



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# AUDIT ACT

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to May 6, 2022. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## AUDIT ACT

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## AUDIT ACT CHAPTER A-24

### 1. Definitions

#### (1) In this Act

- (a) **“agency of government”** means any government department, Crown corporation, board, or other entity which
  - (i) forms a reporting entity under the *Financial Administration Act*; or
  - (ii) receives more than half of its funds from the Operating Fund;
- (a.1) **“auditable entity”** means
  - (i) an agency of government,
  - (ii) a government trust,
  - (iii) a public contractor, or
  - (iv) a funding recipient;
- (b) **“Auditor General”** means the person appointed under section 3 as the Auditor General or the acting Auditor General;
- (c) **“Committee”** means the Standing Committee on Legislative Assembly Management;
- (d) **“funding”** includes any form of payment or financial assistance, whether recurring or one-time, made directly or indirectly by an agency of government, to any person or organization, under the terms of any agreement, contract, policy or legislation, in any form including transfer payments, grants, subsidies, loans, guarantees, payments in lieu of taxes, a tax credit and a waiver of fees;
  - (d.1) **“funding recipient”** means a person or an organization that has received funding from an agency of government or a government trust;
  - (d.2) **“government trust”** means a trust that is held by or on behalf of the Province or whose financial statements are included in the financial statements of the Province;
  - (d.3) **“public contractor”** means a person or organization that
    - (i) delivers programs or services on behalf of the Province, or
    - (ii) collects money from the Province or on behalf of the Province.
- (e) **“public property”** means property, immovable or movable, real or personal, belonging to the Government and includes property belonging to an agency of government.

#### Interpretation

- (2) Subject to subsection (1), words and expressions used in this Act have the same meaning as in the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9. 1980,c.10,s.1; 1997,c.20,s.3; 2002,c.1,s.1; 2015,s.36,s.8(2); 2020,c.53,s.1; 2021,c.18,s.1; 2022,s.62,s.3.

**2. Legislative Audit Committee**

Repealed by 2021,c.18,s.2. 1980,c.10,s.2; 1983,c.1,s.6; 1986,c.5,s.2; 1993,c.29,s.4; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2021,c.18,s.2.

**3. Auditor General**

- (1) There shall be an Auditor General who is an officer of the Legislative Assembly.

**Appointment**

- (1.1) The Auditor General shall be appointed by the Legislative Assembly on the recommendation of the Standing Committee on Legislative Assembly Management, by a resolution supported by at least two-thirds of the members voting thereon.

**Term of office**

- (2) Subject to subsection 4(1), the Auditor General shall hold office for a term of ten years and is eligible for reappointment.

**Acting Auditor General**

- (3) The Standing Committee on Legislative Assembly Management may appoint an acting Auditor General, where
- (a) the office of Auditor General becomes vacant during a session of the Legislative Assembly, and the Legislative Assembly does not make an appointment pursuant to subsection (1.1) before the end of the session; or
  - (b) the office of Auditor General becomes vacant while the Legislative Assembly is not in session.

**Termination**

- (4) The appointment of the acting Auditor General terminates on the earlier of
- (a) the appointment of a new Auditor General; or
  - (b) the expiry of 30 days following the next ensuing session of the Legislative Assembly.
- 1980,c.10,s.3; 1986,c.7,s.1; 2002,c.1,s.2; 2021,c.18,s.3.

**4. Removal for cause**

The Auditor General is removable for cause on the passing by the Legislative Assembly of a resolution carried by a vote of two-thirds of the members voting thereon. 1980,c.10,s.4; 2020,c.60,s.16(2); 2021,c.18,s.4.

**5. Status and remuneration**

The Auditor General shall be of deputy minister rank and shall be paid such remuneration as the Standing Committee on Legislative Assembly Management may determine. 1980,c.10,s.5; 2021,c.18,s.5.

**6. Appointment of employees of the Office of the Auditor General**

- (1) The Auditor General may appoint and employ such officers and employees as the Auditor General considers necessary for the proper conduct of the business of the Office of the Auditor General.

**Salaries and terms and conditions of employment**

- (2) Subject to the approval of the Committee, the Auditor General may determine the salaries or wages and the terms and conditions of employment of the officers and employees of the Office of the Auditor General. *1980,c.10,s.6; 2002,c.1,s.3; 2009,c.66,s.1.*

**6.1 Transfer of employees from civil service**

- (1) On the coming into force of this section, all persons who, immediately before this section comes into force,
- (a) are employees in the civil service; and
  - (b) hold appointments, pursuant to the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8, as an officer or employee of the Office of the Auditor General,

cease to be employees in the civil service and are hereby transferred, without compensation, to the Office of the Auditor General.

**Transfer of positions**

- (2) On the coming into force of this section, all of the positions within the civil service of the persons who are transferred under subsection (1) are transferred to, and become part of the establishment of, the Office of the Auditor General.

**Positions held on transfer**

- (3) Any person who is transferred from the civil service to the Office of the Auditor General under subsection (1), is deemed, on the coming into force of this section, to hold within the Office of the Auditor General, the position that the person held immediately before his or her transfer under this section.

**No break in service**

- (4) The transfer of any person from the civil service to the Office of the Auditor General under this section is deemed to occur without effecting a break in the service of that person.

**Continuation of terms and conditions of employment**

- (5) All of the terms and conditions of employment of the persons who are transferred from the civil service to the Office of the Auditor General under this section, whether set by collective agreement, contract of employment, statute, regulation, policy or otherwise, shall continue in force as they were immediately prior to the coming into force of this section, until changed under section 6 or otherwise.

**Severance pay**

- (6) For greater certainty, nothing in this section shall be construed as entitling any person to severance pay as a result of the transfer of that person from the civil service to the Office of the Auditor General. *2009,c.66,s.2.*

**7. Superannuation benefits**

The Auditor General and the other officers and employees of his office are employees for the purposes of the *Public Sector Pension Plan Act* and are entitled to all the benefits under that Act. *1980,c.10,s.7; 2020,c.60,s.16(3).*

**8. Oath of secrecy**

- (1) The Auditor General and every person employed in his office shall before entering upon duties take the following oath:

“I, ..... solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Office of the Auditor General and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. So help me God.”

**Idem**

- (2) This oath shall be taken before such person, and returned and recorded in such manner, as the Lieutenant Governor in Council prescribes. *1980,c.10,s.8.*

**9. Duties**

- (1) The Auditor General shall supervise and be responsible for all matters relating to the conduct of his office and shall have all the powers conferred, and perform all the duties imposed, on him by this Act, any other Act or by the Standing Committee on Legislative Assembly Management.

**Delegation of powers**

- (2) The Auditor General may delegate to any person employed by him any duty, act or function that by this Act he is required to perform other than reporting to the Legislative Assembly. *1980,c.10,s.9; 2021,c.18,s.6.*

**10. Suspension of employees**

The Auditor General may suspend any officer or person employed in his office. *1980,c.10,s.10.*

**11. Rules**

The Auditor General may, subject to the approval of the Committee, make rules for the internal administration of his office. *1980,c.10,s.11.*

**12. Engagement of expert assistance**

The Auditor General may engage the services of such counsel, consultants, accountants and other experts that the Auditor General considers necessary in order to carry out the Auditor General’s functions under this Act. *1980,c.10,s.12; 2009,c.66,s.3.*

**13. Financial audit**

- (1) The Auditor General shall audit, in such manner as he considers necessary, the accounts and records of the receipt and disbursement of public money forming part of the Operating Fund, and the assets, liabilities, revenues, expenditures, trusts and funds held by any auditable entity in so far as it is not subject to financial audit by an external auditor.

**Special audits and examinations**

- (2) Without prejudice to subsection (1), the Auditor General may conduct any audit or examination the Auditor General considers necessary with respect to
- (a) any auditable entity to determine whether it is achieving its purposes and is doing so economically and efficiently and is complying with any applicable statutory provisions;



- (b) activities of a funding recipient related to the receipt and expenditure of funding; and
- (c) activities of a public contractor relating to its provision of programs or services on behalf of the government. *1980,c.10,s.13; 1997,c.20,s.3; 2020,c.53,s.2.*

### 13.1 Joint audits

- (1) The Auditor General may undertake a joint audit, with other auditors general, of any auditable entity or program that is administered or funded by the Government and any other government.

#### Report on joint audit

- (2) A report of a joint audit carried out pursuant to subsection (1) shall be submitted to the Legislative Assembly in the manner provided for in Section 16. *2020,c.53,s.3.*

## 14. Powers

Notwithstanding the provisions of any other Act, the Auditor General

- (a) shall have free access to all files, documents and records relating to financial matters, of every auditable entity and shall, after notice to the auditable entity concerned, have access to electronic data processing documentation for the purpose of performing his functions under this Act;
- (b) may require and shall promptly receive from every public officer or employee of any auditable entity any information, reports and explanations that he considers necessary for the purpose of performing his functions under this Act;
- (c) may examine any person on oath with respect to any matter which the Auditor General is authorized to check, examine or audit and for the purposes of the examination the Auditor General, or his designated representative, may exercise all the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31;
- (d) shall undertake special assignments or investigations at the request of the Lieutenant Governor in Council, and upon the Auditor General being provided the moneys the Auditor General determines will be needed to pay the cost of an assignment or investigation, by the Lieutenant Governor in Council;
- (e) may authorize any duly qualified person to conduct any audit or examination on behalf of the Auditor General; and
- (f) have unrestricted access to the records of any funding recipient or public contractor directly related to the funding or any program of the government or an agency of government. *1980,c.10,s.14; 2015,c.36,s.8(3); 2020,c.53,s.4; 2021,c.18,s.7.*

## 15. Reports to Auditor General by external auditor

- (1) Where in respect of any agency of government or any government trust, an auditor other than the Auditor General is appointed, the agency or government trust shall supply to the Auditor General annually a copy of all financial statements and reports prepared or audited by the auditor in relation to the agency or government trust and the auditor shall
  - (a) make available to the Auditor General, on request and upon reasonable notice, all working papers, reports, schedules and other documents relating to that audit; and
  - (b) perform such additional examination as the Auditor General may direct and report his findings thereon to the Auditor General.

**Reports on public contractor or funding recipients**

- (1.1) Where in respect of any public contractor or funding recipient an auditor other than the Auditor General is appointed, the public contractor or funding recipient shall, upon request, supply to the Auditor General a copy of all financial statements and reports prepared or audited by the auditor in relation to the public contractor or funding recipient and the auditor shall
- (a) make available to the Auditor General, on request and upon reasonable notice, all working papers, reports, schedules and other documents relating to that audit; and
  - (b) perform such additional examination as the Auditor General may direct and report the auditor's findings thereon to the Auditor General.

**Additional examination by Auditor General**

- (2) Notwithstanding the appointment of an auditor other than the Auditor General, the Auditor General may conduct such examinations or investigation of the records and the operations of the auditable entity as he thinks necessary. *1980, c.10, s.15; 2020, c.53, s.5.*

**16. Auditor General's report**

- (1) The Auditor General shall report at least annually to the Legislative Assembly and his report
- (a) shall state whether in his opinion the Public Accounts of the province present fairly the financial position, results of operations and changes in financial position of the province in accordance with the disclosed basis of accounting on a basis consistent with that of the preceding year;
  - (b) repealed by 2021, c.18, s.8(b);
  - (c) shall contain reasons for any qualification to his opinion that he found necessary to make and shall contain detailed information as deemed necessary to complement, expand or explain information contained in the Public Accounts;
  - (d) shall call attention to anything resulting from his examination that he considers necessary to be brought to the attention of the Legislative Assembly, including any cases where essential records and electronic data processing documentation have not been maintained or the system of internal control is inadequate
    - (i) to safeguard and protect the public property of the province,
    - (ii) to ensure the accuracy and reliability of the accounting data,
    - (iii) to promote operational efficiency, or
    - (iv) to ensure adherence to prescribed governmental policies and procedures on financial matters;
  - (e) shall call attention to any infractions of the *Financial Administration Act* that have come to his attention;
  - (f) repealed by 2021, c.18, s.8(b);
  - (g) shall include a statement of the total amount of any claims, obligations, debts or moneys due to the Government that have been discharged, cancelled and released under section 26 of the *Financial Administration Act*;
  - (h) shall list in detail appropriations made by special warrant and the purpose of such appropriations; and
  - (i) may contain any matters with respect to finance that he considers should be brought to the attention of the Legislative Assembly even though they relate to the current fiscal year.

**Special report**

- (2) The Auditor General may make a special report to the Legislative Assembly at any time on any matter that in the opinion of the Auditor General should not be deferred until making of the annual report.

**Reporting requirement satisfied**

- (3) Notwithstanding subsection (1), a special report made under subsection (2) concerning a matter set out in subsection (1) shall be deemed to have satisfied the annual reporting requirement for that matter.

**Reports more than once annually**

- (4) Nothing in subsection (3) prevents the Auditor General from reporting more than once annually on any matter.

**Report to the Legislature**

- (5) A special report made under subsection (2) shall be submitted to the Speaker, and the Speaker shall
- (a) lay the report before the Legislative Assembly within 15 days of the receipt of the report; or
  - (b) where the Legislative Assembly is not sitting, lay the report before the Legislative Assembly within 15 days of the commencement of the next sitting of the Legislative Assembly. *1980,c.10,s.16; 1997,c.20,s.3; 2015,c.36,s.8(3); 2020,c.53,s.6; 2021,c.18,s.8; 2022,c.62,s.3*

**17. Idem**

- (1) Notwithstanding the provisions of this or any other Act, the Auditor General shall not be required to report on matters that, in his opinion, are immaterial or insignificant.

**Idem**

- (2) Nothing in this Act or any other Act shall be construed to require the Auditor General to audit or report upon the accounts of any auditable entity, if the auditable entity, in pursuance of statutory authority to that effect, has designated another auditor to examine its accounts. *1980,c.10,s.17; 2020,c.53,s.7.*

**18. Report to the Legislature**

The annual report of the Auditor General shall be submitted to the Speaker not later than March 15 following the close of the fiscal year to which the report relates, and the Speaker shall

- (a) lay the report before the Legislative Assembly within 15 days of the receipt of the report; or
- (b) where the Legislative Assembly is not in session, lay the report before the Legislative Assembly within 15 days of the commencement of the next sitting of the Legislative Assembly. *1980,c.10,s.18; 1983,c.1,s.6; 1986,c.5,s.2; 1993,c.29,s.4; 2001,c.2,s.1.*

**19. Submission of estimate**

- (1) The Auditor General shall submit to the Standing Committee on Legislative Assembly Management in respect of each fiscal year an estimate of the public money that will be

required to be provided by the Legislative Assembly for the carrying out of the functions of the Auditor General under this Act during the fiscal year.

#### **Financing of operations**

- (2) The Standing Committee on Legislative Assembly Management shall review each estimate submitted pursuant to subsection (1) and, on the completion of the review, the chair of the Standing Committee on Legislative Assembly Management shall transmit the estimate to the Minister of Finance for presentation to the Legislative Assembly. *1980, c.10, s.19; 2021, c.18, s.9.*

#### **19.1 No action lies**

No action or other proceeding lies or shall be instituted against the Auditor General, a former Auditor General, a person employed in the Office of the Auditor General, a former employee of the Office of the Auditor General or a person appointed by the Auditor General under a contract for professional services for any act done in good faith in the exercise or performance or the intended exercise or performance of a power or duty under this or any other Act or for any neglect or default in the exercise or performance in good faith of such a power or duty. *2021, c.18, s.10.*

#### **19.2 Working papers are confidential**

Notwithstanding any other enactment, the audit working papers of the Auditor General, a former Auditor General, a person employed in the Office of the Auditor General, a former employee of the Office of the Auditor General or a person appointed by the Auditor General under a contract for professional services

- (a) are confidential and shall not be disclosed; and
- (b) are exempt from the *Freedom of information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01. *2021, c.18, s.10.*

#### **20. Audit of accounts of Auditor General's office**

The Standing Committee on Legislative Assembly Management may appoint a person to audit the accounts of the office of the Auditor General and that person shall

- (a) be a member in good standing of CPA PEI;
- (b) not be employed by an auditable entity; and
- (c) report to the Committee the results of his examination. *1980, c.10, s.20; 1991, c.5, s.1; 2015, c.36, s.8(3); 2020, c.53, s.8; 2021, c.18, s.11.*