

BILL

THE AUDIT SERVICE ACT, 2014 ARRANGEMENT OF SECTIONS

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No.



2014

Sierra Leone

A BILL ENTITLED

The Audit Service Act, 2014.

Short title.

Being an Act to make provision for the continuance in existence of the Audit Service as an autonomous body with authority to ensure greater accountability in the receipt, disbursement and control of public funds, to promote greater efficiency and effectiveness in the use of public funds and to provide for other related matters.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART 1–PRELIMINARY

- Interpretation. 1. In this Act unless the context otherwise requires –
- “accounting firm” means any firm approved by the institute of chartered accountants of Sierra Leone (ICASL), to practice as an accountant.
- “appropriation” means any money charged on the Consolidated Fund or other public fund or public account;
- “Appropriation Act” means the selected classification of Government expenditures and incomes included in the Appropriation Bill documents which, after approval of Parliament, form the legal structure and annual limits for spending, accounting and reporting by the Government;
- “Auditor General” Means Auditor General appointed pursuant section 119 of the Constitution of Sierra Leone, 1991;
- “Board” Means the Audit Sierra Leone Board established in Section 3;
- “budget” means the annual estimates of the revenues and other receipts and the expenditures of the Government, including grants to local councils of Sierra Leone submitted for the approval of Parliament;
- “Consolidated Fund” means the Consolidated Fund established under section 111 of the Constitution of Sierra Leone;
- “Constitution” means the Constitution of Sierra Leone, 1991;
- “external auditor” means a Chartered Accountant or a registered accountant under the institute of Chartered Accountants of Sierra Leone Act, 1988, who is not a member of the Audit Service;
- “Financial year” means a period of twelve months starting on 1st January in one year and ending on 31st December of the same year;

- “Public money” means money held by, held in or paid out of the Consolidated Fund;
- “Public Office” includes an office the emoluments attaching to which are paid directly from the Consolidated Fund or directly out of monies provided by Parliament;
- “Public Officer” means a person holding or acting in a public office;
- “public sector body” means any body or institution financed wholly or partly by public funds;
- “Public Service Commission” means the Public Service Commission established under section 151 of the Constitution of Sierra Leone, 1991;
- “International Organisation of Supreme Audit Institutions (INTOSAI)” means a worldwide affiliation of governmental entities whose members are the Chief Financial Controller or Comptroller General Offices of nations;
- “Vote Controller” means the head of a budget agency or the public officer authorised by the head of the agency to take charge of and manage funds appropriated for that agency.

PART II–THE AUDIT SERVICE

2. (1) Subject to this Act, there is hereby continued in existence, the body which immediately before the commencement of this Act, was known as the Audit service. Continuance of Audit Service.
- (2) The Audit Service shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property whether moveable or immovable, and suing and being sued in its own name and, subject to this Act, of performing all acts as bodies corporate may by law perform.

(3) The Audit Service shall have a common seal the use of which shall be authenticated by the signatures of the Auditor-General or other officer of the Audit Service authorized by the Auditor-General for that purpose.

(4) Every document purporting to be an instrument executed or issued by or on behalf of the Audit Service and to be sealed with the common seal authenticated in the manner stated in subsection (3) shall be deemed to be so executed or issued without other proof unless the contrary is proved.

(5) In appropriate cases the common seal may be affixed to documents outside Sierra Leone.

Establishment
of Audit
Service
Board.

3. There is hereby established a body to be known as the Audit Service Board which shall be an advisory board responsible for the appointment of persons, other than the Auditor General, to hold or act in offices as members of the Audit Service and to exercise disciplinary control over such persons, including the power to suspend or remove any of them, and to determine their terms and conditions of service.

Composition
of Board.

4. (1) The Board shall consist of a Chairman, who shall be appointed from among persons of the highest calibre of personal integrity and demonstrated professional knowledge and experience in matters related to the functions of the Audit Service and the following other Members-

- (a) one member, who shall be an accountant by profession;
- (b) One member who shall be a woman;
- (c) the Chairman of the Public Service Commission; and
- (d) the Auditor General.

(2) The Chairman and the persons appointed under paragraph (a), shall be appointed by the President subject to the approval of Parliament.

5. The Board shall appoint as Secretary to the Board, a person with proven ability in administration and knowledge of the functions of the Audit Service. Board
Secretary

6. (1) The Chairman and other members of the Board, except the Auditor-General and the Chairman of the Public Service Commission shall hold office for a term of three years and shall be eligible for re-appointment for another term only. Tenure of
Board.

(2) The Chairman may resign from office by written notice addressed to the President.

(3) The President may by letter addressed to the Chairman or any other member of the Board referred to in paragraph (a) of subsection (1) of section 4 revoke the appointment of that member.

(4) On the death or vacation of office of the Chairman or any other member of the Board referred to in paragraphs (a) and (b) of subsection (1) of section 4, before the expiry of his term of office, the President may appoint a Chairman or a member, as the case may be, for the remainder of the term of that member.

(5) A person shall cease to be a member of the Board on any of the following grounds-

- (a) if the person is absent from three consecutive meetings of the Board without reasonable excuse;
- (b) if the person becomes bankrupt or insolvent;
- (c) if the person is convicted of an offence involving fraud or dishonesty;
- (d) for proven misconduct;
- (e) for inability to perform the functions of the office as a result of infirmity of mind or body; or
- (f) if he resigns by written notice to the President.

Remuneration of members 7. The Chairman and other members of the Board shall be paid fees or allowances as the Auditor-General, after consultation with the Minister of Finance may determine

Meetings of Board. 8. (1) The Board shall meet for the dispatch of business at least once every three months.

(2) The Chairman shall preside at meetings of the Board and in his absence the members present shall elect one of their number to preside.

(3) The quorum for a meeting of the Board shall be three.

(4) Decisions of the Board shall be made by a majority of the votes of the members present and where the votes are equal, the Chairman or other member presiding shall have a casting vote.

(5) Any proposal circulated among all members of the Board and agreed to in writing by five members shall be of the same force and effect as a decision made at a duly constituted meeting of the Board and be incorporated in the minutes of the next meeting of the Board: but if a member of the Board requires that the proposal be placed before the meeting of the Board, this subsection shall not apply to the proposal.

(6) The Board may co-opt any person to attend and participate in its deliberation on any matter but such person shall not vote on any matter decision by the Board.

(7) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form as a public document.

(8) Subject to this Act, the Board shall regulate the procedure at its meetings.

Disclosure of interest. 9. (1) A member of the Board who has any interest whether direct or indirect, in any matter being considered by the Board shall disclose the nature of that interest to the Board and the disclosure shall be recorded in the minutes of the Board.

(2) The member of the Board referred to in subsection (1) shall not take part in the deliberation or in any way influence the decision of the Board relating to the matter.

(3) Any member who fails to comply with subsection (1) or (2) shall be guilty of misconduct, be removed from the Board and liable for prosecution.

10. (1) The Board may, for the discharge of its functions, appoint committees. Committees of Board.

(2) A committee shall consist of members of the Board or non-members or both.

(3) A committee shall submit a report of its proceedings to the Board at a time to be determined by the Board.

PART III – FUNCTIONS AND POWERS OF THE AUDIT SERVICE

11. (1) The object for which the Audit Service is established is to audit and report on all public accounts of Sierra Leone and all public offices including the Judiciary of Sierra Leone, the central and local government institutions, the university of Sierra Leone and other public institutions of like nature, all statutory corporations, companies and other bodies and organisations established by an Act of Parliament or statutory instrument or otherwise set up wholly or in part out of public funds. Functions of Audit Service.

(2) Without prejudice to the generality of subsection (1), the function of the Audit-Service to–

- (a) ensure compliance with auditing standards and code of ethics established by the International Organisation of Supreme Audit Institutions (INTOSAI) and other recognised standards issued or accepted by funding or donor organisations in conducting audits of their projects;

- (b) carry out special audits and investigations or any other audit for the purpose of ascertaining dishonesty, fraud or corruption;
- (c) carry out value for money and other audits to ensure that efficiency and effectiveness are achieved in the use of public funds;
- (d) as a result of any audit conducted under this Act, make such queries and observations addressed to the Accountant-General or any other person and call for such accounts, vouchers, statements, documents and explanations as he may think necessary;
- (e) report to the vote controller or person on whom he has made a surcharge, the amount due and the reasons for the surcharge; and
- (f) from time to time, make recommendations to the Minister responsible for Finance, as the Auditor General may consider necessary, for the better management of public finances, including any revision of any regulations, directives or instructions issued under this Act or any function or power of the Auditor General under this Act including-
 - (i) minimising the unproductive expenditure of public funds;
 - (ii) maximising the collection of public revenue; and
 - (iii) averting loss by negligence, carelessness, theft, dishonesty or otherwise of public moneys.

12. In the performance of its functions under this Act the Audit Service shall have power to-

Powers of
Audit
Service.

- (a) request that any query or observation received by the Accountant-General or any other person from the Audit Service shall, within thirty days after its receipt by that person, be returned by him, with the necessary reply to the Audit Service;
- (b) disallow any item of expenditure which is contrary to law and surcharge the amount of any expenditure disallowed upon any person responsible for incurring or authorising the expenditure; or any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;
- (c) direct that any sum specified under paragraph (e) be paid by that person to the department, or institution, as the case may be, within thirty days;
- (d) examine any person on oath on any matter appertaining to any account subject to audit by the Audit-Service;
- (e) recover, in a court of competent jurisdiction, on civil proceedings taken by or in the name of the Accountant-General, any sum which is lawfully due under this section:

Provided that in any proceeding for the recovery of any sum due under this section, a certificate signed by the Auditor-General shall be *prima facie* evidence of the facts certified; and

- (f) at any time, revoke any surcharge made under this section.

PART IV – AUDITOR-GENERAL AND OTHER STAFF OF AUDIT-SERVICE

Appointment of Auditor-General. 13. (1) The Audit Service shall have an Auditor-General who shall be the head of the Audit Service, appointed pursuant to Section 119 of the Constitution of Sierra Leone and on such terms and conditions as may be approved by the President.

Oath of office by Auditor General 14. Before undertaking his duties, the Auditor-General shall after he has been approved by Parliament, take an oath of office before the President.

Independence of the Auditor-General 15. The Auditor-General shall, subject to this Act, act independently in the exercise of his duties under section 119 of the Constitution of Sierra Leone and shall not be subject to the direction or control of any person or authority.

Delegation of the functions and Powers of Auditor General 16. (1) Subject to subsection (2), the Auditor General may delegate to a member of staff of Audit service, subject to such conditions as the Auditor General may impose, the exercise of any function or power of the Auditor General under this Act.

(2) Notwithstanding subsection (1), the Auditor General shall not delegate except in writing-

- (a) the certificate of the result of an examination and audit of accounts under this Act; and
- (b) the submission of a report required by this Act.

17. The Auditor-General shall be responsible for the performance of the following functions - Functions of Auditor-General.

- (a) to provide overall leadership in the conduct and management of the day-to-day business or activities of the Audit Service;
- (b) to initiate and maintain high-level contact with interested parties, both local and international, in relevant areas of the operations of the Audit Service;
- (c) to monitor and supervise the preparation of the annual budgets and reports of the Audit Service;
- (d) to oversee the work and discipline of the other staff of the Audit Service; and
- (e) to carry out such other functions as may be necessary for the purposes of the Audit Service.

18. There shall be appointed by the Board, acting on the advice of the Auditor-General, on such terms and conditions as the Board may determine – Other staff.

- (a) such number of Deputies as he may deem necessary to assist the Auditor-General in the performance of his functions; and
- (b) such other staff of the Audit Service as may be required for the effective discharge of its functions under this Act.

19. Employees of the Audit Service shall not be subject to the authority of the Public Service Commission. Exception from Public Service Commission.

Terms and conditions. 20. The Board shall, on the advice of the Auditor-General, determine the remuneration and other terms and conditions of service of other staff of the Audit Service.

PART V – APPOINTMENT OF EXTERNAL AUDITORS

Authority to appoint external auditors. 21. In the exercise of his functions under section 119 Constitution of Sierra Leone and in accordance with this Act, the Auditor-General may engage the services of specially qualified individuals or accounting or other firms to provide audit services to public sector bodies.

Appointment of external auditors. 22. The Auditor-General shall, in the appointment of external auditors ensure that the principles of fairness and transparency are strictly adhered to.

Fees of external auditors. 23. (1) Prior to appointing an external auditor, the Auditor General shall, after consultation with the Board or governing body of the public sector body to be audited, agree with the external auditor the fees to be paid for the audit.

(2) subject to subsection (1), the fees of an external auditor appointed by the Auditor-General under section 23 shall be paid by the public sector body receiving such services.

Restriction on external auditors. 24. An external auditor or associate shall not provide any other service, including tax or accounting advice or management consulting services, to any public sector body for which he is serving as an external auditor on behalf of the Auditor General.

Authority of external auditor. 25. (1) An external auditor appointed by the Auditor-General under this Act shall be deemed to have the same authority as the Auditor- General or staff of the Audit Service in respect of the authority to access to information; to request the production of documents, inspection of bank accounts and disclosure of relevant information.

(2) Notwithstanding subsection (1), the enforcement of the powers of the Auditor-General or the Audit Service shall remain with the Auditor General.

PART VI – FINANCE AND ACCOUNTABILITY

26. The financial year of the Audit Service shall be the same as the financial year of the Government of Sierra Leone. Financial year of Audit Service

27. (1) The administrative expenses of the Audit Service including salaries, allowances, gratuities and pensions payable to or in respect of Auditor General and staff of the Audit Service shall be a charge upon the Consolidated Fund. Funds of Audit Service

(2) Notwithstanding subsection (1), the Audit Service shall be financed by funds consisting of all other moneys which may, from time to time, accrue to the Audit Service in the course of its activities including charges levied by the Auditor General on bodies other than central and local government administrations including but not limited to self- accounting agencies and international organisations not included in the annual Other Charges budget of the Audit Service.

(3) The funds of the Audit Service shall be applied only for the purposes of the approved budget of the Audit Service.

28. The financial requirements and expenditure of the Audit Service shall be prepared and submitted for consideration by the Budget Bureau in accordance with the Government Budget and Accounting Act, 2005 but Parliament shall ensure that any Appropriation Bill, passed by Parliament, has made adequate provision for the budgetary requirement of the Audit Service. Budgetary proposal of Audit Service

29. If the Audit Service is unable to carry out its mandate due to the lack of sufficient resources, the Auditor-General shall report the matter to Parliament. Inadequate resources.

Exemption from Taxation. 30. The properties, income and transactions of the Audit Service, authorised under this Act shall be exempt from all taxation, including customs duties, corporation tax, and property tax.

Submission of Performance and Financial Report. 31. (1) The Auditor-General shall submit annually to Parliament a copy of an Annual Performance and Financial Report including the audited financial statements of the Audit Service, not later than six months after the end of each financial year.

(2) The annual performance and financial reports and the reports of Auditors shall be made public.

Protection of Auditor General's Report from Court Proceedings. 32. All reports of the Auditor General published for the benefit of Parliament shall be treated as Parliamentary report and all privileges accorded to Parliamentary reports shall be so accorded to them and to the extent that no civil or criminal proceedings shall be instituted against the Auditor General on the basis of any report published by him for the benefit of Parliament.

Audit of Audit Service Accounts. 33. The accounts of the Audit Service shall be audited by an independent private accounting firm appointed by Parliament.

Internal Audit Division. 34. There shall be an Internal Auditor of the Audit Service who shall be head of the internal audit division and shall be responsible for the internal audit function of the Audit Service.

PART VII - MISCELLANEOUS

35. (1) No criminal or civil proceedings shall lie against the Auditor-General, for anything done in good faith in the course of the performance of his functions under this Act.

(2) The Auditor-General or any person acting for and on behalf of, or under the direction of the Auditor-General shall not, in the exercise of his functions under this Act, be a competent or compellable witness in respect of any proceedings other than the prosecution of an offence of perjury.

36. (1) Any person who – Offences.

(a) fails to produce for inspection by the Auditor-General or to otherwise give to him any book, record, or return relating to any accounts being audited by the Auditor-General when he so request;

(b) fails to keep proper books of account or proper records in relation to such accounts when so required by any enactment and such failure results in any loss of public funds;

(c) gives to the Auditor-General any information which he knows to be false or which he has no reason to believe to be true;

(d) wilfully suppresses any information required by the Auditor-General in the performance of his functions; or

(e) otherwise obstructs the Auditor-General in the performance of his functions,

commits an offence and shall be liable, on conviction, to a fine not less than five million Leones or to a term of imprisonment not less than two years or both such fine and imprisonment.

- (2) Any member or other employee of the Audit Service who –
- (a) demands or takes any bribe, gratuity or reward for the neglect or non-performance of his duties;
 - (b) wilfully fails to report to the Auditor-General any financial abuse or irregularity coming to his notice in the performance of his duties;
 - (c) makes any report to the Auditor-General which he knows to be false or which he has no reason to believe to be true,

Commits an offence and shall be liable on conviction to a fine not less than twenty-five million Leones or to a term of imprisonment not less than five years or to both such fine and imprisonment.

Regulations. 37. The Auditor-General may, by statutory instrument, make Regulations for the effective implementation of this Act.

Repeal of Act No 1 of 1998. 38. The Audit Service Act, 1998 is hereby repealed.

(2) Notwithstanding subsection (1), any rules regulation orders, notices other instruments or directives issued under the Act hereby repealed and in existence immediately before the commencement of this Act, shall continue in operation until the expiration or until their express repeal or revocation.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to provide for the establishment of the Audit Service as a body corporate to ensure greater government accountability for the receipt, disbursement and control of public funds, to promote greater economy, efficiency and effectiveness in the use of such funds, to provide for other related matters.

The Bill is divided into seven parts as follows:

Part I provides for the interpretation of certain terms and expressions in the Bill.

Part II– provides for the continuance in existence of the Audit Service as a body corporate with the power to acquire, hold and dispose of moveable and immovable properties etc.

Part III–deals with the functions of the Audit Service, Clause 12 states that the Object for which the Audit Service is established is to ensure compliance with auditing standards and code of ethics published by the International Organisation of Supreme Audit Institutions (INTOSAI) and other recognised standards issued or accepted by funding or donor organisations may be required in conducting audits of their projects.

Part IV–provides for staff of the Audit Service. Clause 14 provides for the appointment of the Auditor-General and clause 15 outlines his functions and powers.

Part V–deals with financial provisions. clause 19 provides for establishment of the Funds of the Audit Service.

Part VI–confers on the Auditor-General, the power to make Regulations for the Purpose of giving effect to this Act.

FRANKLY B. KARGBO,
Attorney General and Minister of Justice.

FREETOWN,

SIERRA LEONE,

17TH DECEMBER, 2012.