Commencement: 7 August 1998

CHAPTER 241

EXPENDITURE REVIEW AND AUDIT

Act 3 of 1998
Act 36 of 2000

ARRANGEMENT OF SECTIONS

PART 1 – PRELIMINARY
1. Application
2. Interpretation
3. Purpose of this Act

PART 2 – PUBLIC ACCOUNTS COMMITTEE TO REVIEW PUBLIC EXPENDITURE
4. Public Accounts Committee
5. Chairperson of the Committee
6. (*Repealed*)
7. (*Repealed*)
8. Vacancy in the office of Chairperson
9. Other Committee members
10. (*Repealed*)
11. Procedure of Committee
12. Quorum of Committee
13. Duties of the Committee
14. Objectives and functions of the Committee
15. Powers of Committee
16. Reports of Committee
16A. Statement of action to be included in annual report
17. Privileges of witnesses
18. Secretarial and administrative assistance
19. Assistance generally

PART 3 – OFFICE OF THE AUDITOR-GENERAL
20. Establishment of the Office of the Auditor-General
21. Auditor-General
22. Remuneration and other conditions of employment of Auditor-General
23. Removal or suspension of Auditor-General
24. Contracting out activities of office
25. Auditor-General may delegate powers
26. Qualifications of Auditor-General
27. Duties of the Auditor-General
28. Conduct of audits
29. Incompatible functions
30. Procedures
31. Powers of the Auditor-General
32. Reporting
33. Annual report
34. Auditor-General may communicate with minister

PART 4 – GENERAL
35. Regulations
36. Offences
37. Penalties for offences
38. Transitional
39. Repeal

EXPENDITURE REVIEW AND AUDIT

An Act to provide for a committee to review public expenditure and establish the Office of the Auditor-General, and to provide for their objectives, functions and powers.

PART 1 – PRELIMINARY

1. Application

This Act applies to a ministry, agency, local authority and ministerial office.

2. Interpretation

(1) In this Act, unless the context otherwise requires:

"Accounting Officer" means any person who by any Act or by virtue of any appointment is charged with a duty to, or who actually does, collect, receive, disburse or deal in any way with any public money, or a person who is charged with the purchase, receipt, custody, or disposal of, or the accounting for, any public resources or public securities;

"agency" includes an office or instrument of the Executive Government other than a ministry and also includes an Organisation or corporation (whether established by statute or otherwise) and any subsidiary of a corporation where the Organisation or corporation either:

(a) is substantially owned or controlled by Government; or

(b) has a significant financial in interdependence with the State by virtue of an allocation in an Appropriation Act; or

(c) has significant use of or controls public money;

"Auditor-General" means the person appointed under this Act as Auditor-General and head of the Audit Office;

"Audit Office" is deemed to be that part of the Office of the Auditor-General charged with the responsibility of audit under this Act;

"books and accounts" or "books or accounts" includes all books, accounts, rolls, files, vouchers, receipts, cheques, records, registers, papers, documents, photographic plates, microfilms, photostatic negatives, prints, tapes, disks, computer reels, diskettes, and hard disk, perforated rolls, and any other type of written or electronic record whatsoever, and also includes all papers and other records relating to accounting operations and practice:

"Chairperson" means the Chairperson of the Committee:

"Committee" means the Public Accounts Committee established under the Standing Orders of the Parliament;

"Document" means a document in any form, and includes:

(a) any writing on any material;

(b) any information recorded or stored by means of any tape-recorder, computer, diskette, tape or other device, and any material subsequently derived from information so recorded or stored;

(c) any label, marking, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;

(d) any book, map, plan, graph, or drawing;

(e) any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced;

"Estimates" means the statement of the proposed public revenues and expenditure during any financial year, as approved by Parliament, through the passing of an Appropriation Act;

"Generally Accepted Audit Practice" ("GAAP") means:

(a) approved auditing report standards (within the international community) so far as those standards apply in the application of this Act; and

(b) in relation to matters for which no provision is made in approved auditing standards, and which are not subject to any applicable rules of law, auditing policies, concepts or principles which may be regarded as appropriate in relation to the application of this Act and having the authoritative support of the auditing profession;

"Government contract" means any contract for provision of public resources or for the supply of goods, services or the execution of any works in consideration of and, payment of public money or any money, and includes any sub-contract made in relation to such contract (whether or not the contract or sub-contract has been wholly or partly, performed or executed);

"Local Authority" means a local government council and municipal council, and includes any public authority, council or entity that derives the whole or part of its funding from the State, through an Appropriation Act;

"Minister" means the minister charged with the responsibility for the Office of the Auditor-General;

"Ministry" means a ministry of Government and includes a department, branch or division within a ministry, whether established by enactment or otherwise;

"Office" means the Office of the Auditor-General established under section 20 of this Act;

"public expenditure" means the commitment or expenditure of public money and includes:

(a) any loan obtained for or given by; or

(b) any public security provided to or by,

the Government of Vanuatu, a minister, ministerial office, ministry, agency or local authority;

"public money" means all the resources and entitlements owned by, owed to, or held by the State, or held by any ministry, agency or any other person for or on behalf of the Government or ministry or agency and includes public resources;

“public security" means any security issued pursuant to the Public Finance and Economic Management Act [Cap. 244] or any other Act in respect of money borrowed, or a guarantee given, by the State; and includes any loan or credit agreement, guarantee, indemnity, bond, note, debenture, bill of exchange, promissory note, stock and any other security, representing part of the debt of the State;

"State" means the State in right of the Government of Vanuatu and includes an agency, ministry, local authority and ministerial office;

"the Act" means the Public Finance and Economic Management Act [Cap. 244].

(2) Where a document is held by a board, council, committee, sub-committee, or other body:

(a) which is established for the purpose of assisting or advising, or performing functions connected with, any minister, ministry, local authority, agency or ministerial office; and

(b) which is so established in accordance with the provisions of any enactment or by the Council of Ministers, minister, ministry, local authority, agency, or ministerial office,

that document shall, for the purposes of this Act, be deemed –

(c) in any case where that body is established in respect of any ministry, agency, local authority or ministerial office to be a document held by that ministry or agency, local authority or ministerial office; and

(d) in any case where that body is established in respect of a minister, to be a document held by that minister.

(3) Where subsection (2) applies in respect of any body and that body is established for the purpose of assisting, advising, or performing functions conducted with any ministry, agency, local authority or ministerial office that body shall, for the purposes of this Act, be deemed to be part of that ministry, agency, local authority or ministerial office.

(4) A document held by any employee of a ministry, agency, local authority or ministerial office in his or her capacity as such or in his or her capacity as a statutory officer shall, for the purposes of this Act, be deemed to be held by the ministry, agency, local authority or ministerial office of which he or she is an officer or employee.

(5) Any document held by any independent contractor engaged by any minister, ministry, agency, local authority or ministerial office as such shall, for the purposes of this Act, be deemed to be held by the ministry, agency, local authority or ministerial office by which the independent contractor is engaged.

(6) The Minister may by regulation prescribe any local government body, instrument or agency thereof to be a local authority for the purposes of this Act.

(7) For the avoidance of doubt, it is hereby declared that the terms “ministry" and "agency" or "local authority" do not include:

(a) a Court;

(b) a tribunal or commission in relation to its judicial functions; or

(c) a Commission of Inquiry, Parliamentary inquiry, or Board of Inquiry or Court of Inquiry or Committee of Inquiry appointed pursuant to any enactment to inquire into a specified matter.

(8) A reference to a minister shall include a reference to a minister's ministerial office and staff employed in that office.

3. Purpose of this Act

The purposes of this Act are to give effect to the principle of the Executive Government's responsibilities to the public through Parliament to:

(a) make available such information as will enable Parliament to be informed of the scrutiny of public expenditure and the management of public money;

(b) promote the accountability of ministries and ministers of the State, where public expenditure and public money are concerned;

(c) promote the accountability of local authorities and agencies in the management of public money, money and resources of such authorities and agencies.

PART 2 – PUBLIC ACCOUNTS COMMITTEE TO REVIEW PUBLIC EXPENDITURE

4. Public Accounts Committee

(1) The Committee has such functions, duties and powers as are conferred on it by this Act.

(2) To avoid doubt, subsection (1) does not limit any functions, duties or powers conferred on the Committee by the Standing Orders of the Parliament.

5. Chairperson of the Committee

(1) The Chairperson of the Committee is to be a member of the Parliament who:

(a) is not a member of the Government; and

(b) has the capacity to discharge the functions of the Chairperson; and

(c) has an understanding of Government.

(2) The Chairperson is to be appointed by the Parliament.

(3) If the Parliament is not in session and the position of Chairperson is vacant, the Speaker of the Parliament may appoint a member of the Parliament who satisfies the criteria in subsection (1) to act as the Chairperson until the Parliament appoints the Chairperson.

(4) If the Chairperson of the Committee becomes a member of the Government, the Chairperson is taken to have resigned from the Committee on that event occurring. A new member of the Parliament must be appointed as the Chairperson in accordance with this section.

(5) The Chairperson may at any time resign as Chairperson by notice in writing addressed to the Prime Minister.

(6) Without limiting sections 7 and 8, the Chairperson ceases to be the Chairperson when the Committee ceases to exist in accordance with the Standing Orders of the Parliament.

6. (*Repealed)*

7. (*Repealed)*

8. Vacancy in office of the Chairperson

(1) On the occurrence of a vacancy in the office of Chairperson (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Chairperson (from whatever cause arising), the Committee may, notwithstanding the provisions of section 5, from amongst its members appoint a person who shall have and may exercise all the functions, duties and powers of the Chairperson until either:

(a) a person is appointed pursuant to section 5 in the case of a vacancy; or

(b) the Chairperson resumes duties in the case of the Chairperson's absence.

(2) The fact that any person appointed pursuant to subsection (1) exercises any function, duty, or power of the Chairperson shall, in the absence of proof to the contrary, be conclusive evidence of that person's authority to do so and every reference to the

Chairperson in this Act shall include a reference to any person appointed pursuant to subsection (1).

9. Other Committee members

(1) In addition to the Chairperson, the Committee is to comprise not more than 6 other members who must be members of Parliament appointed by the Parliament.

(1A) If the Parliament is not in session and there are vacant positions on the Committee, the Speaker of the Parliament acting on the recommendations of the Prime Minister and the Leader of the Opposition can appoint members of the Parliament to act as members of the Committee until such time as the Parliament appoints members of the Committee.

(2) The Committee shall comprise an equal number of members from Government and from members of Parliament who are not members of Government.

(3) Should any member of the Committee:

(a) who is not a member of Government become a member of Government; or

(b) who is a member of Government cease to be a member of Government;

then the member is deemed to have resigned from the Committee on that event occurring, and a new member must be appointed within 14 days of the former member's resignation in accordance with subsection (1) and consistent with subsection (2).

(4) No member of the Committee shall undertake, perform or engage in any employment, duty or function that shall be inconsistent with the performance by the member of the duties or functions imposed on that person pursuant to this Act.

(5) Without limiting section 10, a member of the Committee ceases to be a member when the Committee ceases to exist in accordance with the Standing Orders of the Parliament.

10. (*Repealed)*

11. Procedure of Committee

(1) Subject to the provisions of this Act, the Committee shall regulate its own procedure and shall, subject to subsection (2), meet at such times and places as the Chairperson or a quorum of the Committee shall determine.

(2) Unless otherwise directed by Parliament to meet more frequently the Committee shall meet at least once in every month, whether Parliament is in session or not, and notice of every meeting shall be given to every member of the Committee.

(3) All decisions of the Committee shall be by majority vote of those members present at the meeting and in the event of there being an equality of votes, the Chairperson shall have a casting as well as a deliberative vote.

12. Quorum of Committee

The quorum of the Committee shall be not less than half the members for the time being of the Committee.

13. Duties of the Committee

It shall be the duty of the Committee to ensure the attainment of the purposes and objectives of this Act and the Committee shall in the pursuit of those purposes and objectives have all such functions and powers in relation to ministers, ministries, agencies, and local authorities as is conferred on the Committee by this Act or any other enactment.

14. Objectives and functions of the Committee

(1) In the performance of its duties it shall be the objective of the Committee with the assistance of the office of the Auditor-General to ensure that adequate public accountability is achieved by:

(a) confirming that the obligations under the Act are met, in particular:

(i) required economic and financial statements are produced and are reviewed;

(ii) adherence to fiscal disciplines is explicit;

(iii) statements of responsibilities are completed and sufficient undertakings exist in order to rely on them;

(iv) that all obligations of directors-general of ministries are met;

(b) providing a mechanism for public consultation about budget and expenditure matters;

(c) undertaking or supervising all audits in order to ensure the reliability of systems and procedures and the integrity of information produced;

(d) the pursuit of legitimate issues of public concern that affect the management of public money;

(e) review of the efficiency and effectiveness of the financial performance of those persons, organizations or entities managing, collecting, expending or administering public money.

(2) In the performance of its duties it shall be the function of the Committee to:

(a) review the policy statements under the Act and the relevance of the provisions or outcomes proposed and note submissions from the public;

(b) review and comment on the content of the various other statements, economic updates and reports required under the Act;

(ba) review and comment on annual reports prepared under section 20(1)(h) of the Public Service Act [Cap. 246];

(c) note compliance by the Minister for Finance in terms of the provision of those statements required under the Act and comment publicly if there is any non-compliance by any party;

(d) consider and report to Parliament (after consultation with the Auditor-General) on the adequacy and nature of the programme intended to be undertaken by the Auditor-General;

(e) report to Parliament (after consultation with the Auditor-General) on the adequacy of the external audit arrangements proposed by the Auditor-General including the standards to be followed;

(f) review and report to Parliament (after consultation with the Auditor-General) on whether the Auditor-General's Office has sufficient resources to enable the Auditor-General to perform his or her functions and if the Committee finds there are insufficient resources, to advise Parliament on the additional resources required;

(g) review annual financial statements of the State, and the audit opinion thereon, including any concerns raised by the Auditor-General;

(h) receive submissions from the public;

(i) examine the details of all reported offences and penalties imposed under the Act;

(j) regularly report to Parliament upon any matters considered by the Committee or referred to the Committee which the Committee considers ought to be brought to the notice of Parliament;

(k) pursue any concerns that the Committee believes are justified, and in particular in the context of other parties' responsibilities under the Act, that the Committee believes are within the legitimate functions of the Committee.

15. Powers of Committee

(1) For the purpose of fulfilling any function or duty lawfully conferred or imposed on it, the Committee:

(a) shall have full access at all convenient times to Government contracts, documents, books and accounts relating to public expenditure and public money specifically relevant to any inquiry;

(b) may, by notice in writing signed by the Chairperson require any person having possession or control of any Government contract, documents, books, accounts relating to public expenditure, or public money to deliver to it at a time and place specified in the notice, all or any such Government contract documents, books and accounts;

(c) may cause extracts to be taken from any Government contract, document, book or account relating to public expenditure, or public money without paying any fee therefor;

(d) may summon any person to supply any information or answer any question on oath relating to public expenditure and public money under inquiry.

(2) No member of the Committee shall have any civil liability for any act done in good faith pursuant to this Act.

16. Reports of Committee

(1) The Committee shall at least twice in every year prepare a written report signed by the Chairperson of all matters considered by the Committee.

(2) Every report (including every interim report) shall be submitted to the director-general of a ministry, or the head of an agency or local authority or minister affected thereby.

(2A) The director-general of the ministry, or the head of the agency or local authority or minister affected by a report must, within 28 days after receiving the report, provide written comments to the Committee on the following matters:

(a) the actions proposed to be taken to rectify any non-compliance with the Public Finance and Economic Management Act [Cap. 244] and any other relevant law that has been identified in the report;

(b) all reported offences and penalties imposed under the Public Finance and Economic Management Act [Cap. 244] and any other law;

(c) such other matters that are specified in writing by the Committee.

(2B) The Committee may:

(a) amend its report in response to any comments received under subsection (2A); and

(b) exercise all or any of its powers under section 15 in relation to any comments provided under subsection (2A) (e.g. the Committee could summon a person to appear to answer questions about any comments relating to public expenditure and public money in accordance with section 15(1)(d)).

(3) The Committee shall forward the report, together with the comments made under subsection (2A) to the Speaker of Parliament who shall forthwith present the same to Parliament if Parliament is in Session, and if not in Session forthwith upon the commencement of the next ensuing Session.

(3A) The director-general of the ministry, or the head of the agency or local authority or minister affected by a report mentioned in subsection (2) must, within 6 months after receiving the report or such longer period as the Committee approves in writing, provide a written statement to the Committee setting out the following:

(a) how the proposed action under subsection (2A)(a) has been implemented;

(b) if the proposed action has not been implemented – the reasons for this and details of how and when it will be implemented.

(4) The Committee shall in each of it reports indicate the dissenting views of a member if that member so requests.

(5) Other than in the performance of the duties, functions and powers conferred by this Act on the Committee or a member of the Committee, it shall not be lawful for the Committee or any member of the Committee to disclose to any person any information that shall come to the Committee's or member's attention and all such information shall remain confidential.

16A. Statement of action to be included in annual report

The director-general of a ministry must include in the annual report required under section 20(1)(h) of the Public Service Act [Cap. 246] a statement setting out the actions that have been taken during the year to which the report relates to rectify any matters raised by a report of the Public Accounts Committee.

17. Privileges of witnesses

(1) Where any person sworn and examined as a witness by or before the Committee on any matter which is a subject of inquiry refuses to answer any question put to that person on the ground that the answer to such question may tend to incriminate that person and the Committee is of the opinion that full answers are required in order to enable it to deal satisfactorily with the matter under inquiry, then the Committee may inform the witness of that fact and then the witness shall answer as required.

(2) Every such witness who thereupon answers fully and faithfully any question put to that person shall be entitled to receive a certificate under the hand of the Chairperson stating that such witness was, upon examination, required to answer and had answered all such questions.

(3) No statement made by any person in answer to any question put by or before the Committee pursuant to this section shall, except in the case of the witness being prosecuted for perjury, be admissible as evidence in any proceedings, civil or criminal.

(4) Every witness sworn and examined under this section shall, subject to subsections (1), (2) and (3), have the privileges and immunities of a witness sworn and examined in the Supreme Court.

18. Secretarial and administrative assistance

(1) The Office of the Auditor-General must provide to the Committee such reasonable secretarial and administrative facilities including staff as shall be required by the Committee to enable the Committee to efficiently and effectively perform its functions, duties and powers.

(2) The secretarial and administrative facilities will be provided to the level that is allocated for that purpose in the office's budget.

19. Assistance generally

(1) It shall be the duty of every minister, and every person in control of, employed in or engaged by every ministry, agency or local authority, and every agent thereof to give assistance to the Committee and to every member acting on behalf of the Committee.

(2) The Committee shall be entitled to enlist the assistance of any person, authority or organisation in the performance of its functions, duties and powers.

PART 3 – OFFICE OF THE AUDITOR-GENERAL

20. Establishment of the Office of the Auditor-General

(1) There is hereby established an Office of the Auditor-General which shall be charged with the review and audit functions as provided for under this Act and Article 25 of the Constitution, and with such other functions as may from time to time be lawfully conferred on it.

(2) Nothing in this section shall derogate from any of the powers, duties, functions and discretions imposed upon the employees of the Office of the Auditor-General under this Act.

21. Auditor-General

(1) There shall from time to time be appointed in accordance with Article 25 of the Constitution an Auditor-General, who shall be the head of the Office of the Auditor-General.

(2) The Auditor-General shall be deemed not to be a member of the Public Service provided that provision of any law for the time being in force relating to the rights and employment of employees of that Service, shall apply to the Auditor-General as if the Auditor-General were an employee of that Service.

(3) There may from time to time be appointed in accordance with the Public Service Act [Cap. 246] in consultation with the Auditor-General, such other employees as may be necessary for the effective and efficient carrying out of the functions and duties of the office subject to consideration of the budget allocated to that office.

(4) The Auditor-General must employ two competent external audit advisors for just that time necessary to offer advice and assistance in the discharge of the Auditor-General's functions including confirming adherence to standards, who together with the Auditor-General will collectively be known as the Audit Commission.

(5) Other than in the performance of the duties, functions and powers conferred by this Act on the Auditor-General or any other employee of the office, it shall not, except as may be required by law, be lawful for the Auditor-General or any other employee of the office to disclose to any person any information that shall come to the attention of the Auditor-General or an employee, and all such information shall remain confidential.

22. Remuneration and other conditions of employment of Auditor-General

Subject to any enactment that may fix the same, there shall be paid to the Auditor-General out of the Public Fund remuneration, travelling and other allowances and expenses at such rate as the Minister by order may from time to time determine.

23. Removal or suspension of Auditor-General

The Auditor-General may be removed or suspended from office by the Public Service Commission after consultation with the Committee and the Council of Ministers for incompetence, disability, bankruptcy, neglect of duty or misconduct.

24. Contracting out activities of office

(1) The Auditor-General may contract out to any other persons or organisations of established competence and reputation any of the Auditor-General's responsibilities under Part 3 of this Act in order to ensure that all such responsibilities of the office are being carried out efficiently.

(2) The Auditor-General shall in any one financial year contract out in accordance with subsection (1) hereof sufficient of the responsibilities of the Auditor-General, and in any event a minimum of 20% of those responsibilities.

(3) Any person or Organisation appointed in accordance with subsection (1) shall, after consultation with the Auditor-General but before commencement of work for a ministry, agency or local authority agree upon a fee which represents a reasonable charge for the work to be undertaken.

25. Auditor-General may delegate powers

(1) The Auditor-General may from time to time by writing under the Auditor-General's hand, either generally or particularly, delegate to such employees of the office as he or she thinks fit, all or any of the powers exercisable by the Auditor-General under this or any other enactment but not including the power of delegation conferred by this section.

(2) Subject to any general or special directions given or conditions attached by the Auditor-General, the employees to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on that person by this Act and not by delegation under this section.

(3) Until a delegation made under this section is revoked, it shall continue in force according to its tenor and, in the event of the Auditor-General by whom any such delegation has been made ceasing to hold office, the delegation shall continue to have effect until revoked by a successor in office.

(4) Where an employee purports to act pursuant to a delegation made under this section that person shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Any delegation under this section must be made to a specified employee or to employees of a specified class with sufficient experience and skill.

(6) Every delegation made under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Auditor-General.

26. Qualifications of Auditor-General

No person shall be appointed or continue to hold office as Auditor-General unless such person has formal qualifications and significant experience in audit work and has and maintains no interest in the undertaking or outcome of any work required by this Act other than an interest in common with members of the public generally, and enjoys public confidence and standing in the community.

27. Duties of the Auditor-General

(1) Without limiting the provisions of Article 25 of the Constitution the Auditor-General shall:

(a) monitor compliance with the requirements of the Act including assisting the Committee in its scrutiny of adherence to the Act and having particular regard to sections 11-17, 24, 26-31 of the Act;

(b) assist the Committee to discharge its obligations, functions and responsibilities under section 14 of this Act including:

(i) conducting audits, investigations and inquiries into matters referred to the Office of the Auditor-General by the Committee;

(ii) examining and reviewing the estimates of revenue and expenditure, of the Public Fund, accounts of ministries, agencies, local authorities and ministerial offices;

(iii) furnish the Committee with such information, analysis, appraisals, recommendations and advice that will assist in the performance of the Committee's duties and functions;

(iv) peruse issues and recommendations contained in the Committee's report to Parliament and other audit reports concerning ministries, agencies, local authorities and ministerial offices and where applicable take the appropriate action;

(v) ensure every reference to the Auditor-General by the Committee shall contain specific terms upon which the Auditor-General shall be expected to undertake any audit, investigation or inquiry, subject to agreement of priorities and the availability of budgeted funds;

(c) review and confirm the discharge of financial management obligations including maintenance of accounting records to ensure that ministers, directors-general, agencies and local authorities have complied with their financial management obligations under the Act;

(d) in reviewing such obligations determine whether each ministry, agency, local authority or ministerial office does ensure:

(i) revenue is properly assessed and collected;

(ii) expenditure is validly and correctly authorised;

(iii) revenue, expenses, assets and liabilities are properly recorded and accounted for;

(iv) financial and operating information is reliable;

(v) assets are safeguarded against loss or destruction;

(vi) resources are employed and managed in an effective, economic and efficient manner;

(vii) outcomes or provisions produced are consistent with those specified in the Appropriation Act;

(viii) relevant Government policies and legislation are being complied with;

(ix) the efficient and effective management of the financial resources of Government;

(e) in examining accounting records and adequacy of internal control, the Auditor-General shall have regard to whether:

(i) the accounts and records have been faithfully and properly kept;

(ii) the procedures, including internal controls applied are sufficient to ensure:

(A) there is an effective management of the assessment, collection and proper allocation of revenue and other receipts and all public money is accounted for;

(B) all expenditure is properly authorised and correctly charged against the relevant allocation appropriated by Parliament,

(f) arrange for all audits of the State to be undertaken and confirm such are completed to a standard consistent with generally accepted audit practice:

(g) pursue any concern that arises in respect of the management of public resources which in the Auditor-General's opinion justifies further investigation;

(h) carry out such other reviews as may from time to time be necessary.

28. Conduct of audits

(1) In carrying out all audits the Auditor-General shall express an opinion on the reliability of the information contained in statements produced under Part 5 of the Act and shall ensure:

(a) that the audit is properly specified, planned and managed, so as to ensure that the audits are completed to the required standard in the time specified;

(b) that all audits contracted out to a person or organisation in accordance with section 24 shall include an agreement as to all the necessary terms and conditions of that audit; and

(c) the audit is the subject of a formal opinion and report which shall confirm that generally accepted audit practice standards have been complied with.

(2) The Auditor-General and the Office of the Auditor-General shall have all such other functions and duties as are lawfully conferred upon that person or Office.

(3) All provisions relating to Auditors in the Companies Act shall not derogate from the functions, duties and powers of the Office of the Auditor-General under this Act.

29. Incompatible functions

No employee of the Office of the Auditor-General shall undertake, perform or engage in any duty or function that shall be inconsistent with the performance by the employee of the duties or functions imposed on that person pursuant to this Act.

30. Procedures

(1) The Auditor-General shall, subject to the provisions of this Act, establish, review and regulate the procedures of the Office of the Auditor-General in accordance with generally accepted auditing practice.

(2) The Auditor-General shall maintain a continual programme of audits and reviews, which will provide for the regular and systematic review of all ministries, agencies and local authorities operations.

31. Powers of the Auditor-General

(1) For the purpose of fulfilling the functions and duties lawfully conferred or imposed on the Auditor-General, the Auditor-General and every person authorised by the Auditor-General:

(a) shall have full access at all reasonable times to all documents, books and accounts, public money, public securities, Government contracts and books and accounts relating thereto and subject to audit, and to any place where they are kept;

(b) may require any person to supply any information or answer any questions relating to documents, books and accounts, money, or operations subject to audit and examination by the Office;

(c) may, by notice in writing, require any person having possession or control of any documents, books and accounts subject to audit and examination by the Office to deliver all or any of them, at a time and place and to such person specified in the notice;

(d) may inspect, measure or test any real or personal property to which any contract relates;

(e) may enter any land, building, or place (other than a dwelling-house) where a contract is being performed.

(2) The Auditor-General may from time to time on request being made in writing, require for examination, documents, books and accounts from any person or entity who is for the time being liable for the payment of any money to the State, or any royalties under any lease or licence.

(3) The Auditor-General shall have all such other powers as are conferred by this Act or any other Act.

32. Reporting

(1) The Auditor-General shall report to the Minister, Minister for Finance and the Committee on every review, audit, investigation or inquiry undertaken by the Office or the Auditor-General, and shall provide to the Committee a copy of every report prepared by the Office or the Auditor-General.

(2) The Auditor-General shall, in addition to providing a report to the Committee, separately report to the person in charge of a ministry, agency, local authority or minister in respect of any matters that may relate to an audit, review, investigation or inquiry, and may require the person in charge to respond to the Auditor-General within 14 days of that person receiving the report.

(3) The Auditor-General shall at least once in every year report to the Minister and the Minister for Finance of the performance of the Auditor-General or the Office of the Auditor-General in relation to the programme of review and audits for that year and shall transmit a copy of that report to the Committee.

(4) The Auditor-General shall, in the annual report or in any special report which the Auditor-General may provide to the Minister, the Minister for Finance and the Committee, make such recommendations for the better collection and payment of public money, and for more effective and efficient performance of the functions and duties of the State as the Auditor-General deems appropriate.

33. Annual report

(1) Without limiting the right to report at any other time, the Auditor-General shall, at least once annually, forward to the Speaker of Parliament, a report containing such information relating to the reviews and audits undertaken pursuant to this Act and any other enactment, as the Auditor-General deems appropriate together with such other information as the Auditor-General considers desirable and the Speaker must forthwith present the report to Parliament and call for debate thereon.

(2) Without limiting the generality of subsection (1), the Auditor-General shall in each year prepare and sign in respect of every ministry, agency, local authority or ministerial office account audited:

(a) a report on the audit undertaken containing such information as will fairly disclose the ministry's, agency's, authority's or office's compliance with the matters referred to in sections 27 and 31 together with such other information and comments relating thereto as the Auditor-General thinks fit;

(b) a report of reports containing such matters as the Auditor-General thinks fit relating to:

(i) any accounts or transactions that are required to be audited under this Act; or

(ii) the performance or exercise by the Auditor-General of any of the functions, duties, or powers under this or any other Act.

(3) Any report or reports under subsection (2)(b) shall be prepared as soon as practicable after the preparation of the report under subsection (2)(a) for that year.

34. Auditor-General may communicate with minister

(1) The Auditor-General may communicate with any minister upon any matter subject to review, or audit or investigation.

(2) The Auditor-General may report to the responsible minister the name of any person failing to comply with the requirements of this or any other Act.

PART 4 – GENERAL

35. Regulations

(1) The Minister may from time to time by order make all such regulations as may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Such regulations may prescribe offences against the regulations and penalties for such offences not exceeding VT 1,000,000 or 3 years imprisonment or both.

36. Offences

A person commits an offence who:

(a) refuses or wilfully neglects to attend at the time and place required by the Committee, the Auditor-General, or any person acting on their behalf in accordance with this Act;

(b) refuses or wilfully neglects to produce any document in that person's possession or under that person's control when required to do so under this Act;

(c) refuses to answer any question put by any person lawfully entitled to do so pursuant to this Act;

(d) makes any statement or declaration or gives any information, certificate or document, required by or pursuant to this Act, knowing it to be false or misleading;

(e) resists, obstructs, deceives, or attempts to deceive the Committee, the Auditor-General or any person in the discharge of the Committee's, the Auditor-General's or that person's functions, duties or the exercise of powers under this Act;

(f) aids, abets, counsels or procures in any way the commission of an offence under this Act.

37. Penalties for offences

(1) A person who commits an offence against this Act is liable on conviction:

(a) in the case of an individual, to imprisonment for a term not exceeding 2 years, or to a fine not exceeding VT 500,000 or to both, and. if the offence is a continuing one, to a further fine not exceeding VT 5,000 for every day during which the offence continues:

(b) in the case of a body corporate, to a fine not exceeding VT 2,000,000 and, if the offence is a continuing one, to a further fine not exceeding VT 700,000 for every day during which the offence continues.

(2) Where any body corporate commits an offence under this Act, every director, secretary, manager and other officer of the body corporate and every person purporting to act in any such capacity shall also be guilty of an offence unless that person satisfies the Court that either:

(a) the offence was committed without that person's knowledge, consent or not through that person's gross negligence; or

(b) that person took all reasonable steps to prevent the commission of the offence.

38. Transitional

(1) The person holding office as Auditor-General, immediately before the commencement of this Act shall continue to hold office as the Auditor-General subject to the provisions of this Act.

(2) Every person holding office as an officer or employee of the Office of the Auditor-General immediately before the commencement of this Act, shall continue to hold office as an officer or employee of the Office of the Auditor-General upon the same terms and conditions as to employment, subject to the provisions of this Act.

(3) Every audit, review, investigation or inquiry undertaken or being undertaken by the Auditor-General on or before the date of coming into force of this Act shall continue to have effect or to be undertaken by the Office of the Auditor-General pursuant to the provisions of this Act.

39. Repeal

The Audit of Public Accounts Act [Cap. 165] is repealed.

Table of Amendments

Long title	*Amended by Act 36 of 2000*	*9(5)*	*Substituted by Act 36 of 2000*
2(1)	*Amended by Act 36 of 2000*	*10*	*Repealed by Act 36 of 2000*
Part 2 heading	*Amended by Act 36 of 2000*	*14(2)(ba)*	*Inserted by Act 36 of 2000*
4, 5	*Substituted by Act 36 of 2000*	*16(2)*	*Amended by Act 36 of 2000*
6	*Repealed by Act 36 of 2000*	*16(2A) & (2B)*	*Inserted by Act 36 of 2000*
7	*Repealed by Act 36 of 2000*	*16(3)*	*Amended by Act 36 of 2000*
9(1)	*Substituted by Act 36 of 2000*	*16(3A)*	*Inserted Act 36 of 2000*
9(1A)	*Inserted by Act 36 of 2000*	*16A*	*Inserted by Act 36 of 2000*