

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) BILL,
2010**

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Public Management and Finance Law (2005 Revision).

Clause 2(b)(iii) adds the Information Commissioner to the list of chief officers prescribed in section 2 of the principal Law. The rest of clause 2 makes consequential amendments to a number of definitions in which it is now necessary to add the Information Commissioner. There are other consequential amendments effected by clauses 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19 and 20, all of which now also refer to the Information Commissioner.

Clause 5 amends section 24(1) of the principal Law to require that the annual plan and estimates for a financial year be presented for review prior to the start of that financial year rather than on the first of May in each year.

Clause 16 makes it clear that the independence of the Office of the Information Commissioner will remain intact.

There are other consequential amendments.

**THE PUBLIC MANAGEMENT AND FINANCE (AMENDMENT) BILL,
2010**

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Public Management and Finance Law (2005 Revision - definitions
3. Amendment of section 9 - appropriations
4. Amendment of section 23 - strategic policy statement
5. Amendment of section 24 - annual plan and estimates
6. Amendment of section 35 - power to make regulations
7. Amendment of section 36 - power to direct over ownership matters
8. Insertion of section 45A - application of Part IV to Office of the Information Commissioner
9. Amendment of section 54 - duties of ministry responsible for finance
10. Amendment of section 55 - executive bank account
11. Amendment of section 56 - power to request information for Government reporting
12. Amendment of section 57 - powers of Internal Audit Unit
13. Amendment of section 60 - powers and duties of Auditor-General
14. Amendment of section 64 - investigatory powers of Auditor-General
15. Amendment of section 70 - trust assets to be separately accounted for
16. Insertion of section 81A - Law not to affect independence of Information Commissioner
17. Amendment of Second Schedule - forecast financial statements
18. Amendment of Third Schedule - quarterly financial statements
19. Amendment of Fourth Schedule - annual financial statements
20. Amendment of Fifth Schedule - ownership performance measures

CAYMAN ISLANDS

**A BILL FOR A LAW TO AMEND THE PUBLIC MANAGEMENT AND
FINANCE LAW (2005 REVISION) TO EXTEND THE LAW TO THE
INFORMATION COMMISSIONER; TO REQUIRE THAT THE ANNUAL
PLAN AND ESTIMATES FOR A FINANCIAL YEAR BE PRESENTED
FOR REVIEW PRIOR TO THE START OF THAT FINANCIAL YEAR;
AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED
PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Public Management and Finance (Amendment) Law, 2010.

Short title

2. The Public Management and Finance Law (2005 Revision), 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 (2005
Revision) - definitions

- (a) in the definition of the words “centralised banking system”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (b) in the definition of the words “chief officer” -
 - (i) by deleting at the end of paragraph (e) the word “and”;
 - (ii) by inserting at the end of paragraph (f) the word “and”; and
 - (iii) by inserting after paragraph (f) the following paragraph -
 - “(g) in the case of the Office of the Information Commissioner, the Information Commissioner;”;

- (c) in the definition of the words “core government”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (d) in the definition of the words “entire public sector”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (e) in the definition of the word “entity”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (f) in the definition of the words “entity assets”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (g) in the definition of the words “entity expenses”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (h) in the definition of the words “entity liabilities”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (i) in the definition of the words “entity revenue”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (j) in the definition of the words “equity investment”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (k) in the definition of the words “executive assets”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (l) in the definition of the words “executive expenses”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (m) in the definition of the word “ministry”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (n) in the definition of the words “non-governmental output supplier”, by inserting after the words “ Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (o) in the definition of the word “portfolio”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”; and
- (p) in the definition of the words “trust assets”, by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.

3. The principal Law is amended in section 9(3)(a) by inserting after the words “Office of the Complaints Commissioner,” the words “the Office of the Information Commissioner.” Amendment of section 9
- appropriations
4. The principal Law is amended in section 23(2)(g) by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner” Amendment of section
23 - strategic policy
statement
5. The principal Law is amended in section 24(1) by deleting the words “not later than the 1st May in each year, for review” and substituting the words “for review prior to the start of the coming financial year” Amendment of section
24 - annual plan and
estimates
6. The principal Law is amended in section 35(e) to (g) by inserting respectively after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner” Amendment of section
35 - power to make
regulations
7. Section 36 of the principal Law is amended - Amendment of section
36 - power to direct over
ownership matters
- (a) in subsection (1), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”; and
- (b) in subsection (2), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
8. The principal Law is amended by inserting after section 45 the following section - Insertion of section 45A
- application of Part IV
to Office of the
Information
Commissioner
- “Application of Part IV to Office of Information Commissioner
- 45A. (1) The Information Commissioner shall, in accordance with section 36(2) of the Freedom of Information Law, 2007, be responsible to the Legislative Assembly.
- (Law 10 of 2007) (2) Unless the context otherwise requires, Part IV shall apply in respect of the Office of the Information Commissioner as if -
- (a) every reference to the Governor in Cabinet or a minister were a reference to the committee of the Legislative Assembly responsible for overseeing the performance of the Office of the Information Commissioner, or if no such committee exists, the Speaker; and

- (b) every reference to a ministry were a reference to the Office of the Information Commissioner.

(3) Notwithstanding sections 9, 19, 20, 22, 30 and 31, the committee of the Legislative Assembly responsible for overseeing the performance of the Office of the Information Commissioner, or if no such committee exists, the Speaker, shall -

- (a) be granted the appropriations relating to the Office of the Information Commissioner;
- (b) in respect of the Office of the Information Commissioner, undertake the duties assigned to the Governor in Cabinet or a minister under sections 19, 20(a) and (b), 22(a), 30 and 31;
- (c) provide the Minister of Finance with the necessary information in relation to the Office of the Information Commissioner to be included in the annual plan and estimates and the Appropriation Bill to be presented in accordance with section 24; and
- (d) provide the Minister of Finance with the necessary information in relation to the Office of the Information Commissioner to be included in any supplementary annual plan and estimates and the supplementary Appropriation Bill to be presented in accordance with section 25.

(4) In carrying out its duties under this section the committee of the Legislative Assembly responsible for overseeing the performance of the Office of the Information Commissioner, or if no such committee exists, the Speaker shall -

- (a) make its decisions in accordance with the budget process established by the Governor in Cabinet under section 17; and
- (b) ensure that its decisions are consistent with the principles of responsible financial management set out in section 14(3).”.

Amendment of section
54 - duties of ministry
responsible for finance

9. The principal Law is amended in section 54 -

- (a) in paragraph (l), by inserting after the words “Office of the

- Complaints Commissioner” the words “, the Office of the Information Commissioner”;
- (b) in paragraph (m), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”; and
 - (c) in paragraph (o), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
10. Section 55 of the principal Law is amended - Amendment of section 55 - executive bank account
- (a) in subsection (1)(b), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”; and
 - (b) in subsection (4)(a), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
11. The principal Law is amended in section 56(1) by inserting after the words “Office of the Complaints Commissioner,” the words “the Office of the Information Commissioner,”. Amendment of section 56 - power to request information for Government reporting
12. The principal Law is amended in section 57(1) as follows - Amendment of section 57 - powers of Internal Audit Unit
- (a) by inserting after the words “Office of the Complaints Commissioner,”, where they first occur, the words “the Office of the Information Commissioner,”;
 - (b) in paragraph (a), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”; and
 - (c) in paragraph (d), by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
13. Section 60 of the principal Law is amended - Amendment of section 60 - powers and duties of Auditor-General
- (a) in paragraph (c)(ii), by deleting the words “government company or the Office of the Complaints Commissioner” and substituting the words “government company, or the Office of the Complaints Commissioner or the Office of the Information Commissioner”; and
 - (b) in paragraph (c)(iii), by inserting after the words “Office of the Complaints Commissioner,” the words “the Office of the Information Commissioner, or any”.

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- Amendment of section 64 - investigatory powers of Auditor-General
14. The principal Law is amended in section 64(1)(d) by inserting after the words “Office of the Complaints Commissioner,” the words “the Office of the Information Commissioner or any”.
- Amendment of section 70 - trust assets to be separately accounted for
15. The principal Law is amended in section 70(3) by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
- Insertion of section 81A - Law not to affect independence of Information Commissioner
16. The principal Law is amended by inserting after section 81 the following section -
- “Law not to affect independence of Information Commissioner
- 81A. Nothing in this Law shall affect the independence of the Information Commissioner as set out in the Freedom of Information Law, 2007.”.
- Law 10 of 2007
- Amendment of Second Schedule - forecast financial statements
17. The principal Law is amended in paragraph 4(a)(ii) of the Second Schedule by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
- Amendment of Third Schedule - quarterly financial statements
18. The Third Schedule to the principal Law is amended in paragraph 3(a)(ii) by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
- Amendment of Fourth Schedule - annual financial statements
19. The principal Law is amended in paragraph 3(a)(ii) of the Fourth Schedule by inserting after the words “Office of the Complaints Commissioner” the words “, the Office of the Information Commissioner”.
- Amendment of Fifth Schedule - ownership performance measures
20. The principal Law is amended in paragraph 1(1)(b) of the Fifth Schedule by inserting after the words “Office of the Complaints Commissioner,” the words “ the Office of the Information Commissioner,”.

Passed by the Legislative Assembly the day of , 2010.

Speaker.

Clerk of the Legislative Assembly.