

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

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THE PUBLIC AUDIT ACT, 2008

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THE UNITED REPUBLIC OF TANZANIA



No. 11 OF 2008

I ASSENT,

JAKAYA MRISHO KIKWETE,
*President*4th July, 2008

PREAMBLE

WHEREAS the Constitution of the United Republic of Tanzania establishes the office of the Controller and Auditor-General and charges the holder with the mandate of authorizing the use of money to be paid out of the Consolidated Fund upon being satisfied that Article 136 of the Constitution has or shall be complied with, ensuring the money authorized to be charged on the Consolidated Fund or the money the use of which is authorized by law, examining how government resources have been spent for purposes connected and incurred in accordance with authorization and auditing and reporting on the accounts, financial statements and financial management of the Government Ministries, Independent Departments, Executive Agencies, Public Authorities and Other Bodies and Donor Funded Projects, Local Government Authorities, the Judiciary and the National Assembly;

AND WHEREAS the discharge of the mandate of Controller and Auditor-General is intended to promote accountable democratic institutions by preventing financial malpractice, corruption, delivery of information to taxpayers about the carrying out of government policies and programmes;

AND WHEREAS the effective supreme audit institution promote and enhance transparency accountability and predictability of government performance;

AND WHEREAS the performance of functions and the exercise of powers of the Controller and Auditor General requires a strong institutional framework equipped with tools of modern technology, trained and skilled personnel supported by a comprehensive legal regime;

NOW THEREFORE, be it ENACTED by Parliament of the United Republic of Tanzania as follows:

PART I

PRELIMINARY PROVISIONS

Short title and commencement	1.-(1) This Act may be cited as the Public Audit Act, 2008. (2) This Act shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.
Application	2. This Act shall apply in relation to the conduct of any audit and other operations under the jurisdiction of the Controller and Auditor-General provided for under the Constitution and any other laws.
Interpretations	3. In this Act, unless the context requires otherwise- "accounting officer" means any officer appointed by the Paymaster General or by relevant laws and charged with the duty of accounting for any service in respect of which money have been appropriated by the National Assembly or any person to whom issues are made from the Consolidated Fund; "appropriate minister" means a Minister responsible for audited sector; "Attorney-General" means the Officer referred to in Article 59 of the Constitution; "audit standards" means standards issued by Local and International Audit and Accounting bodies determined by the Controller and Auditor-General to be applied in the conduct of his functions; "auditee" means an entity or body audited under this Act; "code of ethics and conduct" means a code of ethics and conduct for the Public Service and shall include the relevant Professional Codes of Ethics and Conduct and the Public Service Leadership Codes of Ethics and Conduct and as well the code of ethics and conduct developed by the National Audit Office for its staff; "Consolidated Fund" means the Consolidated Fund of the Government of the United Republic referred to under Article 135 of the Constitution;

"Constitution" means the Constitution of the United Republic of Tanzania of 1977;

"Controller and Auditor-General" means the Officer referred to in Article 143 of the Constitution;

"financial year" means in relation to-

- (a) Central and Local Government, a period of twelve months ending on 30th June of each year;
- (b) a public authority or other body, the period specified by or under the relevant law or instrument relating to that authority or body or as shall be determined by the competent authority of that authority or body;

"forensic audit" means audit aiming at prevention and detection of irregularities, such as fraud, embezzlement and corruption, and application of auditing skills to situations that have legal consequences;

"generally accepted accounting principles" means accounting principles and procedures recognized by accounting professional bodies as appropriate for reporting financial information relating to Government, Ministry, local government authority or department, a Fund, an Agency or other reporting unit being principles and procedures that are consistent with this Act and any other appropriate Act;

"independent department" means a separate part of the central government which is not assigned to any Ministry;

"local government authority" means the Authority established under Article 145 of the Constitution;

"Minister" means the Minister responsible for matters relating to finance;

"National Audit Office" means the supreme audit institution of the United Republic of Tanzania referred to under section 20 of this Act;

"officer" or "public officer" means a civil servant employed by the Government or any officer of a Government authority, public authorities and other bodies;

"Paymaster General" means the officer referred to in Public Finance Act and vested with the powers to control the issue of public money to accounting officers; Cap. 212

"public authority" means a body of persons, whether or not corporate established by or under any written laws, other than the Companies Act, whose functions are of public nature and are exercised in furtherance of the public policy determined by the Government;

"public monies" include:

- (a) the public revenues of the United Republic;

- (b) any trust or other money held, whether temporarily or otherwise, by an officer in his official capacity either alone or jointly with any other person, whether an officer or not;
- "resources" includes monies, stores, property, assets, loans and investments.

PART II

THE CONTROLLER AND AUDITOR-GENERAL

Appoint-
ment of
the
Control-
ler and
Auditor-
General

4.-(1) The Controller and Auditor-General shall be appointed by the President from among the citizens of the United Republic of Tanzania by birth.

(2) On appointment of the Controller and Auditor-General, the President shall consider relevant professional qualifications, experience and leadership skills suitable for appointment to the post.

(3) Upon appointment of the Controller and Auditor-General, shall subscribe to the oath before the President.

Cap. 2

(4) The Controller and Auditor-General shall, in addition to the terms and conditions specified in the Constitution, hold office on such other terms and conditions as may be provided in any written law.

Constitu-
tional
mandates

5. The Constitutional mandates of the Controller and Auditor-General shall be to-

- (a) authorize the use of money to be paid out of the Consolidated Fund upon being satisfied that Article 136 of the Constitution has been or shall be complied with;
- (b) ensure the money authorized to be charged on the Consolidated Fund or the money the use of which is authorized by law, have been spent for purposes connected and incurred in accordance with authorization; and
- (c) audit and report on the accounts, financial statements and financial management of -
 - (i) the Government of the United Republic, that is to say, Ministries, Independent Departments, Executive Agencies, Public Authorities and Other Bodies and Donor Funded Projects;

- (ii) the local government authorities;
- (iii) the Judiciary; and
- (iv) the National Assembly.

6.—(1) The Controller and Auditor-General shall hold office for the fixed term of five years and shall be eligible for renewal for one term only.

Tenure of
office

(2) Unless the question of removal becomes the subject of investigation in terms of Article 144(3) of the Constitution, the Controller and Auditor-General shall vacate office-

Cap. 2

- (a) upon attaining the age of sixty five years ;
- (b) if the Controller and Auditor-General resigns-
 - (i) on account of medical grounds or any other grounds which the President considers sufficient; or
 - (ii) by giving six months' notice to the President.

7. The Controller and Auditor-General may be removed from his office for reasons and procedures provided for under Article 144 of the Constitution.

Removal
from
office

Cap. 2

8.—(1) Where the post of the Controller and Auditor-General becomes vacant, the President may appoint a person to that office within sixty days of the post becoming vacant.

Appoint-
ment of
Acting
Controller
and

(2) The President shall appoint a qualified person to act as Controller and Auditor-General if-

Auditor
General

- (a) the absence due to incapacity of the Controller and Auditor-General is expected or intended to or may last more than three months;
- (b) the Controller and Auditor-General is suspended from office in connection with proceedings for his removal; or
- (c) the office of Controller and Auditor-General becomes vacant due to any other reasons.

9. In addition to the functions assigned to the Controller and Auditor-General by the Constitution, the Controller and Auditor-General shall be-

Responsi-
bilities of
the

- (a) responsible for examining, inquiring into, auditing and reporting on the accounts of-

Controller
and

- (i) all Ministries, Independent Departments of Government, Agencies and their accounting officers;

Auditor
General
Cap. 2

- (ii) Local Government Authorities and their accounting officers;
 - (iii) all persons entrusted with the collection, receipt, custody, issue or payment of public monies or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other public properties;
 - (iv) all public authorities and other bodies;
 - (v) any public authority or public body which receives funds from the Consolidated Fund or from public monies for a public purpose;
 - (vi) any public authority or public body which is authorized by law to receive money for a public purpose; and
 - (vii) any public authority or public body required by law to be audited by the Controller and Auditor-General.
- (b) conducting any other audit as provided in this law or other written laws.

Functions
of the
Controller
and
Auditor
General

Caps.
348
and 290

10.—(1) The Controller and Auditor-General shall, on behalf of the National Assembly, examine, inquire into and audit the accounts submitted to him as required under the Public Finance Act, Local Government Finances Act and any other written laws and perform any other functions which he is authorised to perform by or under this Act.

(2) In exercising his functions of inquiry, examination and audit of accounts, the Controller and Auditor-General shall, in addition to satisfying himself as to the matters specified in that behalf in the Constitution and any other written law, satisfy himself that-

- (a) all accounts referred to in subsection (1) have been kept in accordance with generally accepted accounting principles as required by relevant laws;
- (b) all reasonable precautions have been taken to safeguard-
 - (i) the collection of revenue; and
 - (ii) the receipt, custody, disposal, issue and proper use of public property, and that the laws, directions and instructions applicable thereto have been duly observed.
- (c) all expenditure of public monies has been properly authorized and applied to the purposes for which they were appropriated and that the laws, directions and instructions applicable

- thereto have been duly observed and provide an effective check of the assessment and collection of revenue; and
- (d) economy, efficiency and effectiveness have been achieved in the use of public resources.

11.-(1) In the performance of his functions and responsibilities, the Controller and Auditor-General may-

- (a) call upon any public officer for any explanation and information which the Controller and Auditor-General may require in order to enable him to perform those functions and responsibilities;
- (b) summon and examine under oath any person as he may determine in connection with the receipt or expenditure of public monies or the receipt or issue of any public property affected by the provisions of this Act and in connection with any matter necessary for the proper performance of his functions;
- (c) authorize any person eligible to be appointed as an auditor as the requirements of the Accountants and Auditors (Registration) Act, to conduct an inquiry, examination or audit on his behalf and that person or officer shall report to him;
- (d) without payment of any fee, cause search to be made in and extracts to be taken from any book, document or record in any public office;
- (e) seek the professional opinion or advice of the Attorney-General or any other qualified person on matters of a legal nature or of any qualified person on any accounting, auditing or other matter;
- (f) accept as correct without further examination, or rely upon, a certificate of any other person as he thinks fit, on the accounts of any other person entrusted with the collection, receipt, custody, control or payment of public monies or public property or with the issue, sale, transfer or delivery of public property;
- (g) from time to time, acquire the services of any person as provided for under section 16 of this Act.

Powers
of
Controller
and
Auditor -
General
G.N.
No. 119
of 2008

Cap. 286

(2) In evaluating and examining the public procurement processes and procedures, the Controller and Auditor-General may use the Public

Procurement Regulatory Authority and stock verifier's findings as guidance in reaching conclusions necessary for the performance of his duties.

(3) Where at any time it appears to the Controller and Auditor-General that -

- (a) any payment has been made without due authority according to law;
- (b) any irregularity has occurred in the receipt, custody, control, issue, transfer or delivery of any public property;
- (c) any deficiency or loss occasioned by negligence, misconduct, fraud, or corruption has occurred;
- (d) any failure to observe a principle of the highest thrift has occurred; or
- (e) any sum which ought to have been, has not been, brought to account;

he shall-

- (i) in the case of expenditure of or by the Government, the Judiciary or National Assembly, disallow the expenditure as a charge on public funds; or
- (ii) in any other case, call in question the sum concerned.

Cap. 2

(4) Where any of the matters referred to in paragraphs (a) to (e) of subsection (3) relates to expenditure of or by the Government, the Judiciary or the National Assembly, the Controller and Auditor-General shall submit to the President every report he makes, and the provisions Article 143(4) of the Constitution shall apply to every such report, but nothing in this subsection shall be construed as preventing the Controller and Auditor-General from submitting a report to the President of any audit matter relating to any public authority or other body.

(5) In every case, where the Controller and Auditor-General makes a report under this section, he shall notify the Paymaster-General or the appropriate accounting officer or authority whether it is appropriate that the person involved in the use of public funds or property entailing any of the matters in subsection (3) should make good the loss or deficiency resulting therefore and whether disciplinary, surcharge, or legal proceedings, or all of them, should be instituted against the person concerned.

(6) In the exercise of powers, the Controller and Auditor-General or any person duly authorized by him in writing shall have access to information as under section 15 of this Act.

(7) Subject to any duty imposed on him by any written law, the Controller and Auditor-General shall have complete discretion in the discharge of his functions and, in particular, in determining whether to carry out an examination under Part V of this Act and as to the manner in which such examination is carried out.

(8) Notwithstanding subsection (7), in determining whether to carry out any such examination he shall take into account any directives made by the Public Accounts Committee, the Local Authorities Accounts Committee, the Parastatal Organizations Accounts Committee and any other Committee of the National Assembly.

12. The Controller and Auditor-General may for the purpose of-

- (a) preventing or minimizing unproductive expenditure of public monies;
- (b) maximizing the collection of public revenues;
- (c) averting loss by negligence, carelessness, theft, dishonesty, fraud, corruption relating to public monies and resources, make such recommendations and submit such proposals to the Minister or appropriate Minister as he considers necessary for better management of public monies and resources including the revision of any regulations, directives or instructions issued under relevant laws.

Power to
make re-
commen-
dations

13. The independence and status of the Office of the Controller and Auditor-General shall be as provided for under Article 143 of the Constitution.

Indepen-
dence and
status

14. No action or other proceedings shall lie against the Controller and Auditor-General or any public officer, audit firm or expert authorized by him for or in respect of the findings of any audit examination or inspection carried out by him in good faith in the exercise or purported exercise of powers under this Act.

Immunity
from
legal
proceed-
ings

15.-(1) The Controller and Auditor-General or his representative shall have unrestricted access to such people, documents, computers and other information systems and assets as the Controller and

Access to
informa-
tion

Auditor-General reasonably considers necessary for the proper performance of his functions, carrying on responsibilities and the exercise of powers.

(2) The accounting officer of the auditee shall ensure that the Controller and Auditor-General has access at all reasonable times to the documents of the auditee relating to the performance of functions, responsibilities and the exercise of powers by the Controller and Auditor-General.

(3) The internal auditor of an auditee who is the subject of audit by the Controller and Auditor-General shall submit to the Controller and Auditor-General quarterly copies of internal audit report before the beginning of the next quarter.

(4) For the purpose of performing by the Controller and Auditor-General of his functions and responsibilities and the exercise of his powers, the Controller and Auditor-General may require an auditee or any person employed by that auditee to—

- (a) produce any document in the auditee's or other person's custody, care or control; and
- (b) provide the Controller and Auditor-General with information or an explanation about any information, system or asset.

(5) The Controller and Auditor-General may also obtain such information as he considers necessary to fulfill the performance of his functions, responsibilities and the exercise of his powers from any person who is not a member, employee or office of the auditee.

(6) In obtaining information pursuant to subsection (5), the Controller and Auditor-General shall—

- (a) advise the person in writing of the nature of the information; and
- (b) state that the information is required under this Act.

Engage-
ment
of
experts

16. In carrying out his responsibilities and in the performance of his functions, the Controller and Auditor-General may engage an expert or specially qualified person, whether or not that person is a public officer for the purpose and on such terms and conditions as may be agreed upon.

Scope
of
audit

17. The Controller and Auditor-General shall determine the scope and extent of the examination or inspection of the accounts or any other

audit of each auditee under this Act, which he considers desirable in carrying on his responsibilities and functions specified under Part II of this Act.

18.—(1) The Controller and Auditor-General in discharging his functions and responsibilities, shall determine which auditing standards should be applied and may issue auditing standards and code of ethics and Conduct specific to the audits performed by the National Audit Office.

Audit
Standards
and Code
of Ethics

(2) Pursuant to subsection (1), the Controller and Auditor-General may be guided by international auditing standards or other auditing standards as he may deem fit.

19.—(1) The Controller and Auditor General may charge fees for auditing the accounts of any person or body.

Audit
fees

(2) Pursuant to subsection (1), the Controller and Auditor-General or his representative shall have regard on-

- (a) the nature and extent of the services provided;
- (b) the requirements of auditing standards;
- (c) the qualification and experience of the persons necessarily engaged in providing the services; and
- (d) any other matters the Controller and Auditor General deems fit.

(3) The Public Authority or bodies shall pay the audit fees to the National Audit Office.

(4) The provisions of this section shall not apply to the accounts of central government and local government authorities.

PART III

THE NATIONAL AUDIT OFFICE

20.—(1) There shall continue to exist the National Audit Office headed by the Controller and Auditor-General.

National
Audit
Office

(2) The National Audit Office shall -

- (a) be the supreme audit institution of the United Republic of Tanzania;
- (b) conduct the types of audits specified under Part IV; and

- Cap. 2 (c) perform functions, carry on responsibilities and exercise powers of the Controller and Auditor-General stipulated under Article 143(2) of the Constitution.
- Common seal **21.** The National Audit Office shall have a common seal which shall be judicially noticed and be dully affixed if witnessed under the hand of the Controller and Auditor-General, and officers authorized in that behalf.
- Functions of the National Audit Office **22.** The functions of the National Audit Office shall be as stated under section 10 of this Act.
- Independence of National Audit Office and its staff. **23.—(1)** The National Audit Office shall perform its functions impartially, without fear, favour or prejudice and shall exercise its powers independently subject to the provisions of the Constitution, the provisions of this Act and any other written law.
- (2) The independence of the Controller and Auditor-General provided for under section 13 shall equally apply to the National Audit Office and its staff.
- Employment and management of Officers **24.—(1)** The Controller and Auditor-General shall employ, appoint, promote and control discipline of such number and categories of officers and employees of such qualifications as may be considered necessary to assist him in the performance of the functions, carrying on responsibilities and the exercise of his powers.
- (2) In discharging the duty imposed by subsection (1), the Controller and Auditor-General shall, with necessary variations, be guided by the laws governing employment in the public service.
- (3) Any person who, immediately before the commencement of this Act, holds or is acting in any capacity within the National Audit Office shall, upon the commencement of this Act be deemed to have been appointed to or to act in that office in accordance with the provisions of this Act.
- (4) The Controller and Auditor-General shall, on advice of the relevant authorities, determine remuneration of officers appointed pursuant to sub-section (1).

25.—(1) The Officers of the National Auditor Office shall possess the professional knowledge and skills commensurate with the audit work they engage in. Obligation of officers

(2) In handling audit matters an officer shall not take part in the audit if he has an interest in the auditee or the matters thereon.

(3) The officer shall not divulge any information which relates to the business secret of the auditee which comes to their knowledge in the course of audit.

(4) It is the obligation of every officer of the National Audit Office to observe the professional code of ethics and conduct under section 18.

PART IV TYPES OF AUDITS

26. The regularity audit conducted by the Controller and Auditor-General shall include the evaluation and examination of - Regularity audit

- (a) financial statements and the underlying records;
- (b) internal control systems and other checks;
- (c) public procurement procedures and processes;
- (d) compliance with applicable laws, regulations and policies; and
- (e) any other matter as the Controller and Auditor-General may consider necessary.

27. Where, in the course of forensic audit or any other type of audit, the officer of the National Audit Office suspect frauds, they shall immediately notify the matter to the Controller and Auditor-General who shall determine if and how the audit shall proceed as the matter may have to be reported to law enforcement organs. Forensic audit

28. The Controller and Auditor-General shall, for the purposes of establishing the economy, efficiency and effectiveness of any expenditure or use of resources of the entities, enquire into, examine, investigate and report, in so far as he considers necessary, on- Performance audit

- (a) the expenditure of public monies and the use of resources by such Ministries, departments, agencies, local authorities and all such public authorities and other bodies;

- (b) the conduct of and the performance of functions by accounting officers, head of department and chief executive officers of all such entities stipulated in section 5 (c) of this Act;
- (c) compliance with environmental laws, regulations and internal environmental policies and standards; or
- (d) any other activity undertaken by such entities.

Other
audits

29.—(1) The Controller and Auditor-General may undertake any other type of audit as he may deem fit.

(2) The Controller and Auditor-General may, on request by any person, institution, public authorities, Ministries, departments, agencies, local government authorities and such other bodies to undertake any special audit.

PART V

AUDIT OF PUBLIC AUTHORITIES AND OTHER BODIES

Public
authorities
and other
bodies

30.—(1) For each financial year, each public authority or body shall prepare and submit for audit its financial statements to the Controller and Auditor-General.

- (2) The financial statements shall include-
 - (a) a balance sheet;
 - (b) income statement;
 - (c) a cash flow statement;
 - (d) statement of changes in equity;
 - (e) notes and schedules to the accounts;
 - (f) any other statement and accounts that may be necessary to fully disclose the financial position of the public authority or body.
- (3) The public authority or body shall include any authority or bodies-
 - (a) established by a written law or other instrument which is in receipt of a contribution from, or the operations of which may, under the law or instrument relating thereto, impose or create a liability upon, public funds;
 - (b) which the Government has invested its monies;

- (c) executing a Government project in respect of which a foreign Government or institution or an international organization provides, any money, goods or services, whether or not it is specifically provided in relevant agreement for the project that the accounts of the public authority or body are subject to audit by the Controller and Auditor-General;
- (d) whose accounts are, by or under a written law, required to be audited, or are open to inspection, by the Controller and Auditor-General;
- (e) in which the Government is the majority shareholder;
- (f) which has, in any of its financial years, received more than half of its income from public funds.

(4) The Treasury Registrar shall avail to Controller and Auditor-General the annual audit report of bodies in which the government is a minority shareholder for review and to advise the Government.

31. The public authority or body shall submit its financial statements to the Controller and Auditor-General within three months after the end of the financial year to which the accounts relate.

Submis-
sion of
accounts

32.—(1) In the exercise of his powers and duties under this Part, the Controller and Auditor-General shall have the same powers in relation to the monies, stamps, securities, stores and other property of the bodies referred to under section 12 of this Act.

Audit of
public
authorities
or bodies

(2) Where the functions of the Controller and Auditor-General in connection to any authority or body referred to under section 30(2) are by the relevant law or agreement restricted to particular activities of the authority or body, any examination under this section in respect of that authority or body shall be correspondingly restricted.

(3) Notwithstanding anything to the contrary in any written law in force, the financial statements of any body to which this section applies shall be audited by the Controller and Auditor-General.

(4) Upon receipt of the financial statements prescribed in section 31(1) of this Act, the Controller and Auditor-General shall cause them to be audited and shall within a period of six months or such longer period as the National Assembly may by resolution appoint issue the report thereon.

Contracting of audits

33.—(1) The Controller and Auditor-General may authorize any person eligible to be appointed or contracted as an auditor of a company or any qualified person to inspect, examine or audit on his behalf the books and accounts of any body which the Controller and Auditor-General may be required to audit pursuant to the provisions of this Act and such person, officer or firm shall conduct the audit and report thereon to the Controller and Auditor-General in such manner as the Controller and Auditor-General may direct.

(2) The appointed or contracted auditors under subsection (1), shall be bound by the provision of sub-section (3) of section 25.

(3) Notwithstanding subsection (1), the audit opinion shall remain the sole responsibility of the Controller and Auditor-General.

PART VI REPORTING OF AUDITS

Annual reports

34.—(1) On receipt of the accounts prescribed in relevant laws, the Controller and Auditor-General shall cause the accounts to be examined and audited and shall, within a period of nine months or such longer period as the National Assembly may by resolution appoint after the end of the year to which the accounts relate—

- (a) express professional opinion, in respect of each account and the results of the examination and audit;
- (b) prepare a report upon the examination and audit of all such accounts; and
- (c) submit a report to the President and the Minister or appropriate Minister.

(2) The final report issued under this section shall be laid by the Minister or appropriate Minister to the National Assembly within seven days of the next sitting of the Assembly after he has received it.

Reports on forensic and performance audits

35.—(1) Where the audit is conducted in accordance with section 27 or 28, the appropriate Minister to whom the report is submitted, shall lay the report before the National Assembly after receiving the Report within seven days of the sitting of the next session of the National Assembly.

(2) Where the appropriate Minister fails to lay the report before the National Assembly as required under sub section (1), the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker who shall lay it before the National Assembly.

36.—(1) Where at any time it appears to the Controller and Auditor-General desirable that any matter relating to public monies or public property should be drawn to the attention of the National Assembly without undue delay, he shall prepare a special report relating to such matter and submit the report to the President.

Special
reports

(2) A special report in terms of subsection (1) may be made in relation to any matter incidental to the powers and duties of the Controller and Auditor-General under Part II of this Act or any other written law.

(3) The provisions of Article 143 of the Constitution shall apply to the submission of reports under this Section.

Cap. 2

37.—(1) The Controller and Auditor-General shall prepare a report on the audit of the accounts referred to in this Part and shall submit the same to management of the audited body for the replies and comments.

Reports
on audit
of public
authorities
or bodies

(2) Upon receipt of the observations from the Controller and Auditor-General, the accounting officer shall within twenty one days reply to the observations.

(3) The final report issued in respect to sub section (2) shall be laid by the appropriate Minister to the National Assembly.

38.—(1) The Public Accounts Committee, Local Authorities Accounts Committee and Parastatal Organizations Accounts Committee shall discuss the reports of the Controller and Auditor-General after they have been tabled in the National Assembly.

Par-
liamentary
Oversight
Com-
mittees
Act

(2) Upon completion of hearings, the Parliamentary Oversight Committees shall prepare and submit to the National Assembly reports which may include comments and recommendations.

39. All statutory audit reports issued by the Controller and Auditor-General shall be public documents after being tabled in the National Assembly.

Reports
as public
docu-
ments

- Response to reports of the Controller and Auditor General
- 40.—**(1) The accounting officers shall respond to the Controller and Auditor-General's annual audit reports and prepare action plan of the intended remedial actions for submission to the Paymaster General.
- (2) On receipt of the responses and action plans, the Paymaster General shall submit to the -
- (a) Minister who shall lay it before the National Assembly in the next session; and
 - (b) Controller and Auditor-General a copy of the consolidated responses and action plan .
- (3) In preparing the responses and action plans, the Paymaster General and the accounting officer shall take into account the observations and recommendations of the oversight committee on financial affairs established by the National Assembly.
- (4) The Controller and Auditor-General shall include an implementation status of the action plan in the next annual audit report.

PART VII FINANCES AND AUDIT

- Funds for National Audit Office
- 41.—**(1) The funds and resource for the National Audit Office shall consist of monies-
- (a) appropriated by Parliament for the purposes of the National Audit Office;
 - (b) earned in connection with the services rendered in accordance with this Act or any other law;
 - (c) earned from investments;
 - (d) which are donations or bequests and the terms of which are acceptable to the Controller and Auditor-General; and
 - (e) accruing to the National Audit Office from any other source.
- (2) The full amount of monies from time to time appropriated by Parliament under paragraph (a) of subsection (1) shall be paid by the Treasury out of the Consolidated Fund into an Audit Revenue Fund, into which all other monies received by, or accruing to the Office shall be paid; and the Fund shall be independent of the control of any person or authority other than the Controller and Auditor-General or any other person or body acting on that behalf.

42. The Paymaster General shall appoint the accounting officer of the National Audit Office who shall control and be accountable for the expenditure of money applied to National Audit Office by an Appropriation Act and for all revenues and other public monies received, held or disposed of, by or on account or service for which the office provides.

Appoint-
ment of
the
accounting
officer

43. The accounting officer of the National Audit Office shall, within a period of three months after the end of each financial year prepare and submit to the appointed auditor in respect of the past financial year and in respect, of expenditures and revenues for which he is responsible-

Annual
reports
and
financial
statements

- (a) an Appropriation account signed by the accounting officer showing the services for which the monies expended were voted, the sums actually expended on each service, and the state of each vote compared with the amount appropriated for that vote by the National Assembly;
- (b) a statement signed by the accounting officer and in such form as the Paymaster General may direct containing the amount of commitments outstanding for the supply of goods and services at the end of the financial year and such other information as the Minister may require;
- (c) a statement of revenues received and signed by the accounting officer and in such form as the Paymaster General may direct showing the amount contained in the estimates of revenue for each source of revenue and the amount actually collected and contained an explanation for any variation between the revenues actually collected and the amount estimated;
- (d) a statement of arrears of revenue signed by the accounting officer showing the amount outstanding at the end of the financial year for each source of revenue and containing such information and in such form as the Paymaster General may direct, and where appropriate, a nil return be submitted;
- (e) a statement of assets signed by the accounting officer containing details and values of all unallocated stores under his control at the end of the financial year together with the details and values of such other classes of assets under the control of the accounting officer as the Paymaster General may from time to time determine;

(f) a statement of performance in providing each class of outputs provided during the year signed by the accounting officer, being a statement that-

- (i) compares that performance with the forecast of the performance contained in the estimates laid before the National Assembly pursuant to the Public Finance Act; and
- (ii) gives particulars of the extent to which the performance criteria specified in those estimates in relation to the provision of those outputs were satisfied.

Cap. 348

Estimates
of
revenue
and
expendi-
ture

44.—(1) The Controller and Auditor-General shall, in respect of the first financial year of the National Audit Office and for each subsequent financial year, prepare estimates of the revenues and expenditure of the National Audit Office.

(2) On completion of preparing the estimates of revenues and expenditure, the Controller and Auditor-General shall present the same to consultative meeting of the Minister and the Public Accounts Committee.

(3) The Minister shall submit to the National Assembly, the estimates of the revenues and expenditure of the National Audit Office for approval.

Accounta-
bility

45. The account officer of the National Audit Office shall:-

- (a) keep full and proper records of all revenue and expenditure and of all the assets, liabilities and financial transactions of the National Audit Office;
- (b) satisfy himself that all reasonable management measures, have been taken to ensure that resources which are necessary for achieving the objectives of the National Audit Office are, as far as possible, obtained, safeguarded and utilized in the most economic, efficient and effective manner; and
- (c) prepare financial statements for the National Audit Office in accordance with the provisions of Public Finance Act.

Cap. 348

Audit of
accounts

46.—(1) The accounts of the National Audit Office shall be audited, at least once in every financial year, by a person appointed by the Public

Accounts Committee from amongst persons who are registered as auditors under the Auditors and Accountants (Registration) Act or possessing such other qualifications as the Public Accounts Committee may determine, at such remuneration and, on such other terms and, conditions as the Public Accounts Committee may determine.

(2) The remuneration of the auditor appointed under subsection (1) shall be defrayed from the funds of the National Audit Office.

(3) In the performance of his functions the auditor shall have the same powers as the Controller and Auditor-General has in respect of the audit of public authorities and other bodies.

(4) Upon completion of examination of the accounts of the National Audit Office, the auditor shall express a professional opinion on the accounts and submit the report to the Public Accounts Committee.

(5) The Public Accounts Committee shall consider the report and submit the same to the Minister with or without comment.

(6) Upon receipt of the report, the Minister shall submit the report in the next session of the National Assembly together with the responses of the Management.

PART VIII

MISCELLANEOUS PROVISIONS

47.—(1) A person commits an offence against this Act if-

- (a) without reasonable cause fails to provide the due date, such information as the Controller and Auditor-General may reasonably require under section 15 of the Act;
- (b) fails to provide the Controller and Auditor-General or a person authorized by him with all such explanation and information as the Controller and Auditor-General or that person may reasonably require;
- (c) without reasonable cause, fails to provide, or willfully obstructs access to any item as required by section 15;
- (d) obstruct or resists the Controller and Auditor-General or any public officer, agent or specialist consultant authorized by him in the exercise of his power of access, or power to call for relevant information, under this Act;

Offences
and
penalties

- (e) without written consent of the Controller and Auditor-General, publishes or discloses information obtained in the course of an audit to any person other than in the course of duties or when required to do so by a court of law; or
- (f) interferes with or exerts undue influence on any officer or employee of the National Audit Office or on any person authorized by the Controller and Auditor-General to perform functions under this Act.

(2) Any staff of the National Audit Office, an auditor and an expert acting on behalf of the Controller and Auditor-General commits an offence if he-

- (a) demands or takes any bribe, recompense or reward for the neglect or non-performance of duty;
- (b) willfully fails to report to the Controller and Auditor-General any abuse or irregularity that comes to his notice in the course of auditing duties;
- (c) makes any report to the Controller and Auditor-General which he knows to be false or has no reason to believe it to be true;
- (d) abuses his powers, engages in malpractices for personal gains, neglects duties or divulges State's or auditee's business secrets; or
- (e) any other matter as the Controller and Auditor-General may consider an offence.

(3) When the Controller and Auditor-General has reason to believe that an offence has occurred, he shall refer the matter to the Director of Public Prosecutions for appropriate action.

(4) Any person convicted of an offence under this Act shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both.

Oath on
appoint-
ment

48.—(1) Every public officer serving in the National Audit Office and every audit firm under section 33 or an expert engaged under the provisions of section 16 shall, before entering in the office, subscribe to the oath set out in the Schedule before the State Attorney.

(2) The provisions of subsection (1) shall not apply to any public officer, audit firm and an expert who entered in duties before the commencement of this Act.

(3) Where a person required to subscribe to an oath under the provisions of subsection (1) -

- (a) has no religious belief; or
- (b) the taking of an oath is contrary to his religious belief, that person may make a solemn declaration in the form set out in the Schedule.

49.—(1) The Minister may make regulations for the better carrying on the provisions of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), such regulations may include rules, policies and procedural manuals regarding the management and operation of the conduct of audits by, and the standards by which such audits shall be conducted by the National Audit Office.

PART IX CONSEQUENTIAL AMENDMENTS

50. This Part shall be read as one with the Public Finance Act, hereinafter referred to as the "principal Act". Construction
Cap. 348

51.—(1) The Principal Act is amended by repealing Sections 26 to 42 and paragraphs (d), (e) and (f) of section 44(1). General
Repeals
and
savings

(2) Notwithstanding subsection (1), all directions and orders issued, made or given under the repealed sections shall be deemed to be directions and orders issued, given or made under this Act and shall remain valid, in force and apply, with necessary variations, until revoked by a direction or order issued, given or made under that Act.

SCHEDULE

(Made under Section 42(3))

I....., having been appointed to perform the functions and exercise the powers of the Controller and Auditor-General, do hereby swear/affirm/solemnly and sincerely declare that I will, without fear, favour, affection or ill-will, perform the functions and exercise the powers of my office/engagement and that I will not directly or indirectly reveal matters relating to such functions or powers otherwise than in course of duty.

SO HELP ME GOD

Sworn/Affirmed/Declared before me this..... day of.....

.....
STATE ATTORNEY

Passed in the National Assembly on the 11th June, 2008.

DR. THOMAS D. KASHILILLAH,
Acting Clerk of the National Assembly