THE PUBLIC BODIES MANAGEMENT AND ACCOUNTABILITY ACT

Public Bodies (Financial Distribution) Regulations, 2011

IN EXERCISE of the power conferred upon the Minister by section 24 of the Public Bodies Management and Accountability Act, and of every other power hereunto enabling, the following Regulations are hereby made: -

1. These Regulations may be cited as the Public Bodies (Financial Distribution) Regulations, 2011, and shall be deemed to have come into operation in the 1st day of April, 2011.

2. - (1) In these Regulations, unless the context otherwise requires –

"profits or surplus", in relation to a self-financing public body, means audited after-tax net profits or surplus;

"self-financing public bodies" means public bodies that generate adequate revenues to sustain their operations;

"normal distributions" means payments, from audited profits or surpluses, that are expected to be maintained in the future;

"special distributions" means separate, one-off contributions that are made from retained earnings or windfall profits.

3. - (1) Subject to paragraph (2), these Regulations apply to self-financing public bodies, regardless of their mode of formation, source of financing or function.

(2) The Minister may exempt a self-financing public body from the provisions of paragraph (1), either indefinitely or for a limited period.

(3) Notwithstanding any other Act, the Financial Secretary may, at any time, require a self-financing public body to pay to the credit of the Consolidated Fund, at such times and in such manner as the Financial Secretary directs, such amount by way of a special distribution as the Financial Secretary may determine and notify to the public body.

4 Every self-financing public body shall manage its financial performance in a manner that will enable it to make regular payments from profits or surplus into the Consolidated Fund, either directly or indirectly through its parent company, in the case of subsidiaries.

5. - (1) Distribution targets for each self-financing public body shall be based on its audited after tax profits or surpluses for (the financial year ending on the 31st day of March) each financial year.

(2) Self-financing public bodies formed after the date of commencement of these Regulations, may be allowed such grace period for the build up of profitability, capital base and cash flow as the Financial Secretary may determine.

6. Estimates of annual contributions shall be included in the corporate plan for each planning period of a self-financing public body.

7. The directors of a self-financing public body shall seek to allocate a minimum of five *per cent* of audited net profit or surplus for transfer to the Consolidated Fund, no later than six months after the close of each financial year.

8. Additional payments over and above the minimum shall be considered, based on the financial performance of the self-financing public body.

9. Normal financial distributions shall be recommended by the Board of Directors of each self-financing public body and agreed with the Financial Secretary.

10. The Minister shall manage the funding requirements of every self-financing public body in order to arrive at a balance between the funding needs of the self-financing public body and the Government's revenue requirements.

11. In determining financial distribution targets, account shall be taken of the Government's preference for regular transfers from surplus, rather than capital gains, and for a reasonably stable stream of income from self-financing public bodies.

12. In setting targets, consideration shall be given to the amount of excess cash available to the self-financing public body after allowing for -

(a) adequate working capital;

(b) funding of approved capital investments (to be included in the corporate plan for the self-financing public body);

(c) foreign currency exposure (where applicable);

(d) an appropriate contingency for financial flexibility; and

(e) an appropriate debt to equity ratio.

13. Public bodies shall not retain large amounts of cash or financial investments in excess of requirements for working capital, the funding of an approved capital expenditure programme, to provide for contingencies and to maintain an appropriate level of financial flexibility.

14. Distribution targets may make allowance for any extraordinary provision for development projects approved by the Cabinet so, however, that every effort shall be made to manage capital needs so as not to affect agreed levels.

15 Calculations of distributable profit or surplus shall be based on audited net profit or surplus, after taking account of provisions for losses in previous years, to the extent that the losses have not been made good from profits earned subsequently.

16. Where there are significant variations in revenues or capital expenditures, adjustments may be made, with the approval of the Minister, to vary the amount of agreed contribution to the Consolidated Fund.

17. Public bodies shall distribute profit or surplus for subsidiaries in accordance with the provisions of these Regulations.

Dated the 21st day of March, 2011.

Minister of Finance and the Public Service