

CHAPTER 170

THE NATIONAL AUDIT

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CHAPTER 170

THE NATIONAL AUDIT ACT

Commencement: 4 October, 2008

An Act to provide for the Office of the Auditor General in accordance with Articles 163 and 154(3) of the Constitution; to provide for the appointment, tenure and removal of the Auditor General; to provide for the staff of the Office of the Auditor General; to provide for the auditing of accounts of central Government, local government councils, administrative units; public organisations, private organisations and bodies; to empower and give the Auditor General right of access to documents and information relevant to the performance of his or her functions and for related matters.

PART I—INTERPRETATION

1. Interpretation

In this Act, unless the context otherwise requires—

“Auditor General” means the Auditor General appointed under Article 163(1) of the Constitution;

“classified expenditure” means the expenses and commitments incurred by an authorised agency for the collection and dissemination of information related to national security interests and includes the cost of procurement and maintenance of the related assets;

“currency point” has the value assigned to it in Schedule 1 to this Act; “generally accepted standards in auditing” includes international standards of auditing, international public sector standards on auditing and audit standards of the Office of the Auditor General;

“Minister” means the Minister responsible for finance;

“public organisation” means any body corporate, whether established under the Companies Act or under any other enactment, in which the State owns the whole or part of the proprietary interest or which is otherwise controlled directly or indirectly

“public by the State” has the same meaning as in Article 257 of the Constitution.

PART II—APPOINTMENT OF AUDITOR GENERAL AND MODE
OF OPERATION OF OFFICE OF AUDITOR GENERAL

2. Office of Auditor General

The Office of the Auditor General shall be a body corporate with perpetual succession and an official seal and may sue or be sued in its corporate name, and may, subject to the provisions of the Constitution, do, enjoy or suffer anything that may be done, enjoyed or suffered by a body corporate.

3. Appointment of Auditor General

(1) In accordance with Article 163(1) of the Constitution, the Auditor General shall be appointed by the President with the approval of Parliament.

(2) A person shall not be appointed Auditor General unless that person—

- (a) is a qualified accountant of not less than fifteen years' standing; and
- (b) is a person of high moral character and proven integrity.

(3) In subsection (2)(a), fifteen years' standing means—

- (a) full membership, for at least fifteen years, of the Institute of Certified Public Accountants of Uganda; or
- (b) full membership, for at least fifteen years, of a body recognised by the Council of the Institute of Certified Public Accountants of Uganda.

4. Tenure of service and remuneration of Auditor General

(1) The Auditor General may retire at any time after attaining the age of sixty years, and shall vacate office on attaining the age of seventy years.

(2) The remuneration and other conditions of service of the Auditor General, including post retirement benefits, shall be determined by Parliament.

(3) The salary and allowances payable to the Auditor General shall be charged on the Consolidated Fund.

5. Oath of Auditor General

(1) A person appointed Auditor General shall, before assuming the duties of his or her office, take the oath specified in Part A of Schedule 2 to this Act.

(2) The oath referred to in subsection (1) shall be administered by the President or a person authorised by the President.

6. Removal of Auditor General

(1) In accordance with Article 163(10) of the Constitution, the Auditor General may be removed from office by the President only for—

- (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) misbehaviour or misconduct; or
- (c) incompetence.

(2) The President shall remove the Auditor General if the question of his or her removal has been referred to a tribunal appointed by the President, and the tribunal has recommended to the President that the Auditor General should be removed from office on any of the grounds specified in subsection (1).

(3) The question whether the Auditor General should be removed from office shall be referred to the President by the Speaker of Parliament in writing setting out the complaints against the Auditor General, with the advice that the President should appoint a tribunal.

(4) The tribunal appointed by the President under this section shall consist of—

- (a) a judge of the High Court, who shall be Chairperson;
- (b) a member of the Public Service Commission;
- (c) a member of the Council of the Institute of Certified Public Accountants of Uganda; and
- (d) two other persons appointed by the President.

(5) Where the question for removal of the Auditor General involves an allegation that the Auditor General is incapable of performing the functions of his or her office arising from infirmity of body or mind, the President shall, on the advice of the head of the Health Services of Uganda, appoint a

medical board which shall investigate the matter and report its findings to the President, with a copy to the tribunal.

(6) Where the question of removing the Auditor General is referred to the tribunal under subsection (2), the President shall suspend the Auditor General from performing the functions of his or her office pending the determination of the question.

(7) A suspension under subsection (6) shall cease to have effect if the tribunal advises the President that the Auditor General should not be removed from office.

(8) The Auditor General shall vacate office if he or she is under a sentence of death or a sentence of imprisonment exceeding nine months without the option of a fine imposed by a competent court.

7. Absence of Auditor General

(1) Where—

(a) the Office of Auditor General is vacant;

(b) the Auditor General has been suspended in accordance with section 6(6); or

(c) the Auditor General is, for any reason unable to perform the functions of his or her office,

then, until a person is appointed to and has assumed the functions of that office, or until the Auditor General has resumed the performance of those functions, the President shall designate the most senior officer who is a qualified accountant within the Office of the Auditor General to perform those functions for a period not exceeding twelve months.

(2) If the Auditor General is unable to return to office, the President shall appoint a person to replace the Auditor General not later than three months before the expiry of the period for which the person referred to in subsection (1) is designated to act.

8. Staff of Office of Auditor General

(1) The Office of the Auditor General shall have such staff as may be necessary for the efficient performance of its functions under this Act.

(2) The Auditor General shall, in consultation with the Public Service Commission, appoint, promote and discipline his or her own staff.

(3) The salaries, allowances, pensions and other benefits payable to the staff appointed under this section shall be determined by the Auditor General and shall be a direct charge on the Consolidated Fund.

9. Oath of member of staff of Office of Auditor General

(1) Every member of staff of the Office of the Auditor General shall, before assuming the duties of his or her office, take the oath set out in Part B of Schedule 2 to this Act.

(2) The oath referred to in subsection (1) shall be administered by the Auditor General or by a person authorised in writing by the Auditor General.

10. Accounting Officer

(1) The Office of the Auditor General shall have an Accounting Officer designated by the Secretary to the Treasury in accordance with the Public Finance Management Act.

(2) The person designated Accounting Officer under subsection (1) shall not perform any auditing functions after his or her designation.

PART III—FUNCTIONS AND POWERS OF AUDITOR GENERAL

11. Withdrawal from Consolidated Fund

No money shall be withdrawn from the Consolidated Fund unless the withdrawal has been approved by the Auditor General and in the manner prescribed by Parliament.

12. Functions of Auditor General

(1) The Auditor General shall—

(a) audit and report on the public accounts of Uganda and of all public offices including the courts, the central and local government administrations, universities and public institutions of a similar

- nature, and any public corporation or other bodies or organisations established by an Act of Parliament;
- (b) conduct financial, value for money audits and other audits such as gender and environment audits in respect of any project or activity involving public funds;
 - (c) audit classified expenditure;
 - (d) audit all Government investments;
 - (e) carry out procurement audits; and
 - (f) audit treasury memoranda.

(2) The President may, acting in accordance with the advice of Cabinet, require the Auditor General to audit the accounts of any body or organisation referred to in subsection (1).

(3) Parliament or the Minister may at any time request the Auditor General to conduct a special audit and to make a special audit report.

(4) A request made under subsection (2) or (3) shall be in writing.

(5) The Auditor General shall, before undertaking an audit or making a report under subsection (2) or (3), exercise his or her discretion to determine whether to undertake the audit or make the report.

13. Independence of Auditor General

Subject to section 12(2), the Auditor General, in performing his or her functions under this Act, shall not be under the direction or control of any person or authority.

14. Audit of accounts of central Government

(1) The Auditor General shall examine and audit all accounts submitted to him or her under the Public Finance Management Act and other enactments and agreements in accordance with generally accepted auditing standards and practices.

(2) Notwithstanding the generality of subsection (1), the Auditor General shall examine, inquire into and audit the accounts of—

- (a) the Accountant General;

- (b) all accounting officers, except the accounting officer in the Office of the Auditor General;
- (c) all persons entrusted with the collection, receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property; and
- (d) classified expenditure centers.

15. Audit of accounts of local government councils and administrative units

(1) The accounts of every local government council and every administrative unit shall be audited annually by the Auditor General or by an auditor appointed by the Auditor General.

(2) The Auditor General shall report to Parliament on the accounts audited under subsection (1) and shall give a copy of the report to—

- (a) the President;
- (b) the Minister;
- (c) the Minister responsible for local governments;
- (d) the local government or administrative unit to which the audit relates;
- (e) the Local Government Public Accounts Committee;
- (f) the Local Government Finance Commission;
- (g) the Inspector General of Government; and
- (h) the Resident District Commissioner.

16. Audit of accounts of public organisations

(1) Notwithstanding anything to the contrary in any law in force, the accounts of a public organisation shall be audited by the Auditor General.

(2) In the exercise of his or her duties under this section, the Auditor General shall have the same discretion and powers in relation to the money, stamps, securities, stores and other property of a public organisation, as are conferred upon the Auditor General by section 23, as if the money, stamps securities, stores or other property of the public organisation were public money and Government property respectively, and the officials of the public organisation were public officers in the employment of Government.

(3) The Auditor General shall, within six months after the financial year to which the report relates, prepare and submit a report on the audit of the accounts referred to in this section and shall give a copy of the report to—

- (a) the President;
- (b) the Minister;
- (c) the Minister responsible for the organisation audited;
- (d) the Minister responsible for ethics;
- (e) the public organisation concerned;
- (f) the Inspector General of Government; and
- (g) the National Documentation Centre.

(4) This section applies to—

- (a) any state enterprise;
- (b) any authority established by an Act, other than a local government council, which is in receipt of a contribution from, or the operations of which may, under the Act establishing it or any Act relating to it, impose or create a liability upon the public funds of Uganda; and
- (c) any entity, other than a local government council, which is audited by the Auditor General under any Act.

17. Audit of public moneys in private organisations and bodies

The Auditor General may inquire into, examine, investigate and report, as he or she considers necessary, on the expenditure of public moneys disbursed, advanced or guaranteed to a private organisation or body in which Government has no controlling interest.

18. Certification and report on audit

(1) In exercising his or her functions under sections 14, 15, 16 and 17, the Auditor General shall express an opinion on the accounts based on the results of each audit and shall state whether—

- (a) the accounts conform to the requirements of section 49(3) of the Public Finance Management Act;
- (b) the expenditure and receipts shown in the accounts have been dealt with in accordance with proper authority and, in particular, that all expenditure conforms to the authority that governs it;
- (c) the financial affairs of the entity audited and all revenues received and public money under its control have been handled and

conducted with regularity and propriety by the accounting officer or any other responsible public officer;

- (d) all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of Government resources and property, and that any regulations, directives and instructions relating to them have been duly observed; and
- (e) in his or her opinion, the accounts reflected fairly the financial position of the entity audited.

(2) The Auditor General shall, within six months, or such longer period as Parliament may by resolution appoint, after the end of the financial year to which the accounts examined and audited under sections 14, 15, 16 and 17 relate, certify, in respect of each account, the result of the examination and audit.

(3) The Auditor General shall, within the period mentioned in subsection (2), prepare a report on the examination and audit of all the accounts referred to in subsection (2), and submit the report to Parliament.

(4) Parliament shall, within six months after receipt of the report submitted to it under subsection (3), debate and consider the report and take appropriate action.

(5) The Auditor General may, at any time, if it appears to him or her desirable, submit to the Speaker of Parliament and to the Minister, a special report on any matter incidental to his or her powers and duties under this Act.

19. Reference to appropriate committee of Parliament

Where the Auditor General becomes aware of—

- (a) any payment made without due authority;
- (b) any deficiency or loss occasioned by negligence or misconduct;
- (c) any failure to observe a policy of economy; or
- (d) any sum which ought to have been, but was not brought to account,

he or she shall, in the case of expenditure, disallow the sum as a charge on public funds and in all other cases, call in question the sum concerned and make a report on the sum to the Speaker of Parliament who shall refer the report to the appropriate committee of Parliament.

20. Value for money audits

(1) The Auditor General may, for the purpose of establishing the economy, efficiency and effectiveness of the operations of any department or Ministry in respect of which appropriation, or other accounts are required to be prepared under the Public Finance Management Act, or any public organisation, or any local government council, inquire into, examine, investigate or undertake random value for money audits in accordance with Article 163(3)(b) of the Constitution and report as he or she considers necessary on—

- (a) the expenditure of public money and the use of public resources by Ministries, departments and divisions of the Government and all public organisations and local government councils;
- (b) the conduct of, and performance of their functions by—
 - (i) accounting officers;
 - (ii) heads of departments and divisions;
 - (iii) chief executives and chief administrative officers of all departments;
 - (iv) public organisations; and
 - (v) local government councils; and
- (c) any other activity undertaken by the departments, divisions, public organisations and local government councils referred to in paragraph (b).

(2) Any report prepared by the Auditor General as a result of an examination, inquiry or investigation under this section shall be laid before Parliament and shall be referred to the appropriate committee of Parliament.

(3) Section 23 applies to any examination, inquiry or investigation conducted by the Auditor General in the exercise of his or her powers under this section.

21. Special audits and investigations

The Auditor General may carry out special audits, investigations or any other audit considered necessary by him or her.

22. Power to appoint private auditors

(1) The Auditor General may appoint private auditors to assist him or her in the performance of his or her functions under this Act.

(2) Only a person registered and practising as an accountant under the Accountants Act may be appointed under this section.

(3) An auditor appointed under this section shall comply with any general or specific directions given by the Auditor General.

23. Powers of Auditor General

In the exercise of the duty to audit and examine accounts, the Auditor General has the following powers—

- (a) to have access to all books and accounts, money, stores, vouchers, stamps and securities subject to its audit and to any place where any such books and accounts, money or stores are kept;
- (b) to require any person to supply any information or answer any question relating to books and accounts, money or stores subject to its audit;
- (c) at any convenient time, to cause a search to be made of, and extracts taken from any books or accounts relating to money or stores subject to its audit, without paying any fee;
- (d) to have access to electronic information relating to the audit as he or she has to other documents;
- (e) to have access to any Government property;
- (f) to station his or her staff at the premises of the organisation being audited, and that organisation shall provide the staff of the Auditor General with adequate office space and facilities during the period of the audit; and
- (g) to request for the opinion of the Attorney General in writing as to any question regarding the interpretation of any Act, regulations or agreements concerning the powers of the Auditor General, or the discharge of his or her duties, and the Attorney General shall give his or her opinion within a reasonable time.

24. Surcharge

If it appears to the Auditor General that there has been any deficiency in respect of any money or stores subject to its audit, the Auditor General may recommend to Parliament that the person in default or responsible, show cause why he or she should not be surcharged with the amount of the deficiency or loss.

25. Right of Auditor General to make recommendations to Minister

The Auditor General may, for the purpose of—

- (a) minimising the unproductive expenditure of public money;
- (b) maximising the collection of public revenues; and
- (c) averting loss by negligence, carelessness, theft, dishonesty or otherwise of public money,

make recommendations to the Minister as the Auditor General may consider necessary for the better management of public finances, including any revision of any regulations, directives or instructions issued under this Act or any other law relating to public finance.

26. Delegation of functions and powers of Auditor General

(1) Subject to subsection (2), the Auditor General may delegate to a member of staff of the Office of the Auditor General, subject to such conditions as the Auditor General may impose, the carrying out or the exercise of any function or power of the Auditor General under this Act.

- (2) The Auditor General shall not delegate—
 - (a) the certification of the results of an examination and audit of accounts under this Act; and
 - (b) the submission of a report required by this Act.

PART IV—FINANCIAL MATTERS**27. Funds of Office of Auditor General**

The funds of the Office of the Auditor General shall include—

- (a) funds approved by Parliament; and
- (b) grants and donations as the Minister may approve.

28. Expenses

All money approved by Parliament to defray the expenses that may be incurred in the discharge of the functions of the Office of the Auditor General or in carrying out the purposes of this Act shall be a direct charge on the Consolidated Fund.

29. Power to levy fees

(1) The Auditor General may charge fees for auditing the accounts of any public body or international organisation which does not receive money from the Consolidated Fund.

(2) Any fees received under subsection (1) shall be paid into the Consolidated Fund.

30. Bank accounts

The Auditor General shall open and maintain such bank accounts as are necessary for the exercise of the functions of the Office of the Auditor General and shall pay into them all money received from the Government for the purposes of this Act.

31. Investment of surplus funds

Any funds of the Office of the Auditor General not immediately required for any purpose under this Act may be invested in accordance with the Public Finance Management Act.

32. Estimates

(1) The Auditor General shall, in each financial year, prepare and submit to the President, estimates of the year, of administrative and development expenditures and estimates of revenues of the Office of the Auditor General.

(2) The President shall cause the estimates submitted under subsection (1) to be laid before Parliament without revision but with any recommendation that Government may have on them.

33. Financial year

The financial year of the Office of the Auditor General shall be the period of twelve months commencing on the 1st day of July and ending on the 30th day of June of the following year.

34. Accounts

The Office of the Auditor General shall—

- (a) keep books of accounts and maintain proper records in relation to them; and the books of accounts and records shall be kept in accordance with generally accepted accounting practice; and
- (b) prepare an annual financial statement stating the basis of accounting and shall identify any significant departure from it and the reasons for the departure.

35. Audit of accounts of Office of Auditor General

(1) The accounts of the Office of the Auditor General shall, in each financial year, be audited and reported upon by an auditor appointed by Parliament.

(2) Notwithstanding anything to the contrary in any law in force, the Office of the Auditor General shall, within three months after the end of its financial year, prepare and submit to the auditor appointed under subsection (1), financial statements of the Office of the Auditor General.

(3) The auditor shall have access to all books of accounts, vouchers and other records of the Office of the Auditor General and is entitled to any information and explanation required in relation to those records.

(4) The audited accounts shall be submitted to the Auditor General not later than six months after the end of the financial year to which they relate.

(5) The Auditor General shall, as soon as possible, but in any case not later than one month after receipt of the report of the auditor under this section, submit the report to the Speaker of Parliament.

(6) A copy of the report shall also be submitted by the Auditor General to the Secretary to the Treasury.

(7) The Auditor General shall pay, in respect of the audit under this section, such fees as determined by Parliament.

PART V—OFFENCES AND PENALTIES

36. Offences and penalties

- (1) A person commits an offence who—
 - (a) without lawful justification or excuse, wilfully obstructs the Auditor General or any person authorised by the Auditor General in the performance of his or her functions under this Act;
 - (b) without reasonable excuse, refuses or fails to comply with any order or direction of the Auditor General;
 - (c) without any lawful justification or excuse, refuses or fails to give to the Auditor General or any person authorised by the Auditor General, access to any property, books, records, returns or other documents, information referred to in section 23; or
 - (d) knowingly presents to the Auditor General a false or fabricated document or makes a false statement with intent to deceive or mislead the Auditor General or any person authorised by the Auditor General.

- (2) A person commits an offence who, working in the Office of the Auditor General—
 - (a) misuses any information obtained when conducting an audit of any account under this Act; or
 - (b) colludes with any accounting officer or internal auditor or other public officer in the conduct of their duties under this Act to omit or commit any act; where such omission or commission leads to loss of public funds.

- (3) Any person convicted of an offence under this section is liable, on conviction, to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding twelve years, or both.

PART VI—MISCELLANEOUS

37. Protection of Auditor General's report from court proceedings

(1) All reports of the Auditor General published for the benefit of Parliament shall be treated as Parliamentary reports and shall enjoy all privileges accorded to Parliamentary reports.

(2) For the avoidance of doubt, no civil or criminal proceedings shall be instituted against the Auditor General on the basis of any report published by him or her for the benefit of Parliament.

38. Protection from liability of Auditor General and staff of Office of Auditor General

The Auditor General and an employee of the Office of the Auditor General or a person, acting on the directions of such a person is not personally liable for any act or omission, done or omitted to be done in good faith, in the exercise of the functions of the Office of the Auditor General.

39. Consultants

The Auditor General may, in the performance of his or her functions under this Act, engage the services of, or work in consultation with professional or technical experts or consultants, whether in the public service or not, to enhance the performance of the Office of the Auditor General.

40. Service of documents

Any notice or document may be served on the Office of the Auditor General by delivering it at the Office of the Auditor General, or by sending it by registered post to the Office of the Auditor General.

41. Regulations

(1) The Auditor General may, by statutory instrument, with the approval of Parliament, make regulations generally for giving effect to the provisions of this Act and for its due administration.

- (2) Regulations made under subsection (1) may, in respect of any contravention of any of the regulations—
- (a) prescribe a penalty of a fine not exceeding seventy-five currency points or imprisonment for a term not exceeding one year, or both;
 - (b) in the case of a continuing contravention, prescribe an additional penalty not exceeding fifty currency points in respect of each day on which the offence continues; and
 - (c) prescribe a higher penalty not exceeding one hundred fifty currency points in respect of a second or subsequent contravention.

42. Power to amend Schedule 1

The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

43. Supremacy of Act

This Act shall take precedence over all existing Acts relating to the Office of the Auditor General, or to the functions and powers of the Auditor General and any Act in contradiction with this Act is modified to conform to the provisions of this Act.

SCHEDULES

Schedule 1

Sections 1, 42

Currency Point

A currency point is equivalent to twenty thousand shillings.

Schedule 2

Oaths

Part A

Section 5

Oath of Auditor General

I, _____ having been appointed Auditor General, swear in the name of the Almighty God/solemnly affirm that I will at all times well and truly exercise the functions of the Auditor General in accordance with the Constitution and the laws of the Republic of Uganda and will do right to all manner of people in accordance with the Constitution and the laws of the Republic of Uganda without fear or favour, affection or ill-will, and that I will not directly or indirectly reveal to any unauthorised person, any matter that comes to my knowledge in the discharge of my duties, and committed to my secrecy. (So help me God.)

Part B

Section 9

Oath of Member of Staff of Office of Auditor General

I, _____ having been appointed member of staff in the Office of the Auditor General, swear in the name of the Almighty God/solemnly affirm that I will at all times well and truly serve the Republic of Uganda, and that I will perform the functions of officer/employee in the Office of the Auditor General in accordance with the Constitution and the laws of the Republic of Uganda, and that I will not directly or indirectly reveal to any unauthorised person any matter, document, communication or information that comes to my knowledge in the discharge of my duties and committed to my secrecy. (So help me God.)

History: Act 7/2008; Act 3/2015

Cross References

Constitution

Accountants Act, Cap. 294

Companies Act, Cap. 106

Public Finance Management Act, Cap. 171
