

REPUBLIC OF VANUATU

THE AUDIT OF PUBLIC ACCOUNTS ACT NO. 6 OF 1983

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REPUBLIC OF VANUATU

THE AUDIT OF PUBLIC ACCOUNTS ACT No. 6 OF 1983

An Act to provide for the auditing of public accounts, the powers and duties of the Auditor-General and for matters incidental thereto.

BE IT ENACTED by the President and Parliament as follows :-

DEFINITION OF "PUBLIC MONEY"

1. In this Act the expression "public money" means -

- (a) all reserves or other moneys raised or received for the purposes of the Government; and
- (b) any other moneys or funds held, whether temporarily or otherwise, by a public officer in his official capacity either alone or jointly with any other person whether a public officer or not.

APPOINTMENT AND TERM OF OFFICE OF THE AUDITOR GENERAL

2. (1) There shall be an Auditor-General who shall be appointed by the Public Service Commission on its own initiative to exercise the functions appertaining to his office as provided by the Constitution and by the provisions of this Act.
- (2) The Auditor-General shall hold office for a term of six years but may be removed for cause by resolution of Parliament at any time.
- (3) Notwithstanding the provisions of subsections (1) and (2), the Auditor-General shall cease to hold office -
 - (a) on attaining the age of 65 years;
 - (b) on resignation in writing addressed to the Speaker of Parliament and the Public Service Commission.
- (4) In the event of a temporary absence or incapacity of the Auditor-General the Public Service Commission may appoint a person temporarily to act in the office of Auditor-General.
- (5) The provisions of the law relating to the public service shall apply in relation to the Auditor-General except where they are in conflict with the provisions of the Constitution or this Act.

STAFF OF AUDITOR-GENERAL

3. All appointments to, and transfers of members of, the staff of the Auditor-General shall be made by the Public Service Commission after consultation with the Auditor-General.

ESTIMATES

4. The Auditor-General shall annually prepare an estimate of the sums that will be required to be provided by Parliament for the payment of salaries, allowances and expenses of his office during the next ensuing financial year, and any supplementary estimates as and
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when the funds provided by Parliament are insufficient to enable him to fulfil the responsibilities of his office.

DELEGATION

5. (1) The Auditor-General may, either generally or as otherwise provided by the instrument of delegation, by writing under his hand, delegate to any member of his staff any of his powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Auditor-General.
- (3) A delegation under this section shall not prevent the Auditor-General from the exercise of any power so delegated.

DUTIES OF AUDITOR-GENERAL

6. (1) The Auditor-General shall in such manner as he deems necessary, examine, inquire into and audit the accounts of all accounting officers.
- (2) The Auditor-General shall satisfy himself -
 - (a) that the accounts have been faithfully and properly kept;
 - (b) that all reasonable precautions have been taken to safeguard the collection of public moneys and that the laws, directions or instructions relating thereto have been duly observed;
 - (c) that expenditure has been properly authorised and applied to the purposes for which funds were appropriated by Parliament, and has been otherwise properly accounted for; and that the regulations and procedures applied are sufficient to secure an effective control over expenditure, and that it has been incurred with due regard to economy and avoidance of waste and extravagance;
 - (d) that adequate stores regulations and procedures have been made to ensure the proper receipt, issue and custody of stores and other property of whatsoever nature, and that such regulations have been duly observed; and
 - (e) that the provisions of any law relating to moneys or stores subject to his audit have been in all respects complied with.

POWERS OF AUDITOR-GENERAL

7. (1) In the exercise of his duties under this Act, the Auditor-General may -
 - (a) call upon any public officer for any explanation and information he may require;
 - (b) authorise any public officer on his behalf to conduct any inquiry, examination or audit, and such officer shall report thereon to him;

Provided that any such authority shall be subject to the concurrence of the head of the department in which the officer concerned is employed;

- (c) without payment of any fee cause search to be made in and extracts taken from any book, document or record in any public office;
 - (d) examine all persons whom he may think fit to examine respecting the receipt or expenditure of money or the receipt or issue of any stores affected by the provisions of this Act and respecting all other matters and things whatsoever necessary for the due exercise of the duties and powers vested in him;
 - (e) lay before the Attorney-General a case in writing as to any question regarding the interpretation of any Act or regulation concerning the discharge of his duties, and the Attorney General shall give a written opinion on such case.
- (2) In the exercise of his duties under this Act, the Auditor-General or any person duly authorised by him shall be entitled -
- (a) to have access to all records, books, accounts, vouchers, documents, cash, stamps, securities, stores or other Government property under the control of any public officer;
 - (b) to send for and have the custody of any records, books, accounts, vouchers or documents under the control of any public officer, and to keep such records, books, accounts or documents for such time as he may require them.
- (3) Any person examined under the provisions of paragraph (d) of subsection (1) who gives a false answer to any question put to him or makes a false statement on any matter knowing that answer or statement to be false or not knowing or believing it to be true shall be guilty of an offence.

Penalty : imprisonment for two years and fine of 200.000 vatu.

TEST AUDITS, DEFECTIVE VOUCHERS

8. (1) Notwithstanding the provisions of section 6, the Auditor-General may, after satisfying himself that the vouchers have been examined and certified as correct by an accounting officer, in his discretion and having regard to the character of the departmental examination, in any particular case admit the sums so certified in support of the charges to which they relate without further examination.
- (2) Where a voucher has been lost or destroyed, or where an existing voucher is defective in any respect, the Auditor-General, if satisfied with the explanation given by the responsible officer or with other evidence of the transaction, may dispense with the production of a voucher, or in the case of a defective voucher, accept such voucher.

ANNUAL REPORT BY AUDITOR-GENERAL

9. (1) Within a period of eight months, after the close of each financial year or such longer period thereafter as the Parliament may by resolution appoint, the Auditor-General shall prepare and transmit to the Speaker of Parliament and to the Council of Ministers, a report upon his examination and audit of all accounts and statements received by him in pursuance of section 23 of the Public Finance Regulation 1980, together with certified copies of such accounts and statements.

- (2) The Speaker of Parliament shall lay the report of the Auditor-General together with certified copies of accounts and statements referred to in subsection (1) before Parliament within 30 days of their receipt by him or, if Parliament is not then in session within 14 days after the commencement of the first sitting of its next meeting.

AUDITOR-GENERAL TO REPORT IRREGULARITIES

10. Every report by the Auditor-General under section 9 shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the Parliament and the Council of Ministers, including any cases in which he has observed that -
- (a) accounts have not been faithfully and properly maintained or public money has not been fully accounted for or paid, where so required by law, into the Revenue Fund;
 - (b) essential records have not been maintained or the rules and procedures applied have been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures have been made only as authorized;
 - (c) money has been expended other than for purposes for which it was appropriated by Parliament;
 - (d) money has been expended without due regard to economy or efficiency; or
 - (e) satisfactory procedures have not been established to measure and report the effectiveness of programmes where such procedures could appropriately and reasonably be implemented.

SPECIAL REPORTS

11. (1) The Auditor-General may, at any time if he considers it desirable, make and transmit to the Speaker of Parliament and the Council of Ministers, a special report on any matter of pressing importance or urgency that, in his opinion, should not be deferred until the presentation of his annual report.
- (2) The Speaker of Parliament shall lay such report before Parliament forthwith after his receipt of the same, or if Parliament is not then sitting, on the first day of next thereafter that the Parliament is sitting.

IMPROPER RETENTION OF PUBLIC MONEY

12. Whenever it appears to the Auditor-General that any public money has been improperly retained by any person, he shall forthwith report the circumstances to the Minister responsible for finance.

POWERS OF AUDITOR-GENERAL IN RELATION TO STATUTORY CORPORATIONS

13. (1) Without prejudice to the provisions of any law relating to the audit of accounts of any statutory corporation, the powers of the Auditor-General under sections 7 and 8 shall apply in relation to the audit of accounts of every statutory corporation in a like manner as they apply to the audit of public moneys under this Act.
- (2) In subsection (1) "statutory corporation" means any local government council, municipal council or any other body set up by an Act of Parliament.

INQUIRIES AND REPORTS

14. The Auditor-General may, if in his opinion such an assignment does not interfere with his primary responsibilities under the Constitution or this Act, whenever requested by the Prime Minister to do so, inquire into and report on any matter relating to the financial affairs of Vanuatu or to public property or inquire into and report on any person or organisation that has received financial aid from the Government or in respect of which financial aid from the Government is sought.

REPEAL OF SECTION 23(3) AND (4) OF PUBLIC FINANCE REGULATION 1980

15. Subsections (3) and (4) of section 23 of the Public Finance Regulation 1980 are repealed.

COMMENCEMENT

16. This Act shall come into operation on such date as the Prime Minister shall by order appoint.