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GOVERNMENT GAZETTE

STAATSKOERANT

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PRESIDENT'S OFFICE

No. 882.

14 June 1995

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 12 of 1995: Auditor-General Act, 1995.

KANTOOR VAN DIE PRESIDENT

No. 882.

14 Junie 1995

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 12 van 1995: Wet op die Ouditeur-generaal, 1995.

ACT

In view of the provisions of the Constitution of the Republic of South Africa, 1993, to provide for the conditions of service and additional functions of the Auditor-General; and for the auditing of certain accounts and the submission of audit reports to legislative institutions; and to provide for matters connected therewith.

*(English text signed by the President.)
(Assented to 8 June 1995.)*

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—

- (i) “accounting officer” means a person referred to in section 15 of the Exchequer Act, or the corresponding provisions of a provincial Exchequer Act, or in a law in respect of a statutory body; (xiv) 5
- (ii) “Audit Arrangements Act” means the Audit Arrangements Act, 1992 (Act No. 122 of 1992); (xi)
- (iii) “Audit Commission” means the Audit Commission established by section 12 of the Audit Arrangements Act; (x) 10
- (iv) “Auditor-General” means the person who in terms of section 244(1)(a) of the Constitution continues in the office of Auditor-General or is appointed as such in terms of section 191 of the Constitution; (ix)
- (v) “Commission” means the Public Service Commission established by section 209(1) of the Constitution; (vii) 15
- (vi) “Constitution” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993); (v)
- (vii) “Deputy Auditor-General” means the person appointed in terms of section 27 of the Audit Arrangements Act; (i) 20
- (viii) “Exchequer Act” means the Exchequer Act, 1975 (Act No. 66 of 1975), and includes a provincial Exchequer Act; (xvi)
- (ix) “fund or account concerned” means a vote, fund or account from which the current or capital expenses, as the case may be, of a department of State or any statutory body are defrayed; (ii) 25
- (x) “local government” means an institution or body referred to in section 174 of the Constitution; (xii)
- (xi) “money” means—
 - (a) all revenue; and
 - (b) all other money received or held by an accounting officer or other person in the service of the State or a statutory body or any company or other legal entity controlled by a statutory body, as the case may be, for or on account of the State or a statutory body; (iv) 30
- (xii) “Office” means the Office of the Auditor-General established by section 3 of the Audit Arrangements Act; (vi) 35
- (xiii) “property” means any movable or immovable goods of the State or a statutory body; (iii)
- (xiv) “province” means a province established by section 124 of the Constitution; (xiii)
- (xv) “public service” means the public service referred to in section 8 of the Public Service Act; (xviii) 40

WET

Om, met die oog op die bepalings van die Grondwet van die Republiek van Suid-Afrika, 1993, voorsiening te maak vir die diensvoorwaardes en bykomende werksaamhede van die Ouditeur-generaal; en vir die ouditering van sekere rekenings en die voorlegging van auditverslae aan wetgewende instellings; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 8 Junie 1995.)*

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—

- 5 (i) “Adjunk-ouditeur-generaal” die persoon wat ingevolge artikel 27 van die Ouditreëlingswet aangestel is; (vii)
- (ii) “betrokke fonds of rekening” ’n begrotingspos, fonds of rekening waaruit die lopende of kapitaaluitgawes, na gelang van die geval, van ’n Staats- of provinsiale departement of enige statutêre liggaam bestry word; (ix)
- 10 (iii) “eiendom” enige roerende of onroerende goed van die Staat of ’n statutêre liggaam; (xiii)
- (iv) “geld”—
 - (a) alle inkomste; en
 - 15 (b) alle ander geld wat deur ’n rekenpligtige beampte of ander persoon in diens van die Staat of ’n statutêre liggaam of enige maatskappy of ander regsentiteit wat deur ’n statutêre liggaam beheer word, na gelang van die geval, vir of op rekening van die Staat of ’n statutêre liggaam ontvang is of gehou word; (xi)
- 20 (v) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993); (vi)
- (vi) “Kantoor” die Kantoor van die Ouditeur-generaal ingestel by artikel 3 van die Ouditreëlingswet; (xii)
- (vii) “Kommissie” die Staatsdienskommissie ingestel by artikel 209(1) van die Grondwet; (v)
- 25 (viii) “ongemagtigde uitgawes” uitgawes bedoel in artikel 33 van die Skatkiswet, of die ooreenstemmende bepalings van ’n provinsiale Skatkiswet; (xxiii)
- (ix) “Ouditeur-generaal” die persoon wat ingevolge artikel 244(1)(a) van die Grondwet in die amp van Ouditeur-generaal voortgaan of ingevolge artikel 191 van die Grondwet as sodanig aangestel word; (iv)
- 30 (x) “Ouditkommissie” die Ouditkommissie wat by artikel 12 van die Ouditreëlingswet ingestel is; (iii)
- (xi) “Ouditreëlingswet” die Ouditreëlingswet, 1992 (Wet No. 122 van 1992); (ii)
- 35 (xii) “plaaslike regering” ’n instelling of liggaam bedoel in artikel 174 van die Grondwet; (x)
- (xiii) “provinsie” ’n provinsie by artikel 124 van die Grondwet ingestel; (xiv)
- 40 (xiv) “rekenpligtige beampte” iemand bedoel in artikel 15 van die Skatkiswet, of die ooreenstemmende bepalings van ’n provinsiale Skatkiswet, of in ’n wet met betrekking tot ’n statutêre liggaam; (i)

- (xvi) "Public Service Act" means the Public Service Act, 1994 (Proclamation No. 103 of 1994); (xix)
- (xvii) "security" means any stock or bond certificate, promissory note, debenture, treasury bill, or a document issued as evidence of the borrowing of money or any other form of financing in terms of any Act of Parliament or of a provincial legislature and signed by a person authorised thereto; (xv) 5
- (xviii) "State" includes a province; (xvii)
- (xix) "statutory body" means an institution referred to in section 193(2) of the Constitution; (xx) 10
- (xx) "Treasury" means the Treasury as defined in section 1(1) of the Exchequer Act, and includes a provincial treasury existing in an executive department of a province; (xxi)
- (xxi) "trust money" means money kept by an accounting officer or other person in the service of the State or a statutory body, as the case may be, on behalf of a person or institution, which money does not belong to the State or a statutory body, as the case may be; (xxiii) 15
- (xxii) "trust property" means goods kept by an accounting officer or other person in the service of the State or a statutory body, as the case may be, on behalf of a person or institution, which goods do not belong to the State or a statutory body, as the case may be; (xxii) 20
- (xxiii) "unauthorised expenditure" means expenditure referred to in section 33 of the Exchequer Act, or the corresponding provisions of a provincial Exchequer Act. (viii)

Conditions of service of Auditor-General

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2. (1) If an officer or employee in the public service or in the Office, or a member of the Commission who immediately prior to his or her appointment as such a member, was such an officer or employee, is appointed in terms of section 191(2) of the Constitution, or acts as Auditor-General in terms of section 191(5) of the Constitution, the period of his or her service as Auditor-General shall for the purposes of leave and pension be reckoned as part of and continuous with his or her employment in the public service or in the Office, as the case may be, and in the case of a member of the Commission, of that service which in terms of section 3(4)(a) of the Commission for Administration Act, 1984 (Act No. 65 of 1984), is reckoned as part of and continuous with his or her employment in the public service, and the provisions of any pensions Act applicable to him or her as such officer or employee or, in the event of his or her death, to his or her dependants, and which are not inconsistent with this section, shall *mutatis mutandis* continue so to apply. 30

(2)(a) The basis of remuneration and other conditions of service of the Auditor-General shall be determined by the Audit Commission. 40

(b) A determination by the Audit Commission in terms of paragraph (a) shall be made on the basis of consensus, but if consensus cannot be reached the matter shall be decided by resolution of a majority of at least two thirds of all the members of the Audit Commission. 45

(3)(a) The President may allow the Auditor-General at his or her written request, to vacate his or her office—

- (i) on account of continued ill-health; or
- (ii) for any other reason which the President deems sufficient.

(b) If the Auditor-General is allowed to vacate his or her office— 50

- (i) in terms of paragraph (a)(i), he or she shall be entitled to such pension as he or she would have been entitled to under the pensions Act applicable to him or her if his or her services had been terminated on the ground of continued ill-health occasioned without his or her being instrumental thereto; or 55
- (ii) in terms of paragraph (a)(ii), he or she shall be entitled to such pension as he or she would have been entitled to under the pensions Act

- (xv) "sekuriteit" enige effekte- of obligasiesertifikaat, promesse, skuld-brief, skatkisbiljet, of 'n stuk wat as bewys van die leen van geld of enige ander vorm van finansiering ingevolge enige Wet van die Parlement of 'n provinsiale wetgewer uitgereik is en wat onderteken is deur 'n persoon wat daartoe gemagtig is; (xvii)
- 5 (xvi) "Skatkiswaet" die Skatkiswaet, 1975 (Wet No. 66 van 1975), en ook 'n provinsiale Skatkiswaet; (viii)
- (xvii) "Staat" ook 'n provinsie; (xviii)
- (xviii) "staatsdiens" die staatsdiens bedoel in artikel 8 van die Staatsdienswet; 10 (xv)
- (xix) "Staatsdienswet" die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994); (xvi)
- (xx) "statutêre liggaam" 'n instelling bedoel in artikel 193(2) van die Grondwet; (xix)
- 15 (xxi) "Tesourie" die Tesourie soos omskryf in artikel 1(1) van die Skatkiswaet, en ook 'n provinsiale tesourie wat in 'n uitvoerende departement van 'n provinsie bestaan; (xx)
- (xxii) "trusteiendom" goed deur 'n rekenpligtige beamppte of ander persoon in diens van die Staat of 'n statutêre liggaam, na gelang van die geval, gehou ten behoeve van 'n persoon of instansie, welke goed nie aan die Staat of 'n statutêre liggaam, na gelang van die geval, behoort nie; 20 (xxii)
- (xxiii) "trustgeld" geld deur 'n rekenpligtige beamppte of ander persoon in diens van die Staat of 'n statutêre liggaam, na gelang van die geval, gehou ten behoeve van 'n persoon of instansie, welke geld nie aan die Staat of 'n statutêre liggaam, na gelang van die geval, behoort nie. (xxi) 25

Diensvoorwaardes van Ouditeur-generaal

2. (1) Indien 'n beamppte of werknemer in die staatsdiens of in die Kantoor, of 'n lid van die Kommissie wat onmiddellik voor sy of haar aanstelling as so 'n lid, 30 so 'n beamppte of werknemer was, ingevolge artikel 191(2) van die Grondwet aangestel word, of ingevolge artikel 191(5) van die Grondwet as Ouditeur-generaal waarneem, word die tydperk van sy of haar diens as Ouditeur-generaal vir die doeleindes van verlof en pensioen gereken as deel van en as aaneenlopend met sy of haar diens in die staatsdiens of in die Kantoor, na gelang van die geval, en in die geval van 'n lid van die Kommissie, van die diens wat 35 ingevolge artikel 3(4)(a) van die Wet op die Kommissie vir Administrasie, 1984 (Wet No. 65 van 1984), as deel van en as aaneenlopend met sy of haar diens in die staatsdiens gereken word, en bly die bepalinge van 'n Pensioenwet wat op hom of haar as sodanige beamppte of werknemer of, in die geval van sy of haar dood, op sy of haar afhanklikes van toepassing is, en wat nie met hierdie artikel strydig is nie, *mutatis mutandis* aldus van toepassing.

(2)(a) Die grondslag van besoldiging en ander diensvoorwaardes van die Ouditeur-generaal word deur die Ouditkommissie bepaal.

(b) 'n Bepaling deur die Ouditkommissie ingevolge paragraaf (a) word op die 45 grondslag van konsensus gemaak, maar indien konsensus nie bereik kan word nie word die aangeleentheid beslis by besluit van 'n meerderheid van minstens twee derdes van al die lede van die Ouditkommissie.

(3) (a) Die President kan op skriftelike versoek van die Ouditeur-generaal hom of haar toelaat om sy of haar amp neer te lê—

- 50 (i) weens voortdurende swak gesondheid; of
- (ii) om enige ander rede wat die President voldoende ag.

(b) Indien die Ouditeur-generaal toegelaat word—

- (i) om sy of haar amp ingevolge paragraaf (a)(i) neer te lê, is hy of sy geregtig op die pensioen waarop hy of sy kragtens die Pensioenwet wat 55 op hom of haar van toepassing is, geregtig sou gewees het as sy of haar dienste op grond van voortdurende swak gesondheid wat sonder sy of haar toedoen veroorsaak is, beëindig is; of
- (ii) om sy of haar amp ingevolge paragraaf (a)(ii) neer te lê, is hy of sy geregtig op die pensioen waarop hy of sy kragtens die Pensioenwet wat

applicable to him or her had he or she been compelled to retire owing to the abolition of his or her post.

(4) If the Auditor-General's term of office expires, he or she shall be deemed to have retired on the date of such expiration and he or she shall be entitled to such pension as he or she would have been entitled to under the pensions Act applicable to him or her had he or she been compelled to retire from the service of the Office owing to the abolition of his or her post. 5

(5) The conditions of service applicable to the person who immediately prior to the date of commencement of this Act occupied the post of Auditor-General, shall not be altered to his or her detriment, and no such condition of service shall at any time be construed or applied in a manner which is less favourable to the person concerned than the manner in which it was construed or applied immediately prior to the said date. 10

Functions of Auditor-General

3. (1) The Auditor-General shall, in addition to the powers and functions conferred upon or entrusted to him or her in terms of section 193 of the Constitution, have the powers and perform the duties specified in this Act. 15

(2) Notwithstanding the provisions of any other law but subject to the provisions of the Constitution, the Auditor-General shall perform the functions vested in him or her by virtue of any other law, in accordance with the provisions of this Act in relation to— 20

- (a) the accounts which shall be audited;
- (b) the procedure according to which auditing shall be done; and
- (c) the steps to be taken by the Auditor-General as a result of an audit.

(3) The Auditor-General may at his or her discretion determine the nature and extent of the audit to be carried out and request the details and statements of account which he or she considers necessary: Provided that he or she may, notwithstanding the provisions of any other law, also determine the format in which and the date on which such details, statements of account and financial statements shall be submitted to him or her. 25 30

(4) The Auditor-General shall reasonably satisfy himself or herself that—

- (a) reasonable precautions have been taken to safeguard the proper collection of money to which an audit in terms of this Act relates, and that the laws and instructions relating thereto have been duly observed;
- (b) reasonable precautions have been taken in connection with the receipt, custody and issue of, and accounting for, property, money, stamps, securities, equipment, stores, trust money, trust property and other assets; 35
- (c) receipts, payments and other transactions are made in accordance with the applicable laws and instructions and are supported by adequate vouchers; and 40
- (d) satisfactory management measures have been taken to ensure that resources are procured economically and utilised efficiently and effectively.

(5) When exercising his or her powers and performing his or her duties under this Act— 45

- (a) the Auditor-General may in writing require any person in the employment of an institution whose accounts are being audited by him or her to appear before him or her at a time and place mentioned in the request and to produce to him or her all such records, books, vouchers and documents in the possession or under the control of such person as the Auditor-General may deem necessary for the exercise of his or her powers or the performance of his or her duties; 50
- (b) the Auditor-General and any person referred to in section 6 shall have— 55
 - (i) the right, without payment, to investigate and to make extracts from any record, book, document and other information of an institution whose accounts are being audited by him or her;
 - (ii) the right to investigate whether any property, money, stamps, securities, equipment, stores, trust money, trust property and other assets of an institution whose accounts are being audited by him or 60

- op hom of haar van toepassing is, geregtig sou gewees het as hy of sy weens die afskaffing van sy of haar pos verplig was om uit diens te tree.
- (4) Indien die Ouditeur-generaal se dienstermyn verstryk, word hy of sy geag op die datum van verstryking af te getree het en is hy of sy geregtig op die pensioen waarop hy of sy kragtens die Pensioenwet wat op hom of haar van toepassing is geregtig sou gewees het as hy of sy weens die afskaffing van sy of haar pos verplig was om uit die diens van die Kantoor te tree.
- (5) Die diensvoorwaardes wat van toepassing is op die persoon wat onmiddellik voor die datum van inwerkingtreding van hierdie Wet die amp van Ouditeur-generaal bekleed het, word nie tot sy of haar nadeel verander nie, en geen sodanige diensvoorwaarde word te eniger tyd uitgelê of toegepas op 'n wyse wat minder gunstig is vir die betrokke persoon as die wyse waarop dit onmiddellik voor genoemde datum uitgelê of toegepas sou word nie.

Werkzaamhede van Ouditeur-generaal

3. (1) Die Ouditeur-generaal het, benewens die bevoegdhede en werkzaamhede ingevolge artikel 193 van die Grondwet aan hom of haar verleen of toevertrou, die bevoegdhede en verrig die pligte in hierdie Wet uiteengesit.
- (2) Ondanks die bepalings van enige ander wet maar behoudens die bepalings van die Grondwet, verrig die Ouditeur-generaal die werkzaamhede wat uit hoofde van enige ander wet by hom of haar berus, ooreenkomstig die bepalings van hierdie Wet met betrekking tot—
- die rekenings wat geouditeer moet word;
 - die prosedure waarvolgens ouditering moet geskied; en
 - die stappe wat deur die Ouditeur-generaal na aanleiding van 'n ouditering gedoen moet word.
- (3) Die Ouditeur-generaal kan na goeddunke die aard en omvang van die ouditering wat uitgevoer moet word, bepaal en die besonderhede en rekeningstate wat hy of sy nodig ag, aanvra: Met dien verstande dat hy of sy, ondanks die bepalings van enige ander wet, ook die formaat waarin en datum waarop sodanige besonderhede, rekeningstate en finansiële state aan hom of haar voorgelê moet word, kan bepaal.
- (4) Die Ouditeur-generaal moet homself of haarself redelikerwys oortuig dat—
- redelike voorsorg getref is om die behoorlike invordering van geld waarop 'n ouditering ingevolge hierdie Wet betrekking het, te beveilig, en dat die wette en voorskrifte wat daarop betrekking het, behoorlik nagekom is;
 - redelike voorsorg getref is in verband met die ontvangs, bewaring, uitreiking en verantwoording van eiendom, geld, seëls, sekuriteite, uitrusting, voorrade, trustgeld, trusteiendom en ander bates;
 - ontvangste, betalings en ander transaksies ooreenkomstig die toepaslike wette en voorskrifte geskied en met voldoende bewysstukke gestaaf word; en
 - voldoende bestuursmaatreëls getref is om te verseker dat hulpbronne ekonomies verkry en doeltreffend en effektief aangewend word.
- (5) Wanneer hy of sy, sy of haar bevoegdhede of pligte kragtens hierdie Wet uitoefen of verrig—
- kan die Ouditeur-generaal skriftelik eis dat enige persoon in diens van 'n instelling wie se rekenings deur hom of haar geouditeer word, op 'n tyd en plek in die eis vermeld, voor hom of haar verskyn en al die aantekeninge, boeke, bewysstukke en dokumente in die besit of onder die beheer van so 'n persoon wat die Ouditeur-generaal vir die uitoefening van sy of haar bevoegdhede of die verrigting van sy of haar pligte nodig ag, aan hom of haar voorlê;
 - het die Ouditeur-generaal of iemand in artikel 6 bedoel—
 - die reg om, sonder betaling ondersoek in te stel na en uittreksels te maak uit enige aantekening, boek, dokument en ander inligting van 'n instelling wie se rekenings deur hom of haar geouditeer word;
 - die reg om ondersoek in te stel of enige eiendom, geld, seëls, sekuriteite, uitrusting, voorrade, trustgeld, trusteiendom en ander bates van 'n instelling wie se rekenings deur hom of haar geoudi-

- her have been obtained in an economical manner, and are being applied efficiently and effectively;
- (iii) the right to investigate and to enquire into any matter, including the efficiency and effectiveness of internal control and management measures, relating to expenditure by and the revenue of an institution whose accounts are being audited by him or her;
- (c) the Auditor-General or any person referred to in section 6 may administer an oath to or accept an affirmation from and interrogate under oath or upon affirmation any person whom he or she thinks fit to interrogate, in connection with the receipt, custody, payment or issue of property, money, stamps, securities, equipment, stores, trust money, trust property and other assets to which the provisions of this Act and the Constitution apply, and in connection with any other matter in so far as it may be necessary for the due performance and exercise of the powers and duties conferred or imposed upon the Auditor-General by this Act: Provided that notwithstanding any provisions to the contrary contained in any other law, the Auditor-General shall not be required to reveal the identity of the person referred to in this paragraph; and
- (d) the Auditor-General may require the department of State, provincial department or statutory body concerned, to make available free of charge, while the audit is being carried out, suitable office accommodation, other facilities and logistical support reasonably required for the proper carrying out of the audit.
- (6) The Auditor-General may on such conditions as he or she may determine co-operate with persons, institutions and associations in the Republic and in other countries, and take such steps as he or she may deem necessary in order to promote or develop his or her functions and government auditing in the Republic or elsewhere.
- (7) Subject to section 10 of the Powers and Privileges of Parliament Act, 1963 (Act No. 91 of 1963), or any corresponding provision of a provincial Act, the Auditor-General, any person referred to in section 6 or any person acting under the authority of the Auditor-General, shall not be liable in his or her personal capacity in any civil or criminal proceedings in respect of anything done in good faith—
- (a) in the performance of any duty or the exercise of any power imposed or conferred upon him or her in terms of this Act or any other law;
- (b) in giving evidence or an explanation or producing any document before a committee of Parliament or of a provincial legislature in connection with a report of the Auditor-General.

Reports of Auditor-General

4. (1) Notwithstanding the provisions of any other law but subject to the provisions of the Constitution and subsection (3) and (5), the Auditor-General shall submit a report to the provincial legislature concerned on the auditing of the accounts of an accounting officer on provincial government level, and a statutory body established or constituted by or under any law on provincial government level or is under control of a province and whose accounts shall be audited by the Auditor-General.

(2) The Auditor-General shall, not less than seven days before the date on which he or she submits a report referred to in subsection (1) and section 193(7) of the Constitution to Parliament or a provincial legislature, transmit a copy thereof to—

- (a) each Minister;
- (b) the Member of the Executive Council of a province who is entrusted with the financial matters of such province;
- (c) the chairperson of the council or board of a statutory body; and
- (d) the accounting officer,
- concerned.

(3) (a) Notwithstanding the provisions of any other law but subject to subsection (5), a report referred to in section 193(2) of the Constitution in respect of the

- teer word op ekonomiese wyse verkry is en doeltreffend en
effektief aangewend word;
- (iii) die reg om ondersoek in te stel na en navraag te doen aangaande
'n aangeleentheid, met inbegrip van die doeltreffendheid en
effektiwiteit van huishoudelike beheer- en bestuursmaatreëls, wat
in verband staan met die uitgawe deur en inkomste van 'n
instelling wie se rekenings deur hom of haar geouditeer word;
- (c) kan die Ouditeur-generaal of iemand in artikel 6 bedoel van iemand
wat hy of sy dit goed ag om te ondervra, 'n eed of bevestiging afneem
en hom of haar onder eed of bevestiging ondervra in verband met die
ontvangs, bewaring, uitbetaling of uitreiking van eiendom, geld, seëls,
sekuriteite, uitrusting, voorrade, trustgeld, trusteiendom en ander
bates waarop die bepalings van hierdie Wet en die Grondwet van
toepassing is, en in verband met enige ander aangeleentheid vir sover
dit nodig is vir die behoorlike uitoefening en verrigting van die
bevoegdhede en pligte wat by hierdie Wet aan die Ouditeur-generaal
verleen of opgedra is: Met dien verstande dat ondanks andersluidende
bepalings van enige ander wet, die Ouditeur-generaal nie verplig kan
word om die identiteit van die persoon in hierdie paragraaf bedoel,
bekend te maak nie; en
- (d) kan die Ouditeur-generaal eis dat die betrokke Staats- of provinsiale
departement of statutêre liggaam, terwyl die ouditering uitgevoer
word, geskikte kantoorakkommodasie, ander fasiliteite en logistieke
steun wat redelikerwys nodig is vir die behoorlike uitvoering van die
ouditering, gratis beskikbaar stel.
- (6) Die Ouditeur-generaal kan op die voorwaardes wat hy of sy bepaal met
persone, instellings en verenigings in die Republiek en in ander lande saamwerk,
en die stappe doen wat hy of sy nodig ag ten einde sy of haar werksaamhede en
owerheidsouditering in die Republiek of elders te bevorder of uit te bou.
- (7) Behoudens artikel 10 van die Wet op die Bevoegdhede en Voorregte van
die Parlement, 1963 (Wet No. 91 van 1963), of 'n ooreenstemmende bepaling
van 'n provinsiale Wet, is die Ouditeur-generaal, iemand vermeld in artikel 6 of
iemand wat op gesag van die Ouditeur-generaal handel, nie in sy of haar
persoonlike hoedanigheid in enige siviele of strafgeding aanspreeklik nie ten
opsigte van enigiets wat te goeder trou gedoen is—
- (a) by die uitvoering van 'n plig of die uitoefening van 'n bevoegdheid wat
ingevolge hierdie Wet of enige ander wet aan hom of haar opgedra of
verleen is;
- (b) by die aflegging van getuienis voor of die gee van 'n verduideliking of
die voorlegging van 'n stuk aan 'n komitee van die Parlement of van 'n
provinsiale wetgewer in verband met 'n verslag van die Ouditeur-
generaal.

Verslae van Ouditeur-generaal

4. (1) Ondanks die bepalings van enige ander wet maar behoudens die
bepalings van die Grondwet en subartikels (3) en (5), moet die Ouditeur-
generaal 'n verslag aan die betrokke provinsiale wetgewer voorlê oor die
ouditering van die rekenings van 'n rekenpligtige beampte op provinsiale
regeringsvlak, en 'n statutêre liggaam wat by of kragtens 'n wet op provinsiale
regeringsvlak ingestel of saamgestel of onder beheer van 'n provinsie is en
waarvan die rekenings deur die Ouditeur-generaal geouditeer moet word.
- (2) Die Ouditeur-generaal moet nie minder nie as sewe dae voor die datum
waarop hy of sy 'n verslag bedoel in subartikel (1) en artikel 193(7) van die
Grondwet aan die Parlement of 'n provinsiale wetgewer voorlê, 'n afskrif
daarvan stuur aan elke betrokke—
- (a) Minister;
- (b) lid van die Uitvoerende Raad van 'n provinsie wat met die finansiële
aangeleenthede van daardie provinsie belas is;
- (c) voorsitter van die raad van die betrokke statutêre liggaam; en
- (d) rekenpligtige beampte.
- (3) (a) Ondanks die bepalings van enige ander wet maar behoudens subartikel
(5) moet 'n verslag in artikel 193(2) van die Grondwet bedoel ten opsigte van die

accounts of a local government shall be transmitted by the Auditor-General to the chairperson of the council of the local government concerned.

(b) When the Auditor-General transmits a report referred to in paragraph (a) to the chairperson of the council, the Auditor-General shall also transmit a copy thereof to the accounting officer of the local government concerned and if necessary to the provincial Director-General concerned.

(c) The chairperson of the council shall after receipt of a report from the Auditor-General submit that report not later than at the second succeeding ordinary meeting of the local government, which shall not take place behind closed doors, for discussion and to decide what corrective steps (if any) are to be taken: Provided that the Auditor-General or his or her representative may elucidate such meeting if he or she deems it to be in the public interest.

(d) Within 30 days after the date of the meeting referred to in paragraph (c), the chairperson of the council shall submit a copy of the minutes of that meeting containing the comments of the local government in regard to the report and indicating what steps were taken or are to be taken in connection with any matter revealed by the report, to the Auditor-General, and to the provincial Director-General concerned.

(e) For the purposes of this subsection a reference to "chairperson" means the chairperson or mayor, as the case may be, of the local government.

(4) Subject to the provisions of this section, the Auditor-General may also cause to be included a report on the auditing of the accounts and financial statements which he or she is in terms of this Act or any other law required to audit, and which is signed by him or her or a person in the Office designated by him or her, in the annual report of the institution concerned.

(5) Notwithstanding the provisions of any other law—

(a) a report referred to in section 193(2) of the Constitution in respect of the accounts—

(i) of a local government shall not be submitted to the provincial legislature concerned or a body of such legislature concerned or a body of such legislature designated for this purpose;

(ii) of a local government, and of any statutory body established or constituted by or under any law on provincial government level or is under control of a province, shall not be submitted to Parliament in terms of section 193(7) of the Constitution,

except where the Auditor-General deems it to be in the public interest, in which case he or she may submit such report, to the provincial legislature or to Parliament, as the case may be, or to a body of such legislature or of Parliament designated for such purpose.

(b) the Auditor-General may, whenever he or she deems it to be in the public interest, report on any matter concerning the powers vested in him or her and submit such report to Parliament or the provincial legislature concerned or a body of Parliament or a provincial legislature designated for this purpose.

(6) The Auditor-General shall report on accounts established by—

(a) the Security Services Special Account Act, 1969 (Act No. 81 of 1969);

(b) the Defence Special Account Act, 1974 (Act No. 6 of 1974);

(c) the Secret Services Act, 1978 (Act No. 56 of 1978),

with due regard to the special nature of the accounts, and shall limit such report to the extent which he or she, after consultation with the President, the Minister of Finance and the responsible Minister, may determine: Provided that the reporting on any unauthorised expenditure or other irregularity shall not be so limited, except in respect of the disclosure of facts which will be to the detriment of the national interest.

Additional directives to Auditor-General in connection with report on accounts

5. When reporting on any accounts as required by section 4, the Auditor-General shall draw attention to material cases—

rekenings van 'n plaaslike regering deur die Ouditeur-generaal aan die voorsitter van die raad van die betrokke plaaslike regering gestuur word.

(b) Wanneer die Ouditeur-generaal 'n verslag in paragraaf (a) bedoel aan die voorsitter van die raad stuur, moet die Ouditeur-generaal ook 'n afskrif daarvan
5 aan die rekenpligtige beampte van die betrokke plaaslike regering en indien nodig aan die betrokke provinsiale Direkteur-generaal stuur.

(c) Die voorsitter van die raad moet na ontvangs van 'n verslag van die Ouditeur-generaal daardie verslag nie later nie as by die tweede daaropvolgende gewone vergadering van die plaaslike regering, wat nie agter geslote deure mag
10 plaasvind nie, voorlê vir bespreking en om te besluit watter regstellende stappe (as daar is) gedoen moet word: Met dien verstande dat die Ouditeur-generaal of sy of haar verteenwoordiger, sodanige vergadering kan toelig indien hy of sy dit in die openbare belang beskou.

(d) Binne 30 dae na die datum van die vergadering in paragraaf (c) bedoel, lê
15 die voorsitter van die raad 'n afskrif van die notule van daardie vergadering waarin die kommentaar van die plaaslike regering aangaande die verslag vervat is en aangedui word watter stappe gedoen is of beoog word in verband met enige aangeleentheid wat uit die verslag blyk, aan die Ouditeur-generaal en aan die betrokke provinsiale Direkteur-generaal voor.

(e) By die toepassing van hierdie subartikel beteken 'n verwysing na "voorsitter" die voorsitter of burgemeester, na gelang van die geval, van die plaaslike regering.

(4) Behoudens die bepalings van hierdie artikel kan die Ouditeur-generaal ook 'n verslag oor die ouditering van die rekenings en finansiële state wat hy of sy ingevolge hierdie Wet of enige ander wet moet ouditeer, en wat deur hom of
25 haar of 'n persoon in die Kantoor deur hom of haar aangewys, onderteken is, in die betrokke instelling se jaarverslag laat insluit.

(5) Ondanks die bepalings van enige ander wet—

(a) word 'n verslag in artikel 193(2) van die Grondwet bedoel ten opsigte
30 van die rekenings—

(i) van 'n plaaslike regering nie aan die betrokke provinsiale wetgewer, of 'n liggaam van so 'n wetgewer vir die doel aangewys voorgelê nie;

(ii) van 'n plaaslike regering, en van 'n statutêre liggaam wat by of
35 kragtens 'n wet op provinsiale regeringsvlak ingestel of saamgestel of onder beheer van 'n provinsie is, nie ingevolge artikel 193(7) van die Grondwet aan die Parlement voorgelê nie,

behalwe as die Ouditeur-generaal dit in die openbare belang ag in
40 welke geval hy of sy sodanige verslag aan die provinsiale wetgewer of die Parlement, na gelang van die geval, of 'n liggaam van so 'n wetgewer of die Parlement vir die doel aangewys, kan voorlê.

(b) kan die Ouditeur-generaal wanneer hy of sy dit ook al in die openbare belang ag, verslag doen oor enige aangeleentheid wat in verband staan met die bevoegdhede wat by hom of haar berus en sodanige verslag voorlê
45 aan die Parlement of die betrokke provinsiale wetgewer of 'n liggaam van die Parlement of 'n provinsiale wetgewer vir die doel aangewys.

(6) Die Ouditeur-generaal doen verslag oor rekenings ingestel by—

(a) die Wet op die Spesiale Rekening vir Veiligheidsdienste, 1969 (Wet
50 No. 81 van 1969);

(b) die Wet op die Spesiale Verdedigingsrekening, 1974 (Wet No. 6 van
1974);

(c) die Wet op Geheime Dienste, 1978 (Wet No. 56 van 1978), met behoorlike inagneming van die spesiale aard van die rekenings, en beperk sodanige verslag in die mate wat hy of sy na oorleg met die President, die
55 Minister van Finansies en die verantwoordelike Minister bepaal: Met dien verstande dat verslagdoening oor enige ongemagtigde uitgawe of ander onreëlmatigheid nie aldus beperk word nie, behalwe ten opsigte van die openbaarmaking van feite wat tot nadeel van die nasionale belang sal wees.

Bykomende voorskrifte aan Ouditeur-generaal in verband met verslag oor 60 rekenings

5. Wanneer die Ouditeur-generaal oor rekenings verslag doen soos by artikel 4 vereis, vestig hy of sy die aandag op wesenlike gevalle—

- (a) where in his or her opinion a grant has been exceeded or has been utilised for a service or for a purpose other than that for which it was intended;
- (b) where the utilisation of resources for a service is in his or her opinion uneconomical, inefficient or ineffective or not conducive to the best interests of the State or the statutory body concerned; 5
- (c) where the use or custody of property, money, stamps, securities, equipment, stores, trust money, trust property or other assets occurs in a manner which is or may be to the detriment of the State or the statutory body concerned;
- (d) of unauthorised expenditure which in the course of the exercise of his or her powers or the performance of his or her duties comes to his or her attention: Provided that the Auditor-General shall list all unauthorised expenditure which has so come to his or her attention; 10
- (e) where in his or her opinion the applicable internal control and management measures are inefficient or ineffective; and 15
- (f) with regard to any other matter which in his or her opinion should in the public interest be brought to the notice of Parliament or the provincial legislature concerned, or a local government or statutory body, as the circumstances may require.

Personnel of Auditor-General

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6. The Auditor-General shall perform the functions assigned to him or her by this Act or any other law with the assistance of persons appointed in the Office in terms of the Audit Arrangements Act, and such other persons as he or she may appoint at his or her discretion against payment of such remuneration as may be agreed upon with such other persons and subject to such directives as the Auditor-General may deem expedient. 25

Deputy Auditor-General shall carry out certain instructions

7. The Deputy Auditor-General shall subject to his or her duties as accounting officer and Head of the Office in terms of the Audit Arrangements Act, with regard to matters referred to in sections 3, 4 and 5, carry out the instructions given to him or her from time to time by the Auditor-General. 30

Cost of auditing

8. (1) The cost of auditing, as determined by the Auditor-General, in respect of all the accounts audited by him or her in terms of this Act or any other law, shall, subject to subsections (3) and (4), be defrayed from the fund or account concerned, as the case may be, within 90 days after the receipt of an account: Provided that the Treasury may in any case where it deems it expedient, direct that another account or fund may be charged with such expenditure: Provided further that, notwithstanding the provisions of any other law, the basis according to which audit costs are determined, shall be determined by the Auditor-General in consultation with the Audit Commission. 35 40

(2) The cost referred to in subsection (1) may, in respect of audits contemplated in section 193(2) and (4) of the Constitution, include interest on outstanding accounts at a rate prescribed in terms of section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975). 45

(3) If circumstances in his or her opinion justify it, the Auditor-General may recover an amount less than the cost of auditing, or no cost or interest charges at all, from the fund or account concerned.

(4) If the cost of auditing referred to in subsection (1) in respect of the auditing of a statutory body for any financial year concerned exceeds one per cent of the total current and capital expenditure of such body for that financial year as the Auditor-General may determine, such cost shall, to the extent to which it exceeds one per cent, as the Auditor-General may determine, be defrayed from a vote designated by the Director-General: State Expenditure. 50

- (a) waar 'n toekenning na sy of haar oordeel oorskry is of aangewend is vir 'n ander diens of doel as dié waarvoor dit bestem is;
- (b) waar die aanwending van hulpbronne vir 'n diens na sy of haar oordeel onekonomies, ondoeltreffend of oneffektief is of nie tot die beste voordeel van die Staat of die betrokke statutêre liggaam strek nie;
- 5 (c) waar die gebruik of bewaring van eiendom, geld, seëls, sekuriteite, uitrusting, voorrade, trustgeld, trusteeiendom of ander bates plaasvind op 'n wyse wat tot nadeel van die Staat of die betrokke statutêre liggaam is of kan wees;
- 10 (d) van ongemagtigde uitgawe wat in die loop van die uitoefening van sy of haar bevoegdhede of die verrigting van sy of haar pligte onder sy of haar aandag kom: Met dien verstande dat die Ouditeur-generaal alle ongemagtigde uitgawes wat aldus onder sy of haar aandag kom, sal lys;
- 15 (e) waar die toepaslike huishoudelike beheer- en bestuursmaatreëls na sy of haar oordeel ondoeltreffend of oneffektief is; en
- (f) met betrekking tot enige ander aangeleentheid wat, na sy of haar oordeel, in die openbare belang onder die aandag van die Parlement of die betrokke provinsiale wetgewer of 'n plaaslike regering of statutêre liggaam, na gelang die omstandighede vereis, gebring behoort te word.

20 Personeel van Ouditeur-generaal

6. Die Ouditeur-generaal verrig die werksaamhede wat by hierdie Wet of enige ander wet aan hom of haar opgedra is, met die hulp van persone wat ingevolge die Ouditreëlingswet in die Kantoor aangestel is, en die ander persone wat hy of sy na goedgevoel, teen betaling van die vergoeding waarop met
- 25 sodanige ander persone ooreengekom word en behoudens die voorskrifte wat die Ouditeur-generaal goedgevoel, kan aanstel.

Adjunk-ouditeur-generaal moet sekere opdragte uitvoer

7. Die Adjunk-ouditeur-generaal moet, behoudens sy of haar pligte as rekenpligtige beampte en Hoof van die Kantoor ingevolge die Ouditreëlingswet,
- 30 ten opsigte van aangeleenthede bedoel in artikels 3, 4 en 5 die opdragte uitvoer wat die Ouditeur-generaal van tyd tot tyd aan hom of haar uitreik.

Koste van ouditering

8. (1) Die koste van ouditering, soos deur die Ouditeur-generaal bepaal, ten opsigte van al die rekenings wat ingevolge hierdie Wet of enige ander wet deur
- 35 hom of haar geouditeer word, moet behoudens subartikels (3) en (4), binne 90 dae na ontvangs van 'n rekening uit die betrokke fonds of rekening, na gelang van die geval, bestry word: Met dien verstande dat die Tesourie in 'n geval waar hy dit dienstig ag, kan gelas dat 'n ander rekening of fonds met sodanige uitgawe belas word: Met dien verstande voorts dat ondanks die bepalinge van enige
- 40 ander wet die grondslag waarvolgens ouditkoste bepaal word deur die Ouditeur-generaal in oorleg met die Ouditkommissie bepaal word.

- (2) Die koste in subartikel (1) bedoel, kan, in die geval van ouditerings beoog in artikel 193(2) en (4) van die Grondwet, rente op agterstallige rekenings, teen 'n koers voorgeskryf ingevolge artikel 1(2) van die Wet op die Voorgeskrewe
- 45 Rentekoers, 1975 (Wet No. 55 van 1975), insluit.

- (3) Indien omstandighede dit na sy of haar oordeel regverdig, kan die Ouditeur-generaal 'n bedrag laer as die koste van ouditering, of geen koste of renteheffings, van die betrokke fonds of rekening verhaal.

- (4) Indien die koste van ouditering in subartikel (1) bedoel ten opsigte van die
- 50 ouditering van 'n betrokke boekjaar van 'n statutêre liggaam een persent van die totale lopende en kapitaaluitgawes soos deur die Ouditeur-generaal bepaal van so 'n liggaam vir daardie boekjaar oorskry, word daardie koste in die mate waarin dit, soos deur die Ouditeur-generaal bepaal, een persent oorskry, uit 'n begrotingspos wat deur die Direkteur-generaal: Staatsbesteding aangewys is,
- 55 bestry.

Delegation of powers

9. The Auditor-General may, subject to such conditions as he or she may determine, delegate or assign any power or duty conferred or imposed upon him or her by or under this Act, except the power conferred upon him or her by this section to a person referred to in section 6. 5

Transitional provision

10. The Auditor-General may also submit a report prepared in respect of—
(a) a provincial administration, self-governing territory as defined in section 38(1) of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), statutory body or any other institution as it existed before the commencement of the Constitution; and 10
(b) the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, or an institution the auditing of which was assigned to the Auditor-General concerned of such a Republic,
which report has been or is to be submitted to Parliament after the commencement 15
of the Constitution, to the provincial legislature of each province referred to in section 124 of the Constitution to which the report may relate.

Repeal and amendment of laws, and savings

11. (1) Subject to subsection (2) the laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column of the Schedule. 20
(2) Anything done under a provision of any law repealed or amended by subsection (1) and which could have been done under a provision of this Act, shall be deemed to have been done under the latter provision.

Short title

12. This Act shall be called the Auditor-General Act, 1995. 25

Delegering van bevoegdhede

9. Die Ouditeur-generaal kan, behoudens die voorwaardes wat hy of sy bepaal, enige bevoegdheid of plig by of kragtens hierdie Wet aan hom of haar verleen of opgedra, behalwe die bevoegdheid aan hom of haar by hierdie artikel 5 verleen aan 'n persoon in artikel 6 bedoel, delegeer of opdra.

Oorgangsbepaling

10. Die Ouditeur-generaal kan 'n verslag wat opgestel is ten opsigte van—
- (a) 'n provinsiale administrasie, selfregerende gebied soos omskryf in artikel 38(1) van die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971), statutêre liggaam of enige ander instelling soos dit voor die inwerkingtreding van die Grondwet bestaan het; en
 - (b) die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei, of 'n instelling waarvan die ouditering aan die betrokke Ouditeur-generaal van so 'n Republiek opgedra was,
- 15 welke verslag na die inwerkingtreding van die Grondwet aan die Parlement voorgelê is of staan te word, ook aan die wetgewer van elke provinsie bedoel in artikel 124 van die Grondwet waarop die verslag betrekking mag hê, voorlê.

Herroeping en wysiging van wette, en voorbehoude

11. (1) Behoudens subartikel (2) word die wette in die Bylae vermeld, hierby 20 herroep of gewysig in die mate in die derde kolom van die Bylae aangedui.
- (2) Enigiets wat gedoen is kragtens 'n bepaling van 'n wet wat by subartikel (1) herroep of gewysig word en wat kragtens 'n bepaling van hierdie Wet gedoen sou kon word, word geag kragtens laasgenoemde bepaling gedoen te gewees het.

Kort titel

- 25 12. Hierdie Wet heet die Wet op die Ouditeur-generaal, 1995.

SCHEDULE**LAWS REPEALED OR AMENDED (SECTION 11)**

No. and year of law	Short title	Extent of repeal or amendment
Act No. 52 of 1989	Auditor-General Act, 1989	The repeal of the whole.
Act No. 66 of 1990	Auditor-General Amendment Act, 1990	The repeal of the whole.
Act No. 123 of 1992	Auditor-General Amendment Act, 1992	The repeal of the whole.
Act No. 142 of 1992	Secret Services Account Amendment Act, 1992	The amendment of the Schedule by the deletion of the amendment pertaining to the Auditor-General Act, 1989.

BYLAE**WETTE HERROEP OF GEWYSIG (ARTIKEL 11)**

No. en jaar van wet	Kort titel	In hoeverre herroep of gewysig
Wet No. 52 van 1989	Wet op die Ouditeur-generaal, 1989	Die herroeping van die geheel.
Wet No. 66 van 1990	Wysigingswet op die Ouditeur-generaal, 1990	Die herroeping van die geheel.
Wet No. 123 van 1992	Wysigingswet op die Ouditeur-generaal, 1992	Die herroeping van die geheel.
Wet No. 142 van 1992	Wysigingswet vir die Rekening op Geheime Dienste, 1992	Die wysiging van die Bylae deur die wysiging wat op die Wet op die Ouditeur-generaal, 1989, betrekking het, te skrap.

