

Kenya Gazette Supplement No. 109 (Acts No. 13)



REPUBLIC OF KENYA

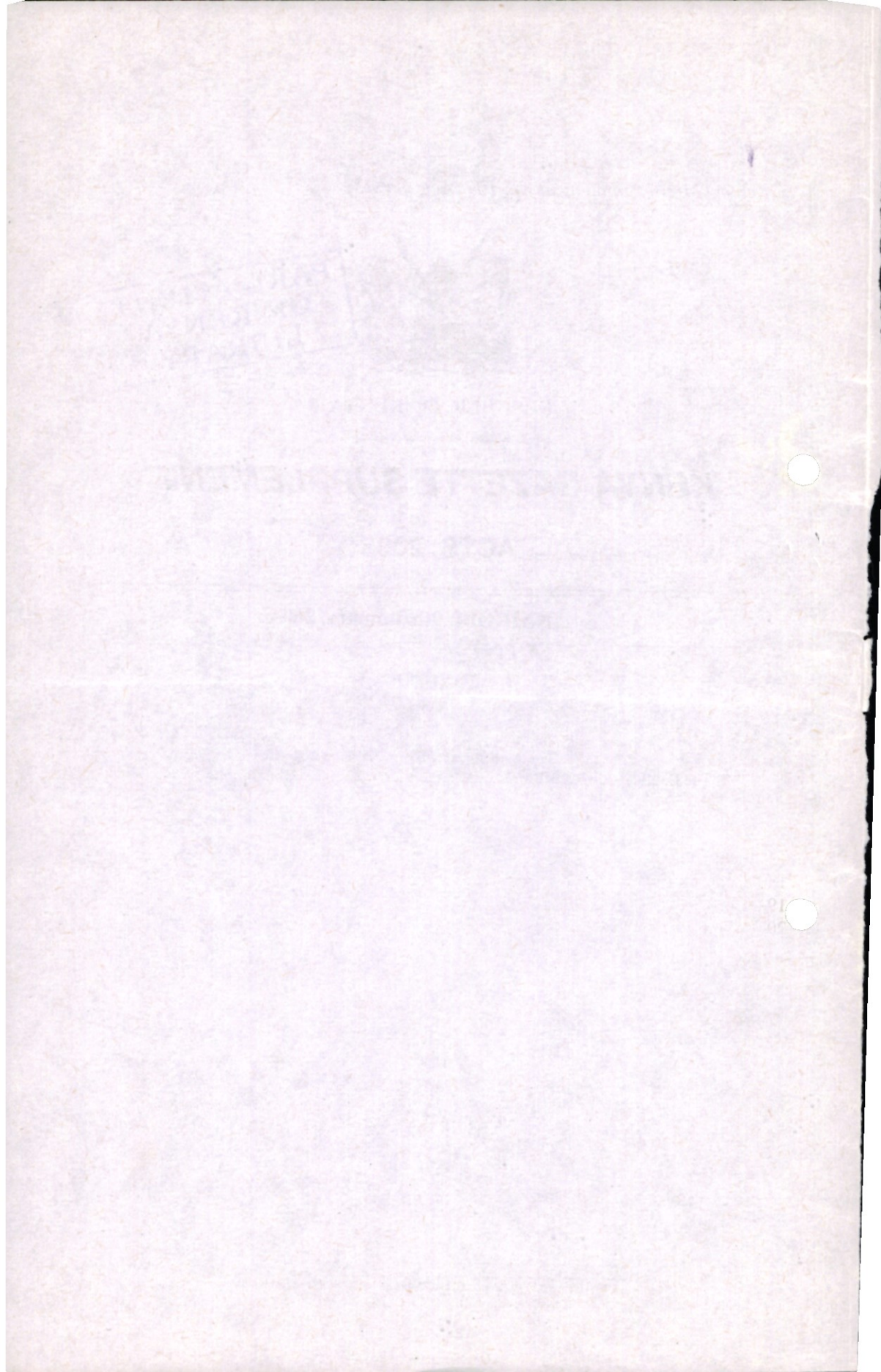
KENYA GAZETTE SUPPLEMENT

ACTS, 2003

NAIROBI, 9th January, 2004

CONTENT

| Act— | PAGE |
|---------------------------------|------|
| The Public Audit Act, 2003..... | 231 |



THE PUBLIC AUDIT ACT, 2003**No. 12 of 2003***Date of Assent: 31st December, 2003**Date of Commencement: 9th January, 2004***ARRANGEMENT OF SECTIONS****PART I — PRELIMINARY**

- 1—Short title.
- 2—Definitions.

PART II — AUDITS OF GOVERNMENT

- 3—Treasury accounts.
- 4—Accounting officer accounts.
- 5—Receiver of revenue accounts.
- 6—Accounts of special fund administrators.
- 7—Other accounts.
- 8—Audit.
- 9—Report on Audit.
- 10—Submitting report to National Assembly.
- 11—Special report in course of audit.

PART III — AUDITS OF STATE CORPORATIONS

- 12—State Corporation accounts.
- 13—Time limit for submitting accounts.
- 14—Audit.
- 15—Report on Audit.
- 16—Submitting report to National Assembly.
- 17—Special report in course of audit.
- 18—Copies of report.
- 19—Costs of audit.
- 20—Application of Part to statutory bodies.

PART IV — AUDITS OF LOCAL AUTHORITIES

- *21—Local authority accounts.
- 22—Time limit for submitting accounts.
- 23—Audit.
- 24—Report on Audit.
- 25—Submitting report to National Assembly.
- 26—Special report in the course of audit.
- 27—Copies of report.
- 28—Fees for audit.

PART V — ECONOMY, EFFICIENCY AND EFFECTIVENESS EXAMINATIONS

- 29—Economy, efficiency and effectiveness examinations.
- 30—Report.
- 31—Submitting report to National Assembly.
- 32—Copy of report.
- 33—Application of Part to statutory bodies.

PART VI — CONTROLLER AND AUDITOR-GENERAL AND KENYA NATIONAL AUDIT OFFICE AND COMMISSION

A — Controller and Auditor-General and Kenya National Audit Office

- 34—Kenya National Audit Office.
- 35—Sufficiency of staff.
- 36—Duties of Controller and Auditor-General.
- 37—Powers relating to audits and examinations.
- 38—Delegation to staff.
- 39—Outside auditors.
- 40—Professional assistance, etc.
- 41—Opinion from the Attorney-General.
- 42—Special reports.
- 43—Immunity.
- 44—Estimates.
- 45—Review of Kenya National Audit Office.
- 46—Independence.
- 47—Retiring age of Controller and Auditor-General.

B — Kenya National Audit Commission

- 48—Establishment.
- 49—Composition.
- 50—Chairman and secretary.
- 51—Duties.
- 52—Procedure.
- 53—Allowances and expenses of members.
- 54—Regulations relating to staff.

PART VII — TRANSITION AND AMENDMENTS

- 55—Transitional provisions.
- 56—Exchequer and Audit amendments.
- 57—Other consequential amendments.

First Schedule—Transitional Provisions.

Second Schedule—Amendments to the Exchequer and Audit Act.

Third Schedule—Consequential Amendments.

AN ACT of Parliament to provide for the audit of government, state corporations and local authorities, to provide for economy, efficiency and effectiveness examinations, to provide for certain matters relating to the Controller and Auditor-General and the Kenya National Audit Office, to establish the Kenya National Audit Commission and to provide for other related matters

ENACTED by the Parliament of Kenya as follows:-

PART I — PRELIMINARY

1. This Act may be cited as the Public Audit Act, 2003. Short title.

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

“government” includes the Central Government, the courts, the National Assembly, the commissions established under the Constitution and any other institution connected with the Government or bodies set up under an Act of Parliament;

“local authority” means a body established under the Local Government Act; Cap. 265.

“state corporation” means a state corporation within the meaning of the State Corporations Act. Cap. 446.

PART II — AUDITS OF GOVERNMENT

3.(1) For each financial year, the Treasury shall prepare accounts showing fully the financial position of the government at the end of the year and submit the accounts to the Controller and Auditor-General. Treasury accounts.

(2) The accounts shall include the following —

- (a) a statement of receipts into and issues from the exchequer account;
- (b) summaries of the following —
 - (i) the appropriation accounts prepared by accounting officers under section 4(2)(a);
 - (ii) the statements, prepared by accounting officers under section 4(2)(b), of the outstanding amounts in respect of loans issued by the government; and
 - (iii) the statements of receipts and disbursements prepared by the receivers of revenue under section 5(2)(a);
- (c) a statement of payments made out of issues from the exchequer account that are authorised under the Constitution or an Act other than an Act appropriating amounts for a financial year;
- (d) a statement of the amounts outstanding at the end of the year in respect of public debt; and
- (e) such other statements as the National Assembly may require.

(3) The accounts must be submitted within three months after the end of the financial year.

(4) Notwithstanding subsection (3), the summaries required under subsection (2)(b) need not be submitted until four months after the end of the financial year.

(5) The National Assembly may extend, by resolution, the time limits provided for in subsections (3) and (4).

4.(1) For each financial year, each accounting officer shall prepare accounts in respect of the service in respect of which the accounting officer is appointed and submit the accounts to the Controller and Auditor-General.

Accounting
officer accounts.

(2) The accounts shall include the following —

- (a) an appropriation account prepared in accordance with subsection (3);
- (b) a statement of amounts outstanding at the end of the year in respect of loans issued by the government; and
- (c) a statement of the amounts guaranteed by the government as at the end of the year in respect of bank overdrafts, loans, public loan issues and other sums.

(3) The following shall apply with respect to the appropriation account referred to in subsection (2)(a) —

- (a) the account shall show —

- (i) the services for which the moneys expended were voted;
 - (ii) the sums actually expended on each service; and
 - (iii) the state of each vote compared with appropriation;
- (b) the account shall contain —
- (i) a statement explaining any variation between the expenditures and the sums voted; and
 - (ii) such other information as the Treasury may direct;
- (c) the account shall be in such form as the Treasury may direct; and
- (d) the account and the statement referred to in paragraph (b)(i) shall be signed by the accounting officer.

(4) The accounts must be submitted within three months after the end of the financial year.

(5) The National Assembly may extend, by resolution, the time limit provided for in subsection (4).

5.(1) For each financial year, each receiver of revenue shall prepare accounts in respect of the revenue in respect of which the receiver of revenue is

appointed and submit the accounts to the Controller and Auditor-General.

(2) The accounts shall include the following —

- (a) a statement of receipts and disbursements in such form as the Treasury may direct; and
- (b) a statement of arrears of revenue.

(3) The accounts must be submitted within three months after the end of the financial year.

(4) The National Assembly may extend, by resolution, the time limit provided for in subsection (3).

6.(1) For each financial period described in subsection (3), each person administering a public fund described in section 99(2) of the Constitution shall prepare accounts in respect of the fund and submit the accounts to the Controller and Auditor-General.

Accounts of special fund administrators.

(2) The accounts shall include such particulars and be in such form as the Treasury may direct.

(3) The financial period referred to in subsection (1) is the financial period provided for by law for the fund or, if no such period is provided for, such period as the Treasury may direct.

(4) The accounts must be submitted within three months after the end of the financial period.

(5) The National Assembly may extend, by resolution, the time limit provided for in subsection (4).

(6) This section also applies with respect to a fund that is required, under an Act, to be audited under this Act or by the Controller and Auditor-General.

Other accounts.

7.(1) This section applies with respect to a trust or fund in respect of which accounts are not required under sections 3 to 6.

(2) If directed to do so by the Treasury, the person administering the trust or fund shall prepare accounts in respect of the trust or fund and submit the accounts to the Controller and Auditor-General.

(3) The accounts shall be for the financial period provided for by law for the trust or fund or, if no such period is provided for, such period as the Treasury may direct.

(4) The accounts shall include such particulars and be in such form as the Treasury may direct.

(5) The accounts must be submitted within three months after the end of the financial period.

(6) The National Assembly may extend, by resolution, the time limit provided for in subsection (5).

Audit.

8. The Controller and Auditor-General shall audit the accounts submitted under sections 3 to 7 and shall express an opinion on the accounts based on the results of each audit stating whether:—

- (a) all information and explanations considered necessary for the audit were received;

- (b) proper records were maintained of all transactions as required under the generally accepted accounting practices;
- (c) the accounts are in agreement with the records referred to under paragraph (b);
- (d) in his opinion, the accounts reflected fairly the financial position of the entity audited.

9.(1) The Controller and Auditor-General shall prepare a report on the audit conducted under section 8 and submit the report to the Minister responsible for finance and such report shall include the matters covered under section 8 and any other information he may consider appropriate including but not limited to matters concerning efficiency in the usage of resources.

Report on
Audit.

(2) Without limiting what may be included in the report, the report shall indicate whether —

- (a) the information and explanations that were required to perform the examination and audit were received; and
- (b) the accounts have been properly maintained.

(3) Without limiting what may be included in the report, the report shall identify cases in which —

- (a) money has been spent in a way that was not efficient or economical;
- (b) the rules and procedures followed, or the

records kept, were inadequate to safeguard property and the collection of revenue;

- (c) money that should have been paid into the exchequer account was not so paid;
- (d) money has been spent for purposes other than the purposes for which it was appropriated by Parliament; or
- (e) satisfactory procedures have not been established to measure and report on the effectiveness of programmes.

(4) The Controller and Auditor-General shall submit the report to the Minister within six months after the end of the financial year or other period to which the accounts examined and audited relate.

(5) The National Assembly may extend, by resolution, the time limit for submitting the report.

Submitting
report to
National
Assembly.

10.(1) The Minister shall lay each report under section 9 before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(2) If the Minister fails to lay a report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

Special report in
course of audit.

11.(1) If, in the course of an examination and audit, a matter comes to the attention of the Controller

and Auditor-General that he feels should be brought to the attention of the National Assembly immediately, the Controller and Auditor-General shall submit a special report to the Minister responsible for finance.

(2) The Minister shall lay the special report before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(3) If the Minister fails to lay the special report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

PART III — AUDITS OF STATE CORPORATIONS

12.(1) For each financial year, each state corporation shall prepare and submit for audit accounts to the Controller and Auditor-General.

State
Corporation
accounts.

(2) The accounts shall include the following —

- (a) a balance sheet showing the assets and liabilities as of the end of the financial year;
- (b) a statement of the income and expenditures for the financial year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the state corporation.

No. 12

Time limit for
submitting
accounts.

13.(1) A state corporation shall submit its accounts within three months after the end of the financial year to which the accounts relate.

(2) The National Assembly may extend, by resolution, the time limit for the submission of accounts by a state corporation.

Audit.

14. The Controller and Auditor-General shall examine and audit the accounts submitted by a state corporation, express an opinion and certify the result of the examinations and audits.

Report on
Audit.

15.(1) The Controller and Auditor-General shall prepare a report on the examination and audit and submit the report to the Minister responsible for finance.

(2) Without limiting what may be included in the report, the report shall indicate whether —

- (a) the information and explanations that were required to perform the examination and audit were received;
- (b) proper books of account have been kept and the accounts are in agreement therewith;
- (c) the accounts present a true and fair view of the financial position of the state corporation;
- (d) due provision has been made for the repayment of all money borrowed by the state corporation; and

- (e) adequate amounts have been set aside for depreciation and renewal of the assets of the state corporation.

(3) Without limiting what may be included in the report, the report shall identify cases in which —

- (a) money has been spent in a way that was not efficient or economical; or
- (b) the rules and procedures followed, or the records kept, were inadequate to safeguard property and the collection of revenue.

(4) The Controller and Auditor-General shall submit the report to the Minister responsible for finance within six months after the end of the financial year to which the report relates.

(5) The National Assembly may extend, by resolution, the time limit for submitting the report.

16.(1) The Minister responsible for finance shall lay the report under section 15 before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

Submitting
report to
National
Assembly.

(2) If the Minister fails to lay a report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

No. 12

Special report in
course of audit.

17.(1) If, in the course of an examination and audit, a matter comes to the attention of the Controller and Auditor-General that he feels should be brought to the attention of the National Assembly immediately, the Controller and Auditor-General shall submit a special report to the Minister responsible for finance.

(2) The Minister shall lay the special report before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(3) If the Minister fails to lay the special report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

Copies of
report.

18. When the Controller and Auditor-General submits a report under section 15 or 17 to the Minister responsible for finance, the Controller and Auditor-General shall also submit a copy of the report to the state corporation and the Minister responsible for the state corporation.

Costs of audit.

19.(1) A state corporation whose accounts are examined and audited shall pay for the costs of the examination and audit.

(2) If the examination and audit is conducted by the Controller and Auditor-General, the payment required under subsection (1) shall be paid to the Controller and Auditor-General and the amount of the payment shall be as determined by the Controller and Auditor-General.

(3) If the examination and audit is conducted by an auditor appointed under section 39, the payment required under subsection (1) shall be paid to the auditor and the amount of the payment shall be as agreed between the state corporation and the auditor.

20. This Part shall apply to a body established under an Act as though it were a state corporation if either —

Application of Part to statutory bodies.

- (a) the body is required to be audited under this Act; or
- (b) the body is required to be audited by the Controller and Auditor-General.

PART IV — AUDITS OF LOCAL AUTHORITIES

21.(1) For each financial year, each local authority shall prepare and submit accounts to the Controller and Auditor-General.

Local authority accounts.

(2) The accounts shall include such particulars as the Minister responsible for local government may direct.

(3) The accounts shall be in such form as the Minister responsible for local government may direct.

22.(1) A local authority shall submit its accounts within six months after the end of the financial year to which the accounts relate.

Time limit for submitting accounts.

(2) The Minister responsible for local government may extend, in writing, the time limit for the submission of accounts by a local authority.

No. 12

Audit.

23. The Controller and Auditor-General shall examine and audit the accounts submitted by a local authority and shall certify the result of the examination and audit.

Report on
Audit.

24.(1) The Controller and Auditor-General shall prepare a report on the examination and audit and submit the report to the Minister responsible for finance.

(2) Without limiting what may be included in the report, the report shall indicate whether —

- (a) the information and explanations that were required to perform the examination and audit were received;
- (b) the accounts have been properly maintained;
- (c) the accounts present a true and fair view of the financial position of the local authority;
- (d) due provision has been made for the repayment of all money borrowed by the local authority; and
- (e) adequate amounts have been set aside for depreciation and renewal of the assets of the local authority.

(3) Without limiting what may be included in the report, the report shall identify cases in which —

- (a) money has been spent in a way that was not efficient or economical; or

- (b) the rules and procedures followed, or the records kept, were inadequate to safeguard property and the collection of revenue.

(4) The Controller and Auditor-General shall submit the report to the Minister responsible for finance within eleven months after the end of the financial year to which the report relates.

(5) The National Assembly may extend, by resolution, the time limit for submitting the report.

25.(1) The Minister responsible for finance shall lay the report under section 24 before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

Submitting
report to
National
Assembly.

(2) If the Minister fails to lay a report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

26.(1) If, in the course of an examination and audit, a matter comes to the attention of the Controller and Auditor-General that he feels should be brought to the attention of the National Assembly immediately, the Controller and Auditor-General shall submit a special report to the Minister responsible for finance.

Special report in
the course of
audit.

(2) The Minister shall lay the special report before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(3) If the Minister fails to lay the special report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

Copies of
report.

27. When the Controller and Auditor-General submits a report under section 24 or 26 to the Minister responsible for finance, the Controller and Auditor-General shall also submit a copy of the report to the local authority and the Minister responsible for local government.

Fees for audit.

28.(1) If the examination and audit of the accounts of a local authority is conducted by the Controller and Auditor-General, the local authority shall pay such fees to the Controller and Auditor-General as he may direct.

(2) If the examination and audit of the accounts of a local authority is conducted by an auditor appointed under section 39, the local authority shall pay the auditor such fees as are agreed to by the local authority and the auditor.

(3) The Minister responsible for local government may pay the fees on behalf of a local authority and the amount of any such payment shall be a debt owed by the local authority to the government.

(4) The Controller and Auditor-General may require the Minister responsible for local government to pay, under subsection (3), any fees payable to the Controller and Auditor-General under subsection (1).

PART V — ECONOMY, EFFICIENCY AND
EFFECTIVENESS EXAMINATIONS

29.(1) The Controller and Auditor-General may mine the economy, efficiency and effectiveness which the government, a state corporation or a local authority uses its resources.

Economy, efficiency and effectiveness examinations.

(2) In an examination under this section, the Controller and Auditor-General may not question the merits of a policy objective of the government, a state corporation or a local authority.

30. The Controller and Auditor-General may submit a report in respect of an examination under this section to —

Report.

- (a) if the examination related to the government, the Minister responsible for finance;
- (b) if the examination related to a state corporation, the state corporation and the Minister responsible for the state corporation; or
- (c) if the examination related to a local authority, the local authority and the Minister responsible for local government.

31.(1) The Minister to whom the report is submitted shall lay the report before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

Submitting report to National Assembly.

No. 12

(2) If the Minister fails to lay a report before the National Assembly as required under subsection (1), the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

Copy of report.

32. When the Controller and Auditor-General submits a report to a Minister under paragraph (b) or (c) of section 30, the Controller and Auditor-General shall also submit a copy of the report to the Minister responsible for finance.

Application of Part to statutory bodies.

33. This Part also applies with respect to a body to which Part III applies under section 20 as though the body were a state corporation.

PART VI — CONTROLLER AND AUDITOR-GENERAL
AND KENYA NATIONAL AUDIT OFFICE AND
COMMISSION

*A — Controller and Auditor-General and Kenya
National Audit Office*

Kenya National Audit Office.

34. The Controller and Auditor-General and his staff shall be called the Kenya National Audit Office, which office is hereby established.

Sufficiency of staff.

35. The Government of Kenya shall ensure that the Kenya National Audit Office has the staff the Controller and Auditor-General believes is necessary to properly carry out his functions.

Duties of Controller and Auditor-General.

36. In addition to his duties under the Constitution and any other duties under this Act, it shall be the duty of the Controller and Auditor-General to satisfy himself —

- (a) that all reasonable precautions have been taken to safeguard —
 - (i) the collection of revenue; and
 - (ii) the receipt, custody, issue and proper use of property;
- (b) that the applicable law has been complied with in relation to —
 - (i) the collection of revenue; and
 - (ii) the receipt, custody, issue and proper use of property; and
- (c) that all money, other than money that has been appropriated by Parliament, has been dealt with in accordance with the proper authority.

37. The following shall apply with respect to an examination and audit of accounts under Part II, III or IV or an examination under Part V —

Powers relating to audits and examinations.

- (a) in addition to the powers the Controller and Auditor-General has under section 105(3) of the Constitution, the Controller and Auditor-General —
 - (i) shall have the same access to electronic documents as the Controller and Auditor-General has to other documents under section 105(3) of the Constitution;

- (ii) shall have the same access to books, records, returns, reports and other documents, including electronic documents, as the Controller and Auditor-General has under section 105(3) of the Constitution, with respect to audits and examinations to which that section does not apply; and
 - (iii) shall have access to any government property;
- (b) the Controller and Auditor-General may require any government employee or employee of the organisation that is the subject of the audit or examination to provide explanations, information and assistance;
- (c) the Controller and Auditor-General may station any of his staff, temporarily or permanently, at the premises of the organisation that is the subject of the audit or examination and that organisation shall provide such staff, at the expense of the organisation, with adequate office space, furniture and telephones; and
- (d) the Controller and Auditor-General may, without payment of a fee —
 - (i) cause a search to be made of any records in a public office; and
 - (ii) require copies to be made of, or

extracts to be taken from, any records in a public office.

38.(1) The Controller and Auditor-General may delegate to a member of the staff of the Kenya National Audit Office, subject to any conditions the Controller and Auditor-General may impose, the carrying out or exercise of any function or power of the Controller and Auditor-General under this Act.

Delegation to staff.

(2) The Controller and Auditor-General may not delegate —

- (a) the certification of the results of an examination and audit of accounts under this Act; or
- (b) the submission of a report required under this Act.

39.(1) The Controller and Auditor-General may appoint an auditor who is not a member of the staff of the Kenya National Audit Office to assist in an examination and audit of accounts.

Outside auditors.

(2) Only a person registered and practising as an accountant under the Accountants Act may be appointed under this section.

Cap. 531.

(3) An auditor appointed under this section shall comply with any general or special directions given by the Controller and Auditor-General.

(4) An auditor appointed under this section shall report to the Controller and Auditor-General.

(5) For the purposes of his appointment, an

auditor appointed under this section has the powers of the Controller and Auditor-General under section 37.

(6) An auditor appointed under this section may not certify the results of the examination and audit and may not submit any report required under this Act other than the report required under subsection (4).

(7) Instead of accounts being submitted under Part II, III or IV to the Controller and Auditor-General, the Controller and Auditor-General may require that the accounts be submitted directly to an auditor appointed under this section with a copy being submitted to the Controller and Auditor-General.

Professional assistance, etc.

40. The Controller and Auditor-General may obtain professional assistance or advice from such persons or organisations as he considers appropriate.

Opinion from the Attorney-General.

41.(1) The Controller and Auditor-General may lay a case in writing before the Attorney-General regarding the interpretation of any Act, including this Act, or of any regulations.

(2) The Attorney-General shall give a written opinion with respect to a case laid before him under subsection (1).

Special reports.

42.(1) The Controller and Auditor-General may, at any time, submit a special report to the Minister responsible for finance.

(2) The Minister shall lay each special report before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(3) If the Minister fails to lay a special report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

43. No member of the staff of the Kenya National Audit Office, including the Controller and Auditor-General, shall be personally liable for any act or omission done or omitted in good faith in carrying out any duty, or exercising any power, under this Act or the Constitution. Immunity.

44.(1) For each financial year, the accounting officer for the Kenya National Audit Office shall prepare estimates of the expenditures and revenue of the Kenya National Audit Office. Estimates.

(2) The accounting officer for the Kenya National Audit Office shall submit the estimates to the Kenya National Audit Commission for consideration and approval.

(3) After it has approved the estimates, the Kenya National Audit Commission shall submit them to the Minister responsible for finance to be laid before the National Assembly.

(4) If the expenditures provided for under the approved estimates are, in the opinion of the Controller and Auditor-General, insufficient to allow the Kenya National Audit Office to properly carry out its functions and duties, the Controller and Auditor-General shall submit a special report to the Minister responsible for finance in respect of that insufficiency.

(5) The Minister shall lay the special report

before the National Assembly not later than seven days after the National Assembly first meets after the Minister has received the report.

(6) If the Minister fails to lay the special report before the National Assembly as required under this section, the Controller and Auditor-General shall forthwith submit a copy of the report to the Speaker of the National Assembly to be presented by him to the National Assembly.

Review of
Kenya National
Audit Office.

45. The Controller and Auditor-General may, in consultation with the Kenya National Audit Commission, arrange for a review of the Kenya National Audit Office.

Independence.

46. In addition to the protection given by section 105(5) of the Constitution, the Controller and Auditor-General shall not be subject to the direction or control of any other person or authority in carrying out any functions under this Act to which that section of the Constitution does not apply.

Retiring age of
Controller and
Auditor-
General.

47. For the purposes of section 110(3) of the Constitution, the age at which the Controller and Auditor-General shall vacate his office shall be sixty-five years.

B — Kenya National Audit Commission

Establishment.

48. The Kenya National Audit Commission is hereby established.

Composition.

49. The Kenya National Audit Commission shall be composed of the following —

- (a) the Controller and Auditor-General;

- (b) the chairman of the Public Accounts Committee of the National Assembly;
- (c) a practicing member of the Institute of Certified Public Accountants of Kenya co-opted by the other members of the Commission;
- (d) the chairman of the Public Service Commission;
- (e) the Attorney-General or his nominee; and
- (f) the chairman of the Public Investments Committee of the National Assembly.

50.(1) The Controller and Auditor-General shall be the chairman of the Kenya National Audit Commission.

Chairman and secretary.

(2) The Kenya National Audit Commission shall appoint a secretary on such terms as may be determined by the Commission.

51. The Kenya National Audit Commission shall —

Duties.

- (a) consider and approve the estimates for the Kenya National Audit Office; and
- (b) determine the remuneration and other terms of appointment of the staff of the Kenya National Audit Office.

52. The Kenya National Audit Commission may regulate its own procedure.

Procedure.

No. 12

Allowances and expenses of members.

53. The members of the Kenya National Audit Commission shall be paid such allowances and expenses as are determined by the Minister responsible for finance from moneys appropriated for the Kenya National Audit Office.

Regulations relating to staff.

54. The Kenya National Audit Commission may make regulations governing the remuneration and other terms of appointment of the staff of the Kenya National Audit Office.

PART VII — TRANSITION AND AMENDMENTS

Transitional provisions.

55. The provisions of the First Schedule shall apply.

Exchequer and Audit amendments.

56. The Exchequer and Audit Act is amended in the manner set out in the Second Schedule.

Other consequential amendments.

57. The Acts identified in the Third Schedule are amended in the manner set out in the Third Schedule.

FIRST SCHEDULE
TRANSITIONAL PROVISIONS

S. 55

1.(1) This paragraph applies with respect to the financial year immediately preceding the financial year in which this Act comes into operation.

Audit, etc. for past financial year.

(2) Parts II, III and IV and the provisions of this Act relating to audits under those Parts do not apply with respect to the financial year described in subparagraph (1) and, instead, the law in force immediately before this Act comes into operation shall continue to apply in relation to the preparation and submission of accounts for that financial year and the auditing of such accounts.

2. A reference in a written law to the Auditor-General (Corporations) shall be deemed to be a reference to the Controller and Auditor-General.

References in laws to Auditor-General (Corporations).

3. A requirement under a written law that anything be audited under or in accordance with the Exchequer and Audit Act shall be deemed to be a requirement that it be audited under or in accordance with this Act.

Audits required under Cap. 412.

4.(1) If this Act is inconsistent with a provision of a written law in existence when this Act comes into operation, this Act shall prevail to the extent of the inconsistency.

Inconsistencies with existing laws.

(2) Without limiting what may constitute an inconsistency with another written law, this Act is inconsistent with another written law —

(a) if the other written law provides for a

person other than the Controller and Auditor-General to conduct an audit required under this Act;

- (b) if the other written law provides for a deadline for the submission of accounts or a report that is different from the deadline under this Act; or
- (c) if the other written law provides for a report to be dealt with in a way that is different from how it must be dealt with under this Act.

If Controller and Auditor-General has already reached retiring age.

5. If the person who is the Controller and Auditor-General on the day this Act comes into operation has already attained the age of sixty-five years he shall, notwithstanding section 47, remain in office until his successor is appointed:

Provided the successor shall be appointed within three months from the day this Act comes into operation.

SECOND SCHEDULE S. 56
AMENDMENTS TO THE EXCHEQUER AND AUDIT ACT
(CAP. 412)

Cap. 412.

1. This Schedule amends the Exchequer and Audit Act.

2. Section 2 of the Act is amended by deleting the definition of "period of account".

3. Part III of the Act, consisting of sections 7 to 9, is deleted.

4. Part V of the Act, consisting of sections 18 to 21, is deleted.

5. Part VI of the Act, consisting of sections 22 to 28, is deleted.

6. Part VII of the Act, consisting of sections 29 to 32, is deleted.

THIRD SCHEDULE S. 57
CONSEQUENTIAL AMENDMENTS

Local Government Act

1.(1) This paragraph amends the Local Government Act. Cap. 265.

(2) Section 229 of the Act is deleted and the following substituted —

Balancing of
accounts.

229. The accounts required to be kept by a local authority shall be balanced for any financial year not later than 31st December in the year following the year of account or such later date as in any particular case the Minister may determine.

(3) Section 230 of the Act is amended by deleting the portion preceding paragraph (a) and substituting the following —

Audit report.

230. As soon as may be after the receipt by a local authority of a report on the examination and audit of the accounts

of the local authority under the Public Audit Act, 2003, such report, together with copies of the accounts to which such report relates —

(4) Section 234(1) of the Act is amended by striking out the words “any report made under Part VI of the Exchequer and Audit Act” and substituting the words “a report under the Public Audit Act, 2003”.

(5) Section 234(2) of the Act is amended by striking out the words “Part VI of the Exchequer and Audit Act” and substituting the words “the Public Audit Act, 2003”.

State Corporations Act

Cap. 446.

2.(1) This paragraph amends the State Corporations Act.

(2) Section 5A(2) of the Act is amended by inserting “10A,” after “5,”.

(3) The Act is amended by inserting the following new section immediately before section 11 —

Financial year.

10A. Notwithstanding anything to the contrary in any written law, the financial year of every state corporation shall be from the 1st of July in a year to the 30th of June in the next year.

(4) Section 14(3) of the Act is deleted and the following substituted —

(3) The accounts of every state

2003

corporation shall be audited and reported on annually in accordance with the Public Audit Act, 2003.

(5) Section 14(4) of the Act is deleted.

(6) Section 15(2) of the Act is deleted and the following substituted —

(2) The chief executive of a state corporation may be summoned by the Public Investments Committee to answer on behalf of the Board any question arising from a report, including a special report, of the Controller and Auditor-General concerning the state corporation.