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REPUBLIC OF KENYA



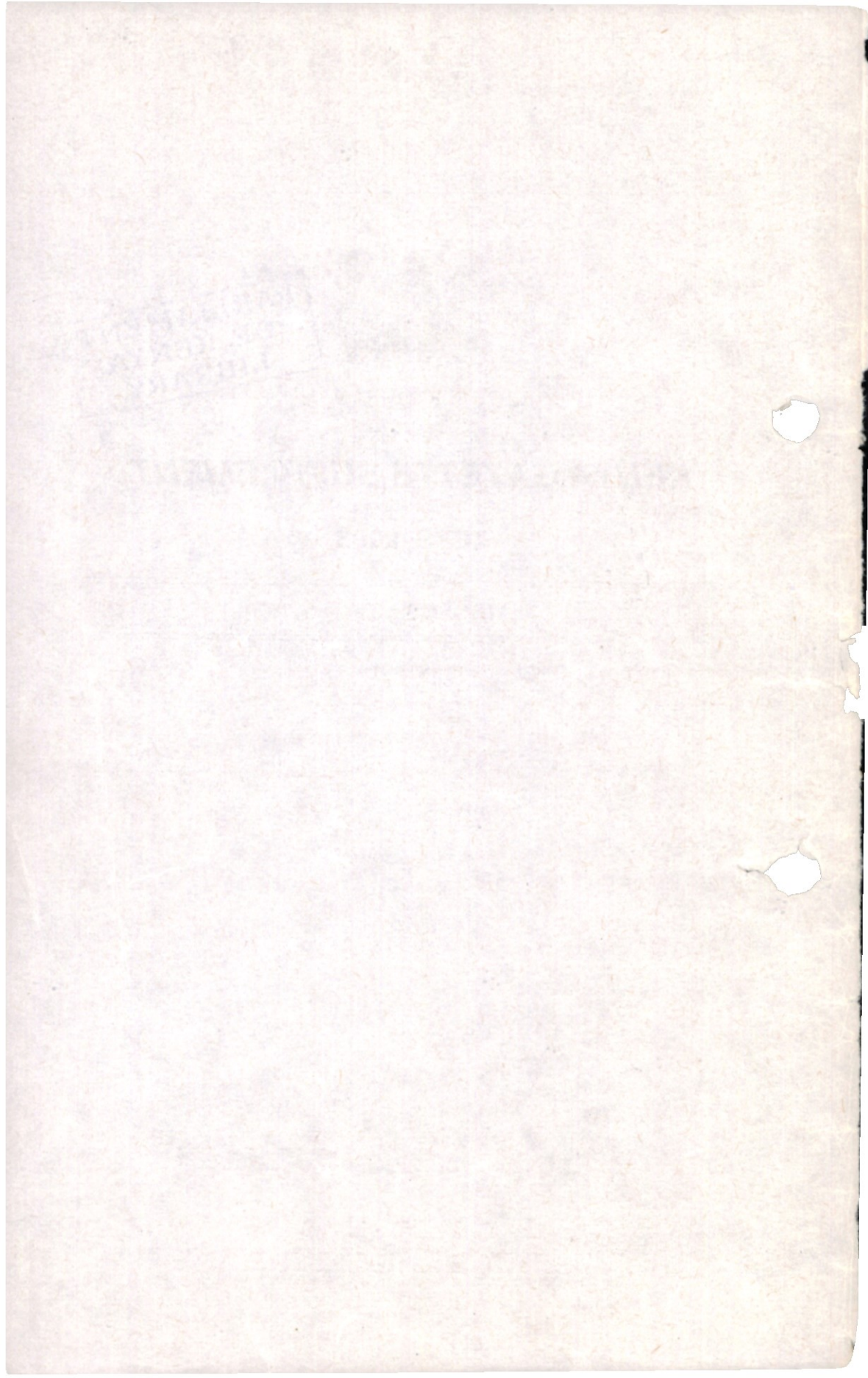
KENYA GAZETTE SUPPLEMENT

ACTS, 2003

NAIROBI, 9th January, 2004

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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.