

**BILLS SUPPLEMENT**

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**Bill No. 20**

*Audit Bill*

2007

THE AUDIT BILL, 2007.

**MEMORANDUM.**

**1. Policy and Principles**

The policy behind this Bill is to give the Office of the Auditor General a meaningful degree of autonomy in the process of recruiting, promoting and disciplining its own staff, and generally in human resource development as well as in the management of its own budgetary process. A major principle of the Bill is for the Auditor General to have independent powers to appoint and pay staff, subject only to budgetary approval by the legislature.

**2. Defects in the Existing Law**

At present, employees of the Office of the Auditor General are public officers who are appointed, promoted and disciplined by the Public Service Commission. As such, the Office of the Auditor General is not organisationally and operationally independent and is not able to recruit or retain the calibre of staff it requires. The Office of the Auditor General is also unable to perform effectively owing to financial/budgetary constraints it suffers due to the lack of financial autonomy.

**3. Remedies Proposed to deal with Defects in the Existing Law**

Under Article 163 of the Constitution as amended by section 33 of the Constitution (Amendment) Act, 2005, the Auditor General is empowered, in consultation with the Public Service Commission, to employ and discipline his or her own staff.

As a result of the amendment, the autonomy sought to be achieved by the Office of the Auditor General in terms of recruiting, promoting and disciplining staff, and generally in human resource development can now be achieved by giving effect to article 163 of the Constitution, thereby conforming with the Constitution.

The proposals of the Bill are in line with the criteria of internationally accepted state audit institutions in terms of appointment, remuneration of the Auditor General and staff of the Office of the Auditor General, budgetary provisions, human resource developments, and rights of access to information, classified expenditure and the establishment of the Audit Board.

#### **4.1 Object of the Bill**

The object of the Bill is—

- (a) to give effect to articles 154(3) and 163 of the Constitution by providing for the Office of the Auditor General;
- (b) to provide for the appointment, tenure and removal of the Auditor General from office;
- (c) to provide for the staff of the Office of the Auditor General;
- (d) to provide for the auditing of accounts of central government, local government councils and administrative units, public organisations, private organisations and bodies;
- (e) to establish an Audit Board to perform specified functions relating to the Office of the Auditor General;
- (f) to empower and give the Auditor General a right of access to documents and information relevant to the performance of his or her functions; and
- (g) for other related matters.

4.2. Part I of the Bill incorporating clauses 1 and 2 provides for preliminary matters relating to commencement and the interpretation of words and phrases used in the Bill.

4.3. Part II of the Bill in clauses 3 to 12, deals with, among other things, the continuance in existence of the Office of the Auditor General, the appointment of the Auditor General in accordance with article 163(1) of the Constitution, tenure of office of the Auditor General and the remuneration of the Auditor General, oath of the Auditor General and removal from office of the Auditor General in accordance with article 163 (10) of the Constitution.

4.4. Part II further provides for situations where the Auditor General is absent from office, allows the Auditor General to appoint his or her own staff, provides for the oath of member of staff of the Office of the Auditor General and for an accounting officer to be designated by the Secretary to the Treasury on the recommendation of the Auditor General. It also confers on the Auditor General power to designate a member of staff of the Office of the Auditor General to act as Secretary to the Audit Board.

4.5. Part III of the Bill consisting of clauses 13 to 28, provides for the requirement for the Auditor General to authorise all withdrawals from the Consolidated Fund, gives the Auditor General independence to perform his or her functions without direction or control by any person or authority except as provided by the Constitution, provides for the functions of the Auditor General to audit the accounts of the central government, local government councils and administrative units, public organisations, private organisations and bodies, and requires the Auditor General to report on those accounts to Parliament.

4.6. Part III also requires the Auditor General to certify, in respect of each account, the result of the examination and to prepare a report on the examination and audit of accounts and submit the report to Parliament. It gives the Auditor General power to carry out value for money audits for purposes 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 and Accountability Act, 2003.

4.7. Part III further gives the Auditor General power to carry out random value for money audits under article 163(3)(b) of the Constitution; to carry out special audits and investigations considered necessary by him or her, and to engage private auditors. The Bill seeks to empower the Auditor General to have a right of access to all relevant papers and information and to obtain whatever explanations are considered necessary for the proper discharge of his or her duties. This is to ensure that the Auditor General's reports are accurate, thorough, fair and balanced.

4.8. The Bill allows the Auditor General to recommend to Parliament that any person be surcharged where there has been a deficiency in respect of money or stores subject to audit and to make general recommendations to the Minister for the purpose of minimising the unreproductive expenditure of public monies and maximising the collection of public revenues. It permits the Auditor General to delegate his or her functions with the exception of the certification of accounts and the submission of reports to Parliament.

4.9. The Audit Bill in Part IV, in clauses 29 to 32 seeks to establish an Audit Board to recommend to Parliament an Auditor to audit the accounts of the Office of the Auditor General; review and make recommendations to Parliament on strategic plans of the Office of the Auditor General including expenditure plans proposed by the Auditor General; to consider and approve the annual budget estimates of the Office of the Auditor General for submission to Parliament and to approve the organisational structure and staff regulations for the Office of the Auditor General. It provides also for the tenure of office of members of the Board, resignation, death or removal of a member of the Board, and for meetings of the Board.

4.10. Part V of the Bill incorporating clauses 33 to 42 provides for the finances and expenses of the Office of the Auditor General which shall include funds approved by Parliament, fees received by the Office of the Auditor General, grants and donations as may be approved by the Minister and money from raising loans. It requires Parliament to approve all monies to defray the expenses of the Office

of the Auditor General and gives the Auditor General power to levy fees for auditing the accounts of any body or organisation, which does not receive money from the Consolidated Fund.

4.11. Part V also requires the Auditor General to open and maintain bank accounts and to keep proper books of accounts. It gives him or her power to borrow money from any source, with the approval of the Minister, for meeting the obligations of the Office of the Auditor General. It allows the Auditor General to invest any funds that are not immediately required by the Office of the Auditor General and requires the Auditor General to prepare and submit to the President estimates of each financial year.

4.12. Part V further provides for the financial year of the Office of the Auditor General and requires the accounts of the Office of the Auditor General to be audited and reported upon in each financial year by an auditor appointed by Parliament on the recommendation of the Auditor General.

4.13. Part VI of the Bill creates offences including obstruction of the Auditor General or any person authorised by the Auditor General in the performance of his or her functions, refusal or failure to give the Auditor General or any person authorised by him or her, any books, records, returns or any papers, documents, records or information without any lawful justification. Giving the Auditor General a false or fabricated document or making false statements with intent to deceive or mislead the Auditor General or any person authorised by the Auditor General is also an offence.

4.14. Part VI further provides for offences committed by a person working in the Office of the Auditor General who misuses any information obtained by him or her when auditing any account under the Act. It also provides for offences committed by persons working in of the Office of the Auditor General who collude with accounting officers, internal auditors or other public officers in the conduct of their duties to omit or commit any act where such omission or commission leads to loss of public funds.

4.15. Part VII of the Bill incorporating clauses 44 to 49, deals with miscellaneous provisions relating to protection from liability of the Auditor General and the staff of Office of the Auditor General for acts done in good faith. It also provides for the appointment of consultants by the Auditor General, service of documents, making of regulations by the Board to give effect to the provisions of the Act, amendment of Schedules and for the supremacy of the Audit Act.

4.16. Part VIII of the Bill in clauses 50 to 52, provides for transitional provisions including the transfer of assets and liabilities vested in the Office of the Auditor General before the commencement of the Act. It continues in effect the employment of all persons immediately before the commencement of this Act employed by the Office of the Auditor General. It repeals Part IV (relating to preparation, audit and examination of accounts) and section 39 (relating to control of accounts of public organisations) of the Public Finance and Accountability Act, 2003.

5. Schedule 1 of the Bill gives the value of a currency point. Schedule 2 provides for the oath of the Auditor General and the oath of a member of staff of the Office of the Auditor General. Schedule 3 provides for meetings of the Board.

**DR. E. SURUMA,**

*Minister of Finance, Planning and Economic Development.*

THE AUDIT BILL, 2007.

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ENTITLED

**THE AUDIT ACT, 2007.**

**An Act to give effect to article 154 (3) and 163 of the Constitution by providing for the Office of the Auditor General; 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 and private organisations and bodies; to establish an Audit Board to perform specified functions relating to the Office of the Auditor General; 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 other related matters.**

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

**1. Commencement**

This Act shall come into force on a date to be appointed by the Minister by statutory instrument.

**2. Interpretation**

In this Act, unless the context otherwise requires—

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

“Board” means the Audit Board established by section 29;

“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 given to it in Schedule 1;

“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 by the State;

“public service” has the same meaning as in article 257 of the Constitution;

“qualified accountant” means an accountant as defined in the Accountants Act.

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

**3. Continuance in existence of Office of Auditor General.**

(1) The Office of the Auditor General in existence immediately before the commencement of this Act is continued in existence subject to the provisions of this Act.

(2) 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.

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

**5. Tenure of service and remuneration of Auditor General.**

(1) The Auditor General shall hold office for a term of five years and is eligible for reappointment.

(2) The Auditor General may retire at any time after attaining the age of 60 years, and shall vacate office on attaining the age of 70 years.

(3) The remuneration and other conditions of service of the Auditor General, including post retirement benefits, shall be determined by the Audit Board with the approval of Parliament.

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

**6. 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.

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

**7. 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 advise 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. 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 7 (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.

#### **9. 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 Auditor General may exercise his or her powers of appointment under subsection (2), jointly with the Audit Board.

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

#### **10. 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.

(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.

#### **11. 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 and Accountability Act, 2003.

(2) The Auditor General shall recommend to the Secretary to the Treasury, a person to be designated accounting officer under subsection (1), except that the person designated shall not perform any auditing functions after his or her designation.

#### **12. Secretary to the Board.**

(1) The Auditor General shall designate a member of staff of the Office of Auditor General to be the Secretary to the Board.



(2) The Secretary shall perform such functions as may be assigned to him or her by the Board.

PART III—FUNCTIONS AND POWERS OF OFFICE OF THE  
AUDITOR GENERAL

**13. Withdrawal from Consolidated Fund**

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

**14. 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 in respect of any project or activity involving public funds; and
- (c) audit classified expenditure.

(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.

**15. Independence of Auditor General.**

Subject to section 14(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.

**16. 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 and Accountability Act, 2003 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.

**17. 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 may 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.

### 18. 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 moneys, stamps, securities, stores and other property of a public organisation, as are conferred upon the Auditor General by section 25, as if the moneys, stamps securities, stores or other property of the public organisation were public moneys 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 may 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.

### 19. Audit of accounts of 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 monies disbursed, advanced or guaranteed to a private organisation or body in which Government has no controlling interest.

### 20. Certification and report on audit.

(1) In exercising his or her functions under sections 16, 17, 18 and 19, 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 31(6) of the Public Finance and Accountability Act, 2003;
- (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 moneys 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 nine 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 section 16, 17, 18 and 19 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.

## 21. 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.

## 22. 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 and Accountability Act, 2003, or any public organisation, or any local government council, enquire 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 moneys 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;
  - (v) local government councils;
- (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, enquiry or investigation under this section shall be laid before Parliament and shall be referred to the appropriate committee of Parliament.

(3) Section 25 applies to any examination, enquiry or investigation conducted by the Auditor-General in the exercise of his or her powers under this section.

**23. Special audits and investigations.**

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

**24. 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 practicing 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.

**25. Powers of Office of Auditor General.**

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

- (a) 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) 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, 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) have access to electronic information relating to the audit as he or she has to other documents;
- (e) have access to any Government property;
- (f) station his or her staff at the premises of the organisation being audited, and that organisation shall provide those staff with adequate office space and facilities during the period of the audit;

- (g) 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.

**26. Surcharge.**

If it appears to the Office of 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.

**27. Right of Auditor General to make recommendations to Minister.**

The Auditor General may, for the purpose of—

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

from time to time, 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.

**28. 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—AUDIT BOARD

**29. Audit Board**

- (1) There is established an Audit Board.
- (2) The Board shall consist of—
  - (a) the Auditor General or an officer of the Office of the Auditor General authorised by the Auditor General in writing;
  - (b) the Chairperson of the Public Service Commission or a member of that Commission authorised by the Chairperson in writing;
  - (c) the Chairperson of the Local Governments Finance Commission;
  - (d) a member of the Institute of Certified Public Accountants of Uganda nominated by the Council of the Institute;
  - (e) a representative of a relevant professional body established by an Act of Parliament.
- (3) The members of the Board shall be appointed by the President.
- (4) A person who, in his or her normal day-to-day activities is subject to audit by the Auditor General, or who performs functions on behalf of the Auditor General, or who may otherwise be placed in a situation of conflict of interest, shall not be appointed by the President under subsection (2) (d) and (e).

- (5) The President shall appoint a Chairperson from among the members appointed under subsection (2) (d) and (e).
- (6) The Chairperson and members of the Board shall be paid such allowances as may be determined by the Board, with the approval of Parliament.
- (7) A member of the Board 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.

**30. Tenure of office of members of the Board.**

- (1) A member of the Board, other than the Auditor General, shall hold office for a period not exceeding four years and is eligible for re-appointment for one more term only.
- (2) Where a member of the Board under section 29 resigns, dies, is removed from office, ceases to be a member of the institution or body which he or she represents on the Board, or is for any other reason unable to act as a member of the Board, the Chairperson shall notify the President of the vacancy and the President shall, in accordance with section 29, appoint another person to hold the office for the unexpired portion of the member's term of office.
- (3) Where the member of the Board referred to in subsection (2) is the Chairperson of the Board, the Secretary to the Board shall notify the President of the vacancy and the President shall appoint another person to hold office for the unexpired portion of the Chairperson's term of office.
- (4) A member of the Board may, at any time, resign his or her office in writing addressed to the President, through the Chairperson of the Board.

**31. Functions of the Board.**

The functions of the Board are—

- (a) to recommend to Parliament an auditor to audit the accounts of the Office of the Auditor General;
- (b) to review and make recommendations to Parliament on the strategic plan of the Office of the Auditor General, including any expenditure plans proposed by the Auditor General;
- (c) to consider the annual budget estimates of the Office of the Auditor General and recommend their submission to Parliament for consideration;
- (d) to approve the organisational structure of the Office of the Auditor General;
- (e) to approve staff regulations for the Office of the Auditor General;
- (f) to approve financial regulations for the Office of the Auditor General;
- (g) to perform any other functions incidental to the functions prescribed in paragraphs (a) to (f).

**32. Meetings of the Board.**

Schedule 3 has effect in relation to meetings of the Board and other matters provided for in that Schedule.

PART V—FINANCES AND EXPENSES OF OFFICE OF THE AUDITOR  
GENERAL

**33. Funds of Office of Auditor General.**

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

- (a) funds approved by Parliament;
- (b) fees received under section 35;
- (c) grants and donations as the Minister may approve; and
- (d) money from raising loans.

**34. Expenses of Office of Auditor General.**

All monies 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.

**35. Power to levy fees.**

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

(2) Any fees received under subsection (1) shall be retained by the Office of the Auditor General for purposes of defraying the expenses of the Office, and any surplus shall be paid into the Consolidated Fund.

**36. 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—

- (a) all monies received from the Government for the purposes of this Act; and
- (b) all other monies received by the Auditor General in the exercise of his or her functions under this Act.

**37. Borrowing powers.**

The Office of the Auditor General may, with the approval of the Minister, borrow money from any source as may be required for meeting the obligations of, or for the discharge of the functions of the Office of the Auditor General under this Act.

**38. 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 any manner determined by the Board.

**39. 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 recommendations that Government may have on them.

**40. Financial year of Office of Auditor General.**

The financial year of the Office of the Auditor General shall be the same as the financial year of the Government.

**41. 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;
- (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.

**42. 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 on the recommendation of the Audit Board.

(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 Permanent Secretary of the Ministry responsible for finance.

(7) The Auditor General shall pay, in respect of the audit, under this section, such fees as he or she may determine.

## PART VI—OFFENCES AND PENALTIES

**43. 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 25; 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) A person convicted of an offence under this section is liable, on conviction, to a fine not exceeding two hundred and fifty currency points or imprisonment for a term not exceeding three years, or both.

#### PART VII—MISCELLANEOUS

#### 44. 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.

#### 45. 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.

#### 46. 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.

#### 47. Regulations.

(1) The Board may, by statutory instrument, 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 office continues; and
- (c) prescribe a higher penalty not exceeding one hundred and fifty currency points in respect of a second or subsequent contravention.

#### 48. Amendment of Schedules.

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

(2) The Board may, by statutory instrument, amend Schedule 3 to this Act.

#### 49. Supremacy of this 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.

#### PART VIII—TRANSITIONAL, REPEALS AND SAVINGS

#### 50. Transfer of assets and liabilities.

All property and assets vested in the Office of the Auditor General before the commencement of this Act shall, on the commencement of this Act, remain vested in the Office of the Auditor General subject to all interests, liabilities, obligations and trusts affecting the property.



**51. Employees of Office of Auditor General.**

(1) On the commencement of this Act—

(a) all persons who, immediately before the date of commencement of this Act were employed in the Office of the Auditor General, shall continue to be employed in that Office;

(b) the terms and conditions, including the salary, on which a person referred to in subsection (1) was employed immediately before the commencement of this Act, shall be no less favorable than those that applied to that person's office immediately before the commencement of this Act; and

(c) there is no break or interruption in the employment of such persons because of the enactment of this Act.

(2) Subject to subsection (1) (b), the terms and conditions of any employment referred to in subsection (1) may be varied after the commencement of this Act.

(3) Nothing in this Act affects the pension rights under the Pensions Act of any person referred to in subsection (1).

**52. Repeal and savings.**

(1) The following provisions of the Public Finance and Accountability Act, 2003 are repealed—

(a) Part IV, which provides for the preparation, audit and examination of accounts, except section 31; and

(b) section 39, which deals with control of accounts of public organisations.

(2) Notwithstanding the repeal under subsection (1), any examination or audit of public accounts or of the accounts of any public organisation instituted under the repealed Part IV and section 39 of the Public Finance and Accountability Act, 2003 shall be continued as if instituted under this Act.

**SCHEDULES.**

## SCHEDULE 1

Sections 2, 48(1)

## CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SCHEDULE 2

OATHS

PART A

Section 6

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 10

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.)

SCHEDULE 3

Sections 32 and 48(2)

MEETINGS OF THE BOARD

1. Meetings of the Board

(1) The Chairperson shall convene every meeting of the Board at a time and place determined by the Board, and the Board shall meet for the discharge of business at least once in every three months.

(2) The Chairperson may, at any time, convene a special meeting of the Board and shall also call a meeting within fourteen days, if requested to do so in writing by at least four members of the Board.

(3) Notice of a Board meeting shall be given in writing to each member at least fourteen working days before the day of the meeting.

(4) The Chairperson shall preside at every meeting of the Board and in the absence of the Chairperson; the members present shall appoint a member from among themselves to preside at that meeting.

2. Quorum

(1) The quorum for a meeting of the Board is three members.

(2) All decisions at a meeting of the Board shall be by a majority of the votes of the members present and voting and in case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

3. Minutes of meetings.

(1) The Board shall cause to be recorded and kept, minutes of all meetings of the Board in a form approved by the Board.

(2) The minutes recorded under this paragraph shall be submitted to the Board for confirmation at its next meeting following that to which the minutes relate and when so confirmed, shall be signed by the Chairperson, in the presence of the members present at the latter meeting.

4. Power to co-opt

(1) The Board may invite any person who, in the opinion of the Board, has expert knowledge concerning the functions of the Board, to attend and take part in the proceedings of the Board.

(2) A person attending a meeting of the Board under this section may take part in any discussion at the meeting on which his or her advice is required, but shall not have any right to vote at that meeting.

#### 5. Validity of proceedings not affected by vacancy

The validity of any proceedings of the Board shall not be affected by a vacancy in its membership or by any defect in the appointment or qualification of a member or by reason that a person not entitled, took part in its proceedings.

#### 6. Disclosure of interest of members

(1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board, or in any other matter which falls to be considered by the Board, shall disclose the nature of his or her interest at a meeting of the Board.

(2) A disclosure made under subparagraph (1) shall be recorded in the minutes of that meeting.

(3) A member who makes a disclosure under subparagraph (1) shall not—

- (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

(4) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part in a meeting under subparagraph (3), shall be treated as being present.

#### 7. Official seal of the Board

(1) The official seal of the Office of the Auditor General shall be in a form determined by the Board.

(2) The official seal shall, when affixed to any document, be authenticated by the signatures of the Chairperson and one other member of the Board.

(3) In the absence of the Chairperson, the person performing the functions of the Chairperson shall sign.

(4) An instrument or contract which if executed or entered into by a person other than a body corporate would not require to be under seal may be executed or entered into on behalf of the Board by the Chairperson, or by any member of the Board or any other person if that member of the Board or other person has been duly authorised by resolution of the Board to execute or enter into the instrument or contract as the case may be.

(5) Every document purporting to be an instrument or contract executed or issued by or on behalf of the Board in accordance with this paragraph shall be deemed to be so executed or issued until the contrary is proved.

#### 8. Board may regulate its procedure

Subject to this Act, the Board may regulate its own procedure or any other matter relating to its meetings.

#### Cross References

Accountants Act, Cap.266

Companies Act, Cap. 110

Constitution of Uganda

Local Governments Act, Cap.243

Pensions Act, Cap 286

Public Finance and Accountability Act, 2003 Act. No. 6 of 2003