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1995-96, No. 15

An Act to establish a Public Expenditure Review Committee and an Office of the Public Expenditure Review Committee and Audit, and to provide for their objectives, functions and powers.

(5 July 1996

Price \$ 6.00

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short Title and application - (1) This Act may be cited as the Public Expenditure Review Committee and Audit Act 1995-96.

(2) This Act shall come into force on a date to be determined by the Queen's Representative by Order in Executive Council.

(3) This Act shall, upon coming into force have application from the commencement of the financial year commencing on the 1st July 1996.

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

"Accounting officer" means any person who by any act or by virtue of any appointment is charged with a duty to, or who actually does, collect, receive, disburse or deal in any way with any public money, or a person who is charged with the purchase, receipt, custody, or disposal of, or the accounting for, any public stores or public securities;

"Act" means the Ministry of Finance and Economic Management Act 1995-96;

"Agency" means any department, instrument, or agent of the Government; and includes a body corporate or organisation that is wholly owned or controlled by the Crown or by any such department, instrument, agent, body corporate, or organisation; but does not include a Government department;

"Appropriation" and "Appropriation Act" means any approval by Parliament for funds to be expended by Government;

"Audit Office" is deemed to be that part of the Office of the Public Expenditure Review Committee and Audit charged with the responsibility of audit under this Act;

"Books and accounts" or "books or accounts" includes all books, accounts, rolls, files, vouchers, receipts, cheques, records, registers, papers, documents, photographic plates, microfilms, photostatic negatives, prints, tapes, disks, computer reels, diskettes, and hard disks, perforated rolls, and any other type of written or electronic record whatsoever, and also includes all papers and other records relating to accounting, operations and practice;

"Chairman" means the Chairman of the Public Expenditure Review Committee;

"Committee" means the Public Expenditure Review Committee established by this Act;

"Crown" means the Crown in right of the Government of the Cook Islands and includes a Crown agency, department and local authority;

"Department" means any department, ministry or instrumentality of the Government, whether established by enactment or otherwise, or any branch or division thereof;

"Director" means the Director of the Office of the Public Expenditure Review Committee and Audit;

"Document" means a document in any form, and includes -

- (a) any writing on any material;
- (b) any information recorded or stored by means of any tape-recorder, computer, diskette, tape or other device, and any material subsequently derived from information so recorded or stored;
- (c) any label, marking, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- (d) any book, map, plan, graph, or drawing;
- (e) any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced.

"Estimates" means the statement of the proposed public revenues and expenditure during any financial year, as approved by Parliament, through the passing of an Appropriation Act;

"Generally Accepted Audit Practice" ("GAAP") means -

- (a) approved auditing reporting standards (within the international community) so far as those standards apply to the Crown or the department or offices of Parliament, Crown Agency with the Crown entity in the Cook Islands; and
- (b) in relation to matters for which no provision is made in approved auditing standards, and which are not subject to any applicable rules of law, then auditing policies concepts or principles which may be regarded as appropriate in relation to the Crown, departments, offices of Parliament, the Crown Agencies or Crown entity and having authoritative support of the auditing profession;

"Government contract" means any contract for provision of public money, public stores or for the supply of goods, services or the execution of any works in consideration of any payment of public money or any money and includes any sub-contract made in relation to such contract (whether or not the contract or sub-contract has been wholly or partly performed or executed);

"Local authority" means an Island Council elected under the Outer Islands Local Government Act 1987 or the Palmerston Island Local Government Act 1993 and such other body of persons who may from time to time be designated by statute as a local authority, and includes every other body of persons as may be prescribed pursuant to subsection (6);

"Minister" means the Minister charged with the responsibility for the Office of the Public Expenditure Review Committee and Audit;

"Office" means the Office of the Public Expenditure Review Committee and Audit established under Section 20 of this Act;

"Public expenditure" means the commitment or expenditure of public money and includes -

- (a) any loan obtained for or given by; or
 - (b) any security provided to or by -
- the Government of the Cook Islands, or by any Minister of the Crown, Department, Crown agency or local authority;

"Public money" means all the resources and entitlements that are either owned by, owed to, or held by at that time the Crown, any agency of the Crown, or any other person;

"Public security" means any security issued pursuant to the Ministry of Finance and Economic Management Act 1995-96 or any other Act in respect of money borrowed, or a guarantee given, by the Crown; and includes any loan or credit agreement, guarantee, indemnity, bond, note, debenture, bill of exchange, promissory note, stock and any other security, representing part of the debt of the Crown;

(2) Where a document is held by a board, council, committee, sub-committee, or other body -

- (a) which is established for the purpose of assisting or advising, or performing functions connected with, any department or Minister of the Crown or Crown agency; and
- (b) which is so established in accordance with the provisions of any enactment or by Cabinet, Minister of the Crown, department or Crown agency,

that document shall, for the purposes of this Act, be deemed -

- (c) in any case where that body is established in respect of any department or Crown agency to be a document held by that department or Crown agency; and
- (d) in any case where that body is established in respect of a Minister of the Crown, to be a document held by that Minister.

(3) Where subsection (2) applies in respect of any body and that body is established for the purpose of assisting, advising, or performing functions conducted with any department or Crown agency that body shall, for the purposes of this Act, be deemed to be part of that department or Crown agency.

(4) A document held by any officer or employee of a department or Crown agency in his capacity as such, or in his capacity as a statutory officer shall, for the purposes of this Act, be deemed to be held by the department or Crown agency of which he is an officer or employee.

(5) Any document held by any independent contractor engaged by any department or Minister of the Crown or Crown agency in his capacity as such shall, for the purposes of this Act, be deemed to be held by the department or Crown agency by which he is engaged.

(6) The Queen's Representative may by Order in Executive Council prescribe any local Government body, instrumentality or agency thereof to be a Local Authority for the purposes of this Act.

(7) For the avoidance of doubt, it is hereby declared that the terms "department" and "Crown agency" do not include -

- (a) a Court; or
- (b) in relation to its judicial functions, a Tribunal; or
- (c) a Royal Commission; or
- (d) a Commission of Inquiry appointed by an Order in Executive Council made under the Commissions of Inquiry Act 1966; or
- (e) a Commission of Inquiry, Parliamentary inquiry, or Board of Inquiry or Court of Inquiry or committee of inquiry appointed pursuant to any enactment to inquire into a specified matter.

PART I PRELIMINARY

3. Purpose of this Act - The purposes of this Act are to give effect to the principle of the Executive Government's responsibilities to the public through Parliament to -

- (a) make available such information as will enable Parliament to be informed of the scrutiny of public expenditure and the management of public money;
- (b) promote the accountability of servants of the Crown, where public expenditure and public money are concerned;
- (c) promote the accountability of local authorities in the management of the money and stores of such authorities.

PART II PUBLIC EXPENDITURE REVIEW COMMITTEE

4. Establishment of Public Expenditure Review Committee - There shall be a Committee comprising persons appointed pursuant to sections 5 and 9 of this Act which shall be responsible to Parliament, and known as the Public Expenditure Review Committee, having such membership, functions, duties, and powers as are conferred by this Act and as may from time to time be lawfully conferred upon it.

5. Chairman of Committee - (1) There shall be a Chairman of the Committee who shall be appointed by the Minister of Finance who shall -

- (a) be a person with a wide detailed knowledge in the practice of law, accounting, or commerce;
- (b) not be, nor be deemed to be by virtue of his office, a public servant pursuant to the Public Service Act 1995-96;
- (c) not be a member of Parliament or hold any other public office;
- (d) not undertake, perform or engage in any occupation, duty or function that shall be inconsistent with the performance of his duties or functions under this Act.

(2) The Chairman shall be appointed for a term of 3 years.

6. Remuneration of Chairman - (1) There shall be paid to the Chairman out of the Cook Islands Government Account, without further appropriation than this section, remuneration at such rate as the Queen's Representative by Order in Executive Council from time to time determines.

(2) Any Order under this section and any provision of any such Order may be made so as to come into force on a date to be specified in the Order being the date of the making of the Order or any other date, whether before or after the making of the Order or the date of commencement of this Act.

7. Removal or suspension of Chairman - (1) Subject to subsection (2), the Chairman may be removed or suspended from his office only by the Queen's Representative upon a recommendation from Parliament for incompetence, disability, bankruptcy, neglect of duty, or misconduct.

(2) When Parliament is not in session, the Chairman may be suspended from his office by the Queen's Representative in Executive Council for incompetence, disability, bankruptcy, neglect of duty, or misconduct, but any such suspension shall not continue in force beyond 14 days after the beginning of the next ensuing session of Parliament. The salary of the Chairman shall be suspended but back paid if he is reinstated.

8. Vacancy in office of Chairman - (1) On the occurrence of a vacancy in the office of Chairman (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the Chairman (from whatever cause arising), the Committee may, notwithstanding the provisions of section 5, from amongst its members, appoint a person who shall have and may exercise all the functions duties and powers of the Chairman until either -

(a) a person is appointed pursuant to section 5 in the case of a vacancy; or

(b) the Chairman resumes his duties in the case of his absence.

(2) The fact that any person appointed pursuant to subsection (1) exercises any function, duty, or power of the Chairman shall, in the absence of proof to the contrary, be conclusive evidence of his authority to do so and every reference to the Chairman in this Act shall include a reference to any person appointed pursuant to subsection (1).

9. Other Committee members - (1) In addition to the Chairman, the Committee shall comprise not less than 2 nor more than 4 other members to be appointed by the Queen's Representative in Executive Council in accordance with a decision of Cabinet.

(2) No member of the Committee shall undertake, perform or engage in any employment, duty or function that shall be inconsistent with the performance by the member of the duties or functions imposed on him pursuant to this Act.

(3) The members of the Committee shall be appointed for a term of 2 years.

10. Changes in membership of Committee - (1) A member of the Committee may be removed or suspended from the Committee by the Queen's Representative in Executive Council acting on the advice of Cabinet for incompetence, disability, bankruptcy, neglect of duty or misconduct.

(2) A member of the Committee may at any time resign his office by writing under his hand addressed to the Minister.

(3) The fact that a member of the Committee has been removed, suspended, or discharged from the Committee and the reasons therefor shall within 14 days be laid before Parliament and if Parliament is not in session, within 14 days of the commencement of the next ensuing session.

(4) In the event of a member being removed, suspended, or discharged, there may be appointed by the Queen's Representative in Executive Council in accordance with a decision of Cabinet, a person -

- (a) to fill the vacancy in the case of a member who is removed; or
- (b) to replace a member who has been suspended or discharged for the period that the suspension or discharge is in effect.

11. Procedure of Committee - (1) Subject to the provisions of this Act, the Committee shall regulate its own procedure and shall, subject to subsection (3), meet at such times and places as the Chairman or a quorum of the Committee shall determine.

(2) The Director of the Office of the Public Expenditure Review Committee and Audit, shall, if requested by the Chairman or the Committee, attend a meeting of the Committee.

(3) Unless otherwise directed by Parliament, the Committee shall meet at least once in every month, whether Parliament is in session or not, and notice of every meeting shall be given to every member of the Committee.

(4) All decisions of the Committee shall be by majority vote of those members present at the meeting and in the event of there being an equality of votes, the Chairman shall have a casting as well as a deliberative vote.

12. Quorum of Committee - The quorum of the Committee shall be not less than half the members for the time being of the Committee.

13. Duties of the Committee - It shall be the duty of the Committee to ensure the attainment of the purposes of this Act and the Committee shall in the pursuit of those purposes have all such functions and powers in relation to departments, Crown agencies and local authorities as may be lawfully conferred on the Committee by this Act or any other enactment.

14. Objectives and functions of the Committee - (1) In the performance of its duties it shall be the objective of the Committee with the assistance of the Office of the Public Expenditure Review Committee and Audit to ensure that adequate public accountability is achieved through -

- (a) confirming that the obligations under the Act are met and in particular;
 - (i) required economic and financial statements are produced and are subject to review;
 - (ii) adherence to fiscal disciplines is explicit;
 - (iii) statements of responsibilities are completed and sufficient undertakings exist in order to rely on these;
 - (iv) that the other obligations of heads of departments are met.
- (b) providing a mechanism for public consultation and input to budget and expenditure proposals;
- (c) undertaking all audits in order to provide comfort as to the reliability of systems and procedures and the integrity of information produced;
- (d) the pursuit of legitimate issues of public concern that affect the management of public funds.

(2) In the performance of its duties it shall be the function of the Committee

to -

- (a) review the policy statements under the Act and the relevance of the outputs proposed and note submissions from the public;
- (b) review and comment on the content of the various other statements, economic updates and reports required under the Act;
- (c) note compliance by the Ministry of Finance and Economic Management in terms of the provision of those statements required under the Act and comment publicly if there is any non-compliance by any party;
- (d) consider and agree on the adequacy and nature of the programme intended to be undertaken by the Director;
- (e) confirm the adequacy of the external audit arrangements proposed by the Director including the standards to be followed;
- (f) review and comment on the budget of the office presented by the Director;
- (g) review annual financial statements of the Crown and individual departments, and the audit opinion thereon, including any concerns raised by the Director;
- (h) receive submissions from the public;
- (i) examine the details of all reported offences and penalties imposed under the Act;
- (j) regularly report to Parliament upon any matters considered by the Committee or referred to the Committee which the Committee consider ought to be brought to the notice of Parliament;
- (k) pursue any concerns that the Committee believes are justified, and in the context of other parties' responsibilities under the Act, in which the Committee believes that it can persuade Parliament are the legitimate interests of the Committee.

15. Powers of Committee - (1) For the purpose of fulfilling any function or duty lawfully conferred or imposed on it, the Committee -

- (a) shall have full access at all convenient times to such Government documents, books and accounts and contracts relating to public expenditure and public money specifically relevant to any enquiry;
- (b) may, by notice in writing signed by the Chairman, require any person other than parliamentarians having possession or control of any documents, books and accounts relating to public expenditure, or public money to deliver to it at a time and place specified in the notice, all or any such documents, books and accounts;
- (c) may cause extracts to be taken from any document, book or account relating to public expenditure, or public money without paying any fee therefor;
- (d) may summon any person other than a parliamentarian to supply any information or answer any question on oath relating to public expenditure and public money under enquiry.

(2) No member of the Committee shall have any civil liability for any act done in good faith pursuant to this Act.

16. Reports of Committee - (1) The Committee shall at least once in every year prepare a written report signed by the Chairman of all matters considered by the Committee.

(2) Every report (including every interim report) shall be submitted to the head of any department, Crown agency or local authority affected thereby, who may within 7 days add his comments thereto.

(3) The Committee shall forward the report, together with the comments made under subsection (2) to the Speaker of Parliament who shall forthwith present the same to Parliament if Parliament is in session, and if not in session, forthwith upon the commencement of the next ensuing session.

(4) The Committee shall in each of its reports indicate the dissenting views of a member if that member so requests.

(5) Other than in the performance of the duties functions and powers conferred by this Act on the Committee or a member of the Committee, it shall not be lawful for the Committee or any member of the Committee to disclose to any person any information that shall come to the Committee's or members' attention and, all such information shall remain confidential.

17. Privileges of witnesses - (1) Where any person sworn and examined as a witness by or before the Committee on any matter which is a subject of inquiry refuses to answer any question put to him on the ground that the answer to such question may tend to incriminate him, and the Committee is of the opinion that full answers are required in order to enable it to deal satisfactorily with the matter under enquiry, then the Committee may inform the witness of that fact and then the witness shall answer as required.

(2) Every such witness who thereupon answers fully and faithfully any question put to him shall be entitled to receive a certificate under the hand of the Chairman stating that such witness was, upon his examination, required to answer and had answered all such questions.

(3) No statement made by any person in answer to any question put by or before the Committee pursuant to this section shall, except in the case of the witness being prosecuted for perjury, be admissible as evidence in any proceedings, civil or criminal.

(4) Every witness sworn and examined under this section shall, subject to subsections (1), (2) and (3), have the privileges, and immunities of a witness sworn and examined in the High Court.

18. Secretarial and administrative assistance - The Office of the Public Expenditure Review Committee and Audit shall provide to the Committee such secretarial and administrative facilities including staff as shall be required by the Committee to enable the Committee to efficiently and effectively perform its functions duties and powers.

19. Assistance generally - (1) It shall be the duty of every Minister, and every person in control of, employed in or engaged by every department, Crown agency and local authority, and every agent thereof to give assistance to the Committee and to every member acting on behalf of the Committee.

(2) The Committee shall be entitled to enlist the assistance of any person authority or organisation in the performance of its functions, duties and powers.

PART III
OFFICE OF THE PUBLIC EXPENDITURE REVIEW
COMMITTEE AND AUDIT

20. Establishment of the Office of the Public Expenditure Review Committee and Audit - (1) There is hereby established an Office of the Public Expenditure Review Committee and Audit which shall be charged with the review and audit functions as provided for under this Act and Article 71 of the Constitution, and with such other functions as may from time to time be lawfully conferred on it.

(2) Nothing in this section shall derogate from any of the powers, duties, functions and discretion imposed upon the employees of the Office of the Public Expenditure Review Committee and Audit.

21. Director of the Public Expenditure Review Committee and Audit - (1) There shall from time to time be appointed by the Queen's Representative in accordance with a decision of Cabinet on such terms and conditions as may be determined by the Queen's Representative by Order in Executive Council, a Director of the Office of the Public Expenditure Review Committee and Audit, who shall be the head of that Office.

(2) The Director shall be deemed not to be a member of the Cook Islands Public Service provided that provisions of any law for the time being in force relating to the rights of employees of that service to apply for other positions within that Service, and the rights of such employees to join superannuation schemes administered by that Service, shall apply to the Director as if he were an employee of that Service.

(3) There may from time to time be appointed pursuant to the provisions of the Public Service Act 1995-96 upon the recommendation of the Director, such other officers and employees as may be necessary from time to time for the effective and efficient carrying out of the functions and duties of the office.

(4) The Director shall employ two competent external audit advisors for just that time necessary to offer advice and assistance in the discharge of his functions including confirming adherence to standards, and the Director together with the said two employed will be collectively known as the Audit Commission.

(5) Other than in the performance of the duties functions and powers conferred by this Act on the Director or any other employee of the office, it shall not, except as may be required by law, be lawful for the Director or any other employee of the office to disclose to any person any information that shall come to the attention of the Director or an employee, and all such information shall remain confidential.

22. Remuneration and other conditions of employment of Director - (1) There shall be paid to the Director out of the Cook Islands Government Account, remuneration at such rate as the Queen's Representative by Order in Executive Council may from time to time determine.

(2) There may be paid to the Director out of the Cook Islands Government Account such travelling and other allowances and expenses as Cabinet may from time to time determine.

23. Removal or suspension of Director - The Director may be removed or suspended from his office by the Queen's Representative acting on the advice of the Prime Minister after consultation with the Committee for incompetence, disability, bankruptcy, neglect of duty or misconduct.

24. Contracting out activities of office - (1) The Director may contract out to any other persons or organisations of established competence and reputation any of the activities under Part III of this Act.

(2) The Director shall in any one financial year contract out in accordance with subsection (1) hereof sufficient of the activities in order to demonstrate that all such activities of the office are being carried out efficiently.

(3) The Director or any person or organisation appointed in accordance with subsection (1) hereof in consultation with the Director, shall charge to the relevant crown agency, department or local authority a fee which represents a reasonable charge for work undertaken with such charge to be agreed with the crown agency, department, or local authority prior to the commencement of any work.

25. Director may delegate powers - (1) The Director may from time to time by writing under his hand, either generally or particularly, delegate to such officer or officers of the Office of the Public Expenditure Review Committee and Audit as he thinks fit, all or any of the powers exercisable by him under this or any other enactment, but not including the power of delegation conferred by this section.

(2) Subject to any general or special directions given or conditions attached by the Director, the officer to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Until a delegation made under this section is revoked, it shall continue in force according to its tenor and, in the event of the Director by whom any such delegation has been made ceasing to hold office, the delegation shall continue to have effect as if made by the person for the time being holding office as Director.

(4) Where an officer purports to act pursuant to a delegation made under this section he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(5) Any delegation under this section may be made to a specified officer or to the officers of a specified class, or may be made to the holder, or holders for the time being of a specified office or appointment, or class or offices or appointments.

(6) Every delegation made under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director.

26. Qualifications of Director - No person shall be appointed or continue to hold office as Director unless such person has formal qualifications and significant experience in audit work and has and maintains no interest in the undertaking or outcome of any work required by this Act other than an interest in common with members of the public generally.

27. Duties of the Office of the Public Expenditure Review Committee and Audit - (1) Without limiting the provisions of Article 71 of the Constitution, the Office of the Public Expenditure Review Committee and Audit shall -

- (a) monitor compliance with the requirements of the Act including assisting the Committee in its scrutiny of the Act and have particular regard to sections 11-17, 24, 26-31 of the Act;
- (b) assist the Committee to discharge their obligations, functions and responsibilities under section 14 of this Act including -
 - (i) conducting audits, investigations and enquiries into matters referred to it by the Committee;
 - (ii) examining and reviewing the estimates of revenue and expenditure, the Cook Islands account, accounts of departments, crown agencies and local authorities;

- (iii) furnishing the Committee with such information, analysis, appraisals, recommendations and advice that will assist in the performance of the Committee's duties and functions;
 - (iv) perusing issues and recommendations contained in the Committee's report to Parliament and other audit reports concerning departments, crown agencies and local authorities;
 - (v) ensuring every reference to the Office of the Public Expenditure Review Committee and Audit by the Committee shall contain specific terms upon which the office shall be expected to undertake any audit, investigation or enquiry, subject to agreement of priorities and the availability of budgeted funds.
- (c) reviewing and confirming the discharge of financial management obligations including maintenance of accounting records to ensure that heads of departments have complied with their financial management obligations under the Act;
- (d) in reviewing such obligations to determine whether each department does ensure
- (i) revenue is properly assessed and collected;
 - (ii) expenditure is valid and correctly authorised;
 - (iii) revenue, expenses, assets and liabilities are properly recorded and accounted for;
 - (iv) financial and operating information is reliable;
 - (v) assets are safeguarded against loss or destruction;
 - (vi) resources are employed and managed in an effective economic and efficient manner;
 - (vii) outputs produced are consistent with those specified in the Appropriation Act;
 - (viii) relevant Government policies and legislation are being complied with.
- (e) in examining accounting records and adequacy of internal control, the office shall have regard to whether -
- (i) the accounts and records have been faithfully and properly kept;
 - (ii) the procedures including internal controls applied are sufficient to ensure -
 - (A) there is an effective management of the assessment, collection and proper allocation of revenue and other receipts and all public money is accounted for;
 - (B) that all expenditure is properly authorised and correctly charged against the relevant Appropriation by Parliament.

- (f) arrange for all audits of the Crown to be undertaken and confirm such are completed to a standard consistent with generally accepted audit practice;
- (g) pursue any concern that arises in respect of the management of public resources which in its opinion justifies further investigation;
- (h) carry out such other reviews as may from time to time be necessary.

28. Conduct of Audits - (1) In carrying out all audits the office shall express an opinion on the reliability of the information contained in statements produced under Part V of the Act and shall ensure -

- (a) that the audit is properly specified, planned and managed, so as to ensure that the audits are completed to the required standard in the time specified;
- (b) that all audits contracted out to a person or organisation in accordance with section 24 of this Act shall include an agreement as to all the necessary terms and conditions of that audit; and
- (c) the audit is the subject of a formal opinion and report which shall confirm that generally accepted audit practice standards have been complied with.

(2) The Office of the Public Expenditure Review Committee and Audit shall have all such other functions and duties as are lawfully conferred upon it.

(3) All provisions relating to Auditors in the Companies Act shall not derogate from the functions, duties and powers of the Office of the Public Expenditure Review Committee and Audit under this Act.

29. Incompatible functions - No employee of the Office of the Public Expenditure Review Committee and Audit shall undertake, perform or engage in any duty or function that shall be inconsistent with the performance by the employee of the duties or functions imposed on him pursuant to this Act.

30. Procedures - (1) The Director shall, subject to the provisions of this Act, establish, review and regulate the procedures of the Office of the Public Expenditure Review Committee and Audit in accordance with generally accepted auditing practice.

(2) The Director shall maintain a continual programme of audits and reviews which will provide for the regular and systematic review of all departments, Crown agencies and local authority operations.

31. Powers of the Office of the Public Expenditure Review Committee and Audit - (1) For the purpose of fulfilling the functions and duties lawfully conferred or imposed on the Office of the Public Expenditure Review Committee and Audit, the Director and every person authorised by him, -

- (a) shall have full access at all reasonable times to all documents, books and accounts, public money, public securities Government contracts and books and accounts relating thereto and subject to audit, and to any place where they are kept;

- (b) may require any person to supply any information or answer any questions relating to documents, books and accounts, money, or operations subject to audit and examination by the Office;
- (c) may, by notice in writing, require any person having possession or control of any documents, books and accounts subject to audit and examination by the Office to deliver all or any of them, at a time and place and to such person specified in the notice.
- (d) inspect, measure or test any real or personal property to which the contract relates;
- (e) enter any land, building, or place (other than a dwelling-house) where the contract is being performed.

(2) The Office may from time to time on request being made in writing, require for examination, documents, books and accounts from any person or entity who is for the time being liable for the payment to the Crown, Crown agency or local authority subject to this Act, of any royalties under any lease or licence.

(3) The Office shall have all such other powers as are conferred on it by this Act or any other Act.

32. Reporting - (1) The Director shall report to the Minister, Minister of Finance and the Public Expenditure Review Committee on every review, audit, investigation or inquiry undertaken by the Office of the Public Expenditure Review Committee and Audit, and shall provide to the Committee a copy of every report prepared by the Office.

(2) The Director shall, in addition to providing a report to the Committee, separately report to the person in charge of a department, Crown agency or local authority in respect of any matters that may relate to an audit, review, investigation or inquiry, and may require the person in charge to respond to the Director within 14 days of that person receiving the report.

(3) The Director shall at least once in every year report to the Minister and the Minister of Finance on the performance of the Office of the Public Expenditure Review Committee and Audit in relation to the programme of reviews and audits for that year and shall transmit a copy of that report to the Committee.

(4) The Director shall, in the annual report or in any special report which the Director may provide to the Minister, the Minister of Finance and the Committee, make such recommendations for the better collection and payment of public money, and for more effective and efficient performance of the functions and duties of the Crown, any department, crown agency or local authority.

33. Annual report - (1) Without limiting the right to report at any other time, the Office of the Public Expenditure Review Committee and Audit shall, at least once annually, forward to the Speaker of Parliament for presentation to Parliament, a report containing such information relating to the reviews and audits undertaken pursuant to this Act and any other enactment, together with such other information as the Office of the Public Expenditure Review Committee and Audit considers desirable.

(2) Without limiting the generality of subsection (1), the Director shall in each year prepare and sign in respect of every Government department, Crown agency or local authority account audited -

- (a) a report on the audit undertaken containing such information as will fairly disclose the department's, agency's or authority's compliance with the matters referred to in sections 27 and 28 of this Act together with such other information and comments relating thereto as he thinks fit; and
- (b) a report or reports containing such matters as he thinks fit relating to -
 - (i) any accounts or transactions that are required to be audited under this Act; or
 - (ii) the performance or exercise by him of any of his functions, duties, or powers under this or any other Act.

(3) Any report or reports under subsection (2)(b) shall be prepared as soon as practicable after the preparation of the report under subsection (2)(a) for that year.

34. Director may communicate with Minister - (1) The Director may communicate with any Minister of the Crown upon any matter subject to review, or audit or investigation.

(2) The Director may report to the responsible Minister the name of any person failing to comply with the requirements of this or any other Act.

PART IV GENERAL

35. Regulations - (1) The Queen's Representative may from time to time by Order in Executive Council make all such regulations as may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Such regulations may prescribe offences against the regulations, and penalties for such offences not exceeding \$2,000 or one month's imprisonment or both.

36. Offences - Every person commits an offence who -

- (a) refuses or wilfully neglects to attend at the time and place required by the Committee, the Office, or any person acting on their behalf in accordance with this Act;
- (b) refuses or wilfully neglects to produce any document in that person's possession or under that person's control when required to do so under this Act;
- (c) refuses to answer any question put by any person pursuant to this Act;
- (d) makes any statement or declaration or gives any information certificate or document, required by or pursuant to this Act, knowing it to be false or misleading;
- (e) resists, obstructs, deceives, or attempts to deceive the Committee, the Office of the Public Expenditure Review Committee and Audit, or any person in the discharge of the Committee's, the officer's or that person's functions or duties in the exercise of powers under this Act;
- (f) aids, abets, counsels or procures, or is in any way knowingly concerned with, the commission of an offence under this Act.

37. Penalties for offences - (1) Every person who commits an offence against this Act is liable on conviction -

- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding \$2,000 or to both, and, if the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues;
- (b) in the case of a body corporate, to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day during which the offence continues.

(2) Where any body corporate commits an offence under this Act, every director, secretary, manager and other officer of the body corporate and every person purporting to act in any such capacity shall also be guilty of an offence unless he satisfies the Court that either -

- (a) the offence was committed without his knowledge, consent or through his gross negligence; or
- (b) he took all reasonable steps to prevent the commission of the offence.

38. Transitional - (1) The person holding office as the Director of Audit and Inquiries, immediately before the commencement of this Act, shall continue to hold office as the Director of the Office of the Public Expenditure Review Committee and Audit subject to the provisions of this Act.

(2) Every person holding office as an officer of the Office of Audit and Inquiries immediately before the commencement of this Act, shall continue to hold office as an officer of the Office of the Public Expenditure Review Committee and Audit upon the same terms and conditions as to employment, subject to the provisions of this Act.

(3) Every audit, review, investigation or inquiry undertaken or being undertaken by the Office of Audit and Inquiries on or before the date of coming into force of this Act shall continue to have effect or to be undertaken by the Office of the Public Expenditure Review Committee and Audit pursuant to the provisions of this Act.

This Act is administered by the Office of the Public Expenditure Review Committee and Audit