

REPUBLIC OF ZAMBIA

THE PUBLIC AUDIT ACT

CHAPTER 378 OF THE LAWS OF ZAMBIA

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CHAPTER 378

PUBLIC AUDIT

Act No.
8 of 1980
13 of 1994

An Act to make certain provisions relating to the duties and powers of the Auditor-General, and to provide for matters connected therewith or incidental thereto.

[11 *th* April, 1980

1. This Act may be cited as the Public Audit Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation
 - "Auditor-General" means the Auditor-General appointed, pursuant to provisions of the Constitution; Cap. 1

 - "contract audit" means the audit of transactions relating to contracts to which the Government, public company or statutory corporation is a party;

 - "Department" means a department of the Government, and includes a Ministry;

 - "private institution" means any unincorporated body in receipt of a Government grant, subsidy or subvention;

 - "public company" means any company limited by shares and incorporated under the Companies Act, in which the Government is the sole shareholder. Cap. 388

 - "statutory corporation" means any body corporate established by statute in which the State has a majority or controlling interest, and includes a statutory board.

3. Notwithstanding the provisions of section *sixteen* of the Finance (Control and Management) Act, it shall be the duty of the Auditor-General to audit, at such times as he deems fit, the accounts of- Duties of Auditor-General in regard to statutory corporations and public companies.
Cap. 347
Cap. 347
 - (a) every statutory corporation or public company;
 - (b) every Department in which funds and working accounts are established under section *eight* of the Finance (Control and Management) Act; and
 - (c) every private institution which receives Government grant, subsidy or subvention in any financial year.

4. (1) In the performance of his duty under section *three*, the Auditor-General shall satisfy himself that the moneys expended by each statutory corporation, public company, Department or private institution have been applied to the purposes for which they were appropriated. Scope of audit

(2) The Auditor-General shall determine the scope and extent of the examination or inspection of the accounts of each statutory corporation, public company, Department or private institution which he considers desirable to achieve the purposes specified in subsection (1).

(3) In the performance of his duties under subsections (1) and (2), the Auditor-General shall not be subject to the direction or control of any other person or authority.

5. (1) Whenever the Auditor-General has reason to believe that delay in reporting serious irregularities in the expenditure of public funds through his annual report may occasion financial loss to the Government or prejudice effective financial control, he shall forthwith prepare such special, interim or other audit report relating to audit investigation into such serious irregularities as he considers necessary to prevent or reduce any financial loss to the Government. Special and interim audit reports

(2) The Auditor-General shall, as soon as practicable, submit the special, interim or other audit report mentioned in subsection (1) to the President who shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such report, cause it to be laid before the Assembly; and if the President makes default in laying the report before the Assembly, the Auditor-General shall submit the report to the Speaker of the Assembly, or, if the office of Speaker is vacant or if the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker, who shall cause it to be laid before the Assembly.

6. Whenever the exigencies of public audit services so require, the Minister responsible for finance may, at the request of the Auditor-General, engage such agents or specialist consultants as are necessary to assist the Auditor-General in the execution of his duties. Engagement of agents and specialist consultants

7. (1) In the performance of his duties under this Act, the Auditor-General and any public officer, agent or specialist consultant authorised by him shall have- Powers of Auditor-General

- (a) access to all books, records, returns, reports and other documents relating to the accounts of any statutory corporation, public company, Department or private institution under audit examination or inspection;
- (b) access at any reasonable time of the day to the premises of any statutory corporation, public company, Department or private institution under audit examination or inspection;

- (c) power to call for any relevant information from persons responsible for the financial administration of any statutory corporation, public company, Department or private institution under audit examination or inspection.

(2) Notwithstanding anything contained in subsection (1), the Auditor-General shall not authorise any agent or specialist consultant-

- (a) to have access to any books, records, returns, reports or other documents, or to enter upon any premises, of any component of the Defence Force or the Zambia Security Intelligence Service; or
- (b) to have access to any books, records, returns, reports or other documents, or to enter upon any premises other than those mentioned in paragraph (a), if such access or entry is likely to-
 - (i) prejudice the security, defence or international relations of the Republic or the investigation or detection of offences; or
 - (ii) involve the disclosure of any matters or deliberations of a secret or confidential nature of the Cabinet or any sub-committee of the Cabinet.

8. (1) Notwithstanding anything to the contrary contained in any other written law, every contract for construction work or for the supply of equipment, machinery or materials involving the expenditure of public funds to which the Government, a public company or statutory corporation is a party, shall contain a provision empowering the Auditor-General or any public officer, agent or specialist consultant authorised by him to have access to, and examine all books, records, papers, reports and other documents relating to such contract.

Contract audit

(2) No moneys appropriated for expenditure on a contract for construction work or for the supply of equipment, machinery or materials valued at an amount in excess of fifty thousand kwacha shall be released to a contractor or supplier unless the Auditor-General's prior written certification that such contract contains the provision specified in subsection (1) has been obtained.

(3) Every contractor or supplier under a contract for construction work or for the supply of equipment, machinery or materials involving the expenditure of public funds in excess of fifty thousand kwacha to which the Government, public company or statutory corporation is a party, shall maintain separate books of account showing appropriate subsidiary accounts, together with relevant supporting documents relating to such contract.

9. (1) Where under any written law establishing a statutory corporation or public company provision is made for the appointment of an auditor, it shall be the duty of the auditor appointed pursuant to such provision to furnish the Auditor-General with copies of such certificates, reports, documents and other relevant information in respect of the accounts of such statutory corporation or public company as the Auditor-General may require.

Duties of auditors of statutory corporations, etc.

(2) Upon receipt of the copies of certificates, reports, documents and other relevant information mentioned in subsection (1), the Auditor-General shall determine the nature and extent of any audit review he may consider necessary and, where desirable, he may prepare and submit to the President in the manner specified in subsection (2) of section *five* a report on such audit review.

10. The Auditor-General shall, at the request of the President, conduct any specific audit investigation into the accounts of any statutory corporation, public company, Department or private institution as the President may consider desirable in the public interest.

Specific audit investigation

11. (1) Every public officer serving in the Office of the Auditor-General of or above the rank of Principal Auditor, and every agent or specialist consultant engaged under the provisions of section *six* shall, before entering upon the duties of his office, take and subscribe before the Chief Justice an oath in the form set out in the Schedule.

Oaths on appointment

(2) The provisions of subsection (1) shall not apply to any public officer, agent or specialist consultant who entered upon the duties of his office before the commencement of this Act:

Provided that any such public officer, agent or specialist consultant shall, as soon as may be after the commencement of this Act, take and subscribe an oath in accordance with the provisions of subsection (1).

(3) Where any person is required to take an oath under the provisions of subsection (1), and-

(a) he has no religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may make a solemn affirmation in the form set out in the Schedule by substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "SO HELP ME GOD".

12. No action or other proceeding shall lie against the Auditor-General or any public officer, agent or specialist consultant authorised by him for or in respect of the findings of any audit examination or inspection carried out by him in the exercise or purported exercise of his functions under this Act.

Immunity of Auditor-General and staff

The Laws of Zambia

13. Any person who obstructs or resists the Auditor-General or any public officer, agent or specialist consultant authorised by him in the exercise of his power of access, or power to call for relevant information, under this Act, shall be guilty of an offence and shall be liable, upon conviction, to a term of imprisonment not exceeding one year or to a fine not exceeding five thousand penalty units, or to both.

Penalty for obstructing Auditor-General, etc.

(As amended by Act No. 13 of 1994)

SCHEDULE

(Section 11)

I, having been appointed to exercise the functions of in the Office of the Auditor-General do swear that I will, without fear or favour, affection or ill will, discharge the functions of my office, and that I will not, directly or indirectly, reveal any matters relating to such functions other than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this day of,
.....19.....

.....
Chief Justice