



I assent.

[L.S.]

J. I. ULUIVUDA  
President

## AN ACT

[22nd March 2006]

### TO AMEND THE AUDIT ACT

ENACTED by the Parliament of the Fiji Islands—

*Short title, etc*

1.—(1) This Act may be cited as the Audit (Amendment) Act 2006.

(2) This Act commences on a date appointed by the Minister by notice in the *Gazette*.

(3) In this Act, the Audit Act (Cap. 70) is referred to as the “principal Act”.

*Interpretation*

2. The principal Act is amended in section 2—

(a) by deleting the definitions of “accounting officer” and “public moneys”;

(b) by inserting the following definitions—

“budget sector agency”, in relation to a financial year, means a state entity that administers an appropriation for that year under an Appropriation Act or the Financial Management Act 2004;

“company” means a company formed and registered under the Companies Act (Cap. 247) or an existing company within the meaning of that Act;

“off-budget state entity” means a state entity that is not a budget sector agency;

“other money” means money held by a budget sector agency, other than public money and trust money;

“performance audit” means an audit conducted under section 6A;

“public money” means revenue or money raised or received for the purposes of government;

“responsible authority” for a state entity means—

(a) in the case of a department – the chief executive officer of the department; or

(b) in the case of a state entity that is not a department—

(i) the board or other governing body of the entity; or

(ii) the chief executive officer of the entity if it does not have a board or other governing body;

“state entity” has the same meaning as in the Financial Management Act 2004;

“subsidiary” has the meaning given by section 156 of the Companies Act (Cap. 247);

“trust money” means money held by a budget sector agency on trust, other than public money.

*Substituted section 6*

3. The principal Act is amended by repealing section 6 and substituting the following sections—

*“Duties of Auditor-General*

6.—(1) In addition to performing the functions of the Auditor-General under section 167 of the Constitution, the Auditor-General has, on behalf of the Parliament, the following duties—

(a) to audit—

(i) the accounts of the Consolidated Fund; and

(ii) the whole of government financial statements and annual appropriation statement required to be included in the whole of government annual report for a financial year under the Financial Management Act 2004;

(b) to audit—

(i) the accounts of all state entities, except the Office of the Auditor-General and off-budget state entities that are exempted by regulations made under section 19 from audit by the Auditor-General; and

(ii) the financial statements required to be included in such a state entity’s annual report for a financial year under the Financial Management Act 2004;

(c) to audit the accounts of any entity whose borrowings have, in whole or in part, been guaranteed by the Government, but only if and to the extent the Minister has authorised or required the audit;

- (d) if considered appropriate by the Auditor-General—
  - (i) to conduct special investigations into the financial management of any state entity; or
  - (ii) to audit the accounts of any entity to the extent necessary to ensure that any conditions of any grant to it made by the State, the Government or a state entity have been complied with.

(2) The Auditor-General must satisfy himself or herself—

- (a) that the accounts have been faithfully and properly kept;
- (b) that expenditure has been properly authorised, properly applied and otherwise properly accounted for;
- (c) that, where applicable, all reasonable precautions have been taken to safeguard the collection of public money and trust money, and other money within the meaning of this Act, and that the laws, directions and or instructions relating to its collection have been duly observed;
- (d) that, where applicable, expenditure of money appropriated by the Parliament has been applied to the purposes for which the money was appropriated; and
- (e) that the provisions of the Constitution and of the Financial Management Act 2004, and of any other law relating to money or property subject to his or her audit, have otherwise been complied with in all material respects.

(3) The Auditor-General may conduct audits and special investigations under this section in such manner as he or she considers appropriate, but must ensure that they are conducted in a competent manner, having regard to—

- (a) the character of, and his or her assessment of the effectiveness of, any relevant internal control systems;
- (b) relevant provisions of Fiji Standards on Auditing issued by the Fiji Institute of Accountants; and
- (c) any other relevant standards that he or she considers appropriate.

(4) The Auditor-General must give—

- (a) an audit opinion on each set of financial statements audited; and
- (b) an audit memorandum to the responsible authority for each entity that is the subject of audit.

(5) At least once in every year, the Auditor-General must report to the Parliament on audits and special investigations conducted under this Act and on other significant matters the Auditor-General wishes to bring to the attention of the Parliament.

(6) The power of the Auditor-General to conduct audits has effect despite any contrary provision in—

- (a) any other written law in force immediately before the commencement of the Audit (Amendment) Act 2005 (which substituted this section); or

(b) a company's memorandum or articles or other governing instrument.

(7) If the regulations exempt an off-budget state entity from audit by the Auditor-General—

- (a) the audit is to be conducted by a person appointed, and in the manner provided, under other legislation relating to the entity; or
- (b) to the extent other legislation does not make provision for those matters, the audit is to be conducted by a person appointed, or in the manner provided, or both, under regulations referred to in subsection (8).

(8) The regulations may provide for the appointment, by a Minister or by the responsible authority for the entity, of a person of a specified class as auditor for the entity, and for the manner of conducting the audit, in the circumstances referred to in subsection (7) (b).

(9) An audit of a state entity that is a company extends to subsidiaries of the company.

(10) To avoid any doubt, subsection (1) (b) extends to the audit of the accounts of all money received or held by a state entity, whether or not for the purposes of government.

*Power to conduct performance audit*

6A. —(1) The Auditor-General may conduct any audit that the Auditor-General considers necessary to determine—

- (a) whether an entity that the Auditor-General must or may audit under section 6 is achieving its objectives effectively and doing so economically and efficiently and in compliance with all relevant Acts; or
- (b) whether the operations or activities of all state entities or one or more of those state entities are being performed effectively, economically and efficiently and in compliance with all relevant Acts.

(2) In conducting a performance audit under subsection (1), the Auditor-General may audit an entity together with one or more other entities.

(3) Before conducting a performance audit, the Auditor-General must prepare a specification for the audit that sets out the particular objectives of the audit and any particular issues to be addressed.

(4) The Auditor-General is to determine—

- (a) the intervals at which performance audits of a particular entity or entities are to be conducted; and
- (b) the number of performance audits to be conducted in each financial year.

(5) Nothing in this section entitles the Auditor-General to question the merit of policy objectives of the Government.

m(6) In this section—

A ‘policy objectives’ includes—

- (a) a Government policy direction of a Minister;
- (b) a policy statement in a budget paper;
- (c) a statement of objectives in a corporate plan approved by a Minister;
- (d) any other document evidencing a policy decision of the Government or a Minister;

“entity” means—

- (a) a budget sector agency; or
- (b) any other body prescribed by regulations.”

*Powers of Auditor-General*

The principal Act is amended by inserting after section 7 (1) (e) the following

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“(f) obtain legal advice from the private practice in circumstances considered appropriate by the Auditor-General.”

*New section 7A*

The principal Act is amended by inserting after section 7 the following

*“Contracting out of audits or special investigations*

7A.—(1) The Auditor-General may by contract authorise a person to conduct on behalf of the Auditor-General an audit or special investigation, except in relation to—

- (a) a budget sector agency; or
- (b) a state entity that collects taxes, including regulatory fees in the nature of taxes.

(2) The Auditor-General cannot by contract authorise a person to conduct an audit or special investigation under this section if the person is or has been in the last 12 months—

- (a) a member of staff of the Office of the Auditor-General; or
- (b) auditing the accounts of the Office of the Auditor-General.

(3) The person contracted to conduct an audit or special investigation under this section is required to conduct the audit or special investigation in accordance with audit standards specified by the Auditor-General, and is required to report to the Auditor-General on the audit or special investigation, and to give an audit opinion or audit memorandum under section 6 (4), in accordance with those audit standards.

(4) Subject to subsection (3), the person contracted to conduct an audit or special investigation under this section has, in relation to the conduct of an audit or special investigation, the powers and duties of the Auditor-General

under this Act (other than the power to obtain an opinion or legal advice under section 7 (1) (e) or (f)).

(5) For the purposes of subsection (1), a regulatory fee that is intended to recover the cost of a service from a user of the service is not in the nature of a tax.”

*Secrecy*

6. The principal Act is amended in section 8 by inserting at the end of the section the following subsection—

“(5) Subsection (3) does not prevent the divulging or communicating of information obtained in accordance with the provisions of section 7, upon request in writing, to the Commissioner of Police.

*Test audits, defective vouchers*

7. The principal Act is amended by repealing section 9.

*“Notification of serious irregularities*

8. The principal Act is amended in section 10 by deleting “of the Minister responsible for finance” and substituting the following—

“of—

- (a) the Minister for Finance;
- (b) the responsible authority for the entity that is the subject of audit or investigation; and
- (c) the Minister responsible for the entity.”

*Annual accounts*

9. The principal Act is amended by deleting section 11.

*New section 12*

10. The principal Act is amended by inserting before section 13 the following section—

*“Reports of Auditor-General*

12.-(1) A report of the Auditor-General to the Parliament about an audit must be submitted to the Speaker of the House of Representatives within 9 months after the year to which the audit relates or within a longer period appointed by resolution of the House.

(2) A report of the Auditor-General to the Parliament about a special investigation must be submitted to the Speaker of the House of Representatives not later than 6 months after the year in which the special investigation was completed or within a longer period appointed by resolution of the House.

(3) A report of the Auditor-General to the Parliament about a performance audit must be submitted to the Speaker of the House of Representatives not later than 6 months after the year in which the performance audit was completed or within a longer period appointed by resolution of the House.

4) Nothing in this section implies that a single report cannot be about 2 or more audits, special investigations or performance audit or all of them.”

*Audit of other bodies*

The principal Act is amended in section 13—

- (a) by deleting “accounting officers” from subsection (1) (a) and substituting “state entities”;
- (b) by deleting “Minister responsible for finance” in subsections (2) and (3) and substituting “Minister for Finance”;
- (c) by deleting subsection (4);
- (d) by inserting at the end of the section the following subsection—  
“ (5) This section does not apply to the audit of the accounts of state entities.”

*New sections 14 to 19*

The principal Act is amended by inserting after section 13 the following

*“Audit of the Office of the Auditor-General*

- 14.—(1) The Speaker of the House of Representatives may appoint a natural person to audit the accounts of the Office of the Auditor-General for a term not exceeding 3 years.
- (2) A person appointed under this section may be re-appointed for a further term or terms each not exceeding 3 years, but a period of at least 3 years must elapse between each such term.
  - (3) A person who is, or has been in the last 12 months, the Auditor-General or a member of the staff of the Office of the Auditor-General, cannot audit or be appointed to audit the accounts of the Office of the Auditor-General.
  - (4) The person appointed to conduct an audit under this section has, in relation to the audit, the powers and duties of the Auditor-General under this Act (other than powers under section 7 (1) (e) or (f)), but must report the results of the audit to the Auditor-General for inclusion in a report to the Parliament by the Auditor-General.

*Audit fees*

15.—(1) The Auditor-General may set fees for audits and special investigations conducted under this Act in relation to state entities and other entities, but only in accordance with guidelines for the time being approved by the Minister for Finance.

- (2) An entity in relation to which an audit or special investigation is conducted under this Act must, on receipt of the relevant invoice, pay the fee set for the audit or investigation.
- (3) Different fees may be set for different classes of audits or special investigations.

*Application of this Act to certain state entities*

16. This Act applies to government commercial companies and commercial statutory authorities under the Public Enterprise Act 1996 subject to and in accordance with section 100 of that Act.

*Review of audits*

17.—(1) If—

- (a) an off-budget state entity is exempted under this Act from audit by the Auditor-General but the accounts of the entity are to be audited by another person; or
- (b) the audit of an off-budget state entity is contracted out to another person under this Act,

the Auditor-General is empowered to review the audit and prepare a report for the Parliament on the results of the review.

(2) Despite section 16, this section extends to an audit under section 100 of the Public Enterprise Act 1996 of a government commercial company or commercial statutory authority that is exempted under this Act from audit by the Auditor-General.

*Extra-territorial operation*

18. This Act extends, as far as possible, to—

- (a) financial transactions;
  - (b) balances; and
  - (c) acts and omissions;
- outside the Fiji Islands.

*Regulations*

19. The Minister for Finance may make regulations to give effect to the provisions of this Act and in particular to provide for any matter required or permitted to be prescribed for the purposes of this Act.”

Passed by House of Representatives on 15th February 2006.

Passed by Senate on 9th March 2006.