

AUDIT OFFICE BILL, 2009

MEMORANDUM

The purpose of this Bill is to establish an independent office of the Comptroller and Auditor General as an office outside the Public Service, and to provide for the administration of the office and the conditions of service for its members.

The individual *clauses* of the Bill are explained below:

Part I

Clause 1 sets out the short title and the date of commencement. *Clause 2* provides the definition of terms used in the Bill.

Part II provides for Salary, Powers and duties of the Comptroller and Auditor General. *Clauses 3, 4, 5 and 8* provides for the salary, tenure of office, duties and powers of the Comptroller and Auditor General. *Clauses 6 and 7* provides for the accounts that the Comptroller and Auditor General will audit and the safeguarding of public moneys and State property. *Clause 9* provides for the appointment of public auditors to inspect, examine and audit accounts that are required by this Act to be so inspected, examined and audited.

Part III provides for the reports made by the Comptroller and Auditor General.

Part IV provides for the Audit Office Commission. *Clause 13* provides for the appointment of the Comptroller and Auditor General and such other persons that may be employed by the Office. *Clauses 14 and 15* as read together with the First and Second Schedule provide for the establishment and composition of the commission and its functions while *clause 16* provides for the commissions power to delegate its functions to ensure good administration.

Part V provides for the administration of Audit Office. *Clause 17 and 18* provides for the departments of the Audit office. *Clauses 19, 20 and 21* provides for persons who wish to be engaged in the Office under contract as well as provides for the probation period for members of the Office and their conditions of service thereof. *Clause 22 and 23* provides for the Commission to engage in collective bargaining agreements with recognised associations and organisations regarding conditions of service.

Part VI provides for discipline of members of Audit Office and *clauses 24, 25, 26* deal with the investigations for misconduct and the subsequent removal from office for misconduct by an appointed disciplinary committee and the appeal to the Labour Court.

Part VII provides for the financial provisions. *Clause 27* provides for the funds of the Audit Office which consists of moneys from the Parliament, donations and other fees and charges for services provided by the Audit Office. *Clause 29* deals with the accounts of the Audit Office and the public auditors appointed to audit the accounts of the Audit Office. *Clause 30* provides for the establishment of an audit committee.

Part VIII makes a provision for general matters which include in *clause 31* the Ministers powers to give the commission directions relating to the policies that the commission needs to observe in the exercise of its functions. *Clause 32* provides for the service regulations which gives the Minister powers to make regulations. *Clause 34* provides for the penalties and offences for non compliance with the Act. *Clause 36* provides for transitional provisions which deal with the transferring of members from the public service to the Audit Office and their conditions of service thereof.

AUDIT OFFICE BILL, 2009

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FIRST SCHEDULE: PROVISIONS APPLICABLE TO THE COMMISSION

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BILL

To provide for the additional functions of the Comptroller and Auditor-General; to establish the Office of the Comptroller and Auditor General and the Audit Office Commission and provide for its functions; to constitute the Audit Office and to provide for its administration and the conditions of service of its members; to provide for the transfer of persons from the Public Service to the Audit Office; to amend section 3 of the Interpretation Act [*Chapter 1:01*]; to amend the Public Service Act [*Chapter 16:04*]; and to provide for matters connected with or incidental to the foregoing.

WHEREAS sections 105 and 106 of the Constitution provide as follows:

105.(1) There shall be a Comptroller and Auditor-General whose office shall be a public office but shall not form part of the Public Service.

(2) The Comptroller and Auditor-General shall be appointed by the President after consultation with the Public Service Commission.

(2a) If the appointment of a Comptroller and Auditor-General by the President is not consistent with any recommendation made by the Public Service Commission, the President shall cause Parliament to be informed as soon as is practicable.

(3) A person shall not be qualified to hold or act in the office of Comptroller and Auditor-General unless he has held the post of Secretary of, or Deputy Secretary or Under Secretary in, a Ministry or a post in the Public Service of a grade equivalent to or higher than that of Under Secretary for periods which in the aggregate amount to at least five years.

(4) The Comptroller and Auditor-General shall, subject to the provisions of subsection (5), hold office on such terms and conditions as are fixed by the President after consultation with the Public Service Commission.

(5) The Comptroller and Auditor-General may only be removed from office by the President if Parliament has resolved by the affirmative votes of more than one-half of its total membership that he be removed from office for inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour.

106.(1) The public accounts of Zimbabwe and of all accounting officers, receivers of revenue and other persons entrusted with public moneys or property of the State shall at least once in every financial year be examined, audited and reported on by the Comptroller and Auditor-General on behalf of Parliament:

Provided that if the Comptroller and Auditor-General is of the opinion that it would not be appropriate or expedient for him to examine and audit any particular account or fund or any particular class of documents, he may, by notice in writing, inform the Speaker and the Minister for the time being responsible for finance of his opinion and, unless otherwise directed by Parliament, he shall not make any examination, audit or report in relation thereto.

(2) It shall be the duty of the Comptroller and Auditor-General to satisfy himself that—

- (a) all moneys that have been appropriated by Parliament and disbursed have been applied to the purposes for which they were so appropriated and that the expenditure conforms to the authority that governs it; and*
- (b) all reasonable precautions have been taken to safeguard the collection of all fees, taxes and other revenues of the State and to safeguard and control property of the State.*

(3) The Comptroller and Auditor-General and any officer authorized by him shall have access to all books, records, returns, reports and other documents that, in his opinion, relate to any of the accounts referred to in subsection (1) and to all cash, stamps, securities, stores and other property of whatever kind that he considers it necessary to inspect in connection with any of those accounts and that is in the possession of any employee, agent or authority of the State.

(4) The Comptroller and Auditor-General shall submit every report made by him in accordance with subsection (1) to the Minister for the time being responsible for finance who shall, on one of the seven days on which Parliament sits next after he has received the report, lay it before Parliament.

(5) The Comptroller and Auditor-General shall exercise in relation to the accounts of the State or the accounts of any authority, body or fund established directly by or under any Act of Parliament for special purposes specified in that Act such other functions as may be prescribed by or under an Act of Parliament.

(6) In the exercise of his functions under subsections (1), (2), (3) and (4), the Comptroller and Auditor-General shall not be subject to the direction or control of any person or authority other than Parliament.

AND WHEREAS it is desirable to make further provision for the Comptroller and Auditor-General and his or her staff:

NOW, THEREFORE, be it enacted by the President and the Parliament of Zimbabwe as follows:—

PART I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Audit Office Act, 2009.

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument:

2 Interpretation

(1) In this Act—

“approved service” means—

- (a) the Public Service; or
- (b) a uniformed force, or
- (c) the service of Parliament; or
- (d) the service of a government, statutory body, local authority or institution approved by the Minister, after consultation with the Commission, for the purposes of this Act;

“Audit Office” or “Office” means the service constituted by the persons referred to in section 13;

“Commission” means the Audit Office Commission established by section 14;

“committee” means a committee established by the Audit Office Commission;

“Comptroller and Auditor-General” means the person appointed as such in terms of section 105 of the Constitution;

“disciplinary committee” means a committee appointed in terms of section 25;

“fixed date” means the date fixed in terms of section 1(2) as the date of commencement of this Act;

“Labour Court” means the Labour Court constituted in terms of the Labour Act [*Chapter 28:01*];

“local authority” means a municipal council, town, local board or rural district council or any similar body established by or in terms of any enactment;

“member”, in relation to—

- (a) the Audit Office, means a person employed in the Office of the Comptroller and Auditor General, including a person employed under contract;
- (b) a statutory body or corporate body, means a person who is appointed to a council, Commission or other authority which is the statutory body or which is responsible for the administration of the affairs of the statutory body;

“Minister” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“officer” means any person in the employment of the State or of a statutory body or fund or account whose accounts are audited or required to be audited by the Comptroller and Auditor-General;

“pension benefit” means any pension, commutation of a pension, gratuity or other similar allowance or benefit or any refund of pension contributions, including any interest payable thereon, for a person in respect of his service as a member of the Audit Office or in respect of any ill-health or injury arising out of and in the course of his official duties as such a member or for a dependant or personal representative of such person in respect of such service, ill-health or injury or on the death of such person;

“public accounts committee” means the committee established by Parliament for the examination of public moneys appropriated by Parliament for the service of the State;

“recognised association or organisation” means an association or organisation declared to be a recognised association or recognised organisation, as the case may be, in terms of subsection (1) of section 23;

“service regulations” are regulations made in terms of section 32;

“test audit” means an examination of a sample of auditable records;

(2) The terms “appropriate Minister”, “designated corporate body”, “local authority”, “public entity”, “public moneys”, “State property”, “Statutory body”, “Statutory fund”, “treasury” and any other term or expression that is not defined in subsection (1) but to which a meaning has been assigned in the Public Finance Management Act, 2009 have the same meaning when used in this Act

PART II

SALARY, POWERS AND DUTIES OF COMPTROLLER AND AUDITOR-GENERAL

3 Salary of Comptroller and Auditor-General

The salary and the related allowances of the Comptroller and Auditor-General shall be a charge on the Consolidated Revenue Fund, which is hereby appropriated to the purpose.

4 Tenure of office of Comptroller and Auditor-General

(1) When Parliament is not sitting the President may suspend the Comptroller and Auditor-General from office on the grounds of bankruptcy or incompetence or misbehaviour or physical or mental incapacity.

(2) Any suspension in terms of subsection (1) shall terminate, and the Comptroller and Auditor-General shall resume his or her duties, on the twenty-eighth day on which Parliament next sits after such suspension, unless Parliament has earlier resolved in terms of section 105(5) of the Constitution that the Comptroller and Auditor-General should be removed from office.

(3) If the Comptroller and Auditor-General wishes to resign from office, he or she shall submit his or her resignation in writing to the President, giving the reasons for his or her resignation.

(4) The suspension of the Comptroller and Auditor-General from office does not affect any entitlement of the Comptroller and Auditor-General to be paid remuneration and allowances

unless the act of omission or commission on which he or she was suspended involves financial prejudice to the State, the Audit Office or any person or body he or she is required to audit.

(5) Where the Comptroller and Auditor General—

(a) resigns from office—

(i) he or she may, with his or her consent, be appointed to any post in the public service;

(ii) if he or she is not appointed to any other post in the Public Service, he or she shall be regarded as though he or she had resigned from the Public Service;

(b) retires from office, he or she shall be regarded as having retired from the Public Service;

and any period of service as Comptroller and Auditor General shall be regarded, for the purpose of the State Service (Pension) Act [*Chapter 16:06*] and any regulations made thereunder which are applicable, as forming part of and not having interrupted the continuity of his pensionable service.

5 Duties of Comptroller and Auditor-General

(1) Subject to any duty imposed on him or her by any enactment, the Comptroller and Auditor-General shall have complete discretion in the discharge of his or her functions and, in particular, in determining whether to carry out any examination in terms of this Act and as to the manner in which any such examination is carried out.

(2) Subject to section 106 of the Constitution, the duties of the Comptroller and Auditor-General shall be—

(a) to examine, inquire into and audit accounts in terms of section 6;

(b) to satisfy himself or herself in terms of section 7 as to the safeguarding of public moneys and State property;

(c) to prepare and submit reports in terms of Part III;

(d) to do any other thing required of him or her by or under this Act or any other enactment.

6 Examination and audit of accounts

(1) In addition to auditing the accounts referred to in section 106(1) of the Constitution, the Comptroller and Auditor-General –

(a) shall, on behalf of Parliament, audit the accounts of any public entity, or designated corporate body;

(b) may carry out examinations into the economy, efficiency and effectiveness with which any Ministry, public entity, local authority or designated corporate body, statutory body, statutory fund or other body whose accounts he or she is required to audit has used its resources in discharging its functions:

(2) Where, by virtue of the proviso to section 106(1) of the Constitution, the Comptroller and Auditor-General does not examine or audit any particular account or fund, moneys held in that account or fund shall be regarded as not being public moneys for the purposes of this Act.

7 Comptroller and Auditor-General to satisfy himself or herself that public moneys and State property are safeguarded

(1) The Comptroller and Auditor-General shall satisfy himself or herself that—

- (a) all reasonable precautions have been taken to safeguard the collection of public moneys and that the provisions of this Act and any other enactment and of any direction or instruction issued in terms of the Public Finance Management Act, 2009 have been duly observed;
- (b) all payments of public moneys—
 - (i) have been made in accordance with proper authority; and
 - (ii) have been properly charged; and
 - (iii) are supported by sufficient vouchers or proof of payment;
- (c) all moneys expended and charged to an appropriation account—
 - (i) have been applied to the purposes for which the grants made by Parliament were intended; and
 - (ii) were expended in conformity with the appropriate authority;
- (d) all reasonable precautions have been taken to safeguard and control State property and all issues of State property were made in accordance with proper authority.

(2) If at any time it appears to the Comptroller and Auditor-General that any irregularity has occurred in—

- (a) the collection, receipt, custody, control or payment of public moneys; or
- (b) the receipt, custody, control, issue, sale, transfer or delivery of any State property;

he or she shall immediately, bring the matter to the notice of the Treasury, the appropriate accounting officer or receiver of revenue, as the case may be, and—

- (i) the Public Service Commission, where in his or her opinion the irregularity constitutes misconduct on the part of any member of the Public Service; and
- (ii) the Commander of the branch of the Defence Forces concerned, where in his or her opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Defence Forces; and
- (iii) the Commissioner General of Police, where in his or her opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Police Force; and
- (iv) the Commissioner of Prisons, where in his or her opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Prison Service; and
- (v) the Attorney-General, where in his or her opinion the irregularity constitutes a criminal offence.

8 Powers of Comptroller and Auditor-General

(1) In the exercise of his or her duties in terms of section 5 the Comptroller and Auditor-General or any person authorized by him or her may—

- (a) call upon an officer for, and shall be entitled to receive without undue delay from that officer, any explanations and information he or she may require in order to enable him or her to discharge his or her duties;
- (b) authorise any person to conduct on his or her behalf any examination, enquiry, inspection or audit of any books and accounts which he or she may be required by or under this Act to examine and audit and such person shall report thereon to the Comptroller and Auditor-General in such manner as he or she may direct:

Provided that any such authority given to any person shall be subject to the concurrence of the head of the Ministry or statutory body in which the officer is employed.

- (c) without payment of any fee, cause search to be made in and extracts to be taken from any book, document or record in the custody or possession of an officer;
- (d) examine upon oath all persons whom he or she thinks fit to examine respecting the receipt or expenditure of public moneys or the receipt or issue of any State property and respecting whatever is necessary for the due performance and exercise of the duties and powers vested in him or her.

(2) Notwithstanding anything in this Act or any other law, the Comptroller and Auditor-General may, if he or she thinks fit—

- (a) make a test audit in any particular case;
- (b) accept as correct upon a certificate of any person, the accounts of any other person entrusted with—
 - (i) the collection, receipt, custody, control or payment of public moneys; or
 - (ii) the receipt, custody, control, issue, sale, transfer or delivery of any State property;
- (c) admit without further examination accounts, vouchers and receipts which bear evidence of having been checked, examined and certified as correct in every respect and have been allowed and passed by the appropriate officer.

(3) If, in the opinion of the Comptroller and Auditor-General, it is necessary or desirable that he or she should have access to the accounts or other records of a public entity and or designated corporate body, or statutory fund not referred to in section 6(1), he or she may exercise any of the powers conferred by subsection (1) in relation to such public entity, designated corporate body, statutory fund, as the case may be, and that subsection shall apply, with necessary changes, in relation to the moneys, property and employees of the public entity, designated corporate body, or statutory fund concerned as they apply in relation to public moneys, State property and officers, respectively.

(4) The Comptroller and Auditor-General may lay before the Attorney-General a case in writing as to any question regarding which the Comptroller and Auditor-General requires a legal

opinion and the Attorney-General shall furnish the Comptroller and Auditor-General with such legal opinion.

(5) Where the Comptroller and Auditor-General exercises any of his or her duties in relation to a public entity, designated corporate body, or statutory fund, subsections (1) and (2) shall apply, with necessary changes, in relation to the moneys, property and employees of the entity, body or fund concerned as they apply in relation to public moneys, State property and officers, respectively.

9 Contracted audits

(1) The Comptroller and Auditor-General may, by notice in the *Gazette*, appoint a person registered as a public auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12] to inspect, examine and audit the accounts, records or stores that are required by this Act or by any other Act, to be inspected, examined or audited by the Comptroller and Auditor-General and report the results of the inspection, examination or audit.

(2) The person appointed in terms of subsection (1) may carry out an economy, efficiency and effectiveness audit of the operations, or specified operations, of a designated statutory body, and report the results of the audit to the Comptroller and Auditor-General.

PART III

REPORTS BY THE COMPTROLLER AND AUDITOR-GENERAL

10 Annual report of Comptroller and Auditor-General

(1) The Comptroller and Auditor-General, after examining the accounts transmitted to him or her in terms of section 35(6) and (7) of the Public Finance Management Act and the accounts of any public entity, designated corporate body or statutory fund, and signing a certificate recording the result of his or her examination, shall—

- (a) prepare and submit to the Minister, not later than the 30th of June in each year, a report on the outcome of his or her examination and audit of the accounts referred to him or her in terms of section 6(1); and
- (b) transmit to the appropriate Minister his or her certificate upon his or her examination and audit of such accounts, together with any report which he or she may consider necessary.

(2) The Comptroller and Auditor-General shall set out in his or her annual report—

- (a) if, in his or her opinion, any payment out of public moneys which has been made to any Minister in terms of the Public Finance Management Act, Deputy Minister or other member of Parliament is one on which the Comptroller and Auditor-General should report to Parliament, a statement showing the name of the member receiving such payment, the total amount received and the service in respect of which the payment was made;

- (b) any other matters relating to the audit of public accounts which the Comptroller and Auditor-General thinks should be brought to the attention of Parliament.

11 Special reports

(1) If at any time it appears to the Comptroller and Auditor-General desirable that any matter relating to public moneys or State property should be drawn to the attention of public accounts committee without undue delay, he or she shall prepare a special report in relation to such matter and transmit—

- (a) that report to the Minister; and
- (b) if it relates to a public entity, designated corporate body, statutory fund, a copy of that report to the appropriate Minister.

(2) The Comptroller and Auditor General may make a special report in terms of subsection (1) relating to any matter incidental to the powers and duties of the Comptroller and Auditor-General under this Act or any other enactment.

(3) If at any time it appears desirable to the public accounts committee that any matter relating to public moneys or State property should be reported upon by the Comptroller and Auditor General, the committee shall direct the Comptroller and Auditor General to prepare a special report thereon for the transmission to the committee and—

- (a) to the Minister; and
- (b) if it relates to a public entity, designated corporate body, statutory fund, a copy of that report to the appropriate Minister.

12 Reports to be laid before Parliament

(1) Any report transmitted—

- (a) to the Minister in terms of section 10 or 11; or
- (b) to the appropriate Minister in terms of section 10;

shall be laid by the Minister or appropriate Minister, as the case may be, before Parliament on one of the seven days on which Parliament sits next after he or she has received such report.

(2) Where the Minister or appropriate Minister fails to lay any report before Parliament in terms of subsection (1) within the period specified therein, the Comptroller and Auditor-General shall transmit a copy of such report to the House of Assembly to be laid before the House of Assembly.

PART IV

AUDIT OFFICE COMMISSION

13 Constitution of the Audit Office

(1) The Audit Office shall consist of the following members –

- (a) the Comptroller and Auditor General appointed in terms of section 105 of the Constitution; and
 - (b) every person who occupies a post in the Office, including the staff of the Department of Administration referred to in section 18 and such other persons employed in the Office as may be prescribed;
- (2) every office in the Audit Office is a public office but does not form part of the Public Service.

14 Establishment and Composition of Audit Office Commission

(1) There is hereby established a Commission, to be known as the Audit Office Commission, which shall consist of -

- (a) a Commissioner of the Public Service Commission appointed by the Chairperson of the Public Service Commission who shall be chairperson of the Commission;
 - (b) the Comptroller and Auditor General;
 - (c) two members who shall be the Deputy Auditors-General or if there is only one Deputy Auditor General, the Deputy Auditor General and a member of the Audit Office next in seniority.
 - (d) five members appointed, subject to subsection (2)(a), by the President on recommendation by the Minister of whom-
 - (i) two shall be persons who are and have been for not less than seven years, whether continuously or not, qualified to practise as a public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*]; and
 - (ii) one shall be a person who is and has been, for not less than seven years, whether continuously or not, qualified to practice as a legal practitioner in terms of the Legal Practitioners Act [*Chapter 27:07*]; and
 - (iii) one shall be chosen for his or her knowledge of, ability and experience in labour relations or human resources management; and
 - (iv) one shall be chosen for his or her knowledge of, ability and experience in information technology.
- (2) The First Schedule shall apply—
- (a) to the qualifications, terms and conditions of Office, vacation of office, and suspension and dismissal of members of the Commission referred to in subsection (1)(d); and
 - (b) to the procedures to be followed by the Commission at its meetings.

15 Functions of the Commission

The Commission shall have the following functions—

- (a) to appoint persons to the Audit Office, whether as permanent members or on contract or otherwise, assign and promote them to offices, posts and grades in the Audit Office, and to fix their conditions of service; and

- (b) to exercise disciplinary powers in relation to members of the Audit Office; and
- (c) to conduct examinations for candidates for entry into and promotion within the Audit Office; and
- (d) to inquire into and deal with grievances made by members of the Audit Office; and
- (e) to administer the funds of Audit Office referred to in section 27; and
- (f) to exercise any other functions that may be imposed or conferred upon the Commission in terms of this Act or any other enactment.

16 Delegation of functions

(1) In the interest of ensuring the greatest degree of devolution of decision-making consistent with good administration, the Commission shall ensure that the functions vested in it by or under this Act are delegated wherever practicable to members of the Audit Office to whom such functions may be appropriately delegated.

(2) A delegation of a function by the Commission in terms of subsection (1)—

- (a) may be made unconditionally or subject to conditions; and
- (b) may be amended or revoked at any time; and
- (c) shall not preclude the Commission from exercising the function so delegated

(3) A member of the Audit Office to whom the Commission has delegated a function in terms of subsection (1) may, with the consent of the Commission, further delegate the function, either unconditionally or subject to conditions, to any other member of the Audit Office who is under his or her supervision.

(4) Where a person has been or is about to be appointed to or promoted within the Audit Office pursuant to a power delegated by the Commission in terms of subsection (1), and the Commission considers that—

- (a) the person does not have the qualifications or ability necessary to carry out the duties of the position he or she occupies or would occupy, as the case may be; or
- (b) his or her appointment or promotion has contravened or would contravene, as the case may be, any condition under which the power was delegated;

the Commission shall without delay revoke the appointment or promotion or direct that the appointment or promotion shall not be made, as the case may be, and may take such other action in the matter as the Commission thinks necessary:

Provided that-before taking any action in terms of this subsection, the Commission shall give the person whose appointment or promotion is in issue and the person who appointed or promoted him or her or proposed to appoint him or her, an adequate opportunity to make representations in the matter;

PART V

ADMINISTRATION OF AUDIT OFFICE

17 Departments and classification of members of Audit Office

(1) The Audit Office shall have such departments and sub-departments as the Commission may establish from time to time, each headed by a member of the Audit Office of such a grade and designation as the Commission shall determine.

(2) For each department the Commission shall assign such members of the Audit Office as may be necessary to carry out the department's functions.

(3) Members of the Audit Office shall be classified in such a manner as may be prescribed.

18 Department of Administration

(1) In addition to the departments referred to in section 17, there shall be a department of the Audit Office known as the Department of Administration which shall be responsible for —

- (a) managing the administrative, human resources and financial affairs of the Audit Office and implementing the decisions of the Commission;
- (b) providing technical advice and support to the Commission;
- (c) formulating administrative rules, guidelines and procedures to facilitate the achievement of the mission of the Audit Office; and
- (d) exercising any other functions that may be imposed or conferred upon it under this Act or any other enactment.

(2) The Department of Administration shall (subject to the general control of the Commission and to any specific directions given to him or her by the Commission) be controlled and supervised by a member of the Audit Office of such a grade and designation as the Commission may determine from time to time and staffed by such persons as the Commission may think necessary to ensure that the Department is able to discharge its functions.

19 Persons under contract

(1) The Commission may engage persons under contract, on such conditions as may be fixed or prescribed by the Commission:

Provided that, if the effect of any such conditions would be to increase the fixed salary or salary scale applicable to any post or grade, the Commission shall obtain the concurrence of the Minister responsible for finance.

(2) There may be incorporated in the conditions referred to in subsection (1) such provisions of any enactment relating to conditions of service of members of the Audit Office as may be considered necessary or desirable in the light of the nature of the contract.

(3) Upon the termination of a contract entered into in terms of subsection (1), the person under contract shall cease to be a member of the Audit Office, unless the contract is renewed or he or she is appointed as a member to the Audit Office or under contract.

20 Probationary period

(1) A member of the Audit Office appointed otherwise than under contract shall serve a probationary period of not less than six months and not more than one year, as the Commission may prescribe or fix in relation to that member.

(2) the appointment of a member under subsection (1) shall be confirmed at the end of the probationary period unless, at any time during the probationary period, the Commission considers that the member does not meet the required standard of performance, in which case the Commission may —

- (a) discharge the member; or
- (b) extend the probationary period by not more than six months, at the end of which period the member shall be discharged if he or she fails to meet the required standard of performance.

21 Conditions of service of members of Audit Office

(1) Subject to the Constitution and any other enactment, the conditions of service applicable to members of the Audit Office, including their remuneration, benefits, leave of absence, and hours of work and discipline, shall be fixed by the Commission:

Provided that, to the extent that such conditions may result in an increase in expenditure chargeable on the Consolidated Revenue Fund, the prior concurrence of the Minister responsible for finance shall be obtained.

(2) Conditions of service may be fixed in terms of subsection (1) by means of service regulations, notices, circulars or in any other manner that the Commission considers will best bring the conditions to the attention of members of the Audit Office who are affected by them:

Provided that, in the event of any conflict between Audit Office regulations and the contents of any such notice or circular, the service regulations shall prevail to the extent of the conflict.

(3) Subject to Schedule 6 to the Constitution, the Commission may in terms of subsection (1) alter the conditions of service of existing members of the Audit Office:

Provided that no member's fixed salary or salary scale shall be reduced except when the member has been found guilty of misconduct or has consented to the reduction.

(4) Without derogating from the generality of subsection (1), conditions of service fixed in terms of that subsection may provide for the —

- (a) abolition of the office or post of any member of the Audit Office, whether individually or as a consequence of a reduction in the staff establishment of the Office if the abolition will help improve the economy or efficiency of the Office;
- (b) terminal benefits of any member of the Audit Office whose office or post is abolished and—
 - (i) who is not offered to be engaged in another office or post in the Audit Office; or
 - (ii) if so offered refuses to be so engaged.

(5) Except with the written permission of the Commission, no member of the Audit Office shall engage in any occupation or work for remuneration outside his or her employment in the Office.

22 Consultations re conditions of service of members of Audit Office

(1) The Commission shall engage in regular consultations with recognised associations and organisations in regard to the conditions of service of members of the Audit Office who are represented by the associations or organisations concerned.

(2) Notwithstanding subsection (1), conditions of service fixed or determined under this Act shall not be invalid solely on the ground that—

- (a) they were not the subject of prior consultation in terms of subsection (1); or
- (b) they were not agreed to by all the parties to any consultation in terms of subsection (1).

(3) With effect from such a date as the Commission and any recognised association or organisation agree to establish an employment council under Labour Act [*Chapter 28:01*] a collective bargaining agreement negotiated by the Commission and association or organisation may amend, vary or repeal any service regulations prescribed under section 32 or any circulars governing conditions of service of members of the Public Service that are still applicable to members of the Audit Office after the fixed date.

(4) To the extent that the collective bargaining agreement made in terms of subsection (3) may result in an increase in expenditure chargeable on the Consolidated Revenue Fund, the Commission shall obtain the concurrence of the Minister responsible for finance before it is registered, in terms of the Labour Act [*Chapter 28:01*] and becomes binding.

23 Recognised associations and organisations

(1) The Minister responsible for labour may, after consultation with the Commission, by written notice to the association or organisation concerned, declare any association or organisation representing all or any members of the Audit Office to be a recognised association or a recognised organisation, as the case may be, for the purposes of this Act.

(2) The Minister responsible for labour may, after consultation with the Commission, at any time, by written notice to the recognised association or organisation concerned, revoke any declaration made in terms of subsection (1).

(3) Without derogation from section 22—

- (a) the Commission may consult with a recognised association or organisation on such matters affecting the efficiency, well-being or good administration of the Audit Office or the interests of members of the association or organisation, as the Commission, thinks appropriate; and
- (b) a recognised association or organisation may make representations to the Commission concerning the conditions of service of the members of the Audit Office represented by the association or organisation, and the Commission, as the case may be, shall pay due regard to any such representations when exercising any function in terms of this Act.

(4) Any member of the Audit Office who is eligible to do so may join a recognised association or organisation and, subject to this Act, participate in its lawful activities.

(5) A member of the Audit Office who fails or refuses to join a recognised association or organisation shall not, on account of such failure, be debarred from or prejudiced in respect of any appointment, promotion or advancement within the Audit Office.

PART VI

DISCIPLINE OF MEMBERS OF AUDIT OFFICE

24 Investigation and adjudication of misconduct cases

Subject to section 26, any case involving misconduct or suspected misconduct on the part of a member of the Audit Office shall be investigated, adjudicated upon and, where appropriate, punished by the Commission or by such person or authority as may be prescribed.

25 Removal of members from Audit Office

(1) If the Comptroller and Auditor General advises the Commission that a member of the Audit Office who has been confirmed as a member under section 20(2) is alleged to have committed such an act of misconduct as may justify the member's discharge from the Audit Office, the Commission shall appoint a disciplinary committee consisting of –

- (a) the head of the department in which the member is employed; and
- (b) two other members of the Office who have been confirmed as members under section 20(2) and who shall not be junior in rank to the member alleged to have committed the act of misconduct in question.

(2) The procedure to be followed by the disciplinary committee appointed under subsection (1), and the penalties additional or alternative to discharge that it may impose upon a member found by it to have committed an act of misconduct shall be as prescribed.

26 Appeals to Labour Court

- (1) Any member or former member of the Audit Office who is aggrieved by—
- (a) any decision made; or
 - (b) any penalty imposed upon him or her; or
 - (c) both the decision made and the penalty imposed upon him or her;

in respect of misconduct committed or alleged to have been committed by him or her may, subject to this section, appeal against the decision or penalty to the Labour Court within thirty days from the date of the decision or imposition of the penalty.

(2) Section 90, 91(1) and sections 92 and 97 of the Labour Relations Act [*Chapter 28:01*] shall apply, with necessary changes, in relation to any appeal in terms of subsection (1) as if the decision appealed against were a determination in terms of that Act:

Provided an appeal will not affect the suspension of the decision or penalty imposed unless the disciplinary committee has in writing directed otherwise at the time the decision or penalty is imposed.

PART VII

FINANCIAL PROVISIONS

27 Funds of Audit Office

The funds of Audit Office shall consist of—

- (a) moneys appropriated by Act of Parliament for salaries and allowances payable to and in respect of members of the Audit Office and the recurrent administrative expenses of the Office; and
- (b) any other moneys that may be payable to the Audit Office from moneys appropriated for the purpose by Act of Parliament; and
- (c) any donations, grants, bequests or loans made by any person or organisation or any government of any country to the Audit Office and accepted by the Commission and the Minister; and
- (d) fees and other charges for audit and related services provided by the Audit Office to any public entity:

Provided that for the avoidance of doubt the Audit Office shall not charge for its services to the State, that is, any Ministry, reporting unit or constitutional entity as defined in the Public Finance Management Act

- (e) any moneys that may vest in or accrue to the Office whether in terms of this Act or otherwise.

28 Investment of moneys not immediately required by Audit Office

Moneys not immediately required by the Audit Office may be invested in such manner as the Commission considers appropriate.

29 Accounts of Audit Office and audit thereof

(1) The Office shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Office's activities, funds and property, including such particular accounts and records as the Commission may direct.

(2) As soon as possible after the end of each financial year, the Audit Office shall prepare accounts and submit to the Commission a statement of accounts in respect of that financial year or in respect of such other period as the Commission may direct.

(3) The accounts of the Audit Office shall be audited by a public auditor registered under Public Accountants and Auditors Act [*Chapter 27:12*] and appointed by the Commission

(4) An auditor referred to in subsection (3) shall be entitled at all reasonable time to require to be produced to him all accounts and records relating to any accounts which are kept by Audit Office and to require from any member of the Commission or any member of the Office such information and explanation as, in the auditors opinion, are necessary for the purpose of that section.

(5) Any member of the Commission or Audit Office who—

(a) fails or refuses to provide an auditor with any information or explanation required by him in terms of subsection (4); or

(b) hinders or obstructs an auditor in the exercise of his functions in terms of subsection (3); shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

30 Audit committee of Office

(1) The Commission shall establish an audit committee.

(2) The responsibilities of an audit committee shall include the following—

(a) to review internal controls, including the scope of the internal audit programme, the internal audit findings, and to recommend appropriate action to be taken by the responsible authorities;

(b) to ensure that accounts, are prepared in a timely and accurate manner and to ensure the prompt publication of the annual accounts;

(c) to review with the external auditors, the scope of the audit plan, the system of internal audit reports and assistance given by officers or staff to the auditors and any findings and action to be taken.

(3) The audit committee of the Office—

(a) shall consist of at least three and not more than five appointed members of the Commission;

(b) shall meet at least twice a year.

(4) The external and internal auditors shall have the right to attend and participate in the deliberations of the audit committee.

(5) Upon the request of any auditors, the chairperson of the audit committee shall convene a meeting to consider any matter that the auditors believe should be brought to the attention of the Commission.

(6) The chairperson of the audit committee shall send or cause to be sent—

(a) all notices of audit committee meetings; and

(b) all minutes of audit committee meetings;

to the treasury, Comptroller and Auditor-General, internal auditors and external auditors where appropriate.

PART VIII

GENERAL

31 Minister may give policy directions to Commission

(1) Except as is provided in this section, the Commission shall not, in the exercise of its functions, be subject to the direction or control of any person or authority.

(2) Subject to subsection (3), the Minister may in writing, through its chairperson, may give the Commission such general directions relating to the policy the Commission is to observe in the exercise of its functions as the Minister considers to be necessary in the national interest.

(3) Before giving the Commission any direction in terms of subsection (2), the Minister shall inform the Commission, in writing, of the proposed direction and the Commission shall within thirty days or such longer period as the Minister may allow, submit to the Minister, in writing, its views on the proposal.

(4) The Commission shall take all necessary steps to comply with any direction given to it in terms of subsection (2).

(5) When any direction has been given to the Commission in terms of subsection (2), the Commission shall ensure that the direction and any views the Commission has expressed on it in terms of subsection (3) are set out in the Commission's annual report.

(6) Subsection (2) and (4) shall not be construed as permitting the Minister or the Commission or any other person to do anything likely to influence unduly the Comptroller and Auditor-General and members of the Audit Office assisting him or her in the performance of his or her functions under the Constitution or any enactment.

32 Service Regulations

(1) Subject to the Act, the Commission may, with the concurrence of the Minister, make regulations providing for the conditions of service of the members of the Audit Office.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the appointment, classification, qualifications, salaries, allowances and other remuneration and benefits of members of the Audit Office, and their promotion, functions, hours of work and leave of absence;
- (b) the pension benefits payable to members of the Audit Office and to other persons in respect of the members' service with the State or with any other person or authority, the contributions payable in respect of such pension benefits and the circumstances in which such pension benefits may be reduced, suspended or withdrawn;
- (c) a code of ethical and professional conduct for members of the Audit Office;
- (d) training and development courses for members of the Audit Office and the attendance of members thereat;

- (e) the use by members of the Audit Office of vehicles, equipment and other property of the Office, their indemnification in respect of such use and additionally, or alternatively, the recovery from them of compensation and penalties in respect of damage or loss caused by such use;
- (f) the manner in which members of the Audit Office may make representations in regard to matters affecting their conditions of service and general welfare;
- (g) the manner in which grievances of members of the Audit Office may be expressed, investigated and redressed;
- (h) the terms and conditions of contracts entered into in terms of section 19;
- (i) the circumstances in which the Commission may assent to cessions of salary, allowances or other remuneration ;
- (j) the discipline of members of the Audit Office, and the penalties that may be imposed upon them and other measures that may be taken against them for misconduct or if they are inefficient or unsuitable or incapable of performing their duties or if they are convicted of criminal offences;
- (k) the suspension, retirement, resignation, discharge, abandonment of employment and other termination of service of members of the Audit Office;
- (l) the transfer, secondment and appointment of members of the Audit Office to positions in an approved service; to offices, posts or grades in an approved service and *vice versa* and the terms and conditions upon which such transfers, secondments and appointments may be made;
- (m) the conduct of investigations, inspections and examinations for the purposes of this Act;
- (n) any other matter which in the opinion of the Commission, is necessary or convenient to prescribe in order to ensure the well-being and good administration of the Audit Office and its maintenance in a high state of efficiency.

(3) To the extent that regulations made in terms of subsection (1) may result in an increase in expenditure chargeable on the Consolidated Revenue Fund, the Commission shall obtain the concurrence of the Minister responsible for finance before they are enacted.

(4) Regulations made in terms of subsection (1) may provide that any enactment relating to the conditions of service of members of the Public Service shall apply to or in respect of any members of the Audit Office, subject to such modifications, exceptions or conditions as may be specified in the regulations, and thereupon the enactment concerned shall so apply to or in respect of those members of the Office.

(5) If, after an enactment has been made applicable to any members of the Audit Office as provided in subsection (4), the enactment concerned is amended, the amendment shall also apply to or in respect of the members concerned unless the Commission provides in regulations that it shall not apply.

33 Act not to affect application of certain other laws

To the extent that the appointment, conditions of service, termination of service or pension benefits of a member of the Audit Office is or are provided for by or under the Constitution or any other enactment, this Act shall not apply to or in respect of that member.

34 Offences and penalties

Any person who –

- (a) hinders or obstructs the Comptroller and Auditor-General and members of the Audit Office assisting him or her or any person or authorised by him or her in terms of section 8(1)(b)
- (b) under examination in terms of section 8(1)(b) of this Act, makes any statement knowing it to be false or not knowing or believing it to be true;
- (c) refuses or fails to produce any information that is in that person’s possession or under that person’s control in relation to financial transactions, financial management, financial performance or banking activities of a Ministry reporting unit or Constitutional entity as defined in the Public Finance Management Act or public entity or in relation to the management or control of any state asset or liability when required to do so in terms of this Act
- (d) makes any statement or declaration, or gives any information required in terms of this Act, knowing it to be false or misleading

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

35 Amendment of sections 2 and 14 of Cap. 16:04

The Public Service Act [*Chapter 16:04*] is amended—

- (a) in section 2 (“Interpretation”) by the insertion in the definition of “approved service”, after paragraph (c), of the following paragraph—
 - “or
 - (d) the Audit Office established by the Audit Office Act, 2009”;
- (b) in section 14 (“Constitution of Public Service”) by the insertion after paragraph (d) of a new paragraph (e) and the subsequent paragraph be renumbered accordingly—
 - “(e) members of the Audit Office established by the Audit Office Act, 2009”.

36 Transitional provisions

(1) In this section—

“transferred member” means any person who is transferred from the Public Service to the Audit Office in terms of subsection (2).

(2) Every person who, immediately before the fixed date, was members of the Public Service employed in the office of the Auditor General shall be deemed to have been transferred to the Audit Office, unless he or she opts out of employment with the Office in writing to the Commission and the Public Service Commission within thirty days from the fixed date.

(3) Any regulation, notice, circular or other document which, immediately before the fixed date, regulated the conditions of service of any class of transferred members in terms of the Public Service Act [*Chapter 16:04*] shall continue, on and after that date, to regulate the conditions of service of—

- (a) those transferred members; and
- (b) any persons who join the Audit Office after the fixed date and who are in the same grade of employment as those transferred members;

until the Commission replaces the regulation, notice, circular or other document concerned or otherwise alters the conditions of service concerned in terms of this Act.

(4) All offices in the Public Service held by transferred persons shall, from the fixed date, be transferred to the Audit Office, and accordingly any person who refuses to be transferred to the Audit Office in terms of subsection (2) shall be entitled to the terminal benefits upon resignation from, not abolition of, an office in the Public Service:

Provided that a person who refuses to be transferred to Audit Office and who does not wish to resign from the Public Service may be deployed by the Public Service to another post in the Public Service on the terms not less favourable than applies to him or her at the fixed date

(5) Every member of the Public Service who immediately before the fixed date, is employed in the Audit Office on pensionable conditions of service and who on that date is engaged as a member of the Audit Office, shall continue to contribute towards the Public Service Pension Scheme as if his or her service with the Office forms part of the service and is continuous with his or her service with the Public Service subsequent to his or her engagement.

(6) Any person who is engaged by the Audit Office after the fixed date shall, on the date of his or her engagement, contribute towards the Public Service Pension Scheme.

FIRST SCHEDULE (Section 14(2))

PROVISIONS APPLICABLE TO THE COMMISSION

Paragraph

1. Interpretation in the First schedule
2. Disqualifications for appointment to Commission.
3. Terms of office and conditions of service of members of Commission.
4. Vacation of office by members of Commission.
5. Filling of vacancies on Commission.

6. Procedure of Commission.
7. Committees of the Commission.
8. Minutes of Proceedings.
- 9 Reports of Commission
10. Validity of decisions and acts of Commission.

Interpretation in First schedule

1. In this schedule –

“appointed member”, in relation to the Commission means a member appointed under section 14 (1)(d);

“Chairperson” means the Chairperson of the Commission referred to in section 14 (1)(a).

Disqualifications for appointment to Commission

2. (1) Subject to this Act, a person shall not be qualified for appointment as a member of the Commission, nor shall he hold office as appointed member, if—

- (a) he or she is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he is a member of two or more other statutory bodies; or
- (c) he or she is a member of Parliament; or
- (d) he or she is a member of a local authority or is in the full-time employment of a local authority; or
- (e) If he or she is a public auditor and during the period he or she is holding office in which his or her firm has been contracted by the Comptroller and Auditor General to carry out certain audits in terms of Section 9 of this Act
- (f) in terms of a law in force in any country—
 - (i) he or she has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) he or she has made an assignment or composition with his creditors which has not been rescinded or set aside;

or

- (g) within the period of five years immediately preceding his proposed appointment, he has been sentenced in any country to a term of imprisonment imposed without the option of a fine, whether or not any portion thereof has been suspended, and has not received a free pardon.

(2) For the purposes of paragraph (b) of subparagraph (1)—

- (a) a person who is appointed to a council, Board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
 - (i) any commission established by the Constitution; or
 - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any other statutory body or by a Commission established by the Constitution.

Terms of office and conditions of service of members of Commission

3. (1) Subject to this Part, the term of office of an appointed member of the Commission shall be such period, not exceeding three years, as the President may fix on his appointment.

(2) On the expiry of any member’s term of office, he or she shall be eligible for re-appointment

Provided that no appointed member may be re-appointed more than twice.

(3) the Commissioners shall be paid allowances for attending meetings as shall be fixed by the President either at the time of the Commissioner’s appointment or anytime thereafter.

(4) Notwithstanding anything to the contrary contained in this Act and notwithstanding the payment of allowances to a member, a member shall not merely by reason thereof be deemed to hold an office of profit in the service of the Office.

Vacation of Audit Office by members of Commission

4. (1) An appointed member of the Commission may resign his or her office at any time by giving the President and the Commission such notice of his or her intention to resign, after the expiry of thirty days from the date he or she gives such a notice or after the expiry of such other period of notice as he or she and the President may agree.

(2) a member of the Commission shall be deemed to have resigned his office and his office shall become vacant—

- (a) if he becomes disqualified for appointment to the Commission in terms of paragraph 1(1)(a), (b), (c), (d) or (e); or
- (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion was suspended, imposed without the option of a fine—
 - (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence.

Filling of vacancies on Commission

5. On the death of, or the vacation of office by, an appointed member of the Commission, the President shall fill the vacancy within three months.

Procedure of meetings of Commission

6. (1) Subject to subparagraph (2), the Commission shall meet at such dates, times and places as may be fixed by the chairperson:

Provided that the Commission shall meet at least once every three months.

(2) The Chairperson—

- (a) may convene a special meeting of the Commission at any time; and
- (b) shall convene a special meeting of the Commission on the written request of not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the Chairperson's receipt of the request.

(3) Written notice of a special meeting convened in terms of subparagraph (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened:

Provided that a failure by a member to receive such a notice, or an inadvertent failure to send such a notice to a member, shall not invalidate the meeting.

(4) No business shall be discussed at a special meeting convened in terms of subparagraph (2) other than—

- (a) such business as may be determined by the Chairperson, where he or she convened the meeting in terms of subparagraph (2)(a); or
- (b) the business specified in the request for the meeting, where the Chairperson convened the meeting in terms of paragraph (2)(b) .

(5) The Chairperson or, in his or her absence, member designated by him or her shall preside at all meetings of the Commission:

(6) At any meeting of the Commission, five of the members of the Commission shall form a quorum.

(7) The Commission will endeavour to make decisions by consensus among the members present at a meeting of the Commission at which a quorum is present, failing which anything authorised or required to be done by the Commission shall be decided by a majority vote of the members at the meeting.

(8) At all meetings of the Commission each member present shall have one vote on each question before the Commission:

Provided that, in the event of an equality of votes the Chairperson or person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(9) With the approval of the Commission, the Chairperson may invite any person to attend a meeting of the Commission, where the Chairperson considers that the person has special knowledge or experience in any matter to be considered at that meeting.

(10) A person invited to attend a meeting of the Commission in terms of subparagraph (9) may take part in the meeting as if he or she were a member of the Commission, but he or she shall not have a vote on any question before the meeting.

(11) Any proposal circulated among all members of the Commission and agreed to in writing by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the members and shall be incorporated into the minutes of the next succeeding meeting of the Commission:

Provided that, if a member requires that such a proposal be placed before a meeting of the Commission, this subparagraph shall not apply to the proposal.

(12) Except as otherwise provided in this section, the procedure for the convening and conduct of meetings of the Commission shall be as fixed from time to time by the Commission.

Committees of Commission

7. (1) For the better exercise of its functions, the Commission may establish one or more committees in which the Commission may vest such of its functions as it considers appropriate.

(2) The vesting of a function in a committee in terms of subparagraph (1)—

(a) may be made absolutely or subject to conditions and may be amended or withdrawn at any time; and

(b) shall not divest the Commission concerned of that function;

and the Commission may amend or rescind any decision of the committee in the exercise of that function.

(3) On the establishment of a committee, under subparagraph (1) the Commission—

(a) shall appoint at least one of its members as a member of the committee, and that member or one of those members, as the case may be, shall be Chairperson of the committee; and

(b) may appoint as members of the committee persons who are not members of the Commission and may fix the terms and conditions of their appointment.

(4) Meetings of a committee may be convened at any time and at any place by the Chairperson of the Commission or of the committee concerned.

(5) If the chairperson of a committee is absent from a meeting of the committee, the members present may elect one of their number to preside at that meeting as chairperson.

(6) A majority of members of a committee shall form a quorum at any meeting of a committee.

(7) Anything authorised to or required to be done by a committee may be decided by a majority vote at a meeting of the committee at which a quorum is present.

(8) At all meetings of a committee each member present shall have one vote on each question before the committee:

Provided that, in the event of an equality of votes the chairperson or person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(9) Subject to this paragraph, the procedure to be followed at any meeting of a committee shall be as fixed by the Commission.

Minutes of proceedings

8. (1) The Commission shall cause minutes to be taken at its meetings and the meetings of its committees and enter them in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Commission or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.

(3) The Commission and any committee of the Commission shall cause copies of all minutes that have been signed as provided in subparagraph (2) to be sent to the Minister for his information.

Reports of Commission

9. (1) The Commission—

(a) shall, as soon as possible after the 31st December in each year, submit to the Speaker of the House of Assembly an annual report upon matters dealt with by the Commission during the previous year, except such matters as the Commission may consider inexpedient to publish; and

(b) may at any time submit to the Speaker of House of Assembly a special report on any matter upon which the Commission considers it desirable to report.

(2) The Speaker of House of Assembly shall lay before House of Assembly on one of the fourteen days on which House of Assembly next sits after the report is received by him—

(a) the annual report submitted to him or her in terms of subparagraph (1)(a); and

(b) any special report submitted to him in terms of subparagraph (1)(b) which the Commission requests be laid before House of Assembly.

Validity of decisions and acts of Commission

10. (1) No decision or act of the Commission or act done under the authority of the Commission shall be invalid solely because there were one or more vacancies on the Commission when the decision was taken or the act was done or authorized.

(2) If any decision or other act of the Commission is rendered invalid through a procedural irregularity, the Commission may at a duly convened meeting ratify the decision or act,

and any decision or act so ratified shall be valid in all respects with effect from the date of its ratification.

SECOND SCHEDULE (SECTION 15)

POWERS OF THE AUDIT OFFICE COMMISSION

1. To acquire premises necessary or convenient for the exercise of its functions and for that purpose to buy, take on lease or in exchange, hire or otherwise acquire immovable property and interest therein and rights thereof and concessions, grants, powers and privileges in respect thereof.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of its functions.
3. To maintain, alter or improve property acquired by it.
4. To mortgage any assets, or part of any assets and, with the approval of the Minister, to sell, exchange, lease, dispose of turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as it may determine.
5. To open bank accounts in the name of the Audit Office and to draw, make accept, endorse, discount, execute and issue for the purposes of its functions promissory notes, bills of exchange, securities and other negotiable or transferable instruments,
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To make contracts and enter into suretyships or give guarantees in connection with the exercise of its functions and to modify and rescind such contracts or rescind such suretyships or guarantees.
8. With the approval of Minister, to establish and administer such funds and reserves not specifically provided for in this Act as the Commission considers appropriate or necessary for the proper exercise of the functions of the Audit Office.
9. To pay such remuneration and allowances and grant such leave of absence and to make such gifts bonuses and the like to its members as it considers fit.
10. To provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, provident funds or make such other provision as may be necessary to secure for its members and their dependants any or all of the pecuniary benefits to which the provisions of this paragraph relate.

11. To purchase, take on lease or in exchange or otherwise acquire land or dwellings-houses for use or occupation by its employees.
12. To construct dwellings, outbuildings or improvements for use or occupation by its members.
13. To sell or lease dwelling houses and land for residential purposes to its members.
14. To provide or guarantee loans made to its members for the purchase of dwelling-houses or land for residential purposes, the construction of dwelling houses and the improvement of dwelling-houses or land which are the property of its members, subject to any conditions that may be imposed by the Commission from time to time.
15. To provide security in respect of loans by the deposit of securities, in which the Audit Office may invest such money as the Commission may consider necessary for the purpose.
16. Subject to any conditions that may be imposed by the Commission from time to time, to provide loans to any members of the Audit Office;
 - (a) for the purpose of purchasing vehicles, tools or other equipment to be used by the employees in carrying out their duties; or
 - (b) not exceeding six months' salary or wages payable to the employees concerned, for any purpose on such security as the Commission thinks adequate.
17. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research, including the awarding of scholarships for such training.
18. To provide such service as the Audit Office considers appropriate and to charge for such services such fees as the Commission, may from time to time determine.
19. To engage in any activity, either alone or in conjunction with other organisations or international agencies, to promote better understanding of auditing and accounting issues.
20. To provide technical advice or assistance, including training facilities, to supreme auditing institutions of other countries.
21. To accept, with the approval of the Commission any donations, gifts or assistance from any organisation or person.
22. To do anything which by this Act is required or permitted to be done by the Audit Office or the Comptroller and Auditor-General.
23. Generally to do all such things as are calculated to facilitate or are incidental or conducive to the performance of the functions of the Audit Office or the Comptroller and Auditor-General in terms of this Act or any other enactment.