

## A

## BILL FOR

- Long title.* A Law to establish the Akwa Ibom State Audit Service Commission, Offices of the Auditor-General for Akwa Ibom State and Auditor-General for Local Governments and for other matters connected therewith.
- Commencement.* ( )
- Enactment.* **BE IT ENACTED** by the Akwa Ibom State House of Assembly as follows –

## PART I

*Establishment and Membership*

- Establishment.* 1. (1) There is hereby established a Commission to be known as the Audit Service Commission.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal, and shall have power to sue and be sued in its corporate name and own, hold and dispose of property whether movable or immovable.
- Membership.* 2. (1) The Commission shall consist of –
- (a) a Chairman who shall be knowledgeable and experienced in audit matters;
  - (b) four other members two of which shall be qualified Auditors and the other two shall have considerable knowledge and experience in financial matters; and
  - (c) the following ex-officio members –
    - (i) the State Auditor-General;
    - (ii) the Auditor-General for Local Governments; and
    - (iii) the Permanent Secretary, State Civil Service Commission.

(2) The Chairman and members shall be appointed by the Governor subject to confirmation by the State House of Assembly.

*Qualification for membership.*

3. (1) No person shall be qualified for appointment as a member of the Commission if –

- (a) he is of questionable character;
- (b) within the preceding ten years he has been removed as a member of any of the bodies established by Section 197 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) or as the holder of any other office on the ground of misconduct; or
- (c) he has been convicted of a criminal offence by a Court of competent jurisdiction or tribunal.

(2) Any person employed in the Public Service of the Federation or of a State shall not be disqualified for appointment as a Chairman or member of the Commission provided that where such person has been duly appointed, he shall on his appointment be deemed to have resigned from his former office upon accepting the offer of appointment.

*Tenure of office.*

4. A member of the Commission, shall hold office for a period of four years from the date of his appointment and may be re-appointed for another term of four years only.

*Cessation of office.*

5. (1) The Chairman and any of the members shall cease to hold office if he –

- (a) resigns his membership of the Commission in writing by a letter addressed to the Governor; or
- (b) is permanently incapacitated or dies; or
- (c) is convicted of an offence which involves moral turpitude; or
- (d) is involved in any act that may be considered inimical to the interest of the Offices or the State; or

(e) becomes bankrupt or made a compromise with his creditor.

(2) The removal of the Chairman or any member shall be confirmed by a two-third majority of the State House of Assembly, where such removal is based on misconduct or on inability to perform the functions of his office.

*Filling of vacancy.*

6. At the commencement of this Law, or upon the expiration of the tenure of members of the Commission, at any time or upon a vacancy occurring in the membership of the Commission, the Governor shall within thirty days appoint a person to fill the vacancy, and such appointment shall be subject to confirmation by the State House of Assembly.

*Remuneration and Allowances.*

7. The Chairman and members of the Commission shall be paid such remuneration and allowances as may be prescribed by extant laws.

*Secretary to Commission.*

8. (1) The Commission shall have a Secretary who shall be –

(a) a public officer within the directorate cadre in the State Civil Service; and

(b) the Accounting Officer of the Commission.

(2) The Secretary shall hold office on such terms and conditions as may be specified in his letter of appointment for a term of four years in the first instance, and may be re-appointed for a further term of four years and no more.

(3) Subject to the general direction of the Commission, the Secretary shall be responsible for the day-to-day administration of the Commission and for the keeping of books and proper records of proceedings of the Commission.

(4) The Secretary shall perform all other duties affecting the Commission as may be assigned to him by the Chairman.

## **PART II**

### ***Functions and Powers***

*Functions.*

9. The Commission shall –

- (a) confirm the appointment of persons recruited by the Auditors-General;
- (b) subject any staff of the offices of the Auditors-General to disciplinary processes and impose sanction based on the recommendation of the Auditors-General;
- (c) perform such other duties and functions as are necessary or expedient for the discharge of its functions under this Law.

*Powers.*

10. (1) The Commission shall have power to –
- (a) appoint persons to hold or act in such offices as may constitute the Directorates and Units of the Commission;
  - (b) promote, transfer and confirm appointments of staff of the Commission; and
  - (c) dismiss and exercise disciplinary control over such persons holding or acting in such offices.

(2) If the Commission thinks it expedient that any vacancy in the staff of the Offices should be filled by a person holding office in any public service of the State, it shall notify the appropriate Service Commission to that effect and the Commission may, by arrangement with the Service Commission concerned, cause such vacancy to be filled by way of secondment or transfer.

(3) Where any member of staff of any Service Commission is seconded under sub-section (3) of Section 10, he shall be notified of the terms and conditions of the secondment; which shall be without prejudice to any pension rights that would accrue to him.

(4) A person seconded pursuant to sub-section (3) of this section may elect, subject to the approval of the Commission, to be transferred to the service of any of the Offices in which case any previous service shall count as service for the purposes of pensions subsequently payable by the relevant Office.

(5) A member of staff of any of the Offices may elect to transfer or be seconded to any other public service of the State and such right of transfer or secondment shall not operate to the disadvantage of the officer concerned.

### **PART III**

#### ***Staff of Commission***

*Staff of Commission.* 11. The Commission may appoint from the Civil Service such persons as may be necessary to enable it carry out its functions under the provisions of this Law.

*Staff regulation.* 12. The Commission may make regulations relating to the conditions of service of its employees and without prejudice to the generality of the foregoing, such regulations may provide for –

- (a) the appointment, promotion and disciplinary control (including dismissal) of its employees; and
- (b) appeals by such employees against dismissal or any other disciplinary measure and until such regulations are made, any instrument relating to the conditions of service of officers in the Civil Service of the State shall be applicable, with such modifications, as may be necessary, to the employees.

*Pensions.* 13. (1) Service in the Commission shall be pensionable and accordingly, officers of the Commission shall in respect of their services be entitled to such pensions, gratuities and other retirement benefits as prescribed under the Pension Laws in force in the State.

(2) The period of service of any person in the Commission shall be joined to and deemed to be continuous with the period served by that person previously or subsequently in any other pensionable service.

(3) Nothing in the provisions of this section shall prevent the appointment of a person to any office in the Commission on terms

which preclude the grant of pension or gratuity in respect of service in that office.

#### **PART IV Meetings**

- Convening of meeting.* 14. The meetings of the Commission shall be convened by the Chairman or by a simple majority of members.
- Presiding at meetings.* 15. At any meeting of the Commission, the Chairman shall preside and in his absence, any member of the Commission as the other members may elect from among themselves shall preside.
- Quorum.* 16. (1) The quorum for any meeting of the Commission shall be not less than four members including the Chairman.
- (2) Any matter, which comes before the Commission for decision shall be decided by the vote of a simple majority of the members present, and in the event of equality of votes, the Chairman shall have a casting vote.
- Validity of proceedings.* 17. The validity of any proceedings of the Commission shall not be affected by reason of the existence of any vacancy in the Commission or any defect in the appointment of any member.
- Co-optation of members.* 18. The Commission may co-opt person(s) who are not members of the Commission for any meeting of the Commission or its Committee and such co-opted person(s) may take part in the deliberations of the Commission or any of its Committees but shall not be entitled to vote or be counted as part of the quorum of the meeting.
- Representation in court.* 19. In any civil action or proceedings, the Commission may be represented by counsel from the office of the Hon. Attorney-General of the State.
- Privilege of Commission.* 20. (1) Any report, statement, communication, record or any meeting or proceeding which the Commission may make in the due exercise of its functions or which any member of the Commission may make in the course of performing his official duties shall be privileged.
- (2) Subject to sub-section (1) of this section, a report, statement, communication, record of any meeting or proceeding of

the Commission may be released on request after due authorization by the Chairman and subject to extant laws in the State.

*Standing orders.*

21. The Commission shall have power to regulate its proceedings and may make standing orders for that purpose.

## **PART V**

### ***Funds of Commission***

*Funds.*

22. (1) There shall be established a fund for the Commission which shall be provided for in the annual budget of the State.

(2) There shall be paid and credited to the fund –

(a) any sum appropriated to the Commission by the House of Assembly in each Financial Year;

(b) all monies raised for the purposes of the Commission by way of take-off grant, gifts or grants-in-aid; and

(c) proceeds from all other assets that may accrue from time to time to the Commission.

(3) The Commission shall defray all expenditures incurred by it from the fund which shall include –

(a) the cost of administration;

(b) the payment of salaries, fees or other remunerations or allowances and pensions and gratuities payable to members and employees of the Commission as the case may be; and

(c) anything done in furtherance to any of its functions under this Law.

## **PART VI**

### ***Establishment of Office of State Auditor-General***

*Establishment of Office and*

23. (1) In accordance with sub-section (1) of Section 125 of the Constitution of the Federal Republic of Nigeria 1999 (as amended),

*Appointment of State Auditor-General.* there is established an office to be known as the Office of the State Auditor-General.

(2) The Office shall be headed by the State Auditor-General who shall be appointed by the Governor in accordance with the provisions of Section 126 of the Constitution of the Federal Republic of Nigeria.

(3) The office of the State Auditor-General shall be a body corporate with perpetual succession and common seal, may sue and be sued in its corporate name and may acquire, hold or dispose of any property, movable or immovable for the purpose of carrying out of its function under the law.

(4) The Commission shall recommend three qualified persons within the civil service of the State to the Governor for one of them to be appointed as Auditor-General.

*Qualification of State Auditor-General.* 24. Subject to Section 125 (1) of the Constitution, a person shall be appointed State Auditor-General, provided the person is a qualified Accountant who has held full membership of a professional accountancy body recognized by an Act of Parliament in Nigeria, for a period of not less than fifteen years post qualification and is able to demonstrate and provide independent testament to a minimum of fifteen years cognate experience in auditing the public sector.

*Remuneration, Salaries and Allowances of State Auditor-General* 25. (1) The State Auditor-General shall be paid such remuneration and salaries as may be prescribed by the House of Assembly, but not exceeding the amount as shall have been determined by the Revenue Mobilization, Allocation and Fiscal Commission of the Federal Republic of Nigeria.

(2) The remuneration and salaries of the State Auditor-General shall be charged upon the Consolidated Revenue Fund of the State.

(3) The remuneration and allowances payable to the State Auditor-General and his conditions of service shall not be altered to his disadvantage after his appointment.

(4) The Auditor-General shall, on retirement be entitled to pension as applicable in the rules of the civil service of the State.



(5) Any pension granted to the retiring Auditor-General by virtue of sub-section (4) above shall be charged upon the Consolidated Revenue Fund of the State.

*Tenure of office of State Auditor-General* 26. The State Auditor-General shall remain in Office until he has attained the retirement age of sixty years or has put in thirty five years of service, whichever is earlier in accordance with the Pensions Law of the State, be prescribed by law except where he is removed under the provisions of this Law.

*Cessation of office of State Auditor-General.* 27. A person holding the Office of the State Auditor-General shall cease to hold office if he –

- (a) is removed by the Governor acting on an address supported by two-thirds majority of the House of Assembly praying that he be so removed for inability to discharge the functions of his Office (whether arising from infirmity of mind or body or any other cause) or for misconduct: Provided that he shall have been given at least twenty-one working days' notice in writing to defend himself on the floor of the House of Assembly;
- (b) resigns/retires;
- (c) is permanently incapacitated.

*Vacancy in the Office of State Auditor-General.* 28. (1) In the event of the absence or incapacitation of the State Auditor-General or where the Office of the State Auditor-General is vacant, the Governor may, on the recommendation of the Commission appoint a person to perform the duties of the State Auditor-General temporarily.

(2) A person appointed pursuant to sub-section (1) of this section shall possess the qualifications specified in section 24 of this Law.

(3) No person shall act in the Office of State Auditor-General for a period exceeding six months except by resolution of the State House of Assembly.

Structure of Office  
of State Auditor-  
General.

29. (1) The Office of the State Auditor-General shall consist of Directorates which shall include –

- (a) Ministerial Audit;
- (b) Revenue and Treasury Audit;
- (c) Planning, Research and Statistics;
- (d) Finance and Accounts;
- (e) Zonal Offices;
- (f) Administration and Supplies;
- (g) Parastatals and Extra-Ministerial; and
- (h) Project Monitoring.

(2) Such other Directorates as may be required from time to time or such restructuring as the Auditor-General may from time to time approve.

## PART VII

### ***Functions and Powers of State Auditor-General***

Functions of State  
Auditor-General.

30. (1) The State Auditor-General shall –

- (a) take all reasonable precautions to safeguard the collection of public monies and ensure that the law, directions and instructions relating to the said collection have been duly observed and obeyed;
- (b) ensure that all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the grants made by the Executive Council of the State and the State House of Assembly were intended, and that the expenditure conforms to the authority which governs it;
- (c) ensure that adequate audit regulations exist for Accounting and Financial operations in the State and that they are duly observed;

- (d) ensure that monies have been expended with efficiency and effectiveness and with due regard to Financial Regulations;
  - (e) ensure that satisfactory procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
  - (f) ensure that the attention of the appropriate authorities have been drawn to any irregularity observed during the examination of the account as soon as facts of such irregularities have been established and confirmed;
  - (g) ensure that, as a result of the audit conducted by him, all queries and observations are addressed to the Accountant-General, the Accounting Officer or any other appropriate person and call for such accounts, vouchers, statements, documents, and explanations as he may deem fit;
  - (h) where he deems it fit, surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had surcharged and the reason for the surcharge and shall report the circumstances of the case to the Accounting Officer of the affected department; and
  - (i) carry out such audits as he may deem necessary to safeguard government assets.
- (2) The State Auditor-General shall also audit –
- (a) the use of public monies, resources or assets by a recipient or beneficiary regardless of its legal nature;

- (b) collection of revenues owed to the State Government or other public entities;
- (c) the quality of financial management and reporting by the State Ministries, Departments and Agencies; and
- (d) the implementation of policies of government and public entities.

(3) The State Auditor-General shall, in exercising his functions under the provisions of this Law, express his opinion as to whether the financial statements and accounts represent the financial information in accordance with applicable statutory provisions, stated accounting policies of government, generally accepted accounting principles and standards, and are essentially consistent with those of the preceding year.

(4) The State Auditor-General or any person authorized by him to conduct periodic checks on a statutory corporation, Parastatal or Educational Institution shall, in addition to the audit report, draw attention to the following –

- (a) the profitability, liquidity, stability or solvency of such body as well as performance of the body in the capital market, where applicable;
- (b) any delay in the payment of government's portion of any dividend into the consolidated Revenue Fund;
- (c) any fraud or loss and, if so, their underlying causes and person(s) responsible for such fraud or losses;
- (d) any internal control weaknesses which were identified;
- (e) the general corporate performance indicating achievement against set targets and objectives; and

(f) whether the finances of the body have been conducted with due regard to economy, efficiency and effectiveness, having regard to the resources utilized.

(5) The State Auditor-General shall evaluate the adequacy of the State's enterprise risk management strategies and policies and make recommendations for their improvement.

(6) The State Auditor-General in the exercise of his responsibility shall publish and disseminate the annual statutory report once they have been formally submitted to the House of Assembly of the State Government electronically and manually.

(7) In the performance of his functions under this Law, the State Auditor-General shall not be subject to the direction or control of any authority or person.

*Powers of State Auditor-General.*

31. (1) The State Auditor-General shall –

- (a) prepare an audit plan and associated budget for the approval of the House of Assembly not later than three months before the end of the budget year;
- (b) audit all public accounts of the State;
- (c) within ninety days of the receipt of the Accountant General's financial statement and annual accounts of the State, submit his report to the House of Assembly; and
- (d) either by himself or any person authorized by him, have access to all the books, records, returns, and other documents relating to the accounts referred to in paragraph (b) of this sub-section whether kept electronically or otherwise.

(2) If at any time it appears to the State Auditor-General that any irregularities have occurred in the receipt, custody or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any securities, stores or other Government property, or in

the accounting of same, he shall immediately bring the matter to the notice of the House of Assembly.

(3) The State Auditor-General may –

- (a) seek the advice or opinion of the office of the Attorney-General of the State in writing on any question or issue arising from the provisions of this Law in respect of all matters and issues, that may be necessary for the due performance and exercise of the duties and powers vested in him;
- (b) deploy any officer in his office to any government department, authority, commission or agency to enable the officer carry out his duties effectively for a given period; and such Government Agency shall provide accommodation and other necessary facilities for the officer to perform his duties.

(4) For the purpose of discharging the functions of his office, the State Auditor-General, subject to the provisions of this Law, may do anything necessary and enter into any transaction necessary to ensure the proper performance of those functions; this may include –

- (a) implementing a human resource management system and policies for managing the staff and staff developmental programmes;
- (b) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis and retrieval of relevant information;
- (c) engaging the services of professionals to serve on a contract basis for limited engagements, including those required as part of agreements with international organizations, provided that all audit

opinions shall remain those of the State Auditor- General; and

- (d) constituting or establishing any standing or ad hoc Committee to facilitate the discharge of the functions of his office.

(5) Nothing in sub-section (1) (b) of this section shall be construed as authorizing the State Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by Law. However, the State Auditor-General shall –

- (a) provide such bodies with –
  - (i) a list of auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external auditors;
  - (ii) a guideline on the level of fees to be paid to external auditors; and
- (b) comment on their annual accounts and auditor's report thereon.

(6) The State Auditor-General may –

- (a) require a public officer to give explanation or information which he may require in order to enable him discharge his duties; and
- (b) cause a search to be made and extracts to be taken or copies made from any book, document or record in any public office.

(7) The State Auditor-General in the performance of his functions under this Law or any other Law may disallow any item of expenditure which is contrary to Law, and surcharge –

- (a) the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;
- (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; and
- (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(8) Any person aggrieved by a disallowance or surcharge made by the State Auditor-General may appeal to the Public Accounts Committee of the House of Assembly.

*Independence and autonomy of State Auditor-General in performance of functions.*

32. (1) In the performance of his functions and duties under this autonomy Law, the State Auditor General shall not be subject to the direction, control, or interference of any authority or person(s) or any institution(s) or any branch of government especially but not limited to –

- (a) the selection of audit issues;
- (b) planning, programming, conduct, reporting and follow-up of the audits;
- (c) organization and management of his office; and
- (d) enforcement and application of sanctions.

(2) It shall be the responsibility of the State Auditor General to approve all audit plans and programs, and also the actual conduct of the Audit of State Ministries, Departments and Agencies and he or she shall also develop an internal follow-up system, which shall include post-audit meetings with the audited entities to ensure that the audited entities properly address the observations and recommendations as well as



those made by the House of Assembly and to confirm that corrective and remedial actions are taken.

(3) In reporting the result of the audit work, the State Auditor- General shall be free to –

- (a) decide the content of the audit reports;
- (b) make observations and recommendations in the audit reports taking into consideration, the views of the audited entity;
- (c) decide the timing of the audit reports except where specific reporting requirements are prescribed by any law; and
- (d) publish and disseminate the reports, once they have been formally submitted to the House of Assembly.

(4) In the discharge of his duties under this Law, the State Auditor-General may accommodate specific requests for audit or investigation made by either the House of Assembly or the Governor.

## **PART VIII**

### ***Accounts***

*Annual Accounts.* 33. (1) Within a period of six months after the end of each fiscal year, the Accountant-General shall present to the State Auditor-General, accounts showing the fiscal position of the State as at the last day of the preceding year.

(2) Such accounts shall include –

- (a) statement no.1- Responsibility for Financial Statement;
- (b) statement no.2- Cash Flow Statements;
- (c) statement no.3- Statement of Assets and Liabilities;

- (d) statement no.4 -Statement of Consolidated Revenue Fund;
- (e) statement no.5- Statement of Capital Development Fund;
- (f) statement no.6- Statement of Recurrent Revenue and Expenditure;
- (g) statement no.7- Donations and Grants;
- (h) statement no.8- Statement of Contractual Liabilities;
- (i) statement no.9- Statement of Investments;
- (j) statement no.10- Statement of External and Internal Loans;
- (k) notes to the Financial Statements; and
- (l) other statements which may be required by accounting and auditing standards, practices or statutes.

(3) The notes to the financial statements shall provide information about the basis of preparation of the financial statements and the specific accounting policies selected and applied for significant transactions and other events for the purpose of users' understanding and comparability.

(4) The notes shall include the following –

- (a) a statement of compliance with approved accounting standards;
- (b) a statement of accounting policies applied;
- (c) supporting information for items presented on the face of the financial statements; and
- (d) supporting statements.

(5) Within three months after the close of each fiscal year, the Accounting Officer shall prepare and submit to the Accountant-General with copy to the State Auditor-General, appropriation

accounts of the monies expended under the votes for which they are responsible showing the –

- (a) services for which the monies were voted;
- (b) sums actually expended on each service during the period of the accounts; and
- (c) state of each vote compared with the appropriation.

Provided that each account shall contain such variation between the expenditure and the sums voted, such other required information shall be in such form as the State Auditor-General may direct; and the statement as well as the appropriated accounts shall be signed by the Accounting Officer.

*Annual Certificate and Report of State of Auditor-General.*

34. The State Auditor-General shall within ninety days of receipt of the Accountant-General's Financial Statements and Annual Accounts the State, submit his report to the State House of Assembly which shall cause the report to be considered by the Public Accounts Committee in accordance with Section 55 of this Law.

*Establishment and Functions of Audit Committee.*

35. (1) There is hereby established in every Ministry, Department and Agency of the State, an Audit Committee.

(2) The Audit Committee shall be headed by the Accounting Officer in such Ministry, Department or Agency.

(3) The Audit Committee shall –

- (a) implement all recommendations contained in the State Auditor-General's report which are approved by the House of Assembly and any other resolution or directive of the House of Assembly; and
- (b) prepare annually, a report showing the status of the implementation of the provisions of paragraph (a) of this sub-section.

(4) The report prepared pursuant to paragraphs (a) and (b) of sub-section (3) of this Section shall contain a statement showing the remedial action(s) taken or being taken to avoid or minimize the

occurrence of the undesirable features in the accounts and operations of the ministry, department or agency and the time frame within which the remedial action(s) will be completed if any.

(5) A copy of the report shall be forwarded to the State Auditor-General.

## PART IX

### ***Establishment of Office of Auditor-General for Local Governments***

Auditor-General for Local Governments. 36. (1) There is hereby established an office to be known as the Office of the Auditor-General for Local Governments.

(2) The Office shall be headed by the Auditor-General for Local Governments.

(3) The Auditor-General for Local Governments shall be appointed by the Governor subject to confirmation by the House of Assembly.

(4) The Auditor-General for Local Governments shall be –

(a) a professional Accountant with a minimum of fifteen years post qualification and cognate experience in Accounting or Auditing fields; and

(b) a member of a recognized professional body of accountants.

(5) The tenure of Office of the Auditor-General for Local Governments shall be the same as that of the State Auditor-General specified in section 26 of this Law.

(6) The provisions of sections 24, 25, 26, 27 and 28 of this Law on establishment of office of the State Auditor-General shall apply to the establishment of the office of Auditor General for Local Government.

*Functions of Auditor-General for Local Governments.*

37. (1) The public accounts of each Local Government Council and their related offices in the State shall be audited by the Auditor-General for Local Governments.

(2) The Auditor-General for Local Governments shall, within six months from the end of each financial year, submit his report to the State House of Assembly.

(3) All ministries, departments and agencies including bodies established by law to which Local Government funds are appropriated shall make the accounts kept in respect of such funds available to the Auditor General for Local Governments for auditing.

(4) The Auditor-General for Local Governments shall within three months from the date of receipt of accounts from the Chairman of a Local Government Council, submit his report to the State House of Assembly.

(5) In the performance of his functions under this Law, the Auditor-General for Local-Governments shall not be subject to the direction or control of any authority or person.

(6) For the avoidance of doubt, the functions of the Auditor General for Local Government shall be the same as the functions of the State Auditor General under section 30 and other relevant sections of this Law with such modifications as may be appropriate.

*Powers of Auditor-General for Local Governments.*

38. (1) In the exercise of his powers under this law the Auditor-General for Local Governments or any person authorized by him shall have access to all books, records, returns and other documents relating to the accounts and may in particular exercise all or any of the powers exercised by the State Auditor-General under Section 31 of this law with such modifications as may be appropriate.

(2) The Auditor General for Local Government shall not be involved or seen to be involved in any manner whatsoever, in the management of any auditable entity and he shall grant full discretion in the discharge of his responsibilities to co-operate with government or public entities that strive to improve the use and management of public funds.

39. (1) Within a period of three months or such longer period as the House of Assembly may approve after the close of each financial year, the Chairman of each Local Government Council shall sign and present to the Auditor-General for Local Governments, financial statements showing the financial position of the Local Government Council on the last day of such financial year.

(2) The financial statements referred to in sub-section (1) of this section shall include –

- (a) a Statement of responsibility for financial statements
- (b) cash flow statements
- (c) statement of assets and liabilities
- (d) statement of consolidated revenue fund
- (e) statement of capital development fund
- (f) notes to the financial Statement;
- (g) such other statements as the Auditor-General for Local Governments may require;
- (h) other statements which may be required by accounting and auditing standards, practices or statutes.

(3) The Auditor-General for Local Governments shall forward to the House of Assembly copies of the accounts signed and presented by each Chairman of a Local Government Council in pursuance of the provisions of sub-section (2) of this section together with a certificate and report of his examination and audit of all accounts relating to public monies, stamps, securities, stores and other Local Government property.

(4) The Auditor-General for Local Governments shall submit follow-up reports to the House of Assembly and also submit audit reports to the Governing Board or Council of an audited entity as appropriate for review and follow-up on specific recommendations for corrective action.

(5) On receipt of the documents referred to in sub-section (3) of this section, the House of Assembly shall lay them before the Public Accounts Committee for consideration.

*Establishment and Functions of Local Government Audit Committee.*

40. (1) There is hereby established in every Local Government Council of the State, an Audit Committee.

(2) The Audit Committee shall be headed by the Accounting Officer in such Council.

(3) The Audit Committee shall –

(a) implement all recommendations contained in the report of the Auditor-General for Local Governments which are approved by the State House of Assembly and any other resolution or directive of the State House of Assembly; and

(b) prepare annually, a report showing the status of the implementation of the provisions of sub-paragraph (a) of this sub-section.

(4) The report prepared pursuant to paragraphs (a) and (b) of sub-section (3) of this Section shall contain a statement showing the remedial action(s) taken or being taken to avoid or minimize the occurrence of the undesirable features in the accounts and operations of the ministry, department or agency and the time frame within which the remedial action(s) will be completed if any.

(5) A copy of the report shall be forwarded to the Auditor-General for Local Governments.

*Structure of Office of Local Government Auditor-General.*

41. (1) The Office of the Auditor-General for Local Governments shall consist of Directorates which shall include –

(a) statutory Audit Directorate;

(b) Domestic Audit Directorate;

(c) Parastatals Audit Directorate;

(d) Special Audit and Investigations Directorate;

(e) Administration and Supplies Directorate;

(f) Finance and Accounts Directorate;

(g) Planning, Research and Statistics Directorate.

(2) Such other Directorates as may be required from time to time.

(3) The Auditor-General for Local Government may from time to time cause such restructuring of the directorates as he deems expedient.

## PART X

### *Offences and Penalties*

*General penalty.*

42. (1) Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged –

- (a) obstructs, intimidates, harasses, or hinders the Auditors-General or any person authorized by them in the exercise of their functions and powers under this Law; or
- (b) refuses or fails to comply with any lawful request of the Auditors-General or their representative; or
- (c) fails to produce for inspection to the Auditors-General or their representative or otherwise refuses the Auditors-General or their representative access to any book, record, returns, payment voucher, revenue receipt or other documents relating or relevant to any account to be audited by the Auditors-General or their representative when so requested; or
- (d) fails to keep proper books of account or proper records leading to any loss of public funds; or
- (e) makes a statement or gives information to the Auditors-General or their representative which is false or misleading; or



- (f) suppresses any information required by the Auditors-General in the performance of their functions under this Law or any other enactment;

commits an offence and shall be liable on conviction –

- (i) in the case of an individual, to a fine of not less than Two Hundred and Fifty Thousand Naira or a term of confinement not exceeding two years or to both such fine and confinement ; and
- (ii) in the case of a body corporate or firm, to a fine of not less than Five Hundred Thousand Naira.

(2) Where a body corporate or firm is convicted of an offence under sub-section (1) of this section, every director of the company or firm shall be liable to a fine of not less than Two Hundred and Fifty Thousand Naira or a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(3) Notwithstanding the provisions of subsection (2) of this Section, where the director or principal officer of a company or firm proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, he shall be exculpated.

*Sanctions on staff.*

43. (1) Any member of staff of the Office of the Auditors-General who –
- (a) demands or takes any bribe, gratuity, compensation or reward for the neglect or non- performance of his duty; or;
  - (b) fails to report to the appropriate Auditor-General any abuse or irregularity coming to his notice in the course of his duties in relation to any account audited, or;

(c) makes any report to the appropriate Auditor-General which he knows to be false or which he has no reason to believe to be true,

commits an offence and shall be liable on conviction to a fine of not less than One Hundred Thousand Naira or confinement for two years or to both such fine and confinement .

(2) Accounting Officers shall be held responsible for full recovery of losses discovered from erring officers.

(3) Any Accounting Officer who fails to make necessary recovery or fails to make reasonable effort to recover the said loss, commits an offence and shall be liable on conviction to a fine of Five Hundred Thousand Naira in addition to the amount of loss involved.

*Refusal to answer query.*

44. Without prejudice to any other provision of this Law, any person who fails or refuses to reply to an audit query or observation within the period specified in the audit query or a reasonable time thereafter shall have his emoluments and allowances withheld for so long as the person fails to reply and shall be liable to disciplinary action under the State Public Service Rules.

## **PART XI**

### ***Miscellaneous and General Provisions***

*Conflict of interest.* 45. (1) The Auditors-General and their staff shall not be involved in any manner whatsoever in the management of any auditable entity.

(2) The Auditors-General shall ensure that staff of the Audit offices do not develop too close a relationship with the entities they audit, so that they shall remain objective and neutral in the discharge of their duties.

*Access to information.*

46. The Auditors-General and their staff shall have unrestricted access to such people, documents, computers and other information systems and assets as they consider necessary for the proper

performance of their functions and to do this the Auditors-General shall–

- (a) advise the person in writing of the nature of the information and why its is needed;
- (b) state that the information is required under this Law; and
- (c) reimburse the person for any reasonable costs associated with producing such information on condition that the person shall not use such information for any other purpose.

*Power to summon.* 47. (1) The Auditors-General may, in the course of fulfilling their functions, duties or powers –

- (a) summon a person as witness to give evidence either orally or in writing; and
- (b) for the purpose of examining a person, the Auditors-General may administer an oath.

(2) Any person who upon examination pursuant to subsection (1)(a) and (b), knowingly gives a false answer to any question or makes any false statement on any matter be deemed to commit the offence of perjury and shall be liable on conviction to punishment in accordance with extant laws.

*Access to banking information.* 48. (1) For the purpose of performing his functions and duties or exercising his power under this Law, the Auditors-General may –

- (a) examine or audit the account of any person held at any bank if the Auditors-General has reason to believe that the money held in such an account are public funds which had been fraudulently or wrongfully paid into such account;
- (b) as a pre-requisite to exercising this authority, the Auditors-General may enter into a non-disclosure agreed with the holder of the account and afford such holder absolute

assurance that any information disclosed for purposes of examination or audit shall not be used for any other purpose other than as legally intended under this Law, and shall not proceed with any such examination or audit without first obtaining ex-parte a warrant of the High Court authorizing such examination; and

- (c) upon being presented with such warrant as is described in this Section, the bank officer shall be required to produce all relevant records for the account in question, in any form (hard and/or soft copy), that is in the bank's custody or control.

(2) The Auditors-General shall have the right to make copies of any record, including electronic or digital records or the like, obtained in terms of this Section and shall have all such copies notarized by a Court appointed Notary, the cost of which shall be defrayed by the Auditors-General. The officer of the bank shall append a suitable endorsement electronically or in indelible ink that at a minimum shall identify the bank from which such records were obtained and the date on which such records were obtained. The officer of the bank shall electronically initiate or under his own hand and in ink, initial each page of any records so provided.

*Power to conduct search.*

49. The Auditors-General shall have the power under this Law to –
- (a) at any time access any government facility, examine the records of an auditee and have extracts taken from any book(s) of account, accounting entries recorded electronically and any other form of accounts maintained that relate to money or stores and as such may have relevance to the subject of an audit without paying any fee;
  - (b) at any time execute a search, without the need for a warrant of the court, on any State-owned

property, person present on such property or vehicle located on such property in order to locate and appropriate any such records, accounts or general information of relevance to the audit;

- (c) under the authority of the warrant of a Court enter and conduct a search of any private property, premises, vehicle or person if there is reasonable suspicion that a document, account, written or electronic record, general information or asset which the Auditors-General needs to inspect for reasons of relevance to the audit is hidden or kept on such property, premises, person or in a vehicle located on such property or premises;
- (d) appropriate and retain any such document written or electronic record, general information, or asset for purposes of completing the audit;
- (e) request the support of relevant law enforcement agencies in the execution of the warrant of the Court where considered necessary;
- (f) the persons conducting the search shall identify themselves to the person in charge of the premises, property or vehicle and shall hand over a copy of the warrant of the Court to the person in charge or affix a copy of the warrant to the premises, property or vehicle in a prominent place; and
- (g) any such entry and search of property shall be conducted with due regard for decency, order and constitutional rights of the affected person.

*Powers to surcharge.* 50. (1) The Auditors-General in the performance of their functions under this Law or any other law may disallow any item of expenditure which is contrary to law, and surcharge full or partially –

- (a) the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;
- (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; and
- (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(2) Where the Auditors-General make a surcharge or disallow any expenditure, they shall specify to the appropriate Head of Department or Institution, the amount due from any person upon whom they have imposed a surcharge and shall state the reason for imposing the surcharge and report the results of the examination of relevant accounts, operational processes and circumstances that caused the surcharge to be imposed to the Accounting Officer of the affected Department or Institution.

(3) Every sum so specified by the Auditors-General as a surcharge shall become due for payment by the person on whom such surcharge is imposed within sixty days after the date on such surcharge was formally imposed.

(4) Any such sum as may become payable under this Section and which remains outstanding beyond the prescribed period of sixty days shall become recoverable by the relevant Accounting Officer who may, where necessary, initiate civil proceedings and whereupon judgment is obtained in a Court of competent jurisdiction shall consider any such sum recoverable as civil debt. Where such sum owed as a civil debt is recoverable from a person in receipt of a remuneration from the State Government or any Government Institution, such remuneration shall be attached either in full or incrementally to the extent of the sum lawfully due.

(5) Where an Accounting Officer is compelled in terms of this section to initiate civil proceedings for the recovery of a surcharge raised by the Auditor-General, a certificate signed by the Auditor-General stipulating the amount payable and describing the circumstances that compelled the raising of such surcharge shall be considered prima facie evidence of the facts certified.

(6) The Auditors-General, if satisfied by new evidence, may at any time, revoke any surcharge imposed in terms of this section.

(7) Any person aggrieved by a surcharge, the withholding of an emolument or allowance in terms of this section may appeal to the Public Accounts Committee within sixty days from the date of such directive being issued by the Auditors-General for redress and, thereafter, be afforded a further avenue of appeal to High Court provided that such appeal is lodged to the High Court not later than fourteen days after the decision of the Public Accounts Committees to uphold the directive of the Auditors-General is made public.

*Follow up on audit.*

51. (1) There shall be an exit conference between the audit team and audited entity at the conclusion of an audit exercise.

(2) The purpose of the exit conference shall be to –

(a) present audit observations to auditee entity management in conference before leaving;

(b) allow management opportunity to provide clarification to audit observations in conference; and

(c) isolate observations that will be reported on.

(3) The Auditor-General shall schedule post audit meeting with an audited entity within thirty days of issuing the Audit Report. The post audit meetings shall hold at the office of the auditee entity to assess the entity's compliance to audit observations and recommendations. Any unresolved query or issue will be forwarded to the State House of Assembly for further action.

(4) Comments on audit observations by the House of Assembly of the State shall be forwarded to responsible audited entities for compliance and to the Auditors-General. A post audit meeting shall be convened by the Auditor-General to resolve such issues.

(5) The Auditors-General shall forward reports of non-compliance to the directives of the State House of Assembly in respect of the queries of previous audits to the State House of Assembly.

*Staff matters.*

52. (1) The Auditors-General shall establish and implement a comprehensive human resource management system and policy for managing staff development programmes.

(2) The responsibility for determining the calibre of staff required to ensure the efficient performance and functioning of the Office of the Auditors-General shall reside with the incumbent Auditors-General who shall further be responsible for aligning cost associated with such recruitment of staff with the funds allocated for remuneration in terms of the vote.

(3) The Auditors-General shall be responsible for ensuring that all vacancies are widely advertised, that all applicants shortlisted are in possession of the required minimum qualifications, that such qualifications are duly verified with the relevant accreditation body, and that the required skills and competence levels are confirmed by means of any combination of the following –

- (a) interviews;
- (b) examinations;
- (c) case study based simulations of the work environment; and/or
- (d) any other means of assessment,

so as to ensure that persons recruited to positions required by the Auditors-General are consummately suitable for the appointment.



(4) When a member of staff, as appointed by the Auditors-General, becomes eligible for promotion on the basis of time served and having met all additional qualification criteria, the Auditors-General shall recommend to the Commission such member of staff for promotion.

(5) It shall be the responsibility of the Commission to ensure that, once a staff is recommended for promotion by the Auditors-General, such promotion is effected without undue delay.

(6) It shall be the sole responsibility of the Auditors-General to request the commencement of staff disciplinary processes and to articulate the circumstances and nature of breaches in discipline that shall necessitate the commencement of the process of the Commission.

(7) The Auditors-General shall in consultation with the Commission determine in line with the guidelines issued by the Salaries and Wages Commission (or the state level equivalent) the salaries, allowances, pensions and other conditions of service of members of staff of the office of the Auditors-General; provided that the salaries, allowances and conditions of service are competitive enough to attract qualitative personnel for the effective discharge of the mandate of the office.

*Audit Reports.*

53. (1) All reports of the Auditors-General submitted to the State House of Assembly shall be treated as the State House of Assembly reports and shall enjoy all privileges accorded to the State House of Assembly reports.

(2) Upon submitting the report to the House of Assembly under sub-section (1) of this Section, the Auditors General shall also publish the reports in hard copy and online for public access.

*Audit Standards.*

54. (1) The Auditors-General shall apply auditing standards, audit programmes and code of ethics specific to the Audit performance by their office as set out by the audit Commission.

(2) The auditing standards shall include –

- (a) the Public Sector Auditing Standards issued by Conference of Federal and State Auditors-General;
- (b) the Accounting Standards issued by the Nigerian Accounting Standards Board (NASB)/ Financial Reporting Council of Nigeria (FRCN);
- (c) the Auditing Standards and Code of Ethics published by the International Organization of Supreme Audit Institutions (INTOSAI) and the International Auditing and Assurance Standards Board (IA&ASB);
- (d) the Accounting Standards and Code of Ethics published by the International Federation of Accountants (IFAC);
- (e) International Public Sector Accounting Standards (IPSAS); and
- (f) other recognized or required standards issued or accepted as current best practices by funding or donor organizations.

*Review of Audit Reports by Public Accounts Committee.*

55. (1) Pursuant to sections 42 and 47 of this Law, the Public Accounts Committee shall –

- (a) consider each report from the Auditors-General and the process may include questioning the Accounting Officer from the relevant public body, receipt of explanations from the Auditors-General and official responses from the Government;
- (b) make recommendations on the basis of the consideration and monitor their implementation;

- (c) have power to summon the Accounting Officers, public officials and any member of the public for questioning about the findings of the Auditors-General;
- (d) hold its hearing in public but may choose to hold all or part of its hearing in private sessions; and
- (e) prepare a report to the House of Assembly, which may include comments and recommendations at the end of its review of each of the Auditors-General's reports; such reports shall be sent to the Auditors-General and all organizations reported on and shall be made available to the public on demand on payment of a minimal fee.

(2) The proceedings of the Public Accounts Committee shall be governed by the Standing Orders of the House of Assembly.

(3) The Public Accounts Committee Report shall be published on her website for public access.

*Annual estimates and expenditures.*

56. (1) Each Auditor-General shall prepare and submit to the State House of Assembly at least ninety days before the beginning of each year –

- (a) a draft annual plan that –
  - (i) describes his proposed work programme for that year; and
  - (ii) includes the interim report for that financial year.
- (b) the estimates of revenues and expenditure for inclusion in the State budget; and
- (c) the operational and administrative expenses of his office.

(2) The Auditors-General, after considering any comments of the House of Assembly or of the Public Accounts Committee that considered the draft plan, may amend the plan as necessary and submit to the Ministry of Economic Development and Budget for inclusion in the State Budget for appropriation by the House of Assembly.

(3) The House of Assembly shall ensure that the office of the State Auditor-General and the office of the Auditor-General for Local Governments shall be funded through budgetary allocations and oversight functions to enable those offices perform their statutory functions effectively.

(4) Funds appropriated to the State Audit Office by the State House of Assembly in each financial year shall be charged upon the Consolidated Revenue Fund of the State and paid as a first line charge in equal installment every month of the year.

(5) All funds or finances made available to the audit offices for the performance of statutory responsibilities under this Law shall be controlled and applied exclusively by the audit offices in accordance with extant financial regulations and without interference by any person.

*Protection of  
Auditors-General.*

57. The Auditors-General or persons acting on their behalf are not personally liable for any act or omission done or omitted to be done in good faith in the exercise of their functions under this Law.

*Improper Retention  
of public funds.*

58. (1) Where, during the course of an audit, the Auditors-General become aware of an improper retention or misappropriation of public money or another activity that may constitute an offence under the Criminal Code of Akwa Ibom State or any existing Law, they shall immediately report the improper retention or misappropriation of public money or other activity to the prosecuting authority or any other authority charged with that function by the State.

(2) In addition to reporting under sub-section (1) of this Section, the Auditors-General shall attach to their annual reports to the State House of Assembly a list containing a general description of

the incidents referred to in sub-section (1) and the dates on which those incidents were reported.

(3) The provisions of sub-section (1) of this Section shall apply to staff of the Offices or any auditor appointed pursuant to the provisions of this Law.

*Regulation of Audit contracts.*

59. (1) All private audit firms and consultants taking up Consultancy contracts relating to audit work must –

- (a) be registered with the Office of the State Auditor-General or Auditor-General for Local Governments as the case may be; and
- (b) obtain their engagement letters from the said Office.

(2) Such contracts on audit work shall include –

- (a) revenue audit and consultancy work including tax audit;
- (b) Government bank accounts audit;
- (c) audit of Government offices including special investigations;
- (d) staff audit including payment at sight;
- (e) pension audit including verification;
- (f) contracts in respect of estate/building valuation or valuation of some specialized government assets;
- (g) assessment and evaluation of effectiveness of government information systems; and
- (h) periodic check on the accounts of public institutions.

(3) Copies of the report of such contracts shall be submitted to the organizations involved and to the State Auditor-General or Auditor General for Local Governments as the case may be.

*Special assignment.*

60. Whenever the Governor, or the State House of Assembly by Resolution requires an inquiry into –

- (a) any matter relating to the financial affairs of the State, a Local Government Council or public entity/ property; or
- (b) any person or organization that has received financial aid from the State, a Local Government Council; or in respect of which financial aid from the State or Local Government is sought, the appropriate Auditor-General may, where in his opinion such inquiry does not interfere with his primary responsibilities, report to the Governor or the House of Assembly.

*Confidentiality.*

61. The Auditors-General and each person employed in their Office or appointed or engaged to assist them for a limited period of time or in respect of a particular matter shall keep confidential all matters that come to their knowledge in the course of their employment or duties under this Law and shall not communicate those matters to another person, except as may be required in connection with the discharge of their responsibilities.

*Audit of Office of Auditors-General.*

62. (1) The Auditors-General shall provide a list of qualified auditors to the State House of Assembly one of which must be chosen by the State House of Assembly for the annual audit of their Office.

(2) The Auditor shall submit copies of his report to the State House of Assembly, the Governor and the Auditors-General.

(3) In auditing the Office of the Auditors-General, the Auditor so chosen shall have the same powers and perform the same duties as conferred on the Auditors-General under this law.

*Transitional provisions.*

63. Subject to the provisions of this Law, officers serving in Audit Offices shall at the commencement of this Law be deemed to have been appointed in accordance with the provisions of this Law.

*Repeal of Cap. 17.*

64. The Audit Law, Cap 17, Laws of Akwa Ibom State, 2000 is hereby repealed.

*Interpretation.*

65. In this Law –

- “Accountant-General”** means the Accountant-General of the State;
- “Attorney-General”** means the Attorney-General and Commissioner for Justice, Akwa Ibom State;
- “Auditor-General for Local Governments”** means the Auditor-General for Local Governments appointed in accordance with section 36(3) of this Law;
- “Auditors-General”** means the State Auditor-General and the Auditor-General for Local Governments;
- “Chairman”** means Chairman of the Commission;
- “Commission”** means the Audit Service Commission established under section 1 of this Law;
- “Constitution”** means Constitution of the Federal Republic of Nigeria, 1999 (as amended);
- “Executive Council”** means the Akwa Ibom State Executive Council;
- “external auditors”** means independent auditors appointed to audit and report;
- “financial year”** means the financial year of the State Government;
- “Governor”** means the Governor of Akwa Ibom State;
- “member”** means member of the Commission and includes the Chairman;
- “Office”** means Office of the State Auditor-General established under section 23 of this Law or Office of the Auditor-General for Local Governments established under section 36 of this Law;
- “officer”** means the holder of an office in the Public Service of the State;
- “Offices”** mean the Office of the State Auditor-General and the Office of the Auditor-General for Local Governments;

**“public money”** includes the public revenue of the State or Local Government and any other money held in trust for the period of time by any officer alone or jointly with other persons;

**“revenue”** means the States’ or Local Governments’ share from the Federation Account, internally generated money and any other grant and loans;

**“Secretary”** means Secretary to the Commission;

**“statutory body”** means any authority established by law;

**“State Auditor-General”** means the State Auditor-General appointed in accordance with section 23 (2) of this Law; and

**“State”** means Akwa Ibom State of Nigeria.

*Citation and  
Commencement.*

66. This Law may be cited as the Akwa Ibom State Audit Law, 2021 and shall come into force on the 28<sup>th</sup> day of June, 2021.

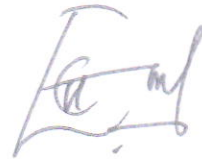


This printed impression has been compared by me with the Bill which has been passed by the Akwa Ibom State House of Assembly and is found to be true and correctly printed copy of the Bill.



.....  
**MRS. MANDU UMOREN**  
CLERK OF THE HOUSE

I assent.



.....  
**MR. UDOM EMMANUEL**  
GOVERNOR

Dated this.....29<sup>th</sup>..... Day of June.....2021