

CHAPTER 22A AUDIT ACT

• Act • Subsidiary Legislation •

ACT

Act No. 26 of 2007

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**CHAPTER 22A
AUDIT ACT**

An Act to reform the law relating to the office of the Director of Audit of Grenada, and to provide for matters related or incidental thereto.

[Act No. 26 of 2007.]

[1st July, 2008.]

PART I

Preliminary

1. Short title

This Act may be cited as the Audit Act.

2. Interpretation

(1) In this Act—

“Audit Department” means the Audit Department of Grenada;

“Director of Audit” means a public officer whose office is created and defined pursuant to section 82 of the Constitution;

“Government” means the Government of Grenada;

“government controlled corporation” means a corporation incorporated under the Companies Act that is controlled by the Government;

“Minister” means the Minister responsible for finance;

“Public Accounts Committee” means the committee appointed pursuant to the relevant Standing Order of the House of Representatives;

“recipient of government money” means a corporation, association, organisation—

(a) that has received, directly or indirectly, a grant, loan or advance from the Government;

(b) for whom the Government has guaranteed the performance of an obligation or given an indemnity,

but does not include a statutory body;

“Speaker” means the Speaker of the House of Representatives appointed pursuant to section 34 of the Constitution;

“statutory body” has the meaning assigned to it in the Public Finance Management Act, 2007, Chapter 262B.

(2) In this Act, a corporation is controlled by the Government if—

- (a) securities of the corporation to which are attached more than fifty per cent of the votes that may be cast to elect directors of the corporation are held, other than by way of security only, by or for the benefit of the Government; and
- (b) the votes attached to those securities are sufficient, if exercised to enable the government to elect a majority of the directors of the corporation.

(3) Unless the context otherwise requires, the words or expressions defined in the Public Finance Management Act, 2007, Chapter 262B, shall have the same meaning in this Act.

(4) The responsibilities and powers of the Director of Audit under this Act shall be in addition to those prescribed by or under any other law.

(5) When a report is laid before the House of Representatives by the Minister or an appropriate Minister under section 18 or transmitted to the Speaker by the Director of Audit or an auditor appointed pursuant to section 22, the report shall be accompanied by a sufficient number of copies for all the members of the House of Representatives.

PART II

Director of Audit and Audit Department

3. Appointment, vacation or removal from office of Director of Audit and appointment of acting Director of Audit

Section 87 of the Constitution shall with respect apply to the appointment, vacation of office and removal from office of the Director of Audit and to the appointment of a person to act as Director of Audit if the office of Director of Audit becomes vacant or the Director of Audit is unable to exercise the functions of his or her office.

4. Salary, allowances and terms of service of Director of Audit

Section 80 of the Constitution shall apply with respect to the salary, allowances and terms of service of the Director of Audit.

5. Responsibilities of Director of Audit

The Director of Audit shall, in addition to the responsibilities imposed upon him or her pursuant to section 82 of the Constitution, perform the duties and functions imposed upon him or her pursuant to the provisions of this Act.

6. Director of Audit to be full-time responsibility

The Director of Audit shall carry out his or her responsibilities on a full-time basis and shall not, while he or she holds that office, hold any other office of emolument.

7. Protection of independence of Director of Audit

In the exercise of his or her responsibilities under this or any other Act, the Director of Audit shall not be required to undertake—

- (a) any responsibilities outside those pertaining to his or her office, if, in his or her opinion, such responsibilities are or may be incompatible with the responsibilities of the office of the Director of Audit; and

- (b) any examination of accounts partaking of the nature of a pre-audit and involving acceptance by him or her of responsibility that would preclude him or her from making an objective examination of any accounting transaction after those transactions have been duly recorded.

8. Director of Audit to follow international audit standards

In the exercise of his or her responsibilities under this or any other Act, the Director of Audit shall follow the international audit standards issued by the International Organisation of Supreme Audit Institutions with such modifications or additions as are necessary to comply with this Act and to meet the circumstances of Grenada.

9. Delegation by Director of Audit and protection of persons acting under such delegation

(1) The Director of Audit—

(a) may delegate to—

(i) an employee of the Audit Department, or

(ii) a professional auditor entitled by law to practise accounting in Grenada and engaged by the Director of Audit,

any responsibility or power that the Director of Audit has under this or any other Act, other than the responsibility to make a report to the Minister or to the appropriate Minister pursuant to section 18 that is to be laid before the House of Representatives;

(b) may, with the approval of the Minister, engage professional auditors and other persons to provide professional and other services; and

(c) may with the approval of the Minister, and when the Minister is not the Minister responsible for the statutory body, after consultation with the appropriate Minister, charge fees for his or her audit of a statutory body or government controlled corporation.

(2) For the purposes of subsection (1)(c), “appropriate Minister”, in relation to a statutory body or a government controlled corporation, means the Minister responsible for the statutory body or government controlled corporation.

(3) A delegate of the Director of Audit shall not in the exercise of his or her functions be subject to the direction or control of any person or authority.

PART III

Responsibilities of the Director of Audit

10. General responsibility to examine accounts of Government

(1) The Director of Audit shall be the auditor of all of the accounts of the Government and as such shall make such examination and inquiries as he or she considers necessary to enable him or her to report as required pursuant to the provisions of the Constitution and this Act.

(2) In his or her examination and audit of the accounts of the Government, the Director of Audit may make such checks as he or she considers necessary to enable him or her to form an opinion as to whether a department of Government including a branch of a department, a Ministry or an authority has used its resources with economy, efficiency and effectiveness.

(3) Nothing in subsection (2) shall be interpreted to entitle the Director of Audit to question the merits of the policy objectives of any department of Government.

11. Responsibility to examine Public Accounts annually

The Director of Audit shall annually—

- (a) examine the financial and other statements included in the Public Accounts; and
- (b) express his or her opinion as to whether they present information—
 - (i) in accordance with stated accounting policies of the Government, and
 - (ii) on a basis consistent with that of the preceding year, together with any reservations he or she may have.

12. Annual report to the House of Representatives

(1) The Director of Audit shall submit to the Minister his or her annual report on the Public Accounts, not later than the date specified in subsection (3).

(2) The annual report shall include the results of the examination by the Director of Audit, giving details of any reservation or opinion made in the report, and shall call attention to every case when—

- (a) he or she did not receive all the information, reports and explanations required;
- (b) collections and receipts of public money—
 - (i) have not been effected as required under the applicable Acts, regulations, orders, directives, financial instructions and other instruments,
 - (ii) have not been fully accounted for, or
 - (iii) have not been properly reflected in the accounts;
- (c) disbursements of public money—
 - (i) have not been made in accordance with, or have not complied with, applicable Acts, regulations, orders, directives, financial instructions and other instruments, or
 - (ii) have not been properly reflected in the accounts;
- (d) assets acquired, administered or otherwise held have not been adequately safeguarded or accounted for;
- (e) accounting systems and management control systems, including those systems designated to ensure economy and efficiency, that relate to revenue, disbursements, the preservation or use of assets or the determination of liabilities were not in existence, were inadequate or were not complied with; or
- (f) appropriate and reasonable procedures could have been used to measure and report on the effectiveness of programmes and those procedures were not established or not complied with,

and to any other case that the Director of Audit considers should be brought to the notice of the House of Representatives.

(3) Subject to subsection (4), the Director of Audit shall in each financial year, not later than three months after receipt of the certified Public Accounts for that year from the Accountant-General under section 55(1) of the Public Finance Management Act, Chapter 262B, or any extension under section 55(2) of that Act, submit his or her report on the Public Accounts to the Minister.

(4) The Minister may, by direction in writing addressed to the Director of Audit, extend the time for the submission of the report of the Director of Audit, and the Minister shall, not later than seven days after the House of Representatives first meets after he or she has given the direction, lay it before the House of Representatives.

(5) The Minister shall, not later than seven days after the House of Representatives first meets after he or she has received the report, lay it before the House of Representatives.

13. Annual audit of statutory bodies

(1) The Director of Audit shall, not later than six months after the end of each financial year, make such examinations and inquiries as he or she considers necessary to enable him or her to audit the accounts of statutory bodies and Government controlled corporations for the previous year and to report as required by this Act.

(2) The provisions of section 10(2) shall apply, *mutatis mutandis*, to this section.

(3) Section 12(2) shall apply with appropriate modifications as the circumstances require to the examination, audit and report pursuant to subsection (1).

14. Special reports

(1) The Director of Audit may submit a special report to the Minister on any matter of importance or urgency that he or she considers should not be deferred until the presentation of his or her annual report pursuant to section 12 or 13.

(2) Sections 10 and 12(2) shall apply with appropriate modifications as the circumstances require to the examination and special report under subsection (1).

(3) The Minister shall, not later than seven days after the House of Representatives first meets, after he or she has received the special report, lay it before the House of Representatives.

15. Enquiry and report at request of the House of Representatives or Minister

(1) The Director of Audit may, if in his or her opinion such an assignment does not interfere with his or her primary responsibilities, whenever the House of Representatives or the Minister so requests, enquire into and report on any matter relating to the financial affairs of the Government, including, without limitation, its assets, a statutory body, a government controlled corporation, a corporation in which the Government has an interest or a recipient or a prospective recipient of government money.

(2) Sections 10 and 12(2) shall apply with such modifications as are appropriate in the circumstances to an enquiry into and a report made pursuant to subsection (1).

(3) When pursuant to subsection (1), the House of Representatives requests the enquiry and report, the Director of Audit shall submit the report to the Minister and, when he or she does so, section 14(3) and (4) shall apply with such modifications as are appropriate in the circumstances.

(4) When the Minister requests the enquiry and report, the Director of Audit shall submit the report to the Minister who may transmit it to the House of Representatives

if he or she is of the opinion that it is in the public interest to do so, and, when he or she is of that opinion, section 14(3) and (4) shall apply with such modifications as are appropriate in the circumstances.

16. Advisory powers

The Director of Audit may in his or her discretion advise all or any of the following persons of matters discovered in conducting examinations and audits made pursuant to the provisions of this Act—

- (a) the Minister;
- (b) the Minister or a senior public officer of the department affected, in the case of the audit of the accounts of the Government;
- (c) the Minister responsible or the chairperson or chief executive officer, in the case of a statutory body.

17. Joint Audit

When the Government or a statutory body spends money jointly with another government or agency of another government or an international or a regional organisation, the Director of Audit may carry out a joint audit with that government, agency, international or regional organisation.

18. Audit of recipients of government money and report to the House of Representatives

(1) The Director of Audit may examine and audit the accounts of a recipient of government money in relation to government money received to enable him or her to report as required by this Act.

(2) The Director of Audit may require a recipient of government money to prepare and give financial statements to the Director of Audit and may require that the financial statements be audited or that they set out details of the disposition of the government money received or both.

(3) Sections 10 and 12(2) shall apply with such modifications as are appropriate in the circumstances to the examination and audit of and report on a recipient of public money under this section.

(4) The Director of Audit may rely on the report of an auditor appointed by the recipient of government money.

(5) The Director of Audit shall without delay, after he or she has completed the audit report, give it to the appropriate Minister and the Minister, if the Minister is not the appropriate Minister with regard to that recipient of money.

(6) The appropriate Minister shall, not later than seven days after the House of Representatives first meets after he or she has received the report of the Director of Audit, lay it before the House of Representatives.

(7) In this section, “appropriate Minister” means the minister responsible for the Ministry that provided the grant, loan or advance, authorised the transfer of the property or for whom the Government guaranteed the performance of an obligation or gave an indemnity.

PART IV

19. Access to information

(1) The Director of Audit shall at all reasonable times and for any purpose related to the carrying out of his or her responsibilities under this or any other Act be entitled to access the records of, and electronic data processing equipment owned or leased by a—

- (a) department of Government or another service;
- (b) statutory body;
- (c) recipient of government money; or
- (d) government controlled corporation,

and to make copies of the records and may remove them from their place of origin for the purpose of doing so if he or she gives a receipt for them and returns them without delay.

(2) The following persons shall give to the Director of Audit any information, records or explanations that the Director of Audit considers necessary to enable him or her to carry out his or her responsibilities under this or any other Act—

- (a) present or former public officers;
- (b) present or former employees, officers or members of a board of management or a board of directors or a governing board or other similar body of—
 - (i) a statutory body,
 - (ii) a recipient of government money, or
 - (iii) a government controlled corporation.

(3) The Director of Audit may station any employee or professional auditor referred to in section 9(a) in the offices of—

- (a) a statutory body;
- (b) a recipient of government money; or
- (c) a government controlled corporation,

for the purpose of enabling the Director of Audit to carry out his or her responsibilities under this or any other Act more effectively, save and except that a professional auditor shall not be stationed in a department of Government.

(4) Subject to subsection (3), when the Director of Audit gives notice of his or her intention to station an employee or professional auditor referred to in section 9(a)(ii), the board of management or board of directors or governing board or other similar body of—

- (a) the statutory body;
- (b) the recipient of government money; or
- (c) the government controlled corporation.

(5) The Director of Audit shall ensure that every employee or professional auditor stationed in an office pursuant to subsection (3) complies with any security requirements applicable to persons employed in that office.

20. Evidence under oath

(1) In conducting an examination or audit or carrying out any responsibility under this or any other Act, the Director of Audit may by a notice, require any person—

- (a) to attend before the Director of Audit to give evidence with respect to any matter related to the examination or audit or other responsibility; and
- (b) to produce any records respecting the matter referred to in the notice.

(2) If a person fails or refuses to comply with a notice under subsection (1), the High Court, on the application of the Director of Audit, may issue an order requiring the person to attend before the Director of Audit in compliance with the notice.

(3) If a person refuses—

- (a) to give evidence in compliance with a notice issued pursuant to subsection (1);
- (b) to answer any questions before the Director of Audit pursuant to the notice; or
- (c) to produce any records referred to in the notice,

the High Court may commit the person for contempt in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules or any other law.

21. Non-compellable persons

(1) The Director of Audit must take precautionary steps to guard against the disclosure of any information regarding audit matters.

(2) Steps taken in terms of subsection (1) may not prevent the disclosure of any audit finding by the Director of Audit or an authorised auditor on any unauthorised expenditure, irregular, fruitless and wasteful expenditure save and except that any such disclosure may not include facts of which such disclosure would harm the national interest.

(3) The Director of Audit, or a person delegated by him or her is competent but may not be compellable to disclose information obtained in the course of official duties in any proceedings in which the Director of Audit is not a party, before—

- (a) a court in a civil matter; or
- (b) any other body or institution established in terms of legislation.

(4) Subsection (3) does not apply in any proceedings before a court in a criminal matter.

PART V

Miscellaneous

22. Audit of the Audit Department

(1) Each year an auditor entitled by law to practise accounting in Grenada who is appointed by the Minister after consultation with the Public Accounts Committee, and with the approval by resolution of the House of Representatives, shall examine and audit the accounts of the Audit Department and shall prepare a report on his or her findings.

(2) The Minister shall not appoint any person who, in the financial year in which he or she is appointed or in the preceding financial year—

- (a) is or was a public officer;
- (b) is or was an employee, officer or member of the board of management, board of directors or other governing body of—
 - (i) a statutory body, or
 - (ii) a government controlled corporation.

(3) The auditor may delegate to an employee or a person engaged by him or her any responsibility or power that the auditor has under this Act, other than the responsibility to make a report to the Minister under this section.

(4) Sections 10 and 12(2) and Part IV shall apply, with such modifications as are appropriate in the circumstances, in relation to the examination, audit and report.

(5) No later than seven months after the end of the previous financial year, the auditor shall submit the report to the Minister.

(6) The Minister shall, not later than seven days after the House of Representatives first meets after he or she has received the report of the auditor, lay it before the House of Representatives.

23. Confidentiality of information received by Director of Audit

(1) The Director of Audit, every employee and former employee of the Audit Department, every professional auditor or former professional auditor referred to in section 9(a)(ii), every other person engaged by the Director of Audit to provide professional and other services and an auditor or a former auditor of the Audit Department and any employee or person engaged by him or her under section 22(3), who receives information from a person whose right to disclose that information is restricted by law, shall hold that information under the same restrictions respecting disclosure as that which governs the person from whom the information was obtained.

(2) Nothing in subsection (1) shall limit the right of the Director of Audit or his or her delegate to report under this Act on the conclusion of an examination or audit.

24. Confidentiality of working papers of Director of Audit

The working papers relating to an examination or audit by the Director of Audit, including those of an employee or former employee of the Audit Department, a professional auditor or former auditor of the Audit Department or an employee or person engaged by an auditor of the Audit Department under section 22(3) shall be confidential and shall not be laid before the House of Representatives or any committee of the House of Representatives.

25. Tabling reports in House and referral to Public Accounts Committee

(1) When a report under this Act is laid before the House of Representatives by the Minister, an appropriate Minister pursuant to this Act or transmitted to the Speaker under this Act, the Speaker shall direct that copies be given to all members of the House of Representatives.

(2) A report of the Director of Audit laid before the House of Representatives by the Minister, an appropriate Minister pursuant to this Act or presented to the House of Representatives by the Speaker under this Act shall be referred to the Public Accounts Committee.

26. Obstruction

- (1) A person shall not—

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- (a) obstruct;
- (b) provide false or misleading information to; or
- (c) conceal or destroy any record or thing relevant to an examination or audit by,

the Director of Audit, an employee or a professional auditor referred to in section 9(a), an auditor of the Audit Department or an employee or a person engaged by the auditor of the Audit Department under section 22(3) in conducting an examination or audit under this or any other Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine of not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

**CHAPTER 22A
AUDIT ACT**

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
