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Public Finance Manual

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PUBLIC FINANCE MANUAL

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LIST OF ABBREVIATIONS

ADB	Asian Development Bank
COPA	Committee on Public Accounts
COPE	Committee on Public Enterprises
COPF	Committee on Public Finance
CSO	Civil Society Organisation
DPMM	Department of Project Management and Monitoring
ERD	External Resources Department
FMRA	Fiscal Management Responsibility Act
IMF	International Monetary Fund
IO	Information Officer
IRD	Inland Revenue Department
MOF	Ministry of Finance
MP	Members of Parliament
MTMFF	Medium-Term Macro Fiscal Framework
NAOSL	National Audit Office Sri Lanka
NBD	National Budget Department
RTI	Right to Information
SA	Spending Agencies
SOE	State-Owned Organisations
TOD	Treasury Operations Department

GLOSSARY

1. **Appropriation Act -** The approved national budget of the country. The Act contains all the proposals of the appropriation bill and budget speech and is voted on and passed by Parliament. This is published on the Parliament website.

2. **Appropriation Bill –** The appropriation bill, prior to enactment, contains the bulk of proposed government expenditure for the following year, and indicates the expenditure of each Spending Agency. The Appropriation Bill is first presented to cabinet and then gazetted (and thus in the public domain) prior to being tabled in parliament, typically in early October.

3. **Audits -** Official independent examinations of the accounts of a business or other entity and produce a report.

4. **Bilateral Loans -** A loan agreement between two sovereign governments.

5. **Budget -** A financial plan to show how much money an entity will receive and how much they estimate to spend during a defined period.

6. **Budget Balance/Fiscal Balance -** The difference between government revenues and government expenditure during a given period.

7. **Budget Call -** Outlines the medium-term macro fiscal framework along with other guidelines, within which spending agencies must structure individual financial plans.

8. **Budget Cycle -** The different phases of the annual budget of the government, including formulation, approval, execution, and oversight.

9. **Budget Estimates -** Amount of money allocated in the Budget to any ministry or scheme for the coming financial year. Budget Estimates are published by the Ministry of Finance alongside the budget speech in November of each year.

10. **Budget Speech -** Contains the Finance Minister's new expenditure and revenue proposals that are not included in the Appropriation Bill.

11. **Capital Expenditure –** Expenditure of a capital nature on fixed assets such as land, buildings, and equipment that is used to produce future income.

12. **Cash flow –** A breakdown of inflows and outflows relating to cash movements.

13. **Current Account Balance (budget) -** Government revenue minus expenditure plus interest cost. A current account deficit indicates that the government must borrow money even to service interest. This is not to be confused with the Current Account Balance of the balance of payments, which applies to external payments.

14. **Central Bank Provisional Advances -** Lending by the Central Bank to the Government of Sri Lanka in January of the financial year. Lending is limited to 10% of the estimated revenue for the year and must be repaid by the government within six months.

15. **Central Government Debt -** The debt accumulated by the central government, excluding the debt obligations of state-owned enterprises.

16. **Cess -** A type of para-tariff applied by some governments (including Sri Lanka) on either exported items or imported items. Cess in Sri Lanka has been used as a tariff instrument to protect domestic industries by raising costs of imports. Cess has also been used as a means to collect revenue from exported raw materials such as tea and rubber with the intention of re-investing these funds in the industry.

17. **Debt Instrument -** A type of debt, such as a bond or a bill, that is offered as a tradable investment, and includes a commitment to pay back the investor by a particular time.

18. **Debt restructuring -** A process by which the contractual terms of a debt obligation are changed through a negotiation between creditors and debtors.

19. **Debt Servicing -** The funds that are required to cover the repayment of interest and principal of a debt for a particular period.

20. **Deficit Financing -** When the Central Bank directly purchases treasury securities (bills or bonds)

from the government as a means of directly financing government debt. This is one form of the commonly used term "money printing".

21. Domestic Debt - Debt owed by the government to local creditors.

22. External Debt - Government debt which is owed to foreign creditors.

23. Fiscal Strategy - The use of government spending and tax policies to influence economic conditions, especially macroeconomic conditions, including aggregate demand for goods and services, employment, inflation, and economic growth.

24. Fiscal Transparency - The publication of information on how governments raise, spend, and manage public finances.

25. Foreign Reserves - cash and other reserve assets such as gold held by a central bank or other monetary authority that are primarily available to balance payments of the country, influence the foreign exchange rate of its currency, and to maintain a buffer to facilitate emergency payments if any.

26. Government Expenditure – Spending by the government on recurrent items (salaries, interest, and transfers) and capital spending (infrastructure).

27. Government Revenue - Money received by a government from taxes and non-tax sources to enable it to undertake government expenditure.

28. Government Securities - A debt instrument issued by the government with a promise of repayment upon maturity.

29. Grants - Money or assistance received in kind by the government, usually in the form of aid from a foreign entity that is not required to be paid back.

30. Imprests - An advance of loans and funds to be used for spending purposes. In Sri Lanka, these advances are released by the Treasury Operations Department to the relevant spending agencies.

31. International Sovereign Bonds - A medium to long term debt instrument issued by the government denominated in a currency that is not its own currency. Also known as a Eurobond. Such bonds are typically tradable on international markets.

32. Long-Term Debt Obligations - Financial obligations of the country that are due more than one year in the future.

33. Macro Fiscal Framework – The framework is a forward-looking document that sets out three-year fiscal targets for the government.

34. Non-Tax Revenue - Government revenue other than that derived from taxation. This includes dividends derived from state-owned enterprises (SOEs), rent received from government owned buildings, levies from government entities, fines, and fees.

35. Progressive Tax - A tax in which the rate of tax is higher for a larger quantum of income.

36. Public Debt - The sum of central government debt and debt owed by state-owned enterprises.

37. Public Guarantee - An obligation undertaken by the Government to pay the debt of a third party in the event that the third-party defaults on its debt obligation. This results in a contingent liability. Typically, public guarantees are issued to state-owned enterprises or government authorities.

38. Public Procurement - Procurement of goods, services and works on behalf of a public authority, such as a government agency.

39. Recurrent Expenditure - Ongoing expenditure of an organization which is not a one-off expense, such as salaries, interest cost, and pensions.

40. Regressive tax - A tax in which the rate of tax diminishes as the taxable amount increases.

41. Rupee loans - Loans extended by a Sri Lankan bank or lending agency to the Government of Sri Lanka, denominated in Sri Lankan rupees.

42. Spending Agencies - Entities through which government implements its fiscal policies (ministries, departments, and other implementation agencies).

43. Sri Lanka Development Bonds - A domestic debt instrument denominated in US Dollars issued by the Government of Sri Lanka in terms of the Foreign Loans Act, No.29 of 1957.

44. State-Owned Enterprises (SOEs) - A corpo-

rate body created by a country's government to carry out commercial activities.

45. Subsidies - A benefit, usually in the form of money, provided to an entity to reduce cost of production or acquisition of an item, with a view to increasing production or usage of the item.

46. Supplementary Estimate/Allocation - When the government's expenditure requirements exceed what has been approved by parliament through the annual budget, the government must seek approval for extra spending from parliament through a supplementary estimate.

47. Syndicated Loans - A loan offered by a group of lenders (called a syndicate) who work together to provide funds for a single borrower. In this context, the Government of Sri Lanka is the borrower.

48. Tax Revenue - Government revenue collected through various taxes such as income tax, value-added tax, and customs duties.

49. Treasury Bills - A short-term (one year or less) interest-bearing obligation issued by the Treasury, payable to bearer. These are tradable in the open market and denominated in Sri Lankan rupees.

50. Treasury Bonds - A long-term (more than 1 year) interest-bearing obligation issued by the Treasury, payable to bearer. These are tradable in the open market and are denominated in Sri Lankan rupees.

51. Warrant - A written order to pay the receiver by a specific date. In Sri Lanka, this order refers to an authorisation for payments by the Minister of Finance.

Introduction

Public finance is a critical component of government. The management of public finance has a significant influence on macroeconomic, social, and political outcomes for society. In Sri Lanka, the national budget is the primary public finance allocation mechanism. Robust public participation in budgetary processes can help improve public finance outcomes for society.

However, in Sri Lanka, there is limited access to data as ministries are typically not proactive in disclosing information online. Whilst the Right to Information (RTI) legislation has improved access to information, government responses to RTIs have been inconsistent and often non-comprehensive[1]. These constraints are exacerbated by irregular reporting on public finance. Furthermore, there are no standard participation mechanisms that occur annually but instead take place on an ad hoc basis at the discretion of political leadership. The resulting gaps in information and analysis lead to inadequate public debate and oversight over critical public finance policies and programmes.

Civil Society Organisations (CSOs) have the potential to facilitate public participation in public finance processes. They can contribute by:

1. Increasing public awareness of public finance issues and processes

2. Participating in budget formulation to ensure better social outcomes through public finance policies and acting to protect the public interest.

3. Functioning as public oversight bodies during the entire budgetary process to drive accountability.

By engaging with the budget cycle, CSOs will be able to provide input on a more efficient and rational allocation of resources. That is, they can encourage a more effective public spending, and question policy priorities of the government. Engagement with the government can improve public service delivery through better feedback mechanisms for government institutions. Such engagement would improve the overall inclusivity of the budgetary process and may contribute to better outcomes in terms of utilisation of public finances.

This manual is designed to function as a guide for CSOs to better understand the budgetary process in Sri Lanka and engage with the key institutions involved in public finance management. The manual consists of a glossary of key public finance terms, an overview of the key government institutions, an overview of the legislative framework that governs public finance in Sri Lanka, and a budget calendar highlighting key events and potential points of engagement and participation.

Key Government Institutions and their Roles

There are many institutions that have a role in the public finance process. This section briefly discusses the government institutions that have a significant role in each stage of the budget cycle, and their functions.

AGENCIES INVOLVED AT THE BUDGET FORMULATION STAGE

A. THE DEPARTMENT OF NATIONAL BUDGET

This department functions as the key agency responsible for the formulation of the national budget and annual budget estimates, and for presenting it to Parliament. All spending agencies are required to submit financial plans to the National Budget Department (NBD). Thus, the NBD is in constant consultation with all spending agencies to negotiate and finalize the expenditure proposals for the budget year. It is the key agency that provides information on budget proposals and any supporting documentation, budget estimates, and revenue, expenditure, financing, and borrowing limits for the forthcoming budget year.

B. THE FINANCE COMMISSION

The Commission facilitates the transfer of resources from the central government to the provincial sub-national government. It assesses provincial financial needs and carries out negotiations with the NBD to finalise an allocation. Furthermore, it provides the basis for apportioning funds among provinces and sectors.

While there are no formal mechanisms in place for engagement, the Finance Commission encourages provincial councils to engage with stakeholders to take into consideration their views and suggestions. It gives provincial councils sole responsibility for citizen engagement, although citizens can send complaints regarding provincial allocations and implementation to the Commission via post.

AGENCIES INVOLVED AT THE BUDGET IMPLEMENTATION STAGE

A. THE DEPARTMENT OF NATIONAL BUDGET

Apart from the role it plays at the formulation stage, the NBD is responsible for preparing cashflows and providing recommendations to the Department of Treasury Operations on the release of imprests to spending agencies. Therefore, it has an overview of the allocations for the budget proposals, the finalized national budget for the year with amendments, as well as any supporting documentation on the above.

B. THE DEPARTMENT OF TREASURY OPERATIONS

This department manages the Consolidated Fund and other Treasury Funds. As such, it is responsi-

ble for cash inflows and outflows based on the estimated revenue and expenditure in the national budget. The Treasury Operations Department (TOD) predominantly carries information on the actual expenditure and revenue of the government, as well as government borrowings and public debt.

AGENCIES INVOLVED AT THE BUDGET OVERSIGHT STAGE

A. THE DEPARTMENT OF NATIONAL BUDGET

This department functions as an oversight body at this stage of the budget cycle, and issues guidelines and circulars related to budget monitoring. It has information on the financial performance of the proposals, and any revisions that were made to the allocations.

B. DEPARTMENT OF PROJECT MANAGEMENT AND MONITORING

This department is a key oversight agency that has information on the physical and financial progress of development projects, including those funded by foreign donors. Furthermore, it publishes quarterly reports on the performance of large and mega-scale projects on the Ministry of Finance website. These reports can be found at: https://www.treasury.gov.lk/web/department-of-project-management-and-monitoring/section/publications.

C. THE NATIONAL AUDIT OFFICE

The National Audit Office (NAO), previously known as the Auditor General's Department, is an independent reviewer of the performance and accountability of public sector institutions and externally funded projects where the project financing flows through the government budget. It conducts financial, performance, and environmental audits. It also produces special reports on specific issues and programmes. The reports are published annually, and can be found at: http://www.naosl.gov.lk/web/index.php/en/.

The NAO is open for suggestions, petitions, and complaints from the public, and inputs from the public are examined by a special investigation division. However, there is little evidence to suggest that officials from the NAO get in touch with the requestee following the lodging of a concern. The complaint form is available at: https://www.auditorgeneral.gov.lk/web/index.php/en/complaint-submit-form.

OTHER DEPARTMENTS AND INSTITUTES UNDER THE MINISTRY OF FINANCE

Other than the above departments and agencies that play a key role in each stage of the national budget cycle, the following departments and agencies of the Ministry of Finance perform a significant role in the public finance process.

A. DEPARTMENT OF FISCAL POLICY

The Department of Fiscal Policy formulates the government's taxation policy and the related legislation. It manages and reviews fiscal performance, including government revenue and receipts.

B. DEPARTMENT OF PUBLIC FINANCE

The Department of Public Finance formulates and implements regulatory frameworks, and policies for public finance management and governance. It also monitors ministerial and departmental funds to ensure optimal utilization and management of public funds.

C. DEPARTMENT OF EXTERNAL RESOURCES

The Department of External Resources (ERD) is responsible for coordinating foreign development assistance and implementing donor funded projects. It manages the government's external debt database and publishes information on foreign aid and foreign training placements provided by donors.

D. DEPARTMENT OF STATE ACCOUNTS

The Department of State Accounts records financial transactions of all government agencies. It also provides accounting information on revenue and expenditure to the Auditor General, Central Bank, IMF, ADB and other similar institutions.

E. DEPARTMENT OF NATIONAL PLANNING

The Department of National Planning is responsible for ensuring that sectoral and regional policies and projects formulated by various government agencies are within the bounds of the National Development Policy Framework and the Medium-Term Macroeconomic Policy Framework. It assists in the

formulation of national and sectoral development policies and programmes.

F. DEPARTMENT OF INLAND REVENUE

The Department of Inland Revenue (IRD) is one of three institutions, along with the Department of Excise and Sri Lanka Customs, that play a pivotal role in tax collection and the administration of the government. It administers a range of domestic taxes such as income tax, value added tax, capital gains tax, share transaction levy, stamp duty, and betting and gaming levy.

G. SRI LANKA CUSTOMS

The Department of Customs plays a key role in tax collection and administration, border protection to prevent smuggling, and trade facilitation through pro-trade procedures and legislative frameworks. Customs is responsible for administering border taxation and is also responsible for some domestic taxes such as cigarette taxes and fuel taxes under the Excise Special Provisions legislation.

H. DEPARTMENT OF EXCISE

The Department of Excise is the agency responsible for the administration and collection of excise revenue. Taxes under the purview of the Excise Department are primarily related to the alcohol industry. The Department also plays a significant enforcement role related to the control of illicit alcohol and narcotics.

Budget Calendar and Points of Engagement

The country's fiscal year runs from January to December, and the associated national budget process takes place over a two-year period covering the following four stages:

Exhibit 1: Summary of budget calendar

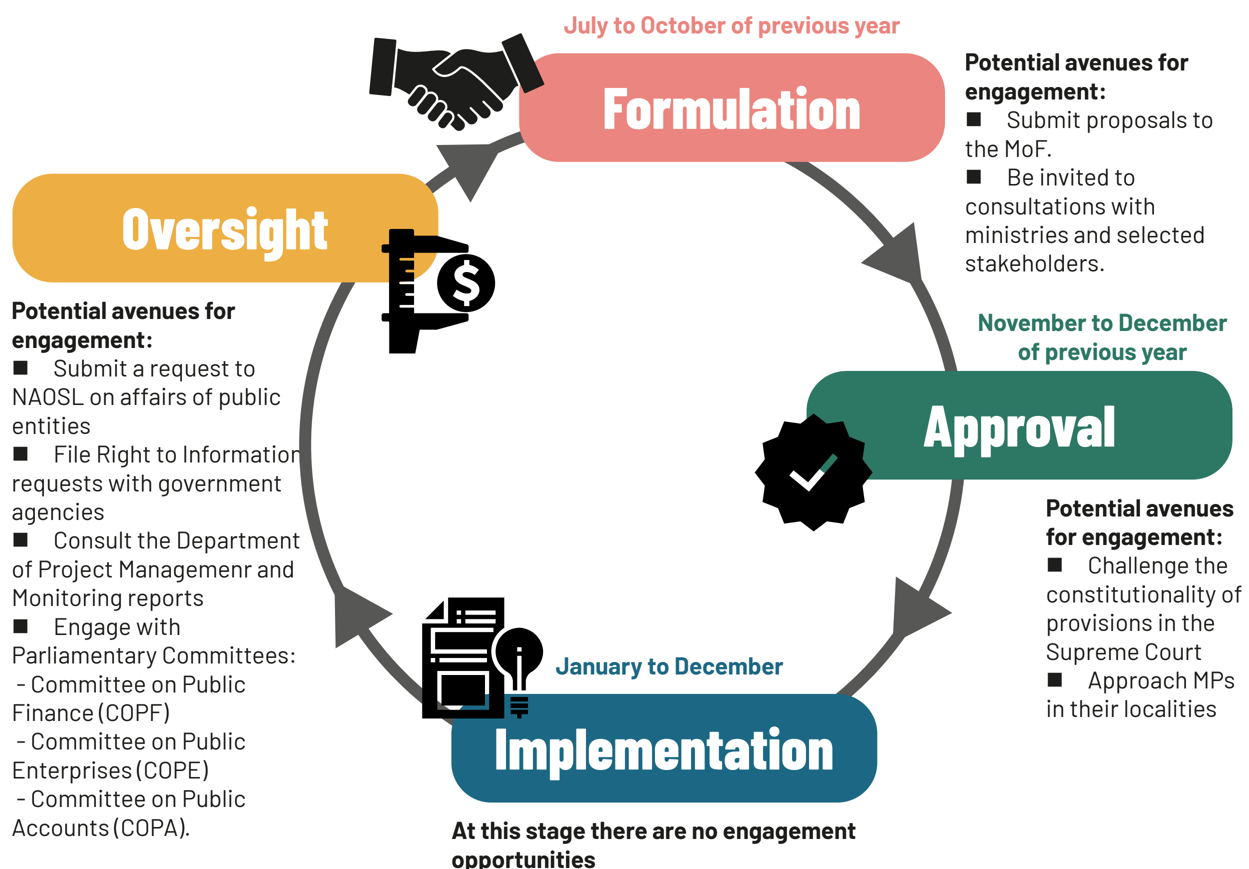
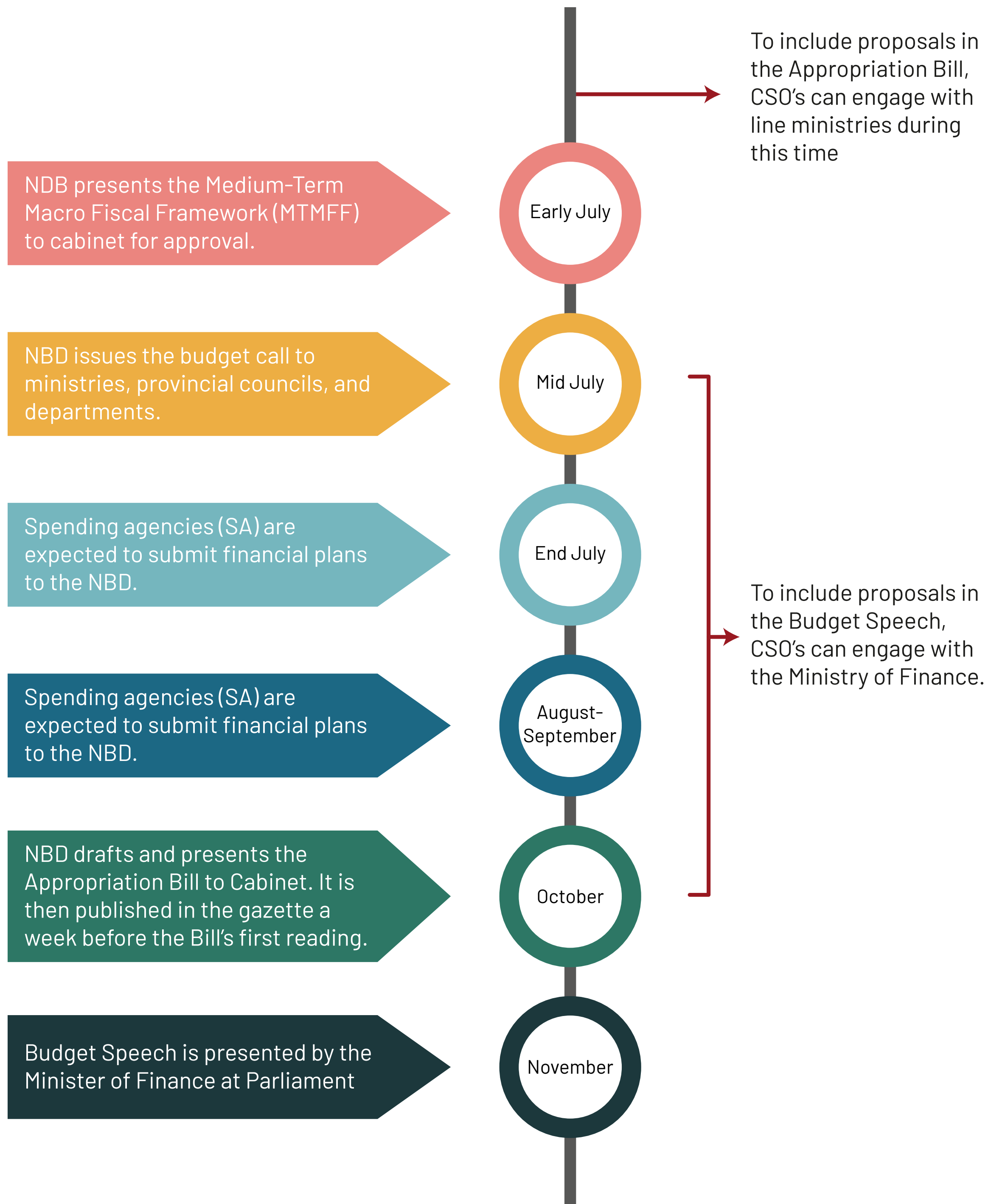


Exhibit 2: Summary of the key activities carried out at the formulation stage[2]



Responsible Party: Executive branch of government.

Timeline: July - October of the preceding year.

Civil Society Organisation Participation: There are no standard participation mechanisms in place. Instead, CSO participation tends to differ across years. Potential sources of engagement based on past practices are:

a. The Ministry of Finance would call for public

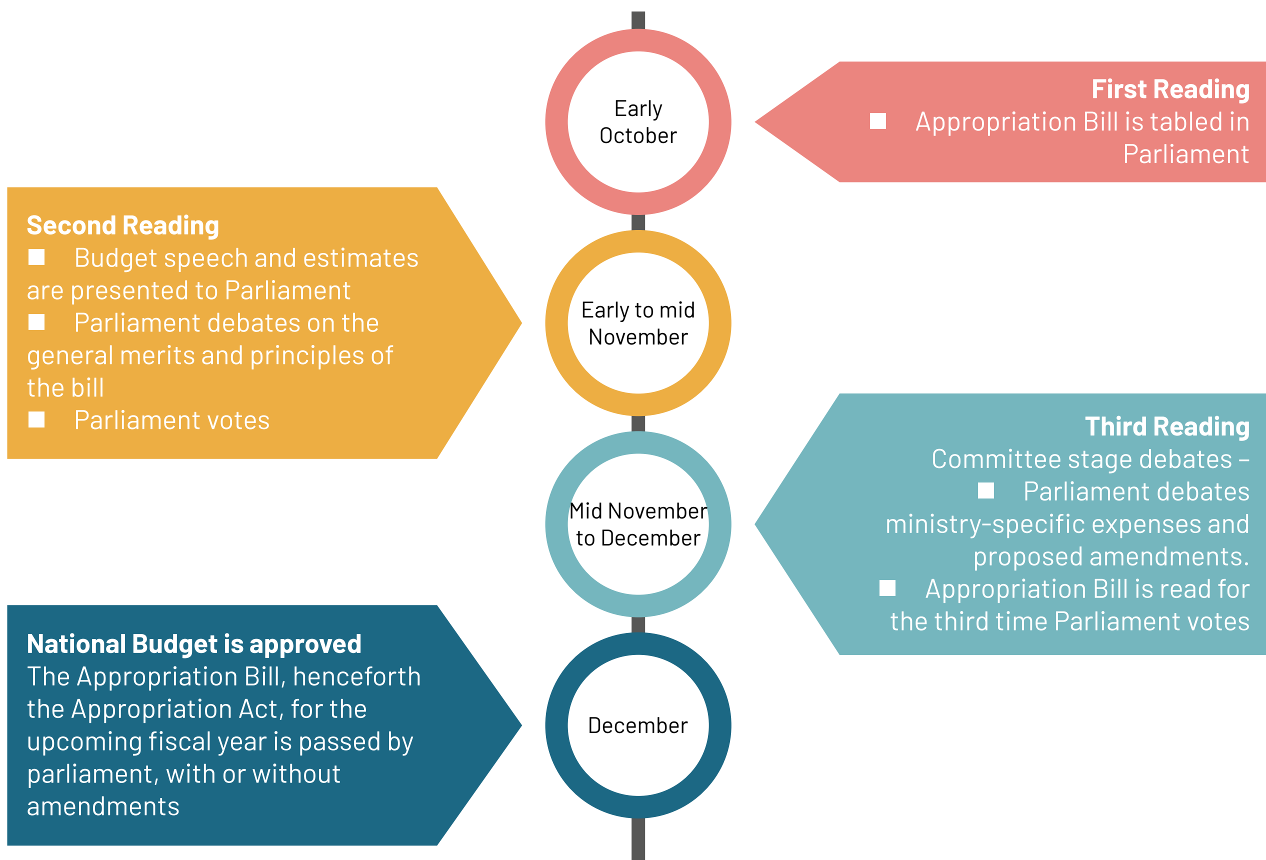
submissions on budget proposals directed to the Department of Trade and Investment Policy. These calls will be published in newspapers in all three languages. Previously, the government advertised such calls in the Lake House publications.

b. Ministry officials could hold consultations with line ministries, business chambers, and other selected stakeholders.

c. To include proposals in the Appropriation Bill stage, CSOs would need to engage directly with Line Ministries in the lead up to the budget call in July. If this window is missed, CSOs would need to engage directly with the Ministry of Finance to include proposals in the budget speech prior to November.

B. BUDGET APPROVAL

Exhibit 3: Summary of activities carried out at the approval stage[3]



Responsible Party: Legislative branch of government

Timeline: November - December of the preceding year

CSO Participation:

a. In the period between the First and Second Readings of the Appropriation Bill, Article 121 of the Constitution allows a Sri Lankan citizen to challenge the constitutionality of provisions in the Supreme Court. However, this is not an opportunity to propose new provisions in the Appropriation Bill, rather a means to challenge existing provisions on a legal basis.

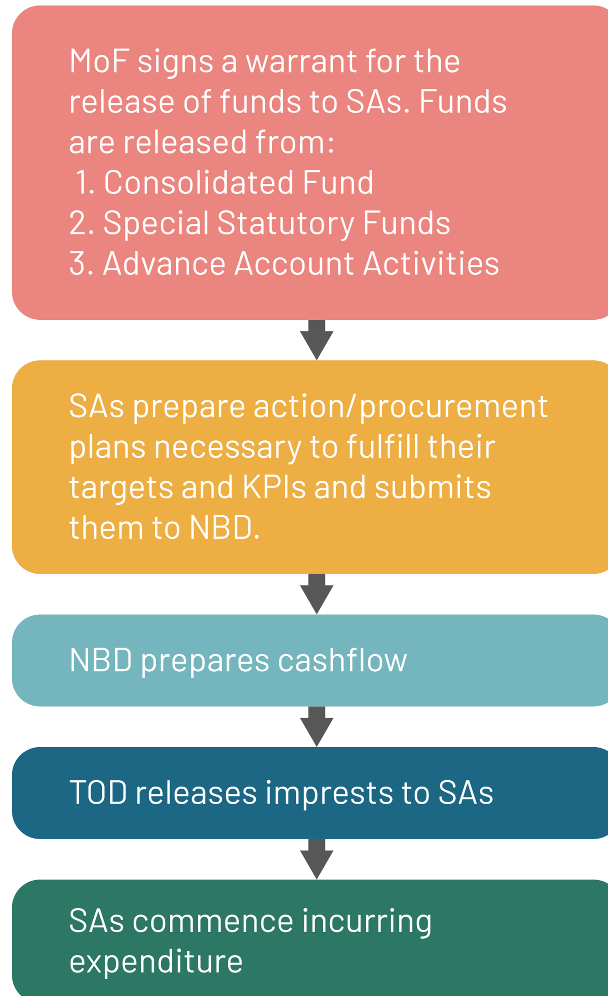
b. CSOs could potentially engage with Members of Parliament (MPs) in their localities. However, the effectiveness of this informal engagement mechanism is strongly questionable, as engagement in such a manner is fully at the discretion of the MP(s).

c. The Committee Stage Debates provide an opportunity for CSOs to engage with relevant Members of Parliament to move amendments to the budget proposals. Committee Stage amendments are intended for non-substantive amendments as per

parliamentary standing orders 60-65. Therefore, amendments would be feasible within that spirit.[4]

A. BUDGET EXECUTION

Exhibit 4: Summary of activities carried out at the implementation stage[5]

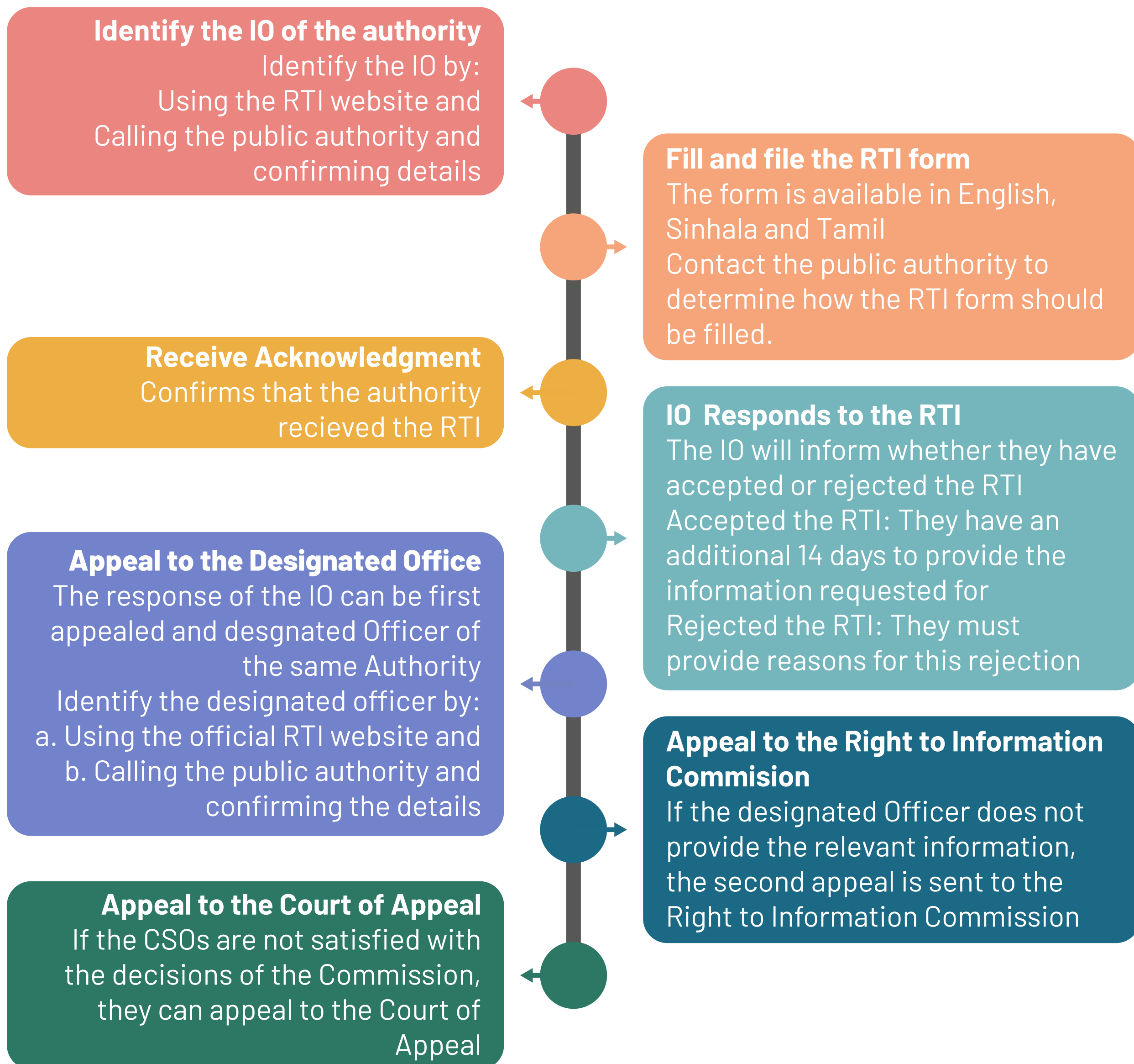


Responsible Party: Ministry of Finance, Department of National Budget (NBD), Spending Agencies, Department of Treasury Operations (TOD)

Timeline: 1st January – 31st December of the financial year.

CSO Participation: There are no mechanisms in place for CSOs to engage with the government at this stage.

Exhibit 5: A summary of the RTI Process



Responsible parties: Executive and Legislative Branches of Government.

CSO Participation: CSOs can submit a request directly to the NAOSL on affairs of the public entities. They are open for suggestions, petitions, and complaints from the public, and receipts from the public are examined by a special investigation division. However, there is little evidence to suggest that they get in touch with the requestee following the lodging of a concern. The complaint form is available at: https://www.auditorgeneral.gov.lk/web/index.php/en/complaint-submit-form

a. Information on the budget and other public finance related matters can be requested from public authorities under the Right to Information Act, No. 12 of 2016 by filing a Right to Information (RTI) letter with the relevant public authority. RTI is a useful tool that CSOs can use in tracking progress regarding the execution of budget proposals of interest to CSOs. The RTI process is given below.[6] The process is summarised in Exhibit 5.

Step 1: Find the Information Officer (IO) of the public authority at which the RTI is being filed. The IO oversees all RTI requests. The following link contains

contact information for IOs at each public authority: https://rti.gov.lk/images/pdf/2021/new_information_officer_full.pdf

Important to Note: The information at the above link tends to be outdated, and it is recommended that CSOs contact the relevant public authority via the general line and confirm the details of the IO. For some authorities, the details are given on their official websites. Please note that identifying the IO is not a straightforward process, and will require multiple calls and transfers within the authority.

Step 2: Fill in the RTI form. This is available in all three languages and can be found at https://www.rti.gov.lk/rti-forms.

Important to Note: To determine the mode of filing the RTI, i.e., through regular post, registered post, visiting the authority and physically filing it, or via email, it is imperative that CSOs get in touch with the IO and clarify which mode is preferred by the public authority.

Step 3: Once the RTI has been filed, the IO will provide a receipt acknowledging that the RTI was received. This receipt could be given immediately once the RTI is filed or could be posted in the form of an acknowledgement letter.

Step 4: The IO has 14 working days from the date of receipt to respond to the request.

Step 5: The public authority will decide on whether to provide the information or not. The decision will be communicated to the CSO via a 'decision letter'. If the public authority decides to provide the information, it has an additional 14 days from the date of agreeing to provide the information to send it across. If the RTI request is rejected, the IO must provide reasons for this rejection.

Step 6: If the CSO is not satisfied with the decision, it can appeal to the Designated Officer of the same authority within 14 days from the date the decision was made (the date given on the decision letter). The appeal form can be found at https://www.rtiwatch.lk/wp-content/uploads/2017/09/RTI-10-Appeal_to_the_Designated_Officer.pdf

Important to Note: Information regarding the Designated Officers can be found at: https://www.rti.gov.lk/images/pdf/2021/new_designation_officer_full.pdf. Similar to the case of identifying IOs, it is recommended that CSOs contact the relevant public authority and confirm the contact details of the Designated Officer.

Step 7: If the Designated Officer does not provide the relevant information, CSOs can appeal to the Right to Information Commission within two months of the decision of the Designated Officer.

Step 8: If the CSO is not satisfied with the decision of the Commission, it can appeal to the Court of Appeal within one month of the decision of the Commission.

Important to Note: While these timelines are given in the Right to Information Act, in practice it is imperative that constant follow-ups are done with the IO around twice a week to receive the information within the specified time frames. These follow-ups should commence from the time the RTI is filed to the time the information is received.

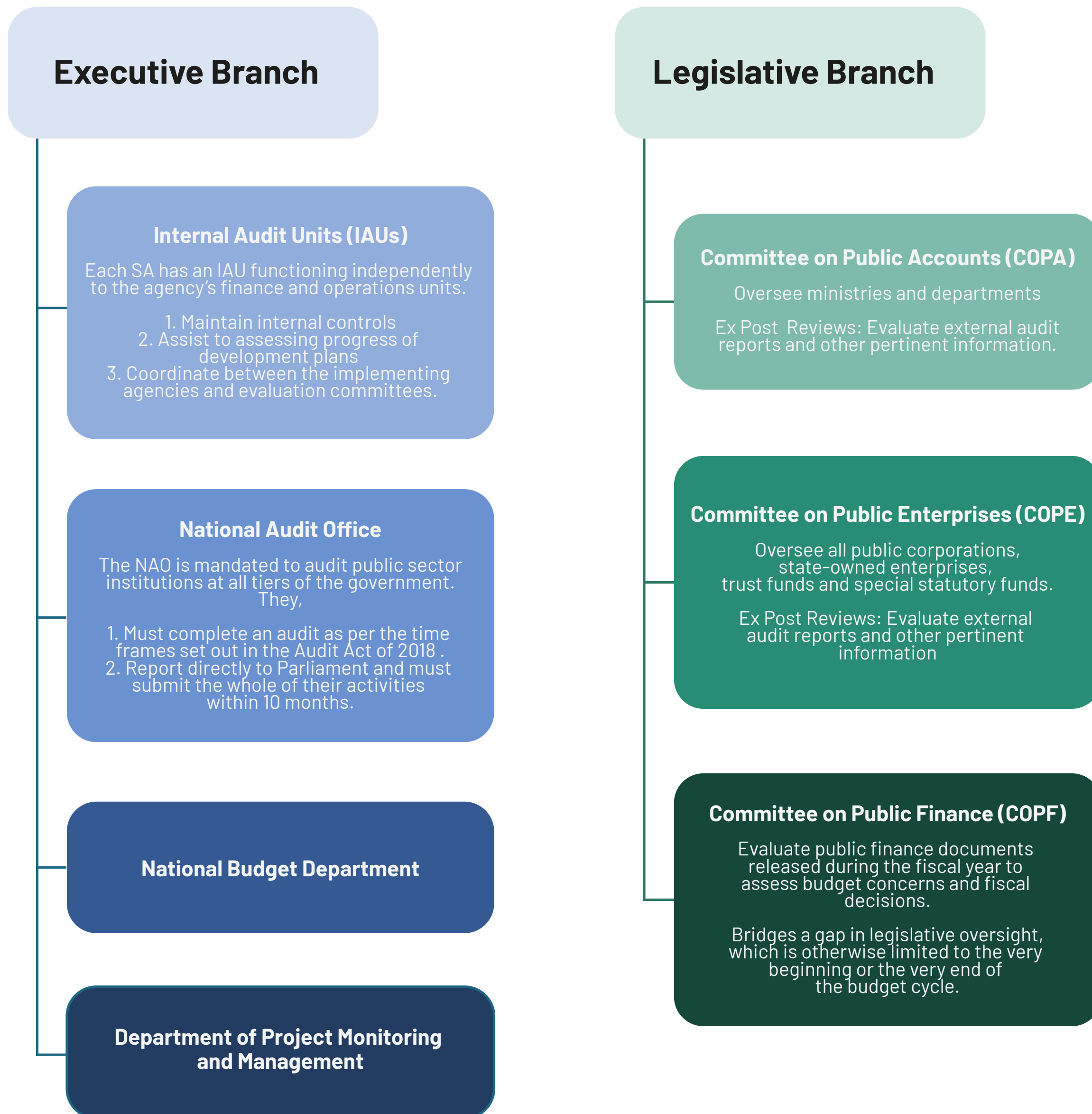
'RTI Watch', a platform maintained by Transparency International Sri Lanka, provides a simple yet comprehensive breakdown of the entire RTI process including the dos and don'ts, the role of IOs, Designated Officers, and the RTI Commission, as well as the fees that can be charged by public authorities for the release of the information. The platform can be accessed via https://www.rtiwatch.lk/.

For a more detailed and comprehensive summary of the RTI process provided in Exhibit 5, please access an infographic published on RTI Watch at: https://www.rtiwatch.lk/processimageeng/.

An example of using RTIs to assess the progress of budget proposals can be viewed on the Budget Promises Dashboard at Publicfinance.lk.[7] This dashboard tracks the implementation progress of key budget proposals through the course of the im-

plementation stage of the budget.

Exhibit 6: Summary of oversight agencies and their role[8]



b. A RTI can be filed with the Department of National Budget to obtain information on the financial progress of the budget proposals, and the public authorities responsible for the implementation of each of the proposals. This will assist CSOs in identifying the implementing public authority/authorities of the proposals that are of interest to them. For further information on specific proposals, RTIs can be filed with the relevant public authority.

c. The Department of Project Management and Monitoring (DPMM) publishes quarterly reports on the performance of large and mega scale projects. Their quarterly reports can be utilized to gain visibility on the progress, particularly the physical progress, of development projects of interest to CSOs.[9]

d. The Committee on Public Finance (COPF) is the key parliamentary committee with responsibility oversight for the budgetary process. For CSOs seeking to engage the legislative arm of government in budgetary matters, the COPF is the appropriate starting point. The Committee can be engaged regarding concerns relating to budget execution and oversight. Furthermore, the Committee is mandated to produce the following two key reports and in-

terim reports from time to time.[10]

- First report: This report analyses the budget estimates including whether expenditure and revenue allocations comply with the policies of the government. This report is published after the first reading of the Appropriation Bill

- Second report: This report contains analyses of the fiscal, financial, and economic assumptions used as the base for budget estimate formulation. This report is published after the second reading of the Appropriation Bill.

e. These reports can be found at the following link: https://parliament.lk/en/business-of-parliament/committees/committee-reports. The filter function on the webpage can be used to obtain reports for the Committee over the years.

f. Additionally, Verité Research publishes two independent reports on the budget. Each report analyses the same issues that are analysed in the two COPF reports. These reports can be found at https://www.veriteresearch.org/publications/.

g. There are two other parliamentary committees, the Committee on Public Accounts (COPA) and the Committee on Public Enterprises (COPE), that examine the financial discipline of government entities and report to Parliament on accounts examined, budgets and estimates, financial procedures, performance, and management practices.[11]

h. COPE oversees all public corporations, state-owned enterprises, trust funds, and special statutory funds.[12] COPA oversees ministries, departments, provincial councils, and local authorities.[13] The reports can be found at https://parliament.lk/en/business-of-parliament/committees/committee-reports. The filter function on the webpage can be used to obtain reports of each of the Committees over the years.

Legislative Framework Governing Public Finance

There are several laws and regulations that govern matters of public finance in Sri Lanka. This section briefly discusses some of the key laws and regulations that govern public finance in Sri Lanka, and provides a synopsis of the legal framework that governs matters of public finance in Sri Lanka.

A. THE CONSTITUTION

Chapter XVII (Finance) of the Constitution broadly sets out the legal framework for public finance in Sri Lanka. The legal framework recognized in the Constitution covers four key aspects regarding public finance: i) overall control of public finance; ii) the creation of the Consolidated Fund; iii) withdrawal of money from the Consolidated Fund; and iv) the Auditor General and the Audit Service Commission.

The first of these aspects, the overall control of public finance, is dealt with in Article 148 of the Constitution. Article 148 of the Constitution states that the 'Parliament shall have full control over public finance'. In interpreting Article 148 of the Constitution, the Supreme Court has held that 'full control' over public finance entails three components: i) controlling the sources of finance (that is, the imposition of taxes, levies, rates and like, and the creation of any debt of the Republic; ii) controlling the allocation of public funds to departments and agencies of Government and setting expenditure limits; and iii) controlling of auditing and checks as to due diligence in performance of public finance.[14] The Supreme Court has held that Parliamentary exercises control over public finance in trust of the people, and as such, the people should be informed of how control over public finance is exercised.[15]

Thus, Article 148 is based on the principle that the fiscal and financial governance of a country is vested in the sovereign of a country, that is, the people, who are democratically represented by Parliament. Accordingly, any proposed law (Bill) or regulation that would reduce or take away Parliament's control over public finance (for instance, the power to pass fiscal laws and impose taxes or approve subsidiary rules and regulations on matters of public finance) would be inconsistent with Article 148 of the Constitution.

The second aspect that the Constitution deals with is the creation of the Consolidated Fund. Article 149 of the Constitution states that all taxes, rates, duties and all other revenue of the state 'that is not allocated by law to specific purposes' shall form and be paid into the Consolidated Fund. Costs incurred by the State, including interests of public debt, sinking fund payments, and other costs determined by the Parliament, are charged to the Consolidated Fund.

The withdrawal and utilization of monies from the Consolidated Fund is the third aspect of public finance set out in the Constitution. Article 150(1) of the Constitution stipulates that money can be withdrawn from the Consolidated Fund only with a warrant issued by the Minister of Finance, for a specific

sum for a specific public purpose during the financial year. A warrant can be issued by the Minister of Finance, only if a law allows the issuing of a warrant or if Parliament has passed a resolution authorizing the issuing of a warrant.[16] Moreover, every Bill or motion that seeks to introduce or remove a tax, increase or reduce a tax, or dispose of monies in the Consolidated Fund, must be introduced to Parliament by a Minister, and such Bill or motion has to be approved by the Cabinet of Ministers.[17] However, Parliament may create Contingencies Funds in the event of an 'urgent and unforeseen expenditure' for which no provision has been made. The Minister of Finance may, if (s)he is satisfied of the need for such expenditure and that there are no other provisions to meet such expenditure, with the consent of the President, seek an advance from the Contingencies Fund.[18] After each such advance, a Supplementary Estimate must be presented to Parliament as soon as possible to replace the said advance.[19]

The final aspect of public finance that is set out in the Constitution is that of auditing public finances. Article 153 establishes the office of the Auditor General, and Article 154 sets out the duties of the Auditor General. Overall, the Auditor General is empowered to audit all government departments, the offices of the Secretaries to the President, Prime Minister, the Cabinet of Ministers, the independent commissions/commissioners, local authorities, public corporations, and any business or public corporation in which the government owns more than 50% of shares.[20]

B. APPROPRIATION ACT ('THE BUDGET')

The Appropriation Act is the formal name of what is commonly referred to as 'the Budget'. The Appropriation Act is essentially the law that sets out the fiscal and financial policy of the next financial year. Every year, Parliament passes an Appropriation Act, which approves the generating of proposed sums of revenue and the means of financing the expenses that will be incurred.[21] Each Appropriation Act has a standard preamble that highlights its general purpose, that is, '*an Act to provide for the service of the financial year concerned, to authorize the raising of loans in or outside Sri Lanka... to make financial provision in respect of certain activities of the government during that financial year, to enable the payment... of monies required during that financial year for expenditure on such activities, to provide for the refund of such monies to the consolidated fund and to make provision for matters connected therewith or incidental thereto.*' The importance of the Appropriation Act to the governance of the country is evident by the fact that, if an Appropriation Bill for a particular year is rejected by the Parliament, the Cabinet of Ministers shall be dissolved.[22]

The drafting of the Appropriation Bill for a particular year commences with the Ministry of Finance issuing a circular (budget call) requesting all government departments and agencies to submit estimates of revenue and expenditure for the following year.[23] The respective line ministries of the government departments and agencies collate these estimates and submit them to the Ministry of Finance.[24] Based on consultation between the Ministry of Finance and the respective line ministries, the Minister of Finance presents the final estimates to the Cabinet of Ministers for approval.[25] Once Cabinet approval is obtained, the estimates are codified as a Bill and presented to parliament to be enacted as a law.[26]

There is no specific date on which the drafting of the Appropriation Bill should be passed. However, the Appropriation Bill is usually presented to Parliament in October and November. Budget calls and the finalizing of estimates generally occurs prior to the month of October in a given year. Parties who wish to make representations in respect of the Budget for the following year should, thus, be aware of this timeframe.

The Appropriation Act is passed in the same way that any other law is passed in Sri Lanka. Under the Standing Orders of Parliament, each Bill must go through three readings in parliament before the members of parliament can finally vote on whether the Bill should be passed as law.[27] It is during the second of these three readings that the Minister of Finance traditionally delivers the 'Budget Speech' in parliament.[28] The Standing Orders of Parliament stipulate special timeframes relating to the passing of the Appropriation Act, which includes seven days maximum for debates following the second reading of the Appropriation Bill and 22 days maximum for the third reading/committee stage to be completed.[29] A standard Appropriation Act passed by the Sri Lankan parliament contains three schedules: the First Schedule sets out the general capital and recurrent payments/expenditures, the Second Schedule contains 'Advance Accounts' that set out the legally authorized government expenditures to be charged on the Consolidated Fund, and the Third Schedule sets out the upper limits on the 'Advanced Accounts' activities of the government.[30]

The only exception to the annual passing of an Appropriation Act is where parliament has not had time to prepare an Appropriation Bill in periods of transition, such as, where parliament is dissolved and an election is pending, or immediately following the election of a fresh parliament.[31] In such circumstances, parliament passes a 'Vote on Account', where parliament authorizes the release of public funds strictly to finance services that are essential to the functioning of the community and ongoing projects.[32] The passing of a 'Vote on Account' is not governed by the Constitution, Standing Orders, or any other law, and is purely a convention of parliament.[33]

The Appropriation Act sets out the approved expenditure for the period January 1st to December 31st of each year and the maximum borrowing limit of the government for that year. Any expenses for activities conducted during the year that are not paid out during the same year, must receive a fresh approval from parliament for payment in the following year. If the government has to increase the borrowing level above the stipulated borrowing limit, it must receive approval from parliament to amend the borrowing limit in the Appropriation Act. Typically, if the government has to undertake unplanned expenditure for which it does not have parliamentary approval through the Appropriation Act, it will request parliament to approve a supplementary estimate authorizing the additional expenditure.

Current and previous Appropriation Acts, as well as Supplementary Estimates that have been passed, can be accessed on the official website of parliament.

C. THE FINANCIAL REGULATIONS, 1992

The Financial Regulations, 1992 set out the procedures, rules, and processes that have to be followed in all transactions dealing with and related to public funds.[34] The purpose of the Financial Regulations is to ensure that the state carries out its financial transactions 'in an orderly manner'. Thus, every financial transaction of the government or a government department must comply with the procedures, rules, and processes stated in the Financial Regulations. The Financial Regulations comprise 14 separate chapters, which set out the rules and procedures that are applicable to 14 specific aspects of public finance.

Chapter I deals with 'Estimates of Expenditure and Revenue' and describes how estimates for government expenditure and revenue for a particular financial year must be planned, programmed, and passed based on factors such as capital and recurrent expenditure, new project proposals, acquisitions, grants, and subsidies. This chapter also sets out procedures for making virements (transfers from one financial unit to another) and variations to estimates that have already been approved by parliament.[35] In particular, Financial Regulation No. 65 sets out the virements that are accepted and inappropriate. For instance, it is deemed appropriate to transfer recurrent expenditure allocations from any programme appearing under any Head specified in the Annual Estimates of Expenditure that has not been expended or is not likely to be expended, to the Capital Component of another programme under the same Head of Expenditure, or to transfer savings allocated for one project to another project under the same programme. However, transferring savings from one Head of Expenditure to another Head of Expenditure, or transferring savings in Capital Expenditure to Recurrent Expenditure under the same programme or even to another programme under the same Head, or transferring savings in foreign aid to the Consolidated Fund are regarded as inappropriate virements.

Chapter II is titled 'Authorities for Expenses, Refunds, Write-Offs, etc.', and provides for the different ways by which expenditures can be charged on the Consolidated Fund and the way losses by the government should be reported, recovered, and redressed.[36] Chapter III sets out the rules for 'Financial Management and Accountability' by defining the roles, functions, and responsibilities of accounting and financial officers, as well as stating the requirements for internal audits.[37] Chapter IV deals with 'Receipts' and states how cash, cheques, and other monetary instruments should be accepted and recorded by government departments/agencies.[38] Chapter V is titled 'Payments' and includes all the rules that have to be followed when preparing and authorizing payments, including the issuing of payment vouchers.[39] Chapter VI provides for the rules pertaining to the 'Custody of Public Money, Imprests, and Bank Accounts', including rules on how certain monies and articles must be secured and stored.[40] Chapter VII deals with 'Accounting' and prescribes the way that the books and registers of government departments must be maintained, and how adjustments to the books and registers must be made.[41] Chapter VIII prescribes the rules relating to 'Advance Accounts',[42] while Chapter XI prescribes the rules

relating to 'Kachcheri Accounts' (accounts of the district secretary).[43] Chapter X sets out how the 'Accounts of Courts' should be maintained.[44] Chapter XI prescribes how transactions relating to 'Foreign Aid' are managed, including the estimations of receipts and expenditure.[45] Chapters XII and XIII deal with the finances relating to 'Printing and Publication' and procurement of supplies, tender procedures and the execution of works, respectively, while Chapter XIV deals with 'Miscellaneous' transaction.[46]

D. FISCAL MANAGEMENT (RESPONSIBILITY) ACT NO. 03 OF 2003

The purpose of the Fiscal Management (Responsibility) Act is to 'ensure that financial strategy of the government is based on principles of responsible fiscal management' and 'to facilitate public scrutiny of fiscal policy and performance'.[47] Thus, the Fiscal Management (Responsibility) Act has two objectives: i) prescribing fiscal limits/targets to be achieved by specific dates; and ii) imposing obligations on fiscal reporting and improving transparency of fiscal performance.

In terms of the first component, the Act sets out limits/targets for three key aspects of public finance: i) the budget deficit; ii) total liabilities of the government; and iii) the government's contingent liabilities.

First, the Act prescribes that that the budget deficit for a financial year should not exceed 5% of GDP from 2006 onwards.[48] However, the budget deficit has consistently been exceeding the 5% limit of the GDP from every year after 2006.[49]

Second, in terms of the limit on total government liabilities, the Act initially stated that liabilities should be limited to 85% of GDP by 2006, and further stated that liabilities shall not exceed 60% of GDP by the end of 2013.[50] However, the originally set limit for total government liabilities was revised by an amendment to the Act, which increased the limit to 80% of GDP by the end of 2020.[51] As the limit of 80% by the end of 2020 was not achieved, the Act was amended once again in 2021, extending the timeframe to achieve the said 60% of GDP limit for total government liabilities to 2030.[52]

Third, the Act deals with limits on contingent liabilities; that is, liabilities that arise depending on the outcome of another event. An example of a contingent liability is having to make payments on a sovereign guarantee that was issued on a loan. The original limit for contingent liabilities was set at 4.5% of GDP, meaning that the government was restricted from incurring contingent liabilities beyond this limit. However, through amendments made to the Act in 2013, 2016, and 2021, the limit was revised to 7%, 10%, and 15%, respectively.[53]

Notably, the Fiscal Management (Responsibility) Act also prohibits the government from borrowing money from the Central Bank, except 'to meet a temporary excess of cash disbursements over cash receipts in a financial year'.[54]

The second component of the Fiscal Management (Responsibility) Act is that of fiscal reporting and transparency. The Act imposes obligations on the Minister of Finance to publish (during the second reading of the Appropriation Bill) the government's Fiscal Strategy Statement, as well as a Budget Economic and Fiscal Position Report.[55] The overall objective of the Budget Economic and Fiscal Position Report is to provide a basis for the evaluation of the government's fiscal performance against its fiscal strategy.[56] Thus, this report should contain all information 'which may be necessary to reflect fairly, the financial position of the Government, in respect of each such financial year', including estimates relating to GDP, revenue expenditure, government borrowing, employment, risks relating to contingent liabilities, and proposals of the government relating to government spending, and ongoing negotiations of the government dealing with fiscal matters.[57]

The Act also obligates the Minister of Finance to publish a Mid-Year Fiscal Position Report, a Final Budget Position Report, and a Pre-election Budgetary Position Report, together with statements of responsibility that the contents thereof are based on all available information and reflects the best professional judgment of the officers of the Ministry of Finance.[58]

However, one of the major weaknesses of this Act is that it does not provide a mechanism to enforce the publication of such reports. Thus, there is no clear method to enforce the Act in circumstances where such reports are not published or contain inaccurate/incomplete information.

E. ACTIVE LIABILITY MANAGEMENT ACT, NO. 8 OF 2018

The Active Liability Management Act was enacted

in March 2018. The primary purpose of this Act was to empower the Government of Sri Lanka to better manage public debts and financing needs by securing economic payment obligations.[59]

As public debt management became increasingly necessary over the last few years, there was a need for a law that allowed the raising of funds to service future debt liabilities (refinancing and pre-financing debt liabilities that would arise in the years to come). Laws such as the Appropriation Act, which sets out the government's loan raising policy, could not be used for this purpose, as the application of the Appropriation Act is limited to a specific financial year.[60] As a solution to the need to borrow funds to manage and service future debt liabilities, the Active Liability Management Act was enacted.

The Active Liability Management Act enables the Minister of Finance (with the approval of the Cabinet of Ministers) to decide on how public debts could be refinanced or pre-financed.[61] Thus, the Minister can decide on: i) the sum of money that should be raised as a loan; ii) the means by which such a loan should be raised; and iii) the manner in which the said loan would be settled.[62]

However, the Minister's power to decide whether to raise such a loan to refinance or pre-finance future debt obligations is subject to two checks. First, parliament must, by resolution, approve the raising of a sum of money for the purpose of servicing future debt liabilities.[63] Second, the total money that can be raised in a particular financial year to service future debt liabilities cannot exceed 10%of the total outstanding debt as at the end of the previous year.[64] The details of all loans that are acquired under this Act must be disclosed to Parliament under the Fiscal Management (Responsibility) Act.[65] Accordingly, Parliament retains its overall control over public finance by having to approve the raising of loans and ensuring that such loans are not excessive.

F. CUSTOMS ORDINANCE, NO. 17 OF 1869

The Customs Ordinance sets out the legal mechanism to regulate the entry and exit of goods through Sri Lanka's international borders. The Customs Ordinance is a complex piece of legislation comprising 14 parts. These 14 parts relate to three broad aspects covered under the Customs Ordinance: i) setting the institutional framework of the Department of Customs; ii) providing for the imposition of Customs duties and levies; and iii) regulating the entry and exit of goods in Sri Lanka.

The Customs Department is the primary institution that is responsible for collecting customs revenue and the administration of the law.[66] The Director General (DG) of Customs is assisted by five Additional Director Generals. The Ordinance sets out the duties and functions of the DG.

The Ordinance charges Custom duties on goods depending on the category such goods falls into. For instance, Custom duties (taxes) are levied on goods imported into and exported from Sri Lanka, as decided by the Parliament from time to time.[67] In addition to the Customs duty levied under the Ordinance, a surcharge on the Custom duty, on imported goods, can be levied by the Minister, if he considers it to be of interest to the national economy.[68] The rate of the levy can be decided by the Director General of Customs, and can be implemented by gazette without requiring any legislative amendment. Whilst this provides flexibility, it can also result in frequent changes to import duty rates, which could potentially create uncertainty in the trade regime. In addition, the Ordinance levies dues (tax) on all vessels arriving at or departing any port of Sri Lanka, and on cargo imported into or exported from Colombo.[69] The Ordinance also regulates the entry and exit of goods in Sri Lanka by either allowing for exemptions or prohibiting certain goods. For instance, Custom duties imposed on goods imported by the President of Sri Lanka,[70] diplomatic personnel or a certificate produced from the Naval or Military or Air Force officer in relation to the goods are exempted.[71] The Ordinance also lists goods that are prohibited and restricted from importation.

The Ordinance sets out remedies for when a Custom duty levied or exempted on goods is disputed. Here the importer/ exporter is able to make an application to the DG and the DG is expected to make a decision within 90 days. If the DG fails to make a decision within 90 days or if the importer/ exporter is aggrieved by the DG's decision, the importer/ exporter can appeal to the Tax Appeals Commission.[72]

G. INLAND REVENUE ACT, NO. 24 OF 2017

The Inland Revenue Act is the law that authorises and regulates the charging and collection of income tax in Sri Lanka. Thus, the Inland Revenue Act is one of the most important fiscal laws of Sri Lanka. The Inland Revenue Act has two broad objectives: i) prescribing the rules and principles that are applicable in respect of charging and collecting income tax; and ii) setting out the institutional structure of the Inland Revenue Department.

In terms of setting out the institutional structure of the Inland Revenue Department, the Act provides for the appointment of a Commissioner General (CG) of Inland Revenue and senior/deputy commissioners for the administration of the Act.[73] The Act established the Inland Revenue Incentive Fund and the CG or any tax official specially authorised by the CG will administer the Fund according to the procedure provided in the regulations.[74]

The Act imposes a tax on the gains and profits of a person's income from employment, business, investment, and other sources. The Act separately sets out the tax rate, the tax-free threshold, and exemptions for the imposition of taxes on personal income, corporate income, foreign remittance, income from EPF/ETF, Gratuity, and termination funds, while also setting out tax regimes applicable to the income of non-governmental and charitable organisations. Any changes to these tax rates must be made through a change in legislation.

H. EXCISE ORDINANCE, NO. 8 OF 1912

The Excise Ordinance, introduced in 1912, is the law relating to the import, export, transport, manufacture, sale, and possession of intoxicating liquor and of intoxicating drugs (excisable goods).[75] The Ordinance imposes specific taxes and duties on the manufacture and transport of excisable goods, as well as on the import and export of excisable goods.[76] The administration and excise schemes and the collection of duties on excisable articles is undertaken by the Commissioner General of Excise, who is appointed under the Ordinance.[77]

The Ordinance empowers the Minister of Finance to impose duties on all excisable goods, which are specified by gazette publication and are subject to change from time to time.[78]

Subsequently in 1989, the Excise (Special Provisions) Act was enacted.

EXCISE (SPECIAL PROVISIONS) ACT, NO. 13 OF 1989

The Excise (Special Provisions) Act was primarily enacted to charge an excise duty on excisable goods produced or manufactured in or imported into Sri Lanka.[79]

The Act charges specified goods manufactured in Sri Lanka or imported into Sri Lanka with an excise duty at a rate determined in relation to the class or description of such goods by the Minister of Finance.[80] The Minister may exempt excisable goods from the payment of excise duty subject to conditions.[81] Items typically subject to excise duty under the Excise Special Provisions Act include cigarettes, fuel (petroleum, diesel), and sweetened beverages (commonly known as the 'sugar tax').

I. FINANCE ACT

There are several Finance Acts[82] enacted in Sri Lanka for various objectives. Typically, a Finance Act is used to introduce new or one-off tax measures, and extraordinary public finance provisions such as tax amnesties. Selected examples of such Finance Acts are as follows:

Finance Act – 2006	To impose a motor vehicle concessionary levy and a tele-drama, film and commercial levy; to amendment certain levies and charges imposed by the Finance Act, No. 11 of 2002, the Finance Act, No. 25 of 2003 and the Finance Act, No. 11 of 2004
Finance Act – 2012	To amend the Finance Act, No. 25 of 2003, the Finance Act, No. 11 of 2004 and the Finance Act, No. 16 of 1995; to exempt certain enterprises engaged in certain activities from the application of the provisions of the Customs Ordinance, the Exchange Control Act and the Imports and Exports (Control) Act, No. 1 of 1969
Finance Act – 2013	To amend the Finance Act, No. 16 of 1995, the Finance Act, No. 25 of 2003 and the Finance Act, No. 12 of 2012; to impose a crop insurance levy
Finance Act – 2015	To impose a Bars and Taverns Levy, Casino Industry Levy, Super Gains Tax, Mobile Telephone Operator Levy, Satellite Location Levy, Dedicated Sports Channel Levy, Mansion Tax, Migrating Tax and Motor Vehicle Importers License Fee

Finance Act – 2018	To impose a Luxury Tax on Motor Vehicles, Vehicle Entitlement Levy, Annual Company Registration Levy, Debt Repayment Levy, Carbon Tax, Cellular Tower Levy and Mobile Short Message Service Levy
Finance Act – 2019	To amend the Finance Act, No. 35 of 2018; to impose a foreign commercial transactions levy
Finance Act – 2021	To enable persons to voluntarily disclose undisclosed taxable supplies, income and assets required to be disclosed under certain laws; to impose a tax on the taxable supplies, income and assets so disclosed; to indemnify the persons who voluntarily disclose any such taxable supply, income or asset against liability from investigation, prosecution and penalties under specified laws; to grant certain concessions to persons who had already disclosed taxable supplies, income and assets under specified laws

J. SRI LANKA EXPORT DEVELOPMENT ACT, NO. 40 OF 1979

This Act provides for: (i) the constitution of the Sri Lanka Export Development council of ministers; (ii) the establishment of the Sri Lanka Export Development Board; and (iii) to vest the said Board with powers necessary for the development of Sri Lanka Exports.[83]

Under this Act a local levy (a Cess) is imposed on a commodity or product for a unique purpose. Section 14 of the Act empowers the Minister in charge of the Export Development Board to impose a Cess on imports and exports. This levy is in addition to any import or export duty, or any other Cess levied under any other law.[84]

K. FOREIGN LOANS ACT NO. 29 OF 1957

This Act empowers the President (or any person authorised by the President) to sign and execute, on behalf of the Government of Sri Lanka, any agreement, guarantee, or contract, bond, promissory note to obtain a foreign loan for the Government of Sri Lanka.[85] Under this law, all funds obtained by a foreign loan are charged to the Consolidated Fund.[86]

L. REGISTERED STOCK AND SECURITIES ORDINANCE NO. 07 OF 1937

This Ordinance empowers the Minister of Finance to raise funds by creating and issuing registered stock and securities, such as promissory notes, bearer bonds, treasury bonds.[87] The monies, including interest, represented by such stock and securities are payable out of the Consolidated Fund.[88] The procedures and checks and balances involved in the creation and issuing of registered stock and securities are contained in this Ordinance.

M. LOCAL TREASURY BILLS ORDINANCE NO. 08 OF 1923

This Ordinance empowers the Minister of Finance to raise funds by directing the Treasury to issue treasury bills in Sri Lanka. The Minister of Finance can only do so as authorised by resolution of Parliament, and the amount of funds to be raised by issuing treasury bills is not permitted to exceed the amount specified in the resolution of Parliament.[89] As with registered stock and securities, the monies and interest represented by treasury bills are payable out of the Consolidated Fund.[90] The Ordinance sets out the different processes and procedures that are required to be followed when issuing such treasury bills.

N. PORTS AND AIRPORTS DEVELOPMENT LEVY ACT, NO. 18 OF 2011

This Act was enacted to impose and collect a Ports and Airports Development Levy on every article originating from outside Sri Lanka and imported into Sri Lanka.[91]

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