



SAMOA

AUDIT ACT 2013

Arrangement of Provisions

PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Purpose of this Act
4. Extra-territorial application of Act
5. Act binds Government
6. Other Acts to be read subject to this Act

PART 2 CONTROLLER AND AUDITOR GENERAL AND AUDIT OFFICE

7. Criteria for appointment of Controller
8. Disqualification
9. Declaration of office by Controller
10. Salary, allowances and other benefits of the Controller
11. Establishment of the Audit Office

PART 3 POWERS OF THE CONTROLLER AND AUDITOR GENERAL

Division 1 – Powers

12. General powers

13. Ancillary powers
14. Functions or powers under other Acts
15. Management letters
16. Appointment of persons to audit
17. Delegation
18. Certification and return of receipts and annual return
19. Submission, examination and approval of claims for payment

Division 2 – Information

20. Power to obtain information
21. Controller's access to accounts, information, money and property
22. Duty to give information overrides other duties and rights
23. Legal professional privilege cannot be claimed
24. Disclosure of information by Controller
25. Confidential information

Division 3 – Surcharge

26. Power to surcharge
27. Power to recover unsatisfied surcharge
28. Appeals against surcharge

**PART 4
AUDIT OF ACCOUNTS
OF MINISTRIES,
PUBLIC BODIES
AND OTHERS**

*Division 1 – Audit of
accounts of public money*

29. Audit of public assets, public liabilities, public equity and public money

*Division 2 – Audit of public bodies,
statutory and local authorities*

30. Audit of financial statements of public bodies and related entities
31. Audit of subsidiaries of public bodies
32. Accountable authorities of public bodies and audited subsidiaries
33. Submission of financial statements by accountable authorities
34. Functions of related entities
35. Audit of non-controlled entities
36. Audit of statutory and local authorities

*Division 3 – Audit requests
and investigations*

37. Request for audits
38. Audit for examination or investigation

**PART 5
AUDIT REPORTS**

39. Comments on proposed audit report
40. Audit reports of public bodies
41. Audit reports on any examination or investigation
42. Tabling of audit reports

**PART 6
PERFORMANCE AUDITS**

43. Performance audits
44. Requirements for performance audits
45. Requirements for environmental audits
46. Requirements for IT audits
47. Performance audit of public bodies

**PART 7
MISCELLANEOUS**

48. Special power to inspect private bank accounts
49. Exemption from liability
50. Resolution of disputes
51. Payment of public money if receipts lost or destroyed
52. Audit fees
53. Regulations
54. General offences and penalties

**PART 8
REPEAL, AMENDMENTS,
TRANSITIONAL AND
SAVINGS**

55. Repeal and consequential amendments
56. Delegations under the Ordinance
57. Appointments under the Ordinance
58. Fees under the Ordinance
59. References to “Controller and Chief Auditor” in other Acts
60. Rights of Audit Office employees preserved
61. Transitional regulations

Schedules

AUDIT ACT 2013

AN ACT:

- (a) to provide additional matters relating to the appointment, functions and powers of the Controller and Auditor General under the Constitution; and
- (b) to establish the Audit Office; and
- (c) to provide audits of accounts of public funds, public money, Ministries, public bodies and other bodies; and
- (d) to provide for performance audits; and
- (e) to provide for related purposes.

[Assent date: 15 October 2013]

[Commencement date: 27 January 2014]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1
PRELIMINARY**

1. Short title and commencement – (1) This Act may be cited as the Audit Act 2013.

(2) This Act commences on the day the Constitution Amendment Act 2014 commences.

2. Interpretation – (1) In this Act, unless the context otherwise requires:

“accountable authority” means the person referred to under section 32;

“accounts” includes the following:

- (a) books;
- (b) financial records;
- (c) financial reports;
- (d) documents;
- (e) any records kept in any form.

“Act” includes an Ordinance and the Constitution in relation to the constitutional audit functions and powers of the Controller and Auditor General;

“Audit Office” means the Audit Office specified under Article 97(1)(b) of the Constitution and established under section 11;

“audit report” means a report of any audit conducted by or on behalf of Controller and Auditor General under the Constitution, this Act or any other Act or law;

“audited subsidiary of a public body” means a subsidiary of a public body of which the Controller and Auditor General is the auditor;

“books” includes the following, however compiled, recorded or stored:

- (a) registers;
- (b) other records of information;
- (c) financial reports or financial records;
- (d) documents in any form.

“CEO” means the chief executive officer or head of a Ministry, public body (including its subsidiary or related entity), statutory or local authority or body;

“Controller and Auditor General” or “Controller” means the Controller and Auditor General appointed under Article 97 of the Constitution;

“document” includes:

- (a) any paper or other material on which there is printing or writing or on which there are marks, symbols, or perforations having a meaning for persons qualified to interpret them; or
- (b) any disc, tape, or other article or thing from which sounds, images, writing, or messages are capable of being reproduced.

“empowering Act”, in respect of a public body, means an Act which provides for the establishment, purposes, functions or governance of the public body;

“environmental audit” means a systematic, documented and objective periodic assessment of the organisational structure, management system, process and equipment pertaining to, or incidental to, any process, development or operation for the purposes of environmental protection or environmental impact for assessment under section 45;

“Finance and Expenditure Committee” means the parliamentary committee responsible for Finance and Expenditure appointed under the Standing Orders of the Parliament of Samoa;

“financial records” includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers in any form; and
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain—
 - (i) the methods by which financial statements are made up; and
 - (ii) adjustments to be made in preparing financial statements.

“financial report” means an annual financial report, a half-year financial report or any other financial statement;

“financial year” means:

- (a) twelve months ending on 30 June in any year; or
- (b) any other 12 months in respect of which a public body is required by an Act to maintain accounts.

“generally accepted accounting principles and practices” means:

- (a) standards and practices approved by the International Federation of Accountants as applied to governments and public bodies; or
- (b) if no standards or practices exist under paragraph (a), accounting principles or practices which have the authoritative support of the accounting profession in Samoa or countries that maintain accounts and records and prepare financial statements similar to the Government and its public bodies.

“IT audit” means an information technology audit conducted under section 46;

“*Komesina o Sulufaiga* (Ombudsman)” means the person holding office as *Komesina o Sulufaiga* (Ombudsman) under the Ombudsman (*Komesina o Sulufaiga*) Act 2013;

“local authority” means a council, board, trustee, commissioner, or other person by whatever name designated, entrusted by or under the authority of an Act with the administration of the affairs of a district, village or area, with the power to levy rates or taxes or to impose fines or penalties;

“Ministry”:

- (a) means a Ministry designated under the Ministerial and Departmental Arrangements Act 2003 or established by any other Act; and
- (b) includes the following—
 - (i) an overseas Mission of Samoa;
 - (ii) an office of a capacity specified under Article 83(a) to (m) of the Constitution;
 - (iii) the Public Service Commission;
 - (iv) the Office of the Ombudsman (*Komesina o Sulufaiga*);
 - (v) the Office of the Electoral Commissioner;
 - (vi) any other office established for the purpose of the Government or Legislative Assembly;

“non-controlled entity” means an entity which is not controlled by a public body, but which exercises functions of a public nature or receives public money (including a grant) or public property or stores or is entitled to the use of public property, public stores or other resources;

- “parliamentary committee” a select committee of the Legislative Assembly appointed under the Standing Orders of the Parliament of Samoa;
- “performance audit” includes an environmental audit or an IT audit;
- “public body” has the meaning in the Public Bodies (Performance and Accountability) Act 2001 (whether called a State-owned enterprise or otherwise under any other Act);
- “public money” means money, cheque or securities of any kind (including public securities) for the payment of money received for or on account of, or payable to, or belonging to, or deposited with the Government or any Ministry, or public body or received by an accountable officer;
- “public property” means any property, other than public money, held for, or on behalf of, the Government or any Ministry or public body;
- “public securities” means securities representing the investment, or securing the payment, of any public money;
- “public stores” or “stores” includes books, buildings, cheque forms, other forms, postage stamps, stationery, office requisites, vehicles, machinery, implements, livestock, all articles of a consumable or non-consumable nature and all chattels and personal property in the possession, under the control of or held on behalf of the Government, a Ministry or public body;
- “related entity”, in respect of a public body, means a person, body or trust having the relationship mentioned in section 34 or acting in the manner mentioned in that section;
- “responsible Minister” means:
- (a) for a Ministry, the Minister who is assigned under Article 35 of the Constitution to be responsible for the Ministry and its operations and performances; and
 - (b) for the Legislative Assembly, the Speaker; and
 - (c) for a public body, statutory or local authority, the Minister who is assigned under Article 35 of the Constitution to be responsible for the public body or statutory or local authority;
- “shareholding Minister” means the Minister of Finance or the responsible Minister or, if the Minister of Finance is also the responsible Minister, a Minister who is approved by Cabinet to be a shareholding Minister for the purpose of the Public Bodies (Performance and Accountability) Act 2001;
- “Speaker” means the Speaker of the Legislative Assembly;
- “statutory authority” means a council, board, trustee, commissioner, or any other body, office or person by

whatever name designated established under an Act, entrusted with the administration of any scheme, trust, fund or other undertaking of a public nature;

“subsidiary” has the same meaning as in Schedule 1 of the Companies Act 2001.

(2) If this Act uses a term that is defined in the Public Finance Management Act 2001 or the Public Bodies (Performance and Accountability) Act 2001, the term has the meaning given in that Act, unless the contrary intention appears in this Act.

3. Purpose of this Act – The purpose of this Act is to give effect to Part VIII of the Constitution by providing:

- (a) the functions, powers, immunities and independence of the Controller and Auditor General; and
- (b) for the independent audit of the public sector and related entities.

4. Extra-territorial application of Act – This Act extends to any act, matter or thing done or occurring outside Samoa which concerns the functions or powers of the Controller and Auditor General under the laws of Samoa.

5. Act binds Government – This Act binds the Government.

6. Other Acts to be read subject to this Act – If there is an inconsistency between a provision of this Act and a provision of any other Act or law, other than the Constitution, relating to the audit of public money or public property, the provision of that other Act or law is to be read subject to this Act.

PART 2 CONTROLLER AND AUDITOR GENERAL AND AUDIT OFFICE

7. Criteria for appointment of Controller – For the purpose of Article 97(3) of the Constitution, the criteria for the appointment of the Controller and Auditor General are set out in Part 1 of Schedule 1.

8. Disqualification – (1) A person who is a member of the Legislative Assembly or a candidate for election as a member of the Legislative Assembly, is disqualified from appointment to the office of Controller and Auditor General.

(2) If a person holding the office of Controller becomes a candidate for election as a member of the Legislative Assembly, that person is taken to vacate the office of Controller.

(3) In this section, a person is a candidate or becomes a candidate when the person's nomination as a candidate for election is accepted by the Electoral Commissioner.

(4) A person who is a director of a company is disqualified from appointment to the office of Controller and, if a person holding that office becomes a director, that person is taken to vacate the office of Controller from the date of appointment as director.

9. Declaration of office by Controller – Before performing the functions and exercising the powers of the Controller and Auditor General for the first time, the Controller must make a declaration before the Head of State in the form contained in Part 2 of Schedule 1.

10. Salary, allowances and other benefits of the Controller – (1) Pursuant to Article 99A of the Constitution, the salary, allowances and other benefits of the Controller, as applying from the commencement of this Act, are as determined by the Remuneration Tribunal under the Remuneration Tribunal Act 2003.

(2) The Controller is entitled to full salary if the Controller is suspended under Article 99F(4) of the Constitution.

11. Establishment of the Audit Office – (1) The Audit Office specified under Article 97(1)(b) of the Constitution is established by this section consisting of:

- (a) the Controller and Auditor General; and
- (b) the Assistant Auditor; and
- (c) officers and employees of the Audit Office; and
- (d) any other person, including consultants and contractors, authorised (whether by delegation or otherwise) to exercise or perform any of the powers or functions of the Controller.

(2) Part 4 of the Public Service Act 2004 applies with necessary modifications, to this Act, and any reference in that Part to:

- (a) Chief Executive Officer or employer is to be read as a reference to the Controller and Auditor General;
- (b) employee is to be read as reference to any person employed or engaged under subsection (1).

(3) The Controller has sole power to employ, which includes power to structure, appoint, manage, and fix remuneration and salaries of the Assistant Auditor, officers, employees and other persons of the Audit Office on terms that the Controller thinks fit.

(4) The power under subsection (3) to appoint includes the power to transfer (within the Audit Office), promote, suspend, discipline or dismiss officers and employees, and to vary, suspend or terminate contracts for consultants or contractors.

PART 3
POWERS OF THE CONTROLLER
AND AUDITOR GENERAL

Division 1 – Powers

12. General powers – In carrying out any audit under this Act or any other Act, the Controller and Auditor General may consider:

- (a) the Public Finance Management Act 2001; and
- (b) the internal control and internal audit of the Ministry, public body or audited subsidiary of a public body, statutory authority, local authority, or any other body; and
- (c) generally accepted accounting and auditing principles and practices; and
- (d) the efficiency, effectiveness or economy of any entity mentioned in paragraph (b) audited; and
- (e) any other matter which the Controller thinks appropriate to be considered.

13. Ancillary powers – (1) The Controller and Auditor General has all the necessary powers that are needed for the performance of his or her functions, including the following:

- (a) power to inspect and take copies of any document, file, bank statement or record;
- (b) power to seize any document, file, record, bank statement, or any computer or other electronic device, recording system or database;
- (c) power to enter any premises, if necessary by force, to search for and seize anything that the Controller believes on reasonable grounds is needed to assist with the conduct of an audit.

(2) The Commissioner of Police and the CEO of the Ministry of Finance must render any assistance that the Controller may request to enable an audit to be carried out or completed.

(3) As an exception to any other Act, the Controller has the power to require any person to answer any question which the Controller may require that person to answer.

(4) The power of the Controller under subsection (3) is subject only to the right of the person to refuse to answer an incriminating question.

(5) If a person claims privilege before answering an incriminating question, the answer to the incriminating question is inadmissible in a subsequent criminal proceeding.

(6) If a person accused of an offence refuses to answer an incriminating question, the Controller must include details of the refusal in the audit report.

(7) In addition to subsection (6), a person required to answer a question under this section has the rights conferred by section 22.

14. Functions or powers under other Acts – (1) A reference in this Act to the Controller’s functions or powers includes a reference to the functions or powers given to the Controller under other Acts.

(2) This Act extends to audits that the Controller is authorised to conduct under other Acts and the functions and powers conferred under this Act are in addition to the Controller’s functions and powers given under other Acts.

15. Management letters – (1) In this section, “management letter” means a letter seeking comment on any matter relating to improvement of administration, risk management, strengthening reporting procedures, or any other matter which the Controller asks for comment in an audit report.

(2) The Controller and Auditor General may, by written notice, require a CEO of a Ministry, public body, statutory authority or local authority, which is audited by the Controller, to give written responses to any management letter within 28 days of the date of the management letter.

(3) If a person who has been served with a management letter fails to respond to any request in the management letter, the Controller must forward a supplementary report to the Speaker specifying recommendations to obtain a reply to any request contained in the management letter.

(4) A person who, without reasonable excuse, fails to respond or give information requested in a management letter commits an offence and is liable upon conviction to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 1 year, or both.

16. Appointment of persons to audit – (1) The Controller and Auditor General may, in writing, appoint a person (other than the Controller) mentioned in section 11(1) as a consultant, contractor or in any other capacity to conduct the whole or a part of an audit.

(2) On completion of the audit, the person appointed under subsection (1) must provide an audit report as directed by the Controller.

17. Delegation – (1) The Controller and Auditor General may delegate, in writing, any of the Controller’s powers or functions under this Act or any other Act, except this power of delegation, to an officer of the Audit Office or to another suitable person, as a consultant, contractor or in any other capacity (“the delegate”) to conduct the whole or a part of an audit.

(2) The delegate exercising powers or functions under any delegation must comply with any direction of the Controller.

(3) A delegate is taken to perform the Controller’s functions and powers under the terms of the delegation unless the contrary is shown.

(4) A function or power performed by a delegate is taken to have been performed or exercised by the Controller.

(5) A delegation made under this section:

(a) is revocable at will; and

(b) does not prevent the exercise of any power delegated, by the Controller.

18. Certification and return of receipts and annual return –

(1) The Controller and Auditor General may certify the abstract, quarterly or annual account of receipts and payments submitted to the Controller by the CEO of the Ministry of Finance under any Act.

(2) When the Controller has certified an abstract, quarterly account or annual account under subsection (1), the Controller must return it to the CEO of the Ministry of Finance.

19. Submission, examination and approval of claims for payment – (1) The Controller and Auditor General may, by notice in writing to the CEO of the Ministry of Finance, require any claims or class of claims specified by the Controller to be submitted by the CEO to the Controller for examination and approval by the Controller before payment is made.

(2) If the Controller is of the opinion that a claim submitted under subsection (1) is in any respect not in accordance with an Act, law, government policy or generally accepted accounting practice or is wrongly charged to an appropriation, fund, or account, Controller may refuse to approve the claim for payment.

(3) The CEO of the Ministry of Finance may apply section 50 to determine the legality of a voucher to which a claim or class of claims relates.

(4) A person who pays a claim required to be submitted under

subsection (1) without the approval of the Controller is taken to have made an unauthorised payment and is liable to surcharge under Division 3.

Division 2 – Information

20. Power to obtain information – (1) The Controller and Auditor General may, by written notice of not less than 14 days, require a person to do all or any of the following for the purpose of an audit under this Act or any other Act:

- (a) to give the Controller any information or explanation, in writing or orally, that the Controller requires;
- (b) to attend and give evidence before the Controller or an authorised person;
- (c) to produce to the Controller any document in possession or under the custody or control of the person.

(2) The Controller may, by any reasonable means, verify the correctness of the information, explanation or document referred to in subsection (1) or of any information contained in the document by examination, inspection, measuring or testing any article or thing in the possession of any person in any place.

(3) The Controller may direct that:

- (a) the information, explanation or answer to a question under this section be given orally or in writing; and
- (b) the information, explanation or answer to a question under this section is true in all respects and be verified or given on oath.

(4) The Controller or an authorised person may administer an oath for the purposes of this Act.

(5) The Controller must, in the exercise of the powers of the Controller under this section, observe the rules of natural justice and procedural fairness.

(6) A person who, without reasonable excuse, fails within 14 days of receiving the direction to comply with a direction under this section, commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 2 years, or both.

(7) A person who attends or gives evidence under subsection (1)(b) is entitled to be paid reasonable expenses as determined by the Controller.

21. Controller’s access to accounts, information, money and property – (1) In performing an audit, investigation or examination, the Controller and Auditor General or an authorised person, is entitled to full and free access to the following:

- (a) all accounts, information and documents that the Controller considers to be relevant to the audit;
- (b) all accounts, information and documents relating to public money for the purpose of verifying the amount of that money;
- (c) public property;
- (d) any article or thing which the Controller reasonably believes may have been derived from public money or public property.

(2) In carrying out the duties or powers under this section, the Controller or an authorised person may:

- (a) take possession of, for the purpose of examination, any property, article or thing, other than money that is in the possession of any person; and
- (b) make copies of, or take extracts from, any of the accounts, information and documents.

(3) The Controller or an authorised person may, at all reasonable times, enter and remain on any premises or place for the purpose of carrying out the duties or powers under this Act.

(4) A person who hinders, obstructs or prevents the Controller or an authorised person from entering or remaining in the premises or place commits an offence.

22. Duty to give information overrides other duties and rights

– (1) As an exception to the provision of any other Act or law relating to secrecy or confidentiality, a person:

- (a) must comply with a requirement to give information or an explanation, to answer a question or to produce a document under section 20; and
- (b) does not commit an offence relating to secrecy or confidentiality under that Act for complying with this section.

(2) For the purposes of this Division, a person is not excused from the following on the ground that the information, explanation, answer, document or record might tend to breach the duty of privilege:

- (a) giving information or an explanation;
- (b) answering a question;
- (c) producing a document or thing;
- (d) signing a record of an interview.

(3) If a person who is required under section 20 to provide any information or explanation, to answer a question, to produce a document or thing or to sign a record of an interview has a reasonable belief that complying with the requirement may tend to incriminate the person or make the person liable to a penalty, the person may

claim privilege against self-incrimination before complying with the requirement.

(4) If a person claims privilege under subsection (3), the information or explanation given, the document or thing produced or the record signed is not admissible in evidence against the person in:

- (a) a criminal proceeding; or
- (b) a proceeding for the imposition of a penalty, other than a proceeding in respect of—
 - (i) an offence under this Division; or
 - (ii) the falsity of any statement contained in the information, explanation, document or record or the falsity of the thing.

23. Legal professional privilege cannot be claimed – A person requested to comply with section 20, 21 or 22 by the Controller cannot claim legal professional privilege.

24. Disclosure of information by Controller – The Controller and Auditor General may, when carrying out a function, duty or power by an Act, disclose any information, as the Controller considers appropriate after considering both of the following:

- (a) the public interest;
- (b) an auditor’s professional obligations concerning confidentiality of information.

25. Confidential information – (1) This section applies to the following persons:

- (a) a delegate of the Controller;
- (b) a recipient of the summary of an audit report under section 41(2);
- (c) the Assistant Auditor or an officer or employee of the Audit Office;
- (d) a person authorised by the Controller or under this Act;
- (e) a person, contractor or consultant appointed to carry out an audit.

(2) A person to whom this section applies who is in possession of any confidential information must not disclose the information or make copies of the information except for the purpose of carrying out the functions, duties and powers the Controller and Auditor General under this Act or any other Act or law.

(3) A person who discloses a confidential information contrary to subsection (2) commits an offence.

(4) Subsections (2) and (3) do not apply to the following disclosures:

- (a) disclosure for the purpose of this Act or any other Act or law;
- (b) disclosure for the purpose of a proceeding under this Act or any other Act or law;
- (c) disclosure to the Legislative Assembly, the Finance and Expenditure Committee or any other parliamentary committee.

Division 3 – Surcharge

26. Power to surcharge – (1) If the Controller and Auditor General is satisfied with any ground under subsection (2) that:

- (a) there has been a deficiency or loss in any account or transaction; or
- (b) public money, stores or property has not been fully and properly accounted,–

the Controller must issue a notice to the person who appears to be in default or responsible to show cause as to why the person should not be surcharged, including the grounds and proposed amount for surcharge and the time (at least 14 days) within which the person is required to make a response to the notice.

(2) The grounds for the purpose of subsection (1) are:

- (a) any accounting officer or other person has wilfully or negligently failed to collect, receive, or account for any money; or
- (b) any money has been applied and charged to any service or purpose for which it was not legally available and applicable; or
- (c) any payment has been made without proper authority or for which there is no required voucher or in respect of which any voucher may be incorrect; or
- (d) there has been any deficiency or loss of money or stores, or expenditure of money or damage to stores, or expenditure for the replacement or repair of stores, caused through the fraud, mistake, default, negligence, or error of, or improper or unauthorised use by, any person; or
- (e) any material error has been committed; or
- (f) any of the provisions of this Act or any other Act relating to public money, public property, public securities or public stores have not been complied with.

(3) If the amount of a deficiency or loss cannot be accurately determined, the Controller may make an estimate of the deficiency or loss, and that estimate is for all purposes taken to be correct.

(4) If the Controller receives or does not receive a response to a notice under subsection (1), the Controller may impose a surcharge for all or part of the amount concerned.

(5) The Controller must notify:

- (a) the person surcharged in writing of the time within which the surcharge must be satisfied; or
- (b) any surcharge unsatisfied within the time so allowed to the responsible Minister who may, in any court of competent jurisdiction, recover from the person surcharged the amount of the surcharge as a debt due to the Government.

(6) The Controller may revoke a surcharge made under this section if it has been imposed in error.

(7) The Government may recover from a person the whole or any part of the amount of the deficiency or loss as a debt due to the Government, even if surcharge proceedings under this section are not pursued.

(8) If a person having possession or control of public money, property, securities or stores applies, causes or permits it wholly or in part to be applied, otherwise than for public services, or commits an offence relating to public money, property, securities or stores, the Controller must refer the matter to the Attorney-General to prosecute or institute civil proceedings against the person.

27. Power to recover unsatisfied surcharge – (1) The Minister responsible for Finance must, on receiving the Controller's report of an unsatisfied surcharge, direct the CEO of the Ministry of Finance to take steps to recover the amount.

(2) If an amount is payable by the Government to, or is claimed from the Government by the person surcharged, that amount is not to be paid until the surcharge is satisfied and the amount of the surcharge is recoverable from that person as a debt due to the Government.

(3) For the purposes of this section, not more than one-fifth of the net salary for any pay period of the person surcharged is to be withheld until the surcharge has been satisfied.

(4) All money recovered under this section must be paid into the account in respect of which the deficiency or loss was found.

28. Appeals against surcharge – (1) A person who is surcharged may, within 30 days from the date of the surcharge, appeal to the responsible Minister.

(2) The responsible Minister may, after making any investigation that the Minister considers equitable, consider the appeal and make an order, confirming the surcharge or directing that the amount of the surcharge be remitted either wholly or in part.

(3) The effect of an order under subsection (2) is that the amount of the surcharge which has not been remitted becomes a debt due and payable and subject to sections 26 and 27.

(4) Before or after making an order under subsection (2), the responsible Minister may, in writing, appoint a person to hear the appeal and report to the Minister, if the Minister is of the opinion that the appeal should be heard by a person.

(5) At the investigation, the person surcharged may be represented by a barrister, solicitor or authorised agent.

(6) A person appointed under subsection (4):

- (a) may summon and examine on oath (and to administer oath) any witness whose evidence may be considered necessary or material to the appeal; and
- (b) after hearing the appeal, must prepare and send a written report setting out his or her findings and opinions to the responsible Minister, including copies of all evidence received in the appeal.

(7) When the responsible Minister receives a report under subsection (6)(b), the responsible Minister must consider the report and make a decision under subsection (2), and notify the appellant.

PART 4 **AUDIT OF ACCOUNTS OF MINISTRIES, PUBLIC BODIES AND OTHERS**

Division 1 – Audit of accounts of public money

29. Audit of public assets, public liabilities, public equity and public money – The Controller and Auditor General must carry out the audit of public assets, public liabilities, public equity and public money under Article 97A of the Constitution.

Division 2 – Audit of public bodies, statutory and local authorities

30. Audit of financial statements of public bodies and related entities – (1) The Controller and Auditor General must audit the financial statements and any other information submitted by:

- (a) a public body, an audited subsidiary of a public body or related entity; or
- (b) any other person or body receiving public money (including a grant) or public property or entitled to the use of public resources.

(2) In any particular financial year, the Controller may, subject to any conditions that the Controller may determine, dispense with all or any part of the audit of the following if the Controller considers that it is appropriate in the circumstances:

- (a) a body, entity or person referred to in subsection (1);
- (b) public bodies included in a category or class of public bodies specified by the Controller.

(3) The Controller must consult with the Prime Minister before exercising the power conferred by subsection (2).

(4) As an exception to subsection (2), the Controller may still carry out his or her functions and powers to audit a public body, person, entity or body dispensed with under subsection (2).

31. Audit of subsidiaries of public bodies – (1) The accountable authority responsible for the operations of a public body must advise the Controller and Auditor General in writing of all subsidiaries of the public body before the end of the relevant financial year.

(2) The Controller is the auditor of a subsidiary of a public body unless the Controller determines otherwise.

(3) The Controller may accept appointment under the Companies Act 2001 as the auditor of a subsidiary of a public body incorporated under that Act.

(4) For the purposes of performing an audit of a subsidiary of a public body, the functions and powers of the Controller are in addition to the audit functions and powers under the Companies Act 2001 or any other Act.

32. Accountable authorities of public bodies and audited subsidiaries – (1) A public body or an audited subsidiary of a public body must have an accountable authority under this section.

(2) The CEO of a public body is the accountable authority of the public body.

(3) The head of an audited subsidiary of a public body is the accountable authority of the audited subsidiary.

33. Submission of financial statements by accountable authorities – (1) An accountable authority must forward to the Controller and Auditor General a copy of its financial statements for that financial year within 60 days from the end of each financial year.

(2) The Controller must determine if the copy of the financial statements forwarded by the accountable authority under subsection (1) is complete in all material respects and prepared in accordance with generally accepted accounting principles and practices.

(3) If:

- (a) an accountable authority fails to comply with subsection (1); or
- (b) the Controller determines that copy of the financial statements required in subsection (2) is incomplete in any material respect and is not prepared under generally accepted accounting principles and practices,

the Controller may require the accountable authority to provide an explanation for the failure to provide a complete and acceptable copy of its financial statements within the 60 days specified in subsection (1) and may specify a new date for delivery of the financial statements in compliance with this section.

(4) If, before the commencement of this Act, a public body has not been required under any Act to forward financial statements to the Controller after the end of a financial year, the public body must comply with this section after the commencement of this Act.

34. Functions of related entities – The accountable authority of a public body must give written notice to the Controller and Auditor General if the public body performs any of its functions in one (1) or more of the following:

- (a) in partnership or jointly with another person or body;
- (b) by employing the services of another person or body;
- (c) by means of a trust.

35. Audit of non-controlled entities – The Controller and Auditor General may audit the financial statements of a non-controlled entity.

36. Audit of statutory and local authorities – (1) The Controller and Auditor General:

- (a) is to be the auditor of all statutory or local authorities, in respect of their money, property, accounts, stores, and persons dealing with those authorities; and
- (b) has the same duties and powers with statutory and local authorities and other bodies as the Controller has in respect of public money, public property and public stores.

(2) This Act, so far as it is applicable and with any necessary modifications, applies accordingly as if the money, property and stores of the local authority, statutory authority or other bodies were public money, public property or public stores.

Division 3 – Audit requests and investigations

37. Request for audits – (1) Without affecting the powers and functions of the Controller to carry out audits under this Act or any other Act, the Controller and Auditor General may conduct an audit under this Act that is requested in writing by any of the following:

- (a) the Prime Minister;
- (b) a Minister;
- (c) the Chief Executive Officer of the Ministry of Finance;
- (d) the Finance and Expenditure Committee or any other parliamentary committee;
- (e) the Ombudsman (*Komesina o Sulufaiga*).

(2) The Controller may enter into an agreement and provide audit services requested by any other person at a fee to be agreed by the Controller.

38. Audit for examination or investigation – The Controller and Auditor General may conduct an audit of any Ministry, public body, related entity of a public body, subsidiary of a public body, non-controlled entity or any entity exercising a function of a public nature or which is entirely or partly funded from public money, for the purpose of examining or investigating any matter related to public money, public property, or public stores.

PART 5 AUDIT REPORTS

39. Comments on proposed audit report – (1) The Controller and Auditor General may give a copy or extract of a proposed audit report for comment by 1 or more of the following who, in the Controller's opinion, has a special interest in the audit:

- (a) the CEO of a Ministry, public body, statutory or local authority;
- (b) the head of a non-controlled entity, audited subsidiary of a public body or related entity;
- (c) the head of any other body.

(2) The recipient of a proposed audit report given under subsection (1) must give written comments to the Controller within 28 days of receiving the proposed audit report or extract; and the Controller may consider those comments before finalising the final audit report.

(3) The Controller may include in the final audit report any written comments received under subsection (2).

40. Audit reports of public bodies – (1) The Controller and Auditor General must, in each year, prepare and submit to the Speaker an audit report of any audit of public bodies, related entities

or audited subsidiaries of public bodies conducted under this Act or any Act or law.

(2) The Controller may include in the audit report under subsection (1):

- (a) a list of public bodies, related entities or subsidiaries of public bodies that are not audited by the Controller for that particular year; and
- (b) any deficiency or function that is not properly performed under generally accepted accounting principles and practices which the Controller considers to be significant; and
- (c) any significant change in the Controller's auditing approach from the previous year's audit.

(3) The Controller must:

- (a) notify the Prime Minister and the relevant Minister responsible of the contents of the audit report; and
- (b) invite the, public body, related entity or subsidiary, statutory or local authority or other body to whom the audit report relates to make submissions or comments on the content of the audit report before a specified date; and
- (c) within 60 days from the date to be specified in paragraph (b), forward the audit report with any comment received to the Speaker who must present it to the Legislative Assembly under section 42.

41. Audit reports on any examination or investigation – (1)

The Controller and Auditor General may:

- (a) prepare an audit report on any examination or investigation under section 38; and
- (b) submit the audit report to the Speaker who must present it to the Legislative Assembly under section 42.

(2) Before submitting an audit report to the Speaker, the Controller must:

- (a) provide a summary of the audit report to the Prime Minister, accountable authority or related entity of a public body, and any other person who in the Controller's opinion has a special interest in the audit report; and
- (b) invite the Ministry, public body, related entity or subsidiary, statutory or local authority or other body to whom the report is provided to make submissions or comments on the content of the summary of the report before a specified date.

(3) The Controller may include in an audit report prepared under subsection (1) any submissions or comments made under subsection (2).

42. Tabling of audit reports – (1) Upon receipt of an audit, the Speaker must present the audit report to the Legislative Assembly under its Standing Orders.

(2) An audit report:

- (a) is a confidential document; and
- (b) becomes a public document on the date it is tabled in the Legislative Assembly pursuant to its Standing Orders.

(3) A person who discloses to another person an audit report or part of the audit report of the Controller before it becomes a public document commits an offence.

(4) Subsection (3) does not apply to disclosure of the audit report authorised under this Act or any other Act or law.

PART 6 PERFORMANCE AUDITS

43. Performance audits – (1) The Controller and Auditor General may conduct a performance audit, environmental audit or IT audit in respect of any of the following entities:

- (a) a Ministry;
- (b) a public body or subsidiary of a public body;
- (c) a statutory or local authority;
- (d) a non-controlled entity.

(2) Subject to subsection (1) and section 47(2), the following persons may request the Controller to conduct a performance audit under this Part:

- (a) the Prime Minister;
- (b) a Minister;
- (c) the Chief Executive Officer of the Ministry of Finance;
- (d) the Finance and Expenditure Committee or any other parliamentary committee;
- (e) the Ombudsman (*Komesina o Sulufaiga*).

44. Requirements for performance audits – A performance audit may take the form of an enquiry by the Controller and Auditor General:

- (a) as to systems, procedures and methodologies that ensure accountability and allow the relevant entity to operate with due regard to economy, efficiency and effectiveness; or

- (b) into potential incidents of fraud, abuse, waste, corruption or breaches of administrative policies and rules; or
- (c) as to the circumstances and performance of a Ministry and must include an enquiry as to the Ministry's compliance with relevant policy and legislative requirements; or
- (d) as to the circumstances and performance of a public body and must include an enquiry as to the public body's compliance by any person, director, board of directors, or public body, with policy and legislative requirements under the Public Bodies (Performance and Accountability) Act 2001, the Companies Act 2001 or any empowering Act.

45. Requirements for environmental audits – (1) In conducting an environmental audit, the Controller and Auditor General may:

- (a) determine whether there is adequate management control or practices which may have an impact on environmental protection; or
- (b) assess whether there is compliance with any Act relating to environmental protection and with any environmental condition attached to a licence, permit or other authority granted or issued in connection with the relevant process, development or operation; or
- (c) assess whether there are in place adequate measures to minimise the impact of the process, development or operation on the environment.

(2) In conducting an environmental audit, the Controller may take into account the following:

- (a) any environmental issue relating to any activity reviewed or examined under subsection (1);
- (b) any appropriate principle of ecologically sustainable development.

46. Requirements for IT audits – In conducting an IT audit, the Controller and Auditor General may:

- (a) ascertain whether there is proper infrastructure for the operation of an appropriate information technology; or
- (b) determine the accuracy of any control of information technology and its infrastructure; or
- (c) review and ensure that an information technology system is independent and it reports proper accountability and transparency in the information that it contains and

how controls of the information technology system are used; or

- (d) ensure that proper risk management of the information technology system and its infrastructure is in place to reduce any risk, exposure, error or fraud in the financial systems; or
- (e) ensure that the information technology system and its infrastructure have adequate control and provision of ongoing operations for financial systems.

47. Performance audit of public bodies – (1) The Controller and Auditor General may conduct a performance audit on a public body under this Part even if the empowering Act does not provide the power to conduct performance audits.

(2) A shareholding Minister or the Chief Executive Officer of the Ministry of Finance may, in writing, request the Controller to conduct a performance audit of a public body.

(3) On receiving a request under subsection (2), the Controller may conduct a performance audit.

(4) A performance audit may include an enquiry by the Controller as to the circumstances and performance of a public body under a performance audit under subsection (3) and section 44.

(5) On completion of a performance audit, the Controller must forward an audit report to the shareholding Minister, the Chief Executive Officer of the Ministry of Finance and the Speaker.

(6) When the Speaker receives the audit report under subsection (5), the Speaker must present the audit report to the Legislative Assembly under section 42.

PART 7 MISCELLANEOUS

48. Special power to inspect private bank accounts – (1) The Controller and Auditor General may inspect or examine the account of a private person in a bank if the Controller has reason to believe that public money which is the property of the Government, or of any public body, statutory or local authority, whose accounts the Controller is required by law to audit, have been fraudulently or wrongfully paid into the private account of the person.

(2) Subject to subsection (3), a bank must, if directed in writing by the Controller, send to the Controller a statement of account regarding public money that the Controller may require.

(3) Subject to subsection (4), if a statement of account required under subsection (2) also contains an account of private money, the bank must inform the Controller and provide the Controller with a

copy only of the part or parts of the statement relating to public money.

(4) If a bank refuses to comply with subsection (3), the Controller:

- (a) may only exercise the power under subsection (2) pursuant to a warrant issued by a Judge of the Supreme Court; and
- (b) if the Controller is concerned that suspicious money will be withdrawn from the bank account to which the statement of account is required before a warrant is issued, may order the bank to freeze the bank account for no more than 1 month.

(5) A bank that does not comply with subsection (4)(b) commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units.

(6) A statement of account must show any particulars of the account concerned that the Controller directs.

49. Exemption from liability – The Controller and Auditor General, the Assistant Auditor and any officer or employee of the Audit Office, or any other person acting on behalf of, or with the authority of the Controller, is not liable for anything done or omitted to be done, or purported to have been done or omitted in good faith in carrying out the functions, duties and powers under this Act or any other Act.

50. Resolution of disputes – (1) If any difference of opinion arises between the Controller and Auditor General and the Ministry of Finance or any other Ministry as to the vote, appropriation, fund, account, or other authority to which any expenditure ought to be charged, or as to the proper head of revenue, fund, or account to which any receipt should be credited, or as to the lawfulness of any transaction or proposed transaction, the question must be determined by Cabinet.

(2) The Controller and the Ministry of Finance or other Ministry concerned must comply with the Cabinet determination.

(3) If in the opinion of the Controller the question involves a matter of law, it is to be referred by the Minister responsible for the Audit Office to the Attorney General for a written legal opinion.

(4) The Controller and the Ministry of Finance or the Ministry subject to the dispute must comply with the legal opinion.

(5) The Controller must, within 14 days of the date of the determination or legal opinion, forward the determination or legal opinion, and any objection of the Controller, to the Speaker who must present them to the Legislative Assembly under its Standing Orders.

51. Payment of public money if receipts lost or destroyed – (1)

If the CEO of the Ministry of Finance is satisfied that the receipts or other requisite documents have been lost or destroyed or that it is not possible to obtain or replace them, the CEO may, in writing, authorise the payment of public money without the production of receipts or other requisite documents.

(2) The Controller and Auditor General may, on receiving the written authority of the CEO, approve the payment.

52. Audit fees – (1) The Controller and Auditor General may determine whether a fee is to be charged by the Controller when conducting an audit of any body, any account or transaction for any audit conducted by the Controller under this Act or any other Act including:

- (a) the amount of that fee; and
- (b) the accountable authority liable to pay that fee.

(2) A fee determined under subsection (1)(a) is to be paid by the accountable authority.

(3) If the amount of the fee referred to in subsection (1)(a) is disputed, it may be referred to the Finance and Expenditure Committee to determine the amount of the fee to be paid.

(4) Any fee for an audit is a debt due to the Controller and may be recovered in a court of competent jurisdiction.

53. Regulations – (1) The Head of State may, acting on the advice of Cabinet, make regulations to give effect to or for the purposes of this Act.

(2) The regulations may be made to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, prescribed in the regulations, including prescribing other requirements for performance audits.

(3) Regulations may be made:

- (a) authorising the Controller and Auditor General to be the auditor of a body or office established by an Act or other law, even though that Act or law provides a contrary provision for the auditing of the accounts of the body or office; and
- (b) authorising that this Act applies to that body or office.

54. General offences and penalties – (1) Subject to this Act, a person commits an offence who knowingly and wilfully:

- (a) does or authorises the doing of anything which by or under this Act the person is prohibited from doing; or

(b) does not do or refuses to do anything which by or under this Act the person is required or directed to do; or

(c) contravenes or fails to comply with a provision of this Act.

(2) A person who is convicted of an offence under subsection (1) or under any other provision of this Act for which no specific penalty is provided, is liable, upon conviction:

(a) for a first offence, to a fine not exceeding 5 penalty units; or

(b) for a second or subsequent offence, to a fine not exceeding 10 penalty units.

PART 8 REPEAL, AMENDMENTS, TRANSITIONAL AND SAVINGS

55. Repeal and consequential amendments – (1) Except as provided under subsection (2), the Audit Office Ordinance 1961 is repealed (referred to in this Part as “Ordinance”).

(2) The Audit Office Regulations 1976 made under the Ordinance continue in force until they are repealed.

(3) Amendments of other Acts consequential on this Act are set out under Schedule 3 of this Act.

56. Delegations under the Ordinance – A delegation made under section 11 of the Ordinance, if subsisting immediately before the commencement of this Act, continues and is taken to have been made by the Controller under section 17 of this Act.

57. Appointments under the Ordinance – The appointment of a person to conduct all or part of an audit made by the Controller and Chief Auditor under section 12 of the Ordinance or under any other Act and subsisting immediately before the commencement of this Act, continues and is taken to have been made by the Controller under section 11(3) or 16 of this Act.

58. Fees under the Ordinance – At the commencement of this Act, any fee determined under the Ordinance continues and is taken to be a fee determined by the Controller under section 52 of this Act until a new fee is determined under that section.

59. References to “Controller and Chief Auditor” in other Acts – Without affecting clause 25 of Schedule 2, a reference to “Controller and Chief Auditor” in any Act or other law is amended and to be read as a reference to “Controller and Auditor General”.

60. Rights of Audit Office employees preserved – (1) From the commencement of this Act, an officer or employee of the Public Service who is employed in the Audit Office before the commencement of this Act, is treated as an officer or employee of and is transferred under this section to the Audit Office established under section 11, unless the officer or employee elects (within 60 days from the commencement of this Act) to be transferred to another Ministry.

(2) From the commencement of this Act, an officer or employee of the office of the Controller and Auditor General specified under subsection (1) retains any existing right or benefit accrued under the officer's or employee's employment in the Public Service.

61. Transitional regulations – The Head of State may, acting on the advice of Cabinet, make regulations within 1 year from the commencement of this Act for the purposes of dealing with any transitional matter.

SCHEDULE 1

PART 1 – CRITERIA FOR APPOINTMENT OF CONTROLLER AND AUDITOR GENERAL (Section 7)

To be eligible for appointment as Controller and Auditor General, a person must:

- (a) be a member of the Samoa Institute of Accountants or a member of an accounting body in a jurisdiction other than Samoa, which adopts accounting standards similar to those of the Samoa Institute of Accountants; and
- (b) be a holder of a minimum of a Bachelors Degree in accounting or auditing from a tertiary institution recognised in Samoa; and
- (c) have at least 15 years experience in a Supreme Audit Institution (SAI) or Certified Public Accountancy (CPA)/Public Accountancy (PA)/Chartered Accountancy (CA) Firm Environment and at least 6 of those 15 years in a management or leadership position; and
- (d) understand, speak and write fluently in both the English and Samoan languages; and
- (e) be aged under 55 years on appointment; and

- (f) have adequate familiarity, training and practical experience in all types of auditing (financial audit, compliance audit, performance audit, performance measures audit, information technology audit, environmental audit and special examinations or enquiries); and
- (g) satisfy any other additional criteria prescribed by regulations.

**PART 2 – DECLARATION BY CONTROLLER
AND AUDITOR GENERAL
(Section 9)**

I,, sincerely promise and declare that, according to the best of my skill and ability, I will faithfully, impartially and truly execute the office and perform the functions and exercise the powers of Controller and Auditor General according to law.

..... (Signature of declarant)
(Date)

SCHEDULE 2

**AMENDMENTS OF ACTS CONSEQUENTIAL
ON AUDIT ACT 2013
(Section 55(3))**

1. Amendment of Central Bank of Samoa Act 1984 - In the Central Bank of Samoa Act 1984:

(a) for section 46 substitute:

“**46. Audit of accounts-**(1) The Controller and Auditor General shall audit accounts of the Bank annually.

(2) The Minister may require the Controller and Auditor General to examine and report on the accounts of the Bank or any aspect of its operations.”; and

(b) in section 47(1)(a), for “auditors” substitute “Controller and Auditor General”.

2. Amendment of Defamation Act 1992/1993 - In Part I of the Schedule to the Defamation Act 1992/1993, after clause 2 insert:

“**2A.** A statement made in the performance of the functions or exercise of the powers of the Controller and Auditor General under any Act or law.”.

3. Amendment of Electoral Act 1963 - In section 3A(1)(f) of the Electoral Act 1963, omit “and audit report on such statements and accounts in a form approved and audited by the Controller and Chief Auditor”.

4. Amendment of Electricity Act 2010 - In section 51 of the Electricity Act 2010:

- (a) in subsection (3), for “independent audit” substitute “audit by the Controller and Auditor General”; and
- (b) after subsection (3) add:

“(4) The Controller and Auditor General must audit the accounts of the Office of the Regulator annually.”.

5. Amendment of Electronic Transactions Act 2008 - After section 4(2) of the Electronic Transactions Act 2008 insert:

“(3) This section does not apply to the Controller and Auditor General or to any person acting with the written authority or a delegate of the Controller and Auditor General.”.

6. Amendment of Evidence Ordinance 1961 - In section 10 of the Evidence Ordinance 1961:

- (a) for “Subject” substitute “(1) Subject”; and
- (b) after the new subsection (1) insert:

“(2) Subsection (1) does not affect the application of sections 20, 21 and 22 of the Audit Act 2013 to an audit by the Controller and Auditor General under that Act.”.

7. Amendment of Fire and Emergency Service Act 2007 - In the Fire and Emergency Service Act 2007:

- (a) in section 37(3), for “Controller and Chief Auditor referred to in article 97 of the Constitution” substitute “Controller and Auditor General”; and
- (b) in section 37(4), for “Audit Office’s” substitute “Controller and Auditor General’s”.

8. Amendment of General Wage Increase (Public Office holders and Public Servants) Act 2001 - For clause 8 of the

Schedule to the General Wage Increase (Public Officeholders and Public Servants) Act 2001 substitute:

“8. Controller and Auditor General, Assistant Auditor and all officers and employees of the Audit Office. Article 97 of the Constitution, and section 11 of the Audit Act 2013.”.

9. Amendment of Government Proceedings Act 1974 - In section 17(4) of the Government Proceedings Act 1974 for “(duly audited by the Audit Office)” substitute “(duly audited by the Controller and Auditor General)”.

10. Amendment of Land Transport Authority Act 2007 - In section 24(1) of the Land Transport Authority Act 2007, for “an auditor appointed by the Authority” substitute “the Controller and Auditor General”.

11. Amendment of Law Reform Commission Act 2008 - After section 9(4) of the Law Reform Commission Act 2008 insert:

“(5) The Controller and Auditor General must audit the accounts of the Commission annually.”.

12. Amendment of Limitation Act 1975 - In section 21(6) of the Limitation Act 1975, for “Audit Office” substitute “Controller and Auditor General”.

13. Amendment of National Lotteries Act 1978 - In the National Lotteries Act 1978:

- (a) in section 17(2), for “Audit Office” substitute “Controller and Auditor General”; and
- (b) in section 18, for “Audit Office”, wherever occurring, substitute “Controller and Auditor General”.

14. Amendment of Oceania University of Medicine (Samoa) Act 2002 - In section 22(c) of the Oceania University of Medicine (Samoa) Act 2002, for “a qualified Auditor appointed by the Council” substitute “the Controller and Auditor General”.

15. Amendment of Parliamentary Pension Scheme Act 1998 - For section 21 of the Parliamentary Pension Scheme Act 1998 substitute:

“21. Audit of all funds-(1) The Controller and Auditor General must audit the accounts of the Scheme annually, within four (4) months of the end of each plan year.

(2) The Controller and Auditor General may also conduct a performance audit to examine and report on any aspects of the Scheme or of its operations.”.

16. Amendment of Ports Authority Act 1998 - In the Ports Authority Act 1998:

(a) in section 32(2), for “fully qualified, independent auditors” substitute “the Controller and Auditor General”; and

(b) in section 33 -

(i) for “external auditors” substitute “Controller and Auditor General”; and

(ii) for “Auditor General” substitute “Controller and Auditor General”; and

(c) for section 35(1)(b) substitute:

“(b) A copy of the report of the Controller and Auditor General; and”.

17. Amendment of Public Bodies (Performance and Accountability) Act 2001 - In the Public Bodies (Performance and Accountability) Act 2001:

(a) for section 24 substitute:

“24. Performance Audit - A public body is subject to a performance audit under Part 6 of the Audit Act 2013.”; and

(b) for section 26(4) substitute:

“(4) Without limiting subsection (3), the CEO of the Ministry of Finance may perform all the functions and exercise all the powers conferred on the Controller and Auditor General under the Audit Act 2013 and the provisions of that Act extend to the CEO of the Ministry of Finance accordingly.”; and

(c) section 27 is repealed; and

(d) in clause 8.3.4(b) in Schedule 8, for “section 24(1) of the Act” substitute “section 47(2) of the Audit Act 2013”; and

(e) in clause 8.7.4(b) in Schedule 8, for “section 24(1) of the Act” substitute “section 47(2) of the Audit Act 2013”.

18. Amendment of Public Finance Management Act 2001 - In the Public Finance Management Act 2001:

(a) in section 2, for the interpretation of “Audit Office” substitute:

““Audit Office” means the Audit Office established under section 11 of the Audit Act 2013, and includes any person authorised under that Act to carry out any of the powers or functions of the Controller and Auditor General;” and

(b) in section 31(6), for “regulation 7 of the Audit Regulations 1976” substitute “section 51 of the Audit Act 2013”;

(c) in section 105A(1), for “Secretary and to a Shareholding Minister or to both Shareholder Ministers” substitute “Secretary, to a Shareholding Minister or to both Shareholder Ministers and to the Controller and Auditor General”; and

(d) in section 105A(2), for “Secretary or to a Shareholding Minister” substitute “Secretary, to a Shareholding Minister or to the Controller and Auditor General”; and

(e) in section 107(1), for “Audit Office” substitute “Controller and Auditor General”; and

(f) in section 129, for “Constitution,” substitute “Constitution or the Audit Act 2013”; and

(g) for clause 32 of Schedule 3 substitute:

32. Statements by Registrar-(1) The Registrar must provide to the CEO of the Ministry of Finance certified statements as to the amount of stock registered under this Part, and any other relevant particulars which the CEO of the Ministry of Finance may require.

(2) The Controller and Auditor General may for all purposes accept the certified statements as correct.”; and

(h) in section 116(1), before “Minister or Financial Secretary” insert “Controller and Auditor General and”; and

(i) in section 116(2), before “Minister or Financial Secretary” insert “Controller and Auditor General and”.

19. Amendment of Public Service Act 2004 - In the Public Service Act 2004:

(a) in section 3, after the definition of “assessor” insert:

““Audit Office” means the Audit Office established under section 11 of the Audit Act 2013, and includes any person authorised under that Act to exercise or perform any of the powers or functions of the Controller and Auditor General;” and

(b) after section 10 insert:

“10A. Commission’s powers not to affect the Audit Office

- The Commission may not exercise its powers under this Part so as to affect any person employed in or engaged by the Audit Office.”.

20. Amendment of Remuneration Tribunal Act 2003 - After section 3(1)(i) of the Remuneration Tribunal Act 2003, insert:

“(iA) Controller and Auditor General.”.

21. Amendment of Road Traffic Ordinance 1960 - After section 53(2) of the Road Traffic Ordinance 1960 insert:

“(3) The Controller and Auditor General must audit the accounts of the Board annually.”.

22. Amendment of Robert Louis Stevenson Foundation Act 1991 - In section 11 of the Robert Louis Stevenson Foundation Act 1991:

(a) for “So long as” substitute “(1) So long as”; and

(b) after the new subsection (1) insert:

“(2) The Controller and Auditor General must audit the accounts for the Foundation annually.”.

23. Amendment of Samoa International Finance Authority Act 2005 - For section 20(3) of the Samoa International Finance Authority Act 2005 substitute:

“(3) The Controller and Auditor General must audit the accounts of the Authority annually.”.

24. Amendment of Samoa Sports Facilities Authority Act 2007 - In the Samoa Sports Facilities Authority Act 2007:

(a) in section 2, the term and definition of “Controller and Chief Auditor” is repealed; and

(b) for section 26(2) substitute:

“(2) The Controller and Auditor General must audit the accounts of the Authority annually.”.

25. Consequential amendments of miscellaneous Acts - The Acts specified in Column 1 of the following Table are amended by deleting the words “Chief Auditor” from each provision specified in Column 2 opposite to that Act, the number of occurrences of which are specified in Column 3, and replacing them with the words “Auditor General” in each case.

Column 1	Column 2	Column 3
Accident Compensation Act 1989	Section 10(3)	1
Accident Compensation Act 1989	Section 50(2)	1
Agriculture Store Corporation Act 1975	Section 16(4)	1
Airport Authority Act 1984 s 25(3)	Section 25(3)	1
Broadcasting Act 2010	Section 8	1
Banking Ordinance 1960	Section 7	3
Bankruptcy Ordinance 1908	Section 149(2)	1
Betting (Totalisator Agency) Act 1990	Section 31	2
Births, Deaths and Marriages Registration Act 2002	Section 90	1
Electoral Act 1963	Section 3A(1)(f)	1
Development Bank of Samoa Act 2010	Section 2	1
Electric Power Corporation Act 1980	Section 22(1)	1
Electric Power Corporation Act 1980	Section 22(2)	1
Electric Power Corporation Act 1980	Section 22(3)	1
Electric Power Corporation Act 1980	Section 22(4)	2
Housing Corporation Act 1989	Section 32(2)	1
Housing Corporation Act 1989	Section 33	2
Law Practitioners Act 1976	Section 34 (a)	1
Life Assurance Corporation Act 1976	Section 36(2)	1
Money Laundering Prevention Act 2007	Section 47(1)	1
Money Laundering Prevention Act 2007	Section 47(2)	2
National Health Service Act 2006	Section 15(2)(d)	1
National Health Service Act 2006	Section 16(2)	1
National Health Service Act 2006	Section 16(3)	1

Column 1	Column 2	Column 3
National Investment Corporation Act 1981	Section 40	5
National Kidney Foundation of Samoa Act 2005	Section 9(6)	1
National Kidney Foundation of Samoa Act 2005	Section 9(8)	2
National Provident Fund Act 1972	Section 14	3
National University of Samoa Act 2006	Section 33(3)	2
Public Bodies (Performance and Accountability) Act 2001	Section 20(1)(b)	1
Public Bodies (Performance and Accountability) Act 2001	Section 22	2
Public Bodies (Performance and Accountability) Act 2001	Section 30	1
Public Bodies (Performance and Accountability) Act 2001	Section 31	2
Public Bodies (Performance and Accountability) Act 2001	Schedule 5 Article 5.2	1
Public Bodies (Performance and Accountability) Act 2001	Schedule 7 Article 27(2)(d)	1
Public Bodies (Performance and Accountability) Act 2001	Schedule 7 Article 53	3
Public Bodies (Performance and Accountability) Act 2001	Schedule 7 Article 54	2
Public Bodies (Performance and Accountability) Act 2001	Schedule 7 Article 59.1	1
Public Finance Management Act 2001	Section 104	3
Public Finance Management Act 2001	Section 107(2)	5
Public Finance Management Act 2001	Section 117(9)	1
Public Finance Management Act 2001	Section 117(10)	2
Public Finance Management Act 2001	Schedule 3	3
Public Finance Management Act 2001	Schedule 5	2
Public Service Act 2004	Section 3	2
Public Service Act 2004	Section 6(b)	1
Public Service Act 2004	Section 11 (a)(ii)	1

Column 1	Column 2	Column 3
Public Service Act 2004	Section 20(a)	1
Public Trust Office Act 1975	Section 17(3)	1
Research and Development Institute of Samoa Act 2006	Section 17(6)	1
Research and Development Institute of Samoa Act 2006	Section 17(8)	2
Samoa Institute of Accountants Act 2006	Section 15(3)(c)	1
Samoa Qualifications Authority Act 2006	Section 18(6)	1
Samoa Qualifications Authority Act 2006	Section 18(7)	2
Samoa Tourism Authority Act 1984	Section 18(2)	1
Samoa Trusts Estates Corporation Act 1977	Section 26(3)	1
Samoa Water Authority Act 2003	Section 11(5)	1
Samoa Water Authority Act 2003	Section 20(3)	1
Scientific Research Organisation of Samoa Act 2008	Section 17(6)	1
Scientific Research Organisation of Samoa Act 2008	Section 17(8)	2
Telecommunications Act 2005	Section 9(12)(b)	1
Value Added Goods and Services Tax Act 1992/1993	Section 2	1
Value Added Goods and Services Tax Act 1992/1993	Section 6(3)(d)(ii)	1

REVISION NOTES 2013 – 2023

This is the official version of this Act as at 31 December 2023.

This Act has been revised by the Legislative Drafting Division in 2013 – 2023 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

Definition of “public body” amended to be consistent with the amended definition in the *Public Bodies (Performance and Accountability) Amendment Act 2015, No. 2*.

The following amendments have been made to this Act since its enactment:

By the *National Prosecution Office Act 2015 (which commences on 1st January 2016)*

Section 26 omit “Attorney-General to prosecute or take out legal

proceedings” and substitute with “Director of Public Prosecutions to prosecute or to the Attorney General to institute civil proceedings”

By the *Constitution Amendment Act (No. 1) 2017, No. 8, commenced on 6 June 2017*:

Section 26(8) omit “Director of Public Prosecutions to prosecute or to the Attorney General to institute civil proceedings” and substitute with “Attorney-General to prosecute or institute civil proceedings”.

*This Act is administered
by the Audit Office.*