

## A BILL

ENTITLED

AN ACT to establish an Independent Fiscal Commission to promote sound fiscal policy and fiscal management in an effort to sustain fiscal discipline.

[ ]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

### PART I.—*Preliminary*

1.—(1) This Act may be cited as the Independent Fiscal Commission Act, 2020, and shall come into operation on a day to be appointed by the Minister, by notice published in the *Gazette*.

Short title  
and com-  
mencement.

(2) Different days may be appointed for the coming into operation of different provisions of this Act.

Interpre-  
tation.

2.—(1) In this Act—

“Advisory Committee” means the Fiscal Advisory Committee established under Part III;

“Fiscal Commission” means the Independent Fiscal Commission established pursuant to section 3;

“Fiscal Commissioner” means the person appointed pursuant to section 3(3) as Fiscal Commissioner;

“relevant information” means any information relating to the revenue and expenditure of the Government of Jamaica or regarding any operation within the specified public sector, that is required by the Fiscal Commissioner for the proper execution of his functions under this Act, but does not include personal data within the meaning of the Data Protection Act;

“specified public sector” means the public sector not including any public body certified by the Auditor-General prescribed under the Financial Administration and Audit Act as primarily carrying out functions that are of a commercial nature that satisfy such criteria as may be prescribed.

PART II.—*Establishment and Functions of Fiscal Commission, Appointment of Fiscal Commissioner and staff, etc.*

Establish-  
ment and  
functions of  
Independent  
Fiscal  
Commission.

3.—(1) There is hereby established, a Commission of Parliament, to be known as the Independent Fiscal Commission.

(2) The Fiscal Commission shall—

- (a) provide the public with an informed and independent opinion on the soundness and sustainability of Jamaica’s fiscal position and policies in keeping with the Fiscal Responsibility Framework as set out in Part VII of the Financial Administration and Audit Act;
- (b) examine the components of the Fiscal Policy Paper prepared in accordance with section 48B(2) of the Financial Administration and Audit Act, after the Fiscal Policy Paper

is laid before both Houses of Parliament by the Minister, and provide within two weeks, a report to Parliament indicating whether—

- (i) the conventions and assumptions underlying the preparation of the Fiscal Policy Paper comply with the principles of prudent fiscal management specified in section 48D of the Financial Administration and Audit Act; and
  - (ii) the reasons for any deviation given pursuant to section 48B(5)(d)(ii) of the Financial Administration and Audit Act are reasonable, having regard to the circumstances;
- (c) monitor adherence to the Fiscal Responsibility Framework by—
- (i) reporting on ex-post fiscal outcomes during and at the end of the fiscal year relative to government commitments and targets in accordance with section 15;
  - (ii) assessing and determining the fiscal impact of shocks that could trigger suspension of the fiscal rules and validating the impact in accordance with section 48C of the Financial Administration and Audit Act;
  - (iii) assessing, in circumstances where the correction mechanisms in the Fiscal Responsibility Framework have been triggered, whether the measures laid out therein achieve the required adjustment, and if not, provide an estimate on the magnitude of additional measures that may be required in accordance with section 48CA of the Financial Administration and Audit Act;

- (d) assess the consistency of the fiscal balance path in accordance with the provisions of Part VII of the Financial Administration and Audit Act, including the fiscal rules, by reviewing the analysis set out in the Fiscal Policy Paper;
- (e) conduct independent forecasts and analyses of the macroeconomic and fiscal position of Jamaica;
- (f) do such things as are necessary or expedient for giving effect to the purposes and provisions of this Act.

(3) Pursuant to subsection (1), the Fiscal Commission shall carry out its functions through—

- (a) a Fiscal Commissioner, who shall be appointed by the Governor-General by instrument under the Broad Seal, after consultation with the Prime Minister and the Leader of the Opposition, and shall be a person of high integrity who possesses the knowledge, expertise and experience in the area of public finance, macroeconomic forecasting and fiscal policy management and assessment that is required to enable the person to carry out the functions of Fiscal Commissioner efficiently and effectively; and
- (b) such staff as may be necessary to assist the Fiscal Commission in the carrying out of its functions under this Act.

Tenure of  
office and  
restriction on  
employment.

4.—(1) Subject to the provisions of the Act, a person appointed as Fiscal Commissioner shall hold office for a period of seven years on such terms and conditions as may be specified in the instrument of appointment and such person shall not be eligible for reappointment.

(2) Where by reason of illness, absence from Jamaica or other sufficient cause, the Fiscal Commissioner is unable to perform his functions under this Act, he may appoint a member of his staff to perform those functions for a period not exceeding two months.

(3) Where—

- (a) the Fiscal Commissioner is unable or fails to appoint a person to act as Fiscal Commissioner pursuant to subsection (2); or

- (b) it is necessary that a person be appointed to act as Fiscal Commissioner for a period exceeding two months,

the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may appoint such person as he thinks fit, to act as Fiscal Commissioner, except that, the appointment shall not be for a period exceeding twelve months.

(4) The Fiscal Commissioner may be removed from office for the inability of the Fiscal Commissioner to discharge the functions of his office, whether arising from infirmity of body or mind, dereliction of duty or misbehavior, and shall not be so removed except in accordance with the provisions of this section.

(5) Where each House of Parliament by resolution decides that the question of removing the Fiscal Commissioner from office ought to be investigated, then—

- (a) the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, shall appoint a tribunal which shall consist of a chairman and not less than two other members, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether the Fiscal Commissioner ought to be removed from office for inability to discharge the functions of his office as aforesaid or for misbehaviour.

(6) The provisions of sections 8 to 16 of the Commissions of Enquiry Act shall apply *mutatis mutandis* in relation to the tribunal appointed under subsection (5) or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act.

(7) Where the question of removing the Fiscal Commissioner from office has been referred to a tribunal appointed under subsection (5) and the tribunal has advised the Governor-General that the Fiscal Commissioner ought to be removed from office, the Governor-General shall, by instrument under the Broad Seal, remove the Fiscal Commissioner from office.

(8) Where the question of removing the Fiscal Commissioner from office has been referred to a tribunal under subsection (5), the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Fiscal Commissioner from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General acting as aforesaid, and in any case cease to have effect if the tribunal advises the Governor-General that the Fiscal Commissioner ought not to be removed from office.

(9) A person appointed as Fiscal Commissioner—

- (a) shall be a full-time officer; and
- (b) except with the approval of the Governor-General, acting in his discretion, shall not be employed in any other capacity during any period in which the person holds office as Fiscal Commissioner.

Disqualifi-  
cation for  
appointment.

5.—(1) No person shall be qualified for appointment to the office of Fiscal Commissioner if the person—

- (a) is under the age of eighteen years;
- (b) is a member of the Senate or the House of Representatives;
- (c) has been a member of the Senate or House of Representatives at some time during the period of five years immediately preceding the period for which the person seeks appointment as Fiscal Commissioner;
- (d) is a member of a Council of a Municipal Corporation, City Municipality or Town Municipality;

- (e) has been a member of a Council of a Municipal Corporation, City Municipality or Town Municipality during the period of five years immediately preceding the period for which the persons seeks appointment as Fiscal Commissioner;
- (f) is declared bankrupt within the meaning of the Insolvency Act; or
- (g) has at any time been convicted of any offence involving dishonesty or moral turpitude.

(2) The Fiscal Commissioner shall be deemed to have vacated ~~the~~ office of the Fiscal Commissioner if any circumstance arises that ~~would~~ cause the Fiscal Commissioner to be disqualified for appointment ~~as~~ such, by virtue of subsection (1).

(3) For the purposes of this section, “Municipal Corporation, City Municipality and Town Municipality” shall have the meaning assigned to them under the Local Governance Act.

6. When a vacancy arises in the office of Fiscal Commissioner, the ~~Governor-General~~, after consultation with the Prime Minister and the ~~Leader of the Opposition~~, may designate someone to act in that office ~~during~~ such vacancy, until an appointment is made. Filling of  
vacancy.

7.—(1) The funds of the Fiscal Commission shall consist of such ~~funds~~ as may be approved for the Fiscal Commission by Parliament. Funds of the  
Commission,  
accounts, etc.

(2) The accounts and financial transactions of the Fiscal Commission shall be audited annually by the Auditor-General and a ~~statement~~ of accounts shall form part of the annual report referred to in section 16.

(3) The Fiscal Commissioner shall at such time within each year ~~as~~ the Minister may direct—

- (a) submit to the Minister a statement of the accounts of the Fiscal Commission audited in accordance with the provisions of subsection (2);
- (b) submit to the Minister for approval, the estimates of expenditure for the financial year commencing on the 1st day of April next following.

Remuneration of Fiscal Commissioner.

**8.—(1)** The Fiscal Commissioner shall receive such emoluments and be subject to such other terms and conditions of service as the Governor-General may, from time to time, acting on the recommendation of the commission constituted under subsection (4), prescribe.

(2) The emoluments and terms and conditions of service of the Fiscal Commissioner, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during the period of his appointment.

(3) The emoluments for the time being payable to the Fiscal Commissioner under this Act shall be charged on and paid out of the Consolidated Fund.

(4) The commission referred to in subsection (1) of this section and subsection (1) of section 10 shall consist of—

- (a) the Speaker, as chairman;
- (b) the President of the Senate;
- (c) the person designated by the Prime Minister as Leader of Government Business in the House of Representatives;
- (d) the person designated by the Leader of the Opposition as Leader of Opposition Business in the House of Representatives;
- (e) the person designated as Leader of Government Business in the Senate;
- (f) the person designated by the Leader of the Opposition as Leader of Opposition Business in the Senate; and
- (g) the Minister responsible for the Public Service.

Pension and gratuities. First Schedule.

**9.** The provisions of the First Schedule shall have effect with respect to the pension and other benefits to be paid to or in respect of a person who has held the office of the Fiscal Commissioner.

Appointment of staff.

**10.—(1)** The Fiscal Commissioner may appoint and employ for the purposes of this Act, at such remuneration and on such terms and conditions as may be approved by the commission constituted under



section 8(4), such officers and agents as may be considered necessary to assist the Fiscal Commissioner in the proper performance of the functions of the Commission under this Act.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment to the staff of the Fiscal Commission of any officer in the public service, provided that in relation to pension, gratuity, allowance and other rights as a public officer, such officer shall be deemed to be in the public service while so employed.

(3) The Fiscal Commissioner may, with the approval of the Minister—

- (a) enter into arrangements respecting schemes whether by way of insurance policies or otherwise; and
- (b) make regulations for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits relating to officers of the Fiscal Commission and such arrangements or regulations may include provision for the grant of benefits to the dependent and the legal personal representatives of such officers.

**11.** The Fiscal Commissioner and every person appointed to the staff of the Fiscal Commission shall not be held personally liable for any act on default of the Fiscal Commission done or omitted to be done in good faith in the course of the operations of the Commission.

Protection of Fiscal Commissioner and officers.

**12.—**(1) The Fiscal Commissioner and every person appointed to the staff of the Fiscal Commission shall, before performing any functions assigned to them under or by virtue of this Act, take and subscribe to an oath in the form set out in the Second Schedule, and—

Oath of secrecy and confidentiality regarding information.

- (a) in the case of a person appointed to the staff of the Fiscal Commission, the oath shall be administered by the Fiscal Commissioner;
- (b) in the case of the Fiscal Commissioner, the oath shall be administered by the Governor-General.

Second Schedule.

(2) Subject to sections 15 and 16, every person having an official duty under this Act or being employed or otherwise concerned in the administration of this Act (hereinafter referred to as a “concerned person”) shall regard and deal with as secret and confidential, any information or other matter relating to the work of the Fiscal Commission, except that no disclosure made by the Fiscal Commissioner or other concerned person in the proceedings for an offence under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(3) Every concerned person who is required under subsection (2) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information or other matter referred to in subsection (2) disclosed to the concerned person in the execution of any of the provisions of this Act to any person—

- (a) other than a person to whom he is authorized under this Act to communicate it; or
- (b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

Independence of Fiscal Commissioner and delegation of functions.

**13.—**(1) Subject to subsections (2) and (3), the Fiscal Commissioner shall not be subject to the direction or control of any other person or authority in the carrying out of the functions of the Fiscal Commission under this Act.

(2) The Fiscal Commissioner shall carry out the functions of the Fiscal Commission in an objective, transparent and impartial manner.

(3) In carrying out the functions of the Fiscal Commission under section 3(2), the Fiscal Commissioner shall only have regard to the policies of the government in this regard, and shall not consider any alternative policies.

(4) The Fiscal Commissioner may delegate in writing, the exercise of any functions of the Fiscal Commission (other than the power

of delegation) to such officers of the Fiscal Commission (hereinafter referred to as “the delegate”) as the Fiscal Commissioner deems fit.

(5) A delegation under subsection (4) shall not affect—

- (a) the exercise of the delegated functions by the Fiscal Commissioner; or
- (b) the responsibility of the Fiscal Commissioner in relation to acts of the delegate carried out in lawful exercise of the delegated functions.

(6) Any act done by or in relation to the delegate pursuant to the delegated functions shall have the same effect as if done by or in relation to the Fiscal Commissioner.

(7) It is declared, in the interest of certainty, that a delegation under subsection (4) shall, in addition to conferring authority to exercise the delegated function, also subject the delegate to the same obligations as would apply under this Act to the Fiscal Commissioner’s exercise of such function and accordingly, the delegate shall be liable for any wrongful act or omission of the delegate occurring in the exercise of that authority.

(8) A delegation of any function shall be revocable by the Fiscal Commissioner in writing.

**14.—**(1) The Fiscal Commissioner may, at any time, require any officer or member of the specified public sector, subject to their enabling law, to provide the Fiscal Commissioner with such relevant information as the Fiscal Commissioner may deem necessary to assist the Fiscal Commissioner in carrying out the functions under this Act.

Access to information.

(2) The Fiscal Commissioner may enter into any arrangement, in writing, with a member of the specified public sector regarding the provision of relevant information.

**15.—**(1) Subject to subsection (5), the Fiscal Commissioner shall, on at least two occasions in each fiscal year, prepare—

- (a) an Economic and Fiscal Assessment Report; and
- (b) a Statement on Fiscal Performance.

Preparation of Economic and Fiscal Assessment Report and Statement on Fiscal Performance.

(2) The Economic and Fiscal Assessment Report prepared pursuant to subsection (1) shall—

- (a) provide an assessment of the macroeconomic and fiscal forecasts;
- (b) provide an evaluation as to whether the Government's announced policies are consistent with the fiscal rules, principles and targets set out in Part VII of the Financial Administration and Audit Act;
- (c) include an assessment of medium and long term debt sustainability; and
- (d) be published on the official website of the Fiscal Commission within ten days of the laying of the Fiscal Policy Paper before both Houses of Parliament in accordance with sections 48B(2) and 48E(3)(a) of the Financial Administration and Audit Act.

(3) Subject to subsection (6), the Statement on Fiscal Performance shall provide an assessment of the Government's achievement of the budget targets and fiscal targets pursuant to Part VII of the Financial Administration and Audit Act and shall be published on the official website of the Fiscal Commission, within twenty-one days of receipt of quarter-end fiscal data for the 30th day of June and within forty-two days of receipt of the quarter-end fiscal data for the 31st day of December of each year, by the Fiscal Commissioner.

(4) In preparing the Economic and Fiscal Assessment Report and the Statement of Fiscal Performance, the Fiscal Commissioner shall ensure that no information is included which—

- (a) is confidential; or
- (b) if disclosed, could prejudice national security or defence of Jamaica, or have a substantial adverse effect on, the Jamaican economy or the Government's ability to manage the Jamaican economy.

(5) Notwithstanding subsection (1), the Fiscal Commissioner may, from time to time, publish or cause to be published on the official website of the Fiscal Commission, a report on any matter which relates to the functions of his office.

(6) Prior to the publication of any report on the official website of the Fiscal Commission in accordance with this section, the Fiscal Commissioner shall ensure that the report is submitted to the Speaker of the House of Representatives and the President of the Senate, who shall, as soon as possible, upon receipt of said report, have it laid on the table of the respective Houses.

**16.—**(1) The Fiscal Commissioner shall submit to the Parliament an annual report relating generally to the execution of the functions of the Fiscal Commission. Reports.

(2) Notwithstanding subsection (1), the Fiscal Commissioner may at any time be required by Parliament to submit thereto a report in relation to the responsibilities of the Fiscal Commission.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, upon receipt of same, have them laid on the table of the respective Houses.

### PART III.—*Fiscal Advisory Committee*

**17.—**(1) The Governor-General shall, by instrument in writing, after consultation with the Minister and the Leader of the Opposition or the person designated by the Leader of the Opposition to be the spokesperson on finance, appoint an Advisory Committee to be called the Fiscal Advisory Committee. Establishment and functions of Fiscal Advisory Committee.

(2) The Advisory Committee shall advise the Fiscal Commissioner on the key macroeconomic and fiscal developments and outlook and such advice shall assist the Fiscal Commissioner in the assessment of Jamaica's fiscal position and policies, in accordance with the functions of the Fiscal Commission under section 3(2).

(3) The Advisory Committee shall comprise of five members from academia, the private sector, trade unions and civil society and shall hold office for a period of three years from the date of appointment to the Advisory Committee and shall be eligible for re-appointment.

(4) The Governor-General shall appoint one of the members of the Advisory Committee to be the Chairman.

(5) The Chairman shall preside at meetings of the Advisory Committee.

(6) Pursuant to subsection (5), in the absence or inability of the Chairman to preside at a meeting of the Committee, the members of the Committee present shall elect one of their members to preside at that meeting.

(7) A majority of the members of the Advisory Committee present at a meeting constitutes a quorum.

(8) Decisions of the Advisory Committee shall be by a majority of votes of the members present and constituting a quorum, but where in any case the voting is equal, the Chairman or other person presiding at the meeting shall have, in addition to an original vote, a second vote.

(9) The Governor-General may, by notice in writing, revoke the appointment of a member of the Advisory Committee for the inability of the member to discharge the functions of his office, whether arising from infirmity of body or mind, dereliction of duty, misbehavior or for any other cause.

(10) A member of the Advisory Committee may resign his appointment by notice in writing to the Governor-General.

(11) The Advisory Committee shall meet at such times as are necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Advisory Committee determines.

(12) The Chairman may at any time summon a meeting of the Advisory Committee, and shall summon a meeting within seven days of

a request for that purpose addressed to him by at least three members of the Advisory Committee.

(13) The Advisory Committee shall meet with the Fiscal Commissioner at such times as may be determined by the Advisory Committee and the Fiscal Commissioner and the schedule, in relation to such meetings, shall be published one year in advance on the official website of the Fiscal Commission.

(14) The Fiscal Commissioner shall not divulge to the Advisory Committee any information which is confidential, or if disclosed, could prejudice the national security or defence of Jamaica, or have a substantial effect on the Jamaican economy or the Government's ability to manage the Jamaican economy.

(15) Minutes in proper form of each meeting of the Advisory Committee shall be kept by such person as the Advisory Committee appoints for the purpose, and shall be confirmed by the Chairman as soon as practicable thereafter at a subsequent meeting.

(16) The Advisory Committee shall regulate its own proceedings.

(17) The Fiscal Commissioner shall ensure that a summary of the main issues discussed at every meeting that is scheduled and published in accordance with subsection (13), is prepared and published on the official website of the Fiscal Commission, within six weeks after the date of the meeting or prior to the date of the next meeting, whichever is earlier, and such summary shall not contain any information that is confidential, or if disclosed, could prejudice national security or defence of Jamaica, or have a substantial effect on the Jamaican economy or the Government's ability to manage the economy.

#### PART IV.—*Miscellaneous Provisions*

18.—(1) The Fiscal Commission may make Regulations—

- (a) for prescribing anything required by this Act to be prescribed;
- (b) prohibiting anything required by this Act to be prohibited;
- (c) generally for the better carrying out of the objectives of the Act.

Fiscal  
Commission  
may make  
Regulations.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

Consequen-  
tial  
amendment  
to the  
Financial  
Adminis-  
tration and  
Audit Act.  
Third  
Schedule.

**19. The Financial Administration and Audit Act is hereby amended in the manner specified in relation thereto in the Third Schedule.**



## FIRST SCHEDULE

(Section 9)

## 1. In this Schedule

Interpretation.

“Fund” means the Pension Fund established under the Pensions (Public Service) Act;

“pensionable emoluments” has the meaning assigned to it in the Pensions (Public Service) Act; and in so far as the emoluments of a Fiscal Commissioner include a house allowance, the office of the Fiscal Commissioner shall be deemed to be a specified office.

2. With effect from such date as may be determined by the Minister by order published in the Gazette, as a contribution towards pension, gratuity or other allowance, there shall be deducted each month from the salary of the Fiscal Commissioner an amount to be prescribed by the Minister by Order.

Contribution to pension.

3.—(1) Where a person holding the office of Fiscal Commissioner retires in pensionable circumstances he shall be paid pension and gratuity in accordance with this Schedule.

Entitlement of pensions and gratuities in respect of service as Fiscal Commissioner.

(2) For the purposes of this paragraph and paragraph 4, a person retires in pensionable circumstances if he retires—

- (a) on the expiration of seven years from the date of appointment to the office of Fiscal Commissioner; or
- (b) by reason of ill health prior to such expiration.

(3) For the purposes of this Act, a person retires from the office of Fiscal Commissioner on the ground of ill health if—

- (a) he retires on medical evidence, to the satisfaction of the Governor-General, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent; or
- (b) he is removed from office, in accordance with section 4(3) of this Act, for inability, arising from infirmity of mind or body, to perform the functions of his office.

(4) A person who pursuant to section 4(3) is removed from the office of Fiscal Commissioner for misbehaviour or for any cause other than inability arising from infirmity of mind or body or who retired otherwise than in pensionable circumstances may be granted by the Governor-General such pension and gratuity as the Governor-General thinks fit, not exceeding the pension and gratuity to which he would have been entitled had he retired in pensionable circumstances from such office and, for the purposes of subparagraph (5), the date of such removal from office or retirement shall be deemed to be the date of retirement in pensionable circumstances.

(5) Pension payable in accordance with this paragraph shall—

- (a) be payable in such manner as is provided in section 5(1) of the Pensions (Public Service) Act; and
- (b) be paid monthly in arrears with effect, subject to paragraph 4, from the date of retirement in pensionable circumstances and shall, subject to the provisions of this Act, continue to be paid during the lifetime of the person entitled thereto.

Rate of pension.

4. The rate of pension payable pursuant to paragraph 3 to any person shall—

- (a) if the person has retired after completing not less than seven years service as Fiscal Commissioner or, at any time, on the ground of ill-health, be at an annual rate equivalent to his pensionable emoluments at retirement; and
- (b) in any other case, be an annual rate equivalent to the sum of one-half of his pensionable emoluments at the date of retirement and one-third hundred and sixtieth of such pensionable emoluments in respect of each month of service as a Fiscal Commissioner:

Provided that the rate of pension shall not exceed the annual rate of such pensionable emoluments.

5.—(1) Any person to whom a pension (in this paragraph referred to as “the original pension”) is payable pursuant to paragraph 3 may, at his option exercisable at his retirement in pensionable circumstances or within such period prior or subsequent to his retirement as the Governor-General may allow, be paid, in lieu of the original pension, a reduced pension at the rate of three-fourths of the annual rate of the original pension together with a gratuity (in this Act referred to as a “commuted pension gratuity”) equal to twelve and one-half times one-quarter of the annual rate of the original pension.

Reduced pension and gratuity.

(2) The option referred to in subparagraph (1) shall be irrevocable unless the Governor-General, on such terms as he considers reasonable, otherwise permits.

6. Where a person dies while holding the office of Fiscal Commissioner, there shall be paid to his legal personal representatives, a gratuity of an amount equivalent to the commuted pension gratuity for which the person aforesaid had a right to opt pursuant to paragraph 5 on the assumption that he retired in pensionable circumstances at the date of his death.

Gratuity on death.

7. Where a person holding the office of Fiscal Commissioner dies as a result of injuries received or disease contracted—

Pensions to dependants when a Fiscal Commissioner dies as a result of injuries received or disease contracted in the discharge of his duties.

- (a) in the actual discharge of his duties;
- (b) in circumstances in which the injury or disease is not wholly or mainly due to or seriously aggravated by his own serious and culpable negligence or misconduct; and
- (c) on account of circumstances specially attributable to the nature of his duty,

while serving in that office, it shall be lawful for the Governor-General to grant to the deceased officer’s widow, children, parents or other dependents such awards as would have been made under the Pensions (Public Service) Act if the office of Fiscal Commissioner were a pensionable office for the purposes of that Act.

8. If a Fiscal Commissioner—

Retirement consequent on injury or disease.

- (a) is permanently injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or

- (b) contracts a disease to which he is exposed specially by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (c) is permanently injured as a result of an accident or damage to the aircraft while travelling by air in pursuance of official instructions and the injury was not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (d) while proceeding by a route approved by the Governor-General to or from this Island at the commencement or termination of his service therein, or of a period of secondment, duty leave, or leave therefrom, is permanently injured as the result of damage or any act of violence to the vessel, aircraft or vehicle in which he is travelling, if the Governor-General is satisfied that that damage or act is attributable to circumstances arising out of any war in which Her Majesty may be engaged,

then, for the purpose of calculating any pension under this Act any period of service as Fiscal Commissioner shall be deemed to be increased by twenty *per centum*.

Pensions *etc.*,  
not to be  
assigned.

9. A pension or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying—

- (a) a debt due to the Government; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor children, of the person to whom the pension or gratuity is payable,

and shall not be liable to be attached, sequestered or levied upon, for, or in respect of any debt due or claim whatever except a debt due to the Government.

10.—(1) Where a person dies while holding the office of Fiscal Commissioner or while entitled to a pension under paragraph 2, there shall be paid to his widow a pension at an annual rate equivalent to one-fifth of the pensionable emoluments of the person aforesaid at the date of his death or, if at that date he was entitled to receive a pension under paragraph 3 at the date of his retirement or, as the case may be, removal from office in accordance with this Act. Pension to widow.

(2) Pension payable to a widow pursuant to subparagraph (1) shall—

- (a) be payable in the names provided under section 5(1) of the Pensions (Public Service) Act; and
- (b) be paid monthly in arrears with effect from the date of her husband's death and shall, subject to the provisions of this Act, continue to be paid during her lifetime.

(3) In paragraph 7 and subparagraphs (1) and (2) of this paragraph, references to a widow shall, in the case of a female appointed Fiscal Commissioner, be deemed to include references to a widower and cognate expressions shall be construed accordingly, and similarly, references to a husband shall be deemed to include references to a wife.

SECOND SCHEDULE

(Section 11)

*Oath to be taken by Fiscal Commissioner and  
Staff of Fiscal Commission*

I ..... do swear that I will faithfully perform any functions assigned to me under the Independent Fiscal Commission Act and I will not, on any account, at any time whatsoever except in so far as the provisions of the Act authorize, directly or indirectly reveal any information or the nature or contents of any documents communicated to me in the performance of my functions assigned to me by virtue of the Act.

So help me God.

THIRD SCHEDULE (Section 19)

*Amendment of the Financial Administration and Audit Act*

| Provisions | Amendment   |
|------------|---|
| 48A        | <p>In subsection (1), insert the following new definition in the proper alphabetical sequence—</p> <p style="padding-left: 40px;">“Fiscal Commissioner” means the person appointed as Fiscal Commissioner pursuant to section 3(2) of the Fiscal Commission Act;”.</p>  |
| 48B(6)     | <p>In subsection (6), delete subparagraph (a) and (b).</p>  |
| 48C        | <ol style="list-style-type: none"> <li>1. In subsection (3), delete the words “Auditor-General” wherever they appear and substitute therefor the words “Fiscal Commissioner”.</li> <li>2. In subsection (4), delete the words “Auditor-General” and substitute therefor the words “Fiscal Commissioner”.</li> <li>3. In subsection (5), delete the words “Auditor-General” wherever it appears and substitute therefor, the words “Fiscal Commissioner”.</li> </ol> |
| 48CA       | <p>In subsection (1)(d) and (e) delete the words “Auditor-General” and substitute therefor the words “Fiscal Commissioner”.</p>   |

## MEMORANDUM OF OBJECTS AND REASONS

Jamaica's commitment to fiscal prudence by successive governments since 2013 has resulted in the public debt ratio falling for the first time since 2000/01 to below 100 *per cent* of Gross Domestic Product. This occurred in the fiscal year 2018-2019 where the outturn was 94.4 *per cent* of Gross Domestic Product. Due to the Covid-19 pandemic, the debt target of 60 *per cent* of Gross Domestic Product is now projected to be met by March 2028.

Currently, fiscal oversight functions are undertaken by the Auditor-General as legislated in the Financial Administration and Audit Act. The Economic Programme Oversight Committee was established in 2013 to monitor and report on the implementation of Jamaica's economic reform measures under its agreements with the International Monetary Fund to report on progress on the Government's fiscal (and other reform) objectives in the context of the International Monetary Fund supported programme.

The conclusion of consecutive International Monetary Fund programmes in November, 2019, created the need to strengthen the Fiscal Responsibility Framework to broaden the scope of oversight and frequency of reporting with the establishment of a dedicated, independent Fiscal Commission which will be the arbiter of Jamaica fiscal rules.

Such a need encompasses performing independent macroeconomic assessments with a view to sustaining fiscal discipline. It is in these circumstances that this Bill seeks to establish the Fiscal Commission. In conceptualizing the framework for the proposed Fiscal Commission, the Minister has been guided by the recommendations made by the Organization for Economic Cooperation and Development (OECD) on Principles for Independent Fiscal Institutions as well as the International Monetary Fund's policy paper on the Functions and Impact of the Fiscal Councils.

The principal objective to be achieved by this Bill is therefore the establishment of a Fiscal Commission with a view to monitoring and maintaining Jamaica's adherence to the country's fiscal responsibility laws.

In this regard, it is proposed that the Commission be established as an independent commission of Parliament with a clear mandate requiring the Commission to provide the public with an informed and independent opinion on the soundness and sustainability of Jamaica's fiscal positions and policies through the preparation and publication of specified periodic reports.

NIGEL CLARKE  
Minister of Finance and the Public Service





# ABILL

ENTITLED

An ACT to establish an Independent Fiscal  
Commission to promote sound fiscal policy  
and fiscal management in an effort to sustain  
fiscal discipline.

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As introduced by the Honourable Minister of Finance  
and the Public Service.

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