

# ANNEX D. NATIONAL AUDIT LEGISLATION

## Constitution Extracts

124. (1) There shall be an Auditor General of the Maldives appointed by the President.
- (2) A person appointed to the office of Auditor General shall have the qualifications required for membership of the People's Majlis and shall, in the opinion of the President, have the competence to perform the duties of the said office.
125. The Auditor General shall assume office upon taking, before the President, the oath set out in paragraph (k) of the Schedule to this Constitution.
126. It shall be the duty of the Auditor General, in accordance with law, to audit the accounts of the State, prepare the reports thereof, and perform other duties concerning the accounts of the State.
127. The accounts of the State shall be kept and maintained in such form and manner prescribed by the Auditor General on the advice of the President.
128. The Auditor General may resign from office by writing under his hand addressed to the President. However, the Auditor General shall continue to hold office until such time that the President notifies him of the acceptance of the said resignation.
129. The President may remove the Auditor General from office if in the opinion of the President the Auditor General has failed to satisfactorily perform the duties of his office.

## Public Finance Bill 2002 (draft) - extracts

- 36 (2) Within two months of receiving a report from an accountable agency the Auditor General must audit the accounts and submit a written report about the audit to the accountable officer of the agency.
- 37 Within 14 days after receiving the Auditor General's report the accountable officer must submit the accounts and the audit report to the Speaker of the People's Majlis.
- 39 (2) Within two months after receiving the State's annual statements the Auditor General must submit the report required by Section 126 of the Constitution to the Minister.
- 40 (2) Within 14 days after receiving them the Minister of Finance and Treasury must submit the State's annual statements and the audit report to the Speaker of the People's Majlis.



## Audit Act 2007 (recently enacted on March 13, 2007)

### 1. Description and Title

a) Description

This Act sets out the requirements for the audit of all Government institutions, accounts and Government trading bodies and the duties and responsibilities of the Auditor-General.

b) Title

This Act may be cited as the Audit Act.

### 2. Appointment of Auditor-General

a) There shall be an Auditor-General appointed under the Constitution of the Republic of Maldives.

b) The Auditor-General shall be appointed by the President on recommendation of People's Majlis (Parliament).

### 3. Functions of Auditor-General

The following are the functions of the Auditor-General:

- a) To audit all the government institutions, accounts and government trading bodies.
- b) To promote public accountability and good governance and sound financial management in the administration of the government institutions, state owned enterprises and joint venture companies in which state holds shares.
- c) To set rules, regulations and standards governing the audit in the Maldives.
- d) To carry out any function conferred on the Auditor-General by or under any other law of the Maldives.

### 4. Performance Audit

The auditor general may at any time conduct a performance audit of the following:

- a) Ministries, departments, Government offices and other government institutions;
- b) State owned enterprises or any other trading bodies in which Government has 51% or more shares;
- c) Government trusts or trusts under the care of the government.

### 5. Powers of Auditor-General

In the performance of his functions, the Auditor-General has the following powers:

- a) Prescribe the manners and form in which accounts of the state shall be kept and maintained.
- b) In the performance of his functions the Auditor-General have access to all records, books, vouchers, documents, receipts, cash, stamps, securities, goods or any other items, stores and may make copies of such documents.

- c) In the performance of his functions the Auditor-General may call upon any person for explanation and information which the Auditor-General may require in order to enable him to discharge his duties.
- d) To decide upon the priority of the accounts to be audited.
- e) To appoint qualified and able persons to assist the Auditor-General to perform his functions as the Auditor-General.
- f) May obtain the advice of the Attorney-General upon any question on law.
- g) To assign any function or part of a functions of the Auditor-General to any person decided by the Auditor-General.
- h) To set auditing standards and audit manuals in line with international standards.
- i) To do anything incidental or conducive to any of the Auditor-General's functions.
- j) Setting of procedures for the issuance and cancellation of operating license of auditors in the Maldives and issuance and cancellation of license according to the set procedures.
- k) Subsection (j) does not prevent private individuals to undertake audit without license for their own private purposes.

## 6. Power to Obtain Information

In connection with the performance of a function of the Auditor-General,

- a) Any person called upon by the Auditor-General for any explanation and information which the Auditor-General may require in order to enable him to discharge his duties shall provide such information.
- b) The Auditor-General may direct a person to attend before the Auditor-General at a specified place and specified time to answer any questions. In deciding such time and place, Auditor-General should consider the reasonability of the circumstances.
- c) A person who without reasonable excuse, contravenes a direction under subsection (b) commits an offence and is liable upon conviction –
  - i) if the offender is a natural person, to a fine not exceeding Rf5,000.
  - ii) if the offender is a body corporate to a fine not exceeding Rf25,000.

## 7. Access to Premises etc.

- a) In connection with performance of a function of the Auditor-General, the Auditor-General or a person appointed by him may enter without prior notice, the premises and places occupied by a state institution, and examine the documents and make copies of such documents.
- b) In connection with performance of a function of the Auditor General, the Auditor-General or a person appointed by him may enter into any other places (other than those mentioned in subsection (a)) without prior notice, with an authorized court order on the grounds that there is reasons to believe that documents or other information relating to the activities of a public body may be held at those premises, and may examine the documents and make copies of such documents.



- c) The person who is sent under subsection (a) and (b) shall produce a written authorization by the Auditor-General to the owner or the person in-charge of the premises at that time.
- d) In connection with the performance of Auditor-Generals functions, if the Auditor-General or any person appointed by him visits any place, those persons who are present at the time of visit shall facilitate Auditor-General or any person appointed by him, to carry out his functions.

## **8. Auditing and Reporting of Annual Financial Statements of the Government**

- a) Within 3 months and 14 days, after the end of each financial year, the annual financial statements of the Government shall be prepared in accordance with the Public finance Act 2006, and submitted to the Auditor-General to audit by the Minister of Finance and Treasury.
- b) If the financial statements have not been prepared and submitted in accordance with subsection (a), the Auditor-General shall inform in writing, the President and Speaker of the People's Majlis within 14 days.

## **9. Notification of Irregularities**

- a) If at any time in the opinion of the Auditor-General, serious irregularities have occurred in the receipts, custody or expenditure of public moneys or in the receipt, custody, issue, sales, transfer, or delivery of any stamps, securities or stores or other Government property or in the accounting for the same, he shall bring the matter to the notice of the President in writing.
- b) The Auditor-General may at his discretion take action against any person who in accordance with the circumstances of the irregularity in subsection (a) by preventing the offender from returning to his place of employment until legal action can be taken against him.

## **10. Audit Fees**

- a) The Auditor-General may charge audit fees from entities audited under this Act, based on the principle set out by the Auditor-General.
- b) Fees payable under subsection (a) should be paid within 30 days to the Ministry of Finance and Treasury.
- c) If the fees due under subsection (b) are not paid within the prescribed time, the state should take legal action on behalf of the Auditor-General.

## **11. Auditor General's Annual Report**

Upon receipt of the annual accounts stated in section 8 of this Act, the Auditor-General shall audit the accounts within 3 months and prepare a report incorporating details of work done to audit the accounts, his opinion on the accounts and recommendations for improvements. The report shall be submitted to the President and People's Majlis and shall be published.

## **12. Resignation of the Auditor-General**

Should the Auditor-General elect to resign from his office, he/she may submit his resignation to the President in writing, stating the reasons for his resignation and he should continue to hold office until he is informed of acceptance of his resignation by the President.

### 13. Removal of the Auditor-General

The Auditor-General may be removed from his office by the President on the consultation with the People's Majlis, if in the opinion of the President; the Auditor-General has failed to perform satisfactorily the duties of his office.

## OFFICE ADMINISTRATION

### 14. Expenditure for Office Administration

- a) To ensure the independence of the Auditor-General and the Office of the Auditor-General, 90 days before the end of every financial year, the Auditor-General shall prepare and submit to the parliamentary committee acting in the capacity of Public Accounts Committee, a plan detailing the work programme of the Auditor-General's Office for the following year, together with a detail budget necessary to accomplish the work programme. The budget so submitted should include necessary provisions for the following expenditures.
  - 1) The salary and allowances payable to the Auditor-General.
  - 2) Salaries and allowances of the Office of Auditor-General's staff.
  - 3) Cost for training and professional development activities.
  - 4) The money for reasonable traveling, transportation and subsistence needed by the staff engaged in conducting office of the Auditor-General business and
  - 5) The administration expenses of the Office of the Auditor-General.
- b) The budget submitted by the Auditor-General as stipulated in subsection (a), shall be evaluated by the Parliamentary Committee and amended by them if necessary, shall be submitted to the People's Majlis for approval together with a report of the committee. And as and when the budget is approved by the People's Majlis, funds should be released from the consolidated revenue funds to the Office of the Auditor-General.
- c) Funds received to the budget of the Office of the Auditor-General shall be managed in such manner deemed fit for the efficient discharge of Auditor-Generals functions and duties in conformity with sound financial practices.
- d) The Auditor-General shall prepare and submit quarterly reports to the Parliamentary Committee acting in the capacity of Public Accounts Committee, on the office administration and works undertaken taken by his office.
- e) The Auditor-General shall prepare and submit to the Parliamentary Committee acting in the capacity of Public Accounts Committee, an annual performance report together with the annual report containing the audited financial statements of the Office of the Auditor-General. The performance report so submitted should indicate the targets or tasks accomplished against the set targets for the year ended and the reasons for failure to accomplish set targets if there are any unaccomplished tasks.

### 15. Recruitment, Transfers and Terminations

- a) To carry out the functions of the office of Auditor-General and implement the powers of the Auditor-General, the Auditor-General has the power to recruit, decide on the scales of salaries



and other allowances, training, promotions and termination of his staff within the budgetary limits authorized by the Majlis.

- b) A separate cadre of officers and employees in the office of the Auditor-General shall be constituted. The recruitment and other conditions of services of the officers and employee within the cadre shall be as prescribed in the rules and regulations to be framed under this Act.

## AUDIT OF THE AUDITOR-GENERAL'S OFFICE

### 16. Audit the Financial Statements of the Audit Office

- a) The Parliamentary Committee acting in the capacity of Public Accounts Committee shall appoint an independent auditor every year, to audit the accounts and financial statements of the Office of the Auditor-General and to report on the performance of the Office of the Auditor-General.
- b) The financial statements of the Office of the Auditor-General shall be submitted for audit to the independent auditor appointed under subsection (a) within two months of the every year end.
- c) After completing the audit as stipulated under the subsection (b), the independent auditor shall prepare and submit a written audit report to the President, the Speaker of the People's Majlis and the Auditor-General within 3 months.

## MISCELLANEOUS

### 17. Confidential Information

The information obtained/received by the employee of Audit Office in the capacity of an employee of the Office of the Auditor-General is confidential. And such information shall not be disclosed except under the circumstances specified in section 18 of this Act.

### 18. Disclosure of Confidential Information

- a)
  1. The disclosure of specified information to such persons as the Auditor-General directs if the Auditor-General certifies that it is necessary in the public interest that the information should be so disclosed;
  2. the disclosure of information to an authority, or a person, prescribed by the regulations or
  3. the disclosure of information about a specific person to another person with the express or implied consent of the first mentioned person in writing.
  4. Any information requested by the People's Majlis or a committee of the People's Majlis.
  5. Any information requested by an investigative agency with legal authority which is required for an investigation undertaken by them.
  6. Any information that should be disclosed under a court order.
- b) A person who contravenes subsection (a) commits an offense and is liable upon conviction to a fine not exceeding Rf 25,000 (twenty five thousand).
- c) A person who contravenes subsection (a) and discloses or uses information for personal interest is liable for a fine not less than Rf 10,000 (Ten Thousand) or a term of imprisonment of 3 to 12 months.

## 19. Preparing Regulations and Implementation of the Act

To give effect to the provisions of this Act, the regulation under this act shall be made and implemented by the Auditor-General.

## 20. Offenses and Penalties

- a) 1- Any person commits an offence who intentionally obstructs, hinders or resists the Auditor-General and refuses or willfully suppresses any information required by the Auditor-General in the performance of his/her duties.
  - 2- The Auditor-General must submit the case of any person who commits the offences stated in subsection (a), to the Attorney-General to take legal action against him/her.
- b) Subsection (a) does not enforce any person to disclose information against him/her self.
- c) Any person who commits the offences stated in subsection (a) is liable for a fine of Rf 10,000 to Rf 75,000 or a term of imprisonment of 3 to 12 months or both.

## INTERPRETATIONS

### 21. In this Act unless the contrary intention appears:

“**public money**” means all revenue, loan, trust and other moneys and all stamps, bonds, debentures and other securities whatsoever raised or received by or on account of the Government; and includes moneys received or held on trust by the Public Trustee, Official Receiver or any public officer for purposes other than purposes of Government;

“**person**” refers to a government entity or a government institution or a state-owned enterprise or an entity with government controlling interest or an other entity under another law .

“**person appointed by the Auditor-General**” refers to any person who is authorized in writing to carry out the functions of the Auditor-General under this Act.

“**financial year**” refers to the period starting from January 1<sup>st</sup> to December 31<sup>st</sup>, inclusive of starting and ending days.

“**audit fee**” refers to the fees paid to the person carrying out the audit functions.

“**performance audit**” in relations to a person, body or thing, refers to a review or examination of any aspect of the operations of the person, body or thing.

“**State entities**” refers to those entities or agencies stated in section 4 of this Act.

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