

Federal Audit Service Commission Bill, 2016 (HB. 107)



Sponsored by: Hon. Emmanuel Yisa Orker-Jev

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A BILL

FOR

AN ACT TO ESTABLISH THE OFFICE OF THE AUDITOR-GENERAL FOR THE FEDERATION, PROVIDE FOR ADDITIONAL POWERS AND FUNCTIONS TO THE OFFICE; ESTABLISH THE FEDERAL AUDIT SERVICE COMMISSION; REPEAL THE AUDIT ACT 1956, THE PUBLIC ACCOUNTS COMMITTEES ACT, CAP. P35 LFN 2004, AND ENACT THE FEDERAL AUDIT SERVICE BILL 2016; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO (HB. 107)

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Commencement

NACTED by the National Assembly of the Federal Republic of Nigeria —

ART A: OFFICE OF THE AUDITOR-GENERAL FOR THE FEDERATION

(1) Subject to the provisions of the Constitution, there is hereby established an office known as the Office of the Auditor-General for the Federation, (hereinafter referred to as 'the office').

Establishment of the Office of the Auditor General for the Federation.

2) The Office shall be a corporate body:

(a) with a common seal and perpetual succession; and

(b) shall sue and be sued in its corporate name.

3) The Office shall be headed by the Auditor-General for the Federation, (hereinafter referred to as "the Auditor-General") who shall be of same rank in public service with the head of Service of the Federation

4) The Auditor General shall be assisted by 2 Deputy Auditors-General who shall be of same rank in public service with a permanent secretary or its equivalent and such other staff as may be appointed by the Federal Audit Service Commission on the recommendation of the auditor-General.

5) The Auditor-General, the 2 Deputy Auditors-General and other staff of The Office shall be public servants.

(1) Subject to the provisions of the Constitution, a person shall not be appointed as Auditor-General unless that person is -

Qualification of Auditor-General and Deputy Auditors-General.

(a) a qualified accountant with not less than 15 years cognate professional experience;

(b) registered with the Financial Reporting Council of Nigeria;

(c) has not been convicted of any offence involving dishonesty by a law court or found guilty of any professional misconduct involving dishonesty by any professional body established by law in Nigeria; and

(d) of proven professional ability and expertise.

1) Where the applicant is from the public service, he shall have at least four years (4) to serve before he is due for retirement.

2) Where the applicant is not from the public service, he shall not be less than 45 years and not more than fifty (50) years old at the date of appointment.

3) The Deputy Auditors-General to be appointed from the serving Directors in the Office who must meet the criteria in subsections (1) to (4) of this section.

(1) Where the post of the Auditor-General is vacant, the vacancy shall be filled by the appointment of the most qualified person with cognate experience in the service of the Office of the Auditor-General or in the public service of the Federation or State.

Procedure for appointment for Auditor-General.

2) Subject to sub-section (1), where there is no qualified person in the service of the Office of the Auditor-General or in the public service of the Federation or State, the vacancy shall be filled by the appointment of any person, not being a public servant, who meets the qualifications specified in this Bill.

3) Notwithstanding any provisions of this Section, where more than one person is qualified for appointment as the Auditor-General, the procedure for appointing the Auditor-General shall be uniform, transparent and competitive.

4) For the purpose of this Section, reference to Auditor-General shall include Deputy Auditors-General.

(1) Notwithstanding the provision of any Act, the Auditor-General shall be paid such salary and allowances as may be determined by the National Assembly on the recommendation of the Revenue Mobilization Allocation and Fiscal Commission.

Salary.

2) The salary and allowances of the Auditor-General shall be charged on the Consolidated Revenue Fund of the Federation.

3) Any person who holds office as Auditor-General shall be entitled to pension for life at a rate equivalent to the annual salary of the incumbent Auditor-General. Provided that such a person was not removed from office on grounds of misconduct or convicted for any offence involving dishonesty.

4) Subject to subsection (3) or any other Act, the severance allowance and other retirement benefits of the Auditor-General shall be similar to those of the Head of Service of the Federation.

The Auditor-General shall be appointed to serve for four years and may be reappointed to serve for another four years and no more.

Tenure of the Auditor-General.

A person holding office as the Auditor-General shall hold office until he -

Cessation of office of the Auditor-General

(a) attains the age of 65 years or he has served in the public service of the Federation for 35 years depending on which comes first;

(b) voluntarily retires by writing a letter in his own handwriting indicating his intention to retire addressed to the President through the Federal Civil Service Commission;

(c) is found incapable of discharging the functions of his office either arising from infirmity of mind or body or any other cause or for misconduct.

(1) Subject to the Constitution, a person holding the office of the Auditor-General shall be removed from office in accordance with the provision of section 87 of the Constitution of the Federal Republic of Nigeria (as amended). Removal of the Auditor-General on grounds of misconduct

2) The Senate shall not initiate proceedings to remove a person holding office as Auditor-General, unless the Senate:

(a) serves him with a copy of the allegation of misconduct, and

(b) gives him at least 14 days to prepare his defence to the allegation and make representation to the Senate either in person or by his Legal representative.

3) Any resolution to remove a person occupying the Office of the Auditor-General from office, on grounds of misconduct by the Senate, shall not be valid unless approved by two-thirds majority of the members.

(1) The office of the Auditor-General shall consist of such Directorates, Departments, Divisions, and Units as may be determined by the Federal Audit Service Commission on the recommendation of the Auditor-General. Administrative structure of the office.

2) The Audit Commission on the recommendation of the Auditor-General shall from time to time review the administrative structure of the office to meet the prevailing needs, and where so reviews, the new structure shall not be valid unless published in the official Gazette.

(1) Subject to the Constitution, the functions of the Auditor-General shall include the following: Functions of Auditor-General.

(a) expressing an opinion whether the financial statements prepared by the Government of the Federation represent fairly or otherwise the financial position and results of operation,

(b) carrying out, except otherwise provided by the Constitution, audit of all revenues accruing to the Federation and all expenditures of the Federation from all sources;

(c) carrying out, except otherwise provided by the Constitution, audit of donations, grants and loans accruable to Federal Ministries, Departments and Agencies or other public entities

(d) carrying out performance audit by ensuring that Federal Government and its agencies business is economically, efficiently and effectively performed;

(e) carrying out audit on classified expenditure;

(f) carrying out forensic audit;

(g) carrying out any other emerging audit(s);

(h) carrying out audit of international institutions to the extent of Nigeria contribution to such bodies;

(i) carrying out audit of all Federal government and its agencies subsidies and their application;

(j) carrying out audit of all Federal government and its agencies counterpart funded projects in the country.

(k) carrying out audit of all Nigerian Embassies, Consulates and Foreign Missions;

(l) carrying out audit of performance information;

(m) carrying out audit of disaster related grants and aids; and

(n) carrying out audit of public private partnership entered into by the Federal government and its agencies

(o) carrying out such audits as he may deem necessary to safe guard Federal government and its agencies assets and promote good governance.

2) Notwithstanding the provision of subsection (1), the Auditor-General shall not in person participate in any action or decision the subject of which he is an interested party.

0. The Auditor-General shall have power to:

Powers of
Auditor-General.

(a) decide on the methodology to be adopted in respect of an audit;

(b) determine the nature and extent of audit to be carried out and request the details, statements of account and financial statements which he considers necessary.

(c) in writing, require any person in the employment of Federal Ministries, Departments and Agencies or other public entities, and international institutions whose accounts are being audited by him to appear before him at a time and place mentioned in the request and to produce on demand, all such records, books; vouchers and documents in the possessions or under the control of such person;

(d) investigate and make extracts from any record, book, document and other information of any Federal Ministries, Departments and Agencies or other public entities, and international institutions whose accounts is audited by him.

(e) liaise with persons, Federal Ministries, Departments and Agencies or other public entities, and international institutions in Nigeria or outside Nigeria, on such conditions as he deems fit for the proper performance of his functions.

(f) surcharge the amount of any expenditure which has not been duly brought into the

account or the amount of any loss or deficiency incurred.

(g) revoke any surcharge imposed by him;

(h) direct the withholding of the emoluments and allowances of person(s) who fail(s) or refuse(s) to reply to audit queries within 30 days and for as long as the person(s) fail(s) to comply;

(i) have unrestricted access to persons, documents, records and other information necessary for proper discharge of his statutory obligations;

(j) audit all money accruing to the nation or Federal Ministries, Departments and Agencies or other public entities, and international institutions; and

(k) audit donations, grants, loans and other forms of assistance accruable to the Federal Government, Federal Ministries, Departments and Agencies or other public entities, and international institutions, whether from local or international institutions.

1. (1) The Auditor-General may, in the course of exercising his powers or perform his functions, summon a person as witness to give evidence either orally or in writing.

Issuance of summons and warrant of arrest.

2) Subject to subsection (1), where a person is summoned as witness and the person refuses or fails to appear, without any reasonable excuse, the Auditor-General may issue warrant to the police for his arrest.

3) The Auditor-General may administer oath or affirmation to any person who appear before him to give evidence or being examined as a witness by him.

4) Any person who intentionally gives false evidence either orally or in writing as a witness commits the offence of perjury.

5) Except authorized by law or the Auditor-General, any witness who refuses to take oath or affirmation prescribed in accordance with this Bill commits an offence.

2. Subject to the Constitution the Auditor-General, in exercising his powers or performing his functions under this Bill shall not be under the direction or control of any authority or person.

Independence of Auditor-General.

3. (1) The internal auditor of any Federal Ministries, Departments and Agencies or other public entities, and international institutions which is subject to audit by the Auditor-General shall submit a copy to the Auditor-General of each internal audit report issued within seven working days of its issue.

Internal audit reports.

2) Any response by Accounting officers of Federal Ministries, Departments and Agencies or other public entities, and international institutions to internal audit reports shall be presented to the Auditor-General within seven working days of receipt of the Audit Report.

14. (1) In exercising his powers or performing his functions under the constitution or this Bill, the Auditor-General shall express an independent opinion on the results of each audit and shall state whether:

Operations.

(a) the accounts are in conformity with the requirements of the Finance (Control and Management) Act, other Acts and Financial regulations;

(b) all moneys appropriated or otherwise disbursed have been expended and applied for the purpose intended and that such expenditure conforms to the authority which governs it;

(c) the financial affairs of the Federal Ministries, Departments and Agencies or other public entities, and international institutions audited and all revenues received and public moneys under its control have been handled and conducted with regularity and propriety by the accounting officer or any other public officer responsible for such;

(d) all reasonable precautions have been taken to safeguard the resources and property, and that all regulations directives and instructions relating to them have been duly complied with;

(e) in his opinion, the accounts reflected fairly the financial position of the Federal Ministries, Departments and Agencies or other public entities, and international institutions audited

(f) money has been expended with due regard to economy, efficiency and effectiveness;

(g) adequate financial regulations exist for accounting and financial operations in the Federation and that they are fully observed, and

(h) satisfactory procedures have been adopted to measure and report the effectiveness of programme, where such procedure could appropriately and reasonably be implemented.

(2) The Auditor-General shall, within ninety days of receipt of the Accountant-General's financial statements, submit his reports under this section to each House of the National Assembly and each House shall cause the reports to be considered by a committee of each house of the National Assembly responsible for Public Accounts.

(3) The National Assembly shall, after the receipt of the report submitted to it under subsection (2), debate, consider at the plenary session and then submit the report to the President or Chief Justice of Nigeria who may within one month pass it to the Public Accounts Implementation Tribunal for immediate action.

(4) The Auditor-General shall follow up the implementation of the recommendations of the National Assembly arising from the reports submitted to it under this Bill and reports back to the National Assembly on outstanding issue(s).

(5) The Auditor-General may, at any time, if it appears to him desirable, submit to the National Assembly a special report on any matter incidental to his powers and functions under this Bill.

(6) The reports of the Auditor-General in this Bill shall become a public document as soon as it is submitted to the National Assembly and may be placed on the Office website; published in the official bulletin of the Office, displayed in the Office library among others.

7) The report of the Auditor-General hosted on the website or published in accordance with subsection (6) of this section shall not be used unless approved by the National Assembly.

5. (1) The Auditor-General shall draw the attention of the appropriate authorities to any irregularity observed during the audit of the accounts as soon as the facts of such irregularity have been established and confirmed. Procedure.

2) The Auditor-General shall as a result of the audit conducted by him, make such queries and observations addressed to the Accountant-General or any other Accounting Officer and all for such accounts, vouchers, statements, documents and explanations as he deems fit.

3) The Auditor-General shall specify to the Accounting Officer or the appropriate Heads of Federal Ministries, Departments and Agencies or other public entities, and international institutions the amount due from any person upon whom he had made surcharge, and the reason for the surcharge and to report the circumstances of the case to the Accounting Officer of the affected Federal Ministries, Departments and Agencies or other public entities, and international institutions.

4) (a) The Auditor-General or any person authorized by him to carry out an audit shall hold a joint conference with the Accounting Officer on observations raised and the parties at the conference shall sign as being present and having agreed with the observations or sign as being present and having disagreed with the observations state reasons;

b) The refusal of Accounting Officer to sign the audit observations mentioned in subsection 4) (a) of this section shall not render the audit report invalid.

5) The Auditor-General may make a report to the National Assembly on anyone or more audits conducted by or on behalf of him under this Bill or any other bill which:

(a) shall set out the reasons for opinions expressed in the report;

(b) may include any recommendation(s) arising out of the audit that he thinks fit to make;

(c) after preparing a draft report, the Auditor-General shall give a copy of it, or part of it, to:

(i) the Accounting Officer or the appropriate head of Federal Ministries, Departments and Agencies or other public entities, and international institutions to which the draft report or part relates or that, in the Auditor-General's opinion, has a special interest in the draft report or part; and

(ii) in the case of a draft report or part of a draft report on a performance audit referred to in section 22 the appropriate head of Federal Ministries, Departments and Agencies or other public entities, and international institutions for which the Minister administering that section is responsible; and

(d) request the Accounting Officer or the appropriate Head of Federal Ministries, Departments and Agencies or other public entities, and international institutions in writing, for submissions or comments before a specified date, being:

(i) in the case of a draft report on a performance audit - at least 15 working days after the draft report or, part is given to the Accounting Officer or the appropriate head of Federal Ministries, Departments and Agencies or other public entities, and international institutions; or

(ii) in the case of a draft report on any other audit - at least 30 working days after the draft report or parties given to the authority.

6) The Auditor-General shall include in the report to the National Assembly any submission(s) or comment(s) made before the specified date, or a summary of them in a form determined by him.

6. (1) The Auditor-General shall determine the auditing standards, guidelines, and code of ethics specific to the audits performed by the Office of the Auditor-General.

Auditing standards and code of ethics.

2) In the performance of his functions, the Auditor-General shall apply the auditing standards and code of ethics recommended by the Financial Reporting Council of Nigeria.

3) Notwithstanding the provisions of subsection (2) of this section, where the auditing standards recommended by the Financial Reporting Council of Nigeria is silent on an issue, the Auditor-General may apply the auditing standards and code of ethics recommended by the International Organization of Supreme Audit Institutions (INTOSAI) and/or African Organization of English Speaking Supreme Audit Institutions (AFROSAI-E).

17. In the exercise of the powers conferred on him under the Constitution, the Auditor-General shall have powers to or authorize persons under him to draw attention to the following:

Specific issues to be addressed in audit of MDAs, etc. accounts.

(a) the profitability, liquidity, stability and solvency of the parastatals, corporations, or agencies and also the corporation on the capital markets, where applicable;

(b) whether there was any delay in payment of the government's portion of any declared dividend into the Consolidated Revenue Fund of the Federation;

(c) any significant case of fraud or losses and if so, their underlying causes and persons responsible for such fraud or losses;

(d) any internal control weakness which were identified and the general corporate performance indicating:

(i) achievements against set targets and objectives; and

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

18. The Auditor-General may inquire into, examine, investigate and report, as he considers necessary, on the expenditure of public monies disbursed, advanced or guaranteed to a private organization or body in which Federal Government has controlling interest.

Audit of public money in private organizations and bodies.

9. (1) When, in the course of conducting a financial, compliance or performance audit or any emerging audit, staff from the Office of the Auditor-General, or auditors appointed under this Bill, discover what they believe to be criminal, fraudulent or corruption acts, they shall immediately notify the Auditor-General. Reporting of Fraud.

2) Where the Auditor-General is satisfied that sufficient evidence exists to warrant special investigation, he shall carry out detailed investigation and make a special report on his findings to the National Assembly or the Police.

10. Where the Auditor-General becomes aware of:

Reference to National Assembly.

(a) any payment made without due authority;

(b) any deficiency or loss occasioned by negligence or misconduct;

(c) any sum which ought to have been but was not brought to account, he shall, in the case of expenditure, disallow the sum as a charge upon public funds and in all cases, call in question the sum concerned and makes a report on the sum to the National Assembly which shall refer the report to the committees of both Houses responsible for public finance.

11. (1) The Auditor-General shall, for the purpose of enhancing economy, efficiency and effectiveness of the operations of any Federal Ministries, Departments and Agencies or other public entities, and international institutions in respect of which appropriation, or other accounts are required to be prepared under any Act of the National Assembly or the Constitution, enquire into, examine, investigate or undertake performance audits and report as he considers necessary on: Performance Audit.

(a) the expenditure of public moneys and the use of public resources by Federal Ministries, Departments and Agencies or other public entities, and international institutions;

(b) the conduct of, and performance of their functions by:

(i) accounting officers;

(ii) heads of Federal Ministries, Departments and Agencies;

(iii) other public entities, and international institutions.

(c) the extent to which Federal Ministries, Departments and Agencies or other public entities, and international institutions established by an Act of the National Assembly, is carrying out its activities economically, efficiently and effectively;

(d) any act of omission of Federal Ministries, Departments and Agencies or other public entities, and international institutions to determine whether waste has resulted or may have resulted or may result;

(e) any act showing or appearing to show a lack of probity or financial prudence by a Federal Ministries, Departments and Agencies or other public entities, and international institutions or any of its members, office holders and employees; and

(f) any other activity undertaken by the Federal Ministries, Departments and Agencies or other public entities, and international institutions.

2) Any report prepared by the Auditor-General as a result of an examination, enquiry or investigation under this section shall be laid before the National Assembly.

2. The Auditor-General may carry out special audits, investigations or any other audit considered necessary by him.

Special audits and investigations.

3. (1) The financial statements of the Federal Government shall be submitted to the Auditor-General not later than the 30th June of the following financial year.

Submissions of annual financial statements.

2) The Accounting Officers of all Federal Ministries, Departments and Agencies and public institutions shall submit their financial statements to the Accountant-General not later than 90 days following the end of the financial year.

3) Subject to the provisions of the Constitution, the Accounting Officers of all statutory corporations, parastatals, authorities, commissions, agencies, including all persons and bodies established by an Act of the National Assembly shall submit their audited financial statements to the Auditor-General for audit not later than 90 days following the end of financial year.

4) Any person who contravenes the provisions of subsections (1), (2) and (3) of this section commits an offence and on conviction shall be personally liable to a fine of not less than ₦500,000.00

5) Notwithstanding the provisions of subsection (4) of this section, any Federal Ministries, Departments and Agencies or other public entities, and international institutions that contravene the provisions of subsections (1), (2) and (3) of this section shall be caused to make a representation to the National Assembly.

4. (1) Subject to the Constitution, the Auditor-General shall within 90 days of receipt of the Accountant-General's financial statement, submit his reports under this section to the President of the Senate and the Speaker of the House of Representatives and each House shall cause the reports to be considered by a committee of the House of the National Assembly responsible for public accounts.

Submission of audited annual financial statements to the National Assembly.

2) After the reports have been examined by the Committee responsible for Public Accounts, it shall be presented in the plenary sessions of the two Houses.

3) National Assembly shall publish its findings on the Auditor-General's report on the Accountant-General's financial statement mentioned therein, within 120 days of receiving such report.

4) The report under this section may include any information and recommendation(s) that the Auditor-General thinks fit:

(a) for the more effective and efficient management of public resources; and

(b) for the keeping of proper accounts and records of the transactions relating to public resources.

5. (1) All reports issued by the Auditor-General shall be considered public documents after the reports are presented to the National Assembly. Publication of audit reports.

2) The Auditor-General may provide copies of his published reports to:

(a) the National Archives; and

(b) the website of the Federal Government, Government press and approved print and electronic media.

3) No person shall, without the written consent of the Auditor-General, publish or disclose information obtained in the course of an audit to any person (other than in the course of his duties or when lawfully required to do so by a court of competent jurisdiction).

4) It is only the Auditor-General, after giving due consideration to the public interest and an auditor's professional obligations with regards to confidentiality of information, may determine what information, beyond the publicly available report, can appropriately be disclosed.

6. (1) The committee responsible for the Public Accounts may consider each report from the Auditor-General which is tabled in the National Assembly. Public accounts committee review of all audit reports.

2) The Committee responsible for Public Accounts shall make recommendations on the basis of this consideration and shall monitor their implementation; after it has been approved by the House at the plenary sessions.

7. The office of the Auditor-General shall prepare and submit to the National Assembly 6 months to the end of every financial year, the Estimates of Revenue and Expenditure of the office for the following financial year, which shall be included in the appropriation Bill. Estimates of revenue and expenditure.

8. (1) All monies approved by the National Assembly to defray the expenses that may be incurred in the discharge of the functions of the Office of the Auditor-General or in carrying out the purposes of this bill shall be a first line charge on the Consolidated Revenue Fund of the Federation. Expenses of the Office of the Auditor-General.

2) Any amount standing to the credit of the Office of the Auditor-General in the annual budget shall be paid directly to the Auditor-General for management and disbursement as approved by National Assembly.

9. (1) The Auditor-General shall prepare and submit the following reports to the National Assembly in accordance with section 15 and 16 of this Bill: Annual Report of the Auditor-General.

(a) annual financial statements of his office prepared in accordance with generally accepted accounting principles, pursuant to section 33 of this Bill;

(b) list of Federal Ministries, Departments and Agencies or other public entities, and international institutions whose financial statements were audited by the Auditor-General;

(c) list of Federal Ministries, Departments and Agencies or other public entities, and international institutions that fail to comply with section 15 of this Bill;

(d) annual reports in accordance with section 11 and 15 of this Bill.

(e) performance audit report on Programme, projects; and

(f) annual audit report on taxes and other revenue collections.

2) The reports mentioned in subsection (1) (a) and (b) of this section shall be submitted to the National Assembly along with other reports in accordance with section 23 of this Bill.

10. (1) The Auditor-General or an employee of the Office or a person acting on the authorities of Auditor-General shall not be personally liable for any action or omission committed in good faith in the performance of the functions or exercising the powers of the office.

Protection from litigation.

2) All reports and documents presented by the Auditor-General to the National Assembly shall be deemed to be National Assembly reports or documents and shall be accorded the same rights and privileges enjoyed by the reports and other documentary evidence emanating from or presented to the National Assembly by the Legislative Houses (Powers and Privileges) Act.

3) Subject to subsection (1) of this section, no civil or criminal proceedings shall be instituted against the Auditor-General on the basis of any actions or omissions committed by him or any report submitted to the National Assembly.

11. (1) The Auditor-General may appoint, subject to the Public Procurement Act, private auditors to assist him in the performance of his functions under this Bill.

Power to appoint private auditors.

2) An auditor appointed under this section shall be supervised by the Auditor-General.

3) The Auditor-General may, in the performance of his functions under this Bill, engage the services of or work in consultation with professionals or technical experts or consultants to enhance the performance of the Office of the Auditor-General.

12. (1) The accounts of the Office of the Auditor-General shall, in each financial year, be audited and reported upon by an independent auditor appointed, subject to the Public Procurement Act by the National Assembly.

Independent Auditor for the Auditor-General's Office.

(2) The Independent Auditor appointed under this section shall serve for a maximum period of three years.

3) Notwithstanding subsection (1) of this section, a person is qualified for appointment as independent Auditor to the Office where:

(a) he holds a valid practicing license whether within or outside the country for at least a period of ten years before such appointment;

(b) has proven track records of performance and integrity;

(c) is not involved or has not audited the Audit Commission or any Federal Ministries, Departments and Agencies or other public entities, and international institutions which is subject to audit by the Office for at least a period of three years before such appointment;

(d) has not been a consultant to the Office or Audit Commission for at least a period of three years before such appointment.

4) Notwithstanding anything to the contrary in any law, the Office of the Auditor-General shall, within three months after the end of its financial year, prepare and submit to the auditor appointed under subsection (1), financial statements of the performance and integrity.

5) The Auditor shall have access to all books of accounts, vouchers and other records of the Office of the Auditor-General and is entitled to any information and explanation required in relation to those records.

33. (1) No person shall assume office as Auditor-General unless the person takes the oath or affirmation specified in Part A of the schedule to this Bill.

Oath/
Affirmation of
Office, Secrecy.

(2) Every person appointed to the services of the Office of the Auditor-General shall before assuming duty take the Oath or affirmation of secrecy specified in Part B of Schedule to this Bill.

34. (1) It shall be an offence under this Bill if a person:

Offences and
penalties.

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Auditor-General or any person authorized by the Auditor-General in the performance of his functions;

(b) without lawful justification, refuses or fails to comply with any lawful request, order or directives of the Auditor-General or any person authorized by the Auditor-General;

(c) without any lawful justification, refuses or fails to give to the Auditor-General or any person authorized by the Auditor-General, access to any property, books, records, returns or other documents, information referred to in section 10; or

(d) knowingly presents to the Auditor-General or any person authorized by the Auditor-General, a false or fabricated document or makes a false statement with intent to deceive or mislead the Auditor-General or any person authorized by the Auditor-General;

(e) Presents himself directly as having authority under this Bill without such lawful

authority.

2) A person commits an offence while, working in the Office of the Auditor-General if he:

(a) misuses any information obtained while performing his official function or exercising his official power;

(b) colludes with any Accounting officer or internal auditor or other public officers in the conduct of his functions or exercising his power, omit or commit any act; where such omission or commission leads to loss of public funds.

3) Any person who commits an offence under subsection (1) of this section shall on conviction be liable:

(a) in the case of an individual, to a fine of not less than N300,000; or a term of imprisonment of not less than three years or both;

(b) in the case of a body corporate, to a fine not less than N5,000,000.

4) Any person who commits an offence under subsection (2) of this section shall on conviction, be liable to a fine not less than N300,000; or a term of imprisonment of not less than three years or both.

5) Except otherwise provided by this Bill, where the Bill provides for an offence and no penalty is prescribed for the offence, any person who contravenes any of the provisions of those sections, shall be liable to a fine not exceeding N200,000 or a term of imprisonment not exceeding 2 years or both.

PART B - ESTABLISHMENT OF A FEDERAL AUDIT SERVICE COMMISSION

15. (1) There is established a body known as the Federal Audit Service Commission hereinafter referred to as "the Audit Commission").

Establishment of
Federal Audit
Service
Commission.

2) The Audit Commission shall be a corporate body-

(a) with a common seal and perpetual succession, and

(b) shall sue and be sued in its corporate name.

16. (1) The Audit Commission shall consist of:

Composition of
the Audit
Commission.

(a) a Chairman who shall be the Auditor-General;

(b) six (6) persons known as Commissioners, one each from the six (6) geo-political zones of the Federation, and each of who shall be a member from any recognized professional accounting body with not less than 15 years standing;

(c) a representative of the Head of Civil Service of the Federation not below the rank of a Director;

(d) two persons who retired from the service of the Office of the Auditor-General and who must have attained at least Deputy Auditor-General.

(e) two persons appointed to represent the two professional accounting bodies in Nigeria.

2) Except the ex-officio members, other members of the Commission shall be appointed by the President subject to confirmation by the Senate.

3) Membership shall be on a part-time basis.

4) A serving member of any Board or its equivalent of Parastatal, Commission, or any other agency of government cannot be appointed as member of the Commission in subsection (1) of this section.

7. (1) There shall be a Secretary to the Audit Commission and such other staff as may be determined by the Audit Commission.

Secretary and
Staff of the
Audit
Commission.

2) The Secretary, who shall be on same rank with a Director-General or its equivalent in public service shall be the accounting officer of the Audit Commission and shall be responsible to Chairman for the daily running of the Audit Commission.

3) The Secretary shall serve for a term of 4 years and shall be eligible for re-appointment for another term of 4 years and no more.

8. Except for ex-officio members, a member of the Audit Commission may be removed from the office by the President, subject to approval of the Senate for inability to perform the functions of his office, arising from physical infirmity or infirmity of mind or for misconduct.

Removal from
Office of a
Member of the
Commission.

9. (1) The Audit Commission shall:

Functions of the
Commission.

(a) determine on the recommendation of the Auditor-General, the administrative structure of the Office of the Auditor-General;

(b) except for the Office of the Auditor-General, appoint persons to offices in the Office of the Auditor-General and the Audit Commission;

(c) handle all matters of recruitment, promotion and discipline of members of staff of the office and the Audit Commission;

(d) determine in consultation with relevant government agencies the salaries and other conditions of service of members of staff of the Office and the Audit Commission; and

(e) make rules and regulations, which shall not be inconsistent with the intendment of this Bill, in order to realize the objectives of this Bill.

2) The Audit Commission shall have authority under this section to delegate its powers under this section to the Auditor-General or any other person in the service of the Office of the

auditor-General or the Audit Commission.

40. (1) Notwithstanding the provision of any Act, a staff of the Office of the Auditor General other than the Audit Commission shall retire from service when he attains the age of 65 years or has served for 35 years in the public service of the Federation depending on which comes first.
- 2) Notwithstanding the provision of this Bill and any other Act, any staff of the Office of the Auditor-General who has served for 8 cumulative years as a Director or Deputy Auditors-General shall retire from the service.
- 3) Notwithstanding the provision of any Act, a staff of the Audit Commission shall retire from service in accordance with general retirement guidelines in the public service of the Federation.
41. The staff of the Audit Commission shall swear to an oath of secrecy in the performance of their duties as in Part B of Schedule to this Bill.
42. Except for the ex-officio members, other members of the Audit Commission shall serve for a term of four years and may be re-appointed for another term of four years and no more.
43. (1) Where a member of the Audit Commission resigns, dies or is removed from office for whatever reason, the Chairman shall inform the President in writing, and the President shall appoint another person to hold office for the unexpired period of the term, subject to the approval of the Senate.
- (2) A member of the Audit Commission may at any time resign his office in writing, addressed to the President through the Chairman of the Audit Commission.
44. (1) The Audit Commission shall meet ordinarily for the transaction of business at such time and place as it may fix at least once in a quarter.
- (2) A special meeting of the Audit Commission shall be convened upon written request of the Chairman or by a majority decision of members addressed to the Secretary of the Audit Commission.
- (3) The Chairman shall preside at any meeting of the Commission but in his absence members may appoint one of their own to preside in a meeting.
- (4) Decisions shall be determined by a simple majority of members present and voting; where there is equality of votes, the presiding officer shall have a casting vote.
- (5) The quorum at a meeting shall be one-third of the total members including the Chairman.
- (6) The Audit Commission may co-opt any person to attend its meeting but such person shall not vote on any matter affecting the decision of the Audit Commission.

Length of service of staff of the Office of the Auditor-General and the Audit Commission.

Oath of Secrecy of the staff of the Commission.

Tenure of Members of the Commission.

Resignation of members of the Audit Commission.

Meetings of the Audit Commission.

7) Except for the ex-officio members, a member who is absent from three consecutive meetings of the Audit Commission without written consent of the Chairman ceases to be a member.

8) Except otherwise provided by this Bill, the Audit Commission shall regulate its own proceedings.

5. (1) Any member of the Audit Commission with interest in any matter before the Audit Commission for consideration shall disclose in writing the nature of his interest.

Declaration of Interest on Matters before the Audit Commission.

2) Such a person should be disqualified from participation in any deliberation in respect of the matter.

3) A member who contravenes subsection (1) of this section shall be removed from the Audit Commission and may face prosecution.

6. (1) The Audit Commission may appoint committees consisting of its members and non-members to exercise any of its functions.

Appointment of Committees.

2) The Chairman of a committee of the Audit Commission shall be appointed from within the membership of the Audit Commission or the Committee.

3) A Committee of the Audit Commission may co-opt such person(s) as it may determine at its meetings and shall abide by the terms of reference given to it by the Audit Commission.

7. (1) The Audit Commission may engage, subject to the Public Procurement Act the services of such consultants and experts, as it may consider desirable for the efficient discharge of its functions.

Engagement of Consultants.

2) In addition to the provisions of subsection (1), the Consultants and experts shall be engaged on such terms and conditions as the Audit Commission may determine.

3) Nothing in this section or any other provision of this Bill shall be construed as empowering the Audit Commission to interfere in the operations of the Office of the Auditor-General for the Federation or engage any consultant or any other body or person to act in that regard.

18. (1) The National Assembly may appoint, subject to the Public Procurement Act, an independent Auditor to audit the accounts of the Audit Commission for each financial year.

Independent Auditors for the Audit Commission.

2) The independent Auditor appointed under this section (1) shall serve for a maximum period of three years.

3) Notwithstanding subsection (1) of this section, a person is qualified for appointment as independent Auditor to the Audit Commission where:

(a) he holds a valid practicing license whether within or outside the country for at least a period of ten years before such appointment;

(b) has proven track of performance and integrity;

(c) is not involved or has not audited the Office of the Auditor-General or any Federal Ministries, Departments and Agencies or other public entities, and international institutions which is subject to audit by the Office for at least a period of three years before such appointment;

(d) has not been a consultant to the Office or the Audit Commission for at least a period of three years before such appointment.

49. (1) The Audit Commission shall prepare its statement of accounts and a report of its performance in the previous year, and submit to the National Assembly not later than six months after the end of the financial year. Submission of statements of accounts and annual reports

(2) The independent auditor appointed by the National Assembly, in pursuance of this section and section 53 of this Bill shall submit their audited accounts to the National Assembly.

50. (1) The appointment of the Auditor General and the existing staff of the Office of the Auditor-General shall remain valid upon coming into force of this Bill. Transition and Savings.

(2) Notwithstanding the provision of subsection (1) of this section, the existing staff of the Office of Auditor General shall be subject to terms and conditions of service of the Audit Commission from the commencement of this Bill.

51. The following Acts are hereby repealed:

(a) The Audit Ordinance Act of 1958;

(b) The Public Account Committee Act, CAP. P35, LFN 2004.

Repeal.

52. In this Bill, unless the context otherwise requires:

Interpretation.

“Auditor-General of the Federation” includes persons authorized by him;

“the office” means the Office of the Auditor-General for the Federation established by and under section 1 of this Bill;

“appropriate authorities” means the accounting officers of the public institutions being audited;

“MDAs” means Ministries, Departments and Agencies;

“Body” means public entities (i.e. parastatals, commissions, etc.);

“Constitution” means the Constitution of the Federal Republic of Nigeria;

“Cognate experience” means working experience as Auditors;

“Members” include Chairman;

“National Assembly” means the Senate and Federal House of Representatives;

‘police’ includes other Law enforcement agencies;

‘presiding officer’ means Chairman of the Commission or his delegate;

‘President’ means the President of the Federal Republic of Nigeria;

‘the Commission’ means the Federal Audit Service Commission;

‘Surcharge’ means make somebody responsible for repayment or extra payment.

53. This Bill may be cited as the Federal Audit Service Commission Bill, 2016.

Short title.

SCHEDULE

PART A

OATH OF OFFICE OF AUDITOR-GENERAL

I, having been appointed Auditor-General, do solemnly swear (affirm) in the name of the Almighty God /Allah that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Auditor-General for the Federation, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the Act; that I will not allow my personal interest to influence my official conduct or my official decisions, that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any unauthorized person, any matter which shall be brought under my consideration or shall become known to me as the Auditor-General for the Federation, except as may be required for the due discharge of my duties as the Auditor-General for the Federation; that I will devote myself to the service of the Nation.

So help me God/Allah.

PART B

Oath of Office of member of staff of the office of the Auditor-General

I, do solemnly swear (affirm) in the name of the Almighty God/Allah that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; and that I will discharge my duties and perform my functions honestly to the best of my ability and faithfully in accordance with the Constitution of the Federal Republic of Nigeria and the Law;

So help me God/Allah.