



REPUBLIC OF NAURU

## Audit Act 1973

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Act No. 17 of 1973

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**Audit Act 1973**

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**Act No. 17 of 1973**

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An Act to provide for the appointment, salary, conditions of service, duties, powers and functions of the Director of Audit and for the auditing of public accounts and for other purposes incidental thereto and connected therewith

*Certified on 8 November 1973*

Enacted by the Parliament of Nauru as follows:

**1 Short title and commencement**

This Act may be cited as the *Audit Act 1973* and shall come into force on a date to be notified by the Minister in the Gazette.<sup>1</sup>

**2 Interpretation**

In this Act, unless the context otherwise requires:

**'accounting officer'** includes every person who is charged with the duty of collecting, receiving or accounting for, or who in fact collects, receives or accounts for, any public moneys, or who is charged with the duty of disbursing, or who does in fact disburse, any public moneys, and every person who is charged with the receipt, custody or disposal of, or the accounting for, public stores or who in fact receives, holds, disposes of or accounts for public stores;

**'controlling officer'** means, in respect of public moneys collected, received or disbursed or public stores and other assets of the Republic received, held or disposed of by or on account of any department of the public service, the public service head of that department, save that, where provision is

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<sup>1</sup> By GN No. 242 of 1973, the Minister notified 9 November 1973 as the date of commencement of this Act.

made by any written law relating to the control and management of the public finances of the Republic for the appointment of persons to be responsible for the said public moneys and public stores and any person other than such public service head of the department has been appointed by or under that written law to be so responsible, it means the person so appointed;

**'public moneys'** means all revenue, loan, trust and other moneys and all stamps, bonds, debentures and other securities whatsoever raised, received or held, whether temporarily or otherwise, by or on account of the Republic;

**'public stores'** means chattels of whatsoever nature the property of, or in the possession of or under the control of, the Republic;

**'the Director of Audit'** means the public officer for the time being holding the office of Director of Audit by virtue of his appointment under the provisions of section 3 of this Act;

**'the Secretary for Finance'** means the public officer for the time being in charge of the Department of Finance in the public service of the Republic.

### **3 Director of Audit**

- (1) The Director of Audit shall be appointed by the Chief Secretary:

Provided that no appointment shall be made except with the approval of the Cabinet.

- (2) Subject to Clause (3) of Article 65 of the Constitution, the annual salary of the Director of Audit shall be such amount as the Cabinet fixes by regulations made hereunder.
- (3) The provisions of the law and regulations relating to the public service shall apply to the Director of Audit, except where such provisions are in conflict with the provisions of the Constitution, this Act or any other written law for the time being in force.

### **4 Absence, etc., of the Director of Audit**

- (1) Where the Director of Audit is unable, by reason of illness, absence from Nauru or other cause, to carry out his duties and functions, the Chief Secretary may appoint any person to perform those duties and functions until such time as the Director of Audit is again able to perform them.

- (2) Where the post of Director of Audit is vacant, the Chief Secretary shall appoint some person to perform the duties and functions of the post until such time as a Director of Audit is appointed:

Provided that an appointment made under this subsection shall not continue for longer than twelve months and no further such appointment shall be made upon the expiration of the period of that appointment.

- (3) Every person appointed under the provisions of this section to perform the duties and functions of the Director of Audit shall, for so long as the appointment continues, have and may exercise all the powers and authority of, and shall perform the duties imposed upon the Director of Audit by this Act and any other law for the time being in force.
- (4) No appointment shall be made under the provisions of this section without the prior approval of the Cabinet.

## **5 Staff of Audit Office**

- (1) The staff required to assist the Director of Audit in the performance of his duties shall be composed of such number of public officers as the President may determine; such officers shall be appointed by the Chief Secretary.
- (2) Anything which under the authority of this Act is directed to be done by the Director of Audit, other than the certifying and reporting of accounts for Parliament, may be done by any officer of his staff authorised by him in that behalf.

## **6 Duties of the Director of Audit**

- (1) Subject to the provisions of subsection (2) of this section, the Director of Audit shall, on behalf of Parliament, examine, inquire into and audit the accounts of all accounting officers in Nauru and in the offices of the Republic outside Nauru.
- (2) The Director of Audit may, in respect of accounts maintained at any office of the Republic outside Nauru, authorise any person publicly carrying on the profession of accountant in the country in which that office is situated or a public officer to inspect, examine or audit the books and accounts maintained at that office; such person or public officer shall have and may exercise so much of the powers and authority of the Director of Audit as the Director of Audit may by writing under his hand delegate to him and shall report on his inspection, examination or audit of

those books and accounts to the Director of Audit in such manner as the Director of Audit may direct.

- (3) The Director of Audit shall satisfy himself:
  - (a) 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; and
  - (b) that all money appropriated or otherwise disbursed has been expended and applied for the purpose or purposes for which the grants made by Parliament were intended to provide and that the expenditure conforms to the authority which governs it.
- (4) No authority shall be given to any public officer under the provisions of subsection (2) of this section except with the consent of the Minister responsible for the department of the public service in which that officer is employed.
- (5) The Director of Audit may, subject to such expenditure being authorised by an appropriation law or under, or by a law made under, Article 61 of the Constitution, pay from the Treasury Fund to any person, other than a public officer, authorised by him under subsection (2) of this section to inspect, examine or audit any books and accounts his reasonable expenses of such inspection, examination or audit and such fees as may from time to time be authorised in writing by the Speaker.

## **7 Accounts of statutory bodies**

- (1) Where by or under the provisions of any written law the Director of Audit is required or authorised to inspect, examine or audit the books and accounts of any body corporate established by such written law, in the exercise of his duties thereunder the Director of Audit shall have, in relation to any such body corporate and its members, officers and employees, the same discretion and powers *mutatis mutandis* as are conferred upon him by sections 6 and 9 of this Act in relation to public moneys and public stores.
- (2) The Director of Audit may authorise any person publicly carrying on the profession of accountant in the country where the books and accounts are kept or any public officer to inspect, examine or audit the books and accounts of any body corporate which by or under the provisions of any written law he may be required or authorised to inspect, examine or audit and such person or

officer shall report thereon to the Director of Audit in such manner as the Director of Audit may direct.

- (3) No authority shall be given to any public officer under the provisions of the last preceding subsection (2) except with the concurrence of the Minister responsible for the department of the public service in which that officer is employed.
- (4) The Director of Audit shall report on his inspection, examination or audit of the books and accounts referred to in this section and shall, unless any written law requires otherwise, submit his report to the Minister responsible for the administration of the Act or Ordinance by which the body corporate is established, who shall cause it to be laid before Parliament as soon as reasonably possible:

Provided that such Minister shall obtain the observations of the body corporate on any matter to which attention has been called by the Director of Audit in his report and such observations shall be furnished to Parliament with the said report.

- (5) The Director of Audit may, subject to such expenditure being authorised by an appropriation law or under, or by a law made under, Article 61 of the Constitution, pay from the Treasury Fund to any person authorised under subsection (2) to inspect, examine or audit any books and accounts his reasonable expenses of such inspection, examination or audit and such fees as may from time to time be authorised in writing by the Speaker:

Provided that, unless otherwise provided by any written law, all moneys so paid shall be reimbursed to the Treasury Fund by the body corporate whose books and accounts such person was authorised to inspect, examine or audit.

## **8 Notification of irregularities to the Minister**

If at any time it appears to the Director of Audit that any irregularities have occurred in the expenditure, receipt, custody, issue, sale, transfer or delivery of any public moneys or public stores, or in the accounting for the same, he shall immediately bring the matter to the notice of the Minister.

**9 Powers of the Director of Audit**

(1) In the exercise of his duties under this Act the Director of Audit may:

- (a) call upon any public officer for any explanations and information he may require in order to enable him to discharge his duties;
- (b) authorise in writing any public officer on his behalf to conduct any inquiry, examination or audit and such officer shall report thereon to the Director of Audit:

Provided that any such authority shall be subject to the concurrence of the Minister responsible for the department of the public service in which that officer is employed;

- (c) without payment of any fee cause search to be made in and extracts to be taken from any book, document or record in any public office;
- (d) examine upon oath, declaration or affirmation, which oath, declaration or affirmation the Director of Audit is hereby empowered to administer, all persons whom he may think fit to examine respecting the expenditure, receipt, custody, issue, sale, transfer or delivery of any public moneys or public stores, and respecting all other matters and things whatsoever which he considers necessary for the due performance and exercise of the duties and powers vested in him;
- (e) lay before the Supreme Court a case in writing as to any question regarding the interpretation of any written law concerning the powers of the Director of Audit or the discharge of his duties, and a judge of the Supreme Court shall give a written opinion on such case.

(2) In the exercise of his duties under this Act the Director of Audit or any person duly authorised by him shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores and other property of the Republic in the possession of any officer.

(3) Any person examined pursuant to the provisions of paragraph (d) of subsection (1) of this section 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 deemed to be

guilty of perjury and shall be liable to be prosecuted and punished accordingly.

**10 Yearly statement of accounts**

- (1) The Minister responsible for the public accounts of the Republic shall, within a period of three months after the end of each financial year or such longer period thereafter as Parliament may by resolution appoint, certify under his hand, subject to such explanation and qualification as he may think necessary, and transmit to the Director of Audit the following statements and accounts:
  - (a) a statement of the Treasury Fund showing the estimates of receipts and expenditure under the several heads and sub-heads, including any supplementary estimates, approved in respect of that financial year and the amounts actually received and expenditure incurred under those heads and sub-heads;
  - (b) statements of the Government Loans Fund and of the Trust Fund showing receipts and expenditure in each case;
  - (c) a statement of the assets and liabilities of the Republic at the end of the financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding; and
  - (d) such other statements as Parliament may, from time to time, by resolution require or the Minister may consider necessary.
- (2) A controlling officer shall, if so required by the Minister responsible for the public accounts of the Republic, to the extent that he is responsible for the control of the public moneys to which any part of the statement referred to in the preceding subsection relates, certify under his hand, subject to such explanation or qualification as he may think necessary, the correctness of such part of such statement and the propriety of the charges shown therein.
- (3) Every public officer who receives moneys as official trustee, public trustee or Curator of Intestate Estates or in a like capacity or is responsible for the administration of any fund established by any written law shall, within a period of one month after the end of each financial year, sign and transmit to the Secretary for Finance a statement relating to such moneys or funds setting



out the income and expenditure during that financial year and the assets and liabilities at the end thereof, and the Secretary for Finance shall transmit such statement to the Director of Audit together with the statements and accounts referred to in subsection (1).

**11 Annual report of Director of Audit**

- (1) The Director of Audit shall prepare and transmit to the Minister within a period of five months after the close of each financial year, or such longer period thereafter as Parliament may by resolution appoint, a report upon his examination and audit of all accounts relating to public moneys and public stores, together with certified copies of the statements and accounts referred to in section 10.
- (2) The Minister shall lay on the table of Parliament within two weeks of receiving the report of the Director of Audit or, if Parliament is not in session on any of the last four days of that period, on the first day of the next session of Parliament thereafter, a copy of the report together with a copy of the statements and accounts referred to in section 10 received therewith.
- (3) The Director of Audit may at any time, if it appears to him to be desirable, transmit a special report to the Minister for presentation in like manner to Parliament. Such special report may be made on any matter incidental to his powers and duties under this Act.