

CHAPTER 56

THE TANZANIA AUDIT CORPORATION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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SCHEDULE

CHAPTER 56

THE TANZANIA AUDIT CORPORATION ACT

An Act to establish the Tanzania Audit Corporation and to provide for its constitution, functions and for matters related thereto and to provide for the amendment of certain laws concerning the audit of the accounts of statutory bodies.

[2nd February, 1968]

Acts Nos.

1 of 1968

15 of 1970

8 of 1974

22 of 1981

13 of 1988

[PCh56s1]1. Short title

This Act may be cited as the Tanzania Audit Corporation Act.

[PCh56s2]2. Interpretation

In this Act, unless the context otherwise requires—

"appointing authority" in relation to the chairman of the Board of Directors means the President and in relation to other members of the Board means the Minister;

"Board" means the Board of Directors established under section 5;

"Controller and Auditor-General" means the person holding the office of Controller and Auditor-General provided for in section 143 of the Constitution of the United Republic of Tanzania;

"Corporation" means the Tanzania Audit Corporation established by section 3;

"financial year" in relation to the Corporation, includes the Corporation's first accounting period, whether shorter or longer than a year, and, if the Corporation changes its accounting year, includes any accounting period, whether shorter or longer than a year, employed to give effect to the change;

"Minister" means the Minister responsible for finance;

"parastatal organisation" means—

- (a) a local government authority;
- (b) any body corporate established by or under any written law other than a company registered under the Companies Act * other than a company to which paragraph (c) applies;
- (c) a trade union registered under the Trade Unions Act *;
- (d) any company registered under the Companies Act, having not less than fifty per centum of the issued share capital of which is owned by the Government or a parastatal organisation or, where the company is limited by guarantee, a company in respect of which the amount that the Government or a parastatal organisation which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members have undertaken to contribute; and reference in this paragraph to "parastatal organisation" includes reference to any such company;
- (e) any body of person, whether corporate or unincorporated, which the Minister may, by notice in the Gazette, declare to be a parastatal organisation for the purposes of this section.

[PCh56s3]3. Establishment of Corporation

There is hereby established a corporation to be known as the Tanzania Audit Corporation which shall—

- (a) have perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) subject to this Act, be capable of purchasing and otherwise acquiring and of alienating, any movable or immovable property.

[PCh56s4]4. Functions of the Corporation Acts Nos. 15 of 1970; 8 of 1974; 22 of 1981; 13 of 1988

(1) It shall be the duty of the Corporation to provide audit services and services ancillary or incidental thereto, including advisory and accounting services, in accordance with the provisions of this Act.

(2) The Corporation shall be responsible for and shall perform, in accordance with the best professional standards and, except where otherwise provided in any written law, within six months of the end of each financial year concerned, the audit of the accounts of any parastatal organisation established by any written law.

(3) Notwithstanding any provisions to the contrary contained in the Articles of Association of any company concerned, the Corporation shall be responsible for and shall perform, in accordance with the best professional standards, the audit of the accounts of any parastatal organisation established under the Companies Act *.

(4) The Corporation may, in addition to the organisations referred to in this section, provide its services to any other person or category of persons, and upon such terms and conditions as may be agreed.

(5) The Corporation may provide its services, upon such terms and conditions as may be agreed, to any other person as well as to the bodies and companies specified in the First and Second Schedules.

(6) The Corporation shall, as soon as practicable after receipt of the accounts submitted for audit, and in any case not later than three months after such receipt, examine and audit them, and issue a report on them, and where the accounts are submitted within three months of the close of the financial year of the client corporation the report on its audited accounts shall be made within not more than three months from the date of submission of the accounts to the Corporation.

(7) The Corporation may, in addition to certifying the accounts audited by it, prepare, in accordance with the best professional standards, management audit report, in respect of the client corporation, including—

- (a) a review of the internal control procedures;
- (b) the adequacy of record keeping;
- (c) management decisions which result in any infractions or extravagant use of public funds; and
- (d) the degree of compliance, or otherwise, with directions lawfully given by any person entitled or required to give them.

(8) The Corporation shall in each financial year prepare a consolidated report relating to the audit of the accounts and financial statements of client corporations, and submit it to the President, and a copy of it to the Controller and Auditor-General.

(9) Every report prepared by the Corporation in pursuance of the provisions of subsection (8) shall deal in general with the state of the account of each client corporation audited during the financial year in question, pointing out, in relation to each such client corporation—

- (a) any payment made without due authority according to law;
- (b) any deficiency or loss occasioned through negligence or misconduct;
- (c) any failure to observe a policy of the highest thrift;
- (d) any sum which ought to have been but was not brought to account;
- (e) any delay in the submission of accounts for audit;
- (f) any other matter which in the opinion of the Corporation ought to be included in the report.

(10) The President shall, after the receipt of any report, or part of it submitted to him pursuant to subsection (1), cause it to be presented to the National Assembly without delay and if the President makes default in presenting that report to the National Assembly, the Controller and Auditor-General shall submit the report to the Speaker of the National Assembly or, if the office of the Speaker is vacant or the Speaker is of any reason unable to perform the functions of his office, to the Deputy-Speaker, who shall cause it to be presented to the National Assembly.

(11) The Corporation may at any time, if in its opinion it is desirable, transmit to the Speaker of the National Assembly and to the President a special report on any matter which is incidental to the powers and duties of the Corporation in relation to the accounts and audit of organisations in the parastatal sector.

(12) For the avoidance of doubt it is hereby declared that nothing in this Act shall preclude the Controller and Auditor-General from making any report to the National Assembly which consists of or includes matters relating to parastatal organisations, and that the duty of the Corporation to prepare and submit reports in pursuance of the provisions of this section shall be notwithstanding any report or reports made by the Controller and Auditor-General.

(13) The Speaker of the National Assembly shall refer every report submitted to him under this Act, to the Parastatal Organisations Committee, which shall consider the report and then advise the Principal Secretary to the Treasury whether in its opinion it is appropriate that any officer be surcharged in respect of any payment deficiency, loss of sum concerned, or that disciplinary proceedings be instituted, against an officer or whether a surcharge should be made and disciplinary proceedings instituted.

(14) The Corporation may, from time to time, appoint on such terms and conditions as it may think fit such officers and employees as it may consider necessary for the performance of its functions and may enter into such arrangements with persons or firms for the supply of services or facilities to the Corporation as it may consider desirable.

(15) The Corporation shall, if required by any written law so to do, provide its services upon such terms and conditions as may be specified in such written law, to any person or body of persons, whether corporate or unincorporate.

(16) The Minister may, by Order in the Gazette, require the Corporation to assume in relation to any parastatal organisation specified in the Order the responsibilities referred to in subsection (2) and upon such Order being made the Corporation shall assume such responsibilities as if references in that subsection to a statutory body were reference to such parastatal organisation:

Provided that no Order shall be made under this section in relation to any parastatal organisation established under any written law if such written law specifically provides for any specified person to perform the audit of the accounts of the organisation.

(17) Where the Corporation performs the audit of any body corporate whether pursuant to an Order under subsection (16) or otherwise, the provisions of sections 132 and 133 of the Companies Act * shall not apply in relation to such body corporate.

(18) The Corporation shall have power to do anything which is calculated to facilitate the discharge of its responsibilities under this Act.

(19) Subject to section 6, in the exercise of its functions under this section, the Corporation and the Board shall not be subject to the direction or control of any other person or authority.

(20) Where by or under this Act or any other written law, the Corporation is required to provide its services to any person or body of persons, whether corporate or unincorporate, every such person and every officer, member, employee or other person

concerned with the management of the affairs of such person or body of persons, shall give all such assistance to the Corporation as any officer of the Corporation may require such person, officer, member or employee to give, and shall furnish to such officer of the Corporation all such information and produce all such books of account and other documents as the officer of the Corporation may require to be furnished or produced, and any person, officer, member or employee who contravenes the provisions of this subsection commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

[PCh56s5]5. President may direct special audit inspection

(1) The President may direct the Corporation to carry out an audit inspection of any specified authority or in respect of any person employed by a specified authority or any person who, in the opinion of the President, is reasonably believed of having had any dealing with any specified authority.

(2) In carrying out an audit inspection under this section the Corporation shall have power to require any person—

(a) to produce to an officer of the Corporation any book of account or other document;

(b) to answer all such questions put to him by an officer of the Corporation, which, in the opinion of such officer, are relevant to the inquiry.

(3) Any person who, upon being required, pursuant to the provision of subsection (2), by an officer of the Corporation to produce any book of account or other document

or to answer any question put to him, fails or refuses to produce such book of account or other document or fails or refuses to answer any such question or gives an answer which he knows or has reason to believe to be untrue, commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

(4) For the purposes of this section—

"audit inspection" means an examination of, or in relation to, any transaction or series of transactions involving money or any other valuable consideration;

"employee of a specified authority" includes an officer or a member of a specified authority, whether or not he is an employee of such authority;

"specified authority" means—

- (i) a local authority;
- (ii) any body corporate established by or under any written law other than a company registered under the Companies Act *;
- (iii) a trade union registered under the Trade Unions Act *;
- (iv) any person or body of persons, whether corporate or unincorporate, to whom or, in the case of a body of persons, to which, the Corporation is, under the provisions of this Act or under any other written law, required to provide its services in accordance with this Act;
- (v) any company registered under the Companies Act having not less than fifty per centum of the issued share capital of which is owned by a specified authority or, where the company is a company limited by guarantee, a company in respect of which the

amount that a specified authority which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all members of the company have undertaken to contribute, and references in this paragraph to a specified authority include references to any such company.

(5) A person shall, for the purposes of this section, be deemed to have had dealings with a specified authority if he has had dealings with the authority as a buyer, seller, contractor, subcontractor, broker or supplier, or if he has acted for or on behalf of the authority in any transaction whatsoever, whether or not he has received any remuneration for his services, and references in this section to any such person include references to an employee of such person or, where such person is a body of persons, whether corporate or unincorporate, include references to any officer, member, employee or other person, whether or not an employee, who is or, was at the material time, concerned with the management of the affairs of such body of persons.

(6) Where an audit inspection has been carried out under the provisions of this section, the Corporation shall, as soon as may be practicable after the completion of the inspection, submit its report on such inspection to the President.

[s. 4A]

[PCh56s6]6. Jurisdiction of courts

Where any person is charged with an offence under this Act and is convicted of such offence by a court presided over by a resident magistrate, such court shall, notwithstanding the provisions of section 7 of the Criminal Procedure Act *, have power

to pass a sentence of a fine not exceeding twenty thousand shillings or of a term of imprisonment not exceeding five years or of both such fine and imprisonment.

[s. 4B]

[PCh56s7]7. Management of Corporation Act No. 22 of 1981 Sch.

(1) There shall be a Board of Directors of the Corporation which shall, subject to this Act, be responsible for the performance by the Corporation of its functions and for the control and management of the Corporation.

(2) The Board of Directors shall consist of—

(a) a Chairman who shall be appointed by the President;

(b) such other members being not less than two and not more than five as the Minister may appoint.

(3) The members of the Board shall be appointed from among persons who have experience of and have shown capacity in financial or commercial matters but before appointing a person to the Board the appointing authority, shall satisfy itself that, that person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.

(4) The provisions of the Schedule hereto shall have effect as respects the Corporation.

[s. 5]

[PCh56s8]8. Powers of Controller and Auditor-General

(1) The Controller and Auditor-General may, after consultation with the Board, give to the Board directions to the exercise and performance of the functions of the Corporation, and the Board shall give effect to any such directions.

(2) The Board shall afford to the Controller and Auditor-General facilities for obtaining information with respect to the activities of the Corporation and shall furnish him with returns, accounts, reports and other information with respect thereto and afford to him facilities for the verification of the documents and information furnished, in such manner and at such times as the Controller and Auditor-General may require.

[s. 6]

[PCh56s9]9. Financial duties of the Corporation

(1) Subject to subsection (2), the Corporation shall be empowered to charge such fees as it may consider reasonable for the services rendered by it pursuant to subsections (2) and (3) of section 4.

(2) The Corporation shall conduct its business so as to secure that its revenue is not less than sufficient for making provision for the meeting of charges properly chargeable to revenue, taking one year with another.

(3) The Corporation shall charge to revenue in every year all charges which are proper to be made to revenue including, in particular, proper provision for the depreciation or the renewal of assets and proper allocation to a general reserve.

(4) Any excess of the revenue of the Corporation in any financial year over the total sums properly chargeable to revenue account of that year, shall be applied by the

Corporation in such manner as the Minister may direct, and the direction may require that the whole or any part of the excess may be paid into the Consolidated Fund.

[s. 7]

[PCh56s10]10. Financial resources of the Corporation

The funds and resources of the Corporation shall consist of—

- (a) such sums as may be provided for the purpose by Parliament either by way of grant or by loan;
- (b) any loan granted to the Corporation by any other person with the approval of the Minister;
- (c) any sums or property which may in any manner become payable to or vested in the Corporation as the result of the performance of its functions.

[s. 8]

[PCh56s11]11. Report, accounts and audit

(1) The Corporation shall keep proper accounts and proper records in relation thereto and shall prepare in respect of each financial year within six months of the end thereof a statement of accounts in a form approved by the Minister, being a form which conforms to the best commercial standards.

(2) The accounts of the Corporation shall be audited by the Controller and Auditor-General.

(3) The Board shall prepare a report on the conduct of its operations in respect of each financial year within six months of the end thereof and shall transmit such report to

the Controller and Auditor-General who shall deal with it in accordance with subsection (4).

(4) As soon as the accounts of the Corporation have been audited and the report of the Board has been received, the Controller and Auditor-General shall submit the report of the Board, a copy of any audited statement of accounts of the Corporation and a copy of any report thereon he may wish to make to the President who shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such documents, cause them to be laid before the National Assembly; and if such documents are not so laid before the Assembly by the President, the Controller and Auditor-General shall submit them to the Speaker of the National Assembly who shall cause them to be laid before the National Assembly.

[s. 9]

SCHEDULE

CONSTITUTION AND PROCEEDINGS OF THE BOARD OF DIRECTORS

(Section 5)

1. (1) Subject to paragraph 2 of this Schedule, a member of the Board shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.

(2) Any member may at any time resign his office by notice in writing addressed to the appointing authority.

(3) If no period of office is specified in the instrument of his appointment, a member shall hold office for a period of three years and shall be eligible for re-appointment.

2. If the appointing authority is satisfied that a member of the Board—

(a) has been absent for not less than three consecutive meetings without the permission of the Board;

(b) has been absent from the United Republic for more than a year;

(c) has become bankrupt or made an arrangement with his creditors;

(d) is incapacitated by physical or mental illness; or

(e) should be removed from his office, and where the Minister is the appointing authority, the President agrees, the appointing authority may declare his office to be vacant and shall notify the fact as he may think fit; and thereupon the office shall become vacant.

3. The Corporation may pay to the members of the Board such salaries, fees or expenses as the Minister may from time to time approve.

4. The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of any member.

5. The quorum of the Board and the arrangements and procedure relating to meetings of the Board shall be such as the Board may determine, but the quorum of the Board shall not be less than three and the Board shall meet at intervals not greater than three months.

6. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman at that meeting, and a copy of all minutes, when confirmed and signed, shall be forwarded without delay by the Board to the Controller and Auditor-General.

7. A professionally qualified auditor, who is either an employee of the Corporation or is supplying services to it pursuant to an arrangement made under subsection (14) of section 4, may require that his objection to any decision taken by the Board in respect of an audit performed or being performed by the Corporation shall be recorded in the minutes of the proceedings of the Board and the Controller and Auditor-General may exercise as he deems fit the powers given to him by section 6 in respect of any such matter.

8. The fixing of the seal of the Corporation shall be authenticated by the signatures of—

(a) the Chairman of the Board, or some other member thereof authorised either generally or specially by the Board to act in his stead for that purpose; and

(b) some other person authorised by the Board, either generally or specially, to act for that purpose.