

GOVERNMENT OF BAYELSA STATE OF NIGERIA
AUDIT LAW, 2020

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GOVERNMENT OF BAYELSA STATE OF NIGERIA

AUDIT LAW, 2020

ARRANGEMENT OF SECTIONS

SECTION

PART ONE

ESTABLISHMENT OF THE OFFICE OF THE AUDITOR- GENERAL FOR BAYELSA STATE

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COMMISSION

SECTION 98

GOVERNMENT OF BAYELSA STATE OF NIGERIA

AUDIT LAW, 2020

A **Law** to create Bayelsa State Audit Service Commission and provide for the operation and governance of the Office of the Auditor-General for Bayelsa State and office of the Auditor-General for Local Governments, Bayelsa State.

[

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Commencement

ENACTED by the House of Assembly of Bayelsa State of Nigeria and by the Authority of same as follows:

Enactment

PART ONE

ESTABLISHMENT OF THE OFFICE OF THE AUDITOR- GENERAL FOR BAYELSA STATE

1. (1) Subject to the provisions of sections 125 and 126 of the constitution of the Federal Republic of Nigeria 1999 (as amended) there is established the office of Auditor-General for Bayelsa State (hereinafter in this Law referred to as "the Office")
- (2) The Office shall be headed by the Auditor-General for the State (hereinafter in this Law referred to as "Auditor-General (State)") who shall be appointed by the Governor of the State subject to the provisions of the constitution of the Federal Republic of Nigeria, 1999 (as amended)
- (3) The office of Auditor-General (State) shall include the Auditor-General for Bayelsa State, all employees and agents of the Auditor-General (State), the equipments and facilities maintained by the Auditor-General (State), the records, files and work products of the Auditor-General (State) and those responsible to him.
- (4) The office shall:
 - (a) be a body corporate with perpetual succession and having a common seal;
 - (b) have power to sue and be sued in its corporate name; and
 - (c) be capable of acquiring and disposing of movable and immovable properties.

*Office of the
Auditor -
General (State)*

2. (1) The Auditor-General (State) shall be appointed by the Governor on the recommendation of the Civil Service Commission, subject to confirmation by the House.
- (2) The position of the Auditor-General (State) shall be filled by the appointment of the most qualified person with cognate experience in service from the office.
- (3) The Auditor-General (State) shall be:
 - (a) a senior management staff of the office not below the rank of Assistant-Director of grade level 15 with not less than ten years cognate experience;
 - (b) a professional Accountant with membership of a recognized Accountancy body in Nigeria with experience in Public Sector Finance;
 - (c) highly proficient in the use of computer audit software;
 - (d) above forty five years of age and where in public service, having not less than six months to retire; and
 - (e) a person of proven integrity and good conduct.

3. In the absence of a suitable candidate as stated in section 2 above, the following additional procedures shall be required:
 - (a) vacancy for the position of Auditor-General shall be declared and shall be advertised in at least two National dailies and one local newspaper;
 - (b) all applicants are to be subjected to the same process of selection.

4. Before assuming office, the Auditor-General (State) shall take oath of office which is to be administered by the Chief Judge of the State, as specified in first and second Schedules of this Law.

5. The office of the Auditor-General (State) shall be an independent institution and shall not be subject to the direction or control of any other authority or person in the performance of its functions under this law.

6. (1) The Auditor-General (State) shall be paid such salary, allowances, pension and severance pay as determined by the Revenue mobilization Allocation and Fiscal Commission which shall not be less than that of a Permanent Secretary in the State. *Remuneration and allowance of the Auditor-General (State)*
- (2) The remuneration of the Auditor-General (State) shall be a first line charge on the Consolidated Revenue Fund of the State.
- (3) The salaries and allowances payable to the Auditor-General (State) and his conditions of service shall not be altered to his disadvantage after his appointment.
- (4) Any pension granted by virtue of sub-section (4) of this section shall be charged upon the Consolidated Revenue of the State.
- (5) Apart from the normal allowances payable in the service, the Auditor-General (State) and Staff herein shall be paid additional hazard allowance as shall be determined by the Audit Service Commission and approved by the Governor.
7. The Auditor-General (State) shall not be removed from Office before such retiring age as prescribed by Law, save in accordance with the provisions of this Law. *Tenure of office of the Auditor-General (State)*
8. A person holding the office of the Auditor-General shall cease to hold Office where: *Cessation of the tenure of appointment of the Auditor-General (State)*
- i. he is removed by the Governor acting on an address supported by two third majority of the House praying that he be so removed for inability to discharge the functions of his office, whether arising from infirmity of mind or body or for misconduct. **Provided** that the Auditor-General (State) shall have been given at least twenty-one days notice in writing to defend himself on the floor of the House;
 - ii. he resigns his appointment or voluntarily retires from the service of the State;
 - iii. he is permanently incapacitated and unable to carry on with his functions effectively based on a report by a legally constituted medical board;

- iv. he dies while in office;
- v. he becomes bankrupt; and
- vi. he is convicted for a crime under the Law of Nigeria or any foreign country or under treaty to which Nigeria is a signatory.

9. (1) In the event of the absence or incapacitation of the Auditor-General or where the office of the Auditor-General (State) is vacant, the most senior Director shall act in the capacity of Auditor-General (State) for a period not exceeding six months pending the appointment of a substantive Auditor-General (State).

Vacancy in the position of the Auditor-General (State)

- (2) A person appointed in line with subsection (1) of this section shall possess the qualification spelt out in section 2 of this Law.

- (3) No person shall act in the office of the Auditor-General (State) for a period exceeding six months except by a resolution of the House and this will be restricted to only one extension.

10. (1) The office of the Auditor-General (State) shall consist of such Directorates, Departments, Divisions and Units as may be determined by the Audit Service Commission on the recommendation of the Auditor-General (State).

Structure of the office

- (2) The Audit Service Commission on the recommendation of the Auditor-General (State) shall from time to time, review the administrative structure of the office to meet the prevailing needs.

11. (1) The Auditor-General (State) shall ensure that:

- (a) all reasonable precautions have been taken to safeguard the collection and custody of public monies or other monies subject to audit and that the Laws, directions and instructions relating thereto have been duly observed;

- (b) all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the approvals were made by the Executive Council of the State and the House and that the expenditures conform with the authority which governs them;

Functions of the Auditor-General (State)

- (c) adequate audit regulations exist for Accounting and Financial operations in the State and that they are duly observed;
 - (d) monies have been expended with efficiency and effectiveness and due regard to the economy;
 - (e) satisfactory procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
 - (f) the attention of the appropriate authorities have been drawn to any irregularity observed during the examination of the records and books of accounts as soon as facts of such irregularities have been established and confirmed;
 - (g) as a result of the audit conducted by him, all queries and observations shall be addressed to the Accountant-General, the Accounting Officer or any other appropriate persons;
 - (h) he call for such accounts, vouchers, statements, documents and explanations as he deems fit;
 - (i) where he deems it fit, make surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had made a surcharge and the reason for the surcharge and shall report the circumstances of the case to the Accounting Officer of the affected department; or institution; and
 - (j) to certify and conduct pre-payment audit of pensions, gratuities and other retirement benefits of State Governments staff and secondary schools teachers.
- (2). The Auditor-General (State) shall, in exercising his functions under the provisions of this Law express his opinion as to whether the financial statement/accounts represent the financial information in accordance with applicable statutory provisions, accounting policies, International Public Sector Accounting Standards, and are essentially consistent with those of the preceding year.
- (3) The Auditor-General (State) or any person authorized by him to conduct periodic checks on a statutory corporation shall, in addition to the audit report, draw attention to the following:

- (a) the viability, liquidity, stability and solvency of the parastatals, corporations and educational institutions and also the performance of the shares of the corporation in the capital market, where applicable;
 - (b) any delay in the payment of the government's portion of any dividend into the Consolidated Revenue Fund;
 - (c) any fraud or loss and, if so, their underlying causes and person or persons responsible for such fraud or losses;
 - (d) any internal control weaknesses which were identified;
 - (e) the general corporate performance indicating achievements against set targets and objectives;
 - (f) if the finances of the body have been conducted with due regard to economy, efficiency and effectiveness, having regard to the resources utilized.
- (4) The Auditor-General (State) shall evaluate the adequacy of the State's enterprise risk management strategies and policies and make recommendations for their improvement.
 - (5) The Auditor-General (State) in the exercise of his responsibility shall publish the annual statutory audit report of the State Government electronically and manually after submission to the House.

- 12.** (1) The Auditor-General (State) shall prepare an audit plan and associated cost not later than three months before the end of the fiscal year.
- (2) The Auditor-General (State) shall audit all financial statements and annual accounts of the State.
 - (3) The Auditor-General (State) shall within ninety days of the receipt of the Accountant-General's Annual Consolidated Financial Statements of the State, submit his Annual Audit report to the House.
 - (4) The Auditor-General (State) or any person authorized by him in that behalf shall have unrestricted access to all the books, records,

*Powers of the
Auditor-General
(State)*

returns, and other documents both electronically and manually relating to the accounts referred to in subsection (2) of this Section whether kept electronically or otherwise.

- (5) If at any time it appears to the Auditor-General (State) that any irregularities have occurred in the receipt, custody or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any securities, stores or other Government properties, or in the accounting of same, he shall immediately bring the matter to the notice of the House or the Accounting Officer of the affected Ministry or Agency and to any other officer he may deem fit.
- (6) The Auditor-General (State) may:
 - (a) seek the advice or opinion of the Attorney-General (State) of the State in writing on any question or issue arising from the provisions of this Law in respect of all matters and issues that may be necessary for the due performance and exercise of the duties and powers vested in him, and the Attorney-General shall give his opinion within twenty one days;
 - (b) deploy to any government Department, Authority, Commission or Agency, any person employed in his office (referred to in this Law as the "officer") in order to enable the officer carry out his duties effectively for the given period, such Government Agency shall provide the necessary office accommodation and other facilities for the officer so deployed;
- (7) For the purpose of discharging the functions of the office, the Auditor-General (State), subject to the provisions of this Law, may take necessary actions and enter into any transactions necessary to ensure the proper performance of these functions; this may include:
 - (a) establishing and implementing a comprehensive human resource management system and policies for managing the staff and staff development programmes;
 - (b) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis and retrieval of relevant information and promulgating procedures for conducting audit work;
 - (c) engaging the services of professionals to serve on a contract basis for limited engagements, including those required as

part of agreements with international organizations, but all audit opinions shall remain those of the Auditor-General (State); and

- (d) constituting or establishing any standing or ad hoc Committee to facilitate the discharge of the functions of the office
- (8) Nothing in this section shall be construed as authorizing the Auditor-General (State) to audit the accounts of or appoint auditors for government statutory corporations, agencies, including all persons and bodies established by Law, but the Auditor General shall provide – such bodies with-
- (a) a list of auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external auditors;
 - (b) a guideline on the level of fees to be paid to external auditors;
 - (c) comment on their annual accounts and auditor's report thereon; and
 - (d) the Auditor-General (State) shall have power to conduct periodic checks on all government statutory corporations, agencies, including all persons and bodies established by Law of the House.
- (9) The Auditor-General (State) may-
- (a) require a public officer to give explanation or information, which the Auditor-General (State) may require in order to enable him discharge his duties;
 - (b) without the payment of fee, cause a search to be made and extracts to be taken, or copies made from any book, document or record in any public office.
- (10) The Auditor-General (State) in the performance of his functions under this Law or any other Law may disallow any item of expenditure, which is contrary to Law, and surcharge:
- (a) the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;

- (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; and
 - (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.
- (11) A person aggrieved by a disallowance or surcharge made by the Auditor-General (State) may appeal to the High Court of the State.
- (12) The Auditor General (State) shall in conjunction with the Audit Service Commission recruit personnel into departments to fill vacancies that may exist from time to time in the office, subject to the approval of the Governor.
- (13) The Auditor-General (State) shall in conjunction with the Audit Service Commission fix the remuneration and other fringe benefits of the staff of the office.
- (14) The Auditor-General (State) may enter into agreement with third parties on any matter that has direct impact on the activities of his office.
- 13. (1) The Auditor-General (State) may undertake special assignments, provided such special assignments do not interfere with his primary responsibilities under this Law.
- (2) The Governor or the House if they so require by a resolution of simple majority shall mandate the Auditor-General (State) to cause an inquiry to be made to look into the financial affairs of the State and other State-owned Public properties.
- (3) The Governor or the House by a resolution of simple majority shall also mandate the Auditor-General (State) to cause an inquiry to be made to look into financial aids given by the State Government to any person or organization.
- (4) Where the Auditor-General (State) makes an inquiry in accordance with Sub-Section (1) of this section, the Auditor-General (State) shall make a report of the inquiry to the Governor or the House.
- (5) Nothing in Sub-Sections (1), (2), (3) and (4) of this section will be deemed to preclude compliance with the provision of section 5 of this Law.

*Special
assignment of
the Auditor-
General
(State)*

14. The Auditor-General (State) may, for the purpose of establishing the economy, efficiency and effectiveness of the operations of any Ministry, Department or institution in respect of which appropriation, or other accounts are required to be prepared under any Law of the House or the Constitution of the Federal Republic of Nigeria, 1999, inquire into, examine, investigate or undertake performance audits and report as he considers necessary on:

*Performance
audit*

- (a) the expenditure of public moneys and the use of public resources by Ministries, Departments, Agencies and all public institutions;
- (b) the conduct of, and performance of their functions by Accounting officers; Heads of Ministries, Departments and Agencies and Public institutions;
- (c) the extent to which a public entity including ministries, statutory corporations, parastatals, commissions, authorities, agencies, persons and bodies established by a Law of the House, is carrying out its activities effectively;
- (d) any act of omission of a public entity to determine whether waste has resulted or may have resulted or may result;
- (e) any act of showing or appearing to show a lack of probity or financial prudence by a public entity or any of its members, office holders and employees; and
- (f) any other activity undertaken by the Ministries, Departments and Agencies; and all public institutions referred to in this section.

15. For the purpose of this Law the Auditor-General (State) may make additional regulations which shall enhance the effective implement of this Law;

*Additional
power to make
Regulations*

Provided that such regulations are subject to approval by the House of Assembly.

16. (1) The Auditor-General (State), after considering the oversight mechanisms must:

Audit quality

- (a) determine – the standards to be applied in performing audits, the nature and scope of such audits; and
 - (b) procedures for the handling of complaints when performing such audits.
 - (2) In setting standards, the Auditor-General (State) shall take into account all relevant factors, including:
 - (a) best auditing practices, both locally and internationally; and
 - (b) the capacity of the office of the Auditor-General and the auditing profession to comply with those standards.
17. (1) The Auditor-General (State) shall determine which audit standards should be applied and may establish audit programs and code of ethics specific to the audits performed by the Office.
- (2) The auditing standards shall include:
- (a) public Sector Auditing Standards issued by Conference of Federal and States Auditors-General;
 - (b) accounting Standards issued by the Financial Reporting Council of Nigeria, (FRCN) and any Professional Body recognised by an Act of National Assembly;
 - (c) the Auditing Standards and code of ethics published by the International Organization of Supreme Audit Institutions (INTOSAI), African Organization of English Speaking Supreme Audit Institutions, (AFROSAI-e); and
 - (d) the accounting standards and code of ethics published by the International Federation of Accountants (IFAC).
18. (1) The Auditor-General and his staff shall have unrestricted access to such people, documents, computers and other information Systems, and assets as the Auditor-General considers necessary for the proper performance of his functions.
- (2) The Auditor General may also obtain such information, as he considers necessary in the performance of his functions from a person who is not a member of staff or public office holder.

*Audit standards
and code of
ethics*

*Access to people,
documents,
computers
information system
and property*

- (3) To do this, the Auditor General shall advise the person in writing of the nature of the information and why it is needed.
19. (1) The Auditor-General shall defray costs from the established funds under this Law, all the amount payable being sums representing: *Application of funds*
- (a) salaries and running cost of the office;
 - (b) cost of acquisition, rent or upkeep of premises; and
 - (c) any other payment incidental to the performance of his functions under the Law.
- (2) The Auditor-General shall manage the funds of the office in conformity with the approved budget and expenses to be paid from the funds, which shall include:
- (a) salaries and Allowances of Staff of Auditor-General;
 - (b) costs of training and professional development;
 - (c) any capital development project or special expenditure; and
 - (d) running cost and maintenance expenses.
20. All reports of the Auditor-General (State) submitted to the House shall be treated as House reports and shall enjoy all privileges accorded to House reports. *Audit report privileges*
21. (1) When, in the course of conducting a financial, compliance or performance audit or any emerging audit, staff from the Office of the Auditor-General (State) or auditors appointed under this Act, discover what they believe to be criminal, fraudulent or corrupt acts, they shall immediately notify the Auditor-General (State). *Reporting fraud*
- (1) If the Auditor-General (State) is satisfied that sufficient evidence exists to warrant special investigation, he shall carry out detailed investigation and make a special report on his findings to the House.

22. (1) Within a period of six months after the end of each fiscal year, the Accountant-General of the State shall present to the Auditor-General, accounts showing the fiscal position of the State as at the last day of the preceding year.

(2) Such accounts shall include:

- (a) responsibility for financial statement;
- (a) cash flow statement;
- (b) consolidated statement of financial position (statement of assets and liabilities);
- (c) consolidated statement of financial performance (consolidated revenue fund);
- (d) statement of capital development fund;
- (e) statement of recurrent revenue and expenditure;
- (f) donations and grants;
- (g) statement of contractual liabilities;
- (h) statement of investments;
- (i) statement of changes in net assets/equity;
- (j) accounting policies and notes to the financial statements;
- (k) statement of external and internal loans; and
- (l) other statements that may be required by auditing standards, practices or statutes;

(3) (a) the notes to the financial statements shall provide information about the basis of preparation of the financial statements and the specific accounting policies selected and applied for significant transactions and other events for the purpose of users' understanding and comparability.

(b) the notes shall include the following:

- (i) statement of compliance with approved accounting standards;
- (ii) statement of accounting policies applied;
- (iii) supporting information for items presented on the face of the financial statements; and

(iv) supporting statements.

(4) Within three months after the close of each fiscal year, the Accounting Officer shall prepare and submit to the Accountant-General with copies to the Auditor-General, appropriation accounts of the moneys expended under the votes for which they are responsible, showing:

- (a) the services for which the moneys were voted;
- (b) sums actually expended on each service during the period of the accounts; and
- (c) state of each vote compared with the appropriation;

Provided that each account shall contain such variation between the expenditure and the sums voted, such other required information shall be in such form as the Accountant-General may direct and the statement as well as the appropriated accounts shall be signed by the Accounting Officer.

23. The Auditor-General (State) shall within ninety days of receipt of the Accountant-General's Financial Statements and Report on Annual accounts of the State, submit his report to the House and the House shall cause the report to be considered by a Committee of the House responsible for Public Accounts (referred to in this Law as "the Public Accounts Committee").

*Submission of
audited annual
financial statements
to the House*

24. (1) The Public Accounts Committee shall:

- (a) consider each report from the Auditor-General (State) within one year from the date of submission and the process may include questioning the Accounting Officer from the relevant establishment, receipt of explanations from the Auditor-General (State) and official responses from the Government;
- (b) make recommendations on the basis of the considerations and monitor their implementation;
- (c) have power to summon the accounting officers, public Officials and any member of the public for questioning about the Auditor-General's (State) findings;
- (d) hold its hearing in public but may choose to hold all or part of its hearing in private sessions;

*Review of audit
report by the Hous*

- (e) prepare a report to the House of Assembly, which may include comments and recommendations at the end of its review of each of the Auditor-General's reports; such reports shall be sent to the Auditor-General (State) and all organizations reported on and shall be made available to the public on demand on payment of a minimal fee which shall be prescribed by the office..
- (2) The action of the PAC shall be governed by the standing orders of the House.
25. Without prejudice to any provision of this Law, every person who fails or refuses to reply to an audit query or observation within the period specified in the audit query or a reasonable time thereafter shall have his emoluments and allowances withheld for so long as the person fails to reply and or shall be liable to disciplinary action under the State Public Service Rules. *Refusal to answer audit queries*
26. The Auditor-General (State) or any person acting in that capacity is not personally liable for any act done or failed to be done in good faith in the exercise of the functions of the office. *Delegated authority*
27. (1) The Auditor-General (State) shall prepare and submit to the House: *Annual estimates*
- (a) the annual estimates of revenues and expenditure of the office of the Auditor-General for inclusion in the State Budget;
 - (b) the annual estimates of operational and administrative expenses of the office including salaries, allowances, gratuities and pensions payable to staff;
 - (c) the annual estimates of capital expenditure of the office.
- (2) The House after considering the submission of the Auditor-General may amend the estimate and thereafter forward same to the Ministry of Budget for inclusion into the State Annual Appropriation Bill.

- (3) The Ministry of Budget shall include the estimate of the office in the Annual Appropriation Bill of the State as forwarded to it by the House.
- (4) Any sum appropriated to the office by the House in each financial year shall be charged upon the Consolidated Revenue Fund of the State and paid as first line charge in equal installment every month of the year.
28. (1) Where during the course of an audit, the Auditor-General becomes aware of an improper retention or misappropriation of Public Funds, Public Money or any other activity that may constitute an offence under the criminal Law of the State or any existing Law, the Auditor-General (State) shall immediately report the improper retention or misappropriation of public money or other activities to the Attorney-General (State) of the State or any other authority charged with that function by the State. *Improper retention of public funds*
- (2) In addition to reporting under sub-section (1) of this Section, the Auditor-General (State) shall attach to his annual report to the House, a list containing a general description of the incidents referred to in sub-section (1) of this section, and the dates on which those incidents took place.
29. (1) It is an offence for any person without lawful justification or excuse to: *Offences*
- (a) obstruct, intimidate, harass, hinder the Auditor General or any person authorized by him in the exercise of his duties and powers under this Law;
- (b) refuse or fail to comply with any lawful request of the Auditor-General (State) or his representative;
- (c) fail to produce for inspection to the Auditor General (State) or his representative or otherwise refuse the Auditor-General (State) or his representative access to any books, record,

returns, payment voucher, revenue receipt or other documents relating or relevant to any account to be audited by the Auditor-General (State) or his representative when so requested;

- (d) fail to keep proper books of account or proper records leading to any loss of public funds;
 - (e) make a statement or give information to the Auditor-General (State) or his representation which is false or misleading; and
 - (f) suppress any information required by the Auditor General (State) in the performance of his functions under this Law or any other enactment.
- (2) Any person who commits an offence under the provisions of subsection (1) of this section shall on conviction be liable:
- (a) in the case of an individual, to a fine of not less than ₦500,000.00 or to a term of imprisonment not exceeding two years or both;
 - (b) in the case of body corporate or firm, to a fine of not less than ₦1,000,000.00;
 - (c) where a body corporate or firm is convicted of an offence under this section, every Director of the company or firm shall be liable to fine of not less than ₦500,000.00 or to a term of imprisonment not exceeding two years or both unless he proves that the offence upon which the conviction was based was committed without his knowledge, consent or connivance;
 - (d) accounting officers and public officers shall be held responsible for full recovery of losses discovered from his subordinates; and
 - (e) where an Accounting Officer or Public Officer, individual, body or company fails to make necessary recovery and it is proved that he fails to make reasonable effort to recover the said loss, he shall be guilty of an offence and shall be liable to a penalty of ₦1,000,000.00 plus the amount of loss involved.

30. Any member of staff of the office of the Auditor-General (State) who:

*Sanctions on staff of
office of Auditor-
General (State)*

- (a) demands or takes any bribe, gratification, compensation or reward during the performance of his duty; or
- (b) fails to report to the Auditor-General (State) any abuse or irregularity within his knowledge in the course of his duties in relation to any account audited; or
- (c) makes any report to the Auditor-General which he knows to be false or which he has no reason to believe to be true;

commits an offence under this Law shall be liable on conviction to a fine of not less than ₦1,000,000.00 or imprisonment for two years or both.

31. The Auditor-General (State) and each person employed in the office or appointed or engaged to assist the Auditor-General (State) for a limited period of time or in respect of a particular matter shall keep confidential all matters that come to his knowledge in the course of his employment or duties under this Law and shall not communicate those matters to another person, except as may be required in connection with the discharge of his responsibility.

Confidentiality

32. (1) All private audit firms and consultants taking up Audit Contracts and Consultancy jobs relating to audit work must be registered with the office of the Auditor-General.

*Statutory audit of
agencies and
parastatals*

- (2) Such contracts on audit work shall include but not limited to:
 - (a) revenue audit and Consultancy work including tax audit;
 - (b) Government bank accounts audit and bank reconciliation;
 - (c) audit of Government offices including Special Investigations;
 - (d) personnel audit including payment at sight;
 - (e) pension audit including verification;
 - (f) contracts in respect of estate/building valuation or valuation of some specialized government assets; and
 - (g) assessment and evaluation of effective Government Information Systems.

- (3) The report of such contracts shall be submitted to the organizations and the Auditor-General for the State.
 - (2) The Auditor-General (State) shall provide a list of qualified auditors who are duly registered with the office of the Auditor-General (State) to the management of the Organizations of which must be chosen a firm by the management, for a defined period not exceeding three (3) years.
 - (3) The Audit firm so chosen shall carry out its mandate in accordance with professional standards acceptable to the office of the Auditor-General.
 - (4) The Audit firm shall submit copies of his report to the Auditor-General(State) for the State for evaluation and subsequent delivery to the Public Accounts Committee of the House.
 - (5) The Public Accounts Committee shall review the Auditor-General's Report within a period of six months from the date of submission of the report to the House.
33. Subject to the provisions of this Law, officers serving in the Office shall at the commencement of this Law, be deemed to have been appointed in accordance with the provisions of this Law. *Transitional provision*
34. The Auditor-General (State) or an employee of the office or a person acting on the directives of the Auditor-General (State) is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of the functions of the office: *Liability of officers*
- (a) in the performance of any duty or in the exercise of any power vested or conferred upon him under this Law;
 - (b) in giving evidence or any explanation or producing any document before a Committee of the House in connection with his report.
35. The Staff of the office of Auditor-General (State) shall swear to an oath of Secrecy in the performance of their duties as in, Schedule III of this Law. *Oath of Secrecy*
36. The Auditor-General (State) may adopt rules governing the operations of the Office as may be necessary in the execution of his duties, except on *Rules*

subjects matter where this Law requires or authorizes the adoption of specific regulations.

PART TWO

ESTABLISHMENT OF THE OFFICE OF THE AUDITOR- GENERAL FOR LOCAL GOVERNMENTS, BAYELSA STATE

37. (1) Subject to the provisions of section 50 of the State Local Governments Laws 2006, there is established the office of Auditor-General for Local Governments (hereinafter in this Law referred to as "the Office"). *Office of the Auditor-General for Local Governments (LGs)*
- (2) The Office shall be headed by the Auditor-General for Local Governments for Bayelsa State (hereinafter in this Law referred to as "Auditor-General (LGs)") who shall be appointed by the Governor of the State subject to the provisions of the State Local Governments Laws, 2006.
- (3) Office of the Auditor-General for Local Governments shall include the Auditor-General (LGs), the equipments and facilities maintained by the Auditor-General (LGs), the records, files and work products of the Auditor-General (LGs) and those responsible to him.
- (4) The office shall:
- (d) be a body corporate with perpetual succession and having a common seal;
 - (e) have power to sue and be sued in its corporate name; and
 - (f) be capable of acquiring and disposing of movable and immovable properties.
38. (1) The Auditor-General shall be appointed by the Governor on the recommendation of the State Civil Service Commission, subject to confirmation by the House. *Appointment of Auditor General (LGs)*
- (2) The position of the Auditor-General shall be filled by the appointment of the most qualified person with cognate experience in the service of the office of the Auditor-General.

- (3) The Auditor-General shall be:
- (a) a senior management staff of the office of the Auditor-General for Local Governments of the State not below the rank of an Assistant Director on grade level 15, and not less than 10 years cognate experience;
 - (b) a professional Accountant with membership of a recognized Accountancy body in Nigeria with experience in Public Sector Finance;
 - (c) highly proficient in the use of computer audit software;
 - (d) above forty five years of age and where in public service, having not less than six months to retire; and
 - (e) a person of proven integrity and good conduct.
39. In the absence of a suitable candidate as stated in section 38 above, the following additional procedures shall be required; *Additional procedure for appointment of Auditor-General (LGs)*
- (1) vacancy for the position of Auditor-General (LGs) shall be declared and shall be advertised in at least two national dailies and one local newspaper.
 - (2) all applicants are to be subjected to the same process of selection.
40. Before assuming office, the Auditor-General (LGs) shall take oaths which are to be administered by the Chief Judge of the State, as specified in the first and second Schedules of this Law. *Oath of office and allegiance*
41. The office of the Auditor-General (LGs) for Local Governments shall be an independent institution and shall not be subject to the direction or control of any other authority or person in the performance of its functions under this Law. *Independence of the office of Auditor-General (LGs)*
42. (1) The Auditor-General (LGs) shall be paid such salary, allowances, pension and severance pay as determined by the Revenue mobilization Allocation and Fiscal Commission which shall not be less than that of a Permanent Secretary in the State. *Remuneration and allowance of the Auditor-General (LGs)*

- (2) The remuneration of the Auditor-General (LGs) shall be a first line charge on the Consolidated Revenue Fund of the State.
 - (3) The salaries and allowances payable to the Auditor- General (LGs) and his conditions of service shall not be altered to his disadvantage after his appointment.
 - (4) The Auditor-General (LGs) shall be entitled to pension for life at a rate equivalent to the annual salary and allowances of the incumbent Auditor-General (LGs).
 - (5) Any pension granted by virtue of sub-section (4) of this section shall be charged upon the Consolidated Revenue of the State.
 - (6) Apart from the normal allowance payable in the service, the Auditor-General (LGs) and Staff herein shall be paid additional hazard allowance as may be determined by the Audit Service Commission and approved by the House.
43. The Auditor-General (LGs) shall not be removed from office before such retirement age as prescribed by Law, save in accordance with the provisions of this Law.
44. A person holding the office of the Auditor-General (LGs) shall cease to hold office where:
- (a) he is removed by the Governor acting on an address supported by two third majority of the House praying that he be so removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body) or for misconduct. Provided that the Auditor-General (LGs) shall have been given at least twenty-one days' notice in writing to defend himself on the floor of the House;
 - (b) he resigns his appointment or voluntarily retires from the service of the State;
 - (c) he is permanently incapacitated and unable to carry on with his functions effectively;
 - (d) he dies while in office;
 - (e) he becomes bankrupt; and
 - (f) he is convicted for a crime.

*Tenure of Office of t.
Auditor-General (LG)*

*Cessation of the ten
of appointment of th
Auditor- General (LG)*

45. (1) In the event of the absence or incapacitation of the Auditor-General or where the office of the Auditor-General (LGs) is vacant, the most senior Director shall act in the capacity of Auditor-General (LGs) for a period not exceeding six months pending the appointment of the substantive Auditor-General (LGs). *Vacancy in the position of the Auditor-General (LGs)*
- (2) A person appointed in line with subsection (1) of this section shall possess the qualification spelt out in Section 2 of this Law.
- (3) No person shall act in the office of the Auditor-General (LGs) for a period exceeding six months except by a Resolution of the House and this will be restricted to only one extension.
46. (1) The office of the Auditor-General (LGs) shall consist of such Directorates, Departments, Divisions and Units as may be determined by the Audit Service Commission on the recommendation of the Auditor-General. *Structure of the Office*
- (2) The Audit Service Commission on the recommendation of the Auditor-General (LGs) shall from time to time, review the administrative structure of the office to meet the prevailing needs.
47. (1) The Auditor-General (LGs) shall ensure that: *Functions of the Auditor General (LGs)*
- (a) all reasonable precautions have been taken to safeguard the collection and custody of public monies or other monies subject to audit and that the Laws, directions and instructions relating thereto have been duly observed;
- (b) all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the grants made by the Finance and General Purposes Committee and the House were intended, and that the expenditure conforms to the authority which governs it;
- (c) adequate audit regulations exist for Accounting and Financial operations of Local Governments Councils and that they are duly observed;

- (d) monies have been expended with efficiency and effectiveness and due regard to economy;
 - (e) satisfactory procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
 - (f) the attention of the appropriate authorities have been drawn to any irregularity observed during the examination of the records and books of accounts as soon as facts of such irregularities have been established and confirmed;
 - (g) as a result of the audit conducted by him, all queries and observations shall be addressed to the authorities of the Local Governments Council or any other appropriate person or officer; and
 - (h) may call for such accounts, vouchers, statements, documents and explanations as he deems fit; and
 - (i) where he deems it fit, make surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had made surcharge and the reason for the surcharge and shall report the circumstances of the case to the Accounting officer and Chairman of the Local Governments Council.
- (2) The Auditor-General (LGs) shall, in exercising his functions under the provisions of this Law give his opinion as to whether the financial statement/accounts represent the financial information in accordance with applicable statutory provisions, accounting policies, International Public Sector Accounting Standards, and are essentially consistent with those of the preceding year.
- (3) The Auditor-General (LGs) or any person authorized by him to conduct audit on any Agency shall in addition to the audit report, draw attention to the following:
- (a) the profitability, liquidity, stability and solvency of the statutory agency;
 - (b) any delay in the remittance of the internally generated revenue or dividend into the statutory revenue fund of councils or agency;

- (c) any fraud or loss and, if so their underlying causes and person or persons responsible for such fraud or losses;
 - (d) any internal control weaknesses which were identified;
 - (e) the general corporate performance of the agency or council indicating achievements against set targets and objectives; and
 - (f) whether the finances of the agency or council have been managed with due regard to economy, efficiency and effectiveness, having regard to the resources.
- (4) The Auditor-General (LGs) in the exercise of his responsibilities shall publish the Annual Statutory Report of the Local Governments Councils electronically and manually after submission to the House.
48. (1) The public accounts of local governments' councils and offices of the local governments shall be audited annually by the Auditor-General (LGs) who shall submit the report to the House for review.
- (2) Notwithstanding the provisions of sub section (1) of this section, the Auditor-General (LGs) may carry out auditing of a council whenever the Auditor-General on reasonable ground deems it fit.
49. (1) Irrespective of the provisions of any other Law in the State:
- (a) the public accounts of local governments;
 - (b) the funds of the pensions board of all Local Governments;
 - (c) the funds of the primary education board and authorities in all local governments;
 - (d) the training fund of all local governments;
 - (e) the training fund of all local government service commission;
 - (f) the joint accounts of state/local government;
 - (g) the funds of the traditional rulers council;
 - (h) the funds of boards and parastatals of local government; and

Auditing of accounts of the local governments

Powers and duties of the Auditor-General (LGs)

- (j) any other funds of the offices created by the local governments.

shall be audited by the Auditor-General (LGs) who shall submit his report to the House for review.

- (2) For the purpose of carrying out the above duties, Auditor-General (LGs) or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to the Accounts of the Local Governments and other institutions concerned.
- (3) In the exercise of his functions under this Law, the Auditor-General shall not be subject to the directions or control of any other authority or person, except that the House may review his report for the purposes of exposing fraud and waste of public funds, unauthorized expenditure, and expenditure against directives. etc.
- (4) Every Local Government Council shall submit its approved budget and render an Annual Financial Statement to the Office of Auditor-General in accordance with section 55 of this Law.
- (5) Every Local Government Council shall publish its Annual Financial Statements after the report of the Auditor-General has been submitted to the House.
- (6) It shall be the duty of an auditor appointed under this Law at every audit held by him:
 - (a) to disallow any item of account which is contrary to Law or to the Financial Memoranda or is unsupported by proper records or accounts, or which he considered unreasonable;
 - (b) to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;
 - (c) to surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account;

- (d) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;
 - (e) to certify the amount due from any person whom he has made a surcharge; and
 - (f) to certify and conduct pre-payment audit of pensions, gratuities and other retirement benefits of local governments staff and primary school teachers.
- (7) The Auditor-General (LGs) shall in conjunction with the Local Governments Audit Service Commission fix the remuneration and other fringe benefits of the Staff of the office.
 - (8) The Auditor-General (LGs) shall in conjunction with the Local Governments Audit Service Commission recruit personnel into departments to fill vacancies that may exist from time to time in the office.
 - (9) The Auditor-General (LGs) may enter into agreement with third parties on any matter that has direct impact on the activities of his office.
50. (1) The Auditor-General (LGs) shall defray costs from the established funds under this Law and all the amount payable being sums representing: *Application of funds*
- (a) salaries and running cost of the office;
 - (b) cost of acquisition of premises, rent or upkeep of premises; and
 - (c) any other payment incidental to the performance of his functions under the Law.
- (2) The Auditor-General (LGs) shall manage the funds of the office in conformity with the approved budget and expenses to be paid from the funds, which shall include:
- (a) salaries and allowances of staff of Auditor-General (LGs);
 - (b) costs of training and professional development;
 - (c) any capital development project or special expenditure; and

- (d) running cost and maintenance expenses.

51. All reports of the Auditor-General (LGs) submitted to the House shall be treated as House report and shall enjoy all privileges accorded to House reports. *Audit report privileges*

52. (1) When, in the course of conducting a financial, compliance or performance Audit or any emerging audit, staff from the office of the Auditor-General (LGs) or auditors appointed under this Act, discover what they believe to be criminal, fraudulent or corrupt acts, they shall immediately notify the Auditor-General (LGs). *Reporting fraud*

(2) If the Auditor-General (LGs) is satisfied that sufficient evidence exists to warrant special investigation, he shall carry out detailed investigation and make a special report on his findings to the House.

53. (1) The Auditor-General (LGs) shall determine which audit standards should be applied and may establish audit programs and code of ethics specific to the audits performed by the office. *Audit standards and code of ethics*

(2) The auditing standards shall include:-

- (a) public sector auditing standards issued by Conference of Federal, State and Local Governments Auditors-General;
- (b) accounting standards issued by the Financial Reporting Council of Nigeria, (FRCN) and any Professional Accounting Body recognised by an Act of National Assembly;
- (c) the auditing standards and Code of Ethics published by the International Organization of Supreme Audit Institutions (INTOSAI), African Organisation of English Speaking Supreme Audit Institutions (AFROSAI-E).); and
- (d) the accounting standards and code of ethics published by the International Federation of Accountants (IFAC);

54. (1) The Auditor-General (LGs) and his staff shall have unrestricted access to such people, documents, computers and other information systems, and assets as the Auditor-General (LGs) considers necessary for the proper performance of his functions.

Access to people, documents, computer, information system and property

(2) The Auditor-General (LGs) may also obtain such information, as he considers necessary in the performance of his functions from a person who is not a member of staff or public office holder.

(3) To obtain such information as in subsection (2) of this section, the Auditor-General (LGs) shall advise the person in writing of the nature of the information and why it is needed.

55. (1) Within a period of three months after the end of each fiscal year, the Treasurers of the Local Governments Council shall present to the Auditor-General (LGs) financial statements showing the financial position of their Local Governments Council as at the last day of the preceding year.

Annual Accounts/ Financial Statements

(2) The financial statements referred to in sub section (1) of this shall include:

(a) responsibility for Financial Statement;

(b) opinion of the Auditor-General on the Accounts;

(c) cash flow statements;

(d) statement of assets and Liabilities/Consolidated statement of financial position;

(e) statement of Revenue and Expenditure/Consolidated Statement of Financial Performance;

(f) statement of Capital Development Fund;

(g) statement of Recurrent Revenue and Expenditure;

(h) donations and grants;

(i) statement of contractual liabilities;

(j) statement of investments;

- (k) statement of changes in net assets/equity;
 - (l) accounting policies and notes to the financial Statements;
 - (m) statement of external and internal loans; and
 - (n) other statements that may be required by auditing standards, practices or statutes;
- (3) The notes to the financial statements shall provide information about the basis of preparation of the financial statements and the specific accounting policies selected and applied for significant transactions and other events for the purpose of users' understanding and comparability.
- (4) The notes referred to in subsection (3) of this section shall include the following:-
- (a) statement of compliance with approved accounting standards;
 - (b) statement of accounting policies applied;
 - (c) supporting information for items presented on the face of the financial statements; and
 - (d) supporting statements.

56. Without prejudice to any provision of this Law, every person who fails or refuses to reply to an audit query or observation within the period specified in the audit query or a reasonable time thereafter shall have his emoluments and allowances withheld for so long as the person fails to reply and/ or shall be liable to disciplinary action under the State Public Service Rules.

Refusal to answer audit queries

57. The Public Accounts Committee (PAC) shall:

- (a) consider each report from the Auditor-General (LGs) within one year from the date of submission of the report and the process may include questioning the queried or affected officer from the Local

Review of audit reports

Governments Council or Agencies based on the explanations from the Auditor-General (LGs) and responses from the Local Governments Council or Agency Official;

- (b) make recommendations on the basis of the review and monitor their implementation;
- (c) have power to summon the accounting officers, public officials and any member of the public for questioning about the Auditor-General's findings;
- (d) hold its hearings in public but may chose to hold all or part of its hearing in private sessions;
- (e) prepare a report to the House, which may include comments and recommendations at the end of its review of the Auditor-General's (LGs) reports; such reports shall be sent to the Auditor-General (LGs) and all Councils or Agencies reported on and shall be made available to the public on demand on payment of a minimal fee to be prescribed by the offices of the Auditor-General (LGs); and
- (f) the action of the PAC shall be governed by the standing orders of the House.

58. The Auditor-General (LGs) or any person acting in that capacity is not personally liable for any act done or failed to be done in good faith in the exercise of the functions of the office.

Delegated authority

59. (1) The Auditor-General (LGs) shall prepare and submit to the House:

Annual estimates

- (a) the annual estimates of revenues and expenditure for inclusion in the State budget;
 - (b) the annual estimate operational and administrative expenses of the office including salaries, allowances, gratuities and pensions payable to staff; and
 - (c) the annual estimate of capital expenditure of the office
- (2) The State House after considering the annual estimates submitted by the Auditor-General (LGs) may amend same and thereafter forward it to the ministry in charge of budget for inclusion into the state annual appropriation Bill.

- (3) The Ministry in charge of Budget shall include the estimate of the office to the annual appropriation Bill of the State as forwarded by the House.
 - (4) Any sum appropriated to the office by the House in each financial year shall be charged upon the Consolidated Revenue Fund of the State and paid as first line charge in equal installment every month of the year.
 - (5) Every Local Government shall make a contribution of 2% of its revenue from the Federation Account to the office of the Auditor-General (LGs) to enable it carry out its functions and such fund shall be drawn from source.
 - (6) The 2% referred in subsection (5) of this section shall be for funding overhead operational cost of the office.
 - (7) The personnel and capital cost of the office shall be funded from the State Government Budget as approved by the House.
60. (1) Where during the course of an audit, the Auditor-General (LGs) becomes aware of an improper retention or misappropriation of public funds, or any other activity that may constitute an offence under the Criminal Law of State or any existing Law, the Auditor-General (LGs) shall immediately report the improper retention or misappropriation of public funds or other activity to State Attorney-General or any other authority charged with that function by the State. *Improper retention of public funds*
- (2) In addition to reporting under sub-section (1) of this Section, the Auditor-General (LGs) shall attach to his annual report to the House, a list containing a general description of the incidents referred to in sub-section (1), and the dates on which those incidents were reported.
61. (1) It is an offence for any person without lawful justification or excuse to: *Offences*
- (a) obstruct, intimidate, harass or hinder the Auditor-General (LGs) or any person authorized by him in the exercise of his duties and powers under this Law;

- (b) refuse or fail to comply with any lawful request of the Auditor-General (LGs) or his representative;
 - (c) fail to produce for inspection to the Auditor-General (LGs) or his representative or to otherwise refuse the Auditor-General (LGs) or his representative access to any books, record, returns, payment voucher, revenue receipt or other documents relating to any account to be audited by the Auditor-General (LGs) or his representative when so requested;
 - (d) fail to keep proper books of account or proper records leading to any loss of public funds;
 - (e) make a statement or give information to the Auditor-General or his representation which is false or misleading; or
 - (f) suppress any information required by the Auditor-General in the performance of his functions under this Law or any other enactment.
- (2) Any person who commits an offence under the provisions of section (1) of this section shall on conviction be liable:
- (a) in the case of an individual, to a fine of not less than ₦500,000.00 (Five Hundred Thousand Naira) or to a term of imprisonment not exceeding two years or both; and
 - (b) in the case of body corporate or firm, to a fine of not less than ₦1,000,000.00 (One Million Naira);
 - (c) where a body corporate or firm is convicted of an offence under this section, every Director of the company or firm shall be liable to fine of not less than ₦500,000.00 (Five Hundred Thousand Naira) or to a term of imprisonment not exceeding two years or both unless he proves that the offence upon which the conviction was based was committed without his knowledge, consent or connivance;
 - (d) accounting officers and public officers shall be held responsible for full recovery of losses discovered from erring officers; and
 - (e) where an Accounting Officer or Public Officer, individual, body or company fails to make necessary recovery and it is proved that such a body fails to make reasonable efforts to

recover the said loss, it shall be guilty of an offence and shall be liable to a penalty of ₦1,000,000.00 (One Million Naira) plus the amount of loss involved. In the case of a corporate entity the fine shall be ₦1,500,000.00 (One Million, Five Hundred Thousand Naira) plus the amount of loss involved

62. Any member of staff of the office of the Auditor-General (LGs) who:
- (a) demands or takes any bribe, gratification, compensation or reward during the performance of his duty; or
 - (b) fails to report to the Auditor-General (LGs) any abuse or irregularity coming to his notice in the course of his duties in relation to any account audited; or
 - (c) makes any report to the Auditor-General (LGs) which he knows to be false or which has no reason to believe to be true;

*Sanctions on staff of
office of Auditor-
General (LGs)*

Commits an offence under this Law and shall be liable on conviction to a fine of not less than ₦1,000,000.00 (One Million Naira) or imprisonment for two years or both.

63. (1) All private audit firms and consultants taking up audit contract; and consultancy jobs relating to audit work must be registered with the office of the Auditor-General (LGs). *Regulation of audit contracts*
- (2) Such contracts on audit work shall include but not limited to:
- (a) revenue audit and consultancy work including tax audit;
 - (b) government bank accounts audit and bank reconciliation;
 - (c) audit of government offices including special investigations;
 - (d) personnel audit including payment at sight;
 - (e) pension audit including verification;
 - (f) contracts in respect of estate/building valuation or valuation of some specialized government assets; and
 - (g) assessment and evaluation of effective government Information Systems.

64. (1) The Auditor-General (LGs) shall provide a list of qualified auditors who are duly registered with the office for the management of agencies or organizations from which a firm must be chosen for a defined period not exceeding three years.
- (2) The Audit firm so chosen shall carry out its mandate in accordance with professional standards acceptable to the office of the Auditor-General (LGs).
- (3) The Audit firm shall submit his report to the organization or agency and the Auditor-General (LGs) for evaluation and submission of report to the House for the actions of the Public Accounts Committee.
- (4) The Public Accounts Committee shall review the Auditor-General's Report before the House within six months from the date of submission to the House.

65. (1) The Auditor-General (LGs) may undertake special assignments, provided such special assignments do not interfere with his primary responsibilities under this Law.
- (2) The Governor or the House if they so require by a resolution of simple majority shall mandate the Auditor-General (LGs) to cause an inquiry to be made to look into the financial affairs of the State and other State-owned Public properties.
- (3) The Governor or the House by a resolution of simple majority shall also mandate the Auditor-General (LGs) to cause an inquiry to be made to look into financial aids given by the State Government to any person or organization.
- (4) Where the Auditor-General (LGs) makes an inquiry in accordance with sub-section (1) of this section, the Auditor-General (LGs) shall make a report of the inquiry to the Governor or the House.
- (5) Nothing in sub-sections (1), (2), (3) and (4) of this section will be deemed to preclude compliance with the provision of section 41 of this Law.

66. The Auditor-General (LGs) and each person employed in the Office or appointed or engaged to assist the Auditor-General (LGs) for a limited

period of time or in respect of a particular matter, shall keep confidential all matters that come to his knowledge in the course of his employment or duties under this Law and shall not communicate those matters to another person, except as may be required in connection with the discharge of his responsibility.

67. The Auditor-General may, for the purpose of ensuring an effective and efficient economy of any local government council, agency or institution in respect of which appropriation, or other accounts are required to be prepared under any Law of the State or the Constitution of the Federal Republic of Nigeria, inquire into, examine, investigate or undertake performance audits and report as he considers necessary on: *Performance audit*
- (a) the expenditure of public monies and the use of public resources by Local Government Council, Agencies and all public institutions.
 - (b) the conduct of, and performance of their functions by accounting officers; heads of local government councils or agencies and public institutions.
 - (c) the extent to which a public entity including local government councils, agencies, parastatals, commissions, authorities, persons and bodies established by a Law of the State, is carrying out its activities economically, effectively and efficiently;
 - (d) any act of omission of a public entity to determine whether waste has resulted or may have resulted or may result;
 - (e) any act of showing or appearing to show a lack of probity or financial prudence by a public entity or any of its members, office holders and employees; and
 - (f) any other activity undertaken by the local government councils, agencies and all public institutions referred to in this section.
68. The Auditor-General (LGs) may make additional regulations for carrying into effect the purpose of this Law. *Additional power to make regulations*

69. Subject to the provisions of this Law, officers serving in the office of Auditor-General (LGs) shall at the commencement of this Law, be deemed to have been appointed in accordance with the provisions of this Law. *Transitional provision*
70. The Auditor-General (LGs) or an employee of the office or a person acting on the directives of the Auditor-General (LGs) is not personally liable for any act or omission done or omitted to be done in good faith in the exercise of the functions of the office: *Liability of officers*
- (a) in the performance of any duty or in the exercise of any power vested or conferred upon him under this Law;
 - (b) in giving evidence or any explanation or producing any document before a committee of the House in connection with his report.
71. The staff of the office of Auditor-General (LGs) shall swear to an oath of Secrecy in the performance of their duties as in Third Schedule of this Law. *Oath of secrecy*
72. The Auditor-General (LGs) may adopt rules governing the operations of the office as may be necessary or advisable in the execution of his duties, except on subjects where this Law requires or authorizes the adoption of specific regulations; *Rules*
- Provided** that such rules are subject to approval by the House of Assembly.

PART THREE

ESTABLISHMENT OF AUDIT SERVICE COMMISSION

73. (1) There is established a Commission to be known as the State Audit Service Commission (referred to in this Law as "the Commission"). *Establishment of the Audit Service Commission*
- (2) The Commission shall:

- (a) be a body corporate with perpetual succession and having a common seal;
- (b) have power to sue and be sued in its corporate name; and
- (c) be capable of acquiring and disposing of movable and immovable properties.

74. (1) The Commission shall consist –

- (a) a Chairman to be appointed by the Governor subject to confirmation by the House of Assembly;
 - (b) two members to serve as Commissioners, one each, who shall be retirees from the service of the office of the Auditor-General (State) and office of the Auditor-General (Local Governments);
 - (c) The Permanent Secretary of the State Civil Service Commission or his representative who shall not be below the rank of an Assistant Director; and
 - (d) Secretary of the Commission.
- (2) The Governor shall appoint the chairman and the two other commissioners.
- (3) The Chairman and the two other Commissioners shall be appointed from each of the three senatorial districts of the State.

Composition of the Commission

75. (1) The Chairman shall have not less than fifteen years cognate experience in Accounting and Auditing in the public sector.

- (2) The Chairman shall be a professional Accountant who is a member of a recognized Accountancy professional body in Nigeria.
- (3) The Governor shall appoint the chairman; and the two other commissioners.
- (3) The Chairman and the two other Commissioners shall be appointed from each of the three senatorial districts of the State.
- (4) The Commissioners shall be appointed according to their qualifications as Commissioner 1 and Commissioner 2.

Qualification of members of the Commission

- (5) All the members of the Commission shall be professional Accountants who are members of any recognized Accountancy professional body in Nigeria with not less than ten years post qualification experience in Public Financial Management and Audit.
- (6) A serving member of any Board, Agency Parastatal, Commission or any other government institution shall not be appointed as member of the commission.
- (7) In the absence of the Chairman, Commissioner 1 shall act.
- (8) The chairman and the two other commissioners shall be appointed on full time basis while the two Auditors General shall be on part time

76. No Person shall be qualified for appointment as a member of the Commission if: *Disqualification of members*

- (a) he is of questionable integrity;
- (b) within the preceding ten years he has been removed as a member of any of the bodies established by Section 197 of the Constitution of the Federal Republic of Nigeria 1999 or any Law in the State or as the holder of any other office on the ground of misconduct; and
- (c) a Court of competent jurisdiction or tribunal in Nigeria or abroad has convicted him of a criminal offence.

77. (1) There shall be appointed a secretary for the commission. *Secretary of the Commission*
- (2) The Secretary shall be an officer not below the rank of an Assistant Director of Audit.
 - (3) The Secretary to the commission shall not be entitled to vote at meetings.
 - (4) The Secretary shall serve for one tenure of four years and no more.
 - (5) The Commission shall alternate the appointment of Secretary of the Commission between the offices of the Auditor-General (State) and the office of the Auditor-General (LGs).

- (6) Notwithstanding the provision of subsection four of this section, the Secretary ceases to be in office upon retirement from service.
- (7) Subject to the general direction of the Commission, the Secretary shall be the administrative head and shall be responsible for the day-to-day administration of the Commission and for the keeping of books and records of proceedings of the Commission.
- (8) The Secretary shall perform all other duties affecting the Commission as may be assigned to him by the Chairman.

78. The Commission shall:

Functions of the Commission

- (a) recommend to the Governor in accordance with the provision of this Law qualified persons for appointment as the State Auditor-General or Auditor-General;
- (b) recommend to the Governor for appointment in accordance with the provisions of this law Acting Auditor-General for State or Local Governments where there is need for such appointment; and
- (c) handle all matters of recruitment, promotion and discipline of members of staff of the offices of the Auditors-General for State or Local Governments, the Commission and other staff matters including pensions, gratuities and retirement.

79. A member of the Commission shall hold office for a period of four years from the date of his appointment and may be re-appointed for a further term four years and no more.

Tenure of Office of members of the Commission

80. The Chairman and any of the members shall cease to hold office in the event of any of the following:

Cessation of terms of office of members of the Commission

- (a) where he is removed by the Governor acting on an address supported by two third majority of the House praying that he be so removed for inability to discharge the functions of his Office (whether arising from infirmity or mind or body) or for misconduct; or
- (b) where he resigns his membership of the Commission by writing, addressed to the Governor; or
- (c) where he becomes permanently incapacitated or dies; or
- (d) where he is convicted for an offence by a competent court of Law;

- (e) been involved in any act that may be considered inimical to the interest of the Office or the State; or
- (f) where he becomes bankrupt .

81. Upon the expiration of the tenure of members of the Commission, or upon a vacancy occurring in the membership of the Commission, the Governor shall within sixty days fill the vacancy by appointing new members subject to the confirmation of the House. *Filling of vacancies*

82. The members of the Commission shall be paid such remuneration and allowances as may be applicable to other Commissions with similar oversight responsibilities. *Remuneration of members*

83. (1) The Commission shall appoint persons to hold office and functions in such other offices as may constitute the units or departments of the Commission. *Powers of the Commission*

(2) The power of the Commission to appoint persons under subsection (1) of this Section shall include power to:

- (a) promote, transfer and confirm appointments of persons employed by the Commission;
- (b) dismiss and exercise disciplinary control over such persons holding or acting in such offices;
- (c) implement guidelines; and
- (d) perform such other duties and functions as are necessary or expedient for the discharge of its functions under this Law.

(3) Any member of staff of the Offices may elect to transfer or be seconded to any other public service of the State and such right of transfer shall not operate to the disadvantage of the officer concerned.

(4) In exercising its power to make appointments or discipline of persons under this Law, the Commission shall not be subjected to the direction or control of any authority or persons outside it.

(5) Implement ethics and code of conduct for auditors employed by the Commission.

- (6) Advice the Governor on the need to provide welfare for the Commission Staff.
- (7) Advice the State Government on policy issues relating to Audit matters.
- (8) Implement government policy on audit reforms and matters.

84. The Commission may co-opt person(s) who are not members of the Commission for any meeting of the Commission or its Committee and such co-opted person(s) may take part in the deliberations of the Commission or any of its Committee but shall not be entitled or be counted as part of the quorum of the meeting. *Power to co-opt*

85. The meeting of the committee shall be convened and conducted in the manner prescribed below: *Meetings of the Commission*

- (a) meet at such times and in such places as it shall determine for the exercise of its functions, but in any case shall meet at least three times in a year;
- (b) the quorum shall be three members, one of which must be any of the Auditors-General;
- (c) at every meeting, the chairman shall preside and in his absence commissioner 1 shall preside;
- (d) all decisions shall be taken at its meeting at which questions proposed for determination shall be carried by a simple majority of members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote;
- (e) the validity of any proceedings shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

86. The Commission shall have power to regulate its proceedings and make standing orders for that purpose. *Proceedings*

87. No member of the Commission or Committee shall be liable to be sued in any Court for any act done in the course of exercising his legal duty or function imposed on him by the Commission. *Protection of members*

88. (1) Any report, statement, communication, record of the Commission, any meeting or proceeding which the Commission may make in the due exercise of its functions or which any member of the Commission may make in the course of performing his official duties shall be privileged. *Privileges*

(2) Subject to subsection (1) above, a report, statement, communication, record of any meeting or proceeding of the Commission may be released on the order of court or by a Resolution of the House.

89. The Commission shall appoint such persons as may be necessary to enable it carry out its functions under the Provisions of this Law. *Staff of the Commission*

90. The Commission may make Regulations relating to the conditions of service of the employees of the commission and without prejudice to the generality of the foregoing such Regulations may provide for: *Staff regulations*

(a) the appointments, promotion, and disciplinary control (including dismissal) of employees of the Commission; and

(b) appeals by such employees against dismissal or such other disciplinary measures and until such regulations are made, any instruments relating to the conditions of service of officers in the Civil Service of the State shall be applicable, with such modifications as may be necessary, to the employees of the Commission;

Provided that such regulations are subject to approval by the House of Assembly.

91. (1) Notwithstanding the provisions of the Pensions Reform Law 2014, *Pensions* service in the Commission shall be service in the Public Service for the purpose of that Law and accordingly, officers of the Commission shall in respect of their services in the Commission be entitled to such Pensions, Gratuities and other Retirement benefits as are prescribed under the State Pensions Regulations.
- (2) The period of service of any person in the Commission shall be joined to and deemed to be continuous with the period served by that person previously or subsequently in any other pensionable service.
- (3) For the purpose of the application of the provisions of the Pensions Reform Law, 2014 any power exercisable under the provisions of that Law shall be exercisable by the Commission in so far as they do not conflict with the State Pensions Regulations.
- (4) Nothing in the foregoing provisions of this section shall prevent the appointment of a person to any office in the Commission on terms, which preclude the grant of a pension or gratuity in respect of service in the Commission.
92. (1) There is established a Fund for the Commission and the provision for the fund shall be made in the annual budget of the State. *Funds of the Commission*
- (2) The Commission shall submit the annual estimate of capital and recurrent expenditure, administrative expenses of the Commission, including remuneration and allowances payable to the Commissioners and staff to the State Assembly for its consideration and inclusion in the State Budget.
- (3) There shall be paid and credited to the Fund established under subsection (1) of this Section:
- (a) any sum appropriated to the Commission by the House in each financial year;
 - (b) all monies realized for the purposes of the Commission by way of gifts, grants-in-aid;
 - (c) take off grant; and

(d) proceeds from all other assets that may from time to time accrue to the Commission.

(4) The Commission shall defray all expenditures incurred by it from the fund referred to in subsection (1) of this Section and shall include;

(a) the Cost of Administration;

(b) the payment of salaries, fees, or other remunerations or allowances and pensions and gratuities payable to members and employees of the Commission; and

(c) other necessary things done in furtherance to any of its functions under this Law.

93. (1) Subject to request by the Auditors-General for staff required for the efficient performance of the functions of the Offices, the Commission shall recruit such staff for the Offices.

*Appointment of Staff of
the Auditors-General by
the Commission*

(2) The Management of the offices of the Auditors-General shall carry out all appointments of staff to positions on Grade Levels 1 to 6 or its equivalent.

(3) The Commission shall carry out all appointments of staff to positions on Grade Levels 7 to 10 or its equivalent.

(4) Where there are no qualified persons to fill the positions on Grade Level 12 and above or its equivalent, advertisement shall be made and interviews conducted to ensure the engagement of competent and qualified candidates by the Commission.

94. (1) The Auditor-General (State) and the Auditor-General (LGs) shall recommend staff of the office who are duly qualified to the Commission for promotion.

*Promotion of staff of
the office of Auditors
General by the
Commission*

(2) No Staff so recommended by the Auditors-General and has met all the conditions for promotion that may be prescribed from time to time by the commission, shall be denied promotion or has his/her promotion delayed unnecessarily.

(3) All Promotions shall be subject to existing vacancies.

95. (1) Subject to request by the Auditors-General for staff required for the efficient performance of the functions of the Offices, the Commission shall recruit such staff for the Offices.
- (2) The Management of the Offices of the Auditors-General shall carry out all appointments of staff to positions on Grade Levels 1 to 6 or its equivalent.
- (3) The Commission shall carry out all appointments of staff to positions on Grade Levels 7 to 10 or its equivalent.
- (4) Appointments of staff to positions on Grade Level 12 and above or its equivalent shall be widely advertised, written examination and interviews conducted to ensure the engagement of competent and qualified candidates by the Commission;

*Appointment of staff of
the Auditors-General by
the Commission*

Provided that all appointments or recruitments by the Auditor-General, the Commission or Management shall be subject to approval by the Governor.

96. The Commission shall:

*Conditions of service
and other staff matters*

- (a) determine the terms and conditions of service of officers and employees of the offices and the Commission, other than the Auditors-General;
- (b) handle all other staff matters of the offices of the Auditors-General and the Commission, including matters relating to pensions, gratuities, retirement, and conditions of service as applicable to other commissions in the State; and
- (c) the salaries and allowances in sub paragraph (c) of this section shall not be less than the highest salaries and allowances enjoyed by the staff of the anti-corruption agencies.

97. Before assuming office as members of the Audit Service Commission, the Auditors-General, the Secretary of the commission and the three Commissioners shall take oath of office which is to be administered by the Chief Judge of the State.

*Oath of office and
allegiance*

98. (1) The accounts of the offices of the Auditors-General shall, in each financial year, be audited and reported upon by external auditors appointed by the Audit Service Commission.

*Independent Auditors
for the office of
Auditors-General*

- (2) Pursuant to subsection (1) of this section, the Commission shall advertise for the position of the Independent Auditors in at least three national dailies.
- (3) An Independent Auditor referred to subsection (1) shall not be a person engaged by the offices in the last five years.
- (5) Without prejudice to subsection (1) of this section, a firm is qualified for appointment as Independent Auditor to the Office if:
 - (a) it holds a valid practicing license within the country for at least a period of five years before such appointments;
 - (b) has proven track record of performance and integrity;
 - (c) is not involved or has not audited a Commission or any entity which is subject to audit by the offices of Auditors-General for at least a period of five years before such appointment; and
 - (d) has not been a consultant to the offices or Commission for at least a period of five years before such appointment.
- (6) Notwithstanding anything to the contrary in any Law in force, the offices of the Auditors-General shall, within three months after the end of its financial year, prepare and submit to the auditors appointed under subsection (1), financial statements of the offices of the Auditors-General.
- (7) The auditors shall have access to all books of accounts, vouchers and other records of the offices of the Auditors-General and its entitled to any information and explanation required in relation to those records.

99. (1) The Accounting officers in ministries, departments and agencies of the State and Local Governments shall establish Audit Committees.

Establishment of Audit Committee

- (2) The Audit Committee shall:
 - (a) implement all recommendations contained in the reports of the Auditors-General which are approved by the House and any other resolution or directive of the House;

- (b) prepare annually a report showing the status of the implementation of the provisions of subsection 2 (i) of this Section; and
 - (c) the reports prepared in pursuance to subsection 2(i) and (ii) of this Section shall contain a statement showing the remedial actions taken or being taken to avoid or minimize the occurrence of the undesirable features in the accounts and operations of the ministry, department or agency and the time frame within which the remedial action will be completed if any.
- (3) Copies of the reports shall be forwarded to the Auditors-General.

PART FOUR

MISCELLANEOUS PROVISIONS

100. In this Law:

Interpretations

"Accountant-General" means the Accountant-General of Bayelsa State.

"Accounting Officer" means any Permanent Secretary or the Head of an Extra-Ministerial Department.

"Attorney-General" means the Attorney-General and Commissioner for Justice, Bayelsa State.

"Audit Office" means Office of the Auditor-General for Bayelsa State or Office of Auditor-General for Local Governments;

"Auditors-General (State)" means the Auditor-General for Bayelsa State or the Auditor-General for Local Governments as the case may be;

"Auditors-General (LGs)" means Auditor-General for Local Governments, Bayelsa State;

"Auditors-General" means Auditor-General for Bayelsa State;

"Commission" means Audit Service Commission.

"Commissioner" means the Commissioner appointed by the Governor to serve in the Audit Service Commission.

"Commissioner" pursuant to section 22 sub-section (1) means the Commissioner of Finance;

“Compliance Audit” means essentially about comprehensively reviewing whether a company is adhering to the regulatory related guidelines or not. Information technology, security and independent accounting consultant, conduct and evaluation of the thoroughness and strength of preparation patterning to compliance;

“Executive Council” means the Bayelsa State Executive Council.

“External Auditors” means Independent Auditors appointed to audit Financial Statements.

“Financial Year” means the financial year of the State Government.

“Financial audit” is one that is conducted in other to ensure that the accounting and financial control system are efficient and cooperating properly; and that financial transaction have been correctly authorised and accounted. In other words, it is to ensure that the financial statement and the account have been prepared to present a true and fair view of the State of affairs of the establishment concerned and in respect of the period covered by the audit;

“Governor” means the Governor of Bayelsa State;

“House” means the Bayelsa State House of Assembly;

“Investigation” means an inquiry into specified law or allegations of impropriety, malfeasance, misfeasance or nonfeasance in the obligation, expenditure, receipt or use of public funds of the State, or into specified financial transactions or practices which may involve such impropriety, malfeasance, misfeasance or nonfeasance.

“Local Government Agencies” means Schools Districts; Units of Local Government and their Offices; Boards of Commissions; Agencies; Bodies; Committees and the Local Courts, which obligate, receive or use public funds of the Bayelsa State of Bayelsa State;

“Office” means Office of the Auditor-General for Bayelsa State or Office of the Auditor-General for Local Governments;

“Officer” means the holder of an office in the Public Service of the State as the case may be;

"Office of Auditor General" means the Auditor-General for Bayelsa State or Auditor-General for Local Governments as the case may be and all employees and agents of the Auditors-General in Bayelsa State, the equipment and facilities maintained by the Auditors-General in Bayelsa State and the records, files and work product of the Auditors-General for the State or Local Governments and those responsible to both/either of them.

"PAC" means Public Accounts Committee of the House;

"Public money" means and includes the public revenue of the State or and any other money held in trust for any period of time by any officer alone or jointly with other persons;

"Post Audit or Audit". Post audit or audit means a post fact examination of books, documents, records, and other evidence relating to the obligation, receipt, expenditure or use of public funds of the Ministries, Departments, Commissions and Agencies including governmental operations relating to such obligation, receipt, expenditure, or use. A post audit is a financial audit, a compliance audit or other attestation engagement or a performance audit as those terms are defined in this law

"Performance Audit" refers to an independent examination of the a programme, function, operation or the management system and procedure of a governmental or non-profit entity to access whether the entity is achieving economy, efficiency and effectiveness in the employment of the available resources.

"Revenue" means the Bayelsa State share from the Federation Account, Internally Generated Revenue and any other Grant and Loans or Receipts.

"Statutory Body" means any Authority established by Law;

"State" means the Bayelsa State of Nigeria.

"State Agencies" means all Offices, Boards, Commissions and Agencies created by Law whether in the executive, legislative or judicial arm of

government, departments, boards, commissions, agencies, institutions, authorities, bodies corporate of the State; and administrative units or corporate outgrowths of the Bayelsa State government which are created by or pursuant to statute, Schools; districts and boards; all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor;

“Special Audit” means a Financial Audit, a compliance audit, or other attestation engagement of limited scope.

101. This Law may be cited as **Audit Law, 2020** and shall come into force on theday of, 2020. *Short title and Commencement*

SCHEDULES

FIRST SCHEDULE

SECTION 4 AND 40

OATH OF OFFICES OF AUDITOR-GENERAL FOR BAYELSA STATE AND AUDITOR-GENERAL FOR LOCAL GOVERNMENTS, BAYELSA STATE.

Ido solemnly swear/affirm in the name of the Almighty God that as the Auditor-General for the State/Auditor-General for local government, I will be faithful and bear true allegiance to the Federal Republic of Nigeria; I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and Audit Law; that I will not allow my personal interest to influence my official conduct or my official decisions, that I will abide by the code of conduct contained in the fifth schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any unauthorized person, any matter which shall be brought under my consideration or shall become known to me as Auditor-General, except as may be required for the due discharge of my duties as Auditor General; that I will devote myself to the service of the people of Bayelsa State and Nigeria.

.So help me God.

SECOND SCHEDULE

OATH OF ALLEGIANCE

SECTION 4 AND 40

1, do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria and that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria and Bayelsa State Laws.

So help me God.

THIRD SCHEDULE

OATH OF OFFICE OF STAFF OF OFFICES OF THE AUDITOR-GENERAL FOR BAYELSA STATE AND MEMBERS OFFICE OF THE AUDITOR-GENERAL FOR LOCAL GOVERNMENTS

1, do solemnly swear/affirm in the name of the Almighty God that I will be faithful and bear true allegiance to Bayelsa State and the Federal Republic of Nigeria; and that I will discharge my duties and perform my functions honestly to the best of my ability and faithfully in accordance with the Constitution of the Federal Republic of Nigeria and the Audit Law; that as officer/employee in the office of the Auditor-General for Bayelsa State/Local Governments, I will not directly or indirectly reveal to any unauthorized person, any matter, document, communication or information within my knowledge in the discharge of my duties.

So help me God.

FOURTH SCHEDULE

OATH OF OFFICE AND OATH OF ALLEGIANCE FOR AUDITORS-GENERAL, COMMISSIONERS AND SECRETARY FOR THE AUDIT SERVICE COMMISSION

SECTION 98

1, as Auditors-General/Commissioners/Secretary for the Audit Service Commission do Solemnly Swear/Affirm in the name of the Almighty God that I will be faithful and bear true allegiance to Bayelsa State Government and the Federal Republic of Nigeria; and that I will discharge my duties honourably to the best of my ability, faithfully in accordance with the constitution of the Federal Republic of Nigeria and Audit Law; that as Auditors-General/Commissioners/Secretary for the Audit Service Commission, I will not directly or indirectly reveal to any unauthorized person, any matter, document, communication or information that is within my knowledge in the discharge of my duties.

So help me God.

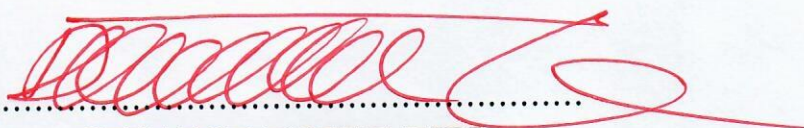
This printed impression has been carefully compared by me with the Bill which has passed the Bayelsa State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.



.....
MR. OWUDOGU KOZIGENA EDWARD

Clerk of the House

Assented the 26th day of August, 2020.



.....
SENATOR DOUYE DIRI

Governor of Bayelsa State