

CONTENTS

Page

A Bill An Act to Repeal the Establishment of
the Office of Controller and Auditor General
Act, No. 11 of 2003 and Enact the Public
Audit Act and Related Matters Thereto423

NOTICE

The Bill hereunder shall be presented before the House of Representatives for the first reading which will start its session on 13th September, 2023 and is gazetted together with its objects and reasons for public notice.

ZANZIBAR
23rd August, 2023

(Eng. Zena Ahmed Said)
*Secretary to the Revolutionary
Council and Chief Secretary*

A BILL

for

**AN ACT TO REPEAL THE ESTABLISHMENT OF
THE OFFICE OF CONTROLLER AND AUDITOR GENERAL
ACT, NO. 11 OF 2003 AND ENACT THE PUBLIC AUDIT ACT
AND RELATED MATTERS THERETO**

ENACTED by the House of Representatives of Zanzibar.

**PART ONE
PRELIMINARY PROVISIONS**

Short title
and Commencement.

1. This Act may be cited as the Public Audit Act, 2023 and shall come into operation after being assented to by the President.

Application.

2.-(1) This Act shall apply in relation to matters of any audit and other operation under the jurisdiction of the Controller and Auditor General provided for under the Constitution and any other law.

(2) where any law becomes inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

Interpretation.

3. In this Act, unless the context otherwise requires:

“Accounting Officer” has the meaning as defined under the Public Finance Management Act, No. 12 of 2016;

“Auditor” means auditor employed under section 17(1) of this Act;

“Audit standards” means audit standards issued by Local and International Audit and Accounting bodies as determined by the Controller and Auditor General;

“Auditee” means a public institution or any other body audited under this Act;

“Board” means the Office Service Board established under section 23(1) of this Act;

“Code of Ethics and Conduct” means Code of Ethics and Conduct made by the Controller and Auditor General under this Act;

“Consolidated Fund” means the Consolidated Fund of the Government of Zanzibar as referred to under section 104(1) of the Constitution;

- “Constitution” means the Constitution of Zanzibar of 1984;
- “Controller and Auditor General” means the Controller and Auditor General appointed under section 112 of the Constitution;
- “Financial year” has the meaning as defined under the Public Finance Management Act, No. 12 of 2016;
- “Forensic audit” means audit aiming at detection and prevention of irregularities, such as fraud, embezzlement, misappropriation of fund and corruption and application of auditing skills to situations that have legal consequences;
- “Government” means the Revolutionary Government of Zanzibar;
- “Information system audit” means the examinations of controls related to Information technology systems in order to gain assurance and establish whether information system is safeguarding assets, maintain confidentiality, integrity and availability of data related to public institutions;
- “Internal control” means a set of systems kept to ensure that financial and other records are reliable, complete and ensure adherence to the entity's management policies;
- “Minister” means the Minister responsible for audit matters;
- “Office” means the Office of Controller and Auditor General established under section 4 of this Act;
- “Oversight mechanism” means the oversight mechanism established by the Public Accounts Committees of the House of Representatives;
- “Paymaster General” has the meaning as defined under the Public Finance Management Act, No. 12 of 2016;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“Public Accounts” means all accounts of the public institutions which keep the records of all money received or paid out of the Consolidated Fund;

“Public Institution” includes ministries, departments, agencies, local government authorities, public entities and any other public body established in accordance with the law;

“Resources” includes moneys, stores, materials, properties, loan facilities, staff, investments and other assets that can be drawn on by a person or an organization in order to function effectively.

PART TWO

ESTABLISHMENT OF THE OFFICE

Establishment of the Controller and Auditor General's Office.

4.-(1) There is established an Office to be known as the Controller and Auditor General's Office and in its acronym shall be OCAGZ.

(2) The Office shall be a body corporate with perpetual succession and shall, in its corporate name be capable of:

- (a) suing and being sued;
- (b) acquiring, holding and disposing any movable and immovable property;
- (c) entering into any contract or transaction subject to the laws;
- (d) borrow any such sum of money from any financial institutions subject to the Public Finance Management Act, No. 12 of 2016; and
- (e) performing or doing any act or thing which the Office of its nature may by law, be entitled to perform or do.

5.-(1) The Office shall have a common seal which shall be kept in the custody of the Controller and Auditor General or any other officer of the Office as the Controller and Auditor General may direct.

Common seal.

(2) The application of the common seal of the Office on any other document shall be authenticated by the signature of the Controller and Auditor General or other officer of the Office authorized by the Controller and Auditor General.

(3) Any document purporting to be an instrument issued by the Office shall be sealed with the common seal of the Office and authenticated in accordance with the provisions of subsection (2) of this section.

6. The Office shall perform functions, carry on responsibilities and exercise powers of the Controller and Auditor General as stipulated under the Constitution, this Act or any other law.

Functions of the Office.

7.-(1) The Office shall perform its functions impartially, without fear, favour or prejudice and shall exercise its powers independently subject to the provisions of the Constitution, this Act and any other law.

Independence of the Office.

(2) The Independence of the Controller and Auditor General provided under section 112(7) of the Constitution shall equally apply to the Office.

8. Subject to the provisions of the Public Service Act, No. 2 of 2011, the Office shall have an Organisational Structure for proper discharge of functions and responsibilities of the Office.

Organisational structure of the Office.

PART THREE MANAGEMENT OF THE OFFICE

9.-(1) Subject to the provisions of the Constitution, there shall be the Controller and Auditor General appointed by the President.

Appointment of Controller and Auditor General.

(2) On appointment of the Controller and Auditor General, the President, in addition to the qualifications prescribed under section 112(2) of the Constitution, may consider relevant professional qualifications, experience and skills.

(3) The Controller and Auditor General, before executing his duties, shall take an oath before the President.

Constitutional mandates.

10.-(1) The Constitutional mandates of the Controller and Auditor General shall be as prescribed under section 112(3) of the Constitution.

(2) Without prejudice to the Constitutional mandate under section 112(3) of the Constitution, the Controller and Auditor General shall audit and report on the accounts, financial statements and financial management of the public institutions and donor funded projects.

Removal from Office.

11. The Controller and Auditor General may be removed from his office for reasons and procedures provided for under section 113 of the Constitution.

Responsibilities of the Controller and Auditor General.

12.-(1) In addition to the functions assigned to the Controller and Auditor General prescribed in the Constitution, the Controller and Auditor General, shall be responsible to:

- (a) examine, enquire into, audit and report on the accounts of:
 - (i) all public institutions or public body which receives funds from the Consolidated Fund or from public monies for a public purpose; and
 - (ii) all persons entrusted with the collection, receipt, custody, issue or payment of public monies or with the receipt, sale, transfer or delivery of any stamps, securities, stores or other public properties; and

- (b) conduct any other audit as provided in this Act or other laws.

(2) In exercising the functions under subsection (1) of this section, the Controller and Auditor General shall ensure that:

- (a) all accounts have been kept in accordance with generally accepted accounting principles;
- (b) all reasonable precautions have been taken to safeguard, the collection of revenue and the receipt, custody, disposal, issue and proper use of public properties and that the laws, directions, and instructions applicable thereto have been dully observed;
- (c) all expenditure monies have been properly authorised and applied to the purpose for which they were appropriated and that the laws, directions and instructions applicable thereto have been dully observed and provide effective check of the assessment and collection of revenue; and
- (d) economy, efficiency and effectiveness have been achieved in the use of public resources.

(3) For effective discharge of his functions as provided for under subsection (2) of this section, the Controller and Auditor General may station in any public institution any person employed in the Office to carry out the duties more effectively and such entity shall provide the necessary office facilities.

13.-(1) In the performance of his functions and responsibilities, the Controller and Auditor General, may:

- (a) call upon any public officer for any explanation and information which the Controller and Auditor General may require in order to enable him to perform those functions and responsibilities properly;

Powers of
the Controller
and Auditor
General.

- (b) summon and examine any person as he may determine in connection with the receipt or expenditure of public monies or the receipt or issue of any public property affected by the provisions of this Act and in connection with any matter necessary for the proper performance of his functions;
- (c) authorise any person eligible to be appointed as an auditor to conduct an inquiry, examination or audit on his behalf and that person shall report to him;
- (d) without payment of any fee, cause search to be made in and extracts part of the information to be taken from any book, document or record in any public institution or any other body;
- (e) accept a certificate of any other person as he thinks fit as genuine and correct without further examination or rely upon, on the accounts of any other person entrusted with the collection, receipt, custody, control or payment of public monies or public property or with the issue, sale, transfer or delivery of public property; and
- (f) acquire the services of any person as provided for under section 20 of this Act.

(2) In evaluating and examining the public procurement processes and procedures, the Controller and Auditor General may use the tender findings as guidance in reaching conclusions where necessary for the performance of his functions.

(3) Where at any time it appears to the Controller and Auditor General that:

- (a) any payment has been made without due authority according to law;
- (b) any irregularity has occurred in the receipt, custody, control, issue, transfer or delivery of any public property;

- (c) any deficiency or loss occasioned by negligence, misconduct, fraud or corruption has occurred;
- (d) any failure to observe a principle of the highest thrift has occurred; or
- (e) any sum which ought to have been or has not been brought to account,

in the case of expenditure of the Government, Judiciary or House of the Representatives, he shall disallow the expenditure as a charge on public funds and call in to question the sum concerned.

(4) Where any of the matters referred to in subsection (3) of this section, relates to expenditure of the Government, Judiciary or House of Representatives, the Controller and Auditor General shall submit to the President every report he prepares and the provisions of section 112(5) of the Constitution shall apply to every such report.

(5) In every matter where the Controller and Auditor General prepares a report under this section, he shall notify the Paymaster General or the appropriate accounting officer or authority, whether it is appropriate that the person involved in the use of public funds or property entailing any of the matters in subsection (3) of this section, shall make good of the loss or deficiency resulting therefore and disciplinary action, surcharge, legal actions or all of them, shall be taken against the person concerned.

(6) In the exercise of his powers, the Controller and Auditor General or any person duly authorized by him in writing shall have access to information as provided under section 15 of this Act.

(7) Subject to any duty imposed on him by any law, the Controller and Auditor General shall have full mandate in the discharge of his functions and, in particular, in determining whether to carry out an examination under Part Five of this Act and as to the manner in which such examination is carried out.

Power to
make
recommen-
dations.

- 14.** The Controller and Auditor General may, for the purpose of:
- (a) preventing or minimising unproductive expenditure of public monies;
 - (b) maximizing the collection of public revenues;
 - (c) managing the information systems and technologies from the associated risks relating to confidentiality, integrity and availability of information;
 - (d) averting loss by negligence, carelessness, theft, dishonesty, fraud or corruption relating to public monies and resources;
 - (e) preventing money laundering;
 - (f) capacity building for institutions; or
 - (g) complying with procedures set in the execution of duties by the institutions,

make such recommendations to the appropriate Minister or Head of the institution as he considers necessary, for better management of public monies and resources including the revision of the law.

Access to
Information.

15.-(1) The Controller and Auditor General or person authorised by him shall have unrestricted access of information to such people, documents, computers, information systems and assets as the Controller and Auditor General considers necessary for the proper performance of his functions, responsibilities and the exercise of powers.

(2) The Accounting Officer of the Auditee shall ensure that the Controller and Auditor General has access at all reasonable times to the documents relating to the performance of functions, responsibilities and the exercise of his powers.

(3) Notwithstanding any other law, the Controller and Auditor General shall have the right to obtain a copy of any audit report made in public institutions.

(4) For the purpose of performing his functions, responsibilities and the exercise of his powers, the Controller and Auditor General may require an Auditee or any person employed by that Auditee to:

- (a) produce any document or instrument in the auditee's or other person's custody, care or control; and
- (b) provide the Controller and Auditor General with information or an explanation about any information, system or asset.

(5) The Controller and Auditor General may obtain such information as he considers necessary to fulfil the performance of his functions, responsibilities and the exercise of his powers from any person who is not an employee or officer of the Auditee and in doing so, the Controller and Auditor General may:

- (a) advise the person in writing of the nature of the information and why it is needed;
- (b) state that the information is required under this Act;
- (c) ask for further information where necessary;
- (d) summon the person, if necessary; or
- (e) reimburse the person for costs incurred in travelling where such person is summoned to appear, as may be determined by the Controller and Auditor General.

16.-(1) There shall be a Deputy Controller and Auditor General who shall be appointed by the President and who shall be the principal assistant to the Controller and Auditor General.

Appointment
of Deputy
Controller
and Auditor
General.

(2) The Deputy Controller and Auditor General shall be the Accounting Officer of the Office.

(3) A person shall qualify to be appointed as Deputy Controller and Auditor General if he has the same qualifications and competencies to be appointed as the Controller and Auditor General.

(4) The Deputy Controller and Auditor General shall, before executing his duties, take an oath before the President.

(5) The Deputy Controller and Auditor General may be removed from the office for failure to discharge his duties, misconduct or incompetence.

Auditors.

17.-(1) Subject to the provisions of the Public Service Act, No. 2 of 2011, there shall be auditors employed to work in the Office.

(2) Subject to the provisions of the Zanzibar Institute of Accountants, Auditors and Tax Consultants, No. 7 of 2022, the Controller and Auditor General, in consultation with the Board, shall determine the basic qualifications, professional qualifications, experience and competence for the auditors referred to in subsection (1) of this section.

(3) The Auditor shall exercise his functions in accordance with the Code of Ethics and Conduct made under this Act and subject to any directives issued by the Controller and Auditor General.

(4) The Board shall, from time to time, promote the auditors who qualify to appropriate grade in accordance with the applicable grade of Scheme of Services prepared by the Board.

(5) The auditor working in the Office shall not be transferred to any other public institution without approval of the Board.

(6) Every auditor shall, before executing his duties, take an oath of secrecy as prescribed in the regulations made under this Act.

Recruitment
of other
Staff.

18.-(1) Subject to the provisions of the Public Service Act, No. 2 of 2011, the Board may, upon recommendations of the Controller and Auditor General, recruit such other staff for proper discharge of the functions of the Office.

(2) The staff of the Office shall be recruited in accordance with the basic principles provided for under the Public Service Act, No. 2 of 2011 and subject to organizational structure of the Office.

(3) Every staff employed by the Office shall, before executing his duties, take an oath in a manner prescribed in the regulations made under this Act.

19.-(1) Subject to the provisions of the Public Service Act, No. 2 of 2011, the Controller and Auditor General, may second any officer from the public institution as may be necessary, for proper performance of the functions of the Office. Secondment of officers.

(2) A public officer seconded to the Office shall, during the period of secondment, be deemed to be an officer of the Office.

(3) A public officer seconded to the Office from any public institution shall not audit that public institution within a period of first twenty-four months of secondment period.

(4) The Controller and Auditor General may, upon request of a public institution, second his staff who shall, for the period of such secondment, be under the direction and control of the concerned public institution and such an officer shall not audit that public institution within a period of twenty-four months after the expiry of the secondment period.

20.-(1) For the purposes of carrying out his functions, the Controller and Auditor General may outsource audit services from audit firms duly registered by the Zanzibar Institute of Accountants, Auditors and Tax Consultants or National Board of Accountants and Auditors, whose partners, owners, directors or staff are not employees of the Office or the public institution to assist in audit. Outsourcing audit services.

(2) An institution appointed under subsection (1) of this section shall:

- (a) be delegated the exercised powers of the Controller and Auditor General relating to examinations and audit;

- (b) comply with any directives given by the Controller and Auditor General and shall submit report to the Controller and Auditor General; and
- (c) not certify the findings of examination or audit and shall not submit any report required under this Act other than the report approved by the Controller and Auditor General.

(3) During the period of performing the work under this section, the staff of the outsourced firm shall comply with the provisions of this Act, Code of Ethics and Conduct and regulations made under this Act relating to audit.

(4) An officer who previously worked as an auditor for an institution that is audited by the Controller and Auditor General shall not audit that institution until after twenty-four months from the time he ceased working for that institution.

(5) Outsourcing of any audit services under this section shall not absolve the Controller and Auditor General of any responsibility concerning the exercise of his powers.

Obligation
of officers.

21. The Controller and Auditor General may, in the performance of his duties and functions, engage the services of or work in collaboration with professional or consultants, whether in the public service or not, to enhance the performance of the Controller and Auditor General and on such terms and conditions as may be agreed upon.

Engagement
of
Professional
assistance
and
consultancy.

22.-(1) The Officers of the Office shall possess the professional knowledge and skill commensurate with the audit work they engage in, and the officer shall not:

- (a) take part in the audit or handling audit matters if he has an interest in the auditee or other matters thereon; and
- (b) reveal any information which relates to the business's secret of the auditee which comes to their knowledge in the course of audit.

(2) Every officer of the Office shall observe the Code of Ethics and Conduct made under this Act.

PART FOUR THE OFFICE SERVICE BOARD

23.-(1) There is established a Board to be known as Office Service Board which shall consist of the following members:

Establishment and Composition of the Board.

- (a) a Chairperson who shall be appointed by the President;
- (b) one member from the Civil Service Commission to be Vice Chairperson;
- (c) the Controller and Auditor General;
- (d) a State Attorney from Attorney General's Chambers; and
- (e) other three members.

(2) The members mentioned under subsection (1)(b), (d) and (e) of this section, shall be appointed by the Minister upon consultation with the respective institution based on gender, knowledge, skills and experience.

(3) A person shall be qualified to be appointed as a Chairperson of the Board if that person has

- (a) at least first degree of accountancy, finance, economics or administration; and
- (b) working experiences of at least seven years in auditing matters, finance, economic or administration affairs; and
- (c) high level of integrity.

24.-(1) The Board shall appoint staff of the Office to be a Secretary of the Board.

(2) A staff shall qualify to be appointed as a Secretary of the Board if he has:

- (a) at least first degree in the field of law from any institution recognized by the Government or qualified corporate secretary; and
- (b) working experience of not less than five years in the public services.

(3) The Secretary shall be accountable to the Board and shall:

- (a) prepare the agenda of the meeting of the Board in consultation with the Chairperson;
- (b) properly take the accurate minutes of meetings of the Board;
- (c) keep and properly maintain the correct and sufficient records of the Board;
- (d) issue notice of meetings of the Board to the members;
- (e) provide advice to the Board when so needed; and
- (f) performs any other function as the Board may direct in accordance with the law.

25. The Board shall have the functions to:

- (a) recruit staff of the Office;
- (b) promote authorized auditors and other staff of the Office;
- (c) supervise, coordinate and approve all the staff matters;
- (d) enforce ethics and discipline;

- (e) terminate the employment of any staff serving under contract;
- (f) determine the salary scale, allowances and other benefits of staff of the Office;
- (g) hear and determine the appeals relating to the disciplinary actions;
- (h) develop and review of organizational structure of the Office; and
- (i) do any other thing which is incidental to the performance of its duties under this Act.

26.-(1) Provisions relating to the proceedings of the Board shall be as prescribed in the Schedule of this Act.

Proceedings
of the
Board.

(2) The Minister may, by order published in the Gazette, amend the Schedule of this Act.

PART FIVE AUDIT AND TYPES OF AUDITS

(a) Audit

27.-(1) The Controller and Auditor General in discharging of his functions and responsibilities, shall determine which auditing standards may be applied and issue code of ethics and conduct specific to the audits performed by the Office.

Audit
Standards
and Code
of Ethics
and
Conduct.

(2) Subject to the provisions of subsection (1) of this section, the Controller and Auditor General may be guided by International Auditing Standards or other auditing standards as he may deem fit.

(3) The Controller and Auditor General shall take into account all relevant factors, including:

- (a) best auditing practices; and
- (b) the auditing profession to comply with those standards.

(4) The Controller and Auditor General shall:

- (a) make different determinations on the matters mentioned in subsection (3) of this section, for different categories of audits based on recognized best audit practice; or
- (b) issue specific directives on those matters in any specific case.

Submission
of financial
statements.

28.-(1) The Accounting Officer of the public institution shall submit the financial statements of its institution subject to the procedures provided for under the Public Finance Management Act, No. 12 of 2016.

(2) Financial statements submitted by an Auditee which is not subject to the Public Finance Management Act, No. 12 of 2016, shall be submitted within the period and in a format, containing the information relating to any requirements determined:

- (a) by any legislation applicable to that Auditee; or
- (b) in the absence of such legislation, by the Controller and Auditor General.

Protection of
information.

29.-(1) The Controller and Auditor General shall take precautionary steps to guard against the disclosure of secret or classified information obtained (under the provision of) section 15 of this Act.

(2) Steps taken (under the provision of) subsection (1) of this, may not prevent the disclosure of any audit finding by the Controller and Auditor General or an authorized auditor on any unauthorized expenditure, irregular expenditure or fruitless and wasteful expenditure which is the subject of the audit, or on any other irregular or criminal conduct relating to the financial affairs of an Auditee, but any such disclosure may not include facts of the disclosure of which would harm the public interest.

(3) The Controller and Auditor General, an authorized auditor, an assistant or other person performing the auditing function under the provisions of this Act, is competent but may not be compelled to disclose information obtained in the course of official duties in any legal proceedings in which the Controller and Auditor General is not a party.

(4) The provisions of subsection (3) of this section shall not apply in any proceedings before:

- (a) the House of Representatives or its committees; or
- (b) a court in a criminal matter.

30. The Controller and Auditor General shall determine the scope and extent of the examination or inspection of the accounts or any other audits of each auditee as he considers desirable in carrying on his responsibilities and functions. Scope of Audit.

31. The Controller and Auditor General may inquire into, examine, investigate and report, as he considers necessary, on the expenditure of public monies disbursed, advanced or guaranteed to private institutions. Audit of public monies in private institutions.

32. The Controller and Auditor General shall have access to any Internal Audit Report of Public Institutions and other report of the institutions which is subject to audit by the Controller and Auditor General. Use of Internal Auditor Report.

33.-(1) The Controller and Auditor General may charge fees for auditing the accounts of an Auditee, provided that, the Controller and Auditor General or his representative shall have regard on: Audit fees.

- (a) the nature and extent of the services provided;
- (b) the requirements of auditing standards;
- (c) the qualifications and experience of the persons necessarily engaged in providing the services; and

- (d) any other matters which the Controller and Auditor General deems fit.

(2) The provisions of this section shall not apply to the accounts of Central Government and local government authorities.

(3) An Auditee shall pay the audit fees in accordance with the terms and conditions as per contract or engagement letter.

Pre-audit on terminal benefits and compensation.

34. The Controller and Auditor General shall conduct the pre-audit of the payments of the terminal benefits and compensation to ensure that the proposed award and payment is in accordance with the law.

Court Accounts.

35.-(1) The Controller and Auditor General shall examine the accounts of the Courts and other related books, records and documents kept or under the administration of the Court.

(2) The Controller and Auditor General shall satisfy himself that all fees, fines or executions charged by the Courts are duly collected and promptly brought to account.

Assets Management Report.

36. The Controller and Auditor General shall examine the reports of assets management and may call for further information and explanations from Treasury Registrar to enable him to form an opinion on the state of the stock accounts.

(b) Types of Audit

Regularity Audit.

37. The regularity audit conducted by the Controller and Auditor General shall include the evaluation and examination of:

- (a) financial statements and the underlying records;
- (b) internal control systems and other checks;
- (c) public procurement procedures and processes;
- (d) compliance with applicable laws, regulations and policies; and

- (e) any other matter as the Controller and Auditor General may consider necessary.

38. The Controller and Auditor General shall conduct performance audit to examine the economy, efficiency and effectiveness of any expenditure or use of resources of the entities, enquire into, examine, investigate and report on: Performance Audit.

- (a) the expenditure of public monies and the use of resources by public institutions;
- (b) the conduct of and the performance of functions by Accounting Officers, Heads and Chief Executive Officers of all such public institutions;
- (c) compliance with environmental laws, regulations and internal environmental policies and standards; or
- (d) any other activity undertaken by such public institutions.

39. The Controller and Auditor General may conduct forensic audit where he suspects commission of fraud or any related offences and he shall immediately report that matter to the respective institution. Forensic Audit.

40.-(1) The Controller and Auditor General shall conduct audits of information technology or information system for public institutions. Information System Audit.

(2) The audit under subsection (1) of this section, shall focus on determining whether the development, implementation, support and maintenance of information technology or information system meets business objectives, safeguards information assets, maintains confidentiality, integrity and availability of data related to Auditee in accordance with the applicable local and international IT policies, regulations, standards and regulatory framework.

(3) Where the accounting and other data is stored in the computer, the Accounting Officer of the respective institution, shall ensure that accounts, records or matters concerned are available in written form or

otherwise, provides a document counting a clear reproduction of the whole or part of them as the requirement may entail.

(4) Where an Auditor requires access to the data and data processing system controlled by password, the officer responsible shall allow the access by keying in the password in secret without revealing the password to the Auditor.

(5) The Auditor may copy the data or statement stored electronically for the purpose exclusively of executing the official duty.

Other
audits.

41.-(1) The Controller and Auditor General may undertake any other type of audit as he may deem fit.

(2) The Controller and Auditor General may, on request by any person, public institution or any such other bodies, undertake any special audit or any other type of audit in accordance with the terms of references and other conditions agreed by the Controller and Auditor General.

PART SIX

AUDIT OF PUBLIC ENTITIES AND OTHER AUTHORITIES

Public
entities
and other
authorities.

42.-(1) Subject to the provisions of the Public Finance Management Act, No. 12 of 2016, within three months after the end of each financial year, each body or public entity shall prepare and submit to the Controller and Auditor General for audit its financial statements in accordance with the framework of the International Financial Reporting Standards or International Public Sector Accounting Standards.

(2) The public entity or body shall include any authority or body:

- (a) established by law or other instrument which is in receipt of a contribution from, or the operations of which may, under the law or instrument relating thereto, impose or create a liability upon public funds;

- (b) which the Government has invested its monies;
- (c) executing a Government project in respect of which a foreign Government, institution or an international organization provides, any money, goods or services, whether or not it is specifically provided in relevant agreement for the project that the accounts of the public entity or body are subject to audit by the Controller and Auditor General;
- (d) whose accounts are, by or under the law, required to be audited by the Controller and Auditor General;
- (e) in which the Government is the majority shareholder; and
- (f) which has, in any of its financial years, received more than half of its income from public funds.

43.-(1) In the exercise of his powers and duties under this Part, the Controller and Auditor General shall have the same powers in relation to the monies, stamps, securities, stores and other property of the bodies referred to under this Act.

Audit of public entities and other authorities.

(2) Notwithstanding anything provided in subsection (1) of this section, the regulated institutions or authority, shall submit their financial statements within the periods as stipulated by their regulatory requirement or establishment mechanisms.

(3) The Treasury Registrar shall avail to the Controller and Auditor General the annual audit report of bodies in which the Government is a minority shareholder for review and to advise the Government.

(4) Upon receipt of the financial statements prescribed in section 42 of this Act, the Controller and Auditor General shall cause them to be audited and shall submit a report within a period of six months.

Contracting
of audits.

44.-(1) The Controller and Auditor General may authorize any qualified person to inspect, examine or audit all books and accounts of any institution which the Controller and Auditor General may be required to audit in accordance with the provisions of this Act, and such person shall conduct audit and submit report thereon to the Controller and Auditor General in such manner as the Controller and Auditor General may direct.

(2) The authorised person to conduct auditing under subsection (1) of this section, shall comply with the provisions prescribed under section 17 of this Act.

(3) Notwithstanding the provisions of subsection (1) of this section, the audit opinion shall remain the sole responsibilities of the Controller and Auditor General.

PART SEVEN AUDIT REPORT

Annual Audit
reports.

45.-(1) The Controller and Auditor General shall, upon receipt of the accounts prescribed in relevant laws, cause the accounts to be examined and audited and shall, within a period of six months or such longer period as the House of Representatives may by resolution determined after the end of the year to which the accounts relate:

- (a) express professional opinion, in respect of each account and the results of the examination and audit, but shall reflect at least an opinion or conclusion on:
 - (i) whether the annual financial statements of the Auditee fairly present in all material respects, the financial position at a specific date and results of its operations and cash flow for the period which ended on that date in accordance with the applicable financial framework and legislation;
 - (ii) the Auditee's compliance with any applicable legislation relating to financial matters, financial management and other related matters; and

(iii) the reported information relating to the performance of the Auditee against predetermined objectives; and

(b) prepare a report upon the examination and audit of all such accounts.

(2) In addition, the Controller and Auditor General may report on whether the Auditee's resources were procured economically and utilized efficiently and effectively.

46.-(1) The Controller and Auditor General shall submit a report to the President in accordance with section 112(5) of the Constitution. Submission of Audit Report.

(2) The report issued under subsection (1) of this section, shall be laid by the Minister to the House of the Representatives within seven days of the next sitting of the House of the Representatives after he has received it.

47.-(1) The Controller and Auditor General where at any time it appears desirable that any matter relating to public monies or public property should be drawn to the attention of the House of the Representatives without undue delay, he shall prepare a special audit report on such matter and submit the report to the President. Special audit reports.

(2) The provisions of 112(5) of the Constitution, shall apply to the submission of reports under this section.

48.-(1) The Controller and Auditor General shall, in the course of audit conducted by him or on his behalf, if there is any query or observation, address such query and observation to the Accounting Officer of the concerned institution. Audit queries and observations.

(2) Audit queries and observations shall be issued by the Controller and Auditor General as prescribed in the Audit Procedures Regulations made under this Act.

Reports on
audit of
public
authorities
and other
bodies.

49.-(1) The Controller and Auditor General shall prepare a report on the audit of the accounts referred to in this Part and shall submit the same to management of the audited public entity or other body for the replies and comments.

(2) Upon receipt of the observations from the Controller and Auditor General, the Accounting Officer of the audited public entity or such other body, shall within fourteen days reply to the observations.

(3) The final report issued in respect to sub section (2) of this section, shall be laid by the Minister to the House of Representatives.

House of
Representatives
Oversight
Committees.

50.-(1) The Public Accounts Committee, Local Authorities Accounts Committee, public entities or any other Committee of the House of Representatives shall discuss the reports of the Controller and Auditor General and the Consolidated Report referred to under subsection (2) of this section after they have been tabled in the House of Representatives.

(2) For the purpose of preparation of a consolidated report referred to under subsection (1) of this section:

- (a) the accounting officers shall prepare an action plan of the intended remedial actions for submission to the Minister responsible for finance;
- (b) Minister responsible for finance shall prepare a Consolidate Report for responses and action plan received under subsection (2) of this section and shall:
 - (i) submit a Consolidated Report of responses and action plan to the House of Representatives; and
 - (ii) submit to a copy of such consolidated report to the Controller and Auditor General.

51. All audit reports issued by the Controller and Auditor General shall be public documents after being tabled in the House of Representatives. Reports to be public documents.

52. In preparing the Annual Audit report, the Controller and Auditor General shall incorporate an implementation status of the action plan prepared by the Accounting Officer and consolidated by the Paymaster General. Implementation of Audit Reports.

53. Where the Controller and Auditor General makes use of media to publicize the reports under this Act, he shall take into consideration the following factors: Use of media in publicizing reports.

- (a) the general nature of the report or document;
- (b) how and where it will be published and how it may be accessed and read by members of the public;
- (c) the need to widely circulate a summarized version of the report; and
- (d) any other forum that the Controller and Auditor General may consider appropriate.

54. The Public shall have the right of access to audit reports of the Controller and Auditor General for transparency and accountability, except where such access may unduly jeopardize state security. Public right of access to audits reports.

PART EIGHT FINANCIAL PROVISIONS

55. The funds of the Office shall consist of:

Sources of funds of the Office.

- (a) monies appropriated by the House of Representatives;
- (b) such monies or assets as may accrue to the Office in the course of the exercise of its functions under this Act;
- (c) audit fees and other charges; and

- (d) any other lawful money which may be received by the Office.

Bank accounts.

56. The Office may open one or more accounts subject to the provisions of the Public Finance Management Act, No. 12 of 2016.

Budget of the Office.

57.-(1) The Accounting Officer of the Office shall prepare annual budget estimates of revenue and expenditure and work plan for the next financial year.

(2) The Accounting Officer of the Office after completion of preparing the estimates of revenues and expenditure, shall submit the same to the Minister not later than the 31st March each year in accordance with the provisions of the Public Finance Management Act, No. 12 of 2016.

Audit of Accounts.

58.-(1) The accounts of the Office shall be audited in accordance with the provisions of the Public Finance Management Act, No. 12 of 2016.

(2) The remuneration of the audited account of the Office under subsection (1) of this section shall be defrayed from the funds of the Office.

Debating the audited report of accounts of the Office.

59. The audit report of the accounts of the Office shall be submitted and debated by the House of Representatives in accordance with the relevant law.

PART NINE OFFENCES AND PENALTIES

Offences by officers of the Office.

60. Any officer or staff of the Office who:

- (a) engages in a corrupt act;
- (b) wilfully conceals information on audit findings for whatever reason in order to obtain a financial benefit for the officer or an accomplice or another person;

- (c) wilfully fails to disclose audit information on fraud or corrupt practice by the audited entity;
- (d) fails to disclose any conflict of interest in any matter under consideration in the course of discharging any functions under this Act; or
- (e) wilfully discloses, publishes or publicizes the Controller and Auditor General's audit report or its contents to third parties including the media before the report is finalized and formally submitted to the House of Representatives and copied to the audited entity and other authorized offices,

commits an offence, and shall upon conviction, be liable to a fine of not less than One Million Tanzania Shilling or imprisonment for a term of not exceeding one year or both such fine and imprisonment.

61. A person who:

Offences
for Auditees.

- (a) without reasonable cause or lawful excuse, obstruct or hinder, assault or threaten a staff of the Office or professional acting under this Act;
- (b) without justification, fail to provide information required under this Act;
- (c) without justification, fail to provide information within reasonable time that is required under this Act;
- (d) submit false or misleading information;
- (e) misrepresent to or knowingly mislead a staff of the Office or professional acting under this Act; or
- (f) interfere with or exert undue influence on any staff of the Office or on any person authorized by the Controller and Auditor General to perform functions under this Act,

commits an offence, and shall upon conviction, be liable to a fine not exceeding Five Million Tanzania Shillings or to imprisonment for a term of not exceeding two years or both such fine and imprisonment.

PART TEN MISCELLANEOUS PROVISIONS

Irregular or
fruitless and
wasteful
expenditure.

62.-(1) Without limiting liability in terms of any law:

- (a) the Accounting Officer shall be liable for an irregular expenditure or a fruitless and wasteful expenditure deliberately or negligently incurred or authorized by him, subject to subsection (2) of this section; and
- (b) any staff who deliberately or negligently incurred or authorized an irregular expenditure or a fruitless and wasteful expenditure shall be liable for that expenditure.

(2) Where the Accounting Officer becomes aware that the Controller and Auditor General has taken a decision which, if implemented, is likely to result in irregular or fruitless and wasteful expenditure, the Accounting Officer shall not be liable for any subsequent irregular or fruitless and wasteful expenditure provided that the Accounting Officer has informed the Controller and Auditor General, in writing, that the expenditure is likely to be irregular or fruitless and wasteful expenditure.

(3) Any decision of the Controller and Auditor General to proceed with the implementation of the decision in subsection (2) of this section, and the reasons for the decision, shall be in writing, and the Accounting Officer shall promptly notify the external auditor and the oversight mechanism.

(4) The Accounting Officer shall promptly inform the Controller and Auditor General, in writing, of:

- (a) any irregular or fruitless and wasteful expenditure incurred in the administration of the public institution;

- (b) whether any person is responsible or under investigation for such irregular or fruitless and wasteful expenditure; and
- (c) the steps that have been taken to:
 - (i) recover or rectify such expenditure; and
 - (ii) prevent a recurrence of such expenditure.

63. Any staff of the Office or outsourced by the Office who may be proven to have been compromised, bribed or corrupted in any way in consideration for suppressing a fraud or corrupt practice by the Auditee client shall be liable to administrative action subject to the provisions under the Public Service Act, No. 2 of 2011 or any other law.

Administrative action.

64. All staff of the Office or outsource by the Office are duty bound to disclose any fraud or corruption that comes to their attention immediately and disciplinary action shall be taken against any officer who knowingly covers up any acts of fraud or corruption.

Disclosure of fraud and corruption.

65.-(1) An officer of the Office who has conflict of interest in a matter under consideration by the Auditee shall disclose in writing, the nature of that interest and shall not participate in any auditing exercise relating to that Auditee.

Disclosure of conflict of interest.

(2) An officer who fails to disclose a conflict of interest in a matter in accordance with subsection (1) of this section, shall be subject to administrative action.

66.-(1) The Controller and Auditor General shall put in place a mechanism for confidential reporting about the officers of the Office relating to unlawful acts or orders relating to violation of laws in relation to public funds, gross wastage, mismanagement and abuse of authority.

Whistling Blowers.

(2) Any person reporting a corrupt practice or misconduct by an audit officer with knowledge or good faith or belief that the allegation or information is true, shall be treated with utmost confidentiality.

(3) Allegations and concerns reported anonymously shall be reviewed and considered as appropriate and some of the factors to be considered by the Controller and Auditor General shall include the gravity of the allegation, its credibility, and the extent to which the allegation can be confirmed or corroborated by attributable sources.

(4) The Controller and Auditor General shall not disclose the identity of a person under this section unless:

- (a) such person agrees to be identified;
- (b) identification is necessary to allow appropriate law enforcement official to investigate or respond effectively to the disclosure;
- (c) is required by law where false accusations have been maliciously made; or
- (d) the accused person is entitled to the information as a matter of legal right and in such an eventuality the Controller and Auditor General, shall inform the person prior to revealing his identity.

Immunity
from legal
proceedings.

67. No action or other proceedings shall lie against the Controller and Auditor General or any other person employed by the Controller and Auditor General, whether works as an authorized auditor or officer, audit firm or expert, or in whatever designation, in connection with the performance or exercise of the Controller and Auditor General's functions, duties, responsibilities, powers, or rights under this Act or any other laws enforced in Zanzibar provided the work has been done in good faith.

68. The Minister may make regulations for the better carrying out the provisions of this Act. Regulations.

69.-(1) The Establishment of the Office of the Controller and Auditor General's Act, No. 11 of 2003 is repealed. Repeal
and
Savings.

(2) Notwithstanding the provision under subsection (1) of this section, anything done or purported to be done under the repealed Act shall be deemed to have been done under the provisions of this Act.

SCHEDULE

PROCEEDINGS OF THE BOARD

[Made under section 26](1)

1. Save for an ex-officio member, the Chairperson and other members of the Board shall hold office for a term of three years from the date of their appointment and may be eligible for re-appointment for another term only. Tenure of
members of
the Board.

2.-(1) The Board shall meet every three months on ordinary meeting and may meet for the extraordinary meetings at any time when the need arises for discharging of its functions. Meeting of
the Board.

(2) All meetings of the Board shall be presided over by the Chairperson, in his absence, the Vice Chairperson shall preside the meeting of the Board and where the Chairperson and Vice Chairperson are absent, the members present shall elect one member among them to preside the meeting.

3. The quorum of all meetings of the Board shall be more than half of a total number of its members. Quorum.

4. The decisions of the Board shall be made by consensus, where there is no consensus, the decisions shall be made by votes, and where there is an equal vote, the Chairperson shall have a casting vote. Decisions
of
the Board.

Procedures
of the
meetings.

5. Without prejudice the provisions of this Act, the Board shall have power to regulate its own procedures in respect of the meetings and the proper conduct of its activities including Committees of the Board.

Co-opted
member.

6. The Board may co-opt any person to attend in any deliberations of the meeting of the Board as an expert but the co-opted member shall have no right to vote.

Minutes of
meetings of
the Board.

7. The minutes of meetings of the Board shall be confirmed at the next meetings and signed by the Chairperson and Secretary.

Disclosure
of interest.

8.-(1) The member of the Board who has direct or indirect personal interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at the beginning of the meeting of the Board.

(2) A disclosure of interest shall be recorded in the minutes of the meeting and the member making such disclosure shall not:

- (a) be present during the deliberations of the Board for the making of the determination; or
- (b) influence any other member in the making the determination.

Cessation of
membership.

9. The member shall cease to hold office upon the occurrence of the following:

- (a) resignation;
- (b) if is absent without reasonable excuse for three consecutive meetings of the Board;
- (c) if he becomes incapacitated to perform his duties by reasons of physical or mental health;

- (d) if is terminated by the Minister where he does not meet expectation of the Office;
- (e) if he ceases to be a representative of the institution which nominated that member; or
- (f) death.

10.-(1) The Board may, if deems fit for the proper discharging of its functions, delegate some of its functions to the Controller and Auditor General or a committee of the Board.

Delegation of the functions of the Board.

(2) Where the Board delegates its functions under subsection (1) of this section, it shall give directives in writing as may be necessary to ensure the proper performance of the functions.

11. The Board may form committees to carry out specific functions as may deem necessary.

Committees of the Board.

12. The members of the Board shall be entitled to be paid such allowances in accordance with the Public Service Act, No. 2 of 2011 and other relevant laws.

Allowances of the members.

OBJECTS AND REASONS

The purpose of this Bill is to repeal the Establishment of the Office of Controller and Auditor General Act, No. 11 of 2003 and enact the Public Audit Act and other matters related hereto. Among other things, the Bill describes the establishment of the Office of the Controller and Auditor General in order to strengthen the performance of the functions of the Office. In the implementation of the audit functions of the account and resources of the Government, the Office of the Controller and Auditor General shall consider the principles and requirements of National and International Audit. Also the Office is required to properly manage the principles of justice and equality in the use of the financial resources of the Government in accordance with the Public Finance Management Act, No. 12 of 2016 and the Public Procurement and Disposal of Public Assets Act, No. 11 of 2016.

In considering the principles and conditions of good governance in compliance with the law, The Bill has set conditions to ensure that the Government plans and budget for the Central Government and all its institutions shall be applied in the manner and achieving goals set by the Office without going contrary with the existing policy, Law, Regulations and guidelines. Also, other institutions including the Judiciary and the House of Representatives shall ensure government resources are properly used.

This Bill is divided into Ten parts.

Part one provides for the Preliminary provisions which includes short title and commencement, application and interpretation of words used in this Bill.

Part Two provides for the Establishment of the Office of the Controller and Auditor General as a body corporate. Also explains the functions of the Office including the structure of the staff of the Office.

Part Three This part deals with the management of the Office, powers of the Controller and Auditor General. Also this part provides for the power of the Controller and Auditors General to make recommendation and access to information for the purpose of audit. Also explains about the appointment, functions and responsibilities of the Deputy Controller and Auditor General. This part also explains about recruitment of other staffs of the Office of the Controller and Auditor General, secondment of staff, obtaining audit services outside of the Office, seeking professional advise and consultancy, duties of the staff of the Office and other matters.

Part Four This part deals with the Office Service Board, establishment and composition of the Board, secretary of the Board, functions of the Board and proceeding of the Board.

Part Five This Part provides about Audit and types of audits, Audit standards and Code of ethics and conduct, Submission of financial statements for audit, Protection of information, Audit of public monies in private institutions, Use of the Internal Auditors report, Audit fees, Pre-audit on terminal benefits and compensation, Court accounts

together with Assets management report, Forensic audit, Information System Audit and other audit.

Part Six This part explains about Audit of public entities and other authorities.

Part Seven This part explains about Audit Report where it includes Annual Audit Report, Special audit report, Report on audits of public authorities and other bodied, House of Representatives Oversight Committees, Reports as public documents, Implementation of Audit Report and Use of media in publicizing of reports.

Part Eight This part explains about Financial provisions including Sources of fund of the Office, Bank account, Budget of the Office, Audit of accounts and Debating the audited report of accounts of the Office.

Part Nine This part deals with Offences and penalty such as offences by officers of the Office and offences for Auditees.

Part ten This part provides for Miscellaneous provisions including irregular or fruitless and Wasteful Expenditure, Administrative Action, Disclosure of fraud and corruption, Disclosure of conflict of interest, whistling blowers, Immunity from legal proceedings, Power of the Minister to make Regulations and repealing of Act, No. 11 of 2003 and saving.

Lastly there is a Schedule that explains the proceedings of the Board.

ZANZIBAR
23th August, 2023

(HON. HAROUN ALI SULEIMAN)
*Minister of State, President's Office,
Constitution, Legal affairs, Public
service and Good governance*

