

ABILL

ENTITLED

AN ACT to Provide a comprehensive framework for the financing and financial management of local authorities, and for connected matters.

[]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—*Preliminary*

1. This Act may be cited as the Local Government (Financing and Financial Management) Act, 2016, and shall come into operation on a day (hereinafter referred to as the appointed day) appointed by the Minister by notice published in the *Gazette*.

Short title
and
commence-
ment.

Interpretation.

2. —(1) In this Act—

“accountable officer” means any public officer, including an accounting officer, concerned in or responsible for the collection, receipt, custody, issue or payment of money or other property on behalf of a Local Authority;

“accounting officer”, in relation to a Local Authority, means the person referred to in section 9;

“curtilages” means the out offices and grounds lying near and used with a dwelling-house as a yard or garden, or used for other purposes in connection with that dwelling-house, but does not include an area of land exceeding one acre;

“Equalization Fund” means a fund established under section 13(1)(b) to receive and distribute financial resources among Local Authorities in accordance with the provisions of section 14(2);

“Local Authority” has the meaning assigned to it by section 2 of the *Local Governance Act*, and the term “relevant Local Authority” means—

- (a) the Municipal Corporation for the parish concerned; or
- (b) in any case where a Municipality is established pursuant to an order under section 8 of the *Local Governance Act* or continued pursuant to the provisions of section 5 of that Act, the Municipality responsible for the geographical area concerned;

“Parochial Revenue Fund” means the fund established under section 13(1)(a) to receive and distribute financial resources to Local Authorities in accordance with the provisions of section 14(1);

“property” means any property shown on the valuation roll made and settled, or from time to time duly altered and amended, under the *Land Valuation Act*;

“person in possession of property” means the owner, occupier, mortgagee in possession, or other person in actual possession of the property;

“relevant structure” means any dwelling-house, shop, store, wharf, warehouse, office or place of business;

“the value of the property” means the gross value of any property as shown in the valuation roll.

(2) For the purposes of this Act—

- (a) in any case where properties are added to the valuation roll by means of the Collectors’ assessment or counter-assessment, after the first day of April in any year, such assessment or counter-assessment shall be deemed to be an assessment for the purposes of the *Tax Collection Act* and any enactment amending the same;
- (b) the minimum value of any property that may be added to the valuation roll, in the case of property consisting of land only, or of a relevant structure without land or with land not exceeding a quarter of an acre in extent, shall be such amount as the Minister may prescribe by order subject to affirmative resolution;
- (c) where the same person is in possession of more than one lot of property in the same parish, each of which consists of land without a relevant structure, and the value of each such lot does not exceed the amount prescribed under paragraph (b), the lots may be taken together and reckoned as one property for the purpose of determining their tax liability;
- (d) reference to the unimproved value of property in whatever terms shall be deemed to be a reference to the unimproved value of the land within the meaning of the *Land Valuation Act*.

(3) Except as provided in subsection (1), any expression appearing in this Act which is defined in the *Local Governance Act* shall

have the meaning assigned to that expression by the *Local Governance Act*, unless the context otherwise requires.

PART II—*Financial Management Mechanisms*

Submission
of estimates.

3.—(1) On or before the thirty-first day of October in each year, a Local Authority shall submit to the Minister for approval—

- (a) an operational budget, showing in detail the estimated income receivable and expenditure to be incurred during the financial year beginning on the first day of April next ensuing;
- (b) a capital budget, showing in detail the projected receipts and projected expenditure applicable thereto during the financial year beginning on the first day of April next ensuing;
- (c) the Local Authority's budgeted Statement of Financial Position and budgeted Cash Flow Statement, for the financial year beginning on the first day of April next ensuing;
- (d) the Local Authority's strategic plan and budget, for the period of the four financial years beginning on the first day of April next ensuing, including—
 - (i) a statement of the objectives of the Local Authority;
 - (ii) the nature and scope of the activities to be undertaken by the Local Authority, differentiating between commercial, social and regulatory activities;
 - (iii) justification in respect of capital budgets; and
 - (iv) the performance targets and other measures by which the performance of the Local Authority may be judged in relation to its objectives,

in keeping with all relevant national policies and priorities and consistent with the accounting standards referred to in section 7(1)(a).

(2) In formulating the budgets submitted under subsection (1), a Local Authority shall adopt a full cost recovery approach which

facilitates the ready matching of the costs associated with providing the services and functions for which the Local Authority is responsible, to the revenues generated from those services and functions.

(3) If the conditions set out in subsection (5) are met, the Minister shall approve any budgets, statements and plans submitted for approval under this section, and such approval shall—

- (a) be granted provisionally by the 31st day of March next ensuing; and
- (b) be granted finally within thirty days after the passage by Parliament of the *Appropriation Act* for the relevant financial year.

(4) The Minister may, after consultation with the Minister with responsibility for finance, by order subject to affirmative resolution amend subsection (1)(d) so as to add or remove any information required to be set out in a strategic plan and budget submitted under that subsection.

(5) For the purposes of subsection (3) and section 5(3), the conditions are that—

- (a) the assumptions on which the projections for expenditure are based are valid;
- (b) the submission is in compliance with the approved format therefor and all applicable guidelines;
- (c) the submission is consistent with national fiscal policies and priorities; and
- (d) adequate consideration has been given to address any probable risk or eventuality that may arise affecting any relevant projections or targeted outcomes.

4.—(1) Prior to submitting any strategic plan and budget to the Minister for approval under section 3(1)(d), the relevant Local Authority shall ensure that the public is given an opportunity to consider and give feedback on a draft of the strategic plan and budget proposed to be submitted.

Public
consultation.

(2) The opportunity to consider and give feedback afforded under subsection (1) shall be in accordance with such methods as are determined to be best practices as agreed by Local Authorities in consultation with the Minister.

Further
expenditure.

5.—(1) Except with the prior approval of the Minister, a Local Authority shall not incur during a financial year any expenditure not provided for in the budgets approved under section 3 for that financial year.

(2) Notwithstanding subsection (1) —

- (a) a Local Authority may at any time during a financial year authorise a saving under any recurrent subhead of expenditure in such budget to be applied to meet an excess under another subhead, subject to such conditions and restrictions as the Minister may specify in writing;
- (b) expenditure incurred without the approval required therefor by subsection (1), or in contravention of any conditions or restrictions specified under paragraph (a), may be subsequently approved within the financial year by the Minister upon the application of the Local Authority, if such expenditure appears to the Minister to have been necessarily incurred; and notice of such approval shall be published in the *Gazette*; and
- (c) upon approval given under paragraph (b), but without prejudice to any right or liability enforced prior to the approval, the requirements of paragraph (a), or of subsection (1) (as the case may be), shall be deemed to have been complied with in relation to that expenditure.

(3) The Minister shall not grant approval under this section unless the Minister is satisfied that the conditions specified in section 3(5) are met.

Financial
statements.

6.—(1) For each calendar month, in respect of a Local Authority's operations for that month, the Local Authority shall submit to the Minister within thirty days after the end of the month, or such other period as may be prescribed, the following—

- (a) a Statement of Financial Position;

- (b) a Statement of Financial Performance;
- (c) a Cash Flow Statement;
- (d) a Statement of Actual Expenditure versus Budget;
- (e) a Statement of Actual Revenue versus Budget;
- (f) Bank Reconciliation Statements;
- (g) Notes to the Accounts; and
- (h) any other financial statement prescribed by the Minister responsible for finance.

(2) The accounts of a Local Authority shall be prepared based on the International Public Sector Accounting Standards adopted by the Government of Jamaica.

(3) A Local Authority shall submit to the Minister, as soon as possible after the end of each financial year but not more than four months thereafter, the Local Authority's annual financial report, including its audited financial statements, which shall —

- (a) provide a full and accurate statement regarding the financial performance of the Local Authority over the relevant financial year;
- (b) be based on the International Public Sector Accounting Standards adopted by the Government of Jamaica; and
- (c) conform with all applicable financial instructions issued by the Financial Secretary.

(4) The Minister shall cause a copy of the report and statements submitted under subsection (3) to be laid on the Table of the House of Representatives and of the Senate within thirty days after receipt thereof and, in the case of any delay in complying with this subsection, shall make a statement to Parliament as to the reason for the delay.

Accounting practices, systems and policies.

7.—(1) In the management of its finances, a Local Authority shall—

- (a) employ an accrual accounting system based on the International Public Sector Accounting Standards adopted by the Government of Jamaica, and which—
 - (i) conforms with all relevant policies and guidelines issued by the Financial Secretary; and
 - (ii) is designed to enable the recognition of the value of works and expenditure undertaken by the Local Authority, so as to enable proper quantification of the level of effort and value of the work carried out;
- (b) subject to any regulations made under section 32, in determining user fees and charges payable to it for services and functions carried out by the Local Authority, ensure that the Local Authority does not incur a deficit in financing its overall operations, and in so ensuring may—
 - (i) apply principles of full cost recovery to particular services or functions;
 - (ii) use funds collected from fees and charges, for relevant recurrent or capital expenditure;
 - (iii) establish policies to offset expenditure incurred in the course of providing specific activities, from the income generated by those activities; and
 - (iv) determine appropriate fee structures for the provision of services and the recognition of the economic cost of its activities.

(2) Subject to subsection (1)(b), a Local Authority may adopt policies which provide for the waiver or reduction of fees and charges in respect of any registered charitable organization (as defined by the *Charities Act*), or any person or class of persons who the Local Authority is satisfied is unable to afford the full amount of such fees or charges—

- (a) in conformity with national policies and all applicable financial instructions issued by the Financial Secretary; and

(b) after consultation with the Minister.

8.—(1) A Local Authority shall adopt procurement practices, policies and procedures that are consistent with, and ensure that its Council, officers and other employees comply with—

Procurement policies.

- (a) all enactments governing public procurement;
- (b) such procurement guidelines as are issued by the Government of Jamaica; and
- (c) such circulars, guidelines and other financial instructions issued with respect to procurement matters from time to time by the Financial Secretary.

(2) Subject to subsection (1), a Local Authority shall seek to adopt policies that—

- (a) encourage and support duly licensed or registered local suppliers and producers when obtaining goods and services;
- (b) ensure that best value is obtained for expenditure undertaken;
- (c) commit to quality service delivery; and
- (d) ensure practices that exhibit transparency, openness and accountability.

9.—(1) The Minister shall from time to time designate in writing an officer of a Local Authority who shall be the accounting officer of the Local Authority pursuant to section 24 of the *Local Governance Act*.

Accounting officer.

(2) The accounting officer of a Local Authority shall be accountable to the Council of the Local Authority for—

- (a) the assessment and collection of, and accounting for, all money or other property lawfully receivable by the Local Authority;
- (b) ensuring that the purpose for which—
 - (i) an appropriation to the Local Authority is approved by Parliament; or
 - (ii) any provision is made in the annual budget of the Local Authority,

is accomplished;

- (c) making any payment required to be made in relation to such appropriation;
- (d) the acquisition, safe custody, control and safe disposal of all property of the Local Authority;
- (e) the administration of any funds for which that officer is assigned responsibility by the Council; and
- (f) the discharge of any other financial responsibility assigned to such officer under this Act or any other enactment.

(3) The written approval of the Council shall be obtained before an accounting officer—

- (a) takes any step to implement a change that is likely to have adverse budgetary implications for—
 - (i) the financial year that is then current; and
 - (ii) the next three ensuing financial years; or
- (b) submits to the Minister a proposal for any such change.

(4) An accounting officer shall, upon being requested to do so by any committee of Parliament, attend before that committee to be examined respecting the exercise of that individual's functions under this Act.

Surcharge by
Finance
Committee.

10.—(1) In this section and section 11, "Finance Committee" means the Finance Committee of the Local Authority concerned.

(2) If it appears to the Finance Committee upon a report by the Auditor-General, that any person who is or was an employee of a Local Authority—

- (a) has failed to collect any moneys owing to the Local Authority for the collection of which that person is or was at the time of such employment responsible;
- (b) is or was responsible for any improper payment of any funds of a Local Authority or for any payment of such funds which is not duly vouched; or

- (c) is or was responsible for any—
- (i) misappropriation or theft of, or any failure to properly account for; or
 - (ii) deficiency in, or for the loss or destruction of, any funds or other property of a Local Authority,

and a written explanation therefor, satisfactory to the Finance Committee, is not furnished within a reasonable period specified by the Finance Committee by notice in writing to that person setting out the conduct alleged for which the explanation is required, the Finance Committee may surcharge against the person the amount not collected, the amount improperly paid or not duly vouched, the amount misappropriated, stolen or not properly accounted for, or the amount of the deficiency or loss or value destroyed (as the case may be), or such lesser amount as the Finance Committee may determine.

(3) No surcharge under subsection (2) may be made after the expiration of a period of three years from the date of the act or omission referred to in subsection (2)(a), (b) or (c), as the case may be.

(4) The Finance Committee shall cause the Auditor-General and the accounting officer of the Local Authority in relation to the matter concerned, to be notified of any surcharge made under subsection (2).

(5) The accounting officer notified under subsection (4) shall notify the person surcharged and shall, subject to subsection (6) and section 11, recover the amount surcharged from such person.

(6) The Finance Committee may at any time withdraw any surcharge in respect of which a satisfactory explanation is made, or if it otherwise appears to the Finance Committee that the surcharge should not have been made, and in any such case the Finance Committee shall notify the Auditor-General and the accounting officer of the Local Authority in relation to the matter concerned, of the withdrawal.

(7) The amount of any surcharge made under this section may, subject to section 11—

- (a) be sued for and recovered as a debt due to the Local Authority by action at the suit of the Local Authority in a Resident Magistrate's Court, regardless of the amount of the surcharge; or
- (b) if the Finance Committee so directs, be recovered by monthly deductions from the salary of the officer surcharged, in such amounts as the Finance Committee shall specify but in any event not exceeding one-sixth of the amount payable monthly in respect of salary to such officer.

(8) Where any grounds on which a surcharge is imposed under this section consist of any alleged conduct which may reasonably be believed to constitute a criminal offence, the Finance Committee shall cause the alleged conduct to be reported to a member of the Jamaica Constabulary Force forthwith.

Remedy of
person
aggrieved by
surcharge.

11.—(1) A decision by a Finance Committee to surcharge an employee under section 10 shall be construed as falling within the matters in respect of which the employee may appeal to the Local Government Services Commission under section 9(1) of the *Local Government (Unified Service and Employment) Act*, and the procedures set out in or under that Act shall apply thereto.

(2) The Finance Committee concerned shall cause the Auditor-General to be notified, as soon as reasonably practicable, of the outcome of the appeal.

(3) No action or proceedings shall be taken under section 10(7)—

- (a) until after the period allowed for making the appeal has expired; or
- (b) if an appeal referred to in subsection (1) is made, while the appeal has not been determined.

PART III.—*Financing*

12. The funds of, or payable to and collected by a Local Authority under this Act or any other enactment shall, after due provision is made with the approval of the Minister for interest on, and amortisation of, any loans or debts for which the Local Authority is liable or responsible under this Act or any other enactment, be applicable toward the payment of the sums or expenses for which the Local Authority is authorised or liable to make payment under this Act or any other law.

Application
of funds of
Local
Authorities.

13.—(1) For the purposes of this Act, there shall be established, under the control and management of a public officer designated for that purpose by the Minister—

Revenue
sources and
establishment
of revenue
Funds.

- (a) a fund to be called the Parochial Revenue Fund; and
- (b) a fund to be called the Equalization Fund.

(2) There shall be paid into the Parochial Revenue Fund—

- (a) an amount equivalent to the total amount of property tax paid pursuant to the *Property Tax Act*, including penalty and interest payable thereon, less any costs lawfully incurred in the collection thereof with the approval of the Minister;
- (b) the amount specified under the *Road Traffic Act* as payable into the Parochial Revenue Fund, in respect of licence duties on motor vehicles, less any costs lawfully incurred in the collection thereof with the approval of the Minister;
- (c) investment or other income, profits or gains, derived from the assets of the Fund;
- (d) such other amount, or source of revenue, as the Minister may specify by order subject to affirmative resolution of the House of Representatives.

(3) Any moneys and investments forming part of the Parochial Revenue Fund or Equalization Fund may from time to time be invested or realized, as the case may be, in accordance with the directions of the Minister after consultation with the Minister responsible for finance.

(4) The accounts of the Parochial Revenue Fund and the Equalization Fund shall be prepared within four months after the end of each financial year, in such form and in such manner as the Minister may direct, and the Auditor-General shall examine and certify such amounts and report thereon to the House of Representatives.

(5) The public officer referred to in subsection (1) shall—

- (a) provide the Permanent Secretary in the Ministry with responsibility for Local Government, with such reports and other information as the Permanent Secretary may require from time to time with respect to the control and management of the Parochial Revenue Fund and the Equalization Fund; and
- (b) comply with such provisions as may be prescribed for the prudent oversight and governance of the control and management of those Funds.

Allocations
out of
revenue
Funds.

14.—(1) Subject to subsection (3), there shall be paid out of the Parochial Revenue Fund to each Municipal Corporation, not later than the last day in each month in respect of amounts received by the Fund as property tax and licence duties in the preceding month, an amount equivalent to—

- (a) ninety percent of the amount paid into the Fund in respect of property tax paid in respect of property in the relevant parish;
- (b) twenty-five percent of the amount paid into the Fund in respect of the amount paid in the relevant parish as licence duties on motor vehicles; and
- (c) the remaining—
 - (i) ten percent paid into the Fund in respect of property tax shall be distributed to each Municipal Corporation, on the basis of the needs of the relevant parish, upon an application made to the Minister by the Municipal Corporation and after

consultation by the Minister with the Municipal Corporation;

- (ii) seventy-five percent of the amount paid into the Fund in respect of licence duties shall be distributed to each Municipal Corporation on the basis of the number of miles of parochial roads in the relevant parish expressed as a percentage of the total number of miles of parochial roads in Jamaica.

(2) The amounts to be paid out under subsection (1) (c)(i) shall first be paid into the Equalization Fund for distribution in accordance with subsection (1)(c)(i).

(3) Where a Municipality is established pursuant to an order under section 8 of the *Local Governance Act* or continued pursuant to section 5 of that Act, the geographical area for which the Municipality is responsible shall be deemed to be a relevant parish for the purposes of this section, but in any case where the Minister is satisfied that the method of allocation set out in subsection (1) would result in an inequitable or disproportionate distribution of revenue between the Municipality and the Municipal Corporation for the parish in which the Municipality is located, the Minister shall, by order subject to affirmative resolution, specify a different method of allocation to be used in apportioning the revenue between the Municipality and the Municipal Corporation concerned.

15.—(1) A Local Authority shall establish and maintain a General Fund into which the funds to be allocated to it under section 14 shall be paid.

General Fund
and special
reserve
accounts.

(2) In addition to the General Fund required to be maintained under subsection (1), a Local Authority shall establish and maintain a capital fund account and such special reserve accounts as it considers appropriate for any of its purposes under this Act or any other enactment.

(3) The budgeted Cash Flow Statement submitted by a Local Authority under section 3(1)(c) shall stipulate the sources from which each fund and reserve account established under this section is

funded, the purpose for which sums from each such fund and reserve account can be used, and the procedures for withdrawing funds from each such fund and reserve account.

Banking
accounts and
receipt of
moneys.

16.—(1) The General Fund and all other funds of a Local Authority shall be kept at one or more deposit taking institutions (within the meaning of the *Banking Services Act*, and duly licensed under that Act) appointed by resolution of the Council of the Local Authority, and—

- (a) the provisions of section 17 of the *Financial Administration and Audit Act* shall apply to the Chief Executive Officer of the Local Authority as if the Chief Executive Officer were an accounting officer under that Act; and
- (b) any account established at a deposit taking institution pursuant to this subsection shall be deemed to be an official bank account for the purposes of section 17 of the *Financial Administration and Audit Act*.

(2) The Chief Executive Officer of a Local Authority shall every day, so far as practicable, cause to be paid into the Local Authority's accounts held with the deposit taking institutions mentioned in subsection (1) all moneys received by or on behalf of the Local Authority, other than such sum as the Chief Executive Officer or any other employee may be authorised by resolution of the Council of the Local Authority to retain in hand to meet immediate payments.

(3) The Council of a Local Authority may, from time to time make regulations as to all or any of the following matters—

- (a) as to the title of any account with any deposit taking institution into which the moneys of the Local Authority may be paid in pursuance of a resolution of the Council;
- (b) the custody of cheque books, pass books and paid cheques; and
- (c) generally as to all matters necessary for the proper keeping of the account.

(4) Cheques against any account of a Local Authority kept under this section shall be signed, and any other forms of payments against any such account shall be approved, by—

- (a) at least one member of the Council; and
- (b) at least one senior employee of the Local Authority,

as authorised by a resolution of the Council of the Local Authority.

(5) No payment out of the funds of a Local Authority, other than petty disbursements, shall be made except upon vouchers duly approved pursuant to arrangements authorised by a resolution of the Council of the Local Authority.

(6) Receipts for moneys paid to a Local Authority shall be issued in accordance with arrangements authorised by a resolution of the Council of the Local Authority.

(7) Any funds of a Local Authority not required for immediate use may be placed in an interest bearing deposit account at a deposit taking institution mentioned in subsection (1).

17.—(1) There shall be paid over to a Local Authority, for the purposes of that Local Authority, all moneys which the Local Authority is entitled to collect, arising or accruing from the issue of licences within the geographical area of the Local Authority, under the provisions of any enactment, unless the enactment otherwise provides.

Moneys
from
licences.

(2) All moneys to be paid over to a Local Authority under the provisions of this section shall be paid over subject to the provisions of any enactment for the time being in force regulating any reimbursement to be made to the Consolidated Fund for collection of the same.

18.—(1) A Local Authority may impose fees—

- (a) in relation to any works or services which it is required or empowered to provide under the *Local Governance Act* or any other enactment; or
- (b) for works or services performed by it on behalf of any department or agency of government or any other entity.

Moneys
from fees,
rents, etc.

- (2) All moneys received on behalf of a Local Authority—
- (a) for fees, rents and income from investments or otherwise; or
 - (b) by way of fines or penalties imposed for the breach of—
 - (i) any regulations made by the Local Authority; or
 - (ii) any other regulations which the Minister may, after consultation with the Minister responsible for finance, prescribe as being a source of revenue for Local Authorities,

shall be paid over to the Local Authority and placed to the credit of the Local Authority.

Rateable projects.

19.—(1) In this Act “rateable project” means any work, falling within a prescribed category, for the benefit of the inhabitants of a Local Authority or any geographical subset of a Local Authority.

(2) In order to pay for or provide for the costs, charges and expenses incurred or to be incurred in relation to any rateable project, subject to subsections (5) and (8) and after complying with the procedure set out in section 20, the relevant Local Authority may impose a rate or rates of such amount and for such period as may be necessary for all or any such purposes.

- (3) Any rate allowed under subsection (2) may—
- (a) be imposed upon properties situated in or throughout the geographical area of the Local Authority, or upon the properties situated in any geographical subset thereof as the Council of the relevant Local Authority may from time to time determine and define;
 - (b) be a uniform rate, a graduated rate varying with the unimproved value of the property in respect of which the rate is to be paid, or a combination thereof; and
 - (c) vary in amount, having regard to the purpose for which such rate is imposed and the advantages to be derived or conferred on any area relative to any other area.

(4) Subject to subsection (5), the Council of a Local Authority may from time to time increase, decrease or otherwise alter any such rate if found to be excessive or insufficient.

(5) The Council of a Local Authority shall submit for the approval of the Minister every—

- (a) rate proposed to be imposed; and
- (b) every increase, decrease or other alteration proposed to be made to any rate imposed,

under this section, and the Minister may act in accordance with subsection (6).

(6) The Minister may, after consultation with the Minister responsible for finance, and upon being satisfied that the provisions of section 20 have been complied with—

- (a) approve, increase, decrease or otherwise alter the rate proposed under subsection (5) (a) or (b); and
- (b) fix the date on which it shall take effect and the date or dates on which it shall become due and payable.

(7) No rate shall be imposed under this section unless a resolution of the House of Representatives has been passed authorising the imposition of the rate.

(8) The rate imposed under this section shall—

- (a) be payable by the person who, on such date, is in possession of the property in respect of which the rate is due;
- (b) be assessed, raised, levied, collected, and shall be paid to the Collector of Taxes for the parish in which the property is situated, in accordance with the provisions of the *Tax Collection Act* or any other enactment for the time being in force in relation to the assessment, raising, levying and collection of rates and taxes;

- (c) after collection, be paid over to the Local Authority, for credit to the General Fund established under section 15 for the purposes of the Local Authority; and
- (d) subject to any claim for property tax imposed under the *Property Tax Act*, be a first charge and lien upon the real property in respect of which the rate is due.

(9) The Minister shall determine what reimbursement, to be computed at a rate not exceeding three percent of the total amount of the revenue collected under this section, shall be made by a Local Authority towards the cost of collecting, accounting for, disbursing and auditing the revenue collected, and the sum so determined shall be paid to the Accountant-General by that Local Authority and carried to the credit of the Consolidated Fund.

(10) The rate as approved by the Minister under subsection (5) shall be published in the *Gazette*.

Initiation of
rateable
projects.

20.—(1) A rateable project shall be initiated only by either of the following modes—

- (a) on submission to the Council of the relevant Local Authority of a sufficiently signed petition; or
- (b) on the report of the relevant Local Authority's engineering officer, as provided in subsection (8).

(2) For the purposes of subsection (1)(a) a petition is sufficiently signed if it is signed by more than fifty percent of the owners—

- (a) of the real property in the geographical area or geographical subset thereof (as the case may be) referred to in section 19(3)(a), according to the latest revised valuation roll prepared under the *Land Valuation Act*; and
- (b) representing at least fifty percent of the value of that real property.

(3) Upon the receipt of a petition under subsection (1)(a), the Chief Executive Officer of the Local Authority shall forthwith examine and compare the petition with the latest revised valuation roll prepared

under the Land Valuation Act, and if the Chief Executive Officer is of the belief, formed upon such comparison, that the petition is sufficiently signed, the Chief Executive Officer shall—

- (a) certify by an endorsement thereon that the petition is sufficiently signed; and
- (b) forthwith transmit the petition to the Local Authority's engineering officer.

(4) Upon receipt of a petition transmitted under subsection (3)(b), the engineering officer shall examine the subject matter of the petition and, with as little delay as possible, transmit to the Council of the Local Authority a report in writing as to the necessity for, or the advisability of, undertaking the proposed project.

(5) Should the Council of a Local Authority, on receiving the report under subsection (4), decide that it is necessary or advisable to undertake the proposed project, the engineering officer shall report to the Council as to—

- (a) the nature of the works involved in the proposed project;
- (b) the total estimated cost of the project, including—
 - (i) the probable contract price;
 - (ii) the amount of any property damage necessarily resulting from the construction thereof; and
 - (iii) any engineering expenses connected therewith; and
- (c) the probable lifetime of the project.

(6) After receiving the report of the engineering officer, as to the matters referred to in subsection (5), the Council of the Local Authority shall forward the report to the Minister, together with—

- (a) the report under subsection (4);
- (b) the petition (if any) under subsection (1)(a) relating thereto; and

- (c) the written report of the Council as to the financial arrangements in respect thereof.

(7) On receipt of the matters specified in subsection (6), the Minister shall consider them and shall notify the Council as to whether or not the project is approved and, if the project is approved, the Minister may give to the Council such directions in connection therewith as the Minister thinks fit.

(8) In any case where the engineering officer of a relevant Local Authority thinks it is advisable that a rateable project be undertaken without any petition, or any sufficiently signed petition, having been submitted under this section, the engineering officer shall proceed under subsection (4) in making a report to the Council of the Local Authority, and the matter shall thereafter proceed in accordance with this section.

(9) Where approval for a rateable project is given by the Minister, the Council may, subject to such directions as may be given by the Minister under subsection (7), either itself carry out the work or enter into a contract for the execution thereof, in accordance with the applicable laws relating to procurement.

(10) In this section, “engineering officer” means the senior officer of a Local Authority, responsible for engineering matters.

Financing of
improvement
projects.

21.—(1) In this section—

“improvement district” means a Special Improvement District or a Business Improvement District approved under the *Local Governance Act*;

“improvement project” means any work, in an improvement district, to which the provisions of Part VI of the *Local Governance Act* applies.

(2) In order to pay for or provide for the costs, charges and expenses incurred, or to be incurred, in relation to any improvement project, and subject to subsection (8), a Local Authority may from time

to time impose, in such amount and for such period as may be necessary for all or any such purposes—

- (a) a rate or rates; or
- (b) additional rates or fees, in respect of any rate or fees (as the case may be) which may be collected by the Local Authority by virtue of any of the other provisions of this Act.

(3) Any rate or fee allowed under subsection (2)(a) or (b) may—

- (a) be imposed upon—
 - (i) properties situated in or throughout the improvement district concerned, or upon the properties situated in such geographical area thereof as the Council of the Local Authority may from time to time determine and define; or
 - (ii) any activity or operation in the geographical jurisdiction of the improvement district concerned; and
- (b) vary in the amount imposed under paragraph (a), having regard to the purpose for which such rate is imposed and the advantages to be derived or conferred on any such area.

(4) The Council of the Local Authority may from time to time increase, decrease or otherwise alter any rate or fee referred to in subsection (2)(a) or (b) if found to be excessive or insufficient.

(5) The Council of the Local Authority shall submit for the approval of the Minister every—

- (a) rate or fee proposed to be imposed under this section; and
- (b) every increase, decrease or other alteration proposed to be made to such rate or fee,

and the Minister may act in accordance with subsection (6).

(6) The Minister may, after consultation with the Minister responsible for finance, and upon being satisfied as to compliance with such consultation procedures as may be prescribed—

- (a) approve, increase, decrease or otherwise alter the rate or fee proposed under subsection (5)(a) or (b); and
- (b) fix the date on which it shall take effect, and the date or dates on which it shall become due and payable.

(7) Every rate or fee imposed under this section shall be assessed, raised, levied, collected and paid over to the Local Authority in accordance with the provisions of section 19(8) and (9), and those provisions shall apply to rates imposed under this section, with the necessary modifications.

(8) No rate shall be imposed under this section unless a resolution of the House of Representatives has been passed authorizing the imposition of the rate or fee.

(9) The rate or fee, as approved by the Minister under subsection (5), shall be published in the *Gazette*.

Disbursement
by Local
Authority.

22.—(1) A Local Authority that has collected or received any sums as payment of any rate payable under section 21 shall, subject to subsection (2), disburse those sums to the improvement district concerned in accordance with the work plan or expenditure schedule applicable in relation thereto.

(2) No disbursement shall be made under subsection (1) unless the Local Authority is satisfied that all works, activities or operations, as the case may be, have been satisfactorily performed in accordance with the relevant work plan or expenditure schedule.

Administration
of funds for
improvement
projects.

23.—(1) The sums received by an improvement district under section 22 shall be paid into an account established for that purpose by the improvement district in accordance with the provisions of this section.

(2) For the purpose of carrying out any improvement project, an improvement district shall establish, at a deposit taking institution duly licensed under the *Banking Services Act*, an account in the name of the improvement district, into which all funds disbursed under section 22 shall be kept.

(3) An improvement district shall—

- (a) take such steps as are necessary—
 - (i) for the effective management of the improvement district; and
 - (ii) to ensure the accountability of all persons who manage the resources of the improvement district;
- (b) keep accounts of its operations, prepared in accordance with generally accepted accounting principles promulgated from time to time by the Institute of Chartered Accountants of Jamaica or such other body as may be specified by the Minister by order.

(4) The relevant Local Authority shall be entitled at all reasonable times to examine the accounts of an improvement district, and where in any case the Local Authority has reasonable cause to believe that an audit of the accounts and finances of the improvement district should be conducted, may appoint an auditor or firm of auditors for that purpose (being in any case a registered public accountant under the *Public Accountancy Act*).

(5) Where an auditor or firm of auditors is appointed pursuant to subsection (4), the Local Authority shall require that auditor or firm to carry out and report in writing to the Local Authority on –

- (a) such examination of the improvement district's procedures as the Local Authority may specify in order to determine whether or not those procedures are adequate for securing economy, efficiency and effectiveness in the improvement district's use of the funds disbursed;
- (b) such other examination of the improvement district as, in the Local Authority's opinion, is necessary in the public interest.

(6) The reasonable expenses, as approved by the Local Authority, of any audit carried out pursuant to subsection (4) shall be paid by the improvement district concerned.

By-laws, etc. **24.** The Council of a Local Authority may from time to time make such by-laws, rules or regulations as it considers necessary or appropriate for the purpose of carrying out the provisions of sections 19 to 23, or the projects authorized under those sections, in the geographical area for which that Local Authority is responsible.

Expenditure. **25.—**(1) The recurrent expenses of a Local Authority shall be met out of its funds derived from—

- (a) rates, user fees, licence fees, service charges and administrative fees;
- (b) taxes and other transfers from central government;
- (c) rents, interest and profits from investments;
- (d) grants and gifts; and
- (e) fines and penalties referred to in section 18(2)(b).

(2) The capital expenses of a Local Authority shall be met out of—

- (a) proceeds from loans or bonds issues authorised under section 26;
- (b) special grants, or allocations from central government or other agencies of government;
- (c) proceeds from the sale of assets;
- (d) income from investments;
- (e) contributions from joint venture partners; and
- (f) any surplus.

Borrowing. **26.—**(1) Subject to the provisions of this section, a Local Authority may, with the approval of the Minister responsible for finance, borrow any sums required by it for meeting any of its obligations or discharging any of its functions.

(2) Any borrowing by a Local Authority under this section shall not—

- (a) be guaranteed by the Minister with responsibility for finance, or otherwise involve any assumption of financial obligation

by the Government of Jamaica, other than in accordance with the *Public Debt Management Act, 2012*; or

- (b) constitute a liability, whether direct, contingent or otherwise, on the Consolidated Fund.

(3) Approval shall be given by the Minister under subsection (1) only if the Local Authority satisfies the Minister as to its creditworthiness, including its capacity to manage and service its loan obligations.

(4) All borrowing powers under this section shall be exercised in accordance with Jamaica's fiscal policy framework and, without prejudice to the generality of the foregoing, shall comply with such provisions of the following enactments as may be prescribed, in all respects as if the Local Authority concerned were a department in the public service of Jamaica—

- (a) the *Financial Administration and Audit Act*;
- (b) the *Public Bodies Management and Accountability Act*;
- (c) the *Public Debt Management Act*; and
- (d) the Financial Administration and Audit (Fiscal Responsibility Framework) Regulations, 2012.

PART IV—*Auditing, Reporting and Inspections*

27.—(1) The accounts of a Local Authority shall be subject to audit Audit. by the Auditor-General in all respects as if the Local Authority were a department in the public service of Jamaica.

(2) As soon as practicable after the end of each financial year of a Local Authority, but in any event within such time as may be prescribed—

- (a) the Local Authority shall make available to the Auditor-General in such manner as the Auditor-General may require, all returns, books, papers or other information required by the Auditor-General for the purposes of this section; and

- (b) the Auditor-General shall, in relation to each Local Authority, submit the accounts of that financial year to the Minister, duly certified by the Auditor-General, and accompanied by—
- (i) such remarks as the Auditor-General thinks appropriate on any items in such accounts; and
 - (ii) a report on the financial position of the Local Authority.

(3) The accounts submitted under subsection (2) (b) shall be published in the *Gazette*.

(4) Any sum expended at the instance of the Council of a Local Authority (howsoever charged in the accounts of the Local Authority) which is determined by the Minister, after considering a report thereon by the Auditor-General, as—

- (a) not having been authorised in the estimates as approved under section 3;
- (b) being in excess of the amounts authorised for the particular purpose in the estimates as approved under section 3 or by the Minister under section 5; or
- (c) as being an illegal payment out of the funds of the Local Authority,

shall be recoverable from such of the persons specified in subsection (5) as have incurred or purported to authorise the expenditure, and any person from whom an amount is recoverable under this section shall be jointly and severally liable in that behalf.

(5) The persons referred to in subsection (4) are—

- (a) the Mayor;
- (b) the Councillors;
- (c) any member of a committee of the Council of the Local Authority appointed under the *Local Governance Act*;

- (d) the Chief Executive Officer of the Local Authority;
- (e) the Chief Financial Officer of the Local Authority; and
- (f) any other officers of the Local Authority.

(6) Any liability under this section may be enforced—

- (a) by action of debt at the suit of a public officer, being an officer designated by the Minister for that purpose; and
- (b) on the certificate of the Auditor-General that the amount is recoverable,

and any such action shall be carried to the credit of such account as the Minister shall direct.

28.—(1) The Chief Executive Officer of a Local Authority shall cause to be complied with, the requests and instructions of the Auditor-General in relation to any examination or audit carried out on the accounts of that Local Authority under this Act.

Powers of
Auditor-
General.

(2) The Auditor-General shall have the power—

- (a) from time to time to call for any returns, books, papers or other information, relating to or in any manner concerning any of the accounts under the examination of the Auditor-General or any enquiry which the Auditor-General is authorised to make for that purpose;
- (b) to retain any returns, books, papers or other information referred to in paragraph (a) for so long as is reasonably necessary for the purposes of the examination or enquiry, and to make copies thereof;
- (c) to send for and examine on oath administered by the Auditor-General any officer of a Local Authority, or any other person entrusted with any funds of a Local Authority, concerning—
 - (i) any matter or thing relating to the accounts of a Local Authority;
 - (ii) the receipt or expenditure of any funds of a Local Authority; or
 - (iii) any enquiry which the Auditor-General is authorised to make for that purpose.

(3) The Chief Executive Officer of the Local Authority concerned, and the employees of that Local Authority shall, as soon as reasonably practicable, give to the Auditor-General the information required by the Auditor-General in the exercise of any power under subsection (2).

(4) Any officer or person examined under subsection (2)(c) who wilfully gives evidence which is false in any material particular shall be liable for the offence of perjury and on conviction thereof shall be liable to the penalties applicable to such offence under the *Perjury Act*.

Rules, etc.,
regarding
audit.

29.—(1) The Minister, after consultation with the Auditor-General, may from time to time make any orders, rules, or regulations that may seem to the Minister appropriate respecting the keeping, examination and audit of any books of account or vouchers, of a Local Authority.

(2) The Chief Executive Officer of a Local Authority shall cause to be complied with, any orders, rules or regulations, made under subsection (1).

(3) From its income in each year, a Local Authority shall pay the expenses incurred in complying with this section.

Internal
audit.

30.—(1) There shall be established in each Local Authority a system of internal audit for examining accounting systems, internal controls, risk management and governance processes of the Local Authority.

(2) The accounting officer of a Local Authority shall ensure that such number of officers as may be appropriate are assigned for the purposes of subsection (1).

(3) The officer in charge of internal audit in a Local Authority shall, in addition to such other duties and responsibilities as the accounting officer may assign—

- (a) in respect of each financial year of the Local Authority, submit to its audit committee for approval, an internal audit plan, within such time as may be prescribed;
- (b) submit on a regular basis, reports in writing to the accounting officer; and

- (c) make quarterly reports to the audit committee and the Finance Committee of that Local Authority, containing the findings of that officer and such recommendations as the officer considers necessary.

(4) For the purposes of this section, internal audit functions may be conducted on the basis of shared service arrangements between Local Authorities.

31.—(1) There shall be established in each Local Authority an audit committee in accordance with the provisions of this section, and the accounting officer of the Local Authority shall ensure that there is in operation in the Local Authority an audit committee as required by this section.

Audit committees.

(2) The provisions of sections 33A, 33B and the First Schedule of the *Financial Administration and Audit Act* shall, with the necessary modifications, have effect as to the functions, constitution and procedure of audit committees established under this section, and otherwise in relation thereto.

(3) The Audit Commission established under section 33C of the *Financial Administration and Audit Act* shall exercise the functions set out in section 33D of that Act in relation to the audit committees established under this section, and for that purpose the provisions of sections 33D to 33S of the *Financial Administration and Audit Act* shall apply to such committees in all respects as if they were audit committees established in departments of government under that Act.

PART V—General

32. The Minister may make regulations for the purpose of giving effect to the provisions of this Act and in particular, but without prejudice to the generality of the foregoing, such regulations may make provision in relation to—

Power of Minister to make regulations.

- (a) the establishment of appropriate accounting systems and procedures in relation to the operation of bank accounts by accounting officers;

- (b) requirements in relation to budgeting, financial reporting, accounting and auditing by Local Authorities;
- (c) guidelines and standards in respect of the activities and operations of Local Authorities, after due consultation with relevant stakeholders and agencies and departments of government;
- (d) the procedure for determining the user fees and charges payable to Local Authorities for their services and functions;
- (e) payments made electronically, in respect of motor vehicle licence duties, with a view to ensuring that the portion referred to in section 14(1)(b) is paid into the Parochial Revenue Fund and allocated among Local Authorities in a manner that the Minister considers equitable;
- (f) the categories of works which shall constitute rateable projects for the purposes of section 19;
- (g) the consultation procedures which shall apply to the financing of improvement projects for the purposes of section 21;
- (h) arrangements for the prudent oversight and governance of the control and management of the Parochial Revenue Fund and the Equalization Fund.

Directions to
Local
Authorities.

33. The Minister, after consultation with the Minister responsible for finance, may issue policy directions to Local Authorities in relation to their financial operations with a view to facilitating probity, transparency in the management of the financial affairs of Local Authorities, and promoting alignment with national fiscal policy rules and objectives.

Repeal of the
*Parochial
Rates and
Finance Act.*

34. The *Parochial Rates and Finance Act* is hereby repealed.

35. The *Municipal Officers (Surcharge) Act* is amended by deleting the Schedule thereto and substituting therefor the following— Consequential amendments.

“
SCHEDULE (Sections 2 and 9)
The National Water Commission
”

Passed in the House of Representatives this 10th day of November, 2015 with one (1) amendment.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 8th day of January, 2016 with two (2) amendments.

ANGELA BROWN-BURKE
Deputy President.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to enact legislation which will provide a single comprehensive framework to address the financing and financial management of local government authorities. This framework is expected to facilitate efficient local governance.

This Bill seeks to give effect to that decision and, among other things—

- (a) identifies the sources of revenue from which Local Authorities will be financed;
- (b) provides for guidelines and oversight intended to ensure prudent financial management, accountability and transparency of Local Authorities and their adherence to national fiscal policies and priorities; and
- (c) provides for the repeal of the *Parochial Rates and Finance Act*.

This Bill is a companion measure to the Bill shortly entitled the *Local Government (Unified Service and Employment) Act, 2015*.

NOEL ARSCOTT
Minister of Local Government and
Community Development.

A BILL

ENTITLED

AN ACT to Provide a comprehensive framework for the financing and financial management of local authorities, and for connected matters.

As passed in the Honourable House of Representatives.

As passed in the Honourable Senate.

**PRINTED BY JAMAICA PRINTING SERVICES (1992) LTD.,
(GOVERNMENT PRINTERS), DUKE STREET, KINGSTON, JAMAICA.**

SCHEDULE TO THE MUNICIPAL OFFICERS (SURCHARGE) ACT
WHICH IT IS PROPOSED TO REPEAL AND REPLACE

SCHEDULE (Sections 2 and 9)

The Council of the Kingston and St. Andrew Corporation.
The National Water Commission.
The Parish Council for any parish.

