



Annotated

**Model
Public Audit Act**

2025



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Introduction

This model Public Audit Act serves as an example of the minimum content legislation that a supreme audit institution (SAI) should have to ensure the independence and efficiency of that institution. Depending on local circumstances, amplifying these provisions may be necessary to cater to local requirements. In addition, **it may be necessary to repeal or amend existing legislation so that the provisions of these enactments do not conflict with the provisions of the model law once adopted.**

If additional provisions are inserted, care must be taken to ensure that section cross-referencing is adapted to reflect the consequential changes in numbering.

The draft model law refers to the National Audit Office (abbreviated as “NAO”) – this should, throughout the text, be replaced with the name of the local supreme audit institution. The draft model Public Audit Act is marked **in yellow** to indicate where the names of local legislation, local institutions and local functionaries need to be inserted. Care should also be taken to reflect the local constitutional framework, i.e. depending on whether subcategories of state jurisdictions exist (e.g. provinces, counties, etc.) and whether the country is a unitary, federal or hybrid state.

The text of the draft model Public Audit Act should be adapted to reflect the local legislative drafting style.

Part I. Preliminary: Definitions, interpretation and objectives of this Act

Definitions and interpretation

1) In this Act, unless the context indicates otherwise -

“Accounting Officer” means a person appointed as such in the Public Finance Management laws.

“audit” means the examination or investigation, in accordance with any applicable audit standards, of those aspects to be reported on in terms of sections 16, 17, 18, 65 or 66.

“audited entity” means an entity that is being or is to be audited in terms of this Act.

“authorised auditor” means a person authorised in terms of subsection (a) of section 27 to perform or to assist in the performance of an audit.

“Constitution” means [full name and reference].

“integrated financial management and information system” means the automation of public financial management processes that involve budget preparation and execution to accounting and reporting, with the help of an integrated system for the financial management of line ministries, spending agencies and other public sector operations.

“ISSAIs” means the International Standards of Supreme Audit Institutions, which are the authoritative international standards on public sector auditing.

“misbehaviour” means any conduct or behaviour that is not in accordance with the applicable Code of Conduct or that is likely to discredit or compromise the independence or integrity of the NAO.

“NAO” means the National Audit Office¹ contemplated in subsection (a) of section 3.

“Auditor-General” means a person appointed as such in accordance with section 37 of this Act and the Constitution [full name and reference].

¹ The relevant name should be inserted here, and all consequential changes should follow throughout the text of the Act. Depending on local legislative drafting style, it may not be necessary or desirable to use an acronym or abbreviation.

“**politically active**” does not include activities relevant to exercising a citizen’s right to vote in elections and referenda, a citizen’s right to attend a political meeting as a spectator or in an official capacity handing down a judgment which may have an impact on the politics of the country.

“**supreme audit institution**” means the institution which, however designated, constituted or organised, exercises by virtue of the law of a country, the highest public auditing function of that country.

“**organ of state**” means –

- a) any institution, entity, department or administration in the national, provincial, district [*insert relevant name, e.g. “county”*] or municipal [*insert relevant name, e.g. “local”*] sphere of government; or
- b) any other institution, entity or functionary funded by the fiscus, which exercises public power, performs a public function or is controlled by an organ of state in terms of the Constitution or any other legislation.

“**this Act**” shall include the regulations.

The Model Audit Act defines various terms to help interpret the legal provisions as intended. The Act focuses on the basic terms conventionally defined in the laws regulating the functioning of the supreme audit institutions. Depending on the national legal framework, the list of definitions may vary, including references to any other applicable legislation.

- 2) Where a provision of this Act is inconsistent with a provision relating to public audit provided for in any other law other than the Constitution, the provision of this Act prevails to the extent of such inconsistency.

This provision stipulates the supremacy of the model Public Audit Act over any other law as a solid legislative mechanism of NAO legal protection.

In case of collision of various legal provisions, the following common legal principle applies:

- A higher-level law prevails over the lower-level legislation (depending on the country's legal system, there is a hierarchy of legislation, i.e. the constitution, international agreements, organic laws, ordinary laws, presidential orders, by-laws and so on).
- In case of collision of the legal norms of the same level, the newest one applies (in some instances, specific norms prevail over general norms).

To protect the model Public Audit Act from being overruled by a higher level or newer law (or amendments in the legislation), it is necessary that:

- The Audit Act is adopted as the highest-level law right after the Constitution in the legal hierarchy, insofar as the local legal framework allows this; and
- The NAO has a full legal capacity to apply to the court against the adoption of collusive norms or decisions/actions of any public authority that limit the application of the model Public Audit Act.

Depending on the country's judicial system, a court (the Supreme Court or the Constitutional Court) decides whether the model Public Audit Act is superior to collusive norms.

Objectives of this Act

- 3) The objects of this Act are to -
- (a) give effect to the provisions of the Constitution establishing and assigning supreme auditing functions to the National Audit Office², in this Act referred to as the NAO³;
 - (b) ensure the independence and effectiveness of the NAO; and
 - (c) provide for the auditing of organs of the state.

The draft Model Audit Act specifies the objectives of the Act in broad terms to emphasise the importance of independence and the sufficiently broad mandate of the NAO, among other principles. This section underlines these two primary principles deriving from the national constitutional provisions. Local drafters may amplify this provision if necessary.

Part II. Status and composition of the NAO

Independence of the NAO

- 4) The NAO is the supreme audit institution of [*name of country to be inserted in accordance with local legislative drafting style*].

In various countries, audit authorities exist at different levels of state governance, i.e., federal, provincial, and municipal levels. Legal reference to the NAO as a supreme audit institution at the national level emphasises the national-level legal status of the NAO with a broader audit mandate than those at other levels of government. The reference to the supreme audit institution also delineates from any internal audit activity performed by internal auditors who are part of the executive (government).

² See footnote #1

³ If an abbreviation or acronym is used

- 5) The NAO is functionally, organisationally and financially independent, subject only to the Constitution and other applicable laws, including this Act, and impartial in exercising its functions and performing its duties. No person or authority other than the Auditor-General, and where applicable, a court of law, may direct, influence, control or attempt to direct, influence or control the NAO, the NAO staff or an authorised auditor.

The impartial nature of the NAO's activities is an essential prerequisite for its independence. The NAO has full discretionary power within the constitutional and legal mandate. (INTOSAI-P 10:2, SAI PMF dimension 1, iv).

- 6) The Auditor-General is accountable only to the *[full name of the relevant chamber(s) of Parliament]*.

The accountability of the NAO implies that it needs to justify and explain its performance to the national legislature. The national legislature is expected to consider the performance of the NAO to the extent that it supports Parliament in overseeing the executive branch of the government. The practical implication of the NAO's accountability to the relevant chamber of Parliament is further specified elsewhere in the model Public Audit Act, which requires the submission of audit reports and annual performance reports to Parliament. The accountability of the NAO to the national legislature should not infringe on the independence of the NAO in its operations and management. (INTOSAI-P 1:8).

- 7) The NAO has the legal capacity as a body corporate and is capable of -
- (a) suing and being sued in its name;
 - (b) entering into contracts;
 - (c) holding, purchasing, acquiring, encumbering and disposing of any property for the purpose of performing its functions; and
 - (d) exercising all powers and performing all such acts as are necessary for or incidental to attain the objectives and purpose of a supreme audit institution.

NAO's legal capacity, as provided in this section, is a prerequisite for the NAO to apply to the court. (INTOSAI-P 1:5 (3)).

The model Public Audit Act provides the foundations for independence guarantees further specified in respective sections of the model:

- Guarantees for functional independence deal with the legal provisions relating to a sufficiently broad mandate and power to perform various types of audits, full access to information and independent reporting.

- Guarantees for organisational independence include legal provisions enabling NAO to define its internal structure, rules, policies, audit standards and methods and internal controls.
- Guarantees for financial independence include legal provisions to formulate, adopt, have access to, implement, account for, and report on the NAO budget without interference from the executive. (INTOSAI-P 1:5 (2)).

Composition of the NAO

- 8) The NAO consists of -
- (a) the Auditor-General;
 - (b) the Deputy Auditor(s)-General as appointed by the Auditor-General under section 68;
 - (c) the staff appointed by the Auditor-General under section 69.

The model Public Audit Act is drafted following the Westminster model of the SAI (INTOSAI-P 1:6). Along with the institutional status of the NAO, the status of the Auditor-General and Deputy Auditor-General is emphasised. In this model, the NAO does not have judiciary powers but is an instrument of the Parliament that holds the executive branch accountable.⁴

Many member states of AFROSAI-E have an SAI organisational structure that includes a board with various advisory and management functions. The national parliament usually appoints the governing board or college members for a fixed term. Given that the national legislature also appoints the Auditor-General, this model has the potential for conflict and threats to reach an agreement on various points related to professional judgments applied during the audit. Based on an AFROSAI-E study on the functioning of Boards in the region, AFROSAI-E concludes that the institutionalisation of a board is not a prerequisite for the well-functioning of an NAO. Therefore, the Model Public Audit Act does not include provisions for that purpose.

- 9) The Auditor-General is the head of the NAO and, as such, is in overall control of and accountable for managing the NAO.

The Auditor-General is the head of SAI, having overall responsibility for the internal control and quality management of NAO work.

- 10) The Deputy Auditor(s)-General assist the Auditor-General in performing the Auditor-General's functions as determined in writing by the Auditor-General.

⁴ However, various exclusions exist in conventional Westminster model SAIs, which have jurisdictional powers. This implies the SAI's power to make binding decisions that an entity subject to audit must adhere to.

The model Public Audit Act provides managerial and administrative autonomy for the Auditor-General to allocate functions among Deputy Auditor(s)-General as they may deem necessary.

Standards and ethics

- 11) The Auditor-General and the NAO shall carry out their activities following the international standards on public sector auditing adopted by the International Congress of Supreme Audit Institutions (INCOSAI) and recognised in a NAO policy determined by the Auditor-General.

NAO implements its mandate and performs its auditing functions by auditing methodologies and guidelines that should comply with international standards and internationally accepted good practices.

The model Public Audit Act recognises the importance of NAO performance in compliance with international auditing standards. Depending on several factors (such as national legal and accounting systems, SAI maturity, etc.), various countries directly apply or translate these standards into national auditing standards through audit manuals and guides.

The model Public Audit Act gives the Auditor-General a discretionary power to make such decisions. This may include directly applying the international auditing standards or, to various extents, adapting those standards to the national circumstances (INTOSAI-P 1:13). As the head of the NAO, the Auditor-General approves applicable audit manuals.

- 12) In exercising their duties under this Act, the NAO staff must follow integrity and ethical requirements aligned with those applicable to the International Standards of Supreme Audit Institutions (ISSAIs) and the country's accounting and auditing profession, as determined by the Auditor-General or relevant professional bodies, which sets out the standards of professional conduct and the disciplinary measures for misconduct.

The model Public Audit Act underscores the importance of regulating professional conduct for public sector auditors, which is fundamental to trust in the NAO's work. It must also include disciplinary steps against misconduct. The duty to determine the integrity and ethical requirements is assigned to the Auditor-General.

Duty to submit an annual plan and an annual performance report

- 13) The NAO must independently determine its annual plan and submit a copy thereof, together with a budget estimate of the sums that will be required for the payment of expenses, salaries, allowances and any other expenditure of the Auditor General and the NAO during the next

financial year, not later than three (3) months before the beginning of each financial year of the NAO to the [full name of the relevant chamber(s) of Parliament] prior to the implementation of that plan.

As part of functional independence, the model Public Audit Act stipulates that the NAO has complete discretion to develop and implement its annual audit programme. Under this section, the audit plan implies the list of entities and audit topics or themes the NAO intends to cover within its audit mandate throughout the year. It does not refer to plans of individual audit engagements. The Parliament must be informed about the NAO audit plans; however, this should not imply that the NAO should not adjust the plan using its discretionary powers when subsequent other matters of public interest arise.

The primary purpose of this communication is to facilitate coordination and alignment of the NAO annual workplan with the legislative programme activities (PAC annual programme) to strengthen its oversight over the executive. With this information, members of Parliament will be able to plan their committee hearings and debates on various public issues with the expected NAO report delivery. (INTOSAI-P 10:3).

- 14) The NAO shall, within six months after the financial year end to which it relates, submit an annual report in accordance with international best practice to the [full name of the relevant chamber(s) of Parliament], reflecting -
- (a) the audit work undertaken by the NAO during the year;
 - (b) a summary of the findings of the audits carried out, and where applicable, recommendations for improvement in the management of public finances;
 - (c) the audit report contemplated in sections 65 and 66 containing the NAO's statement of audited accounts;
 - (d) the state of affairs of the NAO, including its business and performance measured against predetermined objectives; and
 - (e) Any other matter relating to the audits carried out that the Auditor-General deems necessary.

The NAO's annual own performance report must be submitted to Parliament within six months after the financial year it relates to. In practice, it is preferable that this accountability report be submitted to Parliament based on the annual plan that would have been shared with Parliament.

- 15) The NAO shall publish its annual performance report in any way the Auditor-General deems appropriate.

This publication is intended to inform the general public of the NAO's activities.

Part III. Mandate, functions and duties of the NAO

Mandate of the NAO

16) The NAO is hereby mandated to -

- (a) audit all organs of state;
- (b) if it is in the opinion of the Auditor-General necessary, desirable or in the public interest to conduct an audit of any donor funds donated to any organ of state, or an investigation or special audit of any organ of state, which audit may include –
 - (i) the examination of all revenues, expenditures and liabilities, the procurement of property, as well as the organisational and managerial processes that underlie these matters; and
 - (ii) reporting to the relevant legislature on the results, findings, conclusions, or recommendations regarding such an audit or investigation.

17) The Auditor-General may –

- (a) issue any appropriate binding recommendations to the accounting officer where financial loss has been suffered by the organ of state.
- (b) issue a surcharge against any official(s) responsible for the financial losses that have been suffered by the organ of state if there was a failure to implement the binding recommendations, to recover the financial losses.

This section articulates the NAO's mandate regarding administrative entities, referred to as the NAO's audit universe. The NAO can perform financial, compliance, or performance audits in any of these entities at its discretion or under constitutional/legal mandate. This provision defines the objectives of the NAO's audit mandate. ((INTOSAI-P 1:18 (3), INTOSAI-P 10:3).

Under this section, the NAO mandate covers all levels of government, any public organisation, and public enterprises. Notwithstanding the legal form of the entity established by a public authority (either executive, legislature, or judicial), if entities are funded from the fiscus or generate their income for public purposes, they are also subject to the NAO audit mandate. (INTOSAI-P 1:18 (3), (INTOSAI-P 1:19-25, INTOSAI-P 10:3).

This provision refers to public audits, as the NAO, as a supreme audit institution, has no legal powers to audit private sector entities *except* those that use public funds (see paragraph (b) of the definition of "organ of state").

The NAO's audit mandate over donor funds is specified. In various national accounting systems, donor funds may not flow within the treasury accounting system and may not be reflected in the

Consolidated Fund or annual budget. This is a reason to exclude donor funds from being audited by the NAO. Only donor funds transferred to public entities at any government level will be subject to NAO audit. The NAO does not have an audit mandate over donor funds transferred to non-governmental organisations (NGOs) or civil society organisations (CSOs) for various purposes or donor funds managed by the donor. (INTOSAI-P 1:18 (3), INTOSAI-P 10:3).

Except for the conventional types of audits with respective audit opinions and conclusions described in the sections above, the NAO may need to perform special investigations related to financial management in the agencies under its mandate to serve the public interest. This right is explicitly provided for in paragraph (b).

The power to issue a binding recommendation on the recovery of financial losses will only apply where material financial losses have been suffered. The materiality of the financial losses will be determined by the AG. What is a financial loss? - Financial loss means a loss of money or a decrease in monetary value. It includes expenditure that was made in vain or wasted (i.e. no benefit was received) and expenditure for which an equivalent benefit was not received. The Auditor General will be expected to provide regulations on procedures required to be fulfilled before determining the one responsible for the loss suffered.

With this provision, the Auditor General will be able to issue orders and demand repayment without the matter being discussed in parliament first. It is noted that the provision will place greater demands on the Auditor General's independence, transparency and accountability because it is possible for the Auditor General to identify major weaknesses in the internal controls of the organ of state without identifying financial loss at the same time.

A binding recommendation may be in other jurisdictions referred to as a remedial action.

Functions of the NAO

- 18) To provide audit opinions or reports on audits contemplated in section 16, the NAO may conduct-
- (a) financial audits to examine the accounts, financial statements or any other documents containing financial information;
 - (b) compliance audits to determine an organ of state's compliance with its statutory obligations and its performance against its predetermined objectives; or
 - (c) performance audits to establish the economy, efficiency and effectiveness of the operations of an organ of state; or
 - (d) any combination of these audits.

The model Public Audit Act emphasises audit types performed by the NAO under its constitutional mandate or upon its discretionary power. These include financial, compliance and performance audits in line with the INTOSAI Framework of Professional Pronouncements (IFPPs) and ISSAIs. In the model Public Audit Act, types of audits are described, depicting their general objective rather than inserting numerous forms of assertions that these may serve in practice. This secures the NAO mandate from being objected to by public entities during planning and performing the audit. Other details concerning types of audits should be included in the audit manuals or methodologies.

It is noted that the definitions of financial and compliance audits in the Model Public Audit Act may be seen as different and broader than the definitions provided in ISSAI 200 and 400, respectively. The Model Public Audit Act definitions do not seek to limit SAIs to the ISSAI definitions because each SAI may have a broader audit scope. For example, while ISSAI 200 paragraph 7 states that *“Financial audit involves determining, through the collection of audit evidence, whether an entity’s financial information as presented its financial statements is complete, accurate and, where applicable, fairly presented in accordance with the financial reporting and regulatory framework applicable”* the definition in the Model Public Audit Act chose a broader view of financial audit a being *“... to examine the accounts, financial statements or any other documents containing financial information”*. The general perspective gives freedom to those SAI who may have a broader audit scope of audit work.

Under these types of audits, the NAO may perform any examination and investigation it may deem necessary. For instance, environmental, information technology, and other topics may fall under its compliance or performance audit, depending on the audit objectives (compliance with applicable legislation or performance of the function). Information systems may also be examined under financial audit when the NAO audits electronic accounting systems, etc.

This provision also covers NAO special investigations or forensic audits. Depending on the audit objective, the NAO may select whether the focus of the activity is on its financial, compliance, or performance audit mandate. (INTOSAI-P 10:3, SAI PMF, dimension 2i).

In an audit engagement, NAO may combine audit objectives and apply a combination of the specified types of audits.

Auditing duties of the NAO

- 19) The NAO shall, for each audit conducted, prepare an audit report that reflects its findings, conclusions, and or opinions regarding such audits and, if applicable, its recommendations regarding any matter raised in the audit report.

After completing an audit engagement, the NAO prepares an audit report that includes findings, conclusions, and or an opinion, depending on the type of audit (INTOSAI-P 10:6). As the main output of the NAO audit work, audit reports also include recommendations addressed to the entity subject to audit (INTOSAI-P 10:6).

This section does not seek to provide mandatory opinions for performance audit reports, as there is no such guidance in ISSAI 300, nor is it a requirement of the ISSAI framework.

- 20) The NAO shall, subject to section 26 processes, in accordance with any legislation or rules of legislatures applicable to the audited entity on the submission of audit reports, also submit its final consolidated annual audit report to the legislature [*or other oversight body*]⁵ to which the audited entities are accountable, or, if such a legislature [*or other oversight body*] cannot readily be identified, to the national Parliament.

The provision provides for the NAO's mandatory consolidated annual audit report to be submitted to Parliament. This is a fundamental function to support Parliament's holding the government (i.e., the executive) accountable. The model Public Audit Act requires the NAO to submit an opinion on the individual government accounts, which, in conjunction with section 18 of this Act, implies all types of audits.

Based on good international practices (used by various international assessment frameworks like PEFA, SAI PMF, etc.), the model Public Audit Act provides six months for NAO to submit such a report and opinion to Parliament. Based on the national accounting system, this deadline may be longer. In any circumstances, NAO reporting should align with the budget calendar established by the budget law or other legislation related to public finance management. (INTOSAI-P 1:16 (1)).

If Parliament decides that the NAO should have additional mandatory audit tasks, such tasks can be specified in this section. However, in principle, the NAO may choose not to prepare any more mandatory audit reports if it would infringe on its independence to audit what it deems inappropriate.

If a country has a national Parliament and subcategories of legislatures (e.g., provincial or municipal, depending on the local constitutional dispensation), several reports must be submitted to lower-level legislatures.

- 21) If the financial statements or accounts of an audited entity are not available or do not allow the NAO to conduct an effective audit or compile and submit an audit report as contemplated

⁵ If applicable

in this section, the NAO must report the matter to the relevant legislature [or other oversight body] without undue delay after complying with section 26.

- 22) The [full name of the relevant chamber(s) of Parliament or other relevant legislature(s)] or any of its committees mandated by the rules of [the relevant chamber(s) of Parliament or other relevant legislature(s)] may at any time request the NAO to conduct an audit contemplated in section 18 or this section, but the Auditor-General may on reasonable grounds decline to do so.

The model Public Audit Act allows a public accounts committee of Parliament to request the Auditor-General to conduct an audit in an area its members may deem of their interest. However, the final decision to accept the request rests with the Auditor-General at their discretion.

As a good practice, the Auditor-General must consider the audit topics in which members of the legislature express interest while considering the various factors that impact the decision whether to perform such an audit, including available time, human, financial, and other resources.

- 23) The Auditor-General may, in the public interest and without the consent of the [full name of the relevant chamber(s) of Parliament or other relevant legislature(s)] or any other entity or person, subject to section 35, cause the NAO to –
- (a) submit any audit report it may deem necessary to any entity or person other than the [full name of the relevant chamber(s) of Parliament or other relevant legislature(s)]; or
 - (b) to publish audit reports in any way it deems appropriate.
 - (c) The NAO must, when reporting on any classified or sensitive information or any account of any organ of state, in accordance with [the Constitution and]⁶ and any applicable legislation-
 - (i) have due regard to the special nature of the information or the account; and
 - (ii) publish the report or parts of it under confidential cover.

The entity controlling the public agency subject to audit may also be an addressee of the NAO report if the NAO deems it necessary. (INTOSAI-P 1:11 (2)).

The model Public Audit Act empowers the NAO to submit audit reports to Parliament and publish them under the discretionary power of the Auditor-General. It is good practice that all audit reports are timely published through various communication channels. (INTOSAI-P 1:16 (1,2), INTOSAI-P 10:6).

⁶ If applicable

In some instances, the audit report may include confidential or classified information. When publishing such an audit report, national legislation must be complied with, and the report or parts of it may be published under confidential cover. Some classified information is accessible to specific persons subject to a specific legal regime. The NAO must observe national legislation when disclosing classified information to authorised officials.

Duty to inform law enforcement authorities

- 24) If the NAO finds or suspects an indication of criminal or fraudulent conduct during an audit or investigation, it shall submit such information or communicate such suspicion to an appropriate law enforcement authority for further investigation and action in accordance with the legislation applicable to that authority.
- 25) The authority contemplated in section (24) shall, periodically in writing, inform the NAO of progress in its investigation and of action taken concerning the information submitted or the suspicion communicated. If the authority takes no further action in respect thereof, the authority must immediately, after taking such a decision, provide reasons to the NAO in writing for not taking such further action.

The model Public Audit Act provides for NAO relationships and basic communication principles with law enforcement agencies. This is primarily linked to the findings and related information about fraudulent misconduct. While the NAO is an important institution in implementing anti-corruption measures, it is not mandated to conduct criminal investigations. When the NAO discloses indications of potential fraud or other criminal misconduct, its role is to share such information with national law enforcement agencies, and such agencies must inform the NAO of developments relating to its investigation.

Part IV: Rights and duties of audited entities

Rights of the audited entity

- 26) The NAO shall give the audited entity a reasonable opportunity to review and respond to any finding, conclusion, opinion, or recommendation contained in its draft audit report. The NAO shall duly consider any such response before making a final determination on the inclusion of the matter in the final audit report.

The provision provides for a basic communication requirement for the NAO. The NAO must communicate the audit report following the legislation applicable to the audited entity. Audited

entities are entitled to receive the audit reports, familiarise themselves with the audit results, and submit their positions and comments on the findings, conclusions, and recommendations.

The audited entities have the right to submit their objection to the NAO concerning audit results, which is known as a contradictory process. The contradictory process is performed before the audit report is signed off and published. After completing the contradictory process, the NAO (re)submits the final audit report.

It, however, depends on the national legal system whether the audited entities have a right to appeal the audit report to the judiciary, either until they complete the contradictory process or when they do not agree on the results of this process. Preferably, public entities should have no right to appeal the audit report in court for the following reasons:

- the audit report is an assurance service to Parliament. Parliament will decide on further consequences. The entity is free to refer its objections to Parliament.
- in case audit reports are appealed in court, legal proceedings prevent the timely publication of the audit report and, thereby, the implementation of the benefits it can bring to the public.

This will, however, be dependent on the constitutional dispensation of the country.

The model Public Audit Act provides complete discretion for the NAO to decide on objections filed by the audited entity within the NAO. The decision must be made based on audit evidence and the application of auditing standards. (INTOSAI-P 1:11 (1), (INTOSAI-P 1:17 (2))). A common procedure is that the NAO includes a reference to the objections as part of the audit report, so the report user is informed of the objections.

Audited entity to render assistance

27) An audited entity shall—

- (a) provide full cooperation to the NAO and its staff or an authorised auditor to enable completion of the audit within applicable timeframes;
- (b) promptly and without charge comply with all lawful directives or requests of the National Audit Office or an authorised auditor to facilitate the expeditious completion of the audit;
- (c) fully and immediately comply with any directive or request made under sections 30, 31 and 32.

Performing audit procedures and sharing requested information requires cooperation between the NAO and the entity subject to the audit.

To promote such cooperation, the model Public Audit Act stipulates that the auditee must cooperate and render necessary assistance to NAO staff during the audit. The NAO defines the reasonable period, considering general legislation on administrative procedures within the government. (INTOSAI-P 1:10 (3)).

Duty of the audited entity to notify the NAO

- 28) The audited entity shall, within a reasonable time of receiving the final audit report, notify the NAO of the measures implemented or actions taken in response to the recommendations therein.
- 29) The NAO shall consider the measures put in place or the actions taken by the audited entity contemplated in section 28, and report to the [full name of the relevant chamber(s) of Parliament or other relevant legislature(s)].

An audited entity has a legal obligation to respond to the NAO audit work and provide the NAO with feedback on the measures it has taken or is going to take in response to NAO recommendations to mitigate the weaknesses.

The Auditor-General shall determine the reasonable time within which the audited entity shall submit the action plan and communicate this to the audited entity in writing. The reasonable time can be one month, which can be adjusted in cooperation with the NAO if found reasonable (some systemic recommendations take time to plan and implement). This will enable the NAO to follow up on its audit work. ((INTOSAI-P 1:10 (1)), INTOSAI-P 10:6).

The NAO has the power to follow up on the actions or decisions made by the audited entity regarding NAO findings and recommendations. The NAO has complete discretion to decide on the form of follow-up: a separate follow-up audit within an audit engagement, or requesting information from the audited entity without performing audit procedures.

The NAO may inform Parliament of the follow-up results at its discretion and when deemed necessary. ((INTOSAI-P 1:10 (1)), INTOSAI-P 10:6).

Part V. General auditing powers and duties of the NAO

Access to information

- 30) When performing an audit, the Auditor-General or an authorised auditor has, without exception, full, unrestricted and immediate access to -
- (a) any document, book, written, printed or electronic record, or any other form of information held, produced or processed by the audited entity or which reflects or may explain the business, financial results, financial position or performance of the audited entity;
 - (b) any of the assets of or under the control of the audited entity; or
 - (c) any staff member or representative of the audited entity.
- 31) In the execution of their duties, the Auditor-General or an authorised auditor may use any information technology tools to facilitate full access to information. When doing so, they shall exercise due caution to ensure the proper and secure use of such tools.

NAO's unrestricted access to information is a fundamental principle underpinned by the IFPPs. The provision authorises the NAO to have access to audit-related information and documents, notwithstanding their form, as well as assets and staff of the entity subject to audit. The provision does not specify the nature of the information the NAO has full access to - either confidential or public. This way, the model Public Audit Act provides NAO's full access to both types of information necessary for audit purposes, as well as empowering the NAO to use appropriate information and communication technology (ICT) tools to access and analyse such required data or information. (INTOSAI-P 1:10 (1)).

- 32) The Auditor-General or an authorised auditor may, for the purpose of an audit -
- (a) direct any employee of the audited entity or any other person in possession of any information relevant to the audit to produce or to deliver at a specified place and time and in a specified format -
 - (i) any document, book, or written, printed or electronic record, or any other form of information, including any such document, book, record or information which is confidential, secret or classified ; or
 - (ii) any asset of or under the control of an audited entity;
 - (b) inspect and question any employee of the audited entity or any other person in possession of any information relevant to the audit about any such document, book, written, printed or electronic record or any other form of information, or any such asset;

- (c) copy or make extracts from any such document, book, written or electronic record or any other form of information at the expense of the audited entity, or remove⁷ such document, book, record or information to make copies or extracts; or
- (d) direct any employee of the audited entity to ensure access to any person employed by the entity or who renders any service to or on behalf of the entity.

33) The Auditor-General may -

- (a) obtain information that is considered necessary to execute the functions under this Act from a person who is not a member of staff of the audited entity.
- (b) request in writing a person referred to in section 33(a) of the type of information required and reimburse such a person for reasonable travel costs.

To operationalise unrestricted access to information, the provision gives the NAO the authority to request actions specified in the provisions from the entity subject to audit. (INTOSAI-P 1:10 (1)). For further analytical procedures and evidence documentation purposes, unrestricted access to information also includes the right of the NAO to obtain such information, copy it, and make extracts from the entity subject to audit at the auditee's expense. (INTOSAI-P 1:10 (1))

Access to information does not mean obtaining information from every person who may not be a staff member of the audited entity, without specified limitations. Free access to information does not mean NAO going over the rights of citizens to privacy as contained in the Constitution. The NAO may be expected to issue further guidance to limit the extent to which private entities are obliged to provide information to the NAO. The guidance may specify the nature of the relationship the person concerned must have with the audited entity for the person to have a legal duty to provide the requested information.

Access to premises

34) The NAO or an authorised auditor may, for the purpose of an audit -

- (a) enter⁸ any property or premises of or under the control of an audited entity or of a person who renders any service to or on behalf of the audited entity;
- (b) may station any of its staff at the premises of an audited entity subject to the audit.

In conjunction with the other provisions on unrestricted access to information, the model Public Audit Act gives authority to the NAO to enter any property and premises of an audited entity, as well as station its staff at its premises for the purpose of an audit. (INTOSAI-P 1:10 (2)).

⁷ Care should be taken if local Constitutional requirements are applicable to seizure.

⁸ Care should be taken if local Constitutional requirements are applicable to entry.

Protection of information

- 35) The NAO shall take precautionary steps to guard against the unlawful disclosure of secret, confidential and/or classified information obtained during an audit.

Unrestricted access to information does not come without counter-responsibilities. The model Public Audit Act obliges the Auditor-General to take necessary measures to guard against the disclosure of secret, classified, or personal confidential information.

- 36) A staff member, authorised auditor, or a person assisting an authorised auditor shall not, without the written permission of the Auditor-General, disclose information obtained during an audit or the carrying out of duties in terms of this Act, other than in an audit report or in accordance with any applicable legislation or by an order of a court of law

In addition to safeguarding secret or classified information, other information is also protected from disclosure by any authorised NAO staff member unless otherwise permitted by the Auditor-General. The Auditor-General gives such permission in compliance with national legislation protecting personal and public information (privacy).

Part VI. Appointment, conditions of service and removal or suspension of the Auditor-General

Appointment of the Auditor-General

- 37) The Auditor-General is appointed by the *[full name of the relevant chamber(s) of Parliament]*.

The fundamental principle stipulated in the third section of the model Public Audit Act that the NAO is responsible to Parliament is complemented by the full discretionary power of Parliament to select a candidate and appoint him or her as an Auditor-General. Parliament must appoint the Auditor-General without interference from any other branches of government, especially the executive. (INTOSAI-P 10:2).

- 38) The *[full name of the relevant chamber(s) of Parliament]* shall select the candidate based on public competition and the candidate's integrity and qualifications.

To strengthen the transparency of the appointment process, the model Public Audit Act stipulates a general provision that Parliament must select the candidate based on public competition. To meet

this requirement, the Parliament must independently define its internal rules and procedures. The model Public Audit Act provides criteria for selecting a candidate using general terms: integrity and professional qualification. Parliament may define more specific criteria during the process of public competition. (INTOSAI-P 1:14 (1))

- 39) Unless removed earlier under section 45, 46, 47 and 48 or if the Auditor-General resigns, the Auditor-General shall hold office for a fixed term not less than five years and not more than fifteen years with no eligibility for reappointment.

The Auditor-General must be appointed with sufficiently long and fixed terms. International practices for the tenure of the Auditor-General range from five to 15 years. In most SAs where the term of office is more than five years, the Auditor-General is not eligible for reappointment. (INTOSAI-P 10:2).

- 40) The remuneration and other benefits and conditions of service of the Auditor-General, including post-retirement benefits, shall be determined by the [full name of the relevant chamber(s) of Parliament], none of which may be varied to the disadvantage of the Auditor-General during the Auditor-General's tenure of office.

Parliament, without interference from the executive, must determine the remuneration and other conditions of service of the Auditor-General. The model Public Audit Act guarantees stable remuneration and other allowances to exclude imposing any pressure or interference on the appointed Auditor-General. Reduction of these allowances is restricted upon the appointment of the new Auditor-General. (INTOSAI-P 10:8).

- 41) A person appointed as Auditor-General -
- (a) shall perform the functions of the office full-time; and
 - (b) shall not perform any other remunerative work during the term of office.

To prevent any potential conflict of interest or a perception of a conflict of interest, the position of the Auditor-General is incompatible with any other position, whether in the public or private sector.

- 42) The Deputy Auditor(s)-General shall be appointed by the Auditor-General for a term of six years, which may be renewed once for another term not exceeding six years.

Although the Auditor-General has the freedom to appoint and reappoint the Deputy Auditor(s)-General there is a need to ensure organisational leadership stability and continuity at the top. The six-year tenure will allow NAO to retain institutional memory. It is advisable that the tenure of the Deputy Auditor(s)-General should overlap the tenure of the Auditor-General at least by one year to ensure leadership stability.

Independence and immunity

- 43) No person shall direct, control, influence or attempt to direct, control or influence the exercise of the Auditor-General's functions, and the Auditor-General is not subject to the direction or control of any other person or authority.

In conjunction with the section on full independence in the decision-making powers of the Auditor-General, this subsection prohibits any interference in exercising the duties and powers of the Auditor-General. (SAI PMF, dimension 1 iv).

- 44) The Auditor-General, the staff of the NAO or a person acting on behalf of the Auditor-General are not subject to civil or criminal proceedings or personally liable for any act done or omitted to be done in good faith in the exercise of their functions contemplated in this Act.

The model Public Audit Act protects the Auditor-General, staff of the NAO and any other person acting on behalf of the Auditor-General (i.e. contracted professionals) from being sued for their formal opinions, professional judgments, actions or decisions made during the exercise of their duties and functions. Any criminal or civil personal liability is excluded. The protection extends to the period after the protected persons end their service at the NAO. (INTOSAI-P 10:2).

Removal of the Auditor-General

- 45) The Auditor-General may only be removed from office in accordance with this section for inability to perform the functions of the Auditor-General (whether arising from infirmity of body or mind), or for misbehaviour.

The model Public Audit Act provides only limited criteria based on which an Auditor-General may be removed from office earlier than the expiry of their duties. (INTOSAI-P 10:2)

- 46) If the *[full name of the relevant chamber(s) of Parliament]*, by adoption of a formal resolution, determines that the question of removing the Auditor-General from office ought to be investigated -
- (a) the *[full name of the relevant chamber(s) of Parliament]* shall, by the adoption of a formal resolution, appoint a tribunal consisting of a Chairperson and not less than two other members, all of whom hold or have held high judicial office and who are not and never have been politically active;
 - (b) the tribunal shall enquire into the matter and report on the facts thereof to the *[full name of the relevant chamber(s) of Parliament]*;

- (c) the [full name of the relevant chamber(s) of Parliament] shall consider the report of the Tribunal at the first convenient sitting of the [full name of the relevant chamber(s) of Parliament] after receipt thereof and may, upon such consideration, by formal resolution adopted by a two-thirds majority, remove the Auditor-General from office.

Only Parliament, the appointing authority, is authorised to remove an Auditor-General. To investigate whether there are any grounds to remove the Auditor-General, Parliament, by a resolution, appoints a tribunal comprising at least three members. Members come from the judiciary (retired or current incumbents), who must not be or have been politically active. The tribunal investigates the existence of legal grounds for removing the Auditor-General and reports to Parliament only about the facts and findings. Parliament requires a special majority to remove the Auditor-General, which is a vote cast to prevent political influence over the Auditor-General.

- 47) If the question of removing a person holding the office of Auditor-General from office has been referred to a tribunal under this section, the [full name of the relevant chamber(s) of Parliament] may, by formal resolution, suspend that person from performing the functions of the Auditor-General. Any such suspension may at any time be revoked by the [full name of the relevant chamber(s) of Parliament] by formal resolution and must, in any case, cease to have effect if, upon consideration of the report of the tribunal following the provisions of this section, the [full name of the relevant chamber(s) of Parliament] does not remove the Auditor-General from office.

During the tribunal's investigation of facts, Parliament has the discretionary power to suspend the Auditor-General from office under investigation. Parliament can revoke the suspension at any time after that. If the suspension is not revoked before and in case Parliament does not adopt a resolution by a two-thirds majority to remove the Auditor-General, the suspension is automatically revoked, and the Auditor-General resumes his or her functions.

- 48) If the period for the investigation of the question of removing the Auditor-General by the tribunal, subsequent consideration and formal resolution of the question by the [full name of the relevant chamber(s) of Parliament] exceeds six months after the formal resolution by the [full name of the relevant chamber(s) of Parliament] to appoint the tribunal, the removal procedure is automatically terminated, the suspension of the Auditor-General referred to in section 50(b) is revoked, and the Auditor-General may not be investigated for removal or suspension under this section for the same grounds for which the removal procedure was terminated or the suspension revoked.

To prevent abuse of the removal procedure and application of the right of suspension by Parliament to exert political influence over the NAO work, the total period of the procedure may not exceed six months after the adoption of a resolution to convene the tribunal. If the removal procedure

exceeds six months, the procedure is automatically terminated. If Parliament has before suspended the Auditor-General from their functions, the suspension is revoked. In the case described under this subsection, Parliament has no power to re-initiate the removal procedure on the same grounds.

Vacancy in the Office of the Auditor-General

49) The Auditor-General may resign from office by giving notice in writing at least three months in advance to the [full name of the relevant chamber(s) of Parliament].

Except in the case of removal by Parliament, the Auditor-General may resign from office by written notice to Parliament to be submitted at least three months in advance.

50) If -

- (a) the office of the Auditor-General is vacant;
- (b) the Auditor-General has been suspended or removed as contemplated in sections 45, 46, 47 and 48 of this Act; or
- (c) the Auditor-General is, for any reason, unable to perform the functions of the Auditor-General, and until a person is appointed to and has assumed the functions of the office, or until the Auditor-General has resumed the performance of the functions, as the case may be, the deputy Auditor-General contemplated in section (51) must perform the functions of the Auditor-General for a period not exceeding six months.

If there is no appointed Auditor-General or an incumbent Auditor-General cannot perform their duties, one of the deputy Auditors-General performs their functions, which is limited to six months. The Auditor-General has the discretionary power to decide among the deputies who will replace him or her in his or her absence.

51) If the Auditor-General has not determined a deputy Auditor-General who must perform the functions of the Auditor-General in the absence of the Auditor-General, then the most senior deputy Auditor-General must perform the functions.

If the Auditor-General does not identify a deputy Auditor-General to perform the functions of the Auditor-General in their absence, then the deputy Auditor-General who must perform the functions of the Auditor-General is determined based on seniority.

52) If the position of the Auditor-General is vacant, the [full name of the relevant chamber(s) of Parliament] must immediately appoint a new Auditor-General before the expiry of the period during which the person referred to in section 51 is designated to act.

If the Auditor-General's absence exceeds six months, Parliament must appoint a new Auditor-General. This should avoid any prolonged period during which the NAO's activities are compromised due to the absence of an appointed and acting head of the NAO.

Part VII. Duties and Powers of the Auditor-General

Duties of the Auditor-General

53) In exercising and performing the Auditor-General's powers and duties, the Auditor-General shall act independently without fear, favour or prejudice.

The Auditor-General enjoys full independence in making decisions and applying discretionary powers when acting within their authority as an Auditor-General. They should not be subject to the direction or control, influence of any person or author.

54) The Auditor-General shall determine -

- (a) the standards to be applied in performing audits;
- (b) the frequency, nature and scope of audits;
- (c) procedures for the handling of complaints when performing such audits;
- (d) The development of an organisational structure and staffing establishment for the NAO;
- (e) the minimum qualifications, experience and competence for NAO staff authorised to perform audits;
- (f) a code of conduct for the NAO staff;
- (g) any disciplinary steps for misconduct; and
- (h) any other relevant matter.

This subsection defines the basic duties of the Auditor-General to determine various institutional and organisational issues as part of the Auditor-General's administrative autonomy. These include the following points:

- Giving authority to the Auditor-General to determine the adoption of international standards of auditing (Section 18), this section explicitly underpins this power of the Auditor-General.
- At the strategic level and on each audit engagement, the Auditor-General defines the frequency, nature and scope of the audit. For instance, the Auditor-General shall decide the frequency and scope of compliance audits for specific entities within the audit mandate.
- The Auditor-General must establish internal procedures for handling complaints when performing audits.

- Professional qualification, competency framework and minimal experience required to perform audit as an NAO staff shall be decided by the Auditor-General.
- Integrity and ethical requirements for the staff of the NAO.
- In the management of human resources, disciplinary and administrative measures are taken by the Auditor-General.

Powers of the Auditor-General

- 55) The Auditor-General is the head of the NAO and, as such, is in overall control of and accountable for managing the NAO.
- 56) The Auditor-General may –
- (a) by statutory instrument, make regulations generally for giving effect to the provisions of this Act and for its due administration;
 - (b) establish such departments in the NAO as the Auditor-General may consider necessary or expedient for the effective management of the NAO;
 - (c) subject to any conditions the Auditor-General may determine, authorise a person to perform an audit on behalf of the NAO or to assist the NAO in conducting an audit;
 - (d) determine the manner in which an audit must be performed;
 - (e) delegate to a staff member of the NAO, subject to such conditions as the Auditor-General may impose, the carrying out or the exercise of any function or power of the Auditor-General under this Act;
 - (f) on such conditions as may be agreed upon, for outsourcing purposes, enter into an agreement with one or more natural or legal persons to assist the Auditor-General in carrying out an investigation, examination and audit of the accounts of any statutory institution;
 - (g) on such conditions as the Auditor-General may determine, to cooperate with persons, institutions and associations in the state and other countries, and take such steps as the Auditor-General may deem necessary to promote or develop the functions of the NAO and public sector auditing in the state or elsewhere.

In addition to the Auditor-General's duties, the model Public Audit Act also defines the range of the Auditor-General's discretionary powers. These powers are necessary for the Auditor-General to perform his or her functions as the head of NAO and support the achievement of the constitutional mission.

The Auditor-General is authorised to issue internal directives and establish internal rules and policies necessary to give effect to the Audit Act. In conjunction with this power, the Auditor-General decides the organisational structure, hierarchy of responsibilities and internal control

system. The Auditor-General gives authorisation for performing a type of audit (financial, compliance, performance or a combination thereof) by specified staff members or externally contracted individuals. They may delegate some of their functions to other staff members (for instance, quality control and assurance services).

The Auditor-General, as the head of NAO, determines the cooperation frameworks with national and international players in public finance management to promote the development of government auditing functions. They represent the NAO in these relationships.

The Auditor-General may appoint external professionals to support the audit as auditors or field experts with specific knowledge necessary for the audit purposes. This strengthens NAO's right to have access to specific knowledge in case such needs arise.

57) Any person engaged by the Auditor-General under subsection (c) and (f) of subsection 56 shall carry out an investigation, examination and audit, subject to such directives as the Auditor-General may deem suitable, and such a person shall exercise such powers and perform such duties as conferred by this Act.

Contracted persons have the same duties, powers and obligations as the NAO staff specified in the contract.

Part VIII. Financial and organisational provisions

Budget estimates of the NAO

58) The NAO is funded through monies appropriated by the *[full name of the relevant chamber(s) of Parliament]* and by monies otherwise becoming available to the NAO as an income, fee, grant, donation or any other revenue.

The model Public Audit Act provides for two basic financing sources for the NAO's annual expenses:

- budget appropriations adopted by Parliament, and
- own revenues generated from any legally permitted activities of the NAO, such as audit fees, grants acquired from donor support or any other types of revenues.

Such legally permitted revenue for the NAO depends on the national legislation and other circumstances that need to be considered. However, to strengthen the financial independence of the NAO, financing sources should be diversified and include minimum budgetary appropriations and own sources of income. (INTOSAI-P 10:8)

59) The Auditor-General shall, not later than three months before the beginning of each financial year of the NAO;

(a) submit to [full name of the relevant chamber(s) of Parliament] a budget estimate of the sums that will be required for the payment of expenses, salaries, allowances and any other expenditure of the Auditor General and the NAO during the next financial year.

(b) the budget estimates submitted under subsection (a) of section 59 shall include the following -

- (i) estimates of revenue and recurrent expenditure for the following fiscal year;
- (ii) estimates for the development expenditure for the following fiscal year; and
- (iii) any other financial matters considered relevant by the Auditor-General in the consideration of the budget and plans of the NAO.

The NAO's financial independence starts with the formulation of its annual budget estimates. The model Public Audit Act empowers the Auditor-General to formulate the annual budget plan in accordance with the budget calendar and submit it directly to Parliament without the executive's participation.

60) The relevant committee⁹ of the [full name of the relevant chamber(s) of Parliament], shall consider the budget estimates and, where necessary, propose amendments to the estimates.

The NAO's annual budget estimation is considered by the relevant Parliamentary committee. Members of the committee may propose changes to the estimates.

61) Upon the recommendation of the relevant committee¹⁰ of the [full name of the relevant chamber(s) of Parliament], the budget estimates shall be submitted to the Minister of Finance for inclusion in an appropriation bill for the following financial year.

Once the annual budget estimates are agreed upon within the committee, they are referred to the executive (the Minister of Finance) for inclusion in draft appropriations legislation. The executive and the Ministry of Finance have no power to amend the budget estimations.

Once incorporated into draft appropriations legislation, the NAO's budget estimates and other provisions are approved by Parliament through the regular budget procedure.

⁹ Insert correct name

¹⁰ Insert correct name

62) a) After the adoption of the appropriation bill by the [full name of the relevant chamber(s) of Parliament], the approved annual appropriation for the NAO shall immediately be transferred in full to an account of the NAO designated by the Auditor-General.

a) The NAO may spend the appropriated financial resources in accordance with its budget estimates, using the integrated financial management and information system operated by the government.

In addition to the formulation and adoption of the NAO's annual budget, the model Public Audit Act stipulates provisions to strengthen the NAO's unrestricted access to the appropriated budgetary resources. In particular, upon the approval of an appropriation bill by Parliament, funds allocated for the NAO shall immediately be transferred to accounts determined by the Auditor-General so that the executive has no further control over the spending of those financial resources by the NAO. (INTOSAI-P 10:8).

This provision enables the Auditor-General to use appropriated money as planned unless reasonable grounds exist to deviate from that plan.

63) The Auditor-General may, during the financial year, request the [full name of the relevant chamber(s) of Parliament] to approve a supplementary budget.

In addition to guarantees for financial independence related to the adoption of the NAO budget estimate, the NAO has the right of direct appeal to a legislature if the resources provided are insufficient to allow it to fulfil its mandate. (INTOSAI-P 10:8).

64) Budget estimates of the NAO for the following financial year may not be reduced by any amount below the current appropriation of the NAO unless approved by the Auditor-General.

The model Public Audit Act contains protective provisions to prevent the reduction of the NAO's draft or adopted budget appropriation compared to the previous year's budget. Reduction is only possible with the consent of the Auditor-General.

Financial statements and audit of the NAO

65) The NAO shall, in respect of each financial year, prepare a statement of accounts, which shall be audited and reported upon by an auditor or a firm of auditors appointed on a competitive basis by the [full name of the relevant chamber(s) of Parliament].

The NAO shall annually prepare its financial statements to be audited by an independent auditor appointed by Parliament on a competitive basis. The NAO is not allowed to audit its own financial statements.

66) The auditor referred to in section 65 shall audit the accounts, financial statements, and financial management and performance information of the Auditor-General and compile an audit report in respect thereof and submit the report to Parliament or the relevant body. A copy of the report shall be made available to the Auditor-General.

The model Public Audit Act defines the basic mandate of the NAO external auditor. In addition to auditing financial accounts and statements, the external auditor will audit the NAO's financial management and performance information included in the annual performance report. The external auditor has no right to perform compliance or performance audits of the functioning of the NAO audit mandate. This is fundamental to safeguarding the NAO's organisational independence and accountability to Parliament.

Human resource management

67) The Auditor-General shall have the administrative autonomy of the NAO.

68) The Auditor-General shall appoint the Deputy Auditor(s)-General to office and, if necessary, remove the Deputy Auditor(s)-General from office.

The model Public Audit Act gives an appointed Auditor-General full discretionary power to appoint and remove NAO staff, including the deputy Auditor-General. The number of deputies is also defined at the discretion of the Auditor-General.

In conjunction with sections 9 and 10 of the model Public Audit Act, the Auditor-General determines functions and duties among the deputies at the appointment or may change them at any other time. (INTOSAI-P 10:8).

69) The Auditor-General shall appoint the staff of the NAO.

The Auditor-General enjoys full administrative autonomy in managing human resources, including the selection, appointment, retention, and dismissal of the NAO staff, subject to national labour or public service legislation.

70) NAO employees are not civil servants and are not subject to civil service legislation, but to policies, standards and rules as determined by the Auditor-General.

The NAO should be exempted from provisions that are too detailed and may hamper the NAO's independence. (INTOSAI-P 10:8).

71) Human resource management and related issues, including recruitment and terms and conditions of employment, must be dealt with following generally accepted human resource practice and applicable labour legislation through appropriate management and, where applicable, through consultative and negotiation processes.

While the model Public Audit Act leaves the Auditor-General full administrative and managerial autonomy regarding human resource management, this provision confines the Auditor-General's freedom to act in accordance with the generally accepted human resource practices applicable in the specific country's public sector.

72) The salaries, allowances, pensions and other benefits payable to the NAO staff shall be determined by the Auditor-General in accordance with the budget estimate contemplated in section 59.

As part of managerial autonomy, the Auditor-General has the power to determine the remuneration of the NAO staff and act in accordance with generally accepted national practices.

Part IX. General provisions

Offences and sanctions

73) A person commits an offence who -

- (a) directs, influences or controls, or attempts to direct, influence or control, the NAO, the Auditor-General, the NAO staff or an authorised auditor;
- (b) without lawful justification or excuse, wilfully obstructs the Auditor-General or any person authorised by the Auditor-General in the performance of their functions under this Act;
- (c) without reasonable excuse, refuses or fails to comply with any order or directive given or issued by the Auditor-General;
- (d) without any lawful justification or excuse, refuses or fails to give to the Auditor-General or any person authorised by the Auditor-General access to any premises, property, documents, books, records or any other information contemplated in sections 30, 31, 32, 33 and 34; knowingly presents to the Auditor-General or any person authorised by the Auditor-General a false or fabricated document or makes a false statement with intent to deceive or mislead the Auditor-General or such a person; or
- (e) Knowingly and wilfully fails to disclose any conflict of interest in any matter that may influence a decision in the course of discharging any functions under this Act.

To strengthen the provisions on mandatory cooperation from the entity subject to audit, the model Public Audit Act provides sanctions for noncompliance with the lawful requests of the Auditor-

General and other actions/inactions that may obstruct the audit process. This explicitly includes cases to falsify or fabricate any evidence presented to auditors. (INTOSAI-P 10:4, SAI PMF dimension 2ii).

74) A person who commits an offence referred to in subsection 73 is liable on conviction to a fine and/or imprisonment, or to both.

Depending on the national legislation, whether it is an administrative or criminal offence, a person committing an offence is liable to financial sanctions such as a fine or a heavier sanction such as imprisonment or a combination thereof. The range of such sanctions must be adjusted to the national sanction policies.

Transitional matters

If relevant, provision has to be made for -

- the repeal or amendment of outdated legislation which may conflict with this Act or which is being replaced by this Act.
- replacing a current institution with the NAO.
- the transfer of the current Auditor-General and staff from the current institution to the NAO.
- transferring assets and liabilities of the current institution to the NAO.
- substituting the NAO for a current institution in respect of litigation and contractual rights and obligations.
- transitional measures concerning money already appropriated to the current institution.
- etc.

Name and commencement

75) This Act may be cited as **[insert name of Act]** and comes into operation on a date fixed by the **[insert functionary]** by proclamation¹¹ in the **[insert mechanism]**.

This section should be redrafted in accordance with the local legislative drafting style.

¹¹ Or manner relevant in local law.