

National Audit Office of Trinidad and Tobago Bill, 2006
Arrangement of sections

PREAMBLE

PART I

PRELIMINARY

1. Short title and commencement
2. Act to bind State
3. Extension of Act outside of Trinidad and Tobago
4. Interpretation
5. Objects of the Act

PART II

**QUALIFICATIONS AND OTHER MATTERS PERTINENT
TO THE AUDITOR GENERAL**

6. Qualification of the Auditor General
7. Matters relating to the performance of Auditor General
8. Independence of Auditor General
9. Special audit reports
10. Auditor General to authorize person to perform an audit
11. Publication of Auditor General's report

PART III

THE NATIONAL AUDIT OFFICE OF TRINIDAD AND TOBAGO (NAOTT)

12. National Audit Office of Trinidad and Tobago
13. Functions of NAOTT
14. Terms and conditions of officers of NAOTT
15. Expenses of NAOTT
16. Bank account for NAOTT
17. Audit of NAOTT
18. Annual report of NAOTT

PART IV

INFORMATION *INVESTIGATORY* POWERS OF THE AUDITOR GENERAL

19. Powers of Auditor General to obtain information
20. Access to premises
21. Access to bank accounts
22. Person to provide support to expedite audit
23. Internal Auditor to supply internal audit reports
24. Self-incrimination no excuse
25. Offences

PART V

THE AUDIT REPORT AND CONDUCT OF AUDIT

- 26. Content of audit report
- 27. Audit of funded agencies
- 28. Auditor to certify deficiency
- 29. Fees
- 30. Waiver of fees
- 31. Fees to be deposited in NAOTT Bank Account with Central Bank

PART VI

CONFIDENTIALITY OF INFORMATION

- 32. Auditor General and NAOTT outside jurisdiction of the Freedom of Information Act, 1999
- 33. Penalty - Unlawful disclosure
- 34. Reporting sensitive information

PART VII

MISCELLANEOUS

- 35. Improper management of public moneys to be reported
- 36. Protection for “whistleblowers”
- 37. Declaration of secrecy
- 38. Protection from liability
- 39. Amendment to Exchequer Audit Act, and transitional provision.

FIRST SCHEDULE

SECOND SCHEDULE

BILL

for

AN ACT to specify the qualifications and standards required for the office of the Auditor General, and to establish the National Audit Office of Trinidad and Tobago to support the Auditor General in the audit of public moneys and management of public resources, and related matters

WHEREAS section 116(1) of the Constitution *of the Republic of Trinidad and Tobago* provides that there shall be an Auditor General for Trinidad and Tobago, whose office shall be a public office;

AND WHEREAS section 116(2) of the Constitution provides for the Auditor General to audit annually the public accounts of Trinidad and Tobago and of all officers, courts and authorities of Trinidad and Tobago and for that purpose the Auditor General or any person authorized by him shall have access to all books, records, *returns* and other documents relating to those accounts;

AND WHEREAS section 116(3) of the Constitution provides that the Auditor General is empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State;

AND WHEREAS section 116(4) of the Constitution provides that the Auditor General shall submit reports annually to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance;

AND WHEREAS section 116(6) of the Constitution provides that the Auditor General in the exercise of his functions under the Constitution shall not be subject to the direction or control of any other person or authority;

AND WHEREAS section 117(5) of the Constitution provides that the Auditor General shall be provided with a staff adequate for the efficient discharge of the functions of the Auditor General;

AND WHEREAS section 117(6) of the Constitution provides that the staff of the Auditor General shall be public officers appointed in accordance with section 121(8) of the Constitution;

AND WHEREAS an independent and properly functioning Auditor General is essential for good governance:

NOW THEREFORE the following provisions provide for the establishment of the National Audit Office of Trinidad and Tobago to support the Auditor General's functions in the audit of public money and to provide for the conduct of efficient and effective financial and performance audits of the entire public sector and the audit of bodies in respect of their receipt of public grants, and related matters.

Enacted by the Parliament of Trinidad and Tobago as follows:

PART I – PRELIMINARY

- | | |
|--|--|
| Short title and commencement | 1. (1) This Act may be cited as the National Audit Office of Trinidad and Tobago Act, 2006.

(2) This Act shall come into operation on such day as the President appoints by notice published in the <u>Gazette</u> . |
| Act to bind State | 2. This Act binds the State. |
| Extension of Act outside Trinidad and Tobago | 3. This Act extends to acts, omission, matters and things outside Trinidad and Tobago. |
| Interpretation | 4. In this Act –

“agency” means –

(a) a ministry or department of government;

(b) a statutory body, and any corporate body in which that statutory body has a controlling interest or is in a position to |

directly or indirectly exercise control over the affairs of that corporate body;

- (c) a state controlled enterprise and its subsidiary;
- (d) a body incorporated under the Companies Act for a public purpose;
- (e) an unincorporated body that directly receives public money for its operations;
- (f) a person or body prescribed for the purposes of this definition;

“appropriate Minister” means, in relation to a statutory body or a state controlled enterprise, the Minister exercising lawful authority with respect to that body or enterprise;

“audit” includes -

- (a) an examination, inspection and investigation;
- (b) a comprehensive audit, forensic audit, environmental audit or other audit as espoused as current best practice by the International Organisation of Supreme Audit Institutions (INTOSAI);

“audit report” means a report submitted to Parliament by the Auditor General;

“Auditor General” means the person appointed to that office in accordance with section 117 of the Constitution;

“authorized person” means a person who is granted an authority pursuant to an arrangement with the Auditor General under section 10, or an officer of NAOTT.

Chapter 33:04

“building society “ means a society to which the Building Societies Act applies;

“Consolidated Fund” means the Consolidated Fund referred to in section 112 of the Constitution;

Chapter 1:01

“Constitution” means the Constitution of the Republic of Trinidad and Tobago;

“entire public sector” means the Parliament, ministries and departments, statutory authorities and state controlled enterprises;

No 23/1993

“financial institution” means an institution to which the Financial Institutions Act applies;

No 23/1998

“financial year” has the same meaning as specified in the Financial Year Act, 1998;

“funded agency” means a person or body, corporate or unincorporated other than an

agency, which has received a public grant from the State or an agency or is supported, directly or indirectly, by public money;

“management of public money” includes the receipt of, accounting for in according with Generally Accepted Accounting Practice (GAAP), disbursement of, public money;

“management of public resources” means the responsibility and accountability for public money and public property by a person in whom the custody, control or use of public money and public property resides;

“NAOTT means National Audit Office of Trinidad and Tobago” as established by section 9;

“officer of NAOTT” means a person holding an office or performing the duties of an office specified in the First Schedule:

“outcome statement” means a statement issued by NAOTT articulating -

- (a) the impact of purpose, priorities and objectives on the community as a result of its outputs;
- (b) outputs in relation to appropriations;
- (c) efficiency indicators relating outputs to appropriations;

“outputs” means goods and services produced and delivered by NAOTT for customers outside of NAOTT;

“property” means real or personal property or other tangible or intangible property including a right, interest, title, claim, chose in action, money or financial instrument, whether present or future or vested or contingent;

“public accounts” means the records for, in relation to, the management of public resources;

“Public Accounts Committee” means the Parliamentary Committee established by section 119 of the Constitution (PAC);

“public grant” means a gift or grant given by the State or an agency, whether or not from money appropriated by Parliament;

“public money” means money that is –

- (a) received or receivable by an agency;
- (b) raised by an instrument that is issued by an agency from which it can reasonably be inferred that the State accepts liability in the case of default;
- (c) spent or committed for future expenditure by an agency;
- (d) distributed by an agency to a person;
- (e) money raised by a private body in accordance with a statutory authority for a public purpose;

“public property” means property acquired, or in the process of being acquired, by an agency or in the care, control or custody of an agency whether as a trustee or not;

“special report” means a report prepared under section 11;

“state controlled enterprise” means a company that is

- (a) registered under the Companies Act where the Government or any person controlled by the Government is entitled to exercise control directly or indirectly over the affairs of the Company; or
- (b) for a public purpose;

“statutory body” means -

- (a) the Tobago House of Assembly as established by section 141A of the Constitution;
- (b) a board, commission , or other body established by an act; or
- (c) a body corporate established by an act;

“Treasury” means the Minister of Finance, *or* an officer in the Ministry of Finance as deputed by the Minister to exercise his powers and perform his duties under a written law pertaining to the management of public money.

Objectives of the Act

- 5. (1) The objectives of the Act are to –
 - (a) promote good governance by efficient and effective management of public money and other public resources throughout the entire public service through the conduct of professional and transparent audits addressing the public interest; and

(b) ensure that those performing audits under this Act are held accountable for their performance.

(2) It is the Parliament's intention that in pursuing these objectives regard must be had as to whether or not there has been any wastage of public resources or any lack of probity or financial prudence in the management of public resources.

PART II

QUALIFICATIONS AND OTHER MATTERS PERTINENT TO THE AUDITOR GENERAL

Qualifications of the Auditor General

6. (1) A person who is a member of a recognized professional body of accountants and has a minimum of ten years auditing and managerial experience at a senior level is eligible to be appointed to the office of Auditor General in accordance with section 117(1) of the Constitution.

(2) A person who is 65 years or over cannot hold the office of Auditor General.

Matters relating to the performance of Auditor General

7. (1) The Auditor General or an authorised person shall exercise the highest professional standards and moral integrity when performing an audit.
- (2) The Auditor General shall ensure that -
 - (a) all audits carried out by him or an authorized person are carried out –
 - (i) in a competent fashion and with due care;
 - (ii) in accordance with the international auditing standards as adopted from time to time in writing by the Auditor General:
 - (b) an authorized person is independent of the an agency being audited.
- (3) In setting auditing standards the Auditor General shall take into account –
 - (a) best auditing standards both locally and internationally; and
 - (b) the capacity of NAOTT and the accounting profession to comply with those standards.
- (4) The Auditor General shall perform the duties of the office on a full-time basis and shall not, while holding that office, participate in any activity or venture that may amount to a conflict of interest.

(5) For the purpose of discharging the functions of office, the Auditor General, shall -

- (a) establish and implement human resources management policies and systems to reflect best current practice;
- (b) develop systems for the collection, storage, analysis and retrieval of information;
- (c) formulate procedures in accordance with current international standards for the conduct of audits;
- (d) do anything necessary for the efficient and effective conduct of his functions.

Independence of
-Auditor General

8. The Auditor General or an authorized person has complete discretion in the performance of his functions and powers and, in particular, is not subject to direction from anyone in relation to –

- (a) whether or not a particular audit is to be conducted;
- (b) the conduct of a particular audit;
- (c) the priority to be given to any matter in relation to an audit required the Auditor General;
- (d) the content of the report of an audit.

Special audit reports

9. (1) The Auditor General may exercise independent initiative at any time in the public interest to conduct an audit and submit a special report to Parliament accordingly in like manner as a report under section 10 on an agency or a funded agency, or on any matter in respect of the management of public money.

(2) In addition to the special audit report prepared under section (1), the Auditor General may at any time with respect to any matter involving the management of public money prepare a special report on receipt of a request from the Chairman of the Public Accounts Committee, or of any other Parliamentary Committee or Subcommittee, a Minister of Government or the Comptroller of Accounts.

(3) The powers exercisable by the Auditor General in respect of a special audit report shall be exercisable by NAOTT.

(4) A special audit report made under subsection (1) or (2) shall be submitted to the Speaker of the House in accordance with section 116 (4) of the Constitution and shall be laid in Parliament in accordance with section 116(5) of the Constitution.

(5) A special audit report may be forwarded to any Minister who in the opinion of the Auditor General has a special interest in the report, the Director of Public Prosecutions and a Service Commission or other public body or public officer , as the case may be.

(6) The Minister shall take the appropriate action on matters raised in a special audit report with respect to his portfolio and report accordingly to Parliament as soon as possible.

Auditor General
to authorize person
to perform an
audit

10 . (1) The Auditor General may authorize a person or body to perform an audit at any time by entering into an arrangement in writing with a person or body for professional services relating to the function, powers and duties of the Auditor General for the conduct of an audit under this Act, according to terms and conditions as determined by the Auditor General.

(2) An officer of NAOTT shall be, *ex officio*, an authorized person for the purpose of this Act.

(3) A statutory body or a state controlled enterprise shall only engage a person who is authorized under sub section (1) for the purpose of an audit.

(4) The Auditor General may provide a written authority to a person with whom an arrangement has been entered that states that the person is authorized to exercise the powers prescribed under Part IV for the purpose of an audit.

(5) An audit report arising out of an arrangement under this section shall be submitted to Parliament only by the Auditor General.

(6) Notwithstanding any other law, any audit report that is required to be submitted to Parliament by an agency shall be done so by the Auditor General only.

Publication of Auditor General's Report

11. (1) Where the Auditor General prepares an audit report, or is in receipt of a report prepared pursuant to section 10, he shall cause that report to be submitted to the Speaker of the House of Representatives, the President of the Senate and the Minister of Finance.

(2) The Auditor General in addition to submitting a report to Parliament, may transmit a copy of a report to any Minister, Service Commission, the Director of Public Prosecutions or other public body or public officer where the Auditor General is of the view that

such persons may have an interest, or the public interest is served by so doing.

PART III

THE NATIONAL AUDIT OFFICE OF TRINIDAD AND TOBAGO (NAOTT)

National Audit Office
of Trinidad and Tobago

12. (1) There is hereby established the National Audit Office of Trinidad and Tobago (hereafter referred to as NAOTT) as a department of government comprising public officers.

(2) The Auditor General shall specify the qualifications, responsibilities and performance expectations of the officers of NAOTT.

(3) The Auditor General is accountable to Parliament for the performance of NAOTT.

Functions of
NAOTT

13. (1) The functions of NAOTT are to support the Auditor General in performing the functions and duties of that office as specified in the Constitution.

(2) Without limiting the generality of subsection (1), the functions include –

(a) performing audits on an agency or a funded agency in respect of the

management of public resources;

- (b) conducting audits of the annual financial statements provided in respect of the entire public sector;
- (c) advising committees or subcommittee of Parliament in respect of the economy, efficiency and effectiveness of the management of public resources by an agency in the discharge of its functions;
- (d) ensuring the objects of this Act are observed.

(3) An audit of a funded agency conducted by NAOTT is to ensure Value for Money in respect of the management of public money.

(4) The Auditor General shall have the powers to ensure the functioning of NAOTT including the power to enter contracts for real property consultancy services and otherwise.

Terms and conditions
of officers of NAOTT

14. (1) The Salaries Review Commission shall include in its review the salaries and other conditions of service in respect of an office in NAOTT as prescribed in the First Schedule.

(3) The President, upon the advice of the Auditor General may vary the First Schedule by Order published in the Gazette.

Expenses of
NAOTT

15. (1) The Auditor General shall annually prepare an estimate of the sums that will be required to be provided by Parliament for the performance of the functions of his office and those of NAOTT during the next ensuing financial year.

(2) The money payable in accordance with the Estimates shall be a direct charge upon the Consolidated Fund.

(3) The Auditor General shall make a special report to Parliament in the event that amounts provided in the Estimates as submitted to Parliament are in the Auditor General's opinion inadequate for effective performance of his office and that of NAOTT.

(4) For the removal of doubt, at an appropriate time within the timetable established by the Minister of Finance for the preparation of the annual budget proposal -

- (a) the Auditor General shall prepare a budget for NAOTT identifying outputs and outcomes, for the next ensuing fiscal year and also in accordance with the rules, procedures and guidelines as set out in the Budget Circular issued by the Minister of Finance and submit it to the Public Accounts Committee;
- (b) the Public Accounts Committee shall review the budget submission made under paragraph (a) and provide comments for consideration by the Auditor General;
- (c) after considering comments from the Public Accounts Committee, the Auditor General shall revise the budget submission and re-submit it to the Public Accounts Committee for endorsement;
- (d) the Public Accounts Committee shall, no later than ninety days before the commencement of the next ensuing fiscal year, forward the revised budget submission for that year, together with its comments, to the Minister of Finance for

consideration and inclusion in the annual budget proposal; and

- (e) the Minister of Finance shall include in the annual budget proposal of the Government a subvention for the Auditor General and NAOTT to be voted on by Parliament as endorsed by the Public Accounts Committee.

Bank account for NAOTT

16. (1) Funds received by the Auditor General, including those received under section 15 shall be deposited in an interest bearing bank

Ch 79:02

account with the Central Bank in the name of the National Audit Office of Trinidad and Tobago.

(2) Funds shall be withdrawn from that account on the authority of the Auditor General accountable officer for NAOTT.

Audit of NAOTT

17. (1) The Public Accounts Committee shall conduct an audit of the operations of NAOTT either on its own accord or it may appoint an independent auditor for that purpose.

(2) The report of the audit conducted under subsection (1) may include information and recommendations as the independent auditor thinks fit for the effective, efficient and economic operation of NAOTT.

(3) An independent auditor for the purpose of this section includes an international auditing firm to whom a contract to do an audit has been awarded by the Public Accounts Committee.

(4) Within 7 months of the expiry of each financial year, the Chairman of the Public Accounts Committee shall submit the report on the audit of NAOTT to Parliament at the next sitting of Parliament after the date of receipt by him.

Annual report
of NAOTT

18. (1) The Auditor General shall within 5 months of the expiry of each financial year, submit an annual report to the Parliament concerning the operations of NAOTT.

(2) The annual report shall include an outcome statement and audited financial statements of the operations of NAOTT.

(3) For the purpose of this section an outcome statement includes a description of the

impacts on, or the consequences for, the community of the outputs of NAOTT.

PART IV

INFORMATION GATHERING POWERS OF THE AUDITOR-GENERAL

Power of Auditor General to obtain information

19. (1) For the purposes of, or in connection with, the performance of his functions the Auditor General or an authorized person has –

- (a) the right of access to all information held by, or in the custody of, any officer or employee of an agency and funded agency;
- (b) the right to obtain copies of information in whatever medium;
- (c) the right to require explanations from officers or employees of agencies and funded agencies;
- (d) the right of access to all premises occupied by agencies and funded agencies;
- (e) to full and free access at all reasonable times to a document or thing containing information for, or in relation to, the conduct of an audit.

(2) The Auditor General or an authorized person may direct a person by notice in writing who is connected to an agency or a funded agency to -

- (a) provide information, and in the time and form that the notice requires;
- (b) attend before the Auditor-General or an authorized person at a specified time and place and answer questions;
- (c) produce any document or thing containing information in the custody, possession or control of the person.

(3) The Auditor General or an authorized person may -

- (a) examine, and make copies of, or take extracts from, any document or thing for or in relation to, the conduct of an audit;
- (b) send for, and retain, any document or thing under the control or custody of a public officer for or in relation to an audit.

(4) Where a document or thing is under the control or custody of a person

other than a public officer, the Auditor General or an authorized person shall send for a document or thing upon a warrant of a magistrate issued to him for the purpose and in the execution of the warrant, the Auditor General or an authorized officer shall be accompanied by a police officer.

(5) A warrant issued for the purpose of subsection (4) remains in force for the period that the warrant is required to be satisfied or for one month, whichever is the sooner.

(6) The Auditor-General or an authorized person may direct that -

- (a) the information or answers to questions be given either orally or in writing;
- (b) the information provided be verified or given on oath or affirmation according to the Oaths Act.

Access to
premises

20. (1) For the discharge of his functions, the Auditor General or an authorized person may at all reasonable times for or in relation to the conduct of an audit enter and remain on any premises occupied by or under the control of an agency, or in the case of the premises a funded agency, with the consent of the owner or occupier of the premises.

(2) An authorized person is not entitled to enter or remain on private premises if he fails to produce a written authority signed by the Auditor General as proof of his authority to exercise powers under this Act on being so asked by the owner or occupier of the premises.

Access to
bank accounts

21. (1) Subject to subsection (2), the Auditor General or an authorized person may examine or audit the account of any person in any financial institution or building society if the Auditor General has reason to believe that public money has been paid into that account.

(2) In the exercise of the authority under subsection (1), the Auditor General shall –

(a) establish the information obtained

shall not be used for any purpose
other than that intended;

(b) obtain a warrant from a court
authorizing that examination.

(3) The financial institution or building society
on being presented with the warrant by the
Auditor General or an authorized person shall
produce any documents or provide requested
information relating to the relevant account.

(4) The Auditor General may make copies of
any documents so produced.

Person to provide
support to expedite
audit

22. If the Auditor General or an authorized person
enters, or proposes to enter, premises for the
purposes of an audit, the occupier shall provide that
person with adequate and suitable accommodation as
well as administrative support and equipment in order
to expedite the audit.

Internal auditor to
supply internal
audit reports

23. (1) The internal auditor of an agency shall
submit a copy of the final internal audit report to
the Auditor General.

(2) The internal audit report shall include
report on the efficient and effective management of
public resources including those matters required to be

reported upon according to sections 66A and 66 D of the Constitution.

Self-incrimination
no excuse

24. (1) A person is not excused from producing a document or thing or answering a question as required under this Part on the ground that the answer, or the production of the document or thing might tend to incriminate the person or make the person liable to a penalty.

- (2) Neither –
- (a) the answer to the question or the production of the document; nor
 - (b) anything obtained as a direct or indirect result of the answer or the production of the document, is admissible in evidence against a person in any criminal proceedings, other than proceedings for an offence against, or arising out of this Act.

Offences

25. A person who fails to comply with a notice under this Part or contravenes a provision of this Part is liable on summary conviction to a fine of \$10,000 and imprisonment for six months.

PART V

THE AUDIT REPORT AND CONDUCT OF AN AUDIT

Content of
audit report

26. (1) The Auditor General, in an audit report shall bring to the attention of Parliament –
- (a) the results of any special audit;
 - (b) the matters in relation to the management of public resources including a report on the economy, efficiency and effectiveness with which an agency has used its resources in discharging its functions;
 - (c) a report on the entire public sector based on forecasts and performance of the corporate plans of agencies together with an audited schedule of appropriations and other public money;
 - (d) the maintenance of essential records;
 - (e) the appropriateness and application of rules and procedures in the accounting of the financial operations of an agency ;
 - (f) whether or not public money has been spent by an agency with due regard to economy,

efficiency and value for money;

(g) compliance with the standards, processes and procedures by an agency as required by law or by notices of the Minister of Finance and the Comptroller of Accounts;

(h) the appropriateness of procedures in each agency to measure and report upon the effectiveness of its projects and programs involving the use of public money;

(i) general observations of the conformity of the public financial management system with current best accounting and budgeting practice;

(2) The Auditor General or an authorized person shall report on any other matter for or in relation to the management of public resources in the public interest.

(3) An audit report shall comply with international auditing standards as adopted from time to time in writing by the Auditor General.

(4) The report may include a “long form report” or management letter to the an agency and Treasury

which may include queries, advice and recommendations made by the Auditor General in the course of the audit together with the advice of the an agency of appropriate action taken and submitted to the Auditor General.

(5) An audit report shall be in a consumer friendly format that informs the public of both the findings and the implications of the findings.

Audit of
funded agencies

27. (1) An authorized officer of NAOTT may –
- (a) require a funded agency to produce for examination any documents in respect of a public grant which was received by that agency;
 - (b) enter the premises of a funded agency with the consent of the owner or occupier of the premises.
- (2) Where the consent of an owner or occupier is not forthcoming the authorized officer may enter in accordance with a warrant issued by a magistrate.
- (3) A notice under sub-section (1) may be given in the course of, or for the purpose of -

- (a) an audit to establish whether a public grant has been applied for the purpose for which it was made and whether the money has been applied economically, efficiently and effectively; or
- (b) an audit of the economy, effectiveness and efficiency of any Government program or expenditure.

(4) A funded agency to which a notice is given shall comply with the requirements of the notice.

Auditor to certify deficiency

28. (1) Where it appears to the Auditor General or an authorized person carrying out an audit under this Act that –

(a) a person has failed to account for any sum which should have been so included and that the failure has not been sanctioned by the Ministry of Finance; or

(b) a loss has been incurred or deficiency has been caused, by the wilful misconduct of any person,

he shall certify that the sum, or the amount of the loss or the deficiency as the case may be, is due from that person.

(2) The quantum of the certified amount is deemed a civil debt due to the State.

(3) If the Auditor General or authorized person certifies under this section that any sum or amount is due from two or more persons, those persons shall be jointly and severally liable for that sum or amount as a civil debt.

(4) The certification under subsection (1) of the sum due from any person is a decision for the purpose of the Judicial Review Act, 2000.

(5) The Attorney General shall initiate proceedings to recover that sum or amount for the benefit of that agency as a civil debt due to the State.

Fees

29. (1) Subject to subsection (2) where the Auditor General or authorized person renders a service to an agency or funded agency he may charge a cost recovery fee based on a scale of fees as determined by the Auditor General and published in the Gazette.

(2) The Auditor General shall not charge a fee in respect of an audit of a Ministry or department, or in respect a foreign funded project

(3) Fees are payable within thirty days after the issue of a payment claim by the Auditor General.

(4) The Auditor General, may recover audit fees as a civil debt in a court of competent jurisdiction

Waiver of fees 30. The Auditor General may waive fees that are chargeable under this Part by a notice in writing.

Fees to be Deposited in NAOTT Bank Account with Central Bank 31. Any fee received by the Auditor General shall be paid into the fund established under section 16(1).

PART VI

CONFIDENTIALITY OF INFORMATION

- Auditor General and NAOTT outside jurisdiction of Freedom of Information Act, 1999
32. For the purpose of the Freedom of Information Act, 1999 neither the Auditor General nor NAOTT is a “public authority.”
- Penalty- Unlawful disclosure
33. (1) If a person has obtained information in the course of performing a function under this Act, and discloses that information for any purpose other than for or in relation to the function of the Auditor General or a legal proceeding, that person is guilty of an offence and is liable on summary conviction to a fine of \$20,000 or imprisonment for six months.
- (2) Subsection (1) does not apply to disclosure of information to the Commissioner of Police or the Director of Public Prosecutions if the Auditor General is of the opinion that the disclosure is in the public interest.
- Reporting sensitive information
34. (1) The Auditor General may omit particular information from a report if he is in the view that its disclosure in the report would be contrary to the public interest because it could -
- (a) have a serious adverse impact upon the

- commercial interests of any person;
 - (b) reveal trade secrets of a person; or
 - (c) prejudice the fair trial of a person
- (2) If the Auditor General decides to omit particular information from a public report, the Auditor General may prepare a report that includes the information concerned and submit a copy to the Prime Minister, the Minister of Finance and the responsible Minister.

PART VII

MISCELLANEOUS

Improper management of public moneys to be reported

35. Whenever it appears to the Auditor General that there has been improper management of public money by any person, he shall immediately report the circumstances of the case to the Treasury, the Commissioner of Police and to the Director of Public Prosecutions in addition to making mention of the matter in the audit report.

Protection for whistleblowers

36. (1) Notwithstanding any other written law, where a Person has a reasonable belief that a matter arising out of the management of public money should be brought

to the attention of the Auditor General in the public interest, that person shall report accordingly to the Auditor General.

(2) A person shall not be discharged, demoted, suspended, harassed or otherwise victimized for making a report under subsection (1).

(3) A person in authority who prejudicially impacts upon a person's livelihood as a consequence of his making a report under subsection (1) commits an offence and is liable of summary conviction to a fine of \$20,000 and imprisonment for six (6) months.

Declaration of
Secrecy

37. An authorized person shall make a declaration of secrecy as specified in the Second Schedule.

Protection from
liability of auditor

38. The Auditor General or an authorized person is not liable in any proceedings in respect of a matter arising out of the conduct, and reporting, of an audit

Amendments
to the Exchequer
and Audit Act,
and transitional

39. (1) The Exchequer and Audit Act is amended -
(a) by repealing sections 1 - 4 in their application to the Auditor General;
(b) by repealing sections 7 to 11 their application to the Auditor General;
(c) by repealing section 18 and substituting the following new section:

(1) “Where money is authorized by an Appropriation Act to be withdrawn from the Consolidated Fund the Comptroller of Accounts shall authorize the grant of credit on the Exchequer Account.”.

(2) The credit so granted by the Comptroller of Accounts shall be the necessary authority to issue from the Exchequer Account the amount specified in the credit in accordance with the directions of the Comptroller of Accounts.

(d) By repealing section 23 and substituting the following new section:

“Erroneous Payments”

(1) Notwithstanding anything to the contrary in this Act, the Comptroller of Accounts may authorize the withdrawals from the Exchequer Account of sums as are required to repay or adjust amounts erroneously paid into the Exchequer Account and such sums are charged on the Consolidated Fund.

(2) The Comptroller of Accounts shall notify the Auditor General of the adjustment in respect of an erroneous payment made under subsection (1);

(e) Section 25 of the Act s amended in subsection (1) by deleting the words “the Minister” and substituting the words “the Comptroller of Accounts”.

(2) The Constitution (Prescribed Matters) Act in its application to the Auditor General is repealed.

(3) Any investigation instituted, or request made, by or on behalf of the Auditor General under the Exchequer and Audit Act prior to the commencement of this Act shall continue in force and shall be dealt with as if it was instituted or made under this Act.

(4) In any law where there is a reference to the Exchequer and Audit Act, or the Exchequer and Audit Act for the purpose of an audit is the applicable law in respect of an audit for a body established by an act, that reference shall be construed

as meaning an audit instituted under or performed according to the National Audit Office of Trinidad and Tobago Act, 2006.

FIRST SCHEDULE

Section 14(1)

**OFFICES OF NAOTT UNDER THE PURVIEW OF THE
SALARIES REVIEW COMMISSION**

