



ST CHRISTOPHER AND NEVIS

CHAPTER 20.01

AUDIT ACT

and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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Audit Act

Act 8 of 1990 in force 27th December, 1990

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CHAPTER 20.01

AUDIT ACT

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CHAPTER 20.01

AUDIT ACT

AN ACT to provide for statutory audit responsibilities of the Director of Audit; and to provide for related or incidental matters.

1. Short title and application.

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

(2) The provisions of this Act shall *mutatis mutandis* apply to the Island of Nevis as provided for in section 104 of the Constitution (West Indies Act – Including the Constitution Order and Courts Order, Cap. 1.01).

2. Interpretation.

In this Act,

“Constitution” means the Constitution of Saint Christopher and Nevis;

“Director of Audit” means the Director of Audit appointed pursuant to section 82 of the Constitution;

“Minister” means the Minister responsible for Finance;

“Public Body” means the Government, a Government Ministry or Department, the Governor-General, the Parliament of Saint Christopher and Nevis, any person appointed by the Parliament under the Constitution;

“public monies” means

- (a) all revenues or monies raised or received for the purposes of the Government;
- (b) any other monies or funds held, whether temporarily or otherwise, by any public officer in his or her official capacity either alone or jointly with any person whether or not that other person is a public officer;

“public officer” means a person holding or acting in any public office;

“statutory body” means any Corporation, Company, Board, Commission, Authority or other Body established by or under an Act to provide goods or services to the public and which meets one or more of the following conditions:

- (a) all or part of its appropriations for operating purposes are provided under that heading in the budgetary estimates tabled in the Parliament;
- (b) the Cabinet or a Minister appoints at least half of its members or directors;

- (c) at least half of its operating expenses are borne directly by the Consolidated Fund or by other funds administered by a public body at the same time.

3. Appointment of Director of Audit.

(1) The Director of Audit shall be appointed pursuant to section 82 of the Constitution.

(2) The Director of Audit shall perform his or her duties on a full time basis and shall not, while he or she holds that office, hold any other office of emolument.

(3) In the exercise of his or her functions under this Act, the Director of Audit shall not be under the control or direction of any other person or authority.

4. Tenure and removal.

The Director of Audit shall vacate his or her office pursuant to section 82(5) of the Constitution and can be removed from office pursuant to sections 82(6) and 82(7) of the Constitution.

5. Salary and allowances.

The salary and allowances paid to the holder of the office of Director of Audit shall be determined and administered as prescribed by section 74 of the Constitution.

6. Duties.

(1) The Director of Audit shall make such examinations and enquiries of Public Bodies as he or she considers necessary to enable him or her to report as required by this Act.

(2) The Director of Audit shall examine the Annual Accounts submitted to him or her by the Accountant General and shall express his or her opinion as to whether they represent fairly the financial position and results of operation of the Consolidated Fund for the year then ended.

(3) The Director of Audit may make such examinations and enquiries or additional examinations and enquiries of the accounts of any statutory body as he or she considers appropriate.

(4) The Director of Audit may conduct an audit of a company, institution, association or concern in respect of money provided to it by a Public Body, but such audit shall not include money provided unconditionally.

7. Annual Report.

(1) The Director of Audit shall submit an Annual Report to the Minister for transmission to the National Assembly:

- (a) on the work of his or her office;
- (c) on the results of his or her examination of the annual accounts; and

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- (c) on whether, in carrying out his or her duties, he or she received all the information, reports and explanations required.

(2) Each Report of the Director of Audit under subsection (1) shall call attention to anything that he or she considers significant and of a nature that should be brought to the attention of the National Assembly, including any cases in which he or she has observed that:

- (a) accounts and essential records have not been properly maintained or Public Monies have not been fully accounted for or paid, where so required by law, into the Consolidated Fund;
- (b) the rules and procedures applied have been insufficient to safeguard public monies or property, or to effectively check the assessment, collection and proper allocation of revenue, or to ensure that expenditure was only made as so appropriated and conforms to the governing authority; and
- (c) money has been spent without due regard for value for money
 - (i) resources have been acquired or utilised without sufficient regard for economy and efficiency; or
 - (ii) satisfactory procedures have not been established to measure and report on the effectiveness of government activities.

8. Submission of Reports.

(1) The Director of Audit shall submit his or her Annual Report to the Minister not later than nine months after the close of each financial year and may, at anytime, submit a Special Report to the Minister on any matter that, in his or her opinion, should not be deferred until the submission of his or her Annual Report.

(2) The Minister shall lay any such report received pursuant to subsection (1) before the National Assembly as soon as practicable.

(3) If the Minister fails to lay such Report before the National Assembly in accordance with the provisions of subsection (2), the Director of Audit shall transmit copies to the Speaker who shall, as soon as practicable, present them to the National Assembly.

9. Public Accounts Committee.

At the request of the Standing Committee on Public Accounts of the National Assembly, the Director of Audit or any member of staff designated by him or her shall attend meetings of the Committee in order to assist the Committee.

10. Appropriation.

Whenever it appears to the Director of Audit that any Public Monies or other public property has been misappropriated by any person, he or she shall forthwith report the circumstances of the case to the Financial Secretary and, where significant, to the Director of Public Prosecutions.

11. Special Assignments.

The Director of Audit shall perform such special assignments as may be required by the National Assembly or a Committee of the Assembly or as the Minister or such officer authorised by him or her so requests, but such special assignments shall not take precedence over the other duties of the Director of Audit under this Act.

12. Advisory Powers.

The Director of Audit may advise appropriate officers and employees in the public service of matters discovered in his or her examinations and, in particular, may draw any such matter to the attention of officers and employees in the Ministry of Finance.

13. Access to Records, etc.

(1) The officers, employees, directors, executive officers and any other persons associated with any Public Body or statutory body shall allow the Director of Audit, upon request, to have access to and make copies of records, reports, documents or data in whichever form, relevant to the work of the Director of Audit, and furnish him or her with any relevant information or explanation which he or she may require.

(2) This section shall prevail over any subsequent law or Act to the contrary, unless that law or Act expressly states that it applies notwithstanding this section.

14. Stationing Staff at Premises.

In order to carry out his or her duties more effectively, the Director of Audit may station any person employed by his or her office in premises occupied by a Public Body or Statutory Body and such Body shall provide suitable office accommodation for any person so stationed.

15. Oath or affirmation of secrecy.

(1) All employees in the office and persons engaged pursuant to section 17 shall take and subscribe before a Magistrate of the Court the following oath of secrecy set out in the Schedule to this Act.

(2) The failure or refusal of an employee to take and subscribe or to adhere to the oath required in subsection (1) may be considered grounds for dismissal.

16. Estimates.

(1) The Director of Audit shall present to the Minister annual estimates of the funds required for the operation of his or her office.

(2) The Minister shall review and may alter as considered necessary, the estimates presented by the Director of Audit and such estimates, shall be included in the annual estimates and appropriation bill submitted to the National Assembly.

17. Staff.

(1) Subject to the appropriations granted by the National Assembly and subject to the approval of the Public Service Commission, the Director of Audit may recruit such

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staff as he or she requires for the performance of his or her duties and determine their level or position which shall be comparable to the salary ranges of similar positions in the civil service.

(2) Subject to appropriations granted by the National Assembly, the Director of Audit may engage for a limited period of time persons having a technical or special knowledge to assist him or her in carrying out his or her responsibilities under this Act.

18. Delegation of Authority.

The Director of Audit may, in writing, authorise any member of his or her senior staff to sign documents and reports on his or her behalf other than the Report on the Annual Accounts and any reports submitted to the Minister for onward transmission to the National Assembly and any person so signing a document or report shall indicate beneath his or her signature the fact that he or she is signing on behalf of the Director of Audit.

19. Acts performed in good faith.

The Director of Audit, staff and persons engaged pursuant to section 17(2) are not liable in any action for any act done or any statement made by them in good faith in connection with any matter they are authorised or required to do under this Act.

20. Independent Auditor.

The Minister may appoint an independent auditor to examine the accounts of the office of the Director of Audit and such auditor shall report thereon to the Minister.

SCHEDULE

(Section 15)

OATH OF SECRECY

I....., do swear (or solemnly affirm)
that I will faithfully discharge my duties as an employee of this office
and comply with the Laws of the Federation of Saint Christopher and
Nevis and, except as I may be legally required, I will not disclose or
give to any person information or any document that comes into my
possession by reason of my being an employee in this office.