

# Highlights of the Budget and Financial Management Act 2009

*Originally by the IMF, mid-2009, reprinted by La'o Hamutuk.  
Some references to draft version of the law which may have been changed.*

The UNTAET Regulation 2001/13 came into effect when Timor Leste was being administered by the UN. Since then the Constitution of Timor Leste has been adopted a National Parliament consisted of elected representatives has been established and an elected Government has been administering the country. Changes to UNTAET Regulation 2001/13 were considered necessary in view of the changes that have been effected since 2001 and also because of the perceived need of Government and Parliament to manage financial administration more effectively, efficiently and in a transparent manner.

## ***The Amendments***

**1. *The Act-*** The new Act will be called the Budget and Financial Management Act. It deals with issues relating to the preparation of the annual and supplementary budget, its contents, the date for presentation and discussion thereof, budget execution, issues relating to reporting on budget execution on a quarterly basis as well as annual basis, of revenue receipts of Government, of the modalities of borrowings to fund Government expenditure, creation of special funds under a statute and audit and reporting of Government expenditure. This Act will form the framework within which Government will conduct all issues related to budget and financial management. This Act does not bring within its purview Acts such as the Petroleum Fund or any other Act dealing with issues relating to revenues of the country.

**2. *Preamble-*** The Act now lists the Objects and Scope of the Act as well as the principles and rules relating to the budget.

**3. *Structure of the Act-*** The structure of the Act has been changed to bring it in conformity with all other laws that have been enacted by Government.

**4. *Bank Accounts-*** The Act makes it explicit that all bank accounts have to be opened only with the approval of the Treasury. This is needed as the responsibility for opening and maintenance of official banks is that of the Minister of Finance. It is essential for effective financial management for the Ministry of Finance to know where money has been banked and the purposes for which it has been used during a financial year and the amounts that have remained unutilized.

**5. *Government borrowings-*** Section 11 of the current Act which provides for borrowings by Government was not enacted by the UN Transitional Administration. Therefore, under the old Act Government could not borrow funds from any source even if economic conditions in the country so demand. Under the amended Act if Government desires to borrow funds either from internal or external sources it must in its annual budget specify the amounts likely to be raised by way of loans during the financial year. In order to ensure transparency, the Act also specifies that all amounts raised by way of loans shall form part of the Consolidated Fund. In addition, the Act also stipulates that cost of servicing all such debts will be reflected in the annual budget. Since

repayment of loans will be statutory in nature, the Act specifies that all loans raised under this section shall be paid without further appropriation from the Consolidated Fund. The law also allows Government to provide a loan to an enterprise or an organization provided an appropriation is made for that purpose. Thus Government would have to provide for a suitable appropriation in the budget should it consider providing a loan to any organization, which will be subject to Parliamentary approval.

**6. Date for Budget Presentation-** Under the provisions of the new Act the Budget should be delivered by mid October. This move will help Parliament debate over the budget proposals at length and approve the budget proposals before the end of the financial year. This will enable Government to begin execution of the budget in accordance with its proposals duly approved by Parliament.

**7. Special Funds** – Government could not earlier establish and operate any special funds without statutory authority. The new Act now allows Government to operate special funds. This provision will enable Government to place money in Special Funds in future for very specific purposes. Money credited to a special funds, the accruals therein will be retained by the Fund and need not be repaid to the Consolidated Fund at the end of every financial year. However, in order to ensure transparency in the operation of Special Funds the Act specifies that a Fund can only be created by a Statute, i.e. Parliament's approval would be require to create a Fund. Also to ensure that the Fund remains within the purview of Parliament, the Act stipulates and the estimates of income and expenditure would have to be laid before Parliament.

**8. Virements-** In the amended Act no virement will be allowed from capital (development) expenditure to any other budget category. The intention is to ensure that funds earmarked for development purposes are only used for such activities are not used to fund recurrent expenditure of Government. Salaries will also be protected from virements, which means that funds budgeted for payment of salaries can only be used for that purpose and cannot be re-allocated for any other purpose. In order to give Ministries more flexibility in budget execution it is proposed that the level of appropriations from one appropriation to an other be increased from 10% of the appropriation from which the amount is being transferred to 20%.

**9. Reporting requirements-** In the absence of the High Court of Tax and Audit, the Ministry of Finance was getting the financial statements of Government audited by an independent auditor appointed by it. In order that the provisions of the law is fully met, the Minister of Finance will now present the audited financial statements of Government to the Court of Appeals until such time as the High Court of Tax and Audit is not appointed. The Court of Appeals will then examine the financial statements and submit them to Parliament thereafter. This is a change from the system currently in force wherein the Government submits the audited financial statements to the Parliament.

**10. Penalties-** The 2001 Act stipulates the penalties for various offences committed by civil servants. As a criminal and civil justice code has now been enacted in the country, the provisions relating to penalties have been deleted and any civil servant who is suspected to have committed criminal offences will be dealt with by the Court of Justice in accordance with the civil and criminal code of the country.