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THE SIX HUNDRED AND FIFTY-EIGHTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE INTERNAL AUDIT AGENCY ACT, 2003

AN ACT to establish an Internal Audit Agency as a central agency to co-ordinate, facilitate, monitor and supervise internal audit activities within Ministries, Departments and Agencies and Metropolitan, Municipal and District Assemblies in order to secure quality assurance of internal audit within these institutions of State; to provide for the Board of the Internal Audit Agency and to provide for connected purposes.

DATE OF ASSENT: *31st December, 2003.*

BE IT ENACTED by Parliament as follows:

PART I — ESTABLISHMENT AND FUNCTIONS OF THE INTERNAL AUDIT AGENCY

Establishment of Internal Audit Agency

1. There is established by this Act an Internal Audit Agency.

Object of the Agency

2. The object of the Agency is to co-ordinate, facilitate and provide quality assistance for internal audit activities within the Ministries, Departments and Agencies and the Metropolitan, Municipal and District Assemblies.

Functions of the Agency

3. (1) The Agency shall set standards and procedures for the conduct of internal audit activities in the MDAs and MMDAs.

(2) The Agency shall ensure that

(a) financial, managerial and operating information reported internally and externally is accurate, reliable and timely;

(b) the financial activities of MDAs and MMDAs are in compliance with laws, policies, plans, standards and procedures;

(c) national resources are adequately safeguarded;

(d) national resources are used economically, effectively and efficiently;

(e) plans, goals and objectives of MDAs and MMDAs are achieved; and

(f) risks are adequately managed in the MDAs and MMDAs.

(3) Without limiting subsections (1) and (2), the Agency shall

(a) promote economy, efficiency and effectiveness in the administration of government programmes and operations;

(b) prepare plans to be approved by the Board for the development and maintenance of an efficient internal audit for the MDAs and MMDAs;

(c) facilitate the prevention and detection of fraud; and

(d) provide a means for keeping the MDAs and MMDAs fully and currently informed about problems and deficiencies related to the administration of their programmes and operations and the necessity for appropriate corrective action.

(4) The Agency shall monitor, undertake inspections and evaluate the internal auditing of the MDAs and MMDAs.

Governing body of the Agency

4. The Agency shall have a governing Board known as the Internal Audit Board.

Membership of the Board

5. (1) The Board shall consist of the following members appointed by the President acting in consultation with the Council of State:

(a) a chairperson;

(b) the Minister responsible for Finance or a representative of the Minister;

(c) the Minister for Local Government and Rural Development or a representative of the Minister;

(d) the chairperson of the Public Services Commission or a representative of the chairperson;

(e) the Director-General of the Agency appointed under section 12 of this Act;

(f) two other members appointed from the private sector; and

(g) two professional accountants each with not less than ten years experience in the profession nominated by the Council of the Institute of Chartered Accountants (Ghana).

(2) The President shall in appointing members of the Board have regard to the integrity, knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Agency.

Functions of the Board

6. The Board shall formulate policies for the Agency and shall

(a) establish appropriate structures for the effective and efficient execution of the object of the Agency;

- (b) secure the achievement of the object of the Agency;
- (c) approve plans for the development and maintenance of an efficient internal audit for bodies and institutions to whom this Act applies; and
- (d) take reasonable and timely action on the reports submitted to it by the Director-General.

Tenure of office of members of the Board

7. Members of the Board other than ex-officio members shall hold office for a period of four years and are on the expiration of that period eligible for reappointment except that a member shall not be appointed for more than two terms in succession.

Allowances for members

8. Members of the Board other than the Director-General shall be paid such allowances as the President in consultation with the Minister may approve.

Meetings of the Board

9. (1) The Board shall meet at such times and places as the chairperson may determine but shall meet at least once every three months.

(2) The chairperson may at any time, and shall, on the written request of the Director General or four other members of the Board, call a special meeting of the Board,

(3) At each meeting of the Board the chairperson shall preside and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board shall be three members including the Director-General or the person acting as Director-General.

(5) A decision at a meeting of the Board shall be that of the majority of the members present and voting and where there is equality of votes, the chairperson or the person presiding shall have a second vote.

(6) The Board may co-opt a person to act as an adviser at its meetings but a co-opted person is not entitled to vote at a meeting on a matter for decision by the Board.

(7) The validity of any proceedings of the Board shall not be affected by a vacancy in its membership or by a defect in the appointment or qualification of any of its members.

(8) Subject to this section, the Board shall regulate its own procedures.

Disclosure of interest

10. (1) A member of the Board who is directly or indirectly interested in a matter being considered or dealt with by the Board shall disclose the nature of the interest at a meeting of the Board and shall not take part in any deliberation or decision of the Board with respect to the matter.

(2) A member who fails to disclose an interest under subsection (1) is liable to be removed from the Board.

Committees of the Board

11. The Board may for the discharge of its functions appoint committees comprising members or non-members or both and may assign to a committee such functions of the Board as the Board may determine except that a committee composed exclusively of non-members may only advise the Board.

Director-General

12. (1) There shall be appointed by the President, in accordance with article 195 (1) of the Constitution an officer who shall be the chief executive of the Agency and be designated the Director-General.

(2) The Director-General shall not, while holding office, occupy any other office or employment which is likely to conflict with the duties of the Director-General whether or not there is remuneration attached to it.

(3) Notwithstanding subsection (3), the Director-General may with the approval of the Board act as a member of a commission appointed by the Government, to inquire into any matter affecting accountability, management and governance.

(4) Subject to the provisions of this section, the Director-General shall be appointed on terms and conditions specified in the Director-General's letter of appointment.

Functions of the Director-General

13. (1) The Director-General shall, subject to directions of the Board on matters of policy and subject to this Act, be responsible for the day-to-day management and administration of the Agency, and may make such decisions and exercise powers that are necessary for the attainment of the object and functions of the Agency.

(2) Without limiting subsection (1), the Director-General shall,

- (a) secure the execution of the policies of the Board;
- (b) make regular reports to the Board on the management and operations of the Agency;
- (c) provide the data, statistics and advice necessary for the formulation of policies for the attainment of the object of the Agency; and
- (d) perform such other duties as the Board may direct.

Independence and powers of the Director-General

14. (1) Subject to the Constitution and this Act the Director-General, in the performance of the functions as Director-General is not subject to the direction and control of any other person or authority but a public body, organ or the head of an MDA or an MMDA may request the Director-General to carry out such specific investigations as may be considered reasonable by the Director-General.

(2) The Director-General or a person authorised by the Director-General is entitled

- (a) to be given such information and explanations as the Director-General may request in the performance of duties under this Act; and
- (b) to inspect books, records and offices in the performance of duties under this Act or any other enactment and shall be given access to the books, records and offices on demand.

(3) Where there is any critical financial or economic crisis or exigency which requires immediate action and there is insufficient time to call a meeting of the Board, the Director-General may with the concurrence of the chairperson of the Board exercise the powers of the Board and take such action as may be necessary.

(4) Where any action has been taken by the Director-General under subsection (3), the Director-General shall as soon as practicable call a meeting of the Board to report the action taken for ratification or review by the Board.

Secretariat and other staff of the Agency

15. (1) There shall be a secretariat of the Agency, the head of which shall be the Director-General.

(2) There shall be appointed by the President in accordance with article 195 (1) of the Constitution such other public officers as the Agency may require for the performance of its functions.

(3) There may be transferred or seconded to the Agency such public officers as may be requested by the Director-General and approved by the Board.

(4) The President may, in accordance with article 195 (2) of the Constitution, delegate the power of appointment under this Act.

PART II — INTERNAL AUDIT UNITS FOR MDAs AND MMDAs**Establishment of internal audit units**

16. (1) There shall be established in each MDA and MMDA, an internal audit unit which shall constitute a part of the MDA or MMDA.

(2) There shall be appointed for each internal audit unit, personnel required to ensure an effective and efficient internal auditing of the MDA or MMDA concerned.

(3) An internal audit unit established under subsection (1) shall in accordance with this Act and standards and procedures provided by the Agency, carry out an internal audit of its MDA or MMDA and shall submit reports on the internal audit it carries out to the Director-General of the Agency.

(4) The internal audit unit of an MDA shall submit a copy of its internal audit report to its management body and such other persons as it is required to submit the report.

(5) (a) The autonomous bodies of the Constitution shall be subject to the standards and procedures of the Agency and shall have internal audit units.

(b) The internal audit units of the autonomous bodies shall not be subject to the Agency but shall be subject to the Auditor-General.

(c) A copy of the internal audit report of an autonomous body shall be submitted to the Auditor-General.

(6) A copy of an internal audit report of an MMDA shall be submitted to its Regional Co-ordinating Council.

(7) A Regional Co-ordinating Council shall furnish the Agency with a copy of an internal audit report submitted under subsection (6).

(8) The Audit Report Implementation Committees of MDAs and MMDAs as established under section 30(1) of the Audit Service Act, 2000 (Act 584) shall be responsible for the implementation of the recommendations of the internal audit reports.

Action by the Agency

17. The Agency may upon examination of an internal audit report, take such action as it considers appropriate including recommendation of prosecution and disciplinary action in respect of any breaches found.

Exhibition of professionalism and competence

18. Internal auditors operating by virtue of this Act,

(a) shall exhibit the highest level of professionalism in the gathering, evaluation and

communication of information when auditing and shall act only in areas for which they have the necessary knowledge, skills, experience and competence;

(b) shall perform internal auditing in accordance with Generally Accepted Principles of Internal Auditing and the standard and guidelines of the Agency as established under section 3(1); and

(c) shall in the performance of their work make a balanced assessment of all issues of relevance to the work and should not be influenced by their personal interest or the interests of other persons.

Integrity

19. Internal auditors to whom this Act applies shall

(a) perform their work with honesty and diligence;

(b) not knowingly be a party to any illegal activities or engage in acts that discredit the work of internal auditing or the MDA or MMDA;

(c) make disclosures required by law and the standards and procedures as established under section 3(1);

(d) not participate in any activity or relationship that may impair or is likely to be taken to impair unbiased assessment, including an activity or a relationship that may be in conflict with the interests of the MDA or MMDA;

(e) not accept anything or any favour that may impair or might be taken to affect their professional judgement; and

(f) disclose all material facts known to them, the non-disclosure of which may distort any reporting activity.

Confidentiality

20. (1) Internal auditors shall respect the value and ownership of information they receive and shall not disclose information without authority unless there is a legal or professional obligation to do so.

(2) Internal auditors shall be prudent in the use and protection of information acquired in the course of their duties.

(3) Internal auditors shall not use information for any personal gain or in any manner that would be contrary to this Act or detrimental to the legitimate and ethical objectives of the Agency, MDAs and MMDAs.

PART III — FINANCIAL AND MISCELLANEOUS PROVISIONS

Accounts and audit

21. (1) The Agency shall keep proper books of account and other records in relation to these in a form determined by the Controller and Accountant-General and approved by the Auditor-General.

(2) The Agency shall, not later than three months after the end of the financial year, submit for audit to the Auditor-General, its books of account and records.

(3) The Auditor-General shall, not later than three months after the submission under subsection (2), audit the books of account of the Agency.

(4) The financial year of the Agency shall be the same as the financial year of the Government.

Funds of the Agency

22. The funds of the Agency are

- (a) monies provided to the Agency by Parliament for the discharge of its functions; and
- (b) monies that accrue to the Agency.

Annual report to the President

23. (1) The Board shall not later than three months after the end of each financial year submit to the President a report of the activities of the Agency in respect of the preceding financial year and shall in the report

- (a) state its findings on activities of the internal audit units of the MDAs and the MMDAs;
- (b) provide details of its expenditure for the preceding financial year as compared with its budgeted expenditures for that year.

(2) The President shall cause the report with such comments as the President determines, to be laid before Parliament by the Minister.

Regulations

24. (1) The President may, on the advice of the Board, by legislative instrument prescribe Regulations necessary for the effective implementation of this Act.

(2) In furtherance of subsection (1) Regulations may be made in respect of

- (a) the persons or bodies to whom reports of the internal audit units shall be distributed by the Board;
- (b) the protection of internal auditors; and
- (c) any other matter in accordance with this Act.

(3) Any Regulations made under this section may be signed by a Minister authorised by the President.

Offences and penalties

25. (1) Any person who

- (a) gives the Director-General any information or explanation which the person knows to be false or which the person has no reason to believe to be true contrary to section 14 (2) (a);
- (b) fails to produce for inspection by the Director-General or otherwise fails to give the Director-General access to any book, record or office when requested by the Director-General contrary to section 14 (2) (b);
- (c) wilfully suppresses any information or explanation required by the Director-General; or
- (d) obstructs the Director-General in any way in the performance of functions under this Act;
- (e) provides information which the person knows to be false or which the person has no reason to believe to be true to an internal auditor,

commits an offence and is liable on summary conviction to a fine not less than 1,000 penalty units or to imprisonment for a term not exceeding 5 years or to both.

(2) Any internal auditor who acts in breach of any of the provisions of sections 18, 19 or 20 shall be subject to such action as the Board shall recommend including criminal prosecution.

- (3) Any member of staff or employee of the Agency who
- (a) demands or takes a bribe, gratuity, recompense or reward for the neglect, omission, commission or performance of duty under this Act;
 - (b) wilfully fails to report to the Director-General any abuse or irregularity that comes to the notice of the person in the course of the performance of duties under this Act; or
 - (c) makes any report to the Director-General which the person knows to be false or which the person has no reason to believe to be true

commits an offence and is liable on summary conviction to a fine of not less than 1,000 penalty units or to imprisonment for a term not exceeding 5 years or to both.

(4) For the purposes of subsection (1), the Director-General includes any officer acting under the instructions of the Director-General.

Interpretation

26. In this Act unless the context otherwise requires,

"Agency" means the Internal Audit Agency established under section 1;

"Board" means the Board of the Internal Audit Agency;

"Minister" means the Minister responsible for Finance;

"MDA" means Ministries, Departments and Agencies and includes all government bodies and institutions that receive government subvention wholly or partially;

"MMDA" mean Metropolitan, Municipal and District Assemblies.

Transitional provision

27. (1) Internal audit officers and all public officers performing internal audit work in any MDA or MMDA immediately before the coming into force of this Act, shall upon the coming into force of this Act be deemed to constitute the members of an internal audit unit of the MDA or MMDA for the purposes of this Act.

(2) Notwithstanding subsection (1), public officers performing internal audit duties in an MDA or MMDA on the date of the coming into force of this Act may be re-assigned to such internal audit units as the appointing authority may determine.