

ARRANGEMENT OF SECTIONS

Section

PART I-THE AUDIT SERVICE AND THE AUDIT SERVICE

1. BOARD
2. The Audit Service continued in existence
3. Members of the Audit Service
4. The governing body of the Service
5. Functions of the Board
6. Tenure of office of members /Meetings
7. of the Board
8. Appointment of committees Engagement of
9. consultants and experts' Allowances for members of the Board

PART II-THE APPOINTMENT, FUNCTIONS AND MODE OF OPERATION OF THE AUDITOR-GENERAL

10. Appointment of the Auditor-General
11. Audit of public accounts generally
12. Audit of foreign exchange transactions
13. Examination of accounts
14. Auditing of statutory corporation
15. Examination on receipt of Controller and Accountant-General's report on public accounts
16. Submission of special audit report to Parliament
17. Disallowance and surcharge by Auditor-General
18. Independence and powers of the Auditor-General
19. Adherence to international practices
20. Submission of Auditor-General's report to Parliament
21. Debate by Parliament of the Auditor-General's reports
22. Audit of accounts by Auditor-General or as requested by Parliament Publication of
23. reports
24. Auditing of the office of the Auditor-General
25. Submission of annual report on activities of the Service

I

PART III-FINANCIAL AND MISCELLANEOUS PROVISIONS

26. Expenses of the Service charged On the Consolidated Fund
27. Annual Estimates of the Service
28. Stationing of officers in organisations subject to audit

Act 584 Audit Service Act, 2000

- 29. Audit observations
- 30. Audit Report Implementation Committees
- 31. Examination on oath
- 32. Retirement of Audit Service staff Offences
- 33. Offences
- 34. Offences by bodies of persons
- 35. Regulations
- 36. Interpretation
- 37. Consequential amendments
- 38. Repeals and saving



THE FIVE HUNDRED AND EIGHTY-FOURTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED,

AUDIT SERVICE ACT, 2000

AN ACT to revise the Audit Service Decree, 1972 (N .R,CD, 49) by incorporating therein the relevant provisions of articles 187, 188 and 189 of the Constitution; to incorporate, with amendments, specific provisions in the Financial Administration Decree, 1979 (S,M,CD, 221) regarding the method of operation of the Auditor-General and to provide for related matters.

DATE OF ASSENT: *10th October, 2000,*

BE IT ENACTED by Parliament as follows

PART I-THE AUDIT SERVICE AND THE AUDIT SERVICE BOARD

The Audit Service continued in existence

1. (1) The Audit Service in existence immediately before the commencement of this Act is hereby continued in existence subject to the provisions of this Act.

(2) The Audit Service referred to in this Act as "the Service", shall continue to form a part of the Public Services of Ghana.

Members of the Audit Service

2. The members of the Service are

(a) the Auditor-General; and

(b) the other persons employed in the Service.

The governing body of the Service

3. (1) The governing body of the Service shall be the Audit Service Board referred to in this Act as "the Board".

- (2) The Board shall consist of
 - (a) a chairman and four other members appointed by the President, acting in consultation with the Council of State;
 - (b) the Auditor-General; and
 - (c) the Head of the Civil Service or his representative.

(3) A member of the Audit Service Board, other than the Auditor-General or the Head of the Civil Service or his representative, may be removed from office by the President, acting in accordance with the advice of the Council of State for inability to perform the functions of his office arising from infirmity of mind or body or for any other sufficient cause.

Functions of the Board

- 4. (1) The Board shall-
 - (a) determine the structure and technical expertise required for the efficient performance of the functions of the Service;
 - (b) ensure that the auditing activities of the Audit Service as spelt out in this Act are carried out in accordance with best international practices;
 - (c) appoint officers and other employees of the Service other than the Auditor-General; and
 - (d) determine the terms and conditions of service of officers and other employees of the Service other than the Auditor-General.

(2) In pursuance of subsection (1) the Board shall hold consultation with the Public Services Commission but final decision on any matter is subject to the approval of the Board.

(3) The Board may delegate to the Auditor-General or any officer of the Service or a committee of the Board, the appointment of such category of staff of the Service as the Board may determine.

Tenure of office of members

5. (1) A member of the Board other than the Auditor-General and the Head of Civil Service shall hold office for a period not exceeding three years and is eligible for re-appointment but no such member shall be appointed for more than three terms III succession.

(2) An existing member of the Board other than an ex-officio member ceases to hold office on the reconstitution of the Board.

(3) Where a member of the Board resigns, dies, is removed from office or is for any reason unable to act as a member of the Board, the chairman shall notify the President of the vacancy and the President shall in consultation with the Council of State appoint another person to hold the office for the unexpired portion of the member's term of office.

(4) A member of the Board may at any time resign his office in writing addressed to the President through the chairman of the Board.

(5) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.
Meetings of the Board

6. (1) The Board shall ordinarily meet for the transaction of business at such time and at such place as the Board may determine but shall meet at least once in two months.

(2) A special meeting of the Board shall be called upon the written request of the chairman or by a majority of the members of the Board addressed to the secretary to the Board.

(3) At any meeting of the Board the chairman shall preside and in his absence, a member of the Board elected by the members present from among their number shall preside.

(4) A question for decision shall be determined by a simple majority of the members present and voting and where there is equality of votes the person presiding shall have a second or casting vote.

(5) The quorum at a meeting of the Board shall be four including the Auditor General or in the absence of the Auditor-General, the person acting on behalf of the Auditor-General.

(6) The validity of any proceedings of the Board shall not be affected by vacancy in its membership or by any defect in the appointment or qualification of a member.

(7) The Board may co-opt a person to attend a Board meeting but that person shall not vote on any matter for decision by the Board.

(8) A member of the Board who has an interest in any contract, application or other transaction for consideration by the Board shall disclose verbally or in writing the nature of his interest and is disqualified from participating in any deliberation of the Board in respect of the contract, application or other transaction.

(9) A member who contravenes subsection (8) shall be removed from the Board.

(10) Subject to this section, the Board shall determine the procedure for its meetings.

Appointment of committees

7. (1) The Board may appoint committees consisting of members of the Board or of members and non-members to exercise any of its functions.

(2) The chairman of a committee of the Board shall be a member of the Board.

(3) A committee of the Board may co-opt such person as it may determine to attend its meetings.

(4) A committee of the Board shall determine the procedure for its meeting

Engagement of consultants and experts

8. (1) The Board may engage the services of such consultants and other experts as it may consider necessary for the efficient discharge of the duties of the Service.

(2) The consultants and experts shall be engaged on such terms and conditions as the Board may determine.

Allowances for members of the Board

9. The members of the Board shall be paid such allowances as the President may determine.

PART II-THE APPOINTMENT, FUNCTIONS AND MODE OF OPERATION
OF THE AUDITOR-GENERAL

Appointment of the Auditor-General

10. (1) There shall be an Auditor-General who shall be appointed by the President acting in consultation with the Council of State.

(2) The office of Auditor-General shall be a public office.

(3) A person appointed to be the Auditor-General shall, before entering upon the duties of his office, take and subscribe the Oath of the Auditor-General set out in the Second Schedule to the Constitution.

(4) The Auditor-General shall retire after attaining the age of sixty years but may be engaged for a limited period of not more than two years at a time but not exceeding five years in all and upon such other terms and conditions as the President acting in consultation with the Council of State shall determine.

(5) The salary and allowances payable, and the facilities and privileges available to the Auditor General shall be determined by the President on the recommendations of a committee of not more than five persons appointed by the President, acting in accordance with the advice of the Council of State.

(6) The salary and allowances payable to the Auditor-General shall be a charge on the Consolidated Fund.

(7) The salary and allowances payable to the Auditor-General, his rights in respect of leave of absence, retiring award or retiring age shall not be varied to his disadvantage during his tenure of office.

(8) The provisions of article 146 of the Constitution relating to the removal of a Justice of the Superior Court of Judicature from office shall apply to the Auditor-General.

(9) The Auditor-General may at any time resign his office in writing addressed to the President.

Audit of public accounts generally

11, (1) The public accounts of Ghana and of all public offices, including the courts, the central and local government administrations, of the Universities and public institutions of like nature, of any public corporation or other body or organisation established by an Act of Parliament shall be audited and reported on by the Auditor-General.

2) For the purposes of subsection (1), the Auditor-General or any person authorised or appointed for the purpose by the Auditor-General shall have access to all books, records, returns and other documents including documents in computerized and electronic form relating to or relevant to those accounts.

(3) The public accounts of Ghana and of all persons and institutions referred to in subsection (1) including computerised financial and accounting systems and electronic transactions shall be kept in such form as the Auditor-General shall approve and shall be subject to review by the Auditor-General.

(4) An internal auditor of an organisation or body to which subsection (1) applies shall submit a copy of each report issued as a result of internal audit work carried put to the Auditor-General.

(5) All financial and accounting systems in respect of the accounts provided under subsection (1) shall be subject to prior approval of the Auditor-General and any change in any such system shall be notified to the Auditor-General and shall be subject to prior approval before implementation.

(6) Any head of a public institution or other body subject to auditing by the Auditor-General who fails to comply with subsection (5) is liable to be surcharged with the cost of any loss occasioned by defective or deficient internal controls of auditing.

Audit of foreign exchange transactions

12. (1) The Bank of Ghana shall, not later than three months

(a) after the end of the first six months of its financial year; and

(b) after the end of its financial year,

submit to the Auditor-General for audit, a statement of its foreign exchange receipts and payments or transfers in and outside Ghana.

(2) The Auditor-General shall, not later than three months after the submission of the statement referred to in section (1) submit his report to Parliament on the statement.

Examination of accounts

13. The Auditor-General shall examine in such manner as he thinks necessary the public and other government accounts and shall ascertain whether in his opinion

(a) the accounts have been properly kept;

- (b) all public monies have been fully accounted for, and rules and procedures applicable are sufficient to secure an effective check on the assessment, collection and proper allocation of the revenue;
- (c) monies have been expended for the purposes for which they were appropriated and the expenditures have been made as authorised;
- (d) essential records are maintained and the rules and procedures applied are sufficient to safeguard and control public property; and
- (e) programmes and activities have been undertaken with due regard to economy, efficiency and effectiveness in relation to the resources utilised and results achieved.

Auditing of statutory corporation

14. (1) In respect of the accounts of a statutory corporation, a state enterprise or a public commercial institution operating under its own enactment, the Auditor General or any person appointed by him shall upon the examination of the accounts of the body or institution, express his opinion as to whether the accounts present fairly financial information in accordance with the applicable statutory provisions, stated accounting policies of the Government and is accordance with generally accepted accounting standards and essentially consistent with that of the preceding year.

- (2) The Auditor-General or any person appointed by the Auditor-General to audit the accounts of statutory corporations shall in addition to the audit report draw attention to the following
- (a) the profitability, liquidity, stability and solvency of the corporation and also the performance of the shares of the corporation on the capital markets, where relevant;
 - (b) whether there was delay in payment of government portion of any declared dividend, if any, into the Consolidated Fund;
 - (c) any significant cases of fraud or losses and the underlying causes;
 - (d) any internal control weakness noted; and
 - (e) the general corporate performance indicating
 - (i) achievement against set targets and objectives; and
 - (ii) whether the finances of the body have been conducted with due regard to economy, efficiency and effectiveness having regard to the resources utilised.

Examination on receipt of Controller and Accountant-General's report on public accounts

15. The Auditor-General shall, upon receipt of the annual statements of public accounts required, under sections 40 and 41 of the Financial Administration Decree, 1979 (S.M.C.D. 221), to be made by the Controller and Accountant-General, examine the statement and certify whether in his opinion the statements present fairly financial information on the accounts in accordance with accounting policies

of the Government and consistent with statements of the preceding year in accordance with best international practices, and may state such reservation or comment that he considers necessary.

Submission of special audit report to Parliament

16. The Auditor-General may in addition to the audit of public accounts, carry out in the public interest such special audits or reviews as he considers necessary and shall submit reports on the audits or review undertaken by him to Parliament.

Disallowance and surcharge by Auditor-General

17. (1) The Auditor-General shall specify to the appropriate head of department or institution the amount due from any person upon whom he has made a surcharge or disallowance and the reasons for the surcharge or disallowance.

(2) A sum specified by the Auditor-General to be due from any person shall be paid by that person to the department or institution as the case may be, within 60 days after it has been so specified.

(3) A person aggrieved by a disallowance or surcharge made by the Auditor-General may appeal to the High Court not later than the expiration of 60 days prescribed in subsection (2).

(4) In accordance with article 187(10) the Rules of Court Committee may, by constitutional instrument, make Rules of Court for the purposes of subsection (3) of this section.

(5) Any sum which is lawfully due under this section shall, on civil proceedings taken by the Head of Department in a court be recoverable as a civil debt and where the person surcharged is in receipt of remuneration from government or any institution, the remuneration shall be attached to the extent of the sum lawfully due.

(6) In any proceedings for the recovery of that sum a certificate signed by the Auditor-General shall be prima facie evidence of the facts certified.

(7) The Auditor-General may with the prior approval of Parliament revoke any surcharge made under this section.

Independence and powers of the Auditor-General

18. (1) In the performance of his functions under this Act or any other law the Auditor-General

(a) shall not be subject to the direction or control of any other person or authority;

(b) may disallow any item of expenditure which is contrary to law and surcharge-

(i) the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;

(ii) any sum which has not been duly brought into account, upon the person by whom the sum ought to have been brought into account; or

Annual Estimates of the Service

27. The Board shall at least two months before the end of the financial year submit to the President the estimates of the Service; and the President shall at least one month before the end of the financial year cause the estimates to be laid before Parliament without revision but with any recommendations that the President may make on them.

Stationing of officers in organisations subject to audit

28. (1) The Auditor-General may require any organisation or body subject to audit by the Auditor-General to make available while the audit is being carried on, suitable office accommodation for the proper conduct of the audit.

(2) The Auditor-General shall require every person employed in his office who is to examine the accounts of an organization under this Act to comply with security arrangements applicable to, and to take any oath of secrecy required to be taken by persons employed in that organization and every such person shall comply with the requirement.

(3) The Auditor-General shall station in Parliament House, permanent staff to enable Parliament carry out effectively its duties in respect of reports submitted by the Auditor-General to Parliament.

Audit observations

29. (1) The Auditor-General or any authorised person acting on his behalf shall, as a result of an audit conducted by him, issue observations to the Controller and Accountant-General or the management of the audited organisation and the comments made by the management shall be returned to the Auditor-General within 30 days after the receipt of the observation.

(2) A person who fails or refuses to reply to the audit observations within the period specified in subsection (1) shall, if the Auditor-General so directs, have his emoluments and allowances withheld for so long as the person fails to comply.

Audit Report Implementation Committees

30. (1) An institution, body or organisation which is subject to auditing by the Auditor-General shall establish an Audit Report Implementation Committee, comprising members of

- (a) the Governing Board or Council of that institution, body or organisation where such Council or Board exist by law; or
- (b) a Ministerial Committee for Ministries, Departments and Agencies of the Central Government, or
- (c) a Special Committee of the District Assembly.

(2) It shall be the duty of the Audit Report Implementation Committee to ensure that the head of an institution, body or organisation to which subsection (1) applies

- (a) pursues the implementation of matters in all audit reports as well as the Auditor-General's reports endorsed by Parliament as well as financial matters raised in the reports of internal monitoring units in the institution, body or organisation; and
- (b) annually prepares a statement showing the status of implementation of recommendation made in all audit reports as well as the Auditor-General's reports which have been accepted by Parliament and any other related directives of Parliament.

(3) The statement shall show remedial action taken or proposed to be taken to avoid or minimise the recurrence of undesirable features in the accounts and operations of the institution, body or organisation and the time frame for action to be completed.

(4) The statement referred to in subsection (3) shall be endorsed by the relevant Minister and forwarded to Parliament, Office of the President and the Auditor-General within six months after Parliamentary decisions on the Auditor-General's report.

(5) In the performance of its functions under this Act, an Audit Report Implementation Committee may co-opt any senior management personnel to serve on the Committee.

Examination on oath

31. The Auditor-General may examine any person on oath on any matter pertaining to any account subject to audit by him.

Retirement of Audit Service staff

32. (1) Except otherwise provided in this Act a person employed by the Service-

- (a) may voluntarily retire from the Service at any time after attaining the age of 45 years; and
- (b) shall retire from the Service after attaining the age of 60 years.

(2) Notwithstanding subsection (1) a person employed by the Service who has attained the age of 60 years may be eligible for engagement immediately after retirement by the Board on the recommendation of the Auditor-General for a limited period of not more than two years at a time but not exceeding five years in all.

(3) A person who has retired from the Service shall be paid retirement benefits in accordance with the Constitution.

Offences

33. (1) Any person who-

- (a) fails to produce for inspection by the Auditor-General or otherwise fails to give the Auditor-General access to any book, record, return or

other document relating or relevant to any account to be audited by the Auditor-General, when so requested by the Auditor-General; or

(b) fails to keep proper books of account or proper records in relation thereto when so required by the provisions of any enactment; or

(c) gives to the Auditor-General any information which he knows to be false or which he has no reason to believe to be true; or

(d) wilfully suppresses any information required by the Auditor-General in the performance of his functions under this Act or any other enactment; or

(e) obstructs the Auditor-General in the performance of his functions under this Act or any other enactment, commits an offence and is liable on summary conviction to a fine not less than 500 penalty units or to imprisonment for a term not exceeding 2 years or to both.

(2) For the purposes of subsection (1), "Auditor-General" includes any auditor acting under the direction of the Auditor-General.

(3) Any member of the Audit Service who

(a) demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty; or

(b) wilfully fails to report to the Auditor-General any abuse or irregularity that comes to his notice in the course of his duties in relation to any accounts audited by him; or

(c) makes any report to the Auditor-General which he knows to be false or which he has no reason to believe to be true, commits an offence and is liable on summary conviction to a fine not less than 500 penalty units or to imprisonment for a term not exceeding 2 years or to both.

Offences by bodies of persons

34. (1) In the case of an offence committed under section 33(1) by a body of persons-

(a) where the body of persons is a body corporate, other than a partnership, every director and officer of that body corporate shall be deemed to be also guilty of that offence; and

(b) where the body is a partnership every partner shall be deemed to be also guilty of that offence.

(2) No person shall be deemed to be guilty of an offence under section 33(1) if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Regulations

35. The Board shall, acting in consultation with the Public Services Commission,

make Regulations by collStitutitJtnlllllstrumetH~

(a) for, the effective and efficient administration of the Audit Service; and

(b) generally for carrying out tile principles and purposes of this Act.

Interpretation

36. In this Act unless the context other wise requires

"financial aid" means grants, loans, guarantees and commodity aids.

"Service" Ineal1S the Audit Service.

Consequential amendments

37. The Financial Admil1istratlol'l Decree, 1979 (g.M.C.D. 221) is amended as follows-

(a) by the substitution for paragraph (c) of subsection (4) of section 47, the following

"(c) the libraries of the Ghana Institute of Management and Public Administration (GIMPA) and the ManagtHI1€l1t Development and Productivity Institute (M.b.P.1.)";

(b) by the insertion after paragraph (c) of subsection (4) of the following

"(d) members of the Audit Service Board."

Repeals and saving

38. (1) The Audit Service Decree, 1972 (N .R.C.D. 49) is repealed by this Act.

(2) Part V of the Financial Administration Decree, 1979 (S.M.C.D. 221) is hereby repealed.

(3) The Public Officers (Auditor-General) Instrument, 1962 (L. 1. 204) is hereby revoked.

(4) Notwithstanding the repeal under subsection (1) any instrument made, directives given or appointments made under the repealed enactment and in force immediately before the date of the coming into force of this Act shall continue in force as if made or given under this Act.

(5) Subject to the provisions of this Act, the Audit Service Board in existence immediately before the coming into force of this Act shall be the Board referred to in this Act.

Date of *Gazette* notification: 20th October, 2000.