

MALAWI GOVERNMENT

(Published 11 May 2018)

Act

No. 10 of 2018

I assent

PROF. ARTHUR PETER MUTHARIKA

PRESIDENT

8th May, 2018

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 5 of Cap. 37:01
3. Insertion of sections 5A and 5B into the principal Act
4. Insertion of section 8A into the principal Act
5. Amendment of section 14 of the principal Act
6. Insertion of section 17A into the principal Act

An Act to amend the Public Audit

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Public Audit (Amendment) Act, 2016 and shall come into force on a date appointed by the Minister, by notice published in the *Gazette*.

Short title and commencement

2. The principal Act is amended in section 5 by repealing subsections (1), (2) and (3) and replacing therefor with the following new subsections—

Amendment of section 5 of Cap. 37:01

“(1) There shall be appointed an Auditor General in accordance with subsection 3 of section 184 of the Constitution.

(2) The Auditor General shall be a public officer and shall be the Head of the National Audit Office.

(3) A person shall be appointed as Auditor General if that person—

- (a) is a Malawian citizen;
- (b) is a qualified accountant and holds a professional qualification from a professional accounting body recognized by the Malawi Accountants Board;
- (c) has at least ten years post qualification experience;
- (d) is in possession of a valid practicing certificate issued by the Malawi Accountants Board;
- (e) is of high, moral and ethical character and integrity;
- (f) has and maintains interest in the undertaking of any work required by this Act or the National Audit Office other than interest in accordance with members of the public generally;”.

Insertion of sections 5A and 5B into the principal Act

3. The Pricipal Act is amended by inserting immediately after section 5, new sections 5A and 5B as follows—

“Filling of
Vacancy

5A.—(1) In the event of a vacancy in the office of the Auditor General, the Minister shall publish in the *Gazette* and at least two newspapers of widest circulation in Malawi and carry out short listing and interviews in order to select a minimum of two and a maximum of three candidates for the position.

(2) The Minister shall upon receipt of applications immediately constitute a selection panel to interview the shortlisted applicants.

(3) The selection panel shall within fourteen (14) days of the selection of candidates under subsection (2) forward the names of the selected candidates to the President for nomination.

(4) Short listed candidates for the position of Auditor General shall undergo necessary security clearance and vetting procedures.

(5) The President shall subject to section 183 (3) of the Constitution appoint an Auditor General only from the names on the list recommended by the selection panel.

Acting Auditor
General

5B.—(1) Where the Office of the Auditor General becomes vacant or the Auditor General has been suspended in accordance with Section 184 of the Constitution or the appointment of a person as Auditor General is pending or the Auditor General is for any reason unable to perform the function of his or her office, then until a person is appointed to and has assumed the

functions of that office in accordance with section 5A or until the Auditor General has resumed the performance of those functions, the Civil Service Commission shall recommend the most senior officer in the Office of the National Audit Office to the President to designate such a person as the Acting Auditor General:

Provided that the person acting as Auditor General shall not act as such for a period not exceeding six (6) months.

(2) A person designated under subsection (1), shall meet the minimum qualification for appointment by the Office of the Auditor General

(3) When acting in terms of subsection (1), the Acting Auditor General shall have all the powers of the Auditor General:

Provided that if the President rejects all the names on the said list he shall send the list back to the Minister with reasons for the rejection and the Minister shall re-advertise the position and carry out fresh interviews.

4. The principal Act is amended by inserting immediately after section 8, a new section 8A as follows—

“Employees of the National Audit Office

8A.—(1) The National Audit Office shall employ members of staff as may be necessary for the efficient performance of its functions under this Act.

(2) The Auditor General shall, in consultation with the Civil Service Commission, appoint, promote and discipline the employees of the National Audit Office.

(3) The salaries, allowances, pensions and other benefits payable to employees appointed under this section shall be determined by the Minister, on the recommendation of the Auditor General, and shall be a charge against the Consolidated Fund”.

5. Section 14 of the principal Act is amended by inserting a new subsection (3) as follows—

“(3) Every report relating to an audit under this Act shall be published in the *Gazette* and on the official website of the National Audit Office and shall take effect on the date of publication”.

6. The principal Act is amended by repealing section 17 and replacing therefor with the following new section, as follows—

Insertion of section 8A into the principal Act

Amendment of section 14 of the principal Act

Replacement of section 17 of the principal Act

“ Budget and
business plan

17.—(1) The National Assembly shall appropriate sufficient moneys, on a timely basis, to enable the effective and efficient operation of the Auditor General and the National Audit Office.

(2) The operations of the Auditor General and the National Audit Office shall be conducted in accordance with a budget and business plan prepared by the Auditor General for each financial year which shall include—

(a) estimates of revenue and expenditure, for the year to which it relates;

(b) projected revenue and expenditure, for the two financial years following the year to which the budget and business plan relates; and

(c) the basis on which audit fees for the year to which the budget relates and the following two years are to be calculated.

(3) The Public Accounts Committee shall consider the budget and business plan and within two months of receipt thereof submit its recommendations to the Minister responsible for finance.

(4) The Auditor General shall, at the end of a financial year, with respect to any surplus as reflected in the financial statements of the National Audit Office, comply with the Public Finance Management Act.”

Cap.37:02

Passed in Parliament this second day of March, two thousand and eighteen.

FIONA KALEMBA
Clerk of Parliament