



A bill for an Act entitled

THE STATE AUDIT ACT 2016

Commencement ____ 2016

STATE AUDIT ACT

THE JUBBALAND STATE OF SOMALIA

ARRANGEMENT OF SECTIONS

PART I: PRELIMINARY

SECTION

1. Short Title
2. Purpose of the Act
3. Interpretation

PART II: THE STATE OFFICE OF THE AUDITOR GENERAL AND THE AUDITOR GENERAL

4. Establishment of the State Office of the Auditor General
5. Appointment of the Auditor General
6. Functions of Auditor General
7. Independence of Auditor General
8. Regulations
9. Conditions of Service of the Auditor General
10. Term of Office
11. Resignation of the Auditor General
12. Removal of the Auditor General
13. Deputy Auditor General

PART III: GOVERNANCE, STAFF AND OTHER APPOINTMENTS IN THE STATE OFFICE OF THE AUDITOR GENERAL

14. Appointment of Staff
15. Status of Employees
16. Promotion of Staff of the Office of the Auditor General
17. Condition of Service and Other Staff Matters
18. Exemption from Civil Service Commission Legislation
19. Employment of Contractors
20. Contracts with Accounting Firms
21. Guidelines for Contracting
22. Obligations and Requirements for Contractors
23. Length of Contracts with Accounting Firms
24. Limitations on Services Provided by Accounting Firms
25. Authority Granted to Accounting Firms
26. Reimbursement for Contracted Services
27. Cost Recovery Fees for the Auditor General

PARTIV: AUDITING AND REPORTING

28. Audit of Public Bodies of the Jubbaland State of Somalia
29. Investigation of Fraud
30. Annual Reports
31. Special Reports
32. Presenting Reports to the Speaker of the State Assembly
33. Tabling Audit Reports in the State Assembly
34. Reports as Public Documents
35. Public Accounts Committee Review of All Audit Reports
36. Audit Standards
37. Access to People, Documents and Property
38. Requirements for Public Bodies to Provide Information
39. Access to Internal Audit Reports
40. Information Gathering Powers
41. Access to Accounts, Information, Money and Property
42. Duty to Provide Information Over rides other Duties and Rights
43. Communication with Minister
44. Responses to Draft Reports
45. Disclosure of Information

PARTV: FINANCES AND EXPENSES OF THE OFFICE OF THE AUDITOR GENERAL

46. Funds of the Office of the Auditor General
47. Expenses of the Office of the Auditor General
48. Power to Levy
49. Bank Accounts

PARTVI: ACCOUNTABILITY OF THE OFFICE OF THE AUDITOR GENERAL

50. Presentation of the Proposed Budget
51. Review of the proposed budget
52. Approval of budget
53. Presentation of a draft Annual plan
54. Review of the Proposed Annual Plan
55. Approval of the Annual Plan
56. Periodic Reports to the Public Accounts Committee
57. Submission of Performance and Financial Reports
58. Independent Audit of the Office of the Auditor General
59. Status as a Public Body

PART VII OFFENCES AND PENALTIES

60. Offences and Penalties

PART VIII: MISCELLANEOUS

- 61. Protection of Auditor General's Reports from Court Proceedings
- 62. Protection from Liability of the Auditor General and Staff of the Office of Auditor General
- 63. Service of Documents
- 64. Supremacy of this Act

ORIGINAL

PART I: PRELIMINARY

1. Short Title

This act may be cited as the State Audit Act of Jubbaland.

2. Purpose of the Act

The purpose of the Act is to:

- a) establish the Office of the Auditor General of the Jubbaland State of Somalia as an independent public body
- b) ensure that the Jubbaland State of Somalia has an Auditor General with the necessary functions, immunities and independence;
- c) provide for the independent audit of the Jubbaland State of Somalia and related public bodies;
- d) facilitate the oversight responsibilities of the State Assembly.

3. Interpretation

(1) In this act, unless the context states otherwise the following interpretations apply:-

- i. ***“Agency of the State Government”*** or ***“State Government agency”*** includes every ministry, independent establishment, division, bureau, board, commission, institution, authority, organization of the Jubbaland State of Somalia including, districts cities, towns, villages and other local authorities or political or governmental sub-divisions of Jubbaland.
- ii. ***“Appropriate Minister”*** means, in relation to a statutory body, the Minister exercising authority under any law in respect of such statutory body.
- iii. ***“Appropriation Act”*** means any act appropriating monies in relation to a financial year for such services as are specified in such act.
- iv. ***“Auditor General”*** means the Auditor General appointed under Article 88 of the Constitution of the Jubbaland State of Somalia, and heads the State Office of the Auditor General.
- v. ***“Code of Ethics”*** means a comprehensive statement of the values and principles, which guide the daily work of all individuals working for or on behalf of the State Office of the Auditor General so that they meet the high ethical demands placed on them by being a public sector auditor.
- vi. ***“Constitution”*** means the Provisional Constitution of the Jubbaland State of Somalia.
- vii. ***“Document”*** means any record of information and includes: anything on which there is writing or an image, anything on which there are marks, figures, symbols or perforations that have a meaning for persons qualified to interpret them, and anything from which sounds, images or writing can be reproduced or extracted with or without the aid of anything else.
- viii. ***“Consolidated Budget”*** means the Budget approved by the Legislature for a fiscal year.
- ix. ***“State Office of the Auditor General and Supreme Audit Institution”*** are terms which may be used synonymously with the *“Office of the Auditor General”*.
- x. ***“Expenditure”*** means payments of public moneys authorized by the State Assembly through appropriation acts or by the Constitution.

- xi. **“Fiscal Year”** means a period of twelve consecutive months for which the budget estimates and its operations are to be recorded, accounted and preorted. It begins on the first day of January and ends on the 31st day of December of the year.
- xii. **“Financial Audit”** means the work undertaken by the Auditor General to form an opinion whether the financial statements prepared by a government agency present fairly in all material respects financial performance, financial position, changes in net assets or changes in equity, the cash flows, and whether the government agency has complied with all applicable laws of the Jubbaland State of Somalia, probity, regularity and value for money with which the government agency has been managed.
- xiii. **“Head of Agency”** or **“Head of Spending Unit”** means the Minister in the case of any Ministry or the principal executive officer or any other public agency, entity or institution.
- xiv. **“Line Ministries”** means all ministries other than the Ministry of Finance of the Jubbaland State of Somalia.
- xv. **“Ministry”** means the Ministry of Finance of the Jubbaland State of Somalia
- xvi. **“Officer”** means any person in the employ of the Jubbaland State of Somalia.
- xvii. **“Public Accounts”** include the accounts of all Public Bodies of the Jubbaland State of Somalia, all bodies in which the State has a controlling interest, and all projects funded by way of loans or grants by any foreign state or international organization.
- xviii. **“Public Bodies”** means all State and local government bodies and all bodies in which the state has a controlling interest. This will include the courts, universities and any other public corporation or institution of the Jubbaland State of Somalia.
- xix. **“Public Accounts Committee”** means the Public Accounts Committee established by the State Assembly.
- xx. **“Public Financial Management”** refers to the legal and administrative systems and processes which will ensure the effective, economic and productive utilization of public resources in accordance with the predefined standards,
- xxi. **“Public funds/money”** means financial resources of the state and and includes:
 - (a) money or financial assets in the custody or under the control of the Jubbaland State of Somalia, including money that is held for the benefit of a person other than the Jubbaland State of Somalia but does not include money held in trust or custody on behalf of non-governmental organizations or money received by State-Owned Enterprises; and
 - (b) money or financial assets in the custody or under the control of any person acting for or on behalf of the Jubbaland State of Somalia in respect of the custody or control of the money.
- xxii. **“Public Resources”** refers to public revenues including those acquired through donations, bequest, borrowing, movable and fixed assets, deposits, receivables and rights, and all kind of properties.
- xxiii. **“Publish”** means (a) publishing the document in a newspaper, Official Gazette or other publication of general circulation in Jubbaland; or (b) publication of an abridged or summary versions of the documents without losing the core content of the document; or (c) making the document available for reference at public libraries or offices of national government entities or in archives of those institutions; or (d) posting the document on the internet of the Government website.

- xxiv. *“Revenue” means all tolls, taxes, imposts, rates, duties, fees, fines, penalties, forfeitures, rents, dues, proceeds of sale and all other receipts of the government (from whatever source) over which State Assembly has the power of appropriation, including the proceeds of all loans raised and all grants and gifts received by the Jubbaland State of Somalia.*
- xxv. *“Sector Minister” means the minister responsible for overseeing a state owned enterprise.*
- xxvi. *“Supplementary Appropriation Decree” means any Decree, the purpose of which is to supplement appropriations already granted by a Budget Decree.*
- xxvii. *“Spending Items” are specific expenditures identified by the classification of the Consolidated Budget.*
- xxviii. *“Spending Agencies”: means public agencies, entities or institutions that deliver public goods or services, report either to a Line Ministry or directly to the Ministry or the Leader and execute expenditures set forth in the Consolidated Budget.*
- xxix. *“State Owned Enterprise” means a commercial enterprise or any other organization established by law, in which the Jubbaland State of Somalia has controlling shares, which produces goods or services for the market and finances its operations largely on the basis of its own revenues. Controlling shares in relation to an entity means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain maximum benefits from its activities:*
 - a) to appoint or remove all, or the majority of, the entity’s board or governing body;*
 - b) to appoint or remove the entity’s chief executive officer;*
 - c) to cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or*
 - d) to control all, or the majority of voting rights at a general meeting of that entity.*

PART II - THE STATE OFFICE OF THE AUDITOR GENERAL AND THE AUDITOR GENERAL

4. Establishment of the Office of the Auditor General

- (1) The Office of the Auditor General shall be a public body with perpetual succession and an official seal and may sue or be sued in its public name, and may, subject to the provisions of the Constitution, do, enjoy or suffer anything that may be done, enjoyed or suffered by a public body.
- (2) The Office of the Auditor General shall be headed by the Auditor General.
- (3) The Office of the Auditor General shall be located in the capital of Jubbaland with jurisdiction over the entire territory of the Jubbaland State.

5. Appointment of the Auditor General

- (1) Subject to the appointment of the Auditor General as contained in Article 88 of the Constitution of the Jubbaland State of Somalia.
- (2) The nomination of the Auditor General shall be proposed by the Council of Ministers, and approved by the State Assembly of Jubbaland.
- (3) The nominee shall not hold office for more than three months whilst awaiting confirmation.

- (4) In identifying qualified candidates for the position of an Auditor General, the Council of Ministers shall ensure that each candidate:
- (a) is a Jubbalander;
 - (b) is at least 40 years of age;
 - (c) is a graduate with a university degree;
 - (d) has proven competence in accounting skills;
 - (e) has at least five (5) years of relevant work experience; and
 - (f) has proven integrity.
- (5) Once appointed and approved by the State Assembly, the Auditor General shall not hold a political position or have a direct or indirect official role in any private or professional body or activity that the Auditor General could profit from or influence through the powers of or position with the Office of the Auditor General.
- (6) The Auditor General shall divest himself/herself of any commitments, obligations or investments which would present a real or perceived conflict of interest.
- (7) The Auditor General may act as an officer of, collaborate with, or participate in the activities of professional auditing or accounting organizations and standard-setting bodies whose activities are not in conflict with the roles and operations of the audit office.

6. Functions of the Auditor General

- (1) The duly appointed Auditor General is the external auditor for the public sector.
- (2) He/she shall have complete discretion in discharging the external auditor's responsibilities to examine and report on the receipt, disbursement and control of all public funds/moneys and to promote greater economy, efficiency and effectiveness in the use of such money.
- (3) The Auditor General shall conduct audits of the State Government ministries, departments and agencies that are not public enterprises in accordance with the auditing standards and code of ethics in the Jubbaland State of Somalia and Federal Republic of Somalia constitutions and any other regulations issued by the Jubbaland State of Somalia and Federal Republic of Somalia on audit institutions.
- (4) The Auditor General shall conduct audits of public enterprises of the state government in accordance with the auditing standards and code of ethics in the Jubbaland State of Somalia and Federal Republic of Somalia constitutions and any other regulations issued by the Jubbaland State of Somalia and Federal Republic of Somalia on audit institutions.
- (5) In the exercise of these functions, the Auditor General shall not be subject to the direction or control of any person or authority.
- (6) The Auditor General shall be the Head of and accounting officer of the Office of the Auditor General.
- (7) The Auditor General shall represent the Office of the Auditor General as the head of the Supreme Audit Institution of the Jubbaland State of Somalia within the Somali Federal Audit Institutions and other international accounting and auditing organizations and standard-setting bodies.
- (8) The Auditor General may delegate the exercise of any of his functions to other individuals of the Office, but such delegation does not remove the Auditor General's responsibility and accountability for acts by those individuals delegated such functions.

7. Independence and Integrity

- (1) The Auditor General shall act independently in the exercise and performance of his/her functions, duties, and powers.
- (2) The Auditor General shall be immune from legal prosecution in the normal discharge of his/her duties during the period of his/her office or after he/she has left office.
- (3) Before undertaking his/her duties, the Auditor General shall take an oath, administered by the Speaker of State Assembly, pledging to perform honestly and impartially the duties of the office, abide by the laws of the Jubbaland State of Somalia, and uphold the Constitution
- (4) For the purpose of discharging the functions of the Office, the Auditor General, subject to the provisions of this act, may do anything and enter into any transactions necessary to ensure the proper performance of these functions. This shall include, but not be limited to:-
 - (a) appointing such staff as he/she considers necessary to discharge these functions
 - (b) establishing and implementing a comprehensive human resource management system and policies for managing such staff
 - (c) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis and retrieval of relevant information and
 - (d) promulgating procedures for conducting audit work.
- (5) A Code of Ethics will apply to the Auditor General, the Deputy Auditor General, officers and all individuals working for or on behalf of the Office of the Auditor General who are involved in audit work.
 - (a) To help ensure the integrity of the Audit Office, the Auditor General will adopt the Code of Ethics adopted by the State Government of Jubbaland and approved by the State Assembly.
 - (b) The Code of Ethics and all established guidelines related to it will be published and provided to each member of the Audit Office.
 - (c) The Auditor General shall develop and establish effective guidelines for ensuring compliance with and immediate action against persons violating the Code of Ethics.
- (6) Within one month after being appointed, the Auditor General and the Deputy Auditor General shall give the Speaker of the State Assembly a statement in relation to the pecuniary and other interests of: the Auditor General and Deputy Auditor General; and other persons related to or connected with the Auditor General or Deputy Auditor General.
 - (a) If a change happens in the pecuniary or other interests that would be required to be disclosed, the Auditor General or Deputy Auditor General shall give the Speaker of the State Assembly a revised statement taking account of the change.
 - (b) The Speaker shall, on request, give a copy of the latest statement to an independent commission established under Article 78 and 79 of the Constitution to carry out their constitutional duties.

8. Regulations

- (1) The Auditor General may, with the approval of State Assembly, by statutory instrument make regulations generally for giving effect to the provisions of this Act and for its due administration and implementation.
- (2) The Auditor General may issue manuals, instructions and guidelines, as the need arises, to further clarify specific responsibilities and tasks related to the implementation of this Act and the Regulations.

9. Conditions of Service of the Auditor General

- (1) The salary, superannuation, benefits and other conditions of service for the Auditor General shall be prescribed by the Public Services Commission (or relevant constitutional Commission), and shall be a direct charge on the Consolidated Fund.

10. Term of Office

- (1) The Auditor General shall hold office for a term of seven (7) years and shall not be eligible for reappointment.

11. Resignation of the Auditor General

- (1) Should an Auditor General choose to resign before the mandatory retirement age, he/she shall give notice at least six-months before the proposed separation date to the President to allow sufficient time to select a qualified successor according to the requirements of Section 5.

12. Removal of the Auditor General

- (1) The Auditor General may be removed from his/her office only by the provisions of this section.
- (2) The Auditor General may be removed from office only on the grounds of inability to discharge the functions of his/her office (whether arising from infirmity of body or mind or any other cause whatsoever) or for misconduct.
- (3) The Auditor General shall be removed from office by the President if the question of his/her removal from office has been referred to the Public Services Commission (or relevant constitutional Commission).
- (4) The Public Services Commission (or relevant constitutional Commission) shall use applicable laws when enquiring into the matter of the Auditor General under this section.
- (5) The Public Services Commission (or relevant constitutional Commission) after enquiring into the matter shall report on the facts thereof to the State Assembly and recommend whether the Auditor General ought to be removed.
- (6) If the question of removing the Auditor General from office has been referred to the Public Services Commission (or relevant constitutional Commission) and an affirmative report has been issued under this Section, the President, acting in accordance with a simple majority vote of the members of the State Assembly will remove the Auditor General from performing the functions of the office.
- (7) The Auditor General shall proceed on suspension as soon as the Public Services Commission (or relevant constitutional Commission) commences enquiry into the question of his/her removal from office, and remains on suspension until the matter has been disposed off.

13. Deputy Auditor General

- (1) Subject to and in accordance with the provisions of this Act, a person is to be appointed as Deputy Auditor General, and the person so appointed or employed is to perform such functions as the Auditor General directs.
- (2) On appointment as Deputy Auditor General, the appointee shall be sworn by the Speaker of the State Assembly before assuming duty.
- (3) The Deputy Auditor General is to:
 - (a) act as Auditor General during any illness, suspension or absence of the Auditor General, and during any vacancy in that office; and

- (b) exercise the powers and perform the functions of the Auditor General in the absence of the Auditor General; and
 - (c) receive an appropriate salary commensurate with the position of a Deputy Auditor General.
- (4) Any act or thing done by the Deputy Auditor General in the exercise of powers and performance of functions of the Auditor General has the same effect as if it were done by the Auditor General.
- (5) Any act or thing that is required under a written law to be done to, by reference to or in relation to the Auditor General is taken to be effectually done if done to, by reference to or in relation to the Deputy Auditor General when the Deputy Auditor General is acting in the office of Auditor General.
- (6) The Deputy Auditor General, when acting in the office of Auditor General, has the same immunities and independence as the Auditor General.
- (7) The Deputy Auditor General may be removed from his/her office only by the provisions of Section 12 of this Act, and the procedures for removal or suspension described therein apply to the Deputy Auditor General.

PART III GOVERNANCE, STAFF AND OTHER APPOINTMENTS OF THE OFFICE OF THE AUDITOR GENERAL

14. Appointment of Staff

- (1) Subject to a request by the Auditor General, stating the calibre of staff required for efficient performance of the functions of the Office of the Auditor General, the Civil Service Commission will recruit such staff without delays.
- (2) Except for the Auditor General, all appointments of staff shall be widely advertised, written examinations and interviews shall be conducted to ensure the engagement of competent and qualified candidates.

15. Status of Employees

- (1) Employees in the Office of the Auditor General shall be considered part of the Civil Service and will be subject to any of the rules, regulations or procedures governing the Civil Service Commission.

16. Promotion of Staff of the Office of the Auditor General

- (1) The Auditor General shall recommend to the Civil Service Commission for promotion, staff of his/her office who are due and qualified for such promotion.
- (2) No staff recommended for promotion by the Auditor General, and have met all the conditions for promotion, shall be denied promotion or have his/her promotion delayed unnecessarily.

17. Conditions of service and other staff matters

- (1) The Civil Service Commission shall:
 - (a) except for the Auditor General, determine the terms and conditions of service of officers and employees of the Office of the Auditor General;
 - (b) handle matters relating to discipline of staff of the Office of the Auditor General as may be referred to it by the Auditor General;

- (c) handle all other matters of the Office of the Auditor General, including matters relating to pensions, retirement issues and benefits, and matters relating to its conditions of service and discipline of the staff; and
- (d) ensure the staff of the Office of the Auditor General sign a confidentiality agreement stating they will not disclose any information they obtain in the performance of their duties.

18. Exemption from Civil Service Commission Legislation

- (1) The Office of the Auditor General may produce internal laws and regulations relating to the areas covered in sub-sections (14), (15), (16) and (17).
- (2) If the laws and regulations produced by the Office of the Auditor General are approved by the Public Accounts Committee, then the Auditor General and his/her staff will be exempted from those governing Civil Service employees.
- (3) If, at any stage the Public Accounts Committee is no longer satisfied that the rules and regulations meet the approved requirements or they have not been implemented them as per any agreed process, this exemption can be revoked.

19. Employment of contractors

- (1) In the discharge of his/her duties, the Auditor General may engage the services of qualified individuals or accounting or other firms to serve on a contract basis for limited engagements including those required as part of agreements with international organizations, but all audit opinions shall remain those of the Auditor General.

20. Contracts with accounting, audit and other professional service firms

- (1) Authority to contract with accounting or audit or any other professional firms to provide external audit services, conduct evaluations, and review program and projects for public sector bodies shall be vested completely and solely with the Auditor General.
- (2) Accounting firms in public practice are precluded from providing any audit services to public sector bodies of the Jubbaland State of Somalia except as designated in this act.

21. Guidelines for contracting

- (1) In contracting with technical experts or accountants from private firms as described in the preceding Section of this Act, the Auditor General shall take the following procedures:
 - (a) recruiting and setting their terms of engagement and remuneration in writing;
 - (b) awarding the contract in writing;
 - (c) determining the manner in which the required work shall be completed;
 - (d) approving engagement plan and applicable procedures (scope and methodology) for the assignment
 - (e) reviewing working papers and reports prepared by the contractor; and
 - (f) requesting for additional work as and when.

22. Obligations and requirements for contractors

- (1) In executing their responsibilities, persons engaged under contract with the Office of the Auditor General of the Jubbaland State of Somalia shall be required to follow auditing standards approved for use by the Auditor General and shall be subject to the policies and procedures of his/her Office.

23. Length of contracts with accounting firms

- (1) Accounting firms or their associated bodies shall not serve on contract as auditors for the same body for more than four consecutive years.

24. Limitations on services provided by accounting firms

- (1) Accounting firms or their associated bodies shall not provide any other services, including tax or accounting advice or management consulting services, to any spending agency of the Jubbaland State of Somalia for which they serve as an external auditor.

25. Authority granted to accounting firms

- (1) Individuals or firms acting under contract with the Auditor General shall execute their contractual obligations in a professional manner, adhering to the terms of their contract and according to their professional code of conduct and ethics.
- (2) Individuals or firms acting under contract with the Auditor General shall be deemed to have the same authority and responsibilities as the Auditor General and his/her staff with respect to access to information, production of documents, and inspection of bank accounts and disclosure of information.

26. Reimbursement for contracted services

- (1) When the Office of the Auditor General of the Jubbaland State of Somalia contracts with accounting firms to meet requirements of donors, international organizations or foreign bodies, the fees for such contracted services shall be paid by the agency receiving such services.

27. Cost-recovery fees for the Auditor General

- (1) When the Auditor General renders a service to bodies other than State Assembly agencies or a foreign-funded project, he/she may charge a cost-recovery fee and such fees shall be paid into the Treasury Single Account (TSA) under the Consolidated Budget Fund of the State Assembly.

PART IV – AUDITING AND REPORTING

28. Audits of Public Bodies of the Jubbaland State of Somalia

- (1) The Auditor General, as the head of the Supreme Audit Institution of the Jubbaland State of Somalia, is the external auditor for all public monies, and has the responsibility and authority to perform financial, compliance, performance and other audits, and report to the State Assembly with copies to the President, and the Minister responsible for finance of the Jubbaland State of Somalia.
- (2) In conducting his/her audits, the Auditor General shall examine in such manner as he/she deems necessary the accounts of all Heads of Public Bodies of the Jubbaland State of Somalia, principal receivers of revenue and of all persons entrusted with the collection, receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other state government property and any other officers which he/she considers necessary.
- (3) In the conduct of his/her audit, the Auditor General shall ascertain whether:
 - (a) the accounting records have been faithfully and properly maintained;
 - (b) the rules, procedures and internal controls are sufficient to secure effective control of the assessment, collection and proper allocation of revenues;

- (c) all money expended and charged to an appropriation account has been applied to the purpose or purposes for which the State Assembly intended and with due regard to ensuring effective internal control; and
 - (d) internal controls, rules and procedures established and applied are sufficient to safeguard the control of stores and other public assets.
- (4) In conducting performance audits or value-for-money audits, the Auditor General shall examine the extent to which an Agency has applied its resources and carried out activities economically, efficiently and effectively.
- (5) When the Auditor General reports on any confidential, secret or classified information he/she:
 - (a) must have due regard for the special nature of the information; and
 - (b) may, after consulting the President, the Minister of Finance and the Minister responsible for the information, limit the audit report on such information to the extent necessary.
- (6) Subsection (5) does not prevent disclosure of any audit finding by the Auditor General on any unauthorized or irregular expenditure, or any other irregular or criminal conduct relating to the financial affairs of the ministry responsible, but any such disclosure may not include facts the disclosure of which would harm the state interest.

29. Investigation of Fraud

- (1) When, in the course of completing a financial, compliance or performance audit, staff from the Office of the Auditor General, or auditors appointed under this Act, discover what they believe fraud and or corruption has been committed, they shall immediately notify the Auditor General to take appropriate action.
- (2) After completing any special audits or investigations for the purpose of ascertaining dishonesty, fraud or corruption, if it is determined that sufficient evidence exists to warrant criminal investigation and prosecution, they shall ask the Auditor General to refer the case to the Police and appropriate judicial authorities.

30. Annual Reports

- (1) The Minister of Finance shall, within four months after the end of each fiscal year, prepare, sign and submit to the Auditor General consolidated public accounts of the Jubbaland State of Somalia.
- (2) Heads of Agencies of the Jubbaland State of Somalia shall, within three months after the end of each financial year, prepare, sign and submit to the Auditor General public accounts of the Spending Agency.
- (3) Failure to comply with the provisions of sub section (1), and (2) of this section, is an offence punishable on conviction to a fine not exceeding **XXXXXX** against the person responsible who shall also be removed from office.
- (4) The Auditor General shall report at least annually but no later than four months after receipt of the public accounts from the Minister of Finance and from Heads of Spending Agencies, on the results of the audit work of his/her office.
- (5) The Auditor General shall include his/her opinion on the truth and fairness of the consolidated and separate public accounts.
- (6) The Auditor General shall include in his/her report the following:-
 - (a) significant findings and recommendations on any act or omission by any officer relating to the probity, regularity or value for money with which public money has been managed;

- (b) any deficiencies which have been identified in the internal control system of any Spending Agency;
- (c) details of essential records that have not been maintained or the rules and procedures applied that were or are insufficient to safeguard and control public assets;
- (d) any money that has been expended without due regard to economy or efficiency;
- (e) responses and clarifications provided by the Minister of Finance on the observations and comments raised by the Auditor General on the unaudited accounts; and
- (f) the extent to which recommendations contained in reports from the Public Accounts Committee have been implemented by Heads of Spending Agencies.

31. Special Reports

- (1) The Auditor General may choose to conduct special audits and at his/her discretion prepare special reports.
- (2) The Auditor General may submit special reports to the State Assembly or the report of such work may be included in his/her annual report.

32. Presenting reports to the Speaker of the State Assembly

- (1) The Auditor General shall present his/her reports directly to the Speaker of the State Assembly with copies to the President of the Jubbaland State of Somalia, the Minister responsible for finance, and Heads of Public Bodies of the Jubbaland State of Somalia. The reports may include comments from the relevant Head of a Spending Agency, but the Auditor General has full editorial control over his/her reports.

33. Tabling audit reports in the State Assembly

- (1) The Speaker shall table all audit reports in the State Assembly within five working days of their receipt, when Assembly is in session. Should an audit report be presented to the Speaker of the House when Assembly is not in session, the Speaker will table that report within two weeks of the reconvening of the Assembly.

34. Reports as public documents

- (1) All reports issued by the Auditor General shall be considered public documents and published in the Official Gazette and made to State Assembly and the public within one month of the completion of the report.
- (2) As public documents they shall be made available to the public for a minimal cost-recovery fee.
- (3) The Auditor General may make his/her reports publicly available in electronic format on the Internet.
- (4) The Auditor General shall provide copies of his/her published reports to the state archivist, all public and University libraries in the Jubbaland State of Somalia, and the media.
- (5) The Auditor General or his/her staff may provide comments and interviews to the press or other media on the subject of any published audit reports.

35. Public Accounts Committee to review all audit reports

- (1) The Public Accounts Committee shall consider each report from the Auditor General tabled in the State Assembly.
- (2) This consideration may include questioning the Head of the Spending Agency, seeking explanations from the Auditor General and obtaining official responses from the State Assembly.

- (3) The Public Accounts Committee shall make recommendations on the basis of this consideration and shall monitor their implementation. The actions of the Public Accounts Committee shall be governed by the regulations of the State Assembly.
- (4) The Public Accounts Committee shall have the power to summon Heads of Public Bodies and other public officials to be questioned about the Auditor General's findings. Ministers, their advisers, other specialists and civil society groups may also be summoned to appear before the Public Accounts Committee during its consideration of the Auditor General's reports.
- (5) The Public Accounts Committee shall normally hold its hearings in public.
- (6) The Public Accounts Committee shall prepare a report to the State Assembly, which may include comment and recommendations, at the end of its review of each of the Auditor General's reports.
- (7) The State Assembly shall debate each of the reports from the Public Accounts Committee. At the end of each debate the State Assembly shall vote to approve or reject the report.

36. Auditing Standards

- (1) The Auditor General shall determine which auditing standards should be applied and may establish auditing standards and a code of ethics specific to the audits performed by his/her office.
- (2) In applying (1) the following should be considered:
 - (a) For conducting audits of the state government ministries, department, agencies and public enterprises will apply the generally accepted governmental auditing standards of the Jubbaland State of Somalia and Federal Republic of Somalia constitutions and any other regulations issued by the Jubbaland State of Somalia and Federal Republic of Somalia on audit institutions.
 - (b) For conducting audits of funding or donor organizations any recognised standard accepted by the organizations may be used.

37. Access to offices, officers, documents, property and other persons

- (1) The Auditor General and his/her staff shall have unrestricted access to such people, documents, computers and other information systems, and assets as the Auditor General considers necessary for the proper fulfilment of his/her functions, duties and powers.

38. Requirement for bodies to provide information

- (1) The Head of a Spending Agency shall ensure that the Auditor General has access at all reasonable times to the documents of the body relating to the performance and exercise of the Auditor General's functions, duties, and powers.
- (2) Staff of the Office of the Auditor General shall be provided with reasonable, suitable and secure space in which to conduct their work. The Head of a Spending Agency and/or governing body of a public body shall also provide the Auditor General from time to time or at regular intervals with the accounts of the transactions of the public body as specified by the Auditor General.

39. Access to internal audit reports

- (1) Internal auditors of any Spending Agency are obliged, as a matter of professional courtesy, to submit a copy of their final internal audit reports to the Auditor General.

40. Information gathering powers

- (1) The functions and powers of the Auditor General under this section are in addition to the Auditor General's functions and powers under other written laws.

- (2) The Auditor General may, by written notice, authorise a person (an "authorised person") to perform functions under this section.
- (3) For the purpose of an audit, the Auditor General may, by written notice, direct a person to do all or any of the following:
 - (a) to provide the Auditor General with any information or explanation that the Auditor General requires;
 - (b) to attend and give evidence before the Auditor General or an authorised person;
 - (c) to produce to the Auditor General any documents in the custody or under the control of the person.
- (4) The Auditor General may direct that:
 - (a) the information, explanation or answers to questions be given either orally or in writing (as the Auditor General requires); and
 - (b) the information, explanation or answers to questions be verified or given on oath or affirmation that the information or evidence the person will give will be true.
- (5) The Auditor General or an authorised person may administer an oath or affirmation for the purposes of this section.
- (6) A person who is required under subsection (1) to attend under this section is entitled to be paid such expenses as the Auditor General considers reasonable.

41. Access to accounts, information, money and property

- (1) For the purpose of an audit, the Auditor General, or an authorised person, is entitled to full and free access at all reasonable times to:
 - (a) all accounts, information, documents, systems and records that the Auditor General considers to be relevant to the audit; or
 - (b) public money or other money; or
 - (c) all electronic information generated and or maintained in computerised systems; or
 - (d) public property or other property that is or are in the possession of any person and the Auditor General or an authorised person may make copies of or take extracts from any of the accounts, information, documents and records.
- (2) For the purpose of subsection (1), the Auditor General may cause a search to be made in, and extracts to be taken from, anything in the custody of the auditee or in any office of any person, without paying any fee for doing so.
- (3) Subject to subsection (6), the Auditor General or an authorised person may, at all reasonable times, enter and remain on any premises in order to exercise powers under this section.
- (4) A person who prevents the Auditor General or an authorised person from entering premises under this section is guilty of an offence and is liable on summary conviction to a fine.
- (5) If an authorised person enters, or proposes to enter, premises under this section, the occupier must provide the authorised person with all reasonable facilities for the effective exercise of powers under this section.
- (6) An authorised person is not entitled to enter or remain on premises if the authorised person fails to produce a written authority on being asked by the occupier to produce proof that the entry is authorised.

42. Duty to give information overrides other duties and rights

- (1) A person is not excused from giving information or an explanation, answering a question or producing a document under section 40 on the ground that the information, explanation or answer, or the production of the document, might tend to incriminate the person.
- (2) A person must give information or an explanation, answer a question or produce a document as required under section 40 despite any duty of secrecy or confidentiality that the person has under another written law, and the person does not commit an offence under another written law by doing so.
- (3) If a person gives information or an explanation, answers a question or produces a document under section 40, neither:
 - (a) the giving of the information or explanation, answering of the question or production of the document; or
 - (b) anything obtained as a direct or indirect result of the giving of the information or explanation, answering of the question or production of the document;
 - (c) is admissible in evidence against that person in any civil or criminal proceedings, except:
 - i. proceedings for an offence against this section; or
 - ii. proceedings under the Criminal Code.

43. Communication with Ministers

- (1) The Auditor General must notify the appropriate Minister of all matters arising out of the performance of the Auditor General's functions and the exercise of the Auditor General's powers under this Act or any other written law that are, in the opinion of the Auditor General, of sufficient importance to justify doing so.

44. Responses to draft reports

- (1) At the conclusion of audit work, the Auditor General shall provide the relevant accounting officer or governing body with a draft report including findings and recommendations, and the Head of a Spending Agency or governing body shall provide a written response to the Auditor General within 30 days.

45. Disclosure of information

- (1) No person shall, without the written consent of the Auditor General, publish or disclose information obtained in the course of an audit to any person (other than in the course of his/her duties or when lawfully required to do so by a court).
- (2) Only the Auditor General, after giving due consideration to the public interest and an auditor's professional obligations concerning confidentiality of information, may determine what information, beyond the publicly available report, can appropriately be disclosed.

PART V—FINANCES AND EXPENSES OF THE OFFICE OF THE AUDITOR GENERAL

46. Funds of Office of Auditor General

The funds of the Office of the Auditor General shall include:

- (a) funds approved by the State Assembly; and
- (b) grants and donations as the Minister responsible for finance may approve.

47. Expenses of Office of Auditor General

- (1) All monies approved by State Assembly to defray the expenses that may be incurred in the discharge of the functions of the Office of the Auditor General or in carrying out the purposes of this Act shall be a direct charge on the Consolidated Fund.

48. Power to levy fees

- (1) The Auditor General may charge fees for auditing the accounts of any Spending Agency of the Jubbaland State of Somalia or international organization which does not receive money from the Consolidated Fund.
- (2) Any fees received under subsection (1) shall be paid into the Consolidated Fund.

49. Bank accounts.

- (1) The Auditor General shall maintain such bank accounts as are necessary for the exercise of the functions of the Office of the Auditor General and shall pay into them all monies received from the Assembly for the purposes of this Act.
- (2) The Auditor General shall maintain such bank accounts as per any regulations prescribed under the Public Financial Management decree.

PART VI – ACCOUNTABILITY OF THE OFFICE OF THE AUDITOR GENERAL

50. Presentation of the proposed budget

- (1) The Auditor general shall prepare and submit to the Minister responsible for finance, a draft budget in accordance with the Budget Preparation Manual, the annual Budgetary Circular and any other regulations stipulated under the Public Financial Management decree.

51. Review of the proposed budget

- (1) The Ministry of Finance will review the submission by the Auditor general and discuss and renegotiate the estimates to arrive at the proposed budget for the Auditor General to be included in the Consolidated budget.

52. Approval of budget

- (1) After the approval of the Annual Budget by the Council of Ministers the Auditor General will be notified by the Minister responsible for finance of the approved appropriations allocated.
- (2) The Auditor General will then be able to spend against their allocated budget in accordance with the regulations stipulated under the Public Financial Management decree.
- (3) The Auditor General shall have the right to address the Public Accounts Committee or State Assembly directly should the annual budget of the Office of the Auditor General not be approved.
- (4) The annual budget of the Office of the Auditor General shall form an integral part of the budget of the Jubbaland State of Somalia

53. Presentation of a draft Annual plan

- (1) At least 90 days before the beginning of each financial year, the Auditor General shall prepare and submit to the Public Accounts Committee draft annual plan that describes the Auditor General's proposed work program for that year.

54. Review of the proposed Annual plan

- (1) The Public Accounts Committee shall review the draft annual plan, within 60 days of receiving it, and provide comments for consideration by the Auditor General.

- (2) The comments may include priorities from the Public Accounts Committee, the Speaker of State Assembly, other committees of State Assembly and/or requests for special examinations not included in the original plan.

55. Approval of the Annual plan

- (1) After considering comments from the Public Accounts Committee, the Auditor General shall finalise the annual plan for approval by the Public Accounts Committee.

56. Periodic reports to the Public Accounts Committee

- (1) The Auditor General shall prepare and submit to the Public Accounts Committee, on a quarterly basis, a report on the performance and operation of the Office of the Auditor General.

57. Submission of performance and financial report

- (1) The Auditor General shall submit annually to the Public Accounts Committee a copy of an Annual Performance and Financial Audit Report with respect to the Office of the Auditor General.
- (2) The report shall include a report on the extent to which the Auditor General achieved his/her annual plan and the audited financial statements of the Office of the Auditor General.

58. Independent Audit of the State Office of the Auditor General

- (1) The Public Accounts Committee shall, in respect of each financial year, appoint an independent auditor to audit and report on the financial statements, accounts, and other information relating to the performance of the Auditor General each year. This may include awarding the contract to an international firm.
- (2) The remuneration of the auditor appointed under this section shall be defrayed from the funds of the Auditor General.

59. Status as a public body

- (1) For the purpose of this independent audit engagement, the Auditor General and the Office of the Auditor General shall be regarded as a public body described under this act.
- (2) The firm so appointed shall, for the purposes of this audit engagement, have the same powers as the Auditor General.

PART VII—OFFENCES AND PENALTIES

60. Offences and penalties

- (1) A person commits an offence who:
- (a) without lawful justification or excuse, wilfully obstructs the Auditor General or any person authorized by the Auditor General in the performance of his/her functions under this Act;
 - (b) without reasonable excuse, refuses or fails to comply with any order or direction of the Auditor General;
 - (c) without any lawful justification or excuse, refuses or fails to give to the Auditor General or any person authorized by the Auditor General, access to any property books, records, returns or other documents, information either electronic or otherwise referred to in section 40; or

- (d) Knowingly presents to the Auditor General a false or fabricated document or makes a false statement with intent to deceive or mislead the Auditor General or any person authorized by the Auditor General.
- (2) Any member of the Office of the Auditor General or any person acting with the authority of the Auditor General commits an offence if he/she:
- (a) demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his/her duty ; or
 - (b) wilfully fails to report to the Auditor-General any abuse or irregularity that comes to his/her notice in the course of his/her auditing duties; or
 - (c) makes any report to the Auditor-General which he/she knows to be false or has no reason to believe to be true.; or
 - (d) misuses any information obtained when conducting an audit of any account under this Act; or
 - (e) colludes with any Head of a Spending Agency or internal auditor or other public officer in the conduct of their duties under this Act to omit or commit any act; or
 - (f) where such omission or commission leads to loss of public money.
- (3) A person convicted of an offence under this section is liable, on conviction, to a fine not exceeding xxxxxxxx or imprisonment for a term not exceeding xxxxxxxx, or both.
- (4) If a person is, on final judgment, found guilty of a breach of the law relating to fraud, waste or misuse in relation to the management of public funds, the Auditor General may recover, in a court of competent jurisdiction, the amount that is the subject of the fraud, waste or misuse as a debt owing to the Jubbaland State of Somalia.

PART VIII—MISCELLANEOUS

61. Protection of Auditor General's Report from court proceedings

- (1) All reports of the Auditor General published for the benefit of State Assembly shall be treated as Parliamentary reports and shall enjoy all privileges accorded to Parliamentary reports.
- (2) For the avoidance of doubt, no civil or criminal proceedings shall be instituted against the Auditor General on the basis of any report published by him or her for the benefit of the State Assembly.

62. Protection from liability of Auditor General and staff of Office of Auditor General

- (1) The Auditor General and any employee of the Office of the Auditor General of the Jubbaland State of Somalia or a person acting on the directions of such a person is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of the functions of the Office of the Auditor General.

63. Service of documents

- (1) Any notice or document may be served on the Office of the Auditor General of the Jubbaland State of Somalia by delivering it at the Office of the Auditor General, or by sending it by registered post to the Office of the Auditor General.

64. Supremacy of this Act

- (1) Notwithstanding any law to the contrary, the provisions of this Act shall prevail. Any Act in contradiction with this Act is modified to conform to the provisions of this Act.

- (2) The Auditor General shall have the right to review and comment on any Bill that affects his/her office and when doing so shall provide his/her comments in writing to the Minister responsible for the introduction of the Bill and to the speaker of the State Assembly who shall present the same to the State Assembly at the first reading of the bill.

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