



No. 5 of 1995.

Audit (Amendment) Act 1995.

Certified on : 15.05.95

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

Audit (Amendment) Act 1995.

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

AN ACT

entitled

Audit (Amendment) Act 1995,

Being an Act to amend the *Audit Act 1989,*

MADE by the National Parliament.

1. INTERPRETATION (AMENDMENT OF SECTION 1).

Section 1 of the Principal Act is amended -

- (a) by inserting after the definition of "fiscal year" the following new definitions:-

"Government association" means an association (other than a provincial government association) incorporated under the *Associations Incorporation Act* (Chapter 142) which -

(a) is funded in whole or in part by public moneys; or

(b) has as its objectives or one of its objectives the development of Governmental or inter-Governmental administration or co-operation;

"Government-owned company" means a company incorporated under the *Companies Act* (Chapter 146), a majority of the shares in which are held by, or on behalf of, the State;"; and

- (b) by inserting after the definition of "property" the following new definitions:-

"provincial government association" means an association incorporated under the *Associations Incorporations Act* (Chapter 142) which -

(a) is funded in whole or in part by a provincial government or provincial governments; or

(b) has as its objectives or one of its objectives the development of provincial government administration or co-operation between -

(i) provincial governments; or

(ii) a provincial government and the National Government; or

(iii) provincial governments and the National Government;

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"'provincial government-owned company' means a company incorporated under the *Companies Act* (Chapter 146) a majority of the shares in which are held by, or on behalf of, a provincial government or provincial governments;"; and

- (c) by inserting after the definition of "public moneys" the following new definition:-

"'public project' means a project funded by a loan the repayment or part of the repayment of which is, or is to be, made out of public moneys;"; and

- (d) by repealing the definition of "registered company auditor" and replacing it with the following:-

"'registered company auditor' means a person registered as a registered company auditor under Section 20(d) of the *Accountants Registration Act* (Chapter 89);"; and

- (e) by repealing the definition of "relevant body" and replacing it with the following:-

"'relevant body' means a body specified in Section 3(2);".

2. FUNCTIONS AND DUTIES OF THE AUDITOR-GENERAL (AMENDMENT OF SECTION 3).

Section 3(2) of the Principal Act is repealed and is replaced with the following:-

"(2) Without limiting the generality of Subsection (1), unless other provision is made by law in respect of the inspection and audit of them, Subsection (1) extends to the accounts, finances and property of all -

- (a) Departments of the National Public Service and arms, agencies and instrumentalities of the National Government; and
- (b) provincial governments, and arms, agencies and instrumentalities of provincial governments; and
- (c) bodies established by -
 - (i) a Constitutional law; or
 - (ii) an Act of the Parliament; or
 - (iii) executive or administrative act of the National Executive; or
 - (iv) a provincial law; or
 - (v) executive or administrative act of a provincial executive,for governmental or official purposes and subsidiary corporations of such bodies; and
- (d) Government associations; and
- (e) Government-owned companies; and
- (f) provincial government associations; and
- (g) provincial government-owned companies; and
- (h) public projects."

3. REPORTS BY AUDITOR-GENERAL (AMENDMENT OF SECTION 7).

Section 7 of the Principal Act is amended -

- (a) by inserting after Subsection (2) the following new Subsection:-

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"(2A) In a report under this section the Auditor-General shall specify -

- (a) whether the financial statements, to which the report relates, are based on proper accounts and records; and
- (b) whether the financial statements, to which the report relates, are in agreement with the accounts and records and whether they show fairly the financial operations for the period for which they cover and the state of affairs as at the end of that period; and
- (c) whether the receipt and payment and investment of moneys and the acquisition and disposal of assets during the year have been in accordance with the *Public Finances (Management) Act 1986*; and
- (d) such other matters arising out of the financial statements, to which the report relates, as the Auditor-General considers should be reported."; and

(b) by adding the following new subsection:-

"(4) The Auditor-General may at any time submit to the Speaker for presentation to the Parliament a special report on any matter that is of such importance or urgency that, in the opinion of the Auditor-General, it should not be deferred until the presentation of his annual report to Parliament."

4. AUDIT (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended -

(a) by repealing Subsection (2) and replacing it with the following:-

"(2) Subject to this section, the Auditor-General shall inspect and audit -

- (a) the accounts and records and financial transactions; and
- (b) the records relating to the assets and liabilities and assets in the custody, of each public body and shall promptly draw the attention of the Minister, and of the Minister responsible for the body to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing and shall report to them the results of his inspection and audit of any accounts and records under this section in respect of each financial period for which financial statements are prepared."; and

(b) by repealing Subsection (4) and replacing it with the following:-

"(4) The Auditor-General shall report, on all financial statements furnished to him under Section 62(4) of the *Public Finances (Management) Act 1986* by each public body, to -

- (a) the Minister; and
- (b) the Minister responsible for the body."; and

(c) by inserting after Subsection (4) the following new subsection:-

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- "(4A) A report under Subsection (4) shall specify -
- (a) whether the financial statements, to which the report relates, are based on proper accounts and records; and
 - (b) whether the financial statements, to which the report relates, are in agreement with the accounts and records and, in the case of -
 - (i) a public body or subsidiary corporation - declared by its constituent law to be a trading enterprise; or
 - (ii) Government-owned company - empowered by its Articles of Association to trade, whether the financial statements to which the report relates show fairly -
 - (iii) the financial operations for the period which they cover; and
 - (iv) the state of affairs at the end of that period."; and

(d) by inserting after Subsection (5) the following new subsection:-

"(5A) A body which is liable to audit by the Auditor-General shall not appoint a Registered Company Auditor to carry out the functions and powers of the Auditor-General under the **Constitution** and this Act."

5. REPEAL OF SECTION 9.

Section 9 of the Principal Act is repealed.

6. APPLICATION OF PART IV (AMENDMENT OF SECTION 10).

Section 10 of the Principal Act is amended by repealing the word "public" and replacing it with the following:-
"relevant".

7. REPEAL AND REPLACEMENT OF SECTION 11.

Section 11 of the Principal Act is repealed and is replaced with the following:-

"11. EXEMPTION.

Where, in relation to any financial year, a relevant body is unable to pay audit fees and charges which may be levied under this Part, the Auditor-General may, on satisfactory evidence to that effect, exempt it from payment of such audit fees and charges or a proportion of such audit fees and charges."

8. AUDITOR-GENERAL TO LEVY AUDIT FEES AND CHARGES (AMENDMENT OF SECTION 12).

Section 12 of the Principal Act is amended by repealing the word "public" (wherever occurring) and replacing it with the following:-
"relevant".

9. REPEAL AND REPLACEMENT OF SECTION 13.

Section 13 of the Principal Act is repealed and is replaced with the following:-

"13. RELEVANT BODY, ETC., TO PAY AUDIT FEES AND CHARGES.

Any audit fees and charges levied under Section 12 on a relevant body (other than a Department of the National Public Service, a provincial government or a local government council) are a debt due to the State and are payable to the Auditor-General in the prescribed manner."

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10. CONTROL AND AUDIT OF PROVINCIAL ACCOUNTS (AMENDMENT OF SECTION 16).

Section 16 of the Principal Act is amended -

(a) by repealing Subsection (1) and replacing it with the following:-

"(1) The provisions of this section apply to all provincial governments, bodies and projects specified in Subsection (2) notwithstanding any provision to the contrary in any other law and notwithstanding and without regard to any exceptions, limitations, conditions, additions or modifications contained in any other law."; and

(b) by repealing Subsection (2) and replacing it with the following:-

"(2) Subject to this section, the provisions of Section 214 (*functions of the Auditor-General*) of the *Constitution* extend to the accounts, money and property of each -

- (a) provincial government; and
- (b) subsidiary corporation of a provincial government; and
- (c) body established by -
 - (i) a provincial law; or
 - (ii) executive or administrative act of a provincial executive; and
- (d) provincial government association; and
- (e) provincial government-owned company; and
- (f) public project, where the repayment or part repayment of the loan is to be made out of provincial moneys."; and

(c) by inserting after Subsection (3) the following new subsections:-

"(3A) The Auditor-General shall, in a report under this section on the financial statements of a provincial government, specify -

- (a) whether the financial statements are based on proper accounts and records; and
- (b) whether the financial statements are in agreement with the accounts and records and whether they show fairly the financial operations for the period which they cover and the state of affairs at the end of that period; and
- (c) whether the receipt and payment and investment of moneys and the acquisition and disposal of assets during the period covered by the financial statements have been in accordance with the *Public Finances (Management) Act 1986* and the provincial legislation; and
- (d) such other matters arising out of the financial statements as the Auditor-General considers should be reported.

"(3B) The Auditor-General shall, in a report under this section on the financial statements of a relevant body, specify -

- (a) whether the financial statements are based on proper accounts and records; and

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- (b) whether the financial statements are in agreement with the accounts and records to which they relate and whether they show fairly the financial operations for the period which they cover and the state of affairs at the end of that period; and
 - (c) whether the receipt and payment and (where appropriate) the investment of moneys and the acquisition and disposal of assets of the organization has been in accordance with its constituent law; and
 - (d) such other matters arising out of the financial statements as the Auditor-General considers should be reported."; and
- (d) by repealing Subsection (6).

11. NEW SECTION 20A.

Part VII of the Principal Act is amended by inserting after Section 20 the following new section:-

"20A. STATIONING OF OFFICERS.

In order to carry out his duties under this Act more effectively, the Auditor-General may station in any relevant body or other body liable to audit by the Auditor-General, any person employed in his office and the relevant body or other body shall provide the necessary office accommodation for any person so stationed."

12. NEW SECTION 20B.

Part VII of the Principal Act is amended by inserting after Section 20A the following new section:-

"20B. ESTIMATES.

The Auditor-General shall prepare annually estimates of the sums that will be required for the payment of salaries, allowances and expenses of his office during the next ensuing financial year for consideration by the Permanent Parliamentary Committee on Public Accounts for recommendation to the Prime Minister for approval in conformity with Section 225 of the *Constitution*."

13. NEW SECTION 20C.

Part VII of the Principal Act is amended by inserting after Section 20B the following new section:-

"20C. SPECIAL REPORT.

Where the Auditor-General is of the opinion that the amounts provided for the office of Auditor-General in the estimates submitted to Parliament are not sufficiently adequate to enable him to fulfill his responsibilities, he may make a special report to the Parliament."

14. NEW SECTION 24A.

Part VII of the Principal Act is amended by inserting after Section 24 the following new section:-

"24A. INVESTMENT OF SURPLUS FUNDS.

The Auditor-General may invest in suitable investments any moneys at credit of his bank accounts surplus to his immediate requirements."

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15. **NEW SECTION 25A.**

Part VII of the Principal Act is amended by inserting after Section 25 the following new section:-

"25A. ACQUISITION OF PROPERTIES.

The Auditor-General may acquire and dispose of real and personal properties."

16. **OFFENCES (AMENDMENT OF SECTION 29).**

Section 29(2) of the Principal Act is amended by inserting after Paragraph (g) the following:-

"is guilty of an offence."

I hereby certify that the above is a fair print of the *Audit (Amendment) Act* 1995 which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Audit (Amendment) Act* 1995 was made by the National Parliament on 28 March 1995.

Speaker of the National Parliament.

