

CAYMAN ISLANDS



Supplement No. 1 published with Gazette No. 7 dated 7
April, 2003.

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) LAW,
2002**

(LAW 18 OF 2002)

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) LAW,
2002**

ARRANGEMENT OF SECTIONS

1. Short title and commencement.
2. Amendment of section 2 of the Public Management and Finance Law, 2001 – commencement.
3. Amendment of section 3 – definitions.
4. Amendment of section 11 - permanent appropriations.
5. Amendment of section 39 – powers of chief officer of a ministry or portfolio.
6. Amendment of section 42 - performance agreement.
7. Amendment of section 60 – reporting by Auditor-General.
8. Amendment of section 63 - investigatory powers of the Auditor-General.
9. Insertion of sections 77A, 77B and 77C - Law not to affect the constitutional independence of the Attorney-General, the Judiciary or the Complaints Commissioner.
10. Amendment of the principal Law – Governor in Council.

CAYMAN ISLANDS

Law 18 of 2002.

I Assent

B. H. Dinwiddy

Governor.

18 March, 2003

**A LAW TO AMEND THE PUBLIC MANAGEMENT AND FINANCE
LAW, 2001**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Public Management and Finance (Amendment) Law, 2002 and comes into force on 7 November, 2002. Short title and commencement

2. The Public Management and Finance Law, 2001, 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, 2001 - commencement
 - (a) in subsection (1), by repealing “on 1 January, 2002” and substituting “on the date of publication of this Law in the Gazette”;
 - (b) in subsection (2), by repealing “(other than sections 59(e), 63(3),” and substituting “(other than sections 59(e), 63(3), (4), (5), (6) and (7),”;
 - (c) in subsection (4), by repealing “Sections 59(e), 63(3),” and substituting “Sections 59(e), 63(3), (4), (5), (6) and (7),”.

3. The principal Law is amended in section 3 as follows - Amendment of section 3 - definitions
 - (a) in the definition of the term “chief officer” -
 - (i) by repealing subparagraph (ii) of paragraph (b) and substituting the following subparagraph –

- “(ii) in the case of the Portfolio of Legal Affairs, such public officer in the Portfolio as may be designated by the Governor; and”; and
- (ii) by repealing paragraph (e) and substituting the following paragraph –

“(e) in the case of the judicial administration, the court administrator, or such other suitable person designated by the Chief Justice;”;

- (b) by repealing the definition of the term “judicial department” and substituting the following definition -

“ “judicial administration” means the Government department, including all of its staff and physical resources, which provides administrative support for the Judiciary;”; and

- (c) in the definition of the term “portfolio”, by repealing the words “judicial department” and substituting the words “judicial administration”.

Amendment of section 11 - permanent appropriations

- 4. The principal Law is amended in section 11(2), by inserting after paragraph (a) the following paragraph -

“(aa) the salaries, emoluments and allowances of members of the judiciary and the magistracy;”.

Amendment of section 39 – powers of chief officer of a ministry or portfolio

- 5. The principal Law is amended in section 39 as follows -

- (a) by repealing subsection (1) and substituting the following subsection –

“(1) It is the responsibility of a minister or official member to recommend to the Governor in Council the outputs to be purchased from their ministries or portfolios and it is the responsibility of the Governor in Council to determine the outputs to be purchased from a ministry or portfolio; and no outputs may be produced by a ministry or portfolio unless the production of those outputs has been agreed by the Governor in Council in the relevant performance agreement.”;

- (b) by inserting after subsection (1) the following subsection –

“(1A) It is the responsibility of the chief officer to determine and acquire the inputs required to produce the outputs specified in his finalised performance agreement and, subject to section 40, no decision or action in relation to inputs shall be made or taken by or on behalf of a ministry or portfolio for the purposes of this

Deleted: “ (1) . No decision or action in relation to outputs may be made, taken or approved by or on behalf of a ministry or portfolio for the purposes of this Law unless that decision or action has been made, taken or approved by the relevant minister or official member, and the chief officer of the ministry or portfolio shall comply with any such lawful action required by the relevant minister or official member.”;¶
(b) . by inserting after subsection (1) the following subsection –¶

Law unless that decision or action has been made, taken, or agreed by the chief officer of the ministry or portfolio.”; and

- (c) in subsection (2), by repealing the words “a ministry or portfolio may –” and substituting the words “a ministry or portfolio may, subject to subsections (1) and (1A) –”.
6. The principal Law is amended in section 42(4)(b) as follows – Amendment of section 42 - performance agreement
- (a) in subsection (4)(b) as follows –
- (i) in subparagraph (i), by repealing the words “a ministry or”;
- (ii) in subparagraph (ii), by inserting after the words “the Attorney-General” the words “or, where the Attorney-General is the chief officer, the Governor”;
- (iii) by repealing the word “and” appearing at the end of subparagraph (ii); and
- (iv) by inserting after subparagraph (iii), the following subparagraph -
- “ (iv) in the case of the performance agreement for the chief officer of a ministry, the relevant minister, and”;
- and
- (b) by repealing subsection (6) and substituting the following subsection –
- “ (6) A performance agreement may be amended by the Governor in Council during the financial year to which it relates provided that the price to be paid for each output in the amended performance agreement is sufficient to deliver the outputs required by the amended performance agreement.”.
7. The principal Law is amended in section 60 by repealing subsection (2). Amendment of section 60 – reporting by Auditor-General
8. The principal Law is amended in section 63 as follows – Amendment of section 63 - investigatory powers of the Auditor-General
- (a) in subsection (1), by repealing paragraph (a) and substituting the following paragraph –
- “ (a) the right of access to all information held by any public officer or employee of a statutory authority or government company;”;
- (b) in subsection (3) by inserting after the words “companies and bodies” the words “but shall not include a right of access to

information held by a member of the Governor in Council or a member of the Legislative Assembly”; and

(c) by inserting after subsection (3) the following subsections –

“ (4) Where a person fails to comply with a direction given under subsection (3) within three days from the date of the direction or such longer period as the Auditor-General may permit, the Auditor-General may apply to a court of summary jurisdiction for an order requiring the person to comply with the requirement or direction.

(5) Where, in connection with a direction given under subsection (3), the Auditor-General considers it necessary to examine a person on oath, the Auditor-General may apply to a court of summary jurisdiction to have that person examined by the court and to have the results of that examination sent to the Auditor-General.

(6) The court shall process an application under subsection (5) and send the results of the examination to the Auditor-General.

(7) Where a person complies with a direction under subsection (3) or an order under subsection (4), or gives evidence under subsection (5), such compliance shall not be treated as a breach of any restriction upon disclosure of information by or under any law and shall not give rise to any civil liability.”.

Insertion of sections 77A, 77B and 77C - Law not to affect the constitutional independence of the Attorney-General, the Judiciary or the Complaints Commissioner

9. The principal Law is amended by inserting after section 77 the following sections –

“Law not to affect the constitutional independence of the Attorney-General

77A. (1) Nothing in this Law shall affect the constitutional functions or constitutional independence of the Attorney-General.

(2) The provisions of this Law shall apply to the Portfolio of Legal Affairs, except that -

(a) in the performance agreement –

(i) in relation to the outputs of the Portfolio that relate to the functions of the Attorney-General specified in the Constitution, the specifications set out in section 42(2)(a)(i) to (iv) shall be contained in the performance

- agreement but shall be subject to agreement with the Attorney-General;
- (ii) in relation to the outputs of the Portfolio that relate to the functions of the Attorney-General specified in the Constitution, the specifications set out in section 42(2)(a)(v) to (viii) shall be contained in the performance agreement but shall be subject to agreement with the Governor in Council; and
 - (iii) in relation to the other outputs of the Portfolio, the specifications set out in section 42(2)(a) shall be contained in the performance agreement and shall be subject to agreement with the Governor in Council; and
- (b) the chief officer shall be accountable to the Attorney-General for the delivery of the specifications provided for in paragraph (a)(i) and shall be accountable to the Governor in Council for the delivery of the specifications provided for in paragraph (a)(ii) and (iii).

Law not to affect the constitutional independence of the Judiciary

77B. (1) Nothing in this Law shall affect the constitutional functions or constitutional independence of -

- (a) the President or any Judge of the Court of Appeal; or
- (b) the Chief Justice or any Judge of the Grand Court.

(2) Nothing in this Law shall be construed so as to define the judiciary as a ministry or portfolio or to require the judiciary to comply with any of the provisions of Parts III, IV or V of this Law.

(3) The provisions of this Law shall apply to the judicial administration except that the outputs and the details of the ownership performance specified in the performance agreement of the judicial administration shall be specified so as to ensure that they do not impinge on the constitutional functions or constitutional independence of the judiciary.

Law not to affect the constitutional independence of the Complaints Commissioner

77C. Nothing in this Law shall affect the constitutional functions or constitutional independence of the Complaints Commissioner.”.

Amendment of the principal Law – Governor in Council

10. The principal Law is amended by repealing the words “Executive Council” wherever they appear in the principal Law and substituting the words “Governor in Council”.

Passed by the Legislative Assembly the 7th day of November, 2002.

JULIANNA O’CONNOR-CONNOLLY

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.