrutiny of the fiscal performance of the government.

Clause 4 seeks to provide that the Act applies to all public entities, public officers and public office holders responsible for receiving, using or managing public resources, revenues or moneys at all levels of government and this extends to non-profit making statutory body and public corporation.

Clause 5 seeks to provide that the government shall conduct fiscal policy and manage the public finances and resources in accordance with the fiscal principles and rules laid out in this Act. A public officer or public office holder shall not expend public money, create debt, enter into any commitments or otherwise create liabilities for the Government without lawful authority.

Clause 6 sets out the general principles of responsible fiscal management which are as follows —

- (a) accountability, that is the Government is accountable the way in which they, carry out their responsibilities with respect to managing fiscal policies;
- (b) intergenerational equity, which means the management of fiscal policies of the Government shall be conducted in a manner that takes into account the impact on the welfare of the current population and future generations;
- (c) responsibility, which means the management of public assets and liabilities, including natural resources and fiscal risks shall be conducted to maintain fiscal sustainability;
- (d) stability, which means fiscal policy shall be conducted in a manner that does not cause destabilizing changes in the macroeconomic and fiscal indicators;
- (e) transparency, which means —
 - (i) the roles and responsibilities of all government entities, public officials and public office holders with respect to the management of fiscal policy are clearly established and defined;
 - (ii) timely financial and non-financial information related to the management of fiscal policy is made available so as to permit effective public scrutiny of the conduct of fiscal policy and the state of the public finances; and
 - (iii) public officials and public officer holders do not withhold financial or other performance information without lawful cause; and
- (f) inclusive growth, which means economic growth benefits the whole population.

Clause 7 set out the fiscal responsibility principles which are —

- (a) achieving and maintaining a sustainable fiscal balance;
- (b) achieving and maintaining prudent levels of public debt; and
- (c) prudently managing fiscal risks.

Clause 8 provides for the Government to set and monitor fiscal objectives for the fiscal responsibility principles including the fiscal objectives for the medium term. During any period in which the Government does not comply with the requirements for the fiscal objectives, the Government shall implement a fiscal adjustment plan to be specified in the next fiscal strategy report which shall include the fiscal adjustment measures and the time to achieve compliance and shall ensure the fiscal adjustment plan contains intended actions to return to compliance with the requirements for the fiscal objectives in the as soon as practicable.

Clause 9 seeks to require the Minister to prepare a fiscal strategy report and submit it to the Fiscal Council and the Parliament.

Clause 10 provides for a time line of the first Tuesday of November for the fiscal strategy report should be presented to Cabinet for approval by Cabinet then third day of November of each financial year, the Minister shall submit the fiscal strategy report to the Parliament and the Council.

Clause 11 seeks to provide that the Financial Secretary, not earlier than thirty working days, nor later than twenty working days, before any general election of members of the Parliament, publish on an official website of the Government, a Pre-election Economic and Fiscal Update.

Clause 12 seeks to provide that the Minister submit to Parliament no later than the last Wednesday of February of each financial year, a mid-year review of the progress against the fiscal strategy report.

Clause 13 seeks to provide that the Government may temporarily depart from the requirements for the fiscal objectives only when sudden and unexpected events arising from external shocks resulting in a significant economic downturn, national security considerations, or natural disasters so require, provided that the Minister provides a fiscal adjustment plan to Parliament and the Council and published on an official website of the Government. The fiscal adjustment plan should include —

- (a) the reasons for departing from the requirements for the fiscal objectives in First Schedule;
- (b) the measures the Government intends to take to return to compliance with the requirements for the fiscal objectives in First Schedule; and
- (c) the period of time the Government expects to take to return to compliance with the fiscal objectives.

Clause 14 seeks to provide that any minister of the Government proposing legislation or making a spending proposal not approved in the annual budget to the Cabinet shall include a fiscal impact analysis stating the estimated effect on the public finances of the financial year in which the legislation would become effective or the expenditure would occur and on the three following financial years.

Clause 15 seeks to provide that if the Government is in breach of —

- (a) the fiscal responsibility principles in section 7;
- (b) the requirements for the fiscal objectives in the First Schedule; or
- (c) the fiscal adjustment plan required by section 8(2),

the Minister shall appear before the Public Accounts Committee of Parliament to explain the cause of the breach and the fiscal adjustment plan.

Clause 16 seeks to provide for the establishment of an independent body to be known as the Fiscal Responsibility Council referred to in this Act as “the Council”.

Clause 17 seeks to give the Council the responsibility to assess the Government’s compliance with the general principles, fiscal responsibility principles

and fiscal objectives and to advise on fiscal and budgetary matters of the Government including reviewing the —

- (a) fiscal strategy report;
- (b) annual budget;
- (c) mid-year review;
- (d) pre-election economic and fiscal update;
- (e) Government annual accounts;
- (f) reports on deviations from the fiscal responsibility requirements; and
- (g) fiscal adjustment plan of the Government in response to deviations.

Clause 18 seeks to provide for the Council to get further information from all public officials and public office holders shall provide information and documentation required by the Council when needed to effectively carry out its function. It also provides for the Council to request that the Minister create and to provide the Council with economic and fiscal forecasts and analysis as may be required for the Council to comply with its responsibilities under the Act.

Clause 19 seeks to provide for the constitution of the Council which shall consist of five members appointed by the Governor-General on advice of the Speaker of the House of whom —

- (a) one person shall have qualifications and experience in law, nominated by the Bar Association;
- (b) one person shall have qualifications and experience in business, nominated by the Chamber of Commerce;
- (c) one person shall have qualifications and experience in economics nominated by the University of The Bahamas;
- (d) one person shall have qualifications and experience in accounting nominated by The Bahamas Institute of Chartered Accountants; and
- (e) one person shall have qualifications and experience in finance nominated by the Certified Financial Analysts' Society of The Bahamas.

The Council shall appoint one of the members as Chairperson of the Council by a majority vote of the members.

Clause 20 seeks to provide that the tenure of the Council members be determined by the Governor-General acting on the advice of the Speaker and shall in setting the term of appointment or reappointment, consider the terms of appointment of other members in office and use best efforts to arrange for terms of appointment so that no more than one third of members' appointments expire in any one year.

Clause 21 seeks to provide for the removal of a Council member from office by the Governor-General on the advice of the Speaker if the member —

- (a) is incapable of performing the functions of office by reason of mental or physical incapacity;

- (b) is guilty of misconduct under any Act or regulations governing the public service;
- (c) has committed a financial offence;
- (d) has committed an offence punishable by imprisonment;
- (e) has been absent from three consecutive meetings of the Council without acceptance of an apology by the Council; or
- (f) the Speaker considers the member unsuited to the position after considering reviews of performance of the Council and the member.

A member may resign at any time from office by notice in writing to the Governor-General which shall take effect on the date specified by the notice.

Clause 22 seeks to provide that the budget of the Council including the stipends for members of the Council and the operating expenses of the Council shall be presented by the Council to the Speaker for review and approval for inclusion in the annual budget and the Ministry of Finance may provide an opinion on the budget proposal.

Clause 23 provides that the Council submit several reports to Parliament and which shall be published on its official website.

Clause 24 seeks to empower the Minister to make regulations that is necessary and expedient for proper implementation of the Act which shall be subject to an affirmative resolution of the house of Assembly.

Clause 25 seeks to provide that where any law in force prior to the commencement of this Act conflicts with any of the provisions of this Act, this Act shall prevail.