

AUDIT BILL 2024  
(BILL NO. 17 OF 2024)

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**BILL NO. 17 OF 2024****A BILL**

FOR AN ACT TO REPEAL THE AUDIT ACT 1969 AND PROVIDE FOR THE POWERS, DUTIES AND MANDATE OF THE AUDITOR-GENERAL, AND FOR THE AUDIT OF PUBLIC ACCOUNTS AND PUBLIC ENTITIES AND RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

**PART 1—PRELIMINARY***Short title and commencement*

**1.—**(1) This Act may be cited as the Audit Act 2024.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

*Interpretation*

**2.** In this Act, unless the context otherwise requires—

“auditing standards” means the auditing standards referred to under section 15;

“Auditor-General” means the Auditor-General appointed under section 151(2) of the Constitution;

“budget sector agency”, in relation to a financial year, means a State entity that administers an appropriation for that year under an Appropriation Act or the Financial Management Act 2004;

“company” means a company formed and registered under the Companies Act 2015 or an existing company within the meaning of that Act;

“compliance audit” means an audit conducted under section 14;

“Constitution” means the Constitution of the Republic of Fiji;

“department” has the same meaning as provided under section 2 of the Financial Management Act 2004;

“document” means any record of information, including the following —

- (a) anything on which there is writing or an image;
- (b) anything on which there is a mark, figure, symbol or perforation having a meaning for a person qualified to interpret it; and
- (c) anything from which any sound, image or writing can be reproduced, with or without other aids,

and includes any document or information created, recorded or stored electronically by any means whatsoever, and any information derived from such document or that information, and the terms “book”, “record”, “accounts” and “voucher” have corresponding meanings;

“financial audit” means an audit conducted under section 10;

“financial year” means the financial year to which an audit relates;

“Minister” means the Minister responsible for finance;

“off-budget State entity” means a State entity that is not a budget sector agency;

“other money” means money held by a budget sector agency, other than public money and trust money;

“performance audit” means an audit conducted under section 13;

“public entity” means —

- (a) a constitutional body, as defined under section 2 of the Financial Management Act 2004, except the Office of the Auditor-General;
- (b) a department;
- (c) an independent office, as defined under section 37A(7) of the Financial Management Act 2004, that is not also a constitutional body;
- (d) a Government company and any subsidiary of a Government company, as those terms are defined under section 2 of the Financial Management Act 2004;

- (e) a local authority within the meaning of the Local Government Act 1972, except a local authority in respect of which the Minister responsible for local government has directed that the Auditor-General is not the auditor under section 51(1) of that Act;
- (f) an off-budget State entity;
- (g) a public enterprise under the Public Enterprises Act 2019;
- (h) a statutory authority, as defined under section 2 of the Financial Management Act 2004;
- (i) a State entity as defined under section 2 of the Financial Management Act 2004; or
- (j) any other entity of which the Auditor-General is the auditor, or in respect of which the Auditor-General is required to carry out any audit or to report to Parliament, by or under any other written law;

“public money” has the same meaning as provided under the Financial Management Act 2004;

“responsible authority” means—

- (a) in the case of a department, the permanent secretary responsible for the department; or
- (b) in the case of a public entity that is not a department—
  - (i) the board or other governing body of the entity; or
  - (ii) the chief executive officer of the public entity if it does not have a board or other governing body;

“special investigation” means an investigation conducted under section 12;

“State entity” has the same meaning as provided under the Financial Management Act 2004;

“subsidiary” has the same meaning as provided under section 7 of the Companies Act 2015; and

“trust money” means money held by a budget sector agency on trust, other than public money.

## PART 2—THE AUDITOR-GENERAL

### *Office of the Auditor-General*

**3.—(1) The Office of the Auditor-General is an independent office for the purposes of the Financial Management Act 2004 and the Auditor-General is the responsible authority for the Office of the Auditor-General in accordance with that Act.**

(2) The Auditor-General must ensure that all revenues of the Office of the Auditor-General are paid into a bank account in the name of the Office of the Auditor-General maintained for that purpose.

(3) The revenues of the Office of the Auditor-General comprises—

- (a) money appropriated to the Office of the Auditor-General as an independent office under an Appropriation Act;
- (b) audit fees;
- (c) any grant or development funding received by the Office of the Auditor-General; and
- (d) any other revenue lawfully received by the Office of the Auditor-General.

(4) The Auditor-General has control of the funds of the Office of the Auditor-General held in its bank account, and may determine the expenditure of such funds in the manner as the Auditor-General thinks fit.

(5) The Auditor-General has the authority to employ staff and engage contractors, and the authority to determine all matters pertaining to their employment or engagement, in accordance with section 152(6) and (7) of the Constitution.

*Auditor-General*

**34.**—(1) The Auditor-General must not hold any office of profit under the State other than the office of the Auditor-General.

(2) The provisions of the law relating to the civil service apply to the Auditor-General except where the provisions are in conflict with the Constitution or any other written law.

(3) The Auditor-General must not engage in any activity that conflicts with his or her duties and responsibilities, including the provision of non-audit services to any entity being audited.

*Acting Auditor-General*

**45.** Any person appointed to act as the Auditor-General has and may exercise all the powers and authority of, and must perform the duties imposed on, the Auditor-General by the Constitution or any other written law during the period in which he or she acts as the Auditor-General.

*Office of the Auditor-General*

**5.**—(1) ~~The Office of the Auditor-General is an independent office for the purposes of the Financial Management Act 2004 and the Auditor-General is the responsible authority for the Office of the Auditor-General in accordance with that Act.~~

~~(2) The Auditor-General must ensure that all revenues of the Office of the Auditor-General are paid into a bank account in the name of the Office of the Auditor-General maintained for that purpose.~~

~~(3) The revenues of the Office of the Auditor-General comprises—~~

- ~~(a) money appropriated to the Office of the Auditor-General as an independent office under an Appropriation Act;~~
- ~~(b) audit fees;~~
- ~~(c) any grant or development funding received by the Office of the Auditor-General; and~~
- ~~(d) any other revenue lawfully received by the Office of the Auditor-General.~~

~~(4) The Auditor-General has control of the funds of the Office of the Auditor-General held in its bank account, and may determine the expenditure of such funds in the manner as the Auditor-General thinks fit.~~

~~(5) The Auditor-General has the authority to employ staff and engage contractors, and the authority to determine all matters pertaining to their employment or engagement, in accordance with section 152(6) and (7) of the Constitution.~~

*Powers of Auditor-General*

**6.—**(1) In the performance of his or her functions under section 152 of the Constitution and of his or her functions and duties under this Act, the Auditor-General may—

- (a) call on any officer, member, employee, or contractor of a public entity for any explanation and information that may be required;
- (b) authorise any officer of a department on his or her behalf to conduct any inquiry, examination or audit, and such officer must report to him or her, provided that any such authority must be subject to the concurrence of the head of the department in which the officer concerned is employed;
- (c) without payment of any fee, cause a search to be made in and extracts taken from, any book, document or record in the office of any public entity;
- (d) examine on oath, declaration or affirmation (which oath, declaration or affirmation the Auditor-General is empowered to administer) any person whom he or she may think fit to examine the receipt or expenditure of money or receipt or issue of any stores affected by this Act and respecting all other matters and things whatsoever necessary for the due performance and exercise of the duties and powers vested in him or her;
- (e) lay before the **AttorneySolicitor**-General in writing, any question regarding the interpretation of any written law concerning the discharge of his or her duties, and the **AttorneySolicitor**-General must provide a written opinion on such question; and
- (f) obtain legal advice from the private practice in circumstances considered appropriate by the Auditor-General.

(2) In the performance of his or her functions and duties under section 152 of the Constitution and this Act, the Auditor-General or any person duly authorised by the Auditor-General is entitled—

- (a) to have access to all records, books, accounts, vouchers or documents, cash stamps, securities, stores or other Government property under the control of any person or authority; and
- (b) to enter the premises of any public entity, or send for and have the custody of any records, books, accounts, vouchers or documents under the control of such person or authority, and to keep such records, books, accounts, vouchers or documents for such time as he or she may require them.

(3) Any person examined under subsection (1)(d) who gives a false answer to any question put to him or her or makes a false statement on any matter knowing that answer or statement to be false or not knowing or believing it to be true, commits an offence.

(4) For the avoidance of doubt, the powers in subsection (2) include powers to—

- (a) access, including by electronic means, any document, information, or record, recorded or stored electronically and any electronic system within which information is recorded or stored or of which it forms part;
- (b) require production or creation of a password or other security protocol which may otherwise restrict the Auditor-General's access to such information; **and**
- (c) use software to interrogate or interpret the information in such manner as the Auditor-General considers appropriate; **and**
- (d) **employ appropriate technology and data analytics to improve audit outcomes and methodologies.**

*Delegation*

**7.—(1) The Auditor-General may delegate to any employee or contractor any function, duty or power of the Auditor-General other than the function of certifying and reporting accounts to Parliament.**

(2) A delegation—

- (a) **must be in writing;**
- (b) **may be made subject to any restriction or condition the Auditor-General thinks fit;**
- (c) **is revocable at any time, in writing; and**
- (d) **does not prevent the performance or exercise of a duty, function or power by the Auditor-General.**

(3) A person to whom any function, duty or power is delegated may perform the function or duty or exercise power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.



(4) A person purporting to act under a delegated authority is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

*Protection from liability*

**8.—**(1) This section applies to—

- (a) the Auditor-General and any acting Auditor-General, in his or her personal capacity;
- (b) staff of the Office of the Auditor-General and every contractor, in connection with their performance or exercise of the Auditor-General's functions, duties or powers under the delegated authority from the Auditor-General;
- (c) every person under a delegated authority under section 7; and
- (d) any independent auditor appointed.

(2) No person to whom this section applies is personally liable for an act or omission in connection with performing a function or duty, or exercising a power, under this Act unless the act or omission was done in bad faith.

(3) Subsection (2) does not limit any disciplinary functions, powers or duties of any person or body that apply to any person to whom this section applies by virtue of his or her membership of a professional body.

*Code of ethics*

**79.—**(1) The auditing standards under section 15 must include the code of ethics for public sector auditors with amendments or additions as the Auditor-General considers appropriate.

(2) The Auditor-General or any Acting Auditor-General and all staff or contractors must comply with the code of ethics at all times and any material breach of the code of ethics must be treated as a disciplinary matter.

*Delegation*

~~**8.—**(1) The Auditor-General may delegate to any employee or contractor any function, duty or power of the Auditor-General other than the function of certifying and reporting accounts to Parliament.~~

~~(2) A delegation—~~

- ~~(a) must be in writing;~~
- ~~(b) may be made subject to any restriction or condition the Auditor-General thinks fit;~~
- ~~(c) is revocable at any time, in writing; and~~
- ~~(d) does not prevent the performance or exercise of a duty, function or power by the Auditor-General.~~

~~(3) A person to whom any function, duty or power is delegated may perform the function or duty or exercise power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.~~

~~(4) A person purporting to act under a delegated authority is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.~~

*Protection from liability*

~~9.—(1) This section applies to—~~

- ~~(a) the Auditor-General and any acting Auditor-General, in his or her personal capacity;~~
- ~~(b) staff of the Office of the Auditor-General and every contractor, in connection with their performance or exercise of the Auditor-General's functions, duties or powers under the delegated authority from the Auditor-General;~~
- ~~(c) every person under a delegated authority under section 8; and~~
- ~~(d) any independent auditor appointed.~~

~~(2) No person to whom this section applies is personally liable for an act or omission in connection with performing a function or duty, or exercising a power, under this Act unless the act or omission was done in bad faith.~~

~~(3) Subsection (2) does not limit any disciplinary functions, powers or duties of any person or body that apply to any person to whom this section applies by virtue of his or her membership of a professional body.~~

### PART 3—AUDITS

*Mandate of Auditor-General*

**10.—(1)** The Auditor-General is the auditor of every public entity and in that capacity has the authority to—

- (a) conduct a financial audit;
- (b) conduct a special investigation;
- (c) conduct a performance audit;
- (d) conduct a compliance audit; **and**
- (e) review an audit undertaken by another auditor; **and report to Parliament and any other person in accordance with this Act, subject to any power of a Minister or an entity under any written law, to appoint another auditor to carry out a financial audit of a public entity.**
- ~~(f) report to Parliament and any other person in accordance with this Act, subject to any power of a Minister or an entity under any written law, to appoint another auditor to carry out a financial audit of a public entity.~~

(2) The mandate of the Auditor-General under subsection (1) has effect despite any contrary provision in—

- (a) any other written law in force immediately before the commencement of this Act; or

(b) a company's memorandum or articles of associations or other government instrument.

(3) Nothing in subsection (1) affects any other provision of this Act under which the Auditor-General may, or may be required or requested to, carry out an audit in respect of any entity that is not a public entity under this Act.

(4) The Auditor-General may appoint a suitably qualified person to conduct a financial audit, special investigation or performance audit, or to review an audit carried out by another auditor on behalf of and subject to the supervision or oversight of the Auditor-General.

(5) A person appointed under subsection (4)—

(a) is responsible to the Auditor-General for conducting the audit, investigation or review to which the appointment relates in accordance with the auditing standards including the code of ethics; and

(b) has and may exercise, in relation to the audit, investigation or review, all the powers of the Auditor-General under section 6, other than the power to administer an oath, declaration or affirmation or the power to obtain a legal opinion,

subject to any limitation, term or condition specified by the Auditor-General in the instrument of appointment or auditing standards or otherwise in writing.

*Duties of Auditor-General-Financial audits*

**11.**—(1) In addition to performing the functions of the Auditor-General under section 152 of the Constitution, the Auditor-General has, on behalf of Parliament, the following duties—

(a) to audit for each financial year—

(i) the accounts of the Consolidated Fund; and

(ii) the whole of Government financial statements and annual appropriation statement required to be included in the whole of Government annual report for a financial year under the Financial Management Act 2004; and

(b) to audit for each financial year—

(i) the accounts of all public entities that are required by law to produce such accounts and have them audited, except a public entity in respect of which another auditor has been appointed by or under this Act or another Act to carry out the audit of the public entity's accounts for that financial year; and

(ii) the financial statements and any non-financial performance report required to be audited and included in such a public entity's annual report for a financial year.

(2) In addition to the requirements of the auditing standards, the Auditor-General must satisfy himself or herself in respect of each audit of the accounts of a public entity under this section that—

- (a) the accounts have been presented fairly in all material respects and properly kept;
- (b) expenditure has been properly authorised, properly applied and otherwise properly accounted for;
- (c) where applicable, all reasonable precautions have been taken to safeguard the collection of public money, trust money and other money within the meaning of this Act, and that the laws, directions and instructions relating to the collection have been duly observed;
- (d) where applicable, expenditure of money appropriated by Parliament has been applied to the purposes for which the money was appropriated; and
- (e) the provisions of the Constitution and the Financial Management Act 2004, and of any other written law relating to money or property subject to his or her audit, have been complied with in all material respects.

(3) Subject to the auditing standards, the Auditor-General must give—

- (a) an audit opinion on each set of accounts or financial statements and where applicable, each non-financial performance report, that has been audited; and
- (b) an audit management report or letter to the responsible authority for the entity that is the subject of the audit.

(4) If any other written law provides that a financial audit is to or may be carried out by a person other than the Auditor-General—

- (a) the audit is to be conducted by a person appointed and in the manner provided under the written law relating to the entity; or
- (b) to the extent that the written law does not make provision for those matters under paragraph (a), the audit is to be conducted by a person appointed or in the manner provided for, or both, under the written law referred to in paragraph (a).

(5) The Auditor-General must review the results of the audit in accordance with section 152(12) of the Constitution and auditing standards.

(6) The written law may provide for the appointment, by the Minister or by the responsible authority for the entity, of a person of a specified class as auditor for the entity, and for the manner of conducting the audit, in the circumstances referred to in subsection (4)(b).

(7) For the avoidance of doubt, subsection (1)(b) extends to the audit of the accounts of all money received or held by a public entity, whether or not for the purposes of Government.

*Special investigations*

**12.**—(1) The Auditor-General may, on request by the Prime Minister, Minister or Parliament, or at the Auditor-General’s discretion, conduct a special investigation into—

- (a) any matter concerning financial decision-making or financial management or the use of assets or other resources by a public entity; or
  - (b) any act or omission showing or appearing to show a lack of probity or financial prudence by a public entity or one or more of its members, office holders, employees or contractors.
- (2) A special investigation may, at the Auditor-General’s discretion, be conducted—
- (a) as a stand-alone investigation or as an investigation in conjunction with a compliance audit, financial audit or performance audit; and
  - (b) in respect of one or more public entities.

**PART 3—AUDITS***Performance audits*

**13.**—(1) The Auditor-General may at any time conduct a performance audit of one or more public entities.

- (2) A performance audit may examine—
- (a) the extent to which a public entity is carrying out its activities effectively, economically and efficiently; or
  - (b) any act or omission of public entity, in order to determine whether waste has resulted or may have resulted or may result.
- (3) A performance audit may, without limitation, include—
- (a) an environmental audit; or
  - (b) an audit of a public entity’s information technology systems.
- (4) The Auditor-General must determine—
- (a) the intervals at which performance audits of a particular entity or entities are to be conducted; and
  - (b) the number of performance audits to be conducted in each financial year.
- (5) Nothing in this section entitles the Auditor-General to question the merit of policy objectives of the Government.
- (6) In this section, “policy objectives” includes—
- (a) a Government policy direction of a Minister;
  - (b) a policy statement in a budget paper;
  - (c) a statement of objectives in a corporate plan approved by a Minister; or
  - (d) any other document that provides a policy decision of the Government or a Minister.

*Compliance audits*

**14.—(1)** The Auditor-General may at any time conduct an audit of a public entity's compliance with its obligations.

(2) A compliance audit may be conducted on a stand-alone basis, or in conjunction with a financial audit or a performance audit.

(3) For the purpose of this section, an obligation in relation to a public entity includes—

- (a) a duty or obligation under a written law;
- (b) a rule, order or instruction issued by a competent authority that is binding on the public entity;
- (c) an obligation under a contract; and
- (d) a requirement of a policy, plan, or other instrument established by the public entity.

*Auditing standards*

**15.—(1)** The Auditor-General must conduct any audit or special investigations, or review an audit conducted by other auditors, in accordance with—

- (a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate and notifies in the Gazette; or
- (b) any other relevant standards that the Auditor-General considers appropriate and notifies in the Gazette.

(2) Subject to the auditing standards, the Auditor-General may conduct an audit or a special investigation, or review an audit, in such manner as he or she considers appropriate, and must do so in a competent manner, having regard, where applicable, to the character of, and his or her assessment of the effectiveness of, any relevant internal control system of the public entity being audited or investigated.

*SecrecyConfidentiality*

**16.—(1)** The operation of section ~~106~~ is not limited by any provision including a provision relating to secrecy or confidentiality contained in any other written law except to the extent to which any such written law expressly excludes the operation of that section.

(2) Notwithstanding anything contained in any other written law and notwithstanding the making of any oath or declaration of secrecy or confidentiality, a person is not guilty of an offence by reason of anything done by him or her for the purposes of section ~~106~~.

(3) The Auditor-General or any other person must not divulge or communicate, except in the course of duty to another person performing duties under this Act, any information which has come to his or her knowledge directly or indirectly in accordance with section ~~106~~ in any case in which the person from whom such information has been obtained, or from whose custody were produced, the accounts, books, documents or papers from which such information was derived could not, but for the provisions of this Act, lawfully have divulged that information to the Auditor-General or such other person.

(4) Subsection (3) does not prevent—

- (a) the making, divulging or communicating in any report of the Auditor-General of conclusions, observations or recommendations which are based on information obtained in accordance with section 106; and
- (b) does not prevent the divulging or communicating of information obtained in accordance with section 106, on request in writing to the Commissioner of Police.

*Notification of serious irregularities*

17.—(1) If, at any time in the opinion of the Auditor-General, serious irregularities have occurred in the receipt, custody, or expenditure of public money or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other property of a public entity or in the accounting for the same, he or she must bring the matter to the notice of—

- (a) the Minister, where the public entity concerned is a State entity;
- (b) the Minister responsible for local government where the public entity concerned is a local authority;
- (c) the responsible authority for, or person charged with the governance of, the public entity; or
- (d) the Minister responsible for the public entity.

(2) The Auditor-General ~~may~~ must notify—

- (a) a law enforcement agency about any matter which, in the Auditor-General's opinion, may justify the investigation of a potential criminal offence; or
- (b) the Public Service Commission about any matter concerning the conduct of a civil servant which, in the Auditor-General's opinion, may raise a disciplinary matter in relation to that person.

*Audit of other entities*

18.—(1) The Auditor-General may, if requested by the Prime Minister, Minister, Parliament or the entity concerned ~~or the Minister~~, audit the accounts or financial statements or conduct a performance audit of any entity (whether incorporated or otherwise) other than a public entity—

- (a) to the extent necessary to ensure that any condition of any grant made to the entity by the State, the Government or a public entity has been complied with;
- (b) if the entity's borrowings have, in whole or in part, been guaranteed by the Government;
- (c) if, in the opinion of the Minister, that it is in the public interest that the Auditor-General act as the auditor of the entity.

- (2) When conducting an audit under subsection (1), the Auditor-General—
- (a) has the same discretion and powers as if the entity were a public entity;
  - (b) applies the auditing standards that the Auditor-General considers appropriate to the nature of the audit; and
  - (c) if the audit was requested by the Minister, must send the audit opinion and any report on the audit to the Minister who must table the report in Parliament at its next meeting.

(3) This section applies except as otherwise provided by any other written law, and does not apply to the audit of the accounts of public entities.

*Audit of the Office of the Auditor-General*

**19.—**(1) The Speaker of Parliament may appoint a natural person to audit the accounts of the Office of the Auditor-General for a term not exceeding 3 years.

(2) A person appointed under this section may be re-appointed for a further term or terms each not exceeding 3 years, but a period of at least 3 years must lapse between each such term.

(3) A person who is, or has been in the last 12 months, the Auditor-General or a member of the staff of the Office of the Auditor-General, cannot audit or be appointed to audit the accounts of the Office of the Auditor-General.

(4) The person appointed to conduct an audit under this section has, in relation to the audit, the powers and duties of the Auditor-General under this Act other than powers under section 10(1)(e) or (f), but must report the results of the audit to the Auditor-General for inclusion in a report to Parliament by the Auditor-General.

*Audit fees*

**20.—**(1) The Auditor-General may, in accordance with guidelines approved by the Minister, set fees for audits and special investigations conducted under this Act.

(2) A public entity, or an entity of the type referred to in section 18, in relation to which an audit or special investigation is conducted under the Act must, on receipt of the relevant invoice, pay the fee set for the audit or investigation to the Auditor-General.

(3) Different fees may be set for different classes of audits or special investigations.

## PART 4—REPORTS

*Reports*

**21.—**(1) The Auditor-General's report to Parliament under section 152(1) of the Constitution may include, in addition to matters specified in section 152(2) of the Constitution, a report on significant matters that the Auditor-General intends to bring to the attention of Parliament arising from the audits, any special investigation, or any review of audits, conducted by the Auditor-General in the preceding calendar year or financial year.



- (2) In addition to reporting under subsection (1), the Auditor-General—
- (a) must report to Parliament the results of every performance audit;
  - (b) **may** report to Parliament the results of a special investigation; and
  - (c) may report to Parliament at any other time on any matter arising from the performance of the Auditor-General's functions or powers, that the Auditor-General considers desirable to report on.
- (3) Nothing in this section implies that a single report cannot—
- (a) combine the reports required by subsection (1) and required or permitted by subsection (2)(a) or (b); or
  - (b) be about 2 or more audits, special investigations or reviews of other audits or all of them.
- (4) The annual report of the Office of the Auditor-General referred to in section 37A(3) of the Financial Management Act 2004 must, in addition to the matters specified in that section, contain an account of the activities of the Office of the Auditor-General in the financial year concerned and the Auditor-General's stewardship of the resources entrusted to the Office of the Auditor-General by appropriation.

*Publication of reports*

**22.**—(1) A report of the Auditor-General to Parliament about a financial audit must be submitted to the Speaker of Parliament within 9 months after the end of the financial year to which the audit relates or the date on which the financial statements were received for audit whichever is the latter, or within a longer period appointed by resolution of Parliament.

(2) A report of the Auditor-General to Parliament about a special investigation must be submitted to the Speaker of Parliament not later than 6 months after the year in which the special investigation was completed or within a longer period appointed by resolution of Parliament.

(3) A report of the Auditor-General to Parliament about a performance audit must be submitted to the Speaker of Parliament not later than 6 months after the year in which the performance audit was completed or within a longer period appointed by resolution of Parliament.

(4) After submitting a report to the Speaker of Parliament under this section, the Auditor-General **may** publish the report by any means the Auditor-General considers appropriate, including on the official website of the Office of the Auditor-General.

*Procedural fairness in relation to reports*

**23.**—(1) Before finalising a report to Parliament containing any finding, conclusion or recommendation that could materially affect the interests or reputation of any person (including, without limitation, a public entity or any member, officer, employee, or contractor of a public entity), the Auditor-General must give that person a reasonable opportunity to comment.

(2) If a person referred to in subsection (1) provides written comments on the Auditor-General’s intended finding, conclusion or recommendation affecting that person within the period specified by the Auditor-General, the Auditor-General must take the comments into account when finalising the report and, if the comments are not accepted in whole or in part, include the substance of the comments in the finalised report.

#### PART 5—MISCELLANEOUS

##### *Extraterritorial operation*

**24.** This Act extends, as far as possible, to—

- (a) financial transactions;
- (b) balances; and
- (c) acts and omissions,

outside of Fiji.

##### *Regulations*

**25.—**(1) The Minister may, **in consultation with the Office of the Auditor-General**, make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

(2) Without affecting the generality of subsection (1), the Minister may make regulations prescribing offences and penalties not exceeding—

- (a) in the case of an individual, a fine of \$50,000 or imprisonment for a term of 15 years or both; or
- (b) in the case of body corporate, a fine of \$200,000.

##### *Repeal*

**26.** The Audit Act 1969 is repealed.

##### *Consequential amendments*

**27.** All written laws and State documents of any nature whatsoever are amended by deleting “Audit Act 1969” wherever it appears and substituting “Audit Act 2024”, unless the context otherwise requires.

September 2024

## **AUDIT BILL 2024**

### **EXPLANATORY NOTE**

*(This note is not part of the Bill and is intended only to indicate its general effect)*

#### **1.0 BACKGROUND**

- 1.1 The establishment and functions of the Office of the Auditor-General is mandated under sections 151 and 152 of the Constitution of the Republic of Fiji.
- 1.2 The Audit Act 1969 (**‘Act’**) also provides the legal framework for the duties and powers of the Auditor-General. The principal objectives of the Act are to provide for the salary, duties and powers of the Auditor-General, the auditing of public accounts and other related purposes.
- 1.3 In 2023, the Ministry of Finance and Strategic Planning, National Development and Statistics with the Office of the Auditor-General undertook a comprehensive review of the Act and conducted wide consultations with stakeholders.
- 1.4 The Audit Bill 2024 (**‘Bill’**) therefore seeks to repeal the Act and provide for standardised provisions in line with international standards and best practices.

#### **2.0 CLAUSES**

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the new legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill provides for the interpretation of key terms used in the new legislation.
- 2.3 Clause 3 of the Bill provides for the office of the Auditor-General.
- 2.4 Clause 4 of the Bill specifically provides for a person who, for the time being, is appointed to act as the Auditor-General, to exercise the powers and perform the duties of the Auditor-General.

- 2.5 Clause 5 of the Bill provides for the Office of the Auditor-General, its general functions and operations.
- 2.6 Clause 6 of the Bill outlines the powers of the Auditor-General.
- 2.7 Clause 7 of the Bill requires auditors to comply with the auditing standards which includes a code of ethics.
- 2.8 Clause 8 of the Bill allows the Auditor-General to delegate powers.
- 2.9 Clause 9 of the Bill provides for the protection of the Auditor-General and staff from liability, within the course of duties under the new legislation.
- 2.10 Clause 10 of the Bill provides for the mandate of the Auditor-General which are as follows—
- (a) conduct financial audits;
  - (b) conduct special investigations;
  - (c) conduct performance audits;
  - (d) conduct compliance audits;
  - (e) review audits undertaken by other auditors; and
  - (f) make reports to Parliament and other persons in accordance with the new legislation, subject only to any power of a Minister or an entity, whether under the new legislation or any other written law, to appoint another auditor to carry out a financial audit of a public entity.
- 2.11 Clause 11 of the Bill outlines the duties of the Auditor-General.
- 2.12 Clause 12 of the Bill provides for special investigations that the Auditor-General has discretion to conduct. A request for a special investigation may be made by the Prime Minister, Minister of Finance or Parliament.
- 2.13 Clause 13 of the Bill allows the Auditor-General to conduct a performance audit of a public entity at any time.
- 2.14 Clause 14 of the Bill allows the Auditor-General to conduct a compliance audit of a public entity at any time.
- 2.15 Clause 15 of the Bill requires the Auditor-General to conduct any audit or special investigation in accordance with applicable international auditing standards.
- 2.16 Clause 16 of the Bill prohibits the Auditor-General or any other person performing duties under the new legislation from unauthorised communication of information that has come to his or her knowledge.

- 2.17 Clause 17 of the Bill requires the Auditor-General to report on serious irregularities of the receipt, custody or expenditure of public money or receipt custody, issue, sale, transfer or delivery of public property.
- 2.18 Clause 18 of the Bill allows the Auditor-General to audit the accounts or financial statements of any entity other than a public entity, on request by the entity or by the Minister.
- 2.19 Clause 19 of the Bill provides for the audit of the Office of the Auditor-General. The Speaker of Parliament is empowered to appoint a natural person to audit the accounts of the Office of the Auditor-General for a maximum term of 3 years however the person who is or has been in the preceding 12 months, the Auditor-General or a staff member of the Office of the Auditor-General cannot carry out the audit.
- 2.20 Clause 20 of the Bill empowers the Auditor-General to set fees for any audit or special investigation conducted under the new legislation, in accordance with guidelines as approved by the Minister. Clause 20 of the Bill also requires the relevant entity to pay such fees on receipt of an invoice for the conduct of such audit.
- 2.21 Clause 21 of the Bill outlines the matters which the Auditor-General must report to Parliament on, including any matter that the Auditor-General may wish to bring to the attention of Parliament arising from any audit, special investigation or reviews of audits in the preceding calendar year or financial year.
- 2.22 Clause 22 of the Bill requires a report of the Auditor-General on a financial audit, special investigation or performance audit to be submitted to Parliament after the end of the financial year to which the audit or investigation relates or when the financial statements were received, whichever is the later.
- 2.23 Clause 23 of the Bill requires the Auditor-General to provide a person the subject of a report or whose interests or reputation may be materially affected, a reasonable opportunity to comment, before finalising the audit report prior to submitting it to Parliament.
- 2.24 Clause 24 of the Bill provides for the extraterritorial operation of the Act in relation to any financial transaction, balance, act or omission outside of Fiji.
- 2.25 Clause 25 of the Bill empowers the Minister to make regulations as necessary to give effect to or generally to achieve the purposes of the new legislation.
- 2.26 Clause 26 of the Bill repeals the Audit Act 1969.
- 2.27 Clause 27 of the Bill consequentially amends all written laws and State documents to refer to the new legislation where applicable.

**3.0 MINISTERIAL RESPONSIBILITY**

3.1 The new legislation comes under the responsibility of the Minister responsible for finance.

G. E. LEUNG  
Attorney-General