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Act

No. 6 of 2003

I assent

BAKILI MULUZI
PRESIDENT
13th June, 2003

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An Act to reform the law relating to Public Audit

ENACTED by the Parliament of Malawi as follows –

PART 1 - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Public Audit Act, 2003, and shall come into force on such date as the Minister may appoint by notice published in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires – "agency" Includes an office or instrument of the Government, other than a Ministry, Government Department or statutory body;
"Appropriation Act" means an Act of Parliament the principal purpose of which is the application public moneys for such goods and services as are specified in the Act;

"Auditor General" means the person appointed as Auditor General under section 184 (3) of the Constitution and this Act, and is head of the National Audit Office;

"books and accounts" or "books or accounts" includes all books, accounts, rolls, files, vouchers, receipts, cheques, records, registers, papers, documents, photographic plates, microfilms, photo-static 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 of the National Assembly referred to under Part IV;
"Controlling officer" means any person appointed by the President who is –

(a) the head or principal person in charge of a Ministry or Department and

(b) 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;

"document" means a document in any form, and includes-

(a) any writing, printing or images on any material; or
(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; or
(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 or
(d) any book, map, plan, graph, or drawing; or
(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 revenue and expenditure during any financial year, as approved by the National Assembly, through the passing of an Appropriation Act;

"generally accepted auditing practice" means-

(a) approved auditing standards as determined by the international community, and in particular those promulgated by the International Organization of Supreme Audit Institutions for application to the public sector and in 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 concerning the use of public resources or for the supply of goods, services or the execution of any works in consideration of any 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;

"Ministry" means a Ministry of Government, and includes a Government Department, or branch or division within a Ministry or Department, whether established by a written law or otherwise.

"National Assembly" means the National Assembly established under Part VI of the Constitution.

"National Audit Office" means that part of the Office of the Auditor General charged with the responsibility of audit under 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, a Minister, Ministry or agency;

"public money" means all money, other than trust money, received by the Government, including all revenue, grants, loans and other moneys, and all bonds, debentures, and any other securities received by, or on account of, or payable to, or belonging to, or deposited with the Government or any Ministry by –

(a) any officer of Government in his capacity as such; or
(b) any person on behalf of Government.

"public resources" means all real and personal property that belongs to, or is owned or held, by the State or held by any Ministry, agency, statutory body or other person for and on

behalf of the State or the Government, and includes long-term investment of the Government in statutory bodies.

No. 42 of 1998

"Statutory body" means any body of persons, whether corporate or unincorporated, other than the Reserve Bank of Malawi, established by any written law, and includes an Assembly established under the Local Government Act, 1998, and any corporation or a subsidiary or a corporation where the Government, directly or indirectly –

(a) controls the composition of any board of directors of the body; or
(b) controls more than 50 per cent of the voting power of the body; or

(c) holds more than 50 per cent of any of the issued share capital of the body either directly or through another agency or statutory body (excluding any part of it that carries no right to participate beyond a specific amount in a distribution or either profits or capital).

(2) Where a document is held by a board, 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, agency or statutory body; and
(b) which is established in accordance with the provisions of any written law or by the Cabinet, a Minister, Ministry, agency or statutory body,
that document shall, for the purposes of this Act, be deemed-

(i) in any case where that body is established in respect of any Ministry, agency or statutory body, to be a document held by that Ministry, agency or statutory body; and
(ii) 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 or statutory body, that body shall for the purposes of this

Act, be deemed to be part of that Ministry, agency or statutory body.

(4) A document held by an officer or employee of a Ministry, agency or statutory body in his capacity as such, or in his capacity as a statutory officer shall, for the purposes of this Act, be deemed to be held by the Ministry, agency or statutory body of which he is an officer or employee or statutory office holder.

(5) Any document held by any independent contractor engaged by any Minister, Ministry, agency or statutory body shall, for the purposes of this Act, be deemed to be held by the Minister, Ministry, agency or statutory body by whom the independent contractor is engaged.

3. The purpose of this Act is to give effect to the principle of the accountability of the Government to the public through the National Assembly to :

(a) make available such information as will enable the National Assembly to be informed of the scrutiny of public expenditures, revenues, assets, liabilities and the management of public money;
(b) promote the accountability of Ministers of the State and Ministries where public expenditure, revenues, assets, liabilities and public money are concerned; and
(c) promote the accountability of agencies and statutory bodies in the management of public money, other money and the resources of such agencies and statutory bodies.

4. The Auditor General shall be responsible for carrying out the duties and responsibilities conferred on him under the Constitution, this Act, or any other written law, and shall be responsible for the National Audit Office.

Appointment qualifications, tenure, removal and Salary of the Auditor General

5.__(1) The Auditor General shall be appointed in accordance with subsection (3) of section 184 of the Constitution.

(2) No person shall be appointed as Auditor General unless that person has formal relevant qualifications, significant experience in audit work and has and maintains no interest in the undertaking or outcome of any work required by this Act or the National Audit Office other than an interest in common with members of the public generally.

(3) The Auditor General shall have independence of office in accordance with subsections (7) and (8) of section 184 of the constitution.

(4) In accordance with subsection (4) of section 184 of the Constitution, the Auditor General shall serve for a term of five years, and my be reappointed for such further term not exceeding five years as the President deems appropriate.

(5) No person shall be appointed or reappointed as Auditor General if he has attained or is over the age of sixty-five years.

(6) The Auditor General may only be removed from office by the President in accordance with subsection (6) of section 184 of the Constitution.

(7) The salary of the Auditor General shall be fixed by the National Assembly, and shall be a charge against the Consolidated Fund.

(8) The salary of the Auditor General fixed under subsection (7) shall be reviewed at two yearly intervals and shall not be reduced during his term of office.

Duties of the Auditor General

6.- (1) Without limiting any other written law and subject to subsection (2), the Auditor General shall undertake a programme of audits, and in accordance with section 7 (2), examine transactions, books and accounts, and other public records of every Ministry, statutory office, office, agency, board, commission and bureau of the Government, and public funds received by a non-profit organization, including relevant international organizations.

(2) The Auditor General shall undertake an audit programme to review and approve the audited accounts of statutory bodies and conduct audits of any statutory body that has not had its financial statements audited by a firm of public auditors, and where the Auditor General does not approve the audited financial statements of a statutory body, he shall commence an independent audit of the statutory body within thirty days of rejecting the private audit report.

(3) The Auditor General shall audit and examine transactions, books and accounts, and other financial records associated with any project, programme, and other activity receiving funding in whole or in part from public moneys.

(4) Without limiting the general duties of the Auditor General under subsections (1) to (3), the Auditor General shall –

(a) monitor compliance with the requirements of any written law governing the management and control of public money and public resources.

(b) examine and review the estimates of revenue and expenditure of the Consolidated Fund, and other funds operated by the Government, accounts of Ministries, agencies, statutory bodies and other entities receiving public moneys;

(c) review and confirm the discharge of financial management obligations, including maintenance of accounting records and adequate controls in the accounting system, to ensure that Controlling Officers, Ministries, agencies and statutory bodies have complied with their financial management obligations under the law; and

(d) In reviewing financial management obligations, determine whether the procedures and systems of internal control of each Ministry, agency and statutory body does ensure-

(i) revenue is properly assessed and collected;

(ii) expenditure is validly and correctly authorized;

(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) there has been no waste or extravagance;

(viii) outcomes or provisions produced are consistent with those specified in any Appropriation Act;

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

(x) all expenditure is charged against the relevant allocation appropriated by the National Assembly; and

(xi) the accounts and records have been properly kept;

(e) arrange for all audits to be undertaken and confirm that such audits are completed to a standard consistent with generally accepted audit practice;

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

(g) perform follow-up audits when the Auditor General considers it appropriate; and

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

(5) Subject to agreement of priorities and the allocation of budgeted funds and resources for this purpose, Auditor General shall –

(a) assist the Committee in its scrutiny of adherence to any written law dealing with the administration and management of public money and public property.

(b) Assist the Committee to discharge its obligations, functions and responsibilities under section 19, including –

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

(ii) furnish the Committee with such information, analysis, appraisals, recommendations and advice that will assist in the performance of the duties and functions of the Committee.

(iii) consider issues and recommendations contained in the report of the Committee to Parliament and other audit reports concerning Ministries, agencies, statutory bodies and ministerial offices and where applicable, take the appropriate follow up action; and

(iv) ensure that 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, review, investigation or inquiry.

Purpose of the Auditor General

7.___(1)For the purpose of fulfilling the functions and duties lawfully conferred or imposed on the Auditor General, the Auditor General and every person authorized by him-

(a) shall have full access at all reasonable time to all documents, books and accounts, public funds, 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 Auditor General;

(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 Auditor

General 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 Government contract relates; and

(e may enter any land, building, or place, other than a dwelling – house, where a Government contract is being performed that is subject to audit and examination by the Auditor General.

(2) The Auditor General may, if required in order to perform his duties under this Act, by written request 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 Government, 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 written law.

8__ (1) The Auditor General may by subpoena summon any person to appear at a reasonable time before him and administer an oath to such person, and further may question such person, under oath, regarding receipts and expenditures of money and any other reasonable and relevant matters necessary for the execution of the duties vested in the Auditor General by this Act.

(2) The Auditor General may issue a subpoena within a reasonable time requiring the production of books of accounts, records, documents, or other relevant financial papers or objects necessary for the performance of his duties

(3) Any subpoena issued under the authority of the Auditor General pursuant to subsections (1) and (2), shall be -

(a) in the name of the Auditor General of Malawi, and a copy provided to the Solicitor General it is served;

(b) signed by the Auditor General and shall identify the witnesses to be served or the books or accounts, records, documents, or other relevant financial papers or objects to be produced together with a reference to the account subject to inspection or audit.

(4) Any officer to whom a subpoena is directed shall forthwith serve or execute the same upon delivery of it to him.

(5) Any person who wilfully fails or refuses to appear upon receiving service of a subpoena, or who wilfully fails or

refused to produce any books or accounts, records, documents, or other relevant financial papers or objects designated in a subpoena properly issued by the Auditor General, shall be guilty of an offence.

(6) Any failure by the Auditor General to comply in any material aspects with the requirements of this section shall relieve any person of the obligation to appear or the obligation to produce designated materials, and such failure shall be a defence in any proceedings against such person.

(7) Any person subject to a subpoena under this section shall have only those privileges against producing books or accounts, records, documents, or other relevant financial papers or objects which are authorized under the rules of evidence of the High Court as applied in Malawi, the Constitution or any other applicable law.

No Civil liability

9. Neither the Auditor General nor any employee of the National Audit Office shall have any civil liability for any act or omission done in good faith in the course of his duties and functions under this Act.

Contracting out

Audits and purchasing services

10.(1) The Auditor General may, as he thinks fit, contract out to any other person or organization of established competence and reputation any of the activities of the Auditor General under this Act.

(2) The Auditor General shall in any one financial year contract out sufficient number of the audits of the Auditor General in order to ensure that all his responsibilities are being carried out efficiently.

(3) The auditor General shall contract out audits of a specialized nature that require particular expertise where the National Audit Office does not posses that expertise.

(4) Any person or organization appointed in accordance with subsections (1) and (2) shall, after consultation with the Auditor General, but before commencement of work, agree with the Auditor General upon a fee, which represents a reasonable charge for the work to be undertaken.

(5) The Auditor General may second or employ on contract any person to assist him in undertaking any audit or review of a specialised nature.

Conduct of Audits

11.-(1) In carrying out all audits the Auditor General shall, where appropriate, express an opinion on the reliability of the information

contained in statements produced under any written law governing the management and control of public money and public resources 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 organization in accordance with section 10 shall include an agreement as to all the necessary terms and conditions of that audit;
(c) that the audit is the subject of a formal opinion and report which shall include a statement that generally accepted auditing standards have been complied with; and
(d) that the Auditor General shall remain responsible to ensure that audits contracted out under section 10 are undertaken in accordance with the provision of this Act.

(2) The Auditor General and employees of the National Audit Office shall have all such other functions and duties as are lawfully conferred upon that person.
(3) All provisions relating to auditors contained in any written law concerning provisions and regulation of companies and corporations shall not derogate from the functions, duties and powers of the Auditor General under this Act.

Incompatible functions

12.(1) Neither the Auditor General nor any employee of the National Audit Office shall undertake, perform or engage in any duty or function that is inconsistent with the performance by him of the duties or functions imposed on him under this Act.

(2) Neither the Auditor General nor any employee of the National Audit Office shall hold any other public office or other Government position while holding the position of Auditor General or employed in the National Audit Office, as the case may be.

Provisions

13. (1) The Auditor General shall, subject to the provisions of this Act, establish, review and regulate the procedures of his office 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 statutory bodies.

PART III – REPORTING

Reporting

14. (1) The Auditor General shall separately report to the Controlling Officer, head of an agency, statutory body or other affected person in respect of any matters that may relate to an audit, review, investigation or inquiry, and may require that person to respond to the Auditor General within fourteen days of receiving the report.

(2) The Auditor General shall in the annual report, or in any other report which the Auditor General may elect to provide to the President or the Speaker of the National Assembly, make such recommendations as the Auditor General deems appropriate.

Annual Reports

15. (1) Without limiting the right to report at any other time, the Auditor General shall by 31st December of each year forward to the President and to the Speaker of the National Assembly, a report containing such information relating to the audits and reviews undertaken under this Act or any other written law as the Auditor General deems appropriate, together with such other information as the Auditor General considers desirable.

(2) Without limiting the generality of subsection (1), the Auditor General shall provide in the report required under subsection (1) a signed statement in respect of every account of a Ministry, agency, statutory body or other organization audited that shall-

(a) comment on the audit undertaken, containing such information as will fairly disclose the compliance by the Ministry, agency, statutory body or organization with the matters referred to in section 6, together with such other information and comments relating thereto as the Auditor General thinks fit; and

(b) a statement or statements 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 Act or any other written law.

(3) Speaker of the National Assembly shall, when the National Assembly is in session, forthwith present the report referred to under subsection (1) to the members of the National Assembly and give the members the opportunity to comment on the report, and where the National Assembly is not in session the Speaker shall forthwith present the report to the members at the start of the next ensuing session of the National Assembly and

give the members the opportunity to comment on the report.

Auditor General may Communicate with the president and others

16__ (1) The Auditor General may communicate with the President, a Controlling Officer or any other person upon any matter which is subject to audit, review, investigation or inquiry.

(2) The Auditor General may report to the responsible person the name of any person failing to comply with the requirements of this Act or any other written law, or of any failure by any person to comply with the recommendations or otherwise address the concerns that the Auditor General has raised in any report.

17. The National Assembly shall appropriate sufficient moneys, on timely basis, to enable the effective and efficient operation of the Auditor General and the National Audit Office.

PART IV – THE PUBLIC ACCOUNTS COMMITTEE

Purposes and objectives

18. The purposes and objectives of this Part are to give effect to the principle of the accountability of Government to the public, acting through the Public Accounts Committee (in this Act otherwise referred to as the "Committee"), by__

(a) Making available such information as will enable the National Assembly to be informed of the management of public expenditure, public money and public resources;

(b) Promoting accountability of Ministers and members of the National Assembly, where public expenditure, public money and public resources are concerned;

(c) Holding accountable Ministries, agencies and other entities controlled by Government for the lawfulness, economy, efficiency and effectiveness with which they use public money and public resources; and

(d) Promoting the accountability of statutory bodies and those other persons charged with the management of public money and public resources.

Functions of the Committee

19-(1) The functions of the Committee are-

(a) to examine and report the National Assembly on the financial statements of the Government generally; and in particular to examine and report on the financial statements of the Government in the light of the outputs

proposed and the performance criteria in the relative Estimates, together with each statement and report of the Auditor General presented to the National Assembly;

(b) to examine and report to the National Assembly on the financial statements of statutory bodies;

(c) to examine and report to the National Assembly on the transactions and financial statements of any body other than a Ministry of Government Department or statutory body for whose purposes a specified sum of money, or a sum not exceeding a specified sum, has been appropriated by the National Assembly by way of grant, subsidy or loan or to which a grant, subsidy or loan has been made out of the Consolidated Fund (but only so far as relates to the application of the money appropriated or granted or lent for that purpose);

(d) to report to the National Assembly, with such comments as it thinks proper, any items or matters in any financial statements and reports or any circumstances connected with them, to which the Committee is of the opinion that the attention of the National Assembly should be directed, and to report to the National Assembly any alteration that the Committee thinks desirable-

(i) in the form of the annual Estimates or financial statements;

(ii) in the method of accounting for Government financial transactions;

(iii) in the method of collection, receipt, expenditure or issue of public moneys; or

(iv) for the receipt, custody disposal, issue or use of public resources;

(e) to inquire into any question in connexion with the financial management of the Government that is referred to it by the National Assembly, and to report to the National Assembly on the question;

(f) to pursue any concerns that the Committee believes are justified; and

(g) to undertake such other duties as are assigned to the Committee by the Standing Orders

(2) Any member of the National Assembly may move for a question in connexion with the financial management of the Government to be referred to the Committee and for the Committee to report back on that question to the National Assembly by an agreed date.

Powers of the Committee

20._(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 times to Government records relating to revenue and expenditure, public money and public resources which are relevant to any inquiry;

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

(c) May cause extracts to be taken from any Government records relating to revenue and expenditure, public money or public resources without the payment of any fee.

(2) No member of the Committee shall have any civil liability for any act or omission done in good faith under this Part.

Sittings to be in public except in certain cases

21._(1) Subject to subsections (2) to (4), the Committee shall take all evidence in public.

(2) The Committee may, of its own volition, or at the request of any witness, take the evidence, oral or documentary, of that witness in private where the Committee is of the opinion that the evidence relates to a secret or confidential matter.

(3) Where, pursuant to subsection (2), evidence is taken by the Committee in private no person, including a member of the Committee, may without the authority of the Committee, disclose or publish the whole or a part of that evidence, other than evidence that has already been lawfully published.

(4) A person who discloses or publishes evidence in contravention of subsection (3) is guilty of an offence and on conviction is liable to a fine of K50,000 and imprisonment for two years.

Evidence before the Committee Cap. 2.

22 Part III of the National Assembly (Powers and Privileges) Act shall apply to meetings of the Committee.

Reports of the Committee

23.-(1) In addition to the reports required by section 19 (1) (a) and (b), the Committee shall at least twice in every year prepare a written report

signed by the Chairperson of the Committee on all matters considered by the Committee.

(2) Every report, including every interim report, shall be submitted to the Controlling Officer of a Ministry, head of a statutory body or organization, of Minister affected thereby, who may add comments thereto within seven days of receiving the report.

(3) The Committee shall forward the report, together with the comments made under subsection (2) to the Speaker of the National Assembly who shall forthwith present it to the National Assembly if the Assembly is in session, and it not, at the start of the next ensuing session.

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

(5) Except in the performance of the duties, functions and powers conferred by this Act or by Standing Orders 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 attention of the Committee or member of the Committee pursuant to this Act, and all such information shall remain confidential.

Assistance generally

24.-(1) It shall be the duty of every Minister, and every person in control of, employed in or engaged by every Ministry, Department, agency or statutory body, 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 organization in the performance of its functions, duties and powers.

PART V MISCELLANEOUS

Confidentiality

25. Except than in the performance of the duties, functions and powers conferred by this Act or by any other written

law on the Auditor General or employee of the National Audit Office, the Auditor General or any employee shall not disclose to any person any information that shall come to the attention of the Auditor General or employee of the National Audit Office pursuant to this Act, and all such information shall remain confidential.

Reference to relevant Acts

26 The Auditor General shall have the right to review and comment on any Bill that affects his office and when doing so shall provide his comments in writing to the Minister responsible for the introduction of the Bill and to the Speaker of the National Assembly who shall present the same to the National Assembly at the first reading of the Bill.

Fees for audits

27.-(1) The Auditor General may, with the approval of the Minister responsible for finance, charge a fee for undertaking specified audits, reviews, inquiries or examinations.

(2) Any fee charged for an audit, review inquiry or examination pursuant to subsection (1) shall be based on full cost recovery.

External Audit

28.-(1) There shall be conducted by competent public auditors appointed by the Committee, an annual audit of the financial statements of the National Audit Office, and the audit report together with the annual financial statements shall be forwarded to the Speaker of the National Assembly not later than six months from the end of the financial year to which they relate, and the Speaker shall present them to the National Assembly forthwith if the National Assembly is in session, and if the National Assembly is not in session, at the start of the next ensuing session.

(2) The cost of the external audit under subsection (1) shall be charged to a separate appropriation under the vote of the Auditor General

29.-(1) A person commits an offence who-

(a) refuses to attend at a time and place required by the Auditor General in accordance with this Act;
(b) refuses 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 by any person lawfully entitled to so under this Act;

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

(e) resists, obstructs, deceives or attempts to deceive the Auditor General or any employee of the National Audit Office in the discharge of his functions, duties or powers under this Act;

(f) Aids, abets counsel or procures the commission of an offence under this Act.

(2) A person who commits an offence against this section is liable on conviction-

(a) in the case of an individual, to a fine of K50,000 and imprisonment for two years, and if the offence is a continuing one, to a further fine not exceeding K10,000 for every day that the office continues; or

(b) in the case of a body corporate (including a statutory body), to a fine of K100,000 and if the offence is a continuing one to a further fine of K20,000 for every day that the offence continues.

(3) Where the body corporate commits an offence under this Act every director, secretary or other officer of a body corporate and every person purporting to act in 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.

30.-(1) The Minister responsible for finance may, on the recommendation of the Auditor General, make all such regulations as may be necessary or expedient for giving full effect to the provisions of this Act and the due administration thereof.

(2)Any regulations made pursuant to subsection (1) may prescribe offences against contravention of the regulations for which the penalty shall not exceed K20,000 and imprisonment for twelve months.

Transitional

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

(2) Every person holding office as an officer or employee of the National Audit Office immediately before the

commencement of this Act shall continue to hold office as an officer or employee of the National Audit Office upon the same terms and conditions of employment, in accordance with the provisions of this Act.

(3) Every audit, review, investigation, inquiry or examination undertaken or being undertaken by the Auditor General on or before the commencement of this Act shall continue to have effect or be undertaken by the Auditor General in accordance with the provisions of this Act.

Repeal and savings
Cap

32.-(1) Part VI of the Finance and Audit Act is repealed.

(2) All subsidiary legislation made under Part VI of the Finance and Audit Act repealed by subsection (1) and in force immediately before the commencement of this Act, shall so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act.

Passed in Parliament this twenty-first day of May, two thousand and three.

R. L. Gondwe
Clerk of Parliament