

# Financial Management and Control in the Public Sector Act

Promulgated, State Gazette No. 21/10.03.2006, supplemented, SG No. 42/5.06.2009, amended and supplemented, SG No. 54/16.07.2010, supplemented, SG No. 98/13.12.2011, effective 1.01.2012, amended, SG No. 15/15.02.2013, effective 1.01.2014, SG No. 43/7.06.2016, SG No. 95/29.11.2016, amended and supplemented, SG No. 13/12.02.2019

Text in Bulgarian: Закон за финансовото управление и контрол в публичния сектор

## Chapter One GENERAL PROVISIONS

**Article 1.** This Act shall regulate the scope and execution of financial management and control, as well as the principles of and requirements to the financial management and control systems in public sector organisations.

**Article 2.** (1) The provisions of this Act shall be applied in the public sector organisations.

(2) In the meaning of this Act, public sector organisations shall refer to:

1. (amended, SG No. 15/2013, effective 1.01.2014, supplemented, SG No. 13/2019) budgetary organisations within the meaning of the Public Finance Act, as well as municipal enterprises under the meaning of the Municipal Property Act;
2. (repealed, SG No. 15/2013, effective 1.01.2014);
3. (repealed, SG No. 15/2013, effective 1.01.2014);
4. (repealed, SG No. 15/2013, effective 1.01.2014);
5. organisations spending funds guaranteed by the Republic of Bulgaria;
6. organisations spending funds from European Union funds and programmes;
7. (amended, SG No. 13/2019) state enterprises referred to in Article 62, paragraph 3 of the Commerce Act;
8. (amended, SG No. 13/2019) companies, including medical institutions, with over 50 per cent state and/or municipal participation in the capital;
9. (new, SG No. 13/2019) companies whose capital is wholly owned by the companies referred to in item 8.

**Article 3.** (1) The heads of the organisations referred to in Article 2 shall be responsible for the execution of financial management and control in all structures, programmes, activities and processes managed by them in compliance with the principles of legality, sound financial management and transparency.

(2) The managers at all levels in the organisations referred to in Article 2 shall be responsible to and shall report to the higher level manager for their activities with regard to the financial management and control in the structures and units they manage.

(3) (New, SG No. 13/2019) The managers of companies with over 50 per cent municipal stake in the capital shall be responsible for the condition of the financial management and control of the companies and shall report to the municipal council. The municipal council shall submit the information to the mayor of the municipality in accordance with Article 8, paragraph 1.

**Article 4.** (1) The heads of the organisations referred to in Article 2 shall be responsible for defining the goals of the organisations, identifying the risks related to their achievement and setting up adequate and efficient financial management and control systems in compliance with the requirements of this Act.

(2) The heads of structures and units, performing the functions of paying, managing or interim bodies under European Union funds shall be responsible for providing adequate and efficient financial management and control systems in compliance with the requirements of this Act and the applicable acts of the European Union.

**Article 5.** (1) The financial management and control in the public sector is an integral process within the activities of the organisations referred to in Article 2 and carried out by their management and staff.

(2) (Amended, SG No. 13/2019) Financial management and control shall be carried out through financial management and control systems including policies and procedures established by the management of the organisations referred to in Article 2 for the purposes of providing reasonable assurance that the goals of the organisation have been achieved through:

1. compliance with legislation and internal acts and contracts;
2. reliability and comprehensiveness of financial and operating information;
3. economy, efficiency and effectiveness of activities;
4. safeguarding of assets and information;
5. (new, SG No. 13/2019) prevention and detection of fraud and irregularities and taking follow-up action.

## **Chapter Two**

### **MANAGERIAL ACCOUNTABILITY**

**Article 6.** (1) The heads of the organisations referred to in Article 2 shall be responsible for the achievement of the goals of the organisations by managing the public funds in a legal, economic, efficient and effective manner.

(2) When programmes and projects are managed in which more than one public sector organisation and/or structure is involved, the relevant heads shall agree in writing on the scope of the managerial accountability of each of them.

**Article 7.** (1) The heads of the organisations referred to in Article 2 shall be responsible for:

1. (amended and supplemented, SG No. 13/2019) the definition of the objectives and goals of the organisations they manage and the implementation of strategic and annual plans, action plans and indicators for attainment of the objectives and goals set;
2. the identification, assessment and management of risks jeopardising the attainment of the organisations' objectives and goals;

3. the planning, management and reporting of public resources with a view to attainment of the organisations' objectives and goals;
4. (repealed, SG No. 13/2019);
5. the efficient management of the personnel and the maintenance of the level of its competences;
6. the stewardship and protection of the assets and data against loss, theft, unauthorised access and abuse;
7. (repealed, SG No. 13/2019);
8. (amended, SG No. 13/2019) the segregation of responsibilities in the process of decision making, implementation and control;
9. (repealed, SG No. 13/2019);
10. the ensuring of the internal audit function under the existing laws;
11. the monitoring and updating of the financial management and control systems and the undertaking of measures to improve them following recommendations of the internal audit and other inspections;
12. (repealed, SG No. 13/2019);
13. (amended, SG No. 13/2019) the establishment of anti-corruption procedures;
14. the accountability and reporting on the status of the financial management and control systems;
15. (repealed, SG No. 13/2019);
16. (amended, SG No. 13/2019) the creation of conditions for lawful and expedient management, adequate and ethical conduct of the personnel in organisations.

(2) The heads of the organisations referred to in Article 2 shall implement the guidelines on the implementation of managerial accountability, issued by the Minister of Finance in connection with paragraph 1, as well as the guidelines given by their higher level manager.

**Article 8.** (1) (Amended, SG No. 54/2010, SG No. 15/2013, effective 1.01.2014, supplemented, SG No. 13/2019) The

heads of the organisations referred to in Article 2, paragraph 2, items 1, 5 and 6 – budget authoriser by delegation, with the exception of the Supreme Judicial Council and the National Audit Office, shall provide the Minister of Finance annually by 31 March with information on the operation, adequacy, efficiency and effectiveness of the financial management and control systems in the organisations, including information on the lower level budget authorisers, the companies under Article 2, paragraph 2, items 8 and 9, the state and municipal enterprises thereto, for the preceding year.

(2) (Amended, SG No. 13/2019) The format, contents, deadlines and procedure for the presentation of the information referred to in paragraph 1 shall be determined with an ordinance approved by the Council of Ministers.

**Article 9.** (1) The heads of the organisations referred to in Article 2, paragraph 2 can delegate their responsibilities under this Act to other officials from the organisation managed by them. In such cases they must determine the specific rights and responsibilities of these officials.

(2) The delegating under paragraph 1 does not relieve the head of the organisation from his/her responsibility for discharging the delegated rights.

## **Chapter Three**

### **FINANCIAL MANAGEMENT AND CONTROL COMPONENTS**

**Article 10.** (1) Managers of organisations under Article 2 perform financial management and control through the following interrelated components:

1. control environment;
2. risk management;
3. control activities;
4. information and communication;
5. monitoring.

(2) The managers at all levels in the organisations referred to in Article 2 shall ensure the setting up, development and operation of financial management and control components in line with the specific nature of the organisation.

(3) The Minister of Finance shall issue methodological guidelines on the financial management and control components referred to in paragraph 1.

**Article 11.** (1) The heads of the organisations referred to in Article 2 shall be responsible for the establishing, the condition and the improvement of the control environment.

(2) The control environment shall include:

1. the personal integrity and professional ethics of the management and the personnel of the organisation;
2. (supplemented, SG No. 13/2019) the management philosophy and working methods of the management;
3. the organisational structure, ensuring segregation of duties, hierarchy and clear rules, rights, responsibilities and lines of reporting;
4. the Human Resources Management policies and practices
5. the competences of the personnel.

**Article 12.** (1) The heads of the organisations referred to in Article 2 shall be responsible for the risk management.

(2) Risk management includes identification, assessment of and control over possible events or situations which could have a negative impact on the attainment of the organisation's goals and aims at providing a reasonable assurance that the goals will be attained.

(3) For the purposes of implementing the activities referred to in paragraphs 1 and 2 the heads of organisations shall approve a strategy, which shall be updated every three years or whenever material changes in the risk environment occur. The control activities aiming at risk mitigation shall be analysed at least once a year.

(4) The heads of the organisations referred to in Article 2 shall organise, document and report to the competent authorities the measures undertaken for prevention of the risk of fraud and irregularities, affecting the financial interests of the European Communities.

**Article 13.** (1) (Amended, SG No. 13/2019) The heads of the organisations referred to in Article 2 shall introduce control activities, including written policies and procedures, established for the purposes of providing reasonable assurance that the risks are reduced to the acceptable limits, determined in the process of risk management.

(2) Control activities shall be adequate and the cost of their implementation shall not exceed the expected benefits.

(3) (Supplemented, SG No. 42/2009, amended, SG No. 13/2019) Control activities shall apply at all levels of the organisation and at all stages of attainment of the goals and objectives. They may be preventive, revealing or corrective and shall include as least:

1. dual signature system, which does not allow a financial commitment or a payment to be made without the signatures of the head of the organisation under Article 2 and of the member of staff responsible for the accounting entries;

2. rights of access to assets and information;

3. policies and procedures for preventive supervision of legality;

4. policies and procedures for ongoing control on the execution of financial commitments assumed and contracts concluded;

5. policies and procedures for ex-post performance evaluations of the execution;

6. policies and procedures for objective, accurate, full, truthful and timely accounting for all economic operations;

7. policies and procedures for human resources management;

8. policies and procedures for observing standards of personal honesty and professional ethics.

(4) (Amended, SG No. 13/2019) The terms and procedures for exercising ex-ante control of legality shall be determined by the heads of the organisations referred to in Article 2 based on risk assessment and cost-benefit analysis in line with the guidelines of the Minister of Finance.

**Article 14.** (Amended, SG No. 13/2019) The heads of the organisations referred to in Article 2 shall establish and operate information and communication systems ensuring:

1. identifying, collection and dissemination in an appropriate format and within appropriate deadlines of reliable and truthful information which allows each official to assume a certain responsibility;
2. efficient horizontal and vertical communication to all levels in the hierarchy of the organisation;
3. (amended, SG No. 13/2019) giving all employees clear and accurate guidelines and orders on their role and responsibilities in connection with the financial management and control;
4. implementing a system for documenting and circulation of documents containing rules for preparing, formatting, movement, use and archiving of documents;
5. documenting all operations, processes and transactions in order to ensure an adequate audit trail for follow up and monitoring;
6. (amended, SG No. 13/2019) setting up a reliable reporting system, including: levels and deadlines for reporting; types of reports to be submitted to the management; forms of reporting in case of detection of errors, irregularities, fraud or abuse.

**Article 15.** (1) (Amended, SG No. 13/2019) The heads of the organisations referred to in Article 2 shall put in place a system for the monitoring of financial management and control to evaluate its operation and provide the persons responsible for taking corrective actions with timely information on weaknesses and deficiencies found and to ensure its timely update in the event of changes in the conditions.

(2) The system referred to in paragraph 1 shall include current supervision, self-assessment and internal audit.

## **Chapter Four**

### **COORDINATION AND HARMONISATION OF THE FINANCIAL MANAGEMENT AND CONTROL**

**Article 16.** (1) The Minister of Finance shall be responsible for the coordination and harmonisation of financial management and control in the organisations referred to in Article 2.

(2) (Amended, SG No. 95/2016) In fulfilling his or her duties under this act, the Minister of Finance shall be assisted by employees of a unit in the specialised administration of the Ministry of Finance, which shall be directly subordinated to him or her.

(3) (Amended, SG No. 95/2016) The employees under Paragraph 2 must have completed their higher education and must have acquired an educational qualification degree of "Master" and at least 3 years of work experience in the field of internal control, internal audit or external audit.

**Article 17.** (1) The Minister of Finance shall be responsible for the development, dissemination and updating of methodological guidance in the field of financial management and control in the public sector in line with the applicable legislation of the European Union and the best practices.

(2) (Amended, SG No. 13/2019) The methodological guidance and guidelines of the Minister of Finance issued in connection with the implementation of this Act shall be mandatory for application by the organisations referred to in Article 2 and shall be published on the website of the Ministry of Finance.

(3) The Minister of Finance shall coordinate and support the professional training in the field of financial management and control and the managerial accountability in the organisations.

**Article 18.** (1) (Amended, SG No. 13/2019) The Minister of Finance shall perform systematic monitoring of the organisations referred to in Article 2, except for the Supreme Judicial Council and the National Audit Office, of the implementation of this Act and relevant acts issued thereto, with a view to updating and further development of the methodology.

(2) The heads of the organisations referred to in paragraph 1 shall provide support in the course of this systematic monitoring.

**Article 19.** (Repealed, SG No. 54/2010).

**Article 20.** (1) (Repealed, SG No. 13/2019).

(2) (Amended, SG No. 13/2019) The Minister of Finance shall prepare and submit to the Council of Ministers by 31 May a consolidated annual report on the internal control in the public sector, which shall cover summary information on the financial management and control in the public sector, received in accordance with the procedure set out in Article 8, and on the status of internal audit, received in accordance with the procedure set out in Article 40 of the Internal Audit in the Public Sector Act. After the consolidated report is approved by the Council of Ministers, it is submitted to the National Assembly and the National Audit Office.

(3) By 31 May the Supreme Judicial Council shall submit to the National Assembly and the National Audit Office its annual report on financial management and control and internal audit.

(4) By 30 June the National Audit Office shall submit to the National Assembly its report on the condition of financial management and control and internal audit and its opinions on the reports referred to in paragraphs 2 and 3.

(5) (New, SG No. 13/2019) After examination by the National Assembly, the opinions of the National Audit Office on the reports referred to in paragraphs 2 and 3 shall be sent to the Council of Ministers and the Supreme Judicial Council.

## **Chapter Four "a"**

**(New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019)**

### **PREVENTIVE FINANCIAL CONTROL**

**Article 20a.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20b.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20c.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20d.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20e.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20f.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20g.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20h.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20i.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

**Article 20j.** (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

## **Chapter Five**

### **(New, SG No. 54/2010)**

#### **ADMINISTRATIVE PENAL PROVISIONS**

**Article 21.** (New, SG No. 54/2010) (1) (Amended, SG No. 15/2013, effective 1.01.2014, SG No. 13/2019) The heads of the organisations referred to in Article 2, paragraph 2, items 1, 5 and 6 - budget authorisers by delegation, with the exception of the Supreme Judicial Council and the National Audit Office, who have failed to perform their obligation to provide the Minister of Finance with information on the status of the financial management and control systems within the term under Article 8, paragraph 1, shall be penalised by a fine ranging from BGN 500 to 2000.

(2) (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).

(3) (Renumbered from Paragraph 2, supplemented, SG No. 98/2011, effective 1.01.2012, amended, SG No. 13/2019) Acts for ascertaining of violations referred to in Paragraph 1 shall be drawn up by officials designated by the Minister of Finance.

(4) (Renumbered from Paragraph 3, SG No. 98/2011, effective 1.01.2012) The penal decrees shall be issued by the Minister of Finance or by official authorised by him/her.

(5) (Renumbered from Paragraph 4, SG No. 98/2011, effective 1.01.2012) The ascertainment of violations, the issuing, appeal and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

#### **ADDITIONAL PROVISION**



§ 1. For the purpose of this Act:

1. (Amended, SG No. 43/2016) "Public funds" shall mean all funds which are collected, received, kept, allocated and spent by public sector organisations.
2. "Managerial accountability" shall mean the obligation of the heads of the organisations referred to in Article 2 to exercise all their activities observing the principles for sound financial management, legality and transparency, including to be accountable for their actions and the results thereof to the parties who have assigned to them managerial accountability.
3. "Sound financial management" shall mean the requirement that the public funds be spent and managed economically, efficiently and effectively.
4. "Reasonable assurance" shall mean a satisfactory level of assurance, which requires that the cost of internal control does not exceed the expected benefits from it.
5. (Amended, SG No. 54/2010) "Risk" shall mean an event occurring that would affect the achievement of the organisation's goals. Risk is measured in terms of its effect and likelihood.
6. "Fraud affecting the financial interests of the European Communities" shall mean each intentional action or inaction:
  - a) with regard to expenditures - related to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities; non-disclosure of information in violation of a specific obligation, with the same effect; misapplication of such funds for purposes other than those for which they have been originally granted;
  - b) with regard to revenues - related to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the wrongful reduction of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities; non-disclosure of information in violation of a specific obligation, with the same effect; misappropriation of a legally obtained benefit with the same effect.
7. "Irregularity affecting the financial interests of the European Communities" shall mean each infringement of the Community law resulting from an action or inaction by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Communities or budgets managed by them either through decrease in or loss of income as a result of own resources which are collected directly on behalf of the European Communities, or through the incurring of an unjustified expense.
8. (Supplemented, SG No. 13/2019) "Managers" shall mean the persons managing the organisations referred to in Article 2, who perform managerial functions and have managerial accountability. With regard to the state enterprises referred to in Article 2, paragraph 2, item 7 and companies under Article 2, paragraph 2, items 8 and 9, managers shall be the persons empowered to manage them.
9. (New, SG No. 98/2011, effective 1.01.2012, repealed, SG No. 13/2019).
10. (New, SG No. 13/2019) "Preventive supervision of legality" shall mean all checks of documents, facts and circumstances for the provision of assurance of compliance with the applicable laws, before taking a decision or performing an action by the managers of the organisations referred to in Article 2. The preventive supervision of legality shall be exercised by financial controllers and/or other persons designated by the heads of the organisations referred to in Article 2.
11. (New, SG No. 13/2019) "Ex-post performance evaluations" shall be all checks aimed at identification of potential errors or irregularities of a completed process, contract or economic operation. Based on the checks, it shall be established whether the resources have been acquired or spent lawfully and in connection with the objectives set and the level of achieved results. The procedure and method for conducting the checks shall be determined by the heads of the organisations referred to in Article 2, based on risk assessment and cost-benefit analysis.

12. (New, SG No. 13/2019) "Transparency" shall mean creating opportunities for informing the public by providing public access to information about the financial management and control systems, in all structures, programmes, activities and processes of the organisation.

13. (New, SG No. 13/2019) "Adequacy" shall mean compliance of the implemented financial management and control systems with the objectives of the organisation and the identified risks for their attainment.

14. (New, SG No. 13/2019) "Staff responsible for accounting entries" shall mean the person preparing the financial statements within the meaning of the Accountancy Act and organising the financial activities and control of the accounting entries made.

15. (New, SG No. 13/2019) "Audit trail" shall mean a system of rules and procedures for documenting, reporting, accounting and archiving the activities and processes in the organisation, including the movement of financial resources. The audit trail defines who, what, how and when to do something, for what purpose and what act or document is created as a result thereof, ensuring transparency and traceability of activities and processes from their commencement until completion thereof.

**TRANSITIONAL AND CLOSING PROVISIONS**

§ 2. The Council of Ministers shall endorse the regulation referred to in Article 8, paragraph 2 within six months of entering into force of this Act.

§ 3. The Minister of Finance shall endorse the guidelines on the implementation of managerial accountability referred to in Article 7, paragraph 2, and the methodological guidelines on the financial management and control components referred to in Article 10, paragraph 3, as well as the guidelines referred to in Article 13, paragraph 4 within six months of entering into force of this Act.

§ 4. The Minister of Finance shall be responsible for the implementation of this Act.

This Act has been passed by the 40th National Assembly on 24 February 2006 and the official seal of the National Assembly is affixed on it.

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**FINAL PROVISIONS**

to the Act to Amend and Supplement Financial  
Management and Control in the Public Sector Act  
(SG No. 98/2011, effective 1.01.2012)

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§ 4. This Act shall enter into force on 1 January 2012.