



The New Public Financial Management Act, 2016(PFMA)Act 921 (Local Governance)

Presented by Eva Esselba Mends
Chief Economic Officer and Group Head PFM
Ministry of Finance




Introduction

- Work started in 2015 as a follow up from the GIFMIS project and all the other Reforms
- Objective is to address significant weaknesses especially in
 - fiscal policy formulation,
 - budgeting,
 - commitment control,
 - Transparency and accountability
 - Debt management and,
 - improve service delivery through the monitoring of results



Introduction

- Extensive consultation was done (MDAs, Civil Society organizations professional Bodies etc.)
 - Parliament passed it on 03 August 2016
 - President has assented and so it the Law now
 - FAA and Loans Act has been repealed
 - Regulations was saved until new Regulations have been developed
- 



Scope

- Macro Fiscal policy formulation
- Budget formulation and preparation,
- Budget Implementation with special emphasis on commitment control
- Internal Audit
- Accounting and Reporting
- Management of State Owned Enterprises
- Streamlining of management of Statutory fund
- Local government borrowing
- Move to general government reporting
- A sanctions regime

PFM ACT 921 PROVISIONS

The PFM Act has 104 Sections and 134 clauses

- Responsibilities of Minister
- Salary negotiations for public sector
- Performance Report
- Borrowing by local government authorities, public corporations and state-owned Enterprises
- Borrowing by local government Authorities
- Reporting requirements of local government authorities
- Submission of consolidated audit accounts of local government authorities

Borrowing by local government

- (1) On the coming into force of this Act, borrowing by a local government authority, a public corporation or a state-owned enterprise shall be in accordance with this Act.
- (2) An enactment in force on the coming into force of this Act, relating to borrowing by a local government authority, a public corporation or a state-owned enterprise, shall be construed with the necessary modification to give effect to this Act.
- (3) A local government authority, public corporation or state-owned enterprise is liable for the debt and other obligations of that local government authority, public corporation or state-owned enterprise without recourse to Government, unless otherwise explicitly guaranteed by Government in accordance with this Act.

Borrowing by local government authorities

- (1) Subject to subsection (2) and without limiting section 73, a local government authority may borrow funds only
 - (a) from within the country, and
 - (b) up to the limit determined by the Minister in consultation with the Minister responsible for Local Government, and consistent with the medium term debt strategy and annual borrowing and recovery plan.
- (2) A local government authority shall obtain prior written approval of the Minister for
 - (a) the issuance of debt securities to the public; or
 - (b) borrowing of an amount above the limit determined by the Minister under subsection (1).

Reporting requirements of local government authorities

- (1) A local government authority shall, not later than ten working days from the date of signing a loan agreement, issuance of a debt security or obtaining an overdraft, submit to the Minister a record of the transaction.
- (2) A local government authority shall submit to the Minister annually and upon request
 - (a) data on the total outstanding debt of that local government authority; and
 - (b) any other information that the Minister may specify.
- (3) The Public Debt Management Office shall keep, in a timely manner and in an appropriate database, comprehensive and accurate records of outstanding local government debts.



Submission of consolidated audit accounts of local government authorities

- ▶ The Minister responsible for Local Government shall, within nine months after the end of each financial year, submit to the Minister a statement of consolidated audited accounts of each local government authority.



Fiscal Strategy Document (Statutory Funds)

- 15. (1) The Minister shall, not later than the end of May of each financial year, prepare and submit to Cabinet for approval, a Fiscal Strategy Document.
- (2) The Fiscal Strategy Document shall specify:
- **(h) The alignment of statutory and other earmarked funds to national macro-fiscal goals and targets**



Guidelines for preparation of annual budget(Statutory Funds)

- 20. (1) The Minister shall
- **(J) details of expenditure under statutory funds and alignment and co-ordination of statutory funds with fiscal objectives, targets and other aspects of the budget**



PFM Act –Sanctions (96)

Offences and penalties

- (1) A person, acting in an office or employment connected with the procurement or control of Government stores, or the collection, management or disbursement of amounts in respect of a public fund or a
- public trust who
- (a) makes an unauthorised commitment resulting in a financial obligation for the Government,
- (b) fails to collect moneys due to the Government,
- (c) is responsible for any improper payment of public funds or payment of money that is not duly verified in line with existing procedures,
- (d) is responsible for any deficiency in or for the loss, damage or destruction of any public funds, stamp, security, stores or any other Government property,
- (e) accepts or receives money or valuable consideration for the performance of an official duty,

Offences and penalties

- (f) in relation to the duties of that person, willfully makes or signs a false certificate, false return or false entry in a book, or
- (g) fails to report knowledge or information in respect of fraud committed by a person against the Government, contrary to any enactment related to public financial management, to the appropriate authority or law enforcement authority commits an offence and is liable on summary conviction to a term of imprisonment of not less than six months and not more than five years or to a fine of not less than one hundred penalty units and not more than two thousand, five hundred penalty units or to both.

Offences and penalties

- (2) A person, acting in an office or employment connected with the procurement or control of Government stores, or the collection, management or disbursement of amounts in respect of a public fund or a public trust
- **who authorises**
- an expenditure exceeding the approved appropriation in the relevant budget commits an offence and is liable on summary conviction to a term of imprisonment of not less than six months and not more than twelve months or to a fine of not more than the value of the assessed impact of the commitment or to both.

Offences and penalties

- (3) A person who promises, offers or gives money or any other valuable consideration to another person, acting in an office or employment,
- (a) connected with the procurement or control of government stores,
- (b) connected with the collection, management or disbursement of amounts in respect of a public fund or a public trust, or
- (c) with the intent to influence
- (i) a decision or action on any question or matter that is pending or is likely to be brought before the person in an official capacity, or
- (ii) a person to commit fraud against the Government or to connive with, take part in or allow an opportunity for the commission of the fraud commits an offence and is liable on summary conviction to a fine of not more than three times the amount offered or accepted or a term of imprisonment of not less than six months and not more than two years or to both.

Surcharge

- (1) Where the Minister, after due inquiry, is satisfied that
- (a) a loss or deficit in public funds that has been advanced to or is under the control of a public officer, or
- (b) a loss or damage to public property under the care of a public officer,
- is occasioned as a result of the negligence or misconduct of that public officer, or the negligence or misconduct of that public officer contributed to the loss or deficit in public funds or loss or damage to public property,
- the amount of the loss or deficit or value of the property lost or damaged or the cost of replacing or repairing the damage to the property becomes a debt due to the Government and shall be recovered through an administrative procedure or through a court action.



Surcharge

- (2) Where the negligence or misconduct of the public officer only contributed to the loss or deficit in public funds or loss or damage to
- public property, the amount recoverable from the public officer under subsection (1) may be restricted to an amount that the Minister, after due inquiry, considers just and equitable having regard to the contribution the public officer made to the loss, deficit or damage.
- (3) For purposes of this section, a “public officer” includes a person who has previously occupied a public office.

Penalty for contravention of this Act

- (1) A person who
- (a) refuses or fails to produce or submit any information required under this Act,
- (b) issues a local purchase order outside the Ghana Integrated Financial Management Information System or any other electronic platform in use by Government,
- (c) misuses or permits the misuse of any Government property which results in a loss of public resources,
- (d) contravenes or knowingly permits another person to
- contravene a provision of this Act or the Regulations, or (e) instigates another person to contravene a provision of this Act or the Regulations,

Surcharge

- commits an offence and where no penalty is provided for the offence, is liable on summary conviction to a fine of not less than one hundred and
- fifty penalty units and not more than two hundred and fifty penalty units
- or to a term of imprisonment of not less than six months and not more than two years or to both.

(2) A person who contravenes subsection (1) is, in addition to the penalty specified in that subsection

- (a) liable for any liability contracted on behalf of Government as a result of the contravention; and
- (b) subject to disciplinary action by Government including dismissal, demotion or suspension.

Waiver of sovereign immunity

- Where the Minister is satisfied that it is in the public interest, the Minister may, in connection with a borrowing governed by foreign law,
- (a) in accordance with the Constitution and any other enactment, and
- (b) with the prior approval of Parliament waive any right of the Government to claim sovereign immunity from proceedings in a foreign court to settle any disputes, and with respect to its assets.



Way forward

- The Ministry will undertake extensive dissemination and outreach to publicize and educate people on the new Law.
- The various templates especially for reporting will be developed.
- The necessary training will be undertaken
- The Law takes effect immediately.



 **THANK YOU**