THE SENATE
FEDERAL REPUBLIC OF NIGERIA

Senate Public Accounts Committee (SPAC)

REPORT

OF

THE SENATE PUBLIC ACCOUNTS COMMITTEE ON A BILL FOR AN ACT TO ESTABLISH THE FEDERAL AUDIT SERVICE COMMISSION, REPEAL THE PUBLIC ACCOUNTS IMPLEMENTATION TRIBUNAL AND FOR MATTERS RELATED THERETO (SB. 742)

MAY, 2019

REPORT OF THE SENATE COMMITTEE ON PUBLIC ACCOUNTS ON THE FEDERAL AUDIT SERVICE COMMISSION (REPEAL AND RE-ENACTMENT) BILL, 2019 (SB.742)

1.0 PREAMBLE

The Senate at its Plenary Sitting on Wednesday 8TH May, 2019, deliberated on the general principles of the Federal Audit Service **(Repeal and Re-Enactment) Bill, 2019 (SB. 742)** the second time and referred same to the Senate Public Accounts Committee, for further legislative action, to report back **Next Legislative Day.** The Committee received the Referral on Thursday, 9th May, 2019.

Mr. President, distinguished colleagues, the Bill is not new to this 8th Senate. The Bill was passed by the House of Representatives on 19th April, 2016 and transmitted to the Senate for concurrence. The Senate passed the bill on Thursday, 1st March, 2018. Due to differences in the version passed by the two chambers, Conference Committee was set up to reconcile areas of differences. The Bill was harmonized and passed by both Chambers. The harmonized copy was forwarded to Mr. President, for his assent on the 8th of January, 2019.

It is over four months that the Bill was sent to Mr. President for assent but Mr. President neither assented nor declined assent to the bill.

2.0 COMMITTEE'S ACTION

A meeting of the Committee was convened to deliberate on the referral.

The Committee reviewed the relevance of the Bill and its envisaged contribution to the promotion of transparency, probity and accountability in the management of the public funds of the Federation and as the bedrock for fighting corruption.

3.0 OBSERVATIONS

The Committee having examined the provisions of the Constitution of the Federal Republic of Nigeria 1999, as amended and Senate Standing Orders, observes as follows:

1. That the National Assembly followed due process in the passage of the bill.
2. That the bill was transmitted to Mr. President for assent as specified by the Constitution.
3. That this Bill is very important to the nation as passing it into law will form the bedrock for fighting corruption which is one of the cardinal objectives of Mr. President's administration. It will empower the Office of the Auditor-General for the Federation who has the constitutional mandate of auditing ALL accounts of the Federation to nip corruption in the bud, ensure transparency in government transactions, etc.
4. That this Bill will address acute manpower shortage existing in the Office of the Auditor-General for the Federation and bring it in tandem with Supreme Audit Institutions (SAIs) and international best practices as obtained in other climes such as South Africa, Ghana and United Kingdom, etc.
5. That all relevant Stakeholders to the Bill expressed support for its passage and had no objection to any clause(s)
6. That since Mr. President did not communicate to the National Assembly as to why he withheld his assent to the Bill, the most viable option for the National Assembly in view of the constraint of time, is to liaise with Mr.

President to ensure that he assents to the bill before the end of the 8th Assembly.

4.0 RECOMMENDATIONS

In line with the foregoing observations, the Senate Public Accounts Committee, hereby recommends as follows:

1. *That the Senate do pass again the Federal Audit Service Commission (Establishment, etc.) Bill 2019 for Presidential assent; and*
2. *That the Senate do mandate its leadership to liaise with Mr. President in a legislative-executive interaction with a view to getting him assent to the Federal Audit Service Commission (Establishment, etc.) Bill before the lapse of the 8th National Assembly.*

I so move.

5.0 CONCLUSION

I wish to, on behalf of the Public Accounts Committee, thank the President of the Senate and my distinguished colleagues for the opportunity to serve in this capacity.

Senator Matthew A. Urhoghide
Chairman

FEDERAL AUDIT SERVICE COMMISSION ACT, 2018

EXPLANATORY MEMORANDUM

This Act establishes the Office of the Auditor-General for the Federation, provides for additional powers and functions to the office, establish the Federal Audit Service Commission, repeal the Public Accounts Committees Act, Cap. P35, Laws of the Federation of Nigeria, 2004 and Public Accounts Implementation Tribunal Act, Cap. P36, Laws of the Federation of Nigeria, 2004.

FEDERAL AUDIT SERVICE COMMISSION ACT, 2018

Arrangement of Sections

Section:

PART A - OFFICE OF THE AUDITOR-GENERAL FOR THE FEDERATION

PART B – ESTBALISHMENT OF THE FEDERAL AUDIT SERVICE COMMISSION

FEDERAL AUDIT SERVICE COMMISSION ACT, 2018

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 Public Accounts Committees Act, Cap. P35, Laws of the Federation of Nigeria, 2004 and Public Accounts Implementation Tribunal Act, Cap. P36, Laws of the Federation of Nigeria, 2004; and for related matters.

[ ] Commencement

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

PART A - OFFICE OF THE AUDITOR-GENERAL FOR THE FEDERATION

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

1. (1) Subject to the provisions of the Constitution, there is established the Office of the Auditor-General for the Federation (in this Act referred to as "the Office").

(2) The Office -

(a) shall be a body corporate with perpetual succession and a common seal; and

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

(3) The Office shall be headed by the Auditor-General for the Federation ("the Auditor-General") who shall be of same rank in public service with the Head of Service of the Federation.

(4) The Auditor General is assisted by three Deputy Auditors-General who shall be of same rank in public service as 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, three Deputy Auditors-General and other staff of the Office shall be public servants.

Qualification of Auditor-General and Deputy Auditors-General.

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

(a) is a qualified accountant with at least 15 years cognate professional experience;

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

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

(d) is of proven professional ability and expertise.

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

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

(4) The Deputy Auditors-General are appointed from the serving Directors in the Office and shall meet the criteria in subsections (1) - (3).

3. (1) Where the post of the Auditor-General is vacant, the Federal Civil Service Commission, in exercise of its powers under the Constitution, shall be guided by the provisions of this section. Procedure for appointment of the Auditor-General.

Constitution, 1999.

(2) The vacancy in the Office shall be filled by the appointment of the most qualified person with cognate experience in the service of the Office or Public Service of the Federation or State.

(3) Subject to subsection (2), where there is no qualified person in the service of the Office or 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 Act.

(4) Notwithstanding any provision 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.

(5) In this section, a reference to Auditor-General includes Deputy Auditors-General.

4. (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 Mobilisation Allocation and Fiscal Commission. Salary and allowance of the Auditor-General.

(2) The salary and allowances of the Auditor-General shall be a charge upon the Consolidated Revenue Fund of the Federation.

(3) A person who holds office as Auditor-General is entitled to pension for life at a rate equivalent to the annual salary of the incumbent Auditor-General, provided that the 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 is similar to those of the Head of Service of the Federation.

5. The Auditor-General is appointed to serve for four years and may be reappointed for another four years and no more. Tenure of office of the Auditor-General.

6. 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; or

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

7. (1) 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. Removal of the Auditor-General on grounds of misconduct.

(2) The Senate shall not commence proceedings to remove a person holding office as Auditor-General unless the Senate - Constitution, 1999.

(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, is not valid unless it is approved by two-thirds majority of the members of the Senate.

8. (1) The Office shall consist of Directorates, Departments, Divisions, and Units as may be determined by the Audit 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 review the administrative structure of the Office to meet the prevailing needs and, where it so reviews, the new structure shall not be valid unless it is published in the Federal Government Gazette.

9. (1) Subject to the provisions of the Constitution, the functions of the Auditor-General include – Functions of the 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 – Constitution, 1999.

(i) all revenues accruing to the Federation and all expenditures of the Federation from all sources, and

(ii) donations, grants and loans accruable to Federal Ministries, Departments and Agencies or other public entities;

(c) carrying out –

(i) performance audit by ensuring that the business of the Federal Government and its agencies are economically, efficiently and effectively performed,

(ii) audit on classified expenditure,

(iii) forensic audit,

(iv) any other emerging audit,

(v) audit of international institutions to the extent of Nigeria's contributions to such bodies,

(vi) audit of all Federal Government and its agencies' subsidies and their application,

(vii) audit of all Federal Government and its agencies' counterpart funded projects in the country,

(viii) audit of all Nigerian Embassies, Consulates and Foreign Missions,

(ix) audit of performance information,

(x) audit of disaster related grants and aids,

(xi) audit of public private partnership entered into by the Federal government and its agencies, and

(xii) such audits as he may deem necessary to safeguard 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.

10. The Auditor-General shall have powers to – Powers of the 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 produce on demand, all such records, books, vouchers and documents in the possession or under the control of such person;

(d) investigate and make extracts from any record, book, document and other information of any Federal Ministry, Department and Agency 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 thinks 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 any person who fails or refuses to reply to audit queries within 30 days and for as long as the person fails to comply;

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

(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.

11. (1) The Auditor-General may, in the course of exercising his powers or performing 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 appears 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 authorised by law or the Auditor-General, any witness who refuses to take oath or affirmation prescribed in accordance with this Act commits an offence.

Independence of the Auditor-General.

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

Internal audit reports.

13. (1) The internal auditor of any Federal Ministry, Department and Agency or other public entity and international institution, 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.

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

Operations.

Constitution, 1999.

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

(a) the accounts are in conformity with the requirements of relevant extant Acts and Financial Regulations;

(b) all money 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 money 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 90 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 for apprpriate 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 Act and reports back to the National Assembly on outstanding issues.

(5) The Auditor-General shall, at any time, submit to the National Assembly a special report on any matter incidental to his powers and functions under this Act.

(6) The reports of the Auditor-General 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 and 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) shall not be used unless it is approved by the National Assembly.

15. (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. 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 call for such accounts, vouchers, statements, documents and explanations as he thinks fit.

(3) The Auditor-General shall specify to the accounting officer or 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, the reason for the surcharge and 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) The Auditor-General or any person authorised by him to carry out an audit shall hold an exit conference with the accounting officer on observations raised, and the parties at the conference shall sign as having been present and agreed with the observations or sign as having been present and disagreed with the observations and state reasons.

(5) The refusal of an accounting officer to sign the audit observations under subsection (4) does not render the audit report invalid.

(6) The Auditor-General shall make a report to the National Assembly on any one or more audits conducted by or on his behalf under this Act or any other Act which -

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

(b) shall include any recommendation 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 officers or appropriate heads 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 Ministry, Department and Agency or other public entity and international institution for which the Minister administering that section is responsible; and

(d) request the accounting officer or appropriate head of Federal Ministry, Department and Agency or other public entity and international institution in writing, for submissions or comments before a specified date, which in the case of a draft report on -

(i) a performance audit, at least 15 working days after the draft report or part is given to the accounting officer or appropriate head of Federal Ministry, Department, Agency or other public entity and international institution; or

(ii) any other audit, at least 30 working days after the draft report or part is given to the authority.

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

16. (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), 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 Organisation of Supreme Audit Institutions (INTOSAI) or the African Organisation 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 authorise persons under him to draw attention to - Specific issues to be addressed in audit of MDAs 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; and

(d) any internal control weakness 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 utilised.

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

19. (1) When, in the course of conducting a financial, compliance, performance or any emerging audit, staff from the Office or auditors appointed under this Act discover what they believe to be criminal, fraudulent or corrupt, 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 and the police.

20. Where the Auditor-General becomes aware of any - Reference to National Assembly.

(a) payment made without due authority,

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

(c) 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 make a report on the sum to the National Assembly which shall refer the report to the Committees of both Houses responsible for public accounts.

21. (1) The Auditor-General shall, for the purpose of enhancing economy, efficiency and effectiveness of the operations of Federal Ministries, Departments, 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, inquire into, examine, investigate or undertake performance audits and report as he considers necessary on - Performance audit.

(a) the expenditure of public money, and use of public resources by Federal Ministries, Departments, Agencies, 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, and

(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, are carrying out their activities economically, efficiently and effectively;

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

(e) any act showing or appearing to show a lack of probity or financial prudence by the 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, inquiry or investigation under this section shall be laid before the National Assembly.

22. The Auditor-General may carry out special audits, investigations or any other audit he considers necessary. Special audits and investigations.

23. (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, 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 review not later than 90 days following the end of a financial year.

(4) Any person who contravenes the provisions of subsections (1) - (3) commits an offence and is liable on conviction personally to a fine of not less than ₦500,000.00 or two years imprisonment or both.

(5) Notwithstanding the provisions of subsection (4), any Federal Ministry, Department, Agency, other public entity, or international institution that contravenes the provisions of subsections (1) - (3) shall be caused to make a representation to the National Assembly for further disciplinary action.

24. (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 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.

Constitution, 1999.

(2) After the reports have been examined by the Committee responsible for public accounts, the reports shall be presented in the plenary sessions of the two Houses.

(3) The National Assembly shall publish its findings on the Auditor-General's report on the Accountant-General's financial statement mentioned in subsection (1), within 120 days of receiving such report.

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

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

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

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

(2) The Auditor-General shall provide copies of his published reports to the -

(a) National Archives; and

(b) 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 that, 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.

26. The Committee responsible for the public accounts shall – Committee to review all audit reports.

(a) consider each report from the Auditor-General which is tabled before the National Assembly; and

(b) make recommendations on the basis of this consideration and monitor their implementation after they have been approved by the Senate and House at the plenary sessions.

27. The Office shall prepare and submit to the National Assembly, six 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 Act. Estimates of revenue and expenditure.

28. (1) All money approved by the National Assembly to defray the expenses that may be incurred in the performance of the functions of the Office or in carrying out the purposes of this Act shall be a first line charge on the Consolidated Revenue Fund of the Federation. Expenses of the Office.

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

(3) The Auditor-General shall charge fees for the conduct of audits undertaken on behalf of international aid agencies, unanticipated audit requests, state owned enterprises government business enterprises funds and autonomous commissions that are not funded directly from the State budget and such amounts shall be remitted to the Consolidated Fund, net of audit costs.

Annual report of the Auditor-General.

29. (1) The Auditor-General shall prepare and submit the following reports to the National Assembly in accordance with sections 15 and 16 of this Act -

(a) annual financial statements of his Office prepared in accordance with generally accepted accounting principles, pursuant to section 16 of this Act;

(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 Act;

(d) annual reports in accordance with section 11 and 15 of this Act;

(e) performance audit report on programme and projects; and

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

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

Protection from litigation.

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

(2) All reports and documents presented by the Auditor-General to the National Assembly are deemed to be the 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 under the Legislative Houses (Powers and Privileges) Act. Act No.2, 2017.

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

Power to appoint private auditors.

31. (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 Act. Act No. 14, 2007.

(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 Act, engage the services of, or work in consultation with, professionals, technical experts or consultants to enhance the performance of the Office.

32. (1) The accounts of the Office 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 Office. Act No. 14, 2007.

(2) Notwithstanding the provision subsection (1), a person is qualified for appointment as independent auditor to the Office if he -

(a) holds a valid practising licence, whether within or outside the country, for at least a period of 10 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 Ministry, Department, Agency or other public entity, or international institution which is subject to audit by the Office for at least a period of three years before such appointment; and

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

(3) Notwithstanding anything to the contrary in any law, the Office 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.~~

(4) The Auditor shall have access to all books of accounts, vouchers and other records of the Office 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 Act. Oath or affirmation of office and secrecy.

(2) Every person appointed to the services of the Office shall, before assuming duty, take the oath or affirmation of secrecy specified in Part B of the Schedule to this Act. Schedule.

34. (1) It is an offence under this Act for a person - Offences and penalties.

(a) without lawful justification or excuse to -

(i) wilfully hinder or resist the Auditor-General or any person authorised by the Auditor-General in the performance of his functions,

(ii) refuse or fail to comply with any lawful request, order or directives of the Auditor-General or any person authorised by him, or

(iii) refuse or fail to give to the Auditor-General or any person authorised by the Auditor-General, access to any property, books, records, returns or other documents, information referred to in section 10;

(b) to knowingly present to the Auditor-General or person authorised by him false or fabricated document or make a false statement with intent to deceive or mislead the Auditor-General or any person authorised by him; or

(c) to present himself directly as having authority under this Act without such lawful authority.

(2) A person commits an offence while working in the Office if he -

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

(b) colludes with any accounting officer, internal auditor or other public officer in the performance of his functions or exercising his power, omits or commits any act and such omission or commission leads to loss of public funds.

(3) A person who commits an offence under subsection (2) is liable on conviction—

(a) in the case of an individual, to a fine of not less than ₦2,000,000.00, or imprisonment for a term of not less than three years or both; and

(b) in the case of a body corporate, to a fine not less than ₦10,000,000.00.

(4) Except otherwise provided by this Act, where the Act provides for an offence and no penalty is prescribed for the offence, a person who contravenes any of the provisions of those sections, is liable to a fine not exceeding ₦1,000,000.00 or imprisonment for a term not exceeding two years or both.

PART B - ESTABLISHMENT OF THE FEDERAL AUDIT SERVICE COMMISSION

35. (1) There is established the Federal Audit Service Commission (in this Act referred to as "the Audit Commission"). Establishment of Federal Audit Service Commission.

(2) The Audit Commission is a corporate body-

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

(b) may sue or be sued in its corporate name.

36. (1) The Audit Commission shall consist of - Composition of the Audit Commission.

(a) a chairman who shall have at least 15 years cognate experience in accounting and auditing in the public or private sector or both;

(b) six Commissioners, one from each of the six geo-political zones of the Federation, and three of whom shall be from accounting and auditing profession and other three from law or public administration, with at least 15 years cognate experience;

(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 who had reached the rank of a Director on Grade Level 17; and

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

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

(3) Membership of the Audit Commission shall be on a part-time basis.

(4) A serving member of any board or its equivalent, parastatal, commission or other agency of government shall not be appointed as member of the Audit Commission under subsection (1).

37. (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 the same rank with a Permanent Secretary or its equivalent in the Federal Public Service, shall be the accounting officer of the Audit Commission and shall be responsible to the Chairman for the daily running of the Audit Commission.

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

38. Except 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, infirmity of the mind or for misconduct. Removal from office of a member of the Commission.

39. (1) The Audit Commission shall, on the basis of recommendations by the Auditor-General - Functions of the Commission.

(a) determine the administrative structure of the Office;

(b) appoint persons to offices in the Office and the Audit Commission;

(c) handle all matters referred to it on recruitment, promotion and discipline of members of staff of the Office and the Audit Commission;

(d) determine, in consultation with the National Salaries, Incomes and Wages Commission and any other relevant government agency, 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 Act, in order to realise the objectives of this Act.

(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 Audit Commission.

40. (1) Notwithstanding the provision of any Act, a staff of the Office other than the Audit Commission shall retire from service when he attains the age of 60 years or has served 35 years in the Public Service of the Federation, depending on which comes first. Length of service of staff of the Office and Audit Commission.

(2) 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 discharge of their duties as in Part B of the Schedule to this Act. Oath of Secrecy of staff of the Audit Commission. Schedule.

42. Except 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. Tenure of members of the Audit Commission.

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 term, subject to the approval of the Senate. Resignation of members of the Audit Commission.

(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. Meetings of the Audit Commission.

(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 them to preside in a meeting.

(4) Decisions shall be determined by a simple majority of members present and voting, but 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.

(7) Except 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 Act, the Audit Commission shall regulate its own proceedings.

Declaration of interest on matters before the Audit Commission.

45. (1) A member of the Audit Commission with interest in any matter before the Audit Commission for consideration shall –

(a) disclose in writing the nature of his interest; and

(b) be disqualified from participation in any deliberation in respect of the matter.

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

Setting up of committees.

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

(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 as it may determine at its meetings and shall abide by the terms of reference given to it by the Audit Commission.

Engagement of consultants.

Act No. 14, 2007.

47. (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 performance of its functions.

(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 Act shall be construed as empowering the Audit Commission to interfere in the operations of the Office or engage any consultant, other body or person to act in that regard.

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

Appointment of independent auditors for the Audit Commission.

(2) The independent auditor appointed under subsection (1) shall serve for a maximum period of three years.

Act No. 14, 2007.

(3) Notwithstanding subsection (1), a person is qualified for appointment as independent auditor to the Audit Commission where he -

(a) holds a valid practising licence, whether within or outside the country, for at least a period of 10 years before such appointment;

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

(c) is not involved or has not audited the Office of the Auditor-General or any Federal Ministry, Department, Agency, other public entity, or international institution which is subject to audit by the Office for at least a period of three years before such appointment; and

(d) has not been a consultant to the Office or 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, under section 48 of this Act, shall submit his audited accounts to the National Assembly.

50. (1) The appointment of the Auditor-General and the existing staff of the Office is valid upon coming into force of this Act.

Transition and savings.

(2) In accordance with the provision of subsection (1), the existing staff of the Office shall be subject to the terms and conditions of service of the Audit Commission from the commencement of this Act.

51. The following Acts are repealed -

Repeal.

(a) The Public Account Committee Act, Cap. P35, Laws of the Federation of Nigeria, 2004; and

(b) Public Accounts Implementation Tribunal Act, Cap. P36, Laws of the Federation of Nigeria, 2004.

52. In this Act - Interpretation.

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

"Auditor-General of the Federation" includes any person authorised by him;

"body" means public entities (i.e. parastatals, commissions, etc.);

"cognate experience" means working experience as auditors;

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

"MDAs" means Ministries, Departments and Agencies;

"Members" includes Chairman;

"National Assembly" means the Senate and House of Representatives;

"police" includes other law enforcement agencies;

"President" means the President of the Federal Republic of Nigeria;

"presiding officer" means Chairman of the Audit Commission or his delegate; and

"surcharge "means make somebody responsible for repayment or extra payment.

53. This Act may be cited as the Federal Audit Service Commission Act, 2018. Citation.

Schedule Sections 33 (1), (2) and 41

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 unauthorised 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.

PART C

Oath of a Witness

I........................... do solemnly swear (affirm) before the Auditor-General/this Honourable Assembly, that the evidence I shall give here shall be the truth, the whole truth, and nothing but the truth.

So help me God/Allah.

PART D

Oath Of Secrecy for Member of Staff

I .... do solemnly swear (affirm) that as officer/employee in the Office of the Auditor-General, I will not directly or indirectly, while in service or after retirement from service reveal to any unauthorised person, any matter, document, communication or information that comes to my knowledge in the discharge of my duties.

So help me God/Allah.