



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE EXCHEQUER AND AUDIT ACT

CHAPTER 412

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CHAPTER 412

EXCHEQUER AND AUDIT ACT

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CHAPTER 412

EXCHEQUER AND AUDIT ACT

[Date of assent: 31st May, 1955.]

[Date of commencement: 1st June, 1955.]

An Act of Parliament to provide for the control and management of the public finances of Kenya; for the appointment terms of office, duties and powers of the controller and Auditor-General; for the collection, issue and payment of public moneys; for the audit of public accounts and the protection of public property; for the control of powers of statutory boards and commissions; and for matters connected therewith

[Act No. 13 of 1955, Act No. 39 of 1956, Act No. 29 of 1960, Act No. 20 of 1961, Act No. 36 of 1962, Legal Notice 374 of 1964, Legal Notice 2 of 1964, Act No. 6 of 1966, Act No. 64 of 1968, Legal Notice 36 of 1970, Act No. 11 of 1970, Act No. 6 of 1976, Act No. 8 of 1978, Act No. 6 of 1979, Act No. 12 of 1985, Act No. 11 of 1986, Legal Notice 248 of 1986, Act No. 22 of 1987, Act No. 9 of 2000, Act No. 2 of 2002, Act No. 7 of 2002, Act No. 12 of 2003, Act No. 5 of 2004, Act No. 3 of 2005.]

*The Permanent Secretary to the Treasury has been deputed to exercise and to perform on behalf of the Treasury the powers and duties conferred and imposed on the Treasury by this Act (L.N. 729/1961).

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Exchequer and Audit Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"accounting officer" means any person appointed by the Treasury and charged with the duty of accounting for any service in respect of which moneys have been appropriated by Parliament or any person to whom issues are made from the exchequer account;

"appropriate Minister" means the Minister administering any Act or other written law under which a state corporation is established;

"appropriation act" means an Act to apply a sum out of the Consolidated Fund to the service of a financial year;

"Auditor-General (Corporations)" *deleted by Act No. 2 of 2002, Sch.;*

"Consolidated Fund" *deleted by Act No. 5 of 2004, Second Sch.;*

"Consolidated Fund Service" means a service the expense of which is charged on and payable from the consolidated fund under or by virtue of any Act other than an appropriation Act;

"Controller and Auditor-General" means the person appointed as such under section 105 of the Constitution;

"exchequer account" *deleted by Act No. 5 of 2004, Second Sch.;*

"Investment officer" means the officer designated as such in the Treasury;

"Investment Secretary" means the officer designated as such in the Treasury;

"officer" means any person in the employment of the Government;

"period of account" *deleted by Act No. 12 of 2003, Second Sch.*;

"Public Accounts Committee" means the Select Committee of the National Assembly designated by that name;

"Public Investments Committee" means the Select Committee of the National Assembly designated by that name;

"public moneys" includes—

- (a) revenue;
- (b) any trust or other moneys held, whether temporarily or otherwise, by an officer in his official capacity, either alone or jointly with any other person, whether an officer or not;

"receiver of revenue" means any officer appointed by the Treasury for the collection of, and for the accounting for, such items of revenue as the Treasury may specify;

"revenue" means all tolls, taxes, imposts, rates, duties, fines, penalties, forfeitures, rents and dues and all other receipts of the Government, from whatever source arising, over which Parliament has power of appropriation;

"state corporation" has the meaning to it under section 2 of the State Corporations Act, 1986 (Cap. 446);

"Statutory board, commission or body" *deleted by Act No. 11 of 1986, s. 31.*

[Act No. 29 of 1960, s. 3, L.N. 374/1964, Act No. 64 of 1968, s. 4, Act No. 6 of 1976, Sch., Act No. 12 of 1985, s. 2, Act No. 11 of 1986, s. 31, Act No. 2 of 2002, Sch., Act No. 7 of 2002, s. 51, Act No. 12 of 2003, Second Sch., Act No. 5 of 2004, Second Sch.]

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- (1) This paragraph applies with respect to the financial year immediately preceding the financial year in which this Act comes into operation.
- (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. References in laws to Auditor-General (Corporations)

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

3. Audits required under Cap. 412

A requirement under a written law that anything be audited under or in accordance with the Exchequer and Audit Act (Cap. 412) shall be deemed to be a requirement that it be audited under or in accordance with this Act.

4. Inconsistencies with existing laws

- (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.
- (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.

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

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. 34(1)]

Deleted by Act No. 11 of 1970, Sch.

THIRD SCHEDULE

[s. 34(1)]

Deleted by Act No. 11 of 1970, Sch.
