PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen'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*.**

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CHAPTER A-24

AUDIT ACT

1. (1) In this Act — Definitions

(a) "agency of government" means any department, board, commission, foundation, agency, association, institute or other body of persons, whether incorporated or unincorporated — agency of government

(i) all the members of which, or all the members of the board of management or board of directors of which

(A) are appointed by an Act of the Legislature or by Order in Council, or

(B) in the discharge of their duties are public officers or servants of the Crown or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown, or

(ii) which receives more than half of its funds from the Operating Fund;

(b) "Auditor General" means the person appointed under section 3 as the Auditor General or the acting Auditor General; — Auditor General

(c) "Committee" means the Legislative Audit Committee constituted under section 2; — Committee

(d) "Crown controlled or owned corporation" means any corporation or entity in which the government owns more than 50% of the issued and outstanding voting shares; — Crown controlled or owned corporation

(e) "public property" means property, immovable or movable, real or personal, belonging to Her Majesty in right of the province and includes property belonging to an agency of government. — public property

(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). — Interpretation

2. (1) There shall be a standing committee of the Legislative Assembly to be known as the Legislative Audit Committee. — Legislative Audit Committee

(2) The members of the Committee shall be the Speaker, who shall be chairman, the Leader of the Opposition and the Minister of Finance. — Membership

(3) The members of the Committee may designate other members of the Legislative Assembly to serve as alternates. — Alternates

Meetings

(4) Meetings of the Committee shall be held at the call of the chairman and the Committee may meet notwithstanding the prorogation of the Legislative Assembly.

Procedure

(5) The Committee may determine its procedure.

Functions

(6) The functions of the Committee are

(a) to provide guidance to the Auditor General on the performance of his functions under this Act;

(b) to advise on administrative rules for the operation of the office of the Auditor General;

(c) to resolve matters of conflict affecting the independence and effectiveness of the office of the Auditor General;

(d) to review and, as it considers proper, to alter the estimates presented by the Auditor General for the operation of his office; and

(e) to make recommendations to the Lieutenant Governor in Council on matters affecting the operation of the office of the Auditor General. 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.

Auditor General

3. (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 Lieutenant Governor in Council following a resolution of the Legislative Assembly supported by at least two-thirds of the members of the Legislative Assembly.

Recommendation

(1.2) A resolution referred to in subsection (1.1) shall be made by the Legislative Assembly on the recommendation of the Lieutenant Governor in Council following consultation by the Lieutenant Governor in Council with the Legislative Audit Committee of the Legislative Assembly.

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 Lieutenant Governor in Council 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.

(4) The appointment of the acting Auditor General terminates on the earlier of

Termination

(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.

Tenure of office and removal

4. (1) The Auditor General may hold office until he attains the age of sixty-five years but shall be removable for cause by the Lieutenant Governor in Council on the passing by the Legislative Assembly of a resolution carried by a vote of two-thirds of the members of the Legislative Assembly voting thereon requesting the Lieutenant Governor in Council so to do.

Retirement

(2) Notwithstanding the provisions of the *Civil Service Superannuation Act* R.S.P.E.I. 1988, Cap. C-9, the Auditor General shall not be retired except pursuant to subsection (1). 1980,c.10,s.4.

Status and remuneration

5. The Auditor General shall be of deputy minister rank and shall be paid such remuneration as the Lieutenant Governor in Council may determine. 1980,c.10,s.5.

Appointment of employees of the Office of the Auditor General

6. (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.

Transfer of employees from civil service

6.1 (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.

Superannuation benefits

7. The Auditor General and the other officers and employees of his office are employees for the purposes of the *Civil Service Superannuation Act* and are entitled to all the benefits under that Act. 1980,c.10,s.7.

Oath of secrecy

8. (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.

Duties

9. (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 Lieutenant Governor in Council.

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.

Suspension of employees

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

Rules

11. 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. 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.

Engagement of expert assistance

13. (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 agency of government or Crown controlled or owned corporation in so far as it is not subject to financial audit by an external auditor.

Financial audit

(2) Without prejudice to subsection (1), the Auditor General may conduct any audit or examination he considers necessary to determine whether any agency of government is achieving its purposes and is doing so economically and efficiently and is complying with the applicable statutory provisions. 1980,c.10,s.13; 1997,c.20,s.3.

Special audits and examinations

14. Notwithstanding the provisions of any other Act, the Auditor General

Powers

(a) shall have free access to all files, documents and records relating to financial matters, of every agency of government or Crown controlled or owned corporation and shall, after notice to the agency or corporation 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 agency of government or Crown controlled or owned corporation 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

(e) may authorize any duly qualified person to conduct any audit or examination on behalf of the Auditor General. 1980,c.10,s.14; 2015,c.36,s.8(3).

15. (1) Where in respect of any agency of government or any Crown controlled or owned corporation an auditor other than the Auditor General is appointed, the agency or corporation shall supply to the Auditor General annually a copy of all financial statements and reports

Reports to Auditor General by external auditor

prepared or audited by the auditor in relation to the agency or corporation 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.

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 agency or corporation as he thinks necessary. 1980,c.10,s.15.

Auditor General's report

16. The Auditor General shall report 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) shall give an opinion on whether

(i) revenue, the collection of which has been provided for under various statutes or indicated in the budget for the relevant fiscal year, has been properly reflected,

(ii) expenditures that were authorized by the annual *Appropriation Act* or by special warrant were expended for the purpose for which they were appropriated;

(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) shall include information on deficits of any agency of government, not covered by appropriations in the year in which they

have been incurred and any surpluses not paid into the Operating Fund in the year in which they have been earned;

(g) shall include a statement of the total amount of any claims, obligations, debts or moneys due to Her Majesty 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. 1980,c.10,s.16; 1997,c.20,s.3; 2015,c.36,s.8(3).

Idem

17. (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 agency of government if the agency, in pursuance of statutory authority to that effect, has designated another auditor to examine its accounts. 1980,c.10,s.17.

Report to the Legislature

18. 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.

Estimates for Auditor General's office

19. (1) The Auditor General shall submit annually to the Committee an estimate of the sums 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.

Review

(2) The estimate shall be reviewed by the Committee and shall be submitted for the approval of the Lieutenant Governor in Council before being laid before the Legislative Assembly with the other estimates for that year. 1980,c.10,s.19.

Audit of accounts of Auditor General's office

20. The Lieutenant Governor in Council 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 the Institute of Chartered Accountants of Prince Edward Island;
(b) not be employed by an agency of government; 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).