

NATIONAL AUDIT BILL

Background Note

Research Division

Parliament of Sri Lanka

29 June 2018

Objectives: To provide for the powers, duties, and functions of the Audit Service Commission, the establishment of the office of the National Audit Office and the Sri Lanka State Audit Service, specify the role of the Auditor General over public finance and to make provision for matters connected therewith.

The role of the AG: The Auditor General shall audit all expenditure from the Consolidated Fund, ascertain whether the moneys shown in the accounts of auditee entities as having been disbursed were legally available for and applicable to, the services or purposed to which they have been applied for or charged with, determine whether the expenditure conforms to the authority which governs it and in each audit, report on the expenditure, transactions and accounts of such audit. He inspects accounts of any auditee including treasuries. He shall get down any papers, accounts or books. He can question any Chief Accounting Officer. He can examine financial statements sent by various state institutions.

Scope: The scope of an audit carried out by the AG includes examining the accounts, finances, financial position and prudent management of public finance and properties.

Auditing Standards: The Sri Lanka Auditing Standards determined by the Auditing Standards Committee established under the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995.

In addition to the powers and functions conferred on the AG under Article 154 (5) of the Constitution, he or any person authorised by him may exercise the following powers in respect of an audit of an auditee entity –

- (a) Access or call for any written or electronic records or other information relating to the activities of an auditee entity
- (b) Call any person whom the AG has reasonable grounds to believe to be in possession of information
- (c) Examine and make copies of any written or electronic records
- (d) After obtaining permission from the relevant Magistrate's Court, examine and audit accounts of a financial institution or any person
- (e) Require any officer of any financial institution to produce any document or provide any information relating to an account, transaction or dealing.
- (f) Obtaining views from the governing bodies of institution
- (g) Pay rewards and incentives of the Audit Fund

The AG shall himself exercise the following duties.

- (a) Appointing qualified auditors with technical and professional expertise
- (b) Administering the Audit Fund
- (c) Reporting to Parliament

AG should submit the following reports:

- (a) Annual Report
- (b) Summary Report
- (c) Special Reports

(d) Triennial Reports

The Secretary to the Treasury shall submit the financial statements of the Government to the AG not later than 3 months after the close of each financial year.

All relevant institutions shall maintain proper books and records of income, expenditure, assets etc.

Public corporations and companies shall submit their Annual Reports. The AG shall charge a fee for conducting an audit from public corporations, statutory Funds or Boards, government's business undertakings and any company registered under the Companies Act, No. 7 of 2007 in which the Government or a public corporation or local authority holds 50% or more of the shares.

The Audit Service Commission shall report the amount of any deficiency or loss in any relevant institution, a surcharge could be imposed. The Chief Accounting Officer of the relevant institution shall charge the amount from the person who is responsible for the deficiency or loss.

Any person aggrieved by a decision made by the Chief Accounting Officer of that particular institution may within one month from the date of receiving the Surcharge Certificate, appeal against such decision to the Surcharge Appeal Committee. The Surcharge Appeal Committee may make its decision and shall communicate in writing to the appellant. If any person is dissatisfied by that decision, may appeal to the Court of Appeal.

Audit Service Commission

It has powers to appoint committees to assist the Commission. It can introduce schemes to enhance the quality of performance of the staff of the National Audit Office. National Audit Office assists the AG in the discharge of his duties.

Sri Lanka State Audit Service will be established. The AG may deploy any of the officers of the Sri Lanka Audit Service or qualified auditor to carry out any audit in any part of Sri Lanka.

The Audit Service Commission shall prepare the annual budget estimates of the Audit Office. The said estimates shall be submitted to the Speaker after consultation with the Minister of Finance and the Chairman of the Commission. The Speaker shall table the estimates in Parliament.

The Audit Service Commission is empowered to introduce schemes to enhance the quality of performance of the staff of the National Audit Office, to give directions for carrying out an internal audit, conduct inquiries and make rules under this Act.

The AG should submit the annual work programme for the coming year. The Speaker shall cause the draft annual work programme to be reviewed by a committee of Parliament established under the Standing Orders calling for any comments or amendments. The Speaker or the committee should forward their comments or amendments within 30 days from the date of the work programme. The Speaker should forward it to the AG. Accordingly, the AG may amend the work

programme. The AG shall present a completed annual work programme to the Speaker before the beginning of each financial year. He then tables the work programme in Parliament.

The Commission must meet at least once in a month.

The President may grant any member of the Commission leave from the discharge of his functions for a period not exceeding 02 months.

Imposition of Surcharge

Unless otherwise specifically provided for, in any other written law, the Audit Service Commission shall report the amount of any deficiency or loss in any transaction of an auditee entity. The Audit Service Commission can impose a surcharge for any fraud, negligence, misappropriation or corruption. The Chief Accounting Officer of the auditee entity shall charge the surcharge against any person who is responsible for any deficiency or loss.

A Surcharge Appeal Committee will be appointed by the Constitutional Council. The committee shall consist of not less than 05 members with experience in the fields of auditing, law and public finance management. That committee determines the appeal procedure and rules.

The Chief Accounting Officer must credit all such sums of money collected as surcharge and interests accrued to the Consolidated Fund. Where the surcharge is related to a transaction made in respect of a Provincial Council or a local authority, the sum collected as surcharge should be credited to the Provincial Fund or the Fund of the relevant local authority.

When a sum has not been paid within specified time period, in order to recover such sum, the Audit Service Commission must inform a Magistrate. The Magistrate should summon the relevant person. If the person fails to show cause, a fine should be imposed. Any person aggrieved by the decision of the Magistrate can appeal to the High Court.

National Audit Office

The National Audit Office assists the Auditor General. Sri Lanka National Audit Service is established under this Act. The members of the Sri Lanka Audit Service and the Audit Examiners' Service serving on the date immediately prior to the date of operation of this Act, shall be deemed to be members of the Sri Lanka Audit Service as at the date of operation of this Act. The AG may deploy any of the officers of the Sri Lanka State Audit Service to carry out any audit in any part of Sri Lanka.

The Speaker shall appoint an independent auditor to carry out the audit of the financial statements, accounts and other information relating to the Audit Office. The independent auditor should submit a report to the Commission, and the Commission should submit it to Parliament together with any observations/views.

Responsibilities of a Chief Accounting Officer

- ❖ He is responsible within the auditee entity to co-ordinate with the Auditor General to successfully carry out the audit of that entity.
- ❖ Ensuring that financial planning, internal controls, maintenance of proper books and accounts
- ❖ Ensuring an effective internal control system for the financial control of the entity.
- ❖ Carrying out periodic reviews to monitor the effectiveness of such systems.
- ❖ Ensuring timely preparation and submission of annual and other financial statements
- ❖ Submitting annual reports to Parliament
- ❖ Ensuring that all audit queries are answered within the specified time period
- ❖ Ensuring that an effective mechanism exists to conduct an internal audit
- ❖ Ensuring that adequate office space and facilities for the officers are provided
- ❖ Upon receipt of a notice by the AG of any fraud or any criminal activity, he should make a complaint to a law enforcing authority.
- ❖ The Chief Accounting Officers of ministries and Accounting Officers of departments must consider the Annual Detailed Management Audit Reports of the AG and must inform the Secretary to the Treasury and the appropriate Minister the remedial actions proposed.

Audit and Management Committee

There will be an Audit and Management Committee for every auditee entity. That committee will assist the Chief Accounting Officer or accounting officer as the case may be, to review of operations of each auditee entity.

The committee reviews all audit and management aspects to ensure that the resources are used economically and efficiently. It reviews all programmes and projects undertaken by the auditee entity. It should ascertain whether the objectives have actually been achieved within the authorised time limits.

Offences and Penalties

Failure to assist the AG is an offence. Refusing to furnish information and documents, refusing to nominate a person conversant on the subject, to appear before the AG, making any false statements to the AG.

Resists or obstructs the functions and duties of the AG or any person authorised by him.

If a person is convicted, a Magistrate can impose a fine not exceeding Rs. 100,000 or a prison sentence not exceeding 06 months. In addition, a person holding any public office shall be disqualified from holding such office. However, the convicted person can appeal to a competent court.

Influencing or attempting to influence a decision of the Commission or any officer of the Sri Lanka State Audit Service is also an offence. If convicted, a fine of not exceeding Rs. 100,000 could be

imposed on the offender. Or a imprisonment for a tem not exceeding 03 years or to both such fine and imprisonment could be imposed.

If an offence is committed by a body of persons, all persons and partners are liable to a fine or imprisonment or both. However, a director or an officer or agent of such corporation or firm can prove that such offence took place without his knowledge, or that he used all such diligence to prevent the commission of such offence, shall not be deemed to be guilty.

Centre for Public Audit Training and Development

A Centre for Public Audit Training and Development will be established under the Audit Office to enhance human resources in the field of public finance and auditing.

Auditor General's Directions

The AG may from time to time, give the staff of the Audit Office or other officers give directions as to the discharge of their duties and functions.

Protection from law suits

No civil or criminal charges can be brought against the AG or his officers for exercising their power.

Expenses

Any expense incurred by the AG of any officer of the National Audit Office or any authorised officer should be paid out of the Consolidated Fund.

Members of the Commission deemed to be public servants

All members of the Commission, officers and staff of the Audit Office shall be deemed to be public servants.