

CHAPTER 418
THE PUBLIC AUDIT ACT
[PRINCIPAL LEGISLATION]
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CHAPTER 418

THE PUBLIC AUDIT ACT

PREAMBLE

WHEREAS the Constitution of the United Republic of Tanzania establishes the office of the Controller and Auditor-General and charges the holder thereof with the mandate of authorising 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 authorised to be charged on the Consolidated Fund or the use of which is authorised by law, examining how Government resources have been spent for purposes connected and incurred in accordance with authorisation and auditing and reporting on the accounts, financial statements and financial management of the Government Ministries, Independent Departments, Executive Agencies, Public Authorities and Donor Funded Projects, Local Government Authorities, the Judiciary, the National Assembly and other bodies;

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:

[1st July, 2008]

[GN. No. 96 of 2008]

Acts Nos.	11 of 2015
11 of 2008	3 of 2021
15 of 2010	GN. No.
1 of 2013	119 of 2008

PART I

PRELIMINARY PROVISIONS

- Short title **1.-(1)** This Act may be cited as the Public Audit Act.
 (2) [Omitted.]
- Application **2.** This Act shall apply in relation to the conduct of 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 otherwise requires-
 Act No. “accounting officer” means an officer appointed by the Paymaster
 3 of 2021 s. 39 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;
- Cap. 2 “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

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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;

“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 recognised 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 finance;

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

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

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“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;

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“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 authority” or “body” means a body of persons, whether or not corporate, established under any written law, whose functions are of public nature and are exercised in furtherance of the public policy, and shall include authority or bodies-

- (a) 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) where the Government controls more than fifty per cent of the shares in that body or authority;
- (c) whose accounts are, by or under any written law, required to be audited or are open to inspection, by the Controller and Auditor-General; or
- (d) which has, in any of its financial year, received more than half of its income from public funds;

“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; and

“resources” includes monies, stores, property, assets, loans and investments.

PART II

THE CONTROLLER AND AUDITOR-GENERAL

Appointment of
Controller and
Auditor-General

4.—(1) The Controller and Auditor-General shall be appointed by the President from amongst 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, the Controller and Auditor-General shall subscribe to the oath before the President.

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

Constitutional
mandates

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

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- (a) authorise 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 authorised to be charged on the Consolidated Fund or the money the use of which is authorised by law, have been spent for purposes connected and incurred in accordance with authorisation; 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, Donor Funded Projects and other bodies;
 - (ii) the local government authorities;
 - (iii) the Judiciary; and
 - (iv) the National Assembly.

- Tenure of office** **6.**—(1) The Controller and Auditor-General shall hold office for the fixed term of five years and be eligible for renewal for one term only.
- (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—
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- (a) upon attaining the age of sixty five years;
 - (b) where 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.
- Removal from office** **7.** The Controller and Auditor-General may be removed from his office for reasons and procedures provided for under Article 144 of the Constitution.
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- Appointment of acting Controller and Auditor-General** **8.**—(1) Where the post of the Controller and Auditor-General become vacant, the President may appoint a person to that office within sixty days of the post becoming vacant.
- (2) The President shall appoint a qualified person to act as Controller and Auditor-General where—
- (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.
- Responsibilities of Controller and Auditor-General** **9.** In addition to the functions assigned to the Controller and Auditor-General by the Constitution, the Controller and Auditor-General shall be—
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- (a) responsible for examining, inquiring into, auditing and reporting on the accounts of—
 - (i) Ministries, Independent Departments of Government, Agencies and their accounting officers;
 - (ii) local government authorities and their accounting officers;

- (iii) 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) 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) a public authority or public body which is authorised by law to receive money for a public purpose; and
 - (vii) a 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
Controller and
Auditor-General

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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) accounts referred to in subsection (1) have been kept in accordance with generally accepted accounting principles as required by relevant laws;
- (b) 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) expenditure of public monies have been properly authorised 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.

Powers of
Controller and
Auditor-General
GN. No.
119 of 2008

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) authorise 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;

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- (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; or
- (g) acquire the services of any person as provided for under section 16 of this Act.

(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) a payment has been made without due authority according to law;
- (b) an irregularity has occurred in the receipt, custody, control, issue, transfer or delivery of any public property;
- (c) a deficiency or loss occasioned by negligence, misconduct, fraud or corruption has occurred;
- (d) a failure to observe a principle of the highest thrift has occurred; or
- (e) a 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.

(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

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a report he makes, and the provisions of Article 143(4) of the Constitution shall apply to the report, but this subsection shall not 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 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, 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 authorised by him in writing shall have access to information as under section 15.

(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 the examination is carried out.

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

Power to make
recommendations

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

- (a) preventing or minimising unproductive expenditure of public monies;
- (b) maximising the collection of public revenues; or
- (c) averting loss by negligence, carelessness, theft, dishonesty, fraud, corruption relating to public monies and resources,

make recommendations and submit 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.

Independence
and status
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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.

Immunity from
legal proceedings

14. An action or other proceedings shall not lie against the Controller and Auditor-General or any public officer, audit firm or expert authorised 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.

Access to
information

15.-(1) The Controller and Auditor-General or his representative shall have unrestricted access to people, documents, computers and other information systems and assets as the Controller and 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 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 his functions, responsibilities and the exercise of his powers, the Controller and Auditor-General may require an auditee or a 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 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 officer 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.

Engagement 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 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, which he considers desirable in carrying on his responsibilities and functions specified under this Act.

Audit standards and code of ethics

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

(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.

Audit fees

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

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

National Audit Office

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

- (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
 - (c) perform functions, carry on responsibilities and exercise powers of the Controller and Auditor-General stipulated under Article 143(2) of the Constitution.

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Common seal

21. The National Audit Office shall have a common seal which shall be judicially noticed and be dully affixed where witnessed under the hand of the Controller and Auditor-General, and officers authorised in that behalf.

Functions of 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 exercise

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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 number and categories of officers and employees of 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) A person who, immediately before the commencement, 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 subsection (1).

Obligation of
officers

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

(2) In handling audit matters, an officer shall not take part in the audit where 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 an officer of the National Audit Office to observe the professional code of ethics and conduct referred to under section 18.

PART IV

TYPES OF AUDITS

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

- (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.

Forensic audit
Act No.
15 of 2010 s. 30 **27.**-(1) Where, in the course of forensic audit or any other audit, the officer of the National Audit Office suspects commission of fraud or any related offences, he shall immediately report the matter to the Controller and Auditor-General for determination of the audit.

(2) The Controller and Auditor-General shall, after studying the matter, report the fraud or any related offences to an appropriate investigative organ and serve a notice to the Director of Public Prosecutions.

(3) The investigative organ that has received the report from the Controller and Auditor-General shall investigate the matter within sixty days and forward the file of the case to the Director of Public Prosecutions.

(4) In case where the investigative organ is unable to finish investigation within the required time, it shall be the duty of that investigative organ to seek extension of time from the Director of Public Prosecutions.

(5) Where the investigation is complete, the results shall be submitted to the Director of Public Prosecutions for consideration and prosecution according to relevant written laws.

(6) Notwithstanding the provisions of subsection (5), where in the opinion of the Director of Public Prosecutions, the case is not tenable in law, he shall give reason for the opinion and

make recommendations on alternative measures for redress, if any, to the investigative organ and send a copy to the Controller and Auditor-General.

(7) The Controller and Auditor-General may, after receiving the copy referred to in subsection (6), apply the measures recommended to pursue and enforce alternative measures of redress as recommended by the Director of Public Prosecutions.

Performance
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-

- (a) the expenditure of public monies and the use of resources by Ministries, departments, agencies, local authorities, 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 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 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 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, a 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; and
 - (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 organisation 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; and
 - (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.

Submission of
accounts

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.

Audit of public
authorities or
bodies

32.—(1) In the exercise of his powers and duties under this Part, the Controller and Auditor-General shall have the same powers referred to under section 12, in relation to the monies, stamps, securities, stores and other property of the 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 30(2), the Controller and Auditor-General shall cause them to be audited and within a period of six months or 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 authorise 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 a person, officer or firm shall conduct the audit and report thereon to the Controller and Auditor-General in a 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 section 25(3).

(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 within a period of nine months or 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 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 subsection (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.

Special audit reports

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 the matter and submit the report to the President.

(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.

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

Reports on
audit of public
authorities or
other bodies

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

(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 subsection (2) shall be laid by the appropriate Minister to the National Assembly.

Parliamentary
Oversight
Committee
Acts Nos.
1 of 2013 s. 16
3 of 2021 s. 40

38.—(1) The Public Accounts Committee, Local Authorities Accounts Committee and Parastatal Organisations Accounts Committee shall discuss the reports of the Controller and Auditor-General and the consolidated report referred to under subsection (2) after they have been tabled in the National Assembly.

(2) For the purpose of preparation of a consolidated report referred to under subsection (1)-

- (a) the accounting officers shall prepare an action plan of the intended remedial actions for submission to the Paymaster General;
- (b) the Paymaster General shall consolidate responses and action plan received under subsection (2), and shall-
 - (i) submit a consolidated report of responses and action plan to the Minister who shall lay the report to the National Assembly;
 - (ii) submit to the Controller and Auditor-General a copy of the consolidated report.

(3) The report of the Minister referred to in subsection (2) (b)(i) shall be laid before the National Assembly in its next

sitting following submission of the report of the Controller and Auditor-General.

(4) Upon completion of discussions and hearing, the Parliamentary Oversight Committees shall prepare and submit to the National assembly a report which may include comments and recommendations.

(5) The reports submitted in accordance with subsection (4) shall be discussed by the National Assembly together with the Consolidated report of the responses and action plan submitted by the Minister under subsection (2)(b)(i).

Reports as public documents
Act No.
1 of 2013 s. 17

39.—(1) The audit reports issued by the Controller and Auditor-General shall be public documents after being tabled in the national Assembly.

(2) A statutory report that constitutes a public document shall be discussed by the National Assembly after it has been deliberated upon by the Parliamentary Oversight Committees in the manner prescribed under section 38(5) and in accordance with the procedures prescribed by the Parliament.

Annual Audit report of
Controller and Auditor-General
Act No.
1 of 2013 s. 18

40. In preparing the Annual Audit report, the Controller and Auditor-General shall incorporate an implementation status of the action plan prepared by accounting officers and consolidated by the Paymaster General.

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 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 other monies received by, or accruing to the Office 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.

Appointment of
accounting officer

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 revenues and other public monies received, held or disposed of, by or on account or service for which the office provides.

Annual reports
and financial
statements

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-

- (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 a 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 other information as the Minister may require;

- (c) a statement of revenues received and signed by the accounting officer and in a 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 information and in a 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 unallocated stores under his control at the end of the financial year together with the details and values of other classes of assets under the control of the accounting officer as the Paymaster General may determine; and
- (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.

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Estimates of
revenues and
expenditure
Act No.
11 of 2015 s. 73

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 Parliamentary Budget Committee.

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

Accountability

45. The accounting officer of the National Audit Office shall-

- (a) keep full and proper records of revenue and expenditure and of all the assets, liabilities and financial transactions of the National Audit Office;
- (b) satisfy himself that, a 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 utilised 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.

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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 other qualifications, at the remuneration and, on other terms and, conditions as the Public Accounts Committee may determine.

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(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 comments.

(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

Offences and
penalties

- 47.**—(1) A person commits an offence against this Act where—
- (a) without reasonable cause fails to provide on the due date, the 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 authorised by him with 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 authorised by him in the exercise of his power of access, or power to call for relevant information, under this Act;
 - (e) without written consent of the Controller and Auditor-General, publish or disclose information obtained in the cause of an audit to any person other than in the cause 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 authorised by the Controller and Auditor-General to perform functions under this Act.

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

- (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 divulge 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) A 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
appointment

48.-(1) A 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 a 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.

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

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

PART IX

CONSEQUENTIAL AMENDMENTS

Omitted **50.–51.** Omitted

SCHEDULE

(Made under section 48 (1) and (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 the functions or powers otherwise than in course of duty.

SO HELP ME GOD

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