



# **KOGI STATE OF NIGERIA**

## **A BILL FOR A LAW**

**TO PROVIDE FOR THE FINANCIAL  
MANAGEMENT OF THE KOGI STATE  
GOVERNMENT, THE LOCAL GOVERNMENT  
AREAS AND OTHER MATTERS CONNECTED  
THEREWITH.**

A BILL FOR A LAW TO PROVIDE FOR THE FINANCIAL MANAGEMENT OF THE  
KOGI STATE GOVERNMENT, THE LOCAL GOVERNMENT AREAS AND OTHER  
MATTERS CONNECTED THEREWITH

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A BILL FOR A LAW TO PROVIDE FOR THE FINANCIAL MANAGEMENT OF THE  
KOGI STATE GOVERNMENT, THE LOCAL GOVERNMENT AREAS AND OTHER  
MATTERS CONNECTED THEREWITH

BE IT ENACTED BY THE KOGI STATE HOUSE OF ASSEMBLY AND BY THE AUTHORITY OF SAME AS FOLLOWS: **Enactment**

**PART I  
PRELIMINARY**

1. This Law may be cited as the Kogi State Public Finance Management Law, 2018 and shall come into force on the .....day of .....2018. **Citation and Commencement**

2. In this Law, unless the context otherwise requires:  
“Accountable” means the requirement to record, report, explain and justify actions, as the case may be, to a superior officer, the House of Assembly or the public; **Interpretation**

“**Account code**” means one of the segments of Accounts which specifies the total amount which is usually appropriated per Charge of Accounts in an Appropriation Law;

"**Accounting officer**" means a person mentioned in section 10;

"**Accounting authority**" means a body or person mentioned in sections 7

"**Accounting Standards Board**" means the board established in accordance with section 92;

“**Agency**” means and includes all Government Parastatals, Institutions, and Companies;

“**Appropriation**” means a power given through an Appropriation Law to the Governor to incur expenditure, make an investment, acquire or create assets, or lend or borrow money for a particular purpose;

“**Assets**” are resources controlled by an entity as a result of past events and from which future economic benefits, services or potentials are expected to flow to the entity;

“**Auditor-General**” means the Auditor-General of the State or the Auditor-General for Local Government as provided under the relevant part under this Law;

“**Auditor**” means a professionally qualified accountant that is registered with the State Auditor-General as an external Auditor;

“**Budget**” means the annual estimates of revenue and other receipts and the expenditures of Government submitted for the approval of the House of Assembly by the Governor or to a Local Government Council by the Chairman of the Local Government;

**“Cash Basis”** means a basis of accounting that recognizes transactions and other event when cash is received or paid. It measures financial results for a period as the difference between cash received and cash paid;

**“Commissioner”** means the Commissioner for Finance or any person for the time being charged with responsibility to oversee the Ministry of Finance;

**"Constitutional Institution"** means an institution listed in Schedule 1;

**"Department"** means a State or Local Government department or a State or Local Government component;

**“Development Plan”** means a long term strategic plan for the development of the community.

**"Executive Authority"**

(a) In relation to a State department, means the Accounting Officer who is accountable to Kogi State House of Assembly for that department;

(b) In relation to a Local Government department, means the member of the Executive Council of a Local Government Area who is accountable to the Local Government legislature for that department;

(c) In relation to a State public entity, means the Accounting Officer who is accountable to Kogi State House of Assembly for that public entity or in whose portfolio it falls; and

(d) In relation to a Local Government public entity, means the member of the Local Government Executive Council who is accountable to the Local Government legislature for that public entity or in whose portfolio it falls;

**"Financial Statements"** means statements consisting of at least

- (a) a balance sheet;
- (b) an income statement;
- (c) a cash-flow statement;
- (d) any other statements that may be prescribed; and
- (e) any notes to these statements;

**"Fruitless and wasteful expenditure"** means expenditure which was made in vain and would have been avoided had reasonable care been exercised;

**"Generally recognized accounting practice"** means an accounting practice complying in material respects with standards issued by the Accounting Standards Board;

**“Governor”** means the Governor of Kogi State;



**“House”** means the Kogi State House of Assembly;

**“Internal control”** means a system which ensures:

- (i) that financial and other records are kept, reliable and complete;
- (ii) adherence to Government's policies, the orderly and efficient conduct of the assets and other resources of the Government;

**“Irregular expenditure”** means expenditure, other than authorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including

- (a) This Law; or
- (b) The State Tenders Board Law, or any regulations made in accordance with that Law; or
- (c) any Local Government legislation providing for procurement procedures in that Local Government;

**“Loan”** means any money obtained by Government by way of credit provision whether secured or unsecured from a third party;

**“Local Government”** includes Local Council Development Areas;

**“Local Government Business Enterprise”** means an entity which

- (a) is a juristic person under the ownership control of a Local Government executive;
- (b) has been assigned financial and operational authority to carry on a business activity;
- (c) as its principal business, provides goods or services in accordance with ordinary business principles; and
- (d) is financed fully or substantially from sources other than a Local Government Revenue Fund; or by way of a tax, levy or other statutory money;

**“Local Government Component”** means the financial instruction that is related to the operations of the Local Government

**"Local Government department"** means: the Ministry of Local Government and Chieftaincy Affairs

**"Local Government Public Entity" means:**

- (a) a Local Government business enterprise; or
- (b) a board, commission, company, corporation, fund or other entity (other than a Local Government business enterprise) which is:
  - (i) established in accordance with legislation or a Local Government Law;
  - (ii) fully or substantially funded either from a Local Government Revenue Fund or by way of a tax, levy or other money imposed in accordance with legislation; and
  - (iii) accountable to a Local Government legislature;

**"Local Government treasury"** means a treasury established Under the Law

**"Main Division within a Vote"** means one of the main segments into which a vote is divided and which—

- (a) Specifies the total amount which is appropriated for the items under that segment; and
- (b) Is approved by Kogi State House of Assembly or a Local Government legislature, as may be appropriate, as part of the vote;

**"MEC for Finance"** means the (Member of an Executive Council) of a Local Government Area responsible for finance in the Local Government Area;

**"Medium Term Expenditure Framework (MTEF)"** means the Three to Five year rolling budget containing the budget estimates for the year to which it relates together with indicative budgets for the succeeding years;

**"Money"** means any coin, note or negotiable instrument;

**"Money received"** includes all moneys that are paid to a public coffers under or pursuant to an enactment, trust, treaty, undertaking or contract;

**"overspending":**

- (a) In relation to a vote, means when expenditure under the vote exceeds the amount appropriated for that vote; or
- (b) In relation to a main division within a vote, means when expenditure under the main division exceeds the amount appropriated for that main division.

**"Ownership control"**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:

To appoint or remove all, or the majority of, the members of that entity's board of directors or equivalent governing body;

- (a) to appoint or remove that entity's chief executive officer;

- (b) to cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
- (c) to control all, or the majority of, the voting rights at a general meeting of that entity

**"Prescribe"** means prescribe by regulation

**"Public Accounts Committee"** means the Public Accounts Committee of the House of Assembly;

**"Public Entity"** means a State or Local Government public entity;

**"Revenue Fund" means—**

- (a) the State Revenue Fund under the Law; or
- (b) a Local Government Revenue Fund under the law

**"State"** means Kogi State of Nigeria.

**"State government business enterprise"** means an entity which—

- (a) is a juristic person under the ownership control of the State executive;
- (b) has been assigned financial and operational authority to carry on a business activity;
- (c) as its principal business, provides goods or services in accordance with ordinary business principles; and
- (d) is financed fully or substantially from sources other than
  - (i) the State Revenue Fund; or
  - (ii) by way of a tax, levy or other statutory money;

**"State public entity"** means—

- (a) a State government business enterprise; or
- (b) a board, commission, company, corporation, fund or other entity (other than a State government business enterprise) which is—
  - (i) established in accordance with State legislation;
  - (ii) fully or substantially funded either from the State Revenue Fund, or by way of a tax, levy or other money imposed in accordance with State legislation; and
  - (iii) accountable to Kogi State Government;

**"This Law"** includes any relevant regulations and instructions of the State and Local Government

**"Trading Entity"** means an entity operating within the administration of a department for the provision or sale of goods or services, and established—

- (a) in the case of a State department, with the approval of the State Treasury; or
- (b) in the case of a Local Government department, with the approval of the relevant Local Government treasury Law within a prescribed framework;

**"Treasury"** means the State Treasury or a Local Government treasury, as may be appropriate in the circumstances;

**"Unauthorized expenditure"** means—

- (a) overspending of a vote or a main division within a vote;
- (b) expenditure not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division;

**"Vote"** means one of the main segments into which an appropriation Law is divided and which—

- (a) specifies the total amount which is usually appropriated per department in an appropriation Law; and is separately approved by Kogi State House of Assembly or a Local Government legislature, as may be appropriate, before it approves the relevant draft appropriation Law as such.

## **PART II**

### **OBJECTIVE, PURPOSE, APPLICATION AND AMENDMENT OF THIS LAW**

- |    |  |                                |
|----|--|--------------------------------|
| 3. | The objective of this Law is to secure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of Kogi State Government and other public institutions of the State.  | <b>Objective of the Law</b>    |
| 4  | The purpose of the Law is to:- <ul style="list-style-type: none"><li>(a) regulate Financial Management;</li><li>(b) ensure that all revenue, expenditure, assets and liabilities are managed efficiently and effectively and in a transparent manner;</li><li>(c) ensure that officers are put in a position to be able to manage and control all available resources and be more accountable;</li><li>(d) ensure the timely provision of quality financial information;</li><li>(e) eliminate waste (including fruitless expenditure) and corruption in the use of public resources;</li><li>(f) stipulate the responsibilities to persons entrusted with financial management; and</li><li>(g) provide for other matters relating to financial management.</li></ul> | <b>Purpose of this Law</b>     |
| 5  | This law applies to all arms of Kogi State Government, including Ministries, Departments and Agencies as well as Local Government Councils of Kogi State   | <b>Application of this Law</b> |

- 6 . Draft legislation directly or indirectly amending this Law, or providing for the enactment of subordinate legislation that may conflict with this Law, may be introduced in Kogi State House of Assembly—
- (a) by the Commissioner only; or
  - (b) Only after the Commissioner has been consulted on the contents of the draft legislation. uniform classification systems, in State departments;
  - (c) must monitor and assess the implementation of this Law, including any prescribed norms and standards, in Local Government departments, in public entities and in constitutional institutions;
  - (d) may assist departments and constitutional institutions in building their capacity for efficient, effective and transparent financial management;
  - (e) may investigate any system of financial management and internal control in any department, or public entity;
  - (f) must intervene by taking appropriate steps, which may include steps or the withholding of funds, to address a serious or persistent material breach of this Law by a department, or public entity; and may do anything further that is necessary to fulfill its responsibilities effectively.

**Amendments to th  
Law**

### **PART III DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS**

7. The responsible departments and constitutional institutions include the following –
- (a) Finance Department;
  - (b) Accountant General’s Office;
  - (c) Debt Management Office;
  - (d) Budget and Economic Planning
  - (e) Department of Revenue, Investments and Loans;
  - (f) Finance/Accounts department of Ministries, Departments, and Agencies (MDAs);
  - (g) Office of the Auditor General
  - (h) Central Internal Audit Office;
  - (i) And such other Offices or Departments as may be created by the Governor on the recommendation of the Commissioner.
8. (a) In addition to any function specifically conferred on the Commissioner for Finance under this Law or any other Law, the Commissioner shall formulate policies and be the head of the Ministry of Finance.
- (b) He shall be responsible for proposing to the State Executive Council for issuance and review every five years, Financial Instructions, for the purpose of giving effect to the provisions of this Law.
- (c) The Commissioner may in writing delegate any of his or her powers, duties or functions under this Law to the Head of any Department or Office of the Ministry of Finance.

**Departments and  
Constitutional  
Institutions**

**Duties of the  
Commissioner  
of Finance**

- (d) In delegating any power, duty or function in accordance with the provision of subsection (c) of this Section, the Commissioner may attach any limitation or condition.
  - (e) Any power delegated under subsection (a) of this Section shall not divest the Commissioner of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
9. The Accountant-General of the State (referred to in this Law as “the Accountant General”) shall–
- (a) serve as the Chief Accounting Officer of the receipts and payments of the State Government;
  - (b) account for all receipts and payments of the State Government;
  - (c) supervise the accounts of the State’s Ministries, Departments and Agencies(MDAs);
  - (d) collate and prepare statutory Financial Statements of the State Government and any other Statements of Accounts in line with the statutory guidelines;
  - (e) maintain and operate the accounts of the Consolidated Revenue Fund, Development Fund and other Public Funds and provide cash backing for the operations of the State Government;
  - (f) maintain and operate the State Government’s Accounts;
  - (g) conduct routine and in-depth inspection of the books of accounts of State Ministries, Departments and Agencies to ensure compliance with rules, regulations, policy decisions and maintenance of accounts codes;
  - (h) formulate and implement the accounting policy of the State Government; and
  - (i) deploy through the Office of the Head of Service to any Ministry, Department or Agency, any officer employed for the Accountant General’s Office, to enable him effectively carry out his functions under this Law or any other enactment.
  - (j) perform any other functions as contained in the Financial Instructions and/or assigned by the Commissioner.
- Duties of the State Accountant-General**

**PART IV  
ACCOUNTING OFFICERS AND ACCOUNTS OFFICERS**

10. The Permanent Secretary, Director-General, General Manager, Vice Chancellor/Rector/Provost shall be the Accounting Officer of their respective Ministries, Departments, Agencies, Parastatals or Institutions.
- Accounting Officer Of Ministries, Departments, Agencies, Parastatals or Institution**
11. (1) The Accounting Officer shall ensure that the Ministry, Departments, Agency, Parastatal or Institution has and maintains –
- (a) an effective, efficient and transparent system of financial and risk management and internal control;
- Responsibilities of Accounting Officers**

- (b) a system of internal audit under the control and direction of an Internal Auditor complying with and operating in accordance with prescribed norms and standard;
  - (c) an appropriate procurement system which is fair, equitable, transparent, competitive, cost-effective and complies with the provision of any law governing public procurement; and
  - (d) a system for properly evaluating all major capital projects prior to a final decision on the project.
- (2) The Accounting Officer shall –
- (a) be responsible for the efficient and transparent use of the resources of the Ministry, Department, Agency, Parastatals or Institutions;
  - (b) take effective and appropriate steps to –
    - (i) collect all money due to the Ministry, Extra Ministerial Department, Agency, Parastatal or Institution ; and
    - (ii) prevent unauthorized, irregular, and wasteful Expenditure,
  - (c) be responsible for safeguarding, maintaining, and managing the assets and liabilities, of the Ministry, Department, Agency, Parastatal or Institution ;
  - (d) ensure compliance with any tax, levy, duty, pension and audit commitments as may be required under any law;
  - (e) settle all contractual obligations and pay all money owed, including inter-governmental claims;
  - (f) ensure that the expenditure of that Ministry, Department, Agency, Parastatal or Institutions is in accordance with the account code in the Chart of Accounts;
  - (g) ensure that effective and appropriate steps are taken to prevent unauthorized expenditure;
  - (h) keep full and proper records of the financial affairs of the Ministry, Department, Agency, Parastatal or Institution in accordance with any prescribed norms and standards;
  - (i) prepare financial statements for each financial year as stipulated by the Accountant General; and
  - (j) submit financial statements within three months after the end of the financial year to the Auditor General for auditing.
- (3) The Auditor-General shall audit the financial statements referred to in subsection (2) (j) of this Section and submit an audit report on those statements to the accounting officer within two months of receipt of the statements.
- (4) The Accounting Officer shall –
- (a) at the beginning of a financial year submit to the Commissioner responsible for budget matters in the prescribed form with a breakdown on monthly basis of the anticipated actual revenue and expenditure of that Ministry for that financial year; and
  - (b) submit information in the prescribed format on actual revenue and expenditure for the preceding month.

- (5) Where an Accounting Officer is unable to comply with any of the responsibilities required of his office in this Section, he shall promptly report the inability, together with reasons to the relevant authority.
- 12 (1) Where assets or liabilities of a Ministry, Department Agency, Parastatal or Institution are transferred to another Ministry Department, Agency, Parastatal or Institution in accordance with the provisions of a Law or following a reorganization of functions, the Accounting Officer for the transferring department shall –
- (a) draw up an inventory of such assets and liabilities;
- (b) provide the Accounting Officer for the receiving Ministry, Department, Agency Parastatal or Institutions with substantiating records, including personnel records of staff to be transferred.
- (2) The Accounting Officers of both the transferring and the receiving Ministry, Department, Agency, Parastatal or Institution shall sign the inventory when the transfer takes place.
- (3) The Accounting Officer for the transferring Ministry Department, Agency, Parastatal or Institution must file a copy of the signed inventory with the relevant Agency responsible for the documentation of assets record and the Auditor-General within 14 days of the transfer.
- 13 When an Accounting Officer is absent or otherwise unable to perform the functions of his office, or during a vacancy, the functions of the office shall be performed by the officer next in rank to him in an acting capacity for such period of his absence.
- 14 (1) An Accounting Officer may in writing delegate any of the powers vested in him on any officer in his Ministry or Agency to act in his place.
- (2) A delegation or instruction to an official in accordance with subsection (1) of this Section –
- (a) is subject to any limitation or condition prescribed in accordance with the provisions of this Law or as the Governor or the Accounting Officer may impose;
- (b) may either be to a specific individual or to the holder of a specific post in the Ministry, Agency, Department, Parastatal or Institution; and
- (c) does not divest the Accounting Officer of the responsibility with regards to the exercise of the delegated power or the performance of the assigned duty.
- (3) The Accounting Officer may accept, vary or revoke any decision taken by an officer as a result of powers delegated to him in accordance with subsection (1) of this Section subject to any right or obligation that may have accrued in consequence of the decision.

**Accounting Officer's Responsibilities when Assets and Liabilities Are transferred**

**Acting Accounting Officers during Temporary absence**

**Delegation of powers by Accounting Officers.**



15. The Accounts Officers in-charge of revenue and payments of a Ministry, Department, Agency, Parastatal or Institution is responsible to the Accounting Officer and shall –
- Duties of Accounts Officers.**
- (a) collect and remit all funds into Government Accounts as and when due;
  - (b) collect remittances and pay same into the Ministry, Department, Agency, Parastatal or Institution accounts for further disbursement;
  - (c) arrange for payment of staff salaries;
  - (d) ensure that unclaimed salaries or pensions and other unspent monies are paid back to State treasury;
  - (e) maintain and operate the Ministry, Department, Agency, Parastatal or Institution accounts as custodian of relevant documents and signatory to the accounts;
  - (f) maintain and keep cash books, relevant ledgers, accounts books and registers of the Ministry, Department, Agency, Parastatal or Institution;
  - (g) participate actively in preparation and decision making on budget matters;
  - (h) maintain and ensure compliance with the Financial Regulations, treasury circulars and other relevant rules and policies;
  - (i) supervise, assign responsibilities, post and maintain discipline of Account Staff in the Ministry, Department, Agency, Parastatal or Institution;
  - (j) prepare periodic Financial Reports and other Financial Statements as may be required by the Ministry, Department, Agency, Parastatal or Institution and the State Treasury Office;
  - (k) advise the Management on all Accounting, Financial matters affecting the Ministry, Department, Agency, Parastatal or Institution;
  - (l) liaise with the State Treasury Office on behalf of the Ministry, Department or Agency;
  - (m) participate as a member on all Committees of the Ministry, Department, Agency, Parastatal or Institution and
  - (n) perform any other duties that may be assigned to him by the Accounting Officer of Ministry, Department, Agency, Parastatal or Institution and the State Treasury Office.

**PART V**  
**MANAGEMENT AND CONTROL OF THE STATE FINANCES**

16. (1) The Accountant General's Office shall prescribe the framework within which Ministries, Departments and Agencies shall conduct their bank/cash management under a Treasury Single Account regime..
- Bank Accounts, Cash Management and Investment Framework**

- (2) All Ministries, Departments and Agencies shall open bank accounts with a bank duly registered and licensed in Nigeria and such action shall be approved in writing by the Accountant-General.
  - (3) No Ministry, Department, Agency, shall open a bank account abroad or with a foreign bank except with the written approval of the Governor through the Commissioner.
  - (4) The State Government through the Commissioner shall prescribe the investment policy for the State.
  - (5) Any Bank or other financial institution which has opened an account for a Ministry, Department, Agency shall promptly disclose information on the account when so requested by the Accountant-General or the Auditor-General.
  - (6) The Accountant-General shall blacklist any bank or financial institution that does not comply with the provisions of subsection (5) of this Section and/or any subsisting Service Level Agreement (SLA).
- 17
- (1) All revenue generating Agencies shall promptly deposit into the Consolidated Revenue Fund, all taxes, levies, fee and other monies collected by them, in accordance with a framework determined by the Accountant General's Office from time to time.
  - (2) All monies received by any Ministry, Department, Agency, of the State Government shall be paid into the Consolidated Revenue Fund, except public fund of the State established for a specific purpose for the use of –
    - (a) Public Institutions and Parastatals that are either fully or partially subvented, as listed in the Schedules to this Law;
    - (b) commercialized Parastatals or Institutions, in which the money is received in the ordinary course of operations;
    - (c) any agency where the funds are received from a donor agency on condition that it shall be paid into a special bank account; or
    - (d) funds held in trust for a specific person or category of persons or for a specific purpose such as in the case of the Public Trustees Law, except for such fees charged by Public Trustee which should be paid into the Consolidated Revenue Fund in accordance with any Law regulating public Trustee;
    - (e) monies paid by one Ministry, Department, Agency, Parastatal or Institution to another for services rendered; And
    - (f) monies held in trust for a specific person, category of persons or institution for a specific purpose.
  - (3) Money received by any fully or partially subvented State Parastatal or institution listed in the Schedules to this Law shall be paid into a bank account opened by the Parastatal or institution.
- 18
- (1) The Accountant General's Office shall be responsible for the withdrawal of money from the Consolidated Revenue Fund, and shall do so only:
    - (a) to provide for payments or transfers as may be authorized –
      - (i) in terms of an appropriation by a Law of the House of Assembly; or

**Deposits into the Consolidated Revenue Fund**

**Withdrawals from the Consolidated Revenue Fund**

- (ii) as a direct charge against the Consolidated Revenue Fund as provided for in the Constitution or under this Law, or in any other Law.
  - (2) The Accountant General’s Office shall refund money wrongly paid into the State Consolidated Revenue Fund.
19. (1) There is established a development fund into which shall be paid all capital receipts, and all capital expenditure shall be paid from it. **Development Fund**
- (2) Capital receipts which shall be paid into the Development Fund includes the following:
- (a) internal loans;
  - (b) bonds or funds raised from public offers;
  - (c) grants and reimbursements;
  - (d) investment income;
  - (e) transfer from Consolidated Revenue Fund;
  - (f) external loans; and
  - (g) any other source classified under capital receipts in the Appropriation Law.
20. All capital expenditure shall be paid from the Development Fund and no such expenditure may be incurred except on the authority of a warrant duly signed by the Commissioner without which the Accountant-General shall not accept into his accounts, any charges upon the Development Fund. **Capital Development Warrant**
21. The Accountant-General may withdraw monies from the Fund, subject to the approval of the Governor or as may be delegated to the Commissioner by the Governor. **Withdrawal from Development Fund**
22. (1) The Governor shall present before the House a proposal the use of funds from the Consolidated Revenue or Development Fund for consideration and approval within 48 hours to defray expenditure of an exceptional nature which is not provided for and which cannot, without prejudice to public interest, be postponed. **Use of Funds in Emergency Situations.**
- (2) The total amount of authorization under subsection (1) of this Section shall not exceed one percent of the total amount appropriated in the Annual State Budget for the current financial year.
23. The State Government may if it is expedient to do so adopt any other accounting basis that is different from the cash basis mode accounting if it is relevant and compatible with the infrastructure or foundation that it is required to operate it and such other basis of accounting shall include the following – **Basis of Government Accounting**
- (a) modified cash basis;
  - (b) modified accrual basis; or
  - (c) the accrual basis.
24. The Accountant General shall – **Annual Consolidated Financial**

- (a) prepare consolidated financial statements in accordance with generally recognized Public Sector Accounting Standards as stipulated by the Financial Reporting Council of Nigeria for each financial year in respect of:-
- (i) State Ministries and Extra Ministerial Departments and Agencies;
- (ii) Public Parastatal or Institution;
- (b) include in any report prepared under this Section any financial information known to him which materially affects the significance of the figures presented in the financial statements and which is not otherwise required to be recorded in public accounts; and
- (c) submit these statements for audit to the Auditor-General within three (3) months after the end of that financial year.
- Statement**
25. (1) The Commissioner responsible for budget matters in conjunction with all Government Ministries, Departments Agencies shall annually-
- (a) compile in accordance with international standards, financial statistics and aggregation concerning all spheres of government activities;
- (b) determine the actual Gross Domestic Product of the State; and
- (c) publish same in a State Government publication
- (2) The Commissioner responsible for budget matters in collaboration with all relevant Ministries, Departments and Agencies shall create a Data Bank for the purpose of planning.
- Financial Statistics and Aggregations**
26. (1) The Commissioner shall publish the State's Financial Statement in relation to the end of every quarter year not later than 25 days and 180 days from the end of the quarter and year respectively.
- (2) The statements referred to in subsection (1) of this Section shall be in a form that is consistent with the budget estimates for the financial year and may include any additional information that the Accountant General considers relevant
- Publication of Financial Statements**

## **PART VI**

### **STATE GOVERNMENT BUDGET PROCESS**

27. (1) The Commissioner and the MEC for finance in a Local Government Area must annually table in the State Assembly and in that Local Government Area's Local Government legislature, respectively, a multi-year budget projection of—
- (a) the estimated revenue expected to be raised during each year of the multi-year period; and
- (b) the estimated expenditure expected to be incurred per vote during each year of the multi-year period, differentiating between Capital and Recurrent expenditure.
- (2) A multi-year budget projection tabled by the Commissioner must contain the Commissioner's key macro-economic projections.
- Multi-year Budget Projections.**

- 28
- General Budgetary Issues**
- (1) Budget preparation and implementation shall be carried out in such a manner that ensures macro-economic stability and sustainable development.
  - (2) Budgets shall be prepared, implemented and controlled in conformity with the policies, targets and priorities envisaged in development plans and on medium term expenditure framework and in accordance with medium term sectoral strategy plan.
  - (3) Budgets shall be negotiated and evaluated together with the budget estimations for the next three years.
  - (4) The budget shall provide a comprehensive and transparent view of the fiscal operations of the government.
  - (5) All revenue and expenditures shall be indicated in the budget on a gross basis.
  - (6) Budgeted revenues and expenditures shall be broadly matched to minimize fiscal deficits.
  - (7) Budget shall not be implemented unless they are considered and approved by the House of Assembly.
  - (8) All revenues, expenditures state subsidy, along with proposal loans, guarantees etc, of Public Parastatals or Institutions shall be indicated in their budgets.
- 29.
- Stages in Budget Process**
- The budget process may be based on the underlisted stages:-
- (a) Conception stage of the Budget shall include –
    - (i) review of the previous year’s Budget for the purposes of determining the performance in terms of achieved objectives to guide future projection;
    - (ii) the articulation of Macro Economic framework;
    - (iii) inter-Ministerial meeting with Finance, Establishment and Special Duties;
    - (iv) The articulation of Medium Term Fiscal framework and Medium Term Fiscal Strategy of Ministry, Department and Agencies.
    - (v) the forecasting of the amount of total revenue and expenditure for the financial year as well as the determination of the envelope to be allocated to each Ministry, Department and Agency.
  - (b) Preparation stage shall include –
    - (i) a call Circular issued to articulate Government goals and objectives for the particular financial year, as well as stating the criteria expected to be applied in preparing the budget;
    - (ii) the receipt and collation of Agencies’ proposals;
    - (iii) the holding of bilateral discussions; and
    - (iv) collation and consolidation of proposals.
  - (c) Approvals stages shall include the –
    - (i) consideration and Approval by the State Executive Council;
    - (ii) presentation of the Appropriation Bill to the House of Assembly for consideration and approval.
    - (iii) Assent by the Governor.

30. (1) An annual budget shall be in accordance with a format as may be prescribed by the Commissioner responsible for budget matters and shall contain amongst others –
- Contents of a Budget.**
- (a) estimates of all internally generated revenue expected to be collected during the financial year to which the budget relates;
  - (b) estimates of all statutory allocations expected to be collected during the financial year to which the budget relates;
  - (c) estimates of total recurrent expenditure to be incurred for that financial year per vote;
  - (d) estimates of all direct charges against the relevant revenue fund and standing appropriation for that financial year;
  - (e) estimates of total capital receipts to be received for that financial year;
  - (f) estimates of interest and debt servicing charges, and any repayments on loans;
  - (g) estimates of capital expenditure per account code for that financial year and the projected financial implication of that expenditure for future years;
  - (h) estimates of revenue excluded in terms of Sections 17(2) of this law from the relevant revenue fund for that financial year;
  - (i) estimated revenue for the previous financial year;
  - (j) estimated expenditure per vote, for the previous financial year;
  - (k) borrowing for the previous financial year; and
  - (l) any other information as may be prescribed, including any multi-year budget information required because of the Medium Term Expenditure Framework (MTEF).
- (2) When the annual budget is introduced in the State House of Assembly the Accounting Officer for each Ministry, Department, Agency shall submit to the House measurable objectives for each ministry, department, and agency for further consideration by the Appropriation Committee of the House of Assembly.
- 31 (1) The Commissioner responsible for budget matters may request the Commissioner for Finance to withhold from any Ministry, Department or Agency any remaining funds appropriated for a specific function if that function is transferred to another department or any other institution.
- Withholding of Appropriated Fund.**
- (2) The funds withheld under subsection (1) of this Section may be allocated to any other department or institution as may be deemed appropriate.
32. (1) The Governor may table a supplementary budget before the House of Assembly provided additional revenue outside of the budget has accrued.
- Supplementary Budgets**
- (2) A State supplementary budget shall only provide for –
- (a) supplementary fund required due to significant and unforeseeable economic and financial events affecting the fiscal target set by the annual budget; or
  - (b) unforeseeable and unavoidable expenditure.

- 33 (1) The Commissioner responsible for budget matters shall present a quarterly report to the State Executive Council not later than six (6) weeks after the end of each of the first three (3) quarters in each financial year.
- (2) The quarterly report shall contain details of the performance of the government and the entire public sector for the period covered by the report in comparison with the proposal in the annual plan and estimates for that financial year.
34. (1) If an annual budget is not passed before the start of the financial year to which it relates, funds may be withdrawn in accordance with this section from the relevant Revenue Fund for the services of the state or the Local Government Area concerned during that financial year as direct charges against the Fund until the budget is passed.
- (2) Funds withdrawn from a Revenue Fund in accordance with subsection(1) —
- (a) may be utilized only for services for which funds were appropriated in the previous annual budget or adjustments budget; and
- (b) may not—
- (i) during the first four months of that financial year, exceed 45 per cent of the total amount appropriated in the previous annual budget;
- (ii) during each of the following months, exceed 10 per cent of the total amount appropriated in the previous annual budget; and
- (iii) in aggregate, exceed the total amount appropriated in the previous annual budget.
- (3) The funds provided for in subsection (1) are not additional to funds appropriated for the relevant financial year, and any funds withdrawn in accordance with that subsection must be regarded as forming part of the funds appropriated in the relevant annual budget for that financial year. Provided that, in respect of a Local Government Area unless a Local Government Law provides that the withdrawal of funds in accordance with this section is a direct charge against that Local Government Area's Revenue Fund.
- 35 (1) Unauthorized expenditure does not become a charge against a Revenue Fund except when—
- (a) the expenditure is an overspending of a vote and Kogi State House of Assembly or a Local Government legislature, as may be appropriate, approves, as a direct charge against the relevant Revenue Fund, an additional amount for that vote which covers the overspending; or
- (b) the expenditure is unauthorized for another reason and Kogi State House of Assembly or a Local Government legislature, as may be

**Quarterly Budget Reports.**

**Expenditure before annual budget is passed**

**Unauthorized expenditure**

appropriate, authorizes the expenditure as a direct charge against the relevant Revenue Fund.

- (2) If Kogi State House of Assembly or a Local Government legislature does not approve in accordance with subsection (1) (a) an additional amount for the amount of any overspending, that amount becomes a charge against the funds allocated for the next or future financial years under the relevant vote.

- 36 Draft State legislation that assigns an additional function or power to, or imposes any other obligation on, a Local Government, must, in a memorandum that must be introduced in Kogi State House of Assembly with that legislation, give a projection of the financial implications of that function, power or obligation to the Local Government Area. **Unfunded mandates**

**PART VII**  
**LOANS, GUARANTEE, GRANTS, AND OTHER COMMITMENTS**  
**General principles**

- 37 A Local Government, including any Local Government public entity, may not borrow money or issue a guarantee, indemnity or security or enter into any other transaction that binds itself to any future financial commitment, denominated in a foreign currency or concluded on a foreign financial market. *Regulations on borrowing by public entities*
- 38 (1) A Cabinet member, with the written concurrence of the Commissioner (given either specifically in each case or generally with regard to a category of cases and subject to any conditions approved by the Commissioner), may issue a guarantee, indemnity or security which binds—
- (a) the State Revenue Fund in respect of a financial commitment incurred or to be incurred by the State executive; or
  - (b) a State public entity in respect of a financial commitment incurred or to be incurred by that public entity.
- (2) Any payment under a guarantee, indemnity or security issued in accordance with—
- (a) subsection (1) (a), is a direct charge against the State Revenue Fund, and any such payment must in the first instance be defrayed from the funds budgeted for the department that is concerned with the issue of the guarantee, indemnity or security in question; and
  - (b) subsection (1) (b), is a charge against the State public entity concerned.
- (3) A Accounting Officer who seeks the Commissioner's concurrence for the issue of a guarantee, indemnity or security in accordance with subsection (1) (a) or (b), must provide the Commissioner with all relevant information as the Commissioner may require regarding the issue of such guarantee, indemnity or security and the relevant financial commitment. **Guarantees, Indemnities and Securities by Cabinet members.**



(4) The responsible Accounting Officer must at least annually report the circumstances relating to any payments under a guarantee, indemnity or security issued in accordance with subsection (1) (a) or (b), to the State Assembly for tabling in the State Assembly.

39. (1) Any loan given to a Parastatal or an Institution may be written off with the approval of the House of Assembly where –
- (a) the office of the Auditor-General has investigated the Parastatal or Institution and where any person indicted for negligence, mismanagement or misappropriation has been surcharged or otherwise dealt with appropriately according to Law;
  - (b) such Parastatals or Institutions have been dissolved;
  - (c) projects for which the loan was granted were transferred to another Parastatal or Institution and as a result the accepting Agency shall –
    - (i) assume the loan and the condition for repayment; and
    - (ii) the loan shall be written off from the initial Parastatal or Institution;or
  - (d) where the Auditor-General certifies that the loan has been non-performing for a minimum period of 5 years.
- (2) Subject to the approval of the House, the Governor may approve the write off of loans falling under subsection (1) (b), (c) and (d) of this Section.

**Conditions for Writing-off Loans.**

**PART VIII  
MANAGEMENT AND CONTROL OF LOCAL GOVERNMENT REVENUE,  
FINANCE AND ADMINISTRATION**

- 40 (1) The sources of revenue for Local Government Council shall comprise –
- (a) revenue sources as stated in Schedule IV of the Constitution;
  - (b) revenue sources as enacted by the Law of the House of Assembly; and
  - (c) grants from Federal, State Governments and donor agencies

**Local Government Council Revenue Sources.**

41. The State shall-
- (a) maintain a special account to be called “ State Joint Local Government Account” into which shall be paid all allocations to Local Government of the State;
  - (b) pay to each Local Government such proportion of its total revenue in such manner as may be prescribed by a Law of the House of Assembly.

**Allocation of Local Government Revenue to Council**

- 42 (1) There is established for each Local Government Council of the State a Committee to be known as the Local Government Council Revenue Committee (referred to in this Law as the “Revenue Committee”).
- (2) The Revenue Committee shall comprise of the following-
- (a) a person experienced in revenue matters appointed by the Chairman of the Local Government Area (not being a political appointee or public officer) from within the Local Government as the Chairman;

**Establishment of Local Government Revenue Committee**

- (b) Director of Accounts/Treasury;
  - (c) Legal Officer;
  - (d) a member of the public not being a member of the Local Government who is experienced in revenue matters to be nominated by the Chairman.
- (3) All appointments with the exception of the ex-officio members made pursuant to this Section shall be subject to the confirmation of the Legislative arm of the Local Government.
- 43 (1) The Revenue Committee shall be responsible for the assessment and collection of all taxes, fines, rates, charges or other revenue under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the Chairman of the Local Government, subject to the Financial Memorandum and guidelines on Local Government Administration.
- (2) The Revenue Committee shall be autonomous of the Local Government Treasury and shall be responsible for the day-to-day administration of the Department or personnel which forms its operational arm.
44. (1) There shall be a Treasury Department for each Local Government Council which shall be responsible for making all payments out of the Local Government funds, and ensuring that such payments are properly authorized and relate to duties entrusted to the Local Government;
- (2) The Treasury Department shall consist of the following units-
- (a) Treasury;
  - (b) Sub treasury (central pay office)
  - (c) Final accounts; and
  - (d) Reconciliation.
- (3) The Treasury Department in a Local Government Council is responsible for treasury functions and shall not be involved in the collection of revenue.
- 45 (1) The Treasurer of a Local Government Council otherwise known as the Council Treasurer shall be a qualified accountant and member of any of the recognized accounting bodies in Nigeria.
- (2) He shall be-
- (a) the Head of the Treasury of the Local Government;
  - (b) the adviser on matters relating to the State of Accounts of the Local Government;
  - (c) an officer not below grade level 12;
  - (d) responsible for preparing all necessary statement of accounts as and when due and submitting same to the Auditor-General for Local Government for audit, not later than 31st March of each year in respect of the preceding year; and
  - (e) Dealing promptly with queries arising from such inspections and audit.
- 46 A Local Government Council may incur all expenditure necessary for or incidental to the carrying out of any functions conferred on it under this law or

**Function of the Revenue Committee**

**Treasury Department**

**Duties and Responsibilities of the Council Treasurer**

**Expenditure**

any other enactments, provided that the expenditure is included in the approved budget of the Local Government.

47. A Local Government shall open and maintain the following bank Council accounts:
- (a) main allocation or grant account;
  - (b) development account for capital project;
  - (c) revenue accounts; and
  - (d) any accounts as may be prescribed by the Executive Council.
48. (1) The Chairman of a Local Government Council may invest any proportion of its monies in Stocks, Government Bonds or in such other manner as may be approved by the Legislative arm of the Local Government.
- (2) A Local Government shall invest –
- (a) any money held in a current bank account for which there is no immediate requirement for its use; and
  - (b) all balances held in a renewal fund deposit account.
- (3) The Commissioner of Finance in an advisory capacity may from time to time issue guidelines on investment opportunities and options for Local Government Councils.
49. (1) The Chairman of a Local Government Council may from time to time with the approval of the Legislative arm of the Local Government obtain loan from –
- (a) Banks within Nigeria; or
  - (b) other financial institutions approved by the Governor, and secure same upon its properties and revenues for the purpose of fulfillment of its functions under the Law.
- (2) Loans shall only be raised by a Local Government to defray capital development expenditure or specific projects and shall not be used for any other purpose other than that for which they were specifically raised.
50. (1) The Legislative arm of a Local Government may by resolution, approve a recommendation of the Chairman of a Local Government to write-off as irrecoverable debt, in any one year, any sum due or payable to the Local Government from or by any person.
- (2) The Chairman of a Local Government shall within twenty-one (21) days after the end of each quarter, inform the Auditor-General for Local Governments in writing of the total sum written off during the quarter and the reasons for doing so.
51. (1) The Chairman shall cause to be prepared and laid before the Legislative arm of the Local Government at any time before the commencement of the financial year, estimates of revenues and expenditure of the Local Government Area for the following year.
- (2) The budget shall –

**Local Government  
Bank Accounts**

**Investment of  
Funds**

**Power to  
Borrow Monies.**

**Writing off  
Irrecoverable debts**

**Budgets of Local  
Government Council**

- (a) reflect the priorities and needs of the locality as contained in the Local Government development plan;
  - (b) balance income and expenditure by way of annual financial estimate of revenue and expenditure;
  - (c) be prepared in accordance with procedures prescribed by law; and
  - (d) be pasted on the notice board of a Local Government after its approval by the Legislative arm of the Local Government and during the whole of the financial year to which it applies.
- (3) The Commissioner responsible for Local Government shall, after consultation with the Commissioner responsible for budget matters issue guidelines for the preparation of budgets by Local Governments in order to integrate Local Governments into the State's economic development activities.
- (4) A copy each of the budget shall be submitted to the Commissioner responsible for Local Government, Commissioner responsible for budget matters and the Auditor General for Local Governments.

52. Subject to the approval of the Legislative Arm, a Local Government Council shall use its assets including markets, motor parks, vehicle parking lots and other facilities to generate income.

**Use of Assets.**

53. (1) Every Local Government shall keep proper books of accounts and proper records in relation to its accounts and shall, within the first quarter of the subsequent financial year, prepare a statement of its final accounts in conformity with existing Financial Memorandum.
- (2) The accounts and financial statement of Local Government Council shall be audited by the Auditor General or his representative within six (6) months after the close of the financial year and the Chairman of a Local Government shall provide the auditors with all the necessary and appropriate facilities for the examination of the accounts and statements of the Local Government.
- (3) For the purpose of carrying out his duties under this Section, the Auditor-General or any person authorized by him in that behalf, shall have access to all books, records, returns and other documents relating to those accounts.
- (4) In exercise of his functions under this Law, the Auditor-General shall not be subject to the direction or control of any other authority or person.
- (5) Within the period of 6months the Auditor General shall submit a report of the audit to the Local Government Council concerned, and there to the House of Assembly.
- (6) The Auditor General's report shall draw attention to any Irregularities in the accounts.
- (7) The accounts and the Auditor General's report on it shall be public documents and shall be published and made available to the public upon a written request.
- (8) The Chairman of a Local Government Council shall lay the annual accounts together with the Auditor General's report before the Local Government's legislative arm within thirty (30) days of receipt of the report.

**Accounts and Audit.**

(9) The Chairman of a Local Government Council shall submit a report to the Auditor-General on the action taken by the Local Government Council on the report within sixty (60) days of receipt of their report. A copy of the report shall be forwarded to the House of Assembly.

54. (1) The Auditor General for Local Governments may query any item of expenditure or revenue loss which is contrary to this law or recommend a surcharge of any person for any of the following –
- (a) the amount of any expenditure queried on the person responsible for incurring or authorizing that expenditure;
  - (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or
  - (c) the amount of any loss or deficiency caused by any employee of a Local Government or any elected officer or any person by whose negligence or misconduct the loss or deficiency has been incurred and shall give notice to the person affected.
- (2) In giving notice of any query or recommended surcharge under subsection (1) of this Section, the Auditor General shall state in writing the grounds upon which his decision is based.
- (3) A person against whom a query or recommended surcharge was made by the Auditor General may appeal to the House of Assembly through the Public Account Committee after the Auditor General shall have stated in writing the grounds upon which his decision is based.
- (4) Any sum certified by the Auditor General to be due from any person shall be paid by that person to the Local Government or other body concerned within thirty (30) days after it has been so certified or if an appeal with respect to that sum has been made under subsection (3) of this Section within thirty (30) days after the appeal is finally disposed of or abandoned or failed by reason of non-pursuance.
- (5) The Chairman of a Local Government Council shall ensure that all money surcharged under subsection (2) of this Section are collected and paid into the account of the Local Government.

**Auditor  
General  
May Query or  
Surcharge.**

55. (1) Any sum which is certified by the Auditor General to be due and which has become payable shall be recoverable as a civil debt.
- (2) Any person aggrieved by a decision of the Auditor General may appeal to the House of Assembly and if dissatisfied, may appeal to the High Court.

**Recovery of sums  
Certified Due**

56. (1) Every Local Government Council shall establish an Internal Audit Department in order to ensure effective, efficient and continuous audit of the financial activities of the Local Government Council.
- (2) In pursuance of subsection (1) of this Section, career progression shall be harmonized and a new Audit cadre shall be created to distinguish accounting from auditing functions.
- (3) The Head of the Internal Audit Department shall at intervals of three (3) months, prepare a report on the internal audit work carried out by the

**Internal Audit**

- Department during the three months immediately preceding the preparation of the report, and submit it to the Legislative arm of the Local Government and forward copies to the Auditor General for Local Government.
- (4) The Head of the Internal Audit Department shall make in each report such observations as appear necessary as to the conduct of the financial affairs of the Local Government Council during the period to which the report relates and make recommendation for effective management of the said financial affairs of the Local Government Council.
  - (5) The Department shall be headed by the Local Government Internal Auditor in line with the existing state cadre.
  - (6) The Local Government Internal Auditor's functions shall cover both the financial and operational activities of the Local Government Council.
57. The provisions of the extant Financial Memorandum, as reviewed from time to time shall be used in addition to the provisions of this Law. **Existing Financial Memorandum**
58.
  - (1) A Local Government Council shall cause to be prepared a development plan which shall guide the development of the Council locality.
  - (2) The Commissioner responsible for budget matters shall issue guidelines for the preparation of development plans.
  - (3) The draft of the development plan shall be made available to the public.
  - (4) A Local Government Council shall before approving or reviewing a development plan, consult residents of the locality, agencies of Government and non-governmental and international organizations that have interest in working in the locality.
  - (5) A development plan shall form the basis for the preparation of the budget of a Local Government Council.**Local Government Development Plans.**
59.
  - (1) The Chairman of a Local Government Council shall constitute a Local Technical Planning Committee(referred to in this Law "as the Local Technical Planning Committee") which shall consist of –
    - (a) the Chairman of a Local Government Council who shall preside over the Committee ;
    - (b) heads of relevant Departments of the Local Government Council; and
    - (c) any technical person co-opted by the Chairman of the Local Government.
  - (2) The Development Plan for a Local Government Council shall be prepared by the Committee.**Local Technical Planning Committee**
60.
  - (1) The Chairman of a Local Government Council shall present a draft Development Plan for the approval of the Legislative arm of the Local Government Council.
  - (2) A review of a Local Government Development Plan is also subject to the approval of the Legislative arm of the Local Government.**Approval of Development Plans.**
61. A Local Government Council shall review its Development Plan as and when necessary or at least every 5 years. **Review of Development Plans.**
- Availability of Development Plan**

- |     |   |  |
|-----|---|--|
| 62  | A copy of the approved Development Plan shall be made available at the office of the Local Government Council and in a conspicuous place in every ward, immediately after approval.   |  |
| 63. | A development plan prepared and approved by a Local Government Council shall not be incompatible with any development plan adopted by the State Government.   | <b>Development Plans Not to be incompatible</b>                                |
| 64. | (1) Every Local Government Council shall compile and cause to be maintained a comprehensive inventory of the assets of the Local Government Council annually.<br>(2) Copies of the inventories shall be sent to the Commissioner responsible for Local Government Council and the Auditor General (Local Government).   | <b>Assets inventory of Local Government Council</b>                            |
| 65. | (1) All Local Government Council revenues shall be documented in receipts and specially numbered forms.<br>(2) The Director of Accounts shall ensure adequate security of printed receipts and other security documents.  | <b>Security for Revenue Receipts.</b>  |
| 66. | (1) A Local Government Council shall paste on a notice board in a conspicuous place on the premises of the Local Government Council and on a notice board in each ward for at least thirty-one (31) days or until an updated version is available –<br>(a) monthly statements of financial accounts; stating the income and Expenditure of the Local Government Council;<br>(b) annual income and expenditure statements;<br>(c) inventories of assets of the Local Government Council;<br>(d) bye-laws and notices relating to tax rates and fees; and<br>(e) draft and final development plans.<br>(f) audit reports.<br>(2) Copies of the reports, notices and statements shall be made available to members of the public upon written request. | <b>Publication of the Local Council Financials Required to be made Public.</b> |
| 67. | The Commissioner responsible for Local Government shall put in place participatory processes in Local Government Council and encourage citizens' inclusion and involvement in governance.   | <b>Ministry to promote Participatory Processes In Governance</b>               |

**PART IX**  
**FINANCE MANAGEMENT AND CONTROL PROVISIONS FOR PUBLIC ENTITIES**  
(Parastatals, Institutions and extra-ministerial departments, etc)

- |    |   |                                  |
|----|---|----------------------------------|
| 68 | The provision of this part of this Law shall apply to the extent indicated, to all parastatals or institutions listed in the Schedules to this Law. | <b>Application of this Part.</b> |
|----|---|----------------------------------|

- 69 (1) The Commissioner may by Legal Notice published in the State's Gazette—
- (a) amend any of the Schedules to this Law to include any Parastatal or Institution that is not listed; and
  - (b) make changes to the list as the occasion warrants.
- (2) The Accounting authority for a Parastatal or Institution that is not listed in the Schedules to this law shall notify the Ministry of Finance, in writing that the Parastatal or Institution is not listed.

70. (1) The Commissioner may by Legal Notice published in the State Official Gazette classify Parastatals or Institutions listed in the Schedules to this Law in accordance with the relevant definitions set out in this Section
- (2) A Parastatal or Institution for the purpose of this Law is regarded as belonging to the class in which it is classified in terms of subsection (1) of this Section.
- (3) All fully subvented Agencies and Parastatals listed in Schedule I of this Law are to pay all revenues received by them into the Consolidated Revenue Fund, which also includes Dedicated Accounts.
- (4) All fully commercialized Parastatals listed in Schedule II to this Law are expected to –
- (a) be autonomous of Government;
  - (b) run their affairs as a business concern;
  - (c) prepare on a yearly basis and submit an audited financial statement for the year end to the supervisory Ministry, and the Ministry of Finance, covering –
    - (i) income Statement;
    - (ii) balance sheet;
    - (iii) cash flow statement; and
    - (iv) statement of networth; and
    - (v) pay annual dividend into the Consolidated Revenue Fund of the State.
- (5) All partially subvented Agencies and Parastatals listed in Schedule III to this Law are excluded from paying their receipts into the Consolidated Revenue Fund.
- (6) All Public Institutions listed in Schedule IV to this Law are excluded from paying their receipts into the Consolidated Revenue Fund.

**Classification of Agencies, Parastatals And Institutions**

71. Every Agency, Parastatal or Institution shall have an Accounting Officer who is personally and pecuniary accountable to the House of Assembly through the Public Accounts Committee, for the purpose of this Law

**Accounting Officers**

72. (1) The Accounting Officer for an Agency, Parastatal or Institution shall –
- (a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the institution;
  - (b) act with fidelity, honesty, integrity and in the best Interest of the Institution in managing its financial affairs.

**Fiduciary Duties of Accounting Officers.**



- (c) act in a way that is consistent with the responsibilities assigned to an Accounting Officer under this Law; or
- (d) not use the position or privileges or confidential information obtained as the Accounting Officer for personal gain or improperly to confer benefit on another person.

- 73 An Accounting Officer of a Board/Approving Authority must – **Disclosure of Interest**
- (a) disclose direct or indirect personal or private business interest that he or his spouse, partner or close family member may have in any matter, before any decision concerning the matter is taken;
  - (b) withdraw from the proceedings of the approving authority when that matter is being considered, unless the accounting authority decides that the member’s direct or indirect interest in the matter is trivial or irrelevant.
- 74 (1) An Accounting Officer for an Agency, Parastatal or Institution shall ensure that it has and maintains – **General Responsibility of Accounting Officers, Board and Approving Authority**
- (a) effective, efficient and transparent system of financial and risk management and internal controls;
  - (b) a system of internal audit complying with and operating in accordance with Section 11 of this law;
  - (c) an appropriate procurement system which is fair, equitable, transparent, competitive, cost-effective and complies with the provisions of any law governing public procurement; and
  - (d) a system for properly evaluating all major capital projects prior to a final decision on the project;
- (2) An Accounting Officer for an Agency, Parastatal or Institution shall take effective and appropriate steps to –
- (a) collect all revenue due to the Parastatal or Institution concerned; and
  - (b) manage available working capital efficiently and economically.
- (3) An approving authority shall also be responsible for –
- (a) management, safe guarding the assets, revenue, and expenditure of the Parastatal or Institution and protecting it from liabilities; and
  - (b) ensuring compliance with any tax, levy, duty, pension or audit commitments as may be required by law.
  - (c) taking effective and appropriate disciplinary steps against any employee of the agency, parastatal or institution who–
    - (i) contravenes or fails to comply with a provision of this Law; or
    - (ii) does an act which undermines the financial management and internal control system of the parastatal or institution.
- 75 (1) The Accounting Officer for an Agency, Parastatal or Institution may in writing, delegate any of his powers under this Law, to an official in that parastatal or institution. **Assignment of Powers And Duties by Accounting Officers.**
- (2) A delegation or instruction to an official under subsection(1) of this Section–

- (a) is subject to any limitation or condition the accounting officer may impose;
  - (b) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
- 1 The Accounting Officer may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction under subsection (1) of this Section, subject to any right that may have accrued as a consequence of the decision.
76. An official in an Agency, Parastatal or Institution within the area of responsibility of that official shall –
- (a) ensure that the system of financial management and internal control established for that parastatal or institution is carried out;
  - (b) be responsible for the effective, efficient, economic and transparent use of financial and other resources;
  - (c) take effective and appropriate steps to prevent any irregular and wasteful expenditure and any under collection of revenue due;
  - (d) comply with the provisions of this Law including any delegation and instruction given pursuant to the provisions of this Law; and
  - (e) be responsible for the management and safeguarding of the assets of the Parastatal or Institution and the management of its liabilities.
77. The Accounting Officer for a fully subvented Agency, Parastatal or Institution listed in Schedule I to this Law, shall comply with a call circular issued by the Commissioner responsible for budget matters by preparing their proposals in accordance with the guidelines in the call circular in preparation for bilateral discussions.
78. (1) The Commissioner shall obtain the approval of the Executive Council of the State before granting loans to any Agency, Parastatal or Institution for which provisions has been made in the year’s budget.
- (2) The loan referred to in subsection (1) of this Section can only be given for any of the following purposes –
- (a) starting off at the inception of the Parastatals or Institutions if it is within the year for which no appropriation was provided for;
  - (b) assisting the Parastatals or Institution during the period of critical financial crisis that is not due to the inefficiency or ineffectiveness of the management;
  - (c) loans so granted must not be monies appropriated for another purpose or Ministries, Departments or Agencies.
79. (1) The modalities for the repayment of the loan shall be agreed to by the Commissioner and the borrower in writing before the release of funds.
- (2) The Commissioner may with the concurrence of the borrower consolidate two or more loans into an existing or new loan.

**Responsibilities of Other Officials.**

**Annual Budget and Corporate Plan by Fully Subvented Agencies, Parastatals And Institutions**

**Lending Money to Agencies, Parastatals or Institutions**

**Repayment and Consolidation of Loans**

80. (1) Any loan given to an Agency, Parastatal or an Institution may be written off with the approval of the House of Assembly where –
- (a) the office of the Auditor-General has investigated the Agency, Parastatal or Institution and where any person indicted for negligence, mismanagement or misappropriation has been surcharged or otherwise dealt with appropriately according to Law;
  - (b) such an Agency, Parastatal or Institution has been dissolved, disposed of or privatized without any Ministry, Department or Agency succeeding it;
  - (c) projects for which the loan was granted were transferred to another Parastatal or Institution and as a result the accepting Agency shall –
    - (i) assume the loan and the condition for repayment; and
    - (ii) the loan shall be written off from the initial Parastatal or Institution; or
  - (d) where the Auditor-General (State) certifies that the loan has been non-performing for a minimum period of 5 years.
- (2) Subject to the approval of the House, the Governor may approve the write off of loans falling under subsection(1) (b), (c) and (d) of this Section.

**Conditions for Writing – Off Loans**

81. (1) The Accounting Officer for an Agency, Parastatal or Institution shall:-
- (a) keep full and proper records of the financial affairs of the Parastatal or Institution;
  - (b) prepare financial statements for each financial year in accordance with generally accepted accounting practice and guidelines issued by the State Treasury Office;
  - (c) submit those financial statements within three (3) months after the end of the financial year to the external auditors of the Parastatal or Institution for auditing.
  - (d) submit within four (4) months of the end of a Financial year to the State Treasury Office and the Auditor-General’s Office-
    - (i) an annual report on the financial activities of that Parastatal or institution during that financial year;
    - (ii) the financial statements for that financial year after the statements have been audited; and
    - (iii) the report of the external auditors on those statements.
- (2) The annual report and financial statements referred to in subsection(1) of this Section shall –
- (a) fairly present-
    - (i) the state of affairs of the Parastatal or institution;
    - (ii) its business, its financial results and financial position at the end of the financial year concerned; and
    - (iii) its performance against predetermined objectives.
  - (b) include particulars of any–

**Annual Report and Financial Statements Of Agencies, Parastatals and Institutions**

- (i) financial assistance received from the State and commitments made by the State on its behalf;
- (ii) losses foreseen or written off;
- (iii) other matters that may be required by the State Treasury Office.

**PART XI  
GENERAL TREASURY MATTERS**

82. (1) The State Treasury must make regulations or issue instructions applicable to departments, concerning— **Treasury Regulations and instructions**
- (a) any matter that must be prescribed for departments in accordance with this Law;
  - (b) the recovery of losses and damages;
  - (c) the handling of, and control over, trust money and property;
  - (d) the rendering of free services;
  - (e) the writing off of losses of State money or other State assets or amounts owed to the State;
  - (f) liability for losses and damages and procedures for recovery;
  - (g) the cancellation or variation of contracts to the detriment of the State;
  - (h) the settlement of claims by or against the State;
  - (i) the waiver of claims by the State;
  - (j) the remission of money due to the Revenue Fund, refunds of revenue and payments from the Revenue Fund, as an Law of grace;
  - (k) the alienation, letting or other disposal of State assets; and
  - (l) gifts or donations by or to the State.
- (2) The State Treasury may make regulations or issue instructions applicable to departments, concerning—
- (a) any matter that may be prescribed for departments in accordance with this Law;
  - (b) the charging of expenditure against particular votes;
  - (c) the establishment of and control over trading entities;
  - (d) the improvement and maintenance of immovable State assets;
  - (e) fruitless and wasteful, unauthorized and irregular expenditure;
  - (f) the determination of any scales of fees, other charges or rates relating to revenue accruing to, or expenditure from, a Revenue Fund;
  - (g) the treatment of any specific expenditure;
  - (h) vouchers or other proofs of receipts or payments, which are defective or have been lost or damaged;
  - (i) assets which accrue to the State by operation of any law; or any other matter that may facilitate the application of this Law.
- (3) Regulations in accordance with subsection (1) or (2) may prescribe matters for which the prior approval of a treasury must be obtained.

- (4) The State Treasury may make regulations or issue instructions applicable to all institutions to which this Law applies concerning—
  - (a) any matter that may be prescribed for all institutions in accordance with this Law;
  - (b) financial management and internal control;
  - (c) the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
  - (d) audit committees, their appointment and their functioning;
  - (e) internal audit components and their functioning;
  - (f) the administration of this Law; and
  - (g) any other matter that may facilitate the application of this Law.
- (5) A treasury regulation or instruction in accordance with this section may differentiate between different categories of—
  - (a) institutions to which this Law applies;
  - (b) accounting officers; or
  - (c) accounting authorities; or be limited in its application to a specific category of:
    - (i) institutions to which this Law applies;
    - (ii) accounting officers; or accounting authorities.

- |     |   |   |
|-----|---|---|
| 83. | Draft regulations in accordance with section 82 must be published for public comment in the <i>State Government Gazette</i> before their enactment.   | <b>Publishing of Draft Treasury regulations for public comment</b>      |
| 84. | The State Treasury may on good grounds approve a departure from a treasury regulation or instruction or any condition imposed in accordance with this Law and must promptly inform the Auditor-General in writing when it does so.  | <b>Departures from Treasury regulations, Instructions or conditions</b> |
| 85. | <ul style="list-style-type: none"> <li>(1) The Commissioner, by notice in the <i>State Government Gazette</i>, must determine—               <ul style="list-style-type: none"> <li>(a) a uniform interest rate applicable to loans granted out of a Revenue Fund; and</li> <li>(b) a uniform interest rate applicable to all other debts which must be paid into a Revenue Fund.</li> </ul> </li> <li>(2) An interest rate determined in accordance with subsection (1) (b) may differentiate between different categories of debt.</li> </ul> | <b>Determination of Interest rates for debt Owing to state</b>          |

**PART XII**  
**FINANCIAL MISCONDUCT**  
**A - Disciplinary proceedings**

86. (1) An accounting officer for a department or a constitutional institution commits a financial misconduct if that accounting officer willfully or negligently:-  
 (a) fails to comply with a requirement of section 71, 72, 73, 74 and 75; or  
 (b) makes or permits an unauthorized expenditure, an irregular expenditure or a fruitless and wasteful expenditure.  
 (2) An official of a department, a trading entity or a constitutional institution to whom a power or duty is assigned in accordance with section 84 commits a financial misconduct if that official willfully or negligently fails to exercise that power or perform that duty.
87. An official of a treasury to whom a power or duty is assigned in accordance with section 14 commits a financial misconduct if that official willfully or negligently fails to exercise that power or perform that duty.
88. (1) The accounting authority for a public entity commits financial misconduct if that accounting authority willfully or negligently:  
 (a) fails to comply with a requirement of section 71, 72, 73, 74 and 75 or;  
 (b) makes or permits an irregular expenditure or a fruitless and wasteful expenditure.  
 (2) If the accounting authority is a board or other body consisting of members, every member is individually and severally liable for any financial misconduct of the accounting authority.  
 (3) An official of a public entity to whom a power or duty is assigned in accordance with section 75 commits an offence of financial misconduct if that official willfully or negligently fails to exercise that power or perform that duty.  
 (4) Financial misconduct is a ground for dismissal or suspension of, or other sanction against, a member or person referred to in subsections (1), (2) or (3) despite any other legislation.
89. A charge of financial misconduct against an accounting officer or official referred to in section 86 or 87, or an accounting authority or a member of an accounting authority or an official referred to in section 88, must be investigated, heard and disposed of in accordance with the statutory or other conditions of appointment or employment applicable to that accounting officer or authority, or member or official, and any regulations prescribed by the Commissioner in accordance with section 90.

**Financial Misconduct  
By Officials in  
Department and  
Constitutional  
Institutions**

**Financial misconduct  
by treasury officials**

**Financial misconduct  
by accounting  
authorities and officials  
of public entities.**

**Applicable legal  
Regime for disciplinary  
proceedings**

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- (1) The Commissioner may make regulations prescribing:-
- (a) the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct must be reported to the State Treasury, the relevant Local Government treasury and the Auditor-General, including:-
    - (i) particulars of the alleged financial misconduct; and
    - (ii) the steps taken in connection with such financial misconduct;
  - (b) matters relating to the investigation of allegations of financial misconduct;
  - (c) the circumstances in which the State Treasury or a Local Government treasury may direct that disciplinary steps be taken or criminal charges be laid against a person for financial misconduct;
  - (d) the circumstances in which a disciplinary board which hears a charge of financial misconduct must include a person whose name appears on a list of persons with expertise in state finances or public accounting compiled by the State Treasury;
  - (e) the circumstances in which the findings of a disciplinary board and any sanctions imposed by the board must be reported to the State Treasury, the relevant Local Government treasury and the Auditor-General; and
  - (f) any other matters to the extent necessary to facilitate the object of this Chapter.
- (2) A regulation in accordance with subsection (1) may—
- (a) differentiate between different categories of—
    - (i) accounting officers;
    - (ii) accounting authorities;
    - (iii) officials; and
    - (iv) institutions to which this Law applies; and
  - (b) limited in its application to a particular category of accounting officers, accounting authorities, officials or institutions only.

**Regulations on financial  
Misconduct procedures**

### **B – Criminal Proceedings**

91. An accounting officer is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years, if that accounting officer willfully or in a grossly negligent way fails to comply with a provision of section 74, 75 or 76.

**Offences and penalties**

## **PART XIII ACCOUNTING STANDARD BOARD**

92. (1) The Commissioner by regulation in accordance with section 90 must establish a board to be known as the Accounting Standards Board. **Establishment**  
 (2) The Accounting Standards Board is a juristic person
93. (1) The Accounting Standards Board consists of no more than 10 members as the Commissioner may determine. **Composition**  
 (2) The Commissioner, after consulting the Auditor-General, appoints the members of the Board.  
 (3) The Board may establish its own operating procedures.
94. (1) The Accounting Standards Board must— **Functions of Board**  
 (a) set standards of generally recognized accounting practice as required for the annual financial statements of—  
     (i) departments;  
     (ii) public entities;  
     (iii) constitutional institutions;  
     (iv) municipalities and boards, commissions, companies, corporations, funds or other entities under the ownership control of a municipality; and  
     (v) Kogi State House of Assembly and the Local Government legislatures;  
 (b) prepare and publish directives and guidelines concerning the standards;  
 (c) recommend to the Commissioner effective dates of implementation of these standards for the different categories of institutions to which these standards apply; and  
 (d) perform any other function incidental to advancing financial reporting in the public sector.  
 (2) In setting standards the Board must take into account all relevant factors, including—  
     (a) best accounting practices, both locally and inter State; and  
     (b) the capacity of the relevant institutions to comply with the standards.  
 (3) The Board may set different standards for different categories of institutions to which these standards apply.  
 (4) The standards set by the Board must promote transparency in and effective management of revenue, expenditure, assets and liabilities of the institutions to which these standards apply.
95. The Accounting Standards Board may do all that is necessary or expedient to perform its functions effectively, which includes the power to— **Powers of Board**  
 (a) determine its own staff establishment and appoint employees to posts on its staff establishment;  
 (b) obtain the services of any person or entity to perform any specific Law or function;  
 (c) confer with any person or entity;



- (d) acquire or dispose of any right in or to property, but ownership in immovable property may be acquired or disposed of only with the consent of the Commissioner;
- (e) insure itself against any loss, damage, risk or liability;
- (f) perform legal Laws, or institute or defend any legal action in its own name; do research and publish reports; and
- (g) do anything that is incidental to the exercise of any of its powers.

96. (1) The Commissioner, after consulting the Auditor-General, may make regulations—
- (a) concerning the qualifications, remuneration, term of office and removal of members of the Accounting Standards Board, the filling of vacancies, the chairperson of the Board, and the finances and administration of the Board;
  - (b) prescribing the standards set by the Board in accordance with section 94; and
  - (c) concerning any other matter that may facilitate the proper functioning of the Board or the implementation of those standards.
- (2) The Commissioner must consult the Board on the implementation date of a regulation made in accordance with subsection (1) (b).
- (3) Different regulations may be made in accordance with subsection (1) (b) for different categories of institutions to which the standards set in accordance with section 94 apply.
- (4) Draft regulations prescribing standards in accordance with subsection (1) (b) must be published for public comment in the *State Government Gazette* before their enactment.
- Regulations on Accounting standards Board.**

#### PART XIV MISCELLANEOUS PROVISIONS

97. The Commissioner, by notice in the *State Government Gazette*, may exempt any institution to which this Law applies, or any category of those institutions, from any specific provisions of this Law for a period determined in the notice.
- Exemptions**
98. (1) Anything done which can be done in accordance with a provision of this Law, must be regarded as having been done in accordance with this Law.
- (2) All treasury regulations and instructions made or issued remain in force until repealed.
- (3) Until the Accounting Standards Board is established, the State Treasury may perform the functions of the Board.
- Transitional provisions**
99. (1) Any person who cannot account for public money in his nominal custody shall be liable to refund the said sum to the State Treasury.
- (2) A person has nominal custody of public money if –
- Liability for Loss of Public Money**

- (a) the person holds the money by way of petty cash advance; or
- (b) the person has received the money but has not yet dealt with it as required.

100. (1) Where the Accountant-General has reason to believe that any person has  
 – **Liability for Keeping Public Money**

- (a) received money for the Government and has not duly remitted it; or
- (b) received money for which he is accountable to the Government and has not duly accounted for it; or
- (c) in his hands any public money applicable for any purpose and has not duly applied it;

he shall cause a notice to be served on such person or on his personal representative, requiring that person or his personal representative, within such time from the service of the notice as may be specified therein, duly to pay over, account for, or apply such monies, as the case may be and to transmit to the Accountant-General satisfactory evidence that he has done so.

(2) Where a person fails to comply with a notice served on him under subsection(1) within the time stated therein, the Accountant-General shall cause to be stated an account between such person and the Government, showing the amount of money involved and charging interest at the prevailing bank rate from the date the amount became due.

(3) In any proceedings for the recovery of any monies due under this Section, a copy of the account so stated by a person authorized in that regard by the Accountant-General shall be prima facie evidence that the amount stated therein, together with interest, is due and payable to the Government.

101. The provisions of this part shall with necessary modifications apply to government stores or the value thereof, where appropriate as they apply to Government funds. **Application of Provisions to Stores**

102. The provisions of the Kogi State Financial Instructions are part of this law as a subsidiary legislation. **Application of Financial Instructions**

## **SCHEDULE I – Parastatals fully subvented by the Government**

- 1. Kogi Investment and Properties Ltd**
- 2. Kogi Foundation Ltd**

3. Kogi Specialist Hospital
4. Kogi State Broadcasting Corporation
5. Kogi Football Club
6. Confluence Queens

**SCHEDULE II – Fully Commercialised Parastatals**

1. Confluence Travels
2. Kogi Savings and Loans Ltd
3. Kogi Confluence Hotel
4. Kogi Hotel
5. Kogi State Newspaper Corporation

**SCHEDULE III – Parastatals Partially Subvented**

1. Kogi State University, Anyigba
2. College of Education Technical, Kabba
3. Kogi Polytechnic, Lokoja
4. College of Education , Ankpa
5. School of Health Technology, Idah
6. School of Nursing and Midwifery, Obangede
7. Nigeria-Korea Friendship Institute, Lokoja

**SCHEDULE IV – Public Institutions**

1. Kogi State University, Anyigba

2. College of Education Technical, Kabba
3. Kogi Polytechnic, Lokoja
4. College of Education , Ankpa
5. School of Health Technology, Idah
6. School of Nursing and Midwifery, Obangede
7. Nigeria-Korea Friendship Institute, Lokoja

### **OBJECTIVES AND REASONS**

The purpose of this Law is to regulate financial management in Kogi State Government and Local Government Areas; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively;

to provide for the responsibilities of persons entrusted with financial management in those governments; and to provide for matters connected therewith.

Its printed impression has been carefully compared by me with the Law which passed through the House of Assembly and found by me to be a true and correctly printed copy of the said Law.



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**SHAIBU, MATTHEW IREYI**  
Clerk of the House

I Assent/Withhold assent this 03 day of Feb 2019



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**ALHAJI YAHAYA BELLO,**  
Governor of Kogi State of Nigeria.