

KWARA STATE PUBLIC AUDIT LAW, 2021

I assent this

day of

2021



ABDULRAHMAN ABDULRAZAQ
Governor,
Kwara State of Nigeria.

Kwara State of Nigeria

Law No. 4 of 2021

ARRANGEMENT OF SECTIONS

PART I

ESTABLISHMENT, APPOINTMENT, DUTIES, POWERS AND IMMUNITY OF THE AUDITORS- GENERAL

1. Establishment of the offices of Auditors-General.
2. Appointment of Auditors-General.
3. Qualification for appointment as an Auditor-General.
4. Remuneration and other conditions of service.
5. Removal of the Auditor-General.
6. Immunity from personal liability.
7. Powers of Auditor-General.
8. Delegation of office.
9. Cessation of office.
10. Vacancy in the office of the Auditor-General.
11. Duties and functions of State Auditor-General.
12. Duties and functions of Auditor-General for Local Governments.
13. Obligation of Auditor-General to report irregularities or losses.
14. Submission of accounts and annual financial statements.

15. Failure to submit accounts and annual financial statements to the Auditors-General.
16. Report of the State Auditor-General.
17. Power to charge fees.
18. Organizational structure of offices of the Auditors-General.
19. Audit standards.

PART II

FUNDING AND AUDIT OF OFFICES OF THE AUDITORS-GENERAL

20. Funding of offices of the Auditors-General.
21. Audit of offices of the Auditors-General.

PART III

ACCOUNT AUDIT, CERTIFICATE AND AUDIT REPORT

22. Review of audit reports by Public Accounts Committee.

PART IV

OFFENCES AND PENALTIES

23. Offences and penalties.
24. Sanction on staff.
25. Refusal to answer audit query.

PART V

GENERAL PROVISIONS

26. Repeals.
27. Interpretation.
28. Citation.

A LAW TO ESTABLISH THE OFFICE OF STATE AUDITOR-GENERAL AND THE OFFICE OF AUDITOR-GENERAL FOR LOCAL GOVERNMENTS, AND MAKE PROVISIONS FOR THE AUDIT OF PUBLIC ACCOUNTS AND CONNECTED MATTERS

() Date of Commencement.

The Kwara State House of Assembly enacts:

PART I

Establishment, Appointment, Duties, Power, and Immunity of the Auditors-General

1. (1) There is established the office of the State Auditor-General which shall be independent.

Establishment of office of the Auditor-General.

(2) There is established the office of the Auditor-General for Local Governments which shall be independent.

(3) The office mentioned in subsections (1) and (2) shall be independently and separately headed by an Auditor- General.

2. (1) The Auditor- General for Kwara State and the Auditor – General for Local Governments shall be appointed by the Governor on the recommendation of the Kwara State Civil Service Commission, subject to confirmation by the House of Assembly.

Appointment of Auditor-General.

(2) The power to appoint an officer to act for an interim period in the office of the Auditor-General for Kwara State or the office of the Auditor- General for Local Governments is vested in the Governor.

(3) Except with the confirmation by a resolution of the House of Assembly supported by simple majority of Members, no person shall act in the Office of the Auditor-General for the State or Office of the Auditor-General for the Local Governments for a period exceeding six months.

(4) Upon assumption of duties, an Auditor-General shall take an oath or affirmation administered by the Governor, pledging to perform honestly and impartially the duties of his office, abide by laws of the State, and uphold the Constitution of the Federal Republic of Nigeria.

3. A person to be appointed an Auditor-General –

Qualification for
appointment as
Auditor-General.

- (a) must be a qualified accountant with at least ten years post qualification experience;
- (b) shall have at least 15 years cognate experience in accounting or auditing field with the proven professional ability and expertise;
- (c) must be a member of nationally recognized professional accountancy body;
- (d) shall not have been convicted of an offence involving dishonesty by a court, or found guilty of a professional misconduct involving dishonesty by any professional body established by the law in Nigeria; and
- (e) must be an indigene of Kwara State.

4. (1) The 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.

Remuneration and
other condition of
service.

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

(3) The remuneration and salaries payable to the Auditors-General and their conditions of services, other than the allowances, shall not be altered to their disadvantage after appointment.

5. (1) A person holding the office of the Auditor-General under this law and section 126(1) of the Constitution of the Federal Republic of Nigeria shall be removed from office by the Governor of the

Removal of the
Auditor-General.

State acting on an address supported by two-third 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.

(2) Auditor-General shall not be removed from office before such retiring age as may be prescribed by Law, save in accordance with the provision of this section.

(3) Subject to the provision of subsection (5), the right of a person in the public service of a state to receive pension and gratuity shall be regulated by law.

(4) Any benefit to which a person is entitled in accordance with or under such law as is referred to in subsection (1) shall not be withheld or altered to his disadvantage except to such extent as is permissible under any law, including the code of conduct.

(5) Pensions shall be reviewed every five years or together with any State civil service salary reviews, whichever is earlier.

(6) Pensions in respect of service in the service of the State shall not be taxed.

6. In the exercise of the functions under this Law, the State Auditor General, Auditor-General for Local Governments and any other staff or authorized auditor shall be personally exempted from legal action or prosecution before a court of law for carrying out a duty or exercising a power in terms of this Law, provided that the execution of such duty or the exercising of such power emanates from a formally approved audit engagement and was carried out in good faith.

Immunity from
personal liability.

7. (1) The Auditor-General shall audit public accounts of the State and of all Powers of Auditor-General offices and courts save as provided in section 125(3) of the Constitution.

Powers of the
auditor-General.

(2) The Auditor-General shall be accorded full and unencumbered

Independence in the execution of his duties and the exercise of his powers under section 125(2) of the Constitution and shall not be subject to the direction or control of any other authority or person.

(3) The Auditor-General shall within 90 days of receipt of the Accountant-Generals Financial Statement and Annual Account of the State, submit his report to the House of Assembly.

(4) The Auditor-General shall have the power to call upon any public officer at all reasonable times for any explanation and information which the Auditor-General may require in order to enable him to discharge his duties.

(5) The Auditor-General 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 it is needed;

(b) state that the information is required under this Law; and

(c) where necessary, 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.

(6) The Auditors-General shall have the power in the course of an examination to require a person to give evidence on oath or affirmation, either orally or in writing, which oath or affirmation the Auditor-General is hereby empowered to administer and which shall be binding upon the subject, where such examination is relevant to the receipt or expenditure of money, or the receipt or issue of any stores that may form part of the auditors mandate of the Auditors-general in the performance or the duties and exercise of their powers.

(7) Any person under oath or affirmation who knowingly or deliberately provides the Auditor-General with information that is known to be false or which he has reason to believe may not be true commits an offence under section 23 (1) (c).

(8) For the purpose of performing the functions and duties or exercising the powers under this Law the Auditor-General may –

(a) authorize an officer of any other government in Nigeria to conduct on his behalf any inquiry, examination or audit, and such officer shall report thereon to the Auditor-General, provided that any such authority shall be subject to the concurrence of the Head of the Department in which the officer concerned is employed;

(b) engage the services of consultants and professional experts he may consider necessary for the efficient discharge of his duties on such terms and conditions as may be determined; and

(c) engage the services of professionals on a contract basis for limited engagements, including those required as part of agreements with international organizations. However, all audit opinions expressed shall remain exclusively those of the Auditor-General.

(9) All private audit firms and consultants applying for consultancy assignments relating to audit work must be pre-registered for a fee with the office of the Auditor-General. Such contracts on audit work may include, but-not be limited to –

(a) revenue audit and consultancy work, including tax audit;

(b) government bank accounts audit;

(c) staff audit including payment at sight;

(d) pension audit including verification of "I am alive" certificates ;

(e) contracts in respect of estate or building valuation or valuation of some specialized government assets; and

(f) assessment and evaluation of effective government electronic information systems.

(10) The Auditor-General may disallow any item of expenditure which he considers contrary to law and to direct the accounting officer of the relevant auditee to conduct a disciplinary hearing and to impose a surcharge on those persons found guilty of unlawful expenditure, which surcharge shall be —

(a) equal to the amount of any expenditure so disallowed upon the person responsible for incurring or authorizing the expenditure; or

(b) equal to any such sum as has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or

(c) the amount of any loss or shortfall upon any person who, upon examination, has been found negligent or guilty of misconduct resultant to which a loss or shortfall had been incurred.

(11) The Auditor-General may —

(a) at any time access any government facility, examine the records of an auditee and have extracts taken from any books 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) 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 Auditor-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;

(c) appropriate and retain any such document, written or electronic, record, general information or asset for purposes of completing the audit;

(d) request the support of relevant law enforcement agencies the execution of the warrant of the court where considered necessary;

(e) ensure that the persons conducting a 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;

(f) ensure that any entry and search of property shall be conducted with due regard for decency, order and constitutional rights of the affected person.

(12) The Auditor-General may station in any government ministry, department, school, authority, commission or agency an officer employed in his office: to enable him more effectively carry out his duties, and such auditee establishment shall provide the necessary office accommodation and other facilities required for any officer so stationed to execute his duties effectively, efficiently and comprehensively.

8. (1) The Auditor-General may delegate any of his powers or duties to a member of his staff, any authorized auditor as well as the members, officers and employees of any of the institutions of government as is described in section 7(12), which have relevance to an examination of records, inventories and assets of an auditee responsible for public monies, securities, stores or other property of the government.

Delegation of
power.

(2) The Auditor-General shall delegate such powers and duties which may include, but not be limited to, those defined in

subsection (1) in writing in whatever form the Auditor-General may consider suitable.

(3) The Auditor-General shall specifically stipulate whether the delegation of powers include the authority to sub-delegate any powers any power and duties.

(4) The authority accorded the Auditor-General under this section shall not divest the Auditor-General of the responsibility concerning the exercise of the delegated power or the delegated duty.

(5) The Auditor-General or any person acting in that behalf is not personally liable for any act or omission done or omitted to be done in good faith and in the exercise of the functions of his office.

9. An Auditor- General shall cease to hold office if –

(a) he is removed by the Governor acting on a resolution supported by not less than two –thirds majority of the House of Assembly praying that he be so removed on the grounds of inability to discharge the functions of his office (whether arising from infirmity of mind or body) or has been found guilty of misconduct:

Provided that the Auditor-General shall have been given twenty-one days notice in writing prior to being called upon to defend himself before the House of Assembly;

(b) he resigns for reasons of physical incapacity, illness or reasons of a personal nature that the Governor agrees to entertain. Where an Auditor-General tenders his resignation for reasons unrelated to paragraph (a) he shall be required to serve a notice for a period of ninety days, which the Governor may reduce or waive in full, dependent upon individual circumstances.

(2) In the event of the death of an incumbent Auditor-General, the Governor shall appoint an acting Auditor-General without undue delay.

Cessation of
office.

10. (1) In the temporary absence or incapacitation of an incumbent Auditor-General or where the Office of the State Auditor-General or Auditor-General for Local Governments has become vacant, the Governor may, on the recommendation of the State Civil Service Commission, appoint a person to perform the duties of such Auditor-General in acting capacity.

(2) A person appointed in line with subsection (1) shall possess all the qualifications spelt under section 3 of this Law.

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

11. (1) The State Auditor-General shall ensure that audit and report are carried out on —

(a) the accounts, financial statements and financial management of ministries, departments, agencies, State-funded public schools and health institutions, and the Legislative and Judicial arms of government;

(b) the Consolidated Financial Statements, as submitted by the Accountant-General;

(c) the accounts, financial statements and financial management of all State Government counterpart-funded or donor-funded projects;

(d) all procurement of goods and services in so far as they are funded by State public funds;

(e) performance of all State-funded programmes and projects;

(f) pension and gratuities schemes to the extent of the State's contribution to such schemes;

(g) special investigations and forensic matters;

(h) classified expenditure;

(i) subsidy schemes;

(j) disaster-related aid;

(k) environmental impact of Government projects and other related activities;

(l) other emerging audits; and

(m) such audits as may prove necessary to safeguard Government assets.

(2) The duties of the State Auditor-General shall further include —

(a) the provision of a list of registered and pre-assessed audit firms for the auditing of the account, financial statements and financial management of the government statutory corporations, commissions, authorities, educational institutions, government business entities, as well as any and all entities and bodies established by a Law;

(b) evaluation for reasonableness of the fees quoted and hours budgeted per audit engagement by audit firms engaged under paragraph (a);

(c) receipt of the reports of the audit engagements in paragraphs (a), which must be submitted by the auditee for his review and comments.

(3) The duties of the State Auditor-General mentioned in subsections (1) and (2) shall not preclude the Governor or the Executive Council or any person authorized by such authorities from requesting the Auditor-General, at any particular time, to audit the accounts of any institute, entity or organization where the request to conduct such audit is in the public interest.

(4) The State Auditor-General shall further be obligated to satisfy himself that —

(a) all reasonable precautions have been taken to safeguard the collection of public monies and that legislation, directions and instructions pertaining thereto have been duly observed and obeyed;

- (b) all monies appropriated or otherwise disbursed have been expended and applied to facilitate the purpose for which the funds allocated by the Executive Council of the State were intended, and that any expenditure incurred was duly approved by an officer with the authority to grant such approval in accordance with the requirements that governs the approval of such expenditure;
- (c) adequate financial regulations exist for the direction and control of accounting and financial operations in the State and that the regulations are duly observed;
- (d) expenditure is incurred with due regard for economy, efficiency and effectiveness; and
- (e) satisfactory procedures have been established to measure the performance and report on the effectiveness of programmes as measured against pre-determined objectives.

12. (1) The Auditor-General for Local Governments is responsible for the audit of the public accounts for Local Governments, including all satellite offices and agencies responsible for the receipt of Local Government funds as well as such offices or agencies from where Local Government funds are expensed and shall submit the reports of such audits to the House of Assembly.

Duties and functions of
the Auditor-General of
Local Government.

(2) The Auditor-General for Local Governments or any person duly authorized to perform an audit of Local Governments and any associated offices or agencies shall be afforded unencumbered access to the records, books of account, returns and any other documents relating to those accounts as they are relevant to the performance of such audits.

(3) The Auditor-General for Local Governments shall ensure that audit and report are carried out on —

- (a) the consolidated Financial Statements, as submitted by the Local Government Council treasurer;
 - (b) the accounts, financial statements and financial managements of all Local Government Councils counterpart-funded or donor-funded projects;
 - (c) all procurement of goods and services in so far as they are funded by Local Government Council fund;
 - (d) performance of all Local Government funded programmes and projects; and
 - (e) all pension, gratuities and other retirement benefits of Local Government Councils and Local Government Universal Basic Education Authority retirees benefits;
 - (f) special investigations and forensic matters;
 - (g) classified expenditure;
 - (h) disaster related aid;
 - (i) environmental impact of Governmental projects and other related activities;
 - (j) other emerging audits; and
 - (k) such audit as may prove necessary to safeguard Government assets.
- (4) The Auditor-General for Local Governments shall also ensure that —
- (a) all reasonable precautions have been taken to safeguard the collection of public monies and that the laws, regulations, directives and instructions relating to the collection and safeguarding of such public monies have been duly observed and obeyed;

(b) all monies appropriated or otherwise disbursed have been expended on and applied for facilitating the intended purposes for which the funds were allocated by the executive councils of Local Governments and that any expenditure incurred is duly approved by an officer with the authority to grant such approval in accordance with the requirements that governs the approval of such expenditure;

(c) adequate financial regulations exist for the direction and control of accounting and financial operations in the Local Governments and that the regulations are duly observed;

(d) expenditure is incurred with due regard for financial economy efficiency, effectiveness and the Financial Regulations that direct the approval and authorisation of such expenditure;

(e) satisfactory procedures have been established to measure the performance of and report on the effectiveness of programmes;

(f) any irregularities discovered during the execution of an audit of the accounts of a Local Government were reported to the relevant authority as soon as the facts pertaining to the nature and scale of such irregularities had been established and confirmed;

(g) all queries and observations raised as a result of the audit performed are addressed through formal interaction with the accounting officer or any other appropriate person as designated by the accounting officer to facilitate access to such accounts, vouchers, statements and documents as may be required for purposes of providing a substantively verifiable explanation to the auditor; and

(h) where the Auditor-General deems it appropriate, an amount be determined and a surcharge raised against any such person as is found responsible for a loss of public monies or State assets and a formal request be made, inclusive of reasons for imposing such

surcharge, to the appropriate Head of the Department or institution who shall then in terms of this law be responsible for the collection or deduction of the surcharge from the officer concerned and the Auditor-General shall report the circumstances of the case to the accounting officer of the affected department or institution.

- (5) The Auditor-General for Local Governments shall in exercising his functions under the provisions of this Law express his opinion as to whether the financial statement/accounts of the auditee 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 years.
- (6) The Auditor-General for Local Governments or any person authorized by delegation of the Auditor-General to conduct periodic examination of the accounts and records of a Local Government shall, in addition to the audit report as required in terms of subsection (1), draw attention to the following –
- (a) any occurrence of fraud or loss, the underlying causes and the identity of the persons implicated in the perpetration of such fraud or the occurrence of such losses;
 - (b) any internal control weaknesses identified and the institutional performance as expressed in terms of actual targets achieved as measured against pre-determined objectives; and
 - (c) whether the finances, assets and resources of the Local Government institution, office or agency have been utilized with due regard to economy, efficiency and effectiveness.
- (7) The Auditor-General for Local Governments shall evaluate the adequacy of the Local Governments' enterprises risk management strategies and policies and make recommendations for their improvement.

(8) The Auditor-General for Local Governments, or any person authorized by delegation of his power to do so, shall from time to time inspect all Local Government projects in progress for purposes of ensuring compliance to specifications as stipulated in the Bill of Quantities specific to individual projects and where irregularities in compliance are discovered as a result of such inspections, the appropriate authorities shall be alerted and monitoring measures implemented by the Auditor-General to ensure that the required processes for effecting rectification are implemented in accordance with pre-determined standards before final payment is made.

(9) The Auditor-General for Local Governments shall, as part of his normal duties and functions, be responsible for the timely publication of the annual statutory report of Local Governments and such annual statutory report shall be published both electronically and manually.

(10) The Auditor-General shall 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 year.

13. (1) The primary responsibility for the detection and prevention of irregularities and fraud is at all times that of the management of auditee organizations and the preparer of the financial statements.

Obligation of Auditor-General to report irregularities or losses.

(2) If, at any time, it appears to the Auditor-General that irregularity has occurred in the receipts, 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 the same, the Auditor-General is obligated to bring any such matter to the simultaneous attention of the House of Assembly and the accounting officer of the affected ministry, agency, institution, entity, or any other authority that the Auditor-General is legislatively required to report such matters to, and any other officer that the Auditor-General may consider fit as soon as the fact of such

irregularities have been established and confirmed in accordance with section 125(2) of the Constitution.

(3) The Auditor-General shall discharge the obligation, under subsection (2) as follows —

(a) where the Auditor-General through an examination of accounts, discovers potential irregularities, he shall make such observations known to the Accountant-General and request from the Accountant-General, the accounting officer or any other person such accounts, vouchers, statements, documents and records pertaining to such apparent irregularities. He shall request from the office bearer and officers to provide under oath, any such explanations as may be necessary in order to satisfy the professional requirements for due diligence;

(b) the Accountant-General or Treasurer shall, within 15 days, respond formally and in writing to the observations, enquiries and request for explanations received from the Auditor-General, whereas an accounting officer or any other officer so requested shall within 7 days furnish the Accountant-General or Treasurer with all such accounts, vouchers, statement, documents and records as may be pertinent to the response formulated by the Accountant-General or Treasurer for submission to the Auditor-General;

(c) subject to any other provisions of this Law, every person who fails or refuses to respond to an observation or enquiry as described under paragraph (a) and fails to respond within the appropriate period as specified in paragraph (b) shall, if the Auditor-General so directs, have his emolument and allowances withheld for so long as such person fails to formally respond in writing;

(d) any person aggrieved by the withholding of an emolument or allowance under paragraph (c) may appeal to the Public Accounts Committee within 60 days from the date of such directive issued by the Auditor-General for redress and, thereafter, be afforded a further avenue of appeal at the High Court, provided that such appeal is lodged at the High Court not later than 30 days after the decision of the Public Accounts Committee to uphold the directive of the Auditor-General is made public;

(e) where the Auditor-General has established and confirmed culpability for a loss, he may consider it fit to impose a surcharge on the person or persons responsible and may specify to the appropriate head of department or institution, the amount due from any person upon whom he has imposed surcharge and shall state the reason for imposing such surcharge and report the results of the examination of relevant accounts, operational processes and circumstances that caused the surcharge to be imposed on the accounting officer of the affected department or institution;

(f) every sum specified by the Auditor-General as a surcharge shall become due for payment by the person on whom such surcharge is imposed within 60 days after the date on which such surcharge was formally imposed;

(g) any person aggrieved by the decision of the Auditor-General imposing a surcharge in accordance with paragraph (f) may have opportunity to appeal for redress;

(h) any such sum as may become payable under paragraph (f) and which remains outstanding beyond the prescribed period of 60 days shall become recoverable by the relevant accounting officer who may, where necessary, initiate civil proceedings and whereupon judgement is obtained in a court of competent jurisdiction, shall consider any such sum

payable recoverable as civil debt. Where such sum owed as a civil debt is recoverable from a person in receipt of remuneration from the State Government or any Government institution, such remuneration shall be attached either in full or installmentally to the extent of the sum lawfully due;

(i) where an accounting officer is compelled under paragraph (h) 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;

(j) the Auditor-General may, at any time, revoke any surcharge imposed under paragraph (e).

14. (1) Within a period of three months after the 31st of December in each year the Accountant-General shall present to the Auditor-General financial statement and annual accounts of the State as required under the Constitution and other relevant legislation when read in conjunction with approved public sector accounting standards for the State.

Submission of accounts and annual financial statements.

(2) (a) Statements to be submitted to the State Auditor-General shall include –

- (i) Statement No. 1: Responsibility for Financial Statement,
- (ii) Statement No. 2: Cash Flow Statement,
- (iii) Statement No. 3: Statement of Assets and Liabilities,
- (iv) Statement No. 4: Statement of Consolidated Revenue Fund,
- (v) Statement No. 5: Statement of Capital Development Fund,
- (vi) Statement No. 6: Statement of Recurrent Revenue and Expenditure,
- (vii) Statement No. 7: Statement of Contractual Liabilities,
- (viii) Statement No. 8: Statement of Investments,

- (ix) Statement No. 9: Statement of External and Internal Loans,
 - (x) Notes to the Financial Statements;
- (b) Notes to the Financial Statements, shall be presented in the following order or as stipulated by the relevant accounting standards —
- (i) Statement of compliance with approved accounting standards,
 - (ii) Statement of accounting policies applied, and
 - (iii) Supporting information for items presented on the face of the financial statement.
- (3) Statements to be submitted to the Auditor-General for Local Governments shall include —
- (a) Statement No. 1: Statement of Financial Responsibility;
 - (b) Statement No. 2: Cash Flow Statement;
 - (c) Statement No. 3: Statement of Assets and Liabilities
 - (d) Statement No. 4: Statement of Income and Expenditure;
and
 - (e) Statement No. 5: Notes to the Accounts.
- (4) Within three months after the close of each financial year accounting officers shall prepare and submit to the Auditor-General appropriation accounts of the monies expended under the votes for which they are responsible, stating the services for which the funds were allocated per vote, the sum actually expended on each service during the period for which accounts were prepared and the state of each vote when compared with the appropriation for that vote. Each appropriation account shall contain the value of any variation between the sum actually expended and the sum voted and such other information as the Auditor-General may direct, and shall be reported by the accounting officer in whatsoever form the Auditor-General may direct. When submitting the appropriation accounts, the

accounting officer shall ensure that simultaneous submissions of the appropriation accounts are made to the Auditor-General and the Accountant-General.

15. (1) Where the Accountant-General or Treasurer fails to submit the consolidated accounts and annual financial statements as required under section 14 (1) to the Auditor-General by the close of business on the last day of the period stipulated, the Accountant-General shall be compelled under this Law to submit to the House of Assembly, in writing, reasons for such delay and shall stipulate an alternate later date whereby the, requisite consolidated accounts and annual financial statement shall be submitted to the State Auditor-General for audit purposes.

Failure to submit accounts and annual financial statements to the Auditor-General.

(2) The later date for the submission of consolidated accounts and annual financial statements to the Auditor-General, as described in subsection (1), shall not exceed the last day for initial submission by a period of more than thirty days.

(3) Where the Accountant-General or Treasurer fails to submit the consolidated accounts and annual financial statements within the extended period as described in subsections (1) and (2), the Auditor-General shall issue a special report on the delay.

16. (1) The Auditor-General shall express in his annual report —

Report of the Auditor-General.

- (a) an opinion on the representative truth and fairness of the public accounts submitted to him;
- (b) such significant findings and recommendations as considered relevant and necessary for the attention of the legislature; and
- (c) significant findings and recommendation shall at a minimum include —

- (i) any act or omission by any officer relating to the probity, regularity or value for money with which public money is managed,
- (ii) any deficiencies which have been identified in the internal control system of any public body,
- (iii) details of essential records that have not been maintained or produced for auditing purposes,
- (iv) inadequacies in the policies, processes and procedures applied to safeguard and control assets, or to ensure effective supervision and control over the assessment, collection and proper allocation of revenue and to ensure that expenditure is appropriately authorized and incurred in strict accordance with the intended allocation, and
- (v) assurance that all monies have been expended with due regard to economy, efficiency and effectiveness.

(2) The Auditor-General shall within ninety days of receipt of the Accountant-General's Financial Statement and Annual Report of the State, submit an audit report to the House of Assembly and the House shall cause the report to be considered by a Committee of the House responsible for public Accounts.

(3) Notwithstanding the provision of subsection (2), the House, of Assembly may, at its discretion, extend the time accorded to the Auditor-General for the preparation of the audit report for a further period not exceeding 30 days, at the end of which the report shall be submitted without further extension or delay.

(4) The Auditor-General may at any time, if it is a matter of public interest, issue a special report to the Governor on any matter incidental to his powers and duties under this Law.

(5) The Auditor-General shall submit his reports to the Speaker of the House of Assembly which may include comments from the relevant Accounting officers. Provided the Auditor-General shall at all, times retain full editorial discretion and control over such reports.

(6) The annual audit report of the Auditor-General shall be considered a public document and as such shall be made accessible to members of the public. Members of the public may obtain a copy at a nominal cost, which shall be used solely to defray the incidental expense of producing such copy. The annual audit report shall only be made available to the general public subsequent to its tabling before the House of Assembly.

(7) The Auditor-General shall have discretionary powers to determine whether the communication mediums to be employed for making the annual audit report available to the general public shall include access in electronic format on the internet.

17. (1) The Auditors-General shall charge a fee from the auditee in respect of the services mentioned in sections 13 (2) and 14 (3).

Power to
charge fee.

(2) The fees to be charged shall be determined by the Auditors-General in consultation with the Public Accounts Committee.

(3) The fees received by the Auditors-General under this section shall be credited to the Consolidated Revenue Fund after having deducted the cost incurred carrying out the services.

18. (1) The Offices of the Auditor-General shall consist of such departments, Division and Units as obtainable in the Federal and State Public Services.

Organizational structure
of offices of Auditors-
General.

(2) The Auditor- General subject to the approval of the State Executive Council shall create new Department(s) or may from time to time review the organizational structure as may be required to exercise his powers and discharge his duties and functions in accordance with Public Service Rules.

19. The Auditors-General shall determine which auditing standards should be applied.

Audit Standards.

(1) The auditing standards include —

(a) Public Sector Auditing Standards issued by the Body of Federal and States Auditors-General;

(b) Accounting Standards issued by the International Public Sector Accounting Standards (IPSAS);

(c) The Auditing Standards and Code of Ethics published by the International Organization of Supreme Audit Institution and the International Auditing and Assurance Standards Board;

(d) The Auditing Standards and Code of Ethics published by the International Federation of Accountants; and

(e) Other recognized or required standards issued or accepted as current best practices by funding or donor organizations.

PART II

FUNDING AND AUDIT OF OFFICES OF THE AUDITORS—GENERAL

20. (1) The Auditors-General shall prepare and submit the estimates of revenue and expenditures of their offices for inclusion in the Appropriation Law.

Funding of offices of the Auditors-General.

(2) The sum appropriated for the offices of the Auditors-General by the House of Assembly in each financial year shall be charged on the consolidated revenue fund of the State and paid in twelve equal installments for each month of that financial year.

21. (1) The accounts of the offices of the Auditors-General shall, in each financial year, be audited and reported on by separate auditors appointed by the House of Assembly.

Audit of offices of the Auditors-General.

(2) Pursuant to subsection (1) the House of Assembly shall select and appoint the audit firms from the list of approved independent audit firms compiled by each Auditor-General.

(3) No one audit firm may be appointed beyond one term.

(4) Subject to subsection (1), a firm is qualified for appointment as an independent auditor to the office of an Auditor-General if the firm has not been a consultant to either of the offices of the Auditors General for at least a period of three years prior to such appointment.

(5) Notwithstanding anything to the contrary in any other law, the office of each Auditor-General shall, within three months after the end of the financial year, prepare and submit to the auditor appointed under subsection (1) financial statement of the office.

(6) The auditor appointed under subsection (1) shall have access to all books of accounts, vouchers and other records of the relevant office of the Auditor-General and is entitled to any information and explanation required in relation to such records.

PART III

ACCOUNT AUDIT, CERTIFICATION AND AUDIT REPORT

22. (1) The Public Accounts Committee shall examine and scrutinize each report prepared by the Auditors-General and tabled before the House of Assembly. Such examination and scrutiny of reports submitted may include questioning the accounting officer from the relevant public body, requiring explanation and clarification from the relevant Auditor-General and an official response from any government agency. The Public Accounts Committee shall, upon completion of such examination and scrutiny, make recommendations for redress or improvement to the relevant accounting officer and shall monitor the implementation or such

Review of audit
reports by Public
accounts
Committee.

recommendations. The actions of the Public Accounts Committee shall be governed by the standing orders issued by the State House of Assembly.

(2) The Public Accounts Committee shall have the power to summon any accounting officer, public official or member of the public to appear before it for questioning relating to the content and findings of the Auditor-General's report.

(3) It shall be customary for the Public Accounts Committee to conduct its hearing in public. However, it is within his sole discretion and power to conduct any hearing, either in full or in part, as a private session.

(4) The Public Accounts Committee shall, upon conclusion of the review of the reports submitted by the Auditor-General, prepare and submit it to the Speaker of House of Assembly.

PART IV

OFFENCES AND PENALTIES

23. (1) A person who willfully or negligently does any of the following acts –

Offences and penalties.

- (a) fails to produce for inspection to an Auditor-General or otherwise refuses an Auditor-General access to any book, record, returns, payment voucher, record of revenue or other document relating to, or which has relevance to any account to be audited by an Auditor-General requested in writing to do so;
- (b) fails to maintain proper books of account or proper records in relation thereto as required by law and where such failure results in loss of public funds;
- (c) provides an Auditor -General with information that is known to be false;

- (d) destroys or suppresses any information required for the performance of any function assigned to the Auditor-General in this Law or any other law;
- (e) obstructs or frustrates an Auditor-General, any staff of the office of an Auditor-General, or consultant authorized by the office, in the performance of its duties and power under this Law or any other law; and
- (f) failure to comply with any lawful request of an Auditor-General or their representatives within a maximum period of 14 days, commits an offence under this Law.

(2) Without prejudice to other sanctions as provided under this Law, as well as the discretionary penal powers of the Auditors-General, sanctions under the Public Financial Management, Public Service Rules, relevant criminal laws in force at any point in time, Fiscal Responsibility Law and Public Procurement Law, any person who commits an offence under the provisions of this Law shall, on conviction be liable .

- (a) in the case of individual, to a fine not exceeding N2,000,000 or a term of imprisonment not exceeding 6 months, or both;
- (b) in the case of a body corporate or firm, to a fine not exceeding ₦5,000,000.

(3) Where a body corporate or firm is convicted of an offence under this section, every director of the company or firm shall be liable to a fine not exceeding ₦500,000 or to a term of imprisonment not exceeding 2 months or both, unless the person proves that the offence upon which the conviction was based was committed without his knowledge, consent or connivance.

(4) A member of staff employed in the office of the Auditor-General who –

- (a) requests or accepts a bribe or any form of compensation, reward or favour for the neglect or non-performance of any official duty; and
- (b) fails to report to the relevant Auditor-General any evidence or suspicion of abuse of funds, assets, irregularity, fraud or theft that he may become aware of in the course of executing his duties as an auditor, commits an offence and shall be liable upon conviction to a fine not exceeding N500,000 or a term of imprisonment not exceeding 3 months, or both.

(5) Accounting officers shall be held responsible for full recovery of losses discovered from erring officers. Nothing in this Law shall preclude the Pension's office or Civil Service Commission from attaching the terminal benefits, gratuities and pensions and affecting relevant deductions from the erring officer, or where deceased from his estate and where disengaged, from instituting debt recovery and criminal prosecutions.

(6) Where an accounting officer fails, to make recovery and it is proved that he failed to initiate reasonable actions to recover the loss, he shall be guilty of an offence and liable to a fine of N200,000 and in addition to pay the amount of loss involved.

24. (1) Where, during the course of an audit, an Auditor-General become aware of improper retention or misappropriation of public monies, physical assets receivables or another goods or services due to the State Government, which act or omission may constitute an offence under existing State Law, he shall immediately bring such to the attention of the officer concerned and where the officer fails within the time permitted to give a reasonable explanation, then the Auditor General shall report the improper retention or misappropriate of public monies, assets or any such infraction to the Attorney-General.

Sanctions on staff.

- (2) In addition to making such official report under subsection (1), the Auditor-General shall attach to his Annual Report to the House of Assembly, a list containing a general description of the incident referred to and the dates on which those incidents were reported.
- (3) The provisions of subsection (1) shall apply to the staff of the offices or any auditor appointed pursuant to this Law.

25. (1) Without prejudice to other provisions 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 shall have his salary and all allowances withheld for so long as he fails to reply, and shall be liable to disciplinary action under the Public Service Rules.

Refusal to Answer audit query.

(2) In such situation of refusal, the relevant Auditor-General shall have forwarded it final warning for non-compliance before informing the accounting officer, and where the erring officer is an accounting officer, the Auditor-General shall inform the Public Accounts Committee before notifying the Head of Service for a suspension of payment of salaries to the erring officer.

(3) Where such query is directed at any government project or contract, the office of the Auditor-General shall in conjunction with the Commissioner of Finance and Planning, suspend such project and further disbursement without prejudice to activating any deposited performance guarantee.

(4) Where the failure to answer the audit query is by an officer other than by the Chairman of a Local Government, the relevant Auditor-General shall recommend to the appropriate authorities, the stipulated punishment.

(5) All appeals from penal actions of an Auditor-General shall be addressed to the Public Accounts Committee for redress.

PART V

GENERAL PROVISIONS

26. The Audit Law CAP. A11 and sections 66, 67 and 68 of CAP. K33 are hereby repealed.

Repeals.

27. In this Law, unless the context otherwise provides-

Interpretation.

"Accountant-General" means the Accountant-General of Kwara State;

"Accounting entry" means a posting of transactions in the accounting records either to increase or decrease an asset or expense account whilst simultaneously effecting a corresponding decrease or increase to a liability or income account;

"Accounting officer" means the Permanent Secretary of a Ministry or Head of a extra-ministerial office or any other arm of government who is in full control of, and is responsible for, human, material and financial resources which are critical inputs in the management of an organization and the achievement of service delivery objectives;

"Accounts officer" means any head of department, imprest holder, collector of revenue or other officer of the State whose duties involve fiduciary responsibility for public funds or assets of Kwara State;

"Audit" means an independent examination of accounting records, financial statements and supporting -documents for the purpose of expressing an. informed opinion concerning their propriety, fairness, completeness, consistency and conformity with generally accepted accounting standards and relevant legislation;

"Audit fees" means a payment for the services of a professional auditor;

"Audit query" means audit reports asking questions or expressing doubts about the genuineness, validity or accuracy of transactions carried out by an auditee;

"Audit standards" means a set of systematic guidelines used by Auditors when conducting audits on organizations finances, ensuring the accuracy, consistency and verifiability of Auditors' actions and reporting that result from such audit actions;

"Auditee" means an accounting officer or an officer or organization. whose account is being audited by an auditor.

"Auditor" means an officer in the office of the State or Local Government Auditor-General who is in charge of an audit function;

"Auditor-General" means the office of the Auditor-General of Kwara State as an institution or the individual appointed to such office or the individual duly delegated to act in such capacity;

"Auditors-General" means the Auditor-General for Kwara State and the Auditor-General for Local Governments;

"Auditor-General for Local Governments" means the office of the Auditor-General for Local Governments as an institution or the individual appointed to such office or an individual duly delegated to act in such capacity;

"Authorized auditor" means an auditor given delegated power or permission to conduct an audit on behalf of an Auditor-General;

"Company" means a company established under the Companies and Allied Matters Act 2020, including banks;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999; as altered;

"Conference of Federal, State and Local Government Auditors-General" means the body comprising the Auditor-General of the Federation, the 36 States Auditors-General and 36 Auditors-General for Local Governments in Nigeria;

"Engagement letter" means a written agreement to perform professional audit or accounting services by audit firms in exchange for compensation;

"Executive Council" means the State Executive Council of Kwara State;

"Financial statement" (or financial report) means a formal report on the financial position and financial performance and the extent to which the accounting officer and subordinates have successfully fulfilled their fiduciary obligations toward the accounting entity over which they have ownership control, as required by law;

"Financial year" means the financial year of the Government or in the case of a limited liability company, the accounting period as adopted by the company resolution;

"Gender" means reference to any one gender and includes reference to the other gender;

"Government" means the Government of Kwara State;

"House of Assembly" means the Kwara State House of Assembly;

"Local Government" means the Local Governments of Kwara State;

"Officer" means the holder of any position in the public-service sector of the State;

"Oversight mechanism" means the bodies, units and processes used to review institutional performance in the State to enhance their effectiveness, integrity and productivity,

"private audit firm" means a firm licensed by any of the recognized professional accounting and auditing certification bodies to perform an examination on an organization's accounting records in terms of predetermined audit standards or

other related engagements (private or public) on any accounting entity of a Country/State in which they are licensed to operate in terms of their charter of professional certification;

"Professional accountant" means a qualified accountant who is a full member of any of the professional accounting bodies recognized as such within the Federal Republic of Nigeria

"Public account committee" means the public account committee or committee responsible for public accounts of the Kwara State House of Assembly

"Public moneys" include -

- (a) The public revenue of Kwara State; and
- (b) Any other money held in trust for any period, however short by any officer alone or jointly with other persons.

"Public sector" means the government and all publicly controlled or publicly funded agencies, enterprises and other entities that deliver public programs, goods and services;

"Revenue" means Kwara State or Local Government share from the Federation Account, internally generated revenue and any grants and loans;

"State" means Kwara State;

"Statutory body" means any authority established under an Act of the Federation or law of a State;

"Storekeeper" means any officer having in his charge stores, articles or items that are public property;


"Governor" means the Governor of Kwara State; "the State" means Kwara State of Nigeria;

"Treasurer" means Head of Finance and Supply of a Local Government.

28. This Law may be cited as the Kwara State Public Audit Law, 2021.

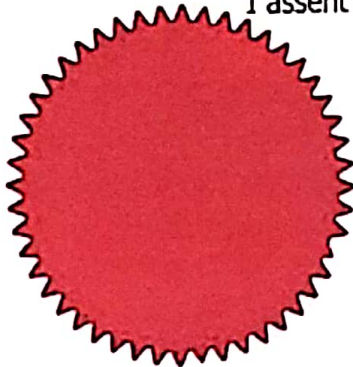
Citation.

This printed impression has been carefully compared by me with the Bill which was passed by the Kwara State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.


Clerk to the House

KWARA STATE PUBLIC AUDIT LAW, 2021

I assent this 30th day of JUNE 2021



ABDULRAHMAN ABDULRAZAQ
Governor,
Kwara State of Nigeria.

Kwara State of Nigeria

Law No. 4 of 2021

ARRANGEMENT OF SECTIONS

PART I

ESTABLISHMENT, APPOINTMENT, DUTIES, POWERS AND IMMUNITY OF THE AUDITORS- GENERAL

1. Establishment of the offices of Auditors-General.
2. Appointment of Auditors-General.
3. Qualification for appointment as an Auditor-General.
4. Remuneration and other conditions of service.
5. Removal of the Auditor-General.
6. Immunity from personal liability.
7. Powers of Auditor-General.
8. Delegation of office.
9. Cessation of office.
10. Vacancy In the office of the Auditor-General.
11. Duties and functions of State Auditor-General.
12. Duties and functions of Auditor-General for Local Governments.
13. Obligation of Auditor-General to report irregularities or losses.
14. Submission of accounts and annual financial statements.