

EXPLANATORY MEMORANDUM
FOR
STATEMENT OF EXPENDITURE JANUARY 1 – SEPTEMBER 30, 2020

This Statement of Expenditure is being laid in compliance with Article 219 (3) of the Constitution of the Co-operative Republic of Guyana.

Article 219 (3) provides thus:

“Where at any time Parliament has been dissolved before any provision or any sufficient provision is made under this Title for the carrying on of the Government of Guyana, the Minister responsible for finance may authorize the withdrawal of such sums from the Consolidated Fund he or she may consider necessary for the purpose of meeting expenditure on the public services until the expiry of a period of three months commencing with the date on which the National Assembly first meets after that dissolution, but a statement of the expenditure so authorized shall, as soon as practicable be laid before the National Assembly by the Minister responsible for finance or any other Minister designated by the President and, when the statement has been approved by the Assembly, that expenditure shall be included, under the appropriate heads, in the next Appropriation Bill.”

It is public knowledge that there was no Appropriation Bill for the year 2020, but there was massive spending authorized by the former Minister of Finance for the fiscal year 2020. The Statement of Expenditure captures those spending, in compliance with Article 219 (3) of the Constitution.

The historical journey to this unusual constitutional destination is important for the public record. However, due to the constraints of time, I can only offer a summary of the unwarranted abuse of the financial laws and the Constitution.

On the 21st day of December 2018, the National Assembly passed a No-Confidence Motion against the APNU+AFC Government, in accordance with Article 106 of the Constitution. Under Article 106 (6) and (7) of the Constitution, the Cabinet including the President was mandated to resign and the President was required to fix a date for the holding of elections within three months thereafter. In flagrant violation of the express provisions of the Constitution, the then APNU+AFC Government, illegally, remained in Office for almost 15 months, eventually holding elections on the 2nd day of March 2020.

During those almost 15 months, Guyana witnessed an unprecedented style of governance, never seen before in the Western Hemisphere. The rule of law was repeatedly trampled upon and the Constitution regularly violated.

During this period, the law conferred upon the then Coalition Government a “*Caretaker Status*” only. However, instead of complying with the Constitution, the then APNU+AFC Government challenged the validity of the No-Confidence Motion all the way to the Caribbean Court of Justice (CCJ). That litigation alone cost taxpayers’ over \$100M GYD in legal fees. In the end they were unsuccessful.

Their “*Caretaker Status*” established by international conventions and best practices and upheld in the rulings and orders of the Caribbean Court of Justice on June 18th and July 12th, 2019, notwithstanding they violated every tenet of that status, not only by plundering the Treasury, but by engaging in massive disposal of State assets, entering into contracts, unjustified hiring and removal of public servants, engaging both multilateral and bilateral partners as well as local financial institutions and borrowing huge sums of Guyana dollars and engaging in a series of nefarious activities in complicity with elements within the Guyana Elections Commission (GECOM) in their attempts, not only to delay constitutionally due elections, but to corrupt those elections and deny the Guyanese electorate their right to choose their legitimate representatives in government in a transparent, free and fair electoral process.

To finance the activities outlined above, public monies were used, presumably, from the 2019 budget, which was approved by the National Assembly in December 2018. However, with not more than three (3) sittings of the National Assembly for the entire 2019, there was virtually no parliamentary oversight of how monies appropriated for the year 2019, were actually expended. So extravagant was the spending that by May 2019, supplementary financing was sought from the National Assembly to the tune of \$7,962,209,485. This trend continued unabated for the entirety of 2019.

To compound what had already transpired, we entered the year 2020, without an Appropriation Act. With Parliament being dissolved on the 30th day of December 2019, the former Minister of Finance, as an agent of the APNU+AFC Government, continued to authorize spending for activities some of which cannot be conscientiously considered as funding public services, for example, funding of new capital projects.

After the 2nd March 2020 elections, a new dispensation of unconstitutionality, illegality, abuse of power, derailing of democracy and perversion of the will of the people were all unleashed by a group of persons who lost those elections. Using the same worn strategy of resorting to the Courts in futile litigation, again funded by taxpayers', in excess of tens of millions of Guyana dollars, the APNU+AFC remained in Office for an additional five months and during that period continued to spend without parliamentary approval and oversight.

This Statement of Expenditure will lay out those sums expended.

While we acknowledge that simultaneous to this unconstitutionality Guyana was also battling a pandemic. Breaches to the Procurement Act were numerous and injurious to our financial wellbeing. It can be clearly established that since the passage of the No-Confidence Motion to the 2nd August 2020, when the new Administration took Office, \$419.2B GYD of public funds were expended by a Government that should have only been in a caretaker capacity with limited powers and according to the Constitution, spending only on public services. Further, the Government continued to undertake expenditure well beyond the realm of ensuring the provision of basic public services, within the allowable caretaker status and in violation of Sections 36 (2) and (3) of the Fiscal Management and Accountability Act.

Sections 36 (2) and (3) provides thus:

“Drawing rights issued pursuant to subsection (1) shall, for each month in respect of each budget agency, be subject to a drawing limit of one-twelfth of the amount that was expended by that budget agency in the immediately preceding fiscal year; provided, however, that provision for a payment obligation under a multi-year contract referred to in subsection 55 (1) may be included in a drawing right”

“The Minister shall not issue a drawing right pursuant to subsection (1) in relation to a subject matter or for a purpose for which there was no appropriation in the immediately preceding fiscal year.”

We observed that during this period, as an example, a contract totaling \$10,466,711.65M USD, which was funded by a loan from the Islamic Development Bank, was entered into in June 2020. We further observed that there was an unconstitutional withdrawal of \$10.8B GYD from the Consolidated Fund which was disbursed to the Guyana Power and Light Inc. Additionally, we noticed the signing and awarding of new capital projects in the year 2020. For example, BK International was awarded a contract in the sum of \$826.8M GYD for a school on the Soesdyke-Linden Highway, and,

several other civil works contracts for works on the \$1.6B GYD Infectious Disease Hospital (Ocean View Hotel), a property not even owned by the Government of Guyana and for which rental was being charged in the sum of \$13M GYD per month.

Further, \$20.1B GYD of rollover contracts were carried into 2020, with \$14.4B GYD programmed for expenditure this year. These included contracts that were signed on December 31, 2019, with full knowledge that sums could not be expended in 2019 and would be a rollover to 2020.

In fulfilment of this Administration's commitment to uphold the Constitution, a Statement of Expenditure has been prepared ahead of the passage of the Appropriation Bill and pursuant to Article 219 (3) which states:

“...but a statement of the expenditure so authorized, shall, as soon as practicable be laid before the Assembly by the Minister responsible for finance or any other Minister designated by the President and, when the statement has been approved by the Assembly, that expenditure shall be included, under the appropriate heads, in the next Appropriation Bill.”

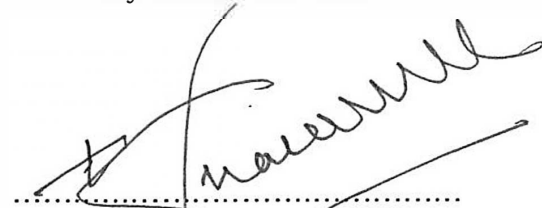
As it relates to the format of the presentation of the Statement, reference is made to Section 17 of the Fiscal Management and Accountability Act 2003, which is instructive on formats, and it states in sub-sections 17 (1) and 17 (3), that such formats are to be determined by the Minister, and must conform, as far as practicable with international standards for the classification of government finances; and must detail all current expenditures, including entitlement payments, and all capital expenditures.

It should be noted that, in compliance with the Constitution, the Statement of Expenditure herein comprises only of appropriation expenditure, not statutory expenditure. The figures in the Statement of Expenditure are, however, already included in the Appropriation Bill that is currently before the House.

For clarity, the columns established, sums expended for the period 1st January 2020 to 31st July 2020, current and capital and a second period being 2nd August to 30th September 2020.

Based upon advice from the Attorney General and Minister of Legal Affairs, a number of these contractual engagements and unauthorised spending will be the subject of investigations.

In consideration of the foregoing, the Statement of Expenditure, so described above, is hereby submitted to be laid before the National Assembly, forthwith, for consideration and approval, prior to the approval of the Appropriation Bill, currently before the House.

A handwritten signature in black ink, appearing to read 'Juan A. Edghill', written over a dotted line.

Hon. Bishop Juan A. Edghill, MP
Minister of Public Works
23rd September 2020

