

ACT 658**INTERNAL AUDIT AGENCY ACT, 2003****ARRANGEMENT OF SECTIONS***Establishment and Functions of the Internal Audit Agency***SECTION**

1. Establishment of Internal Audit Agency.
2. Object of the Agency.
3. Functions of the Agency.
4. Governing body of the Agency.
5. Membership of the Board.
6. Functions of the Board.
7. Tenure of office of members of Board.
8. Allowances for members.
9. Meetings of the Board.
10. Disclosure of interest.
11. Committees of the Board.
12. Director-General.
13. Functions of the Director-General.
14. Independence and powers of the Director-General.
15. Secretariat and other staff of the Agency.

Internal Audit Units

16. Establishment of internal audit units.
17. Action by the Agency.
18. Exhibition of professionalism and competence.
19. Integrity.
20. Confidentiality.

Financial and Miscellaneous Provisions

21. Accounts and audit.
 22. Funds of the Agency.
 23. Annual report to the President.
 24. Regulations.
 25. Offences and penalties.
 26. Interpretation.
 27. Transitional provision.
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ACT 658**INTERNAL AUDIT AGENCY ACT, 2003¹**

AN ACT to establish an Internal Audit Agency as a central agency to co-ordinate, facilitate, monitor and supervise internal audit activities within Ministries, Departments and Agencies and Metropolitan, Municipal and District Assemblies in order to secure quality assurance of internal audit within these institutions of State; to provide for the Board of the Internal Audit Agency and to provide for connected purposes.

*Establishment and Functions of the Internal Audit Agency***1. Establishment of Internal Audit Agency**

There is established by this Act an Internal Audit Agency.

2. Object of the Agency

The object of the Agency is to co-ordinate, facilitate and provide quality assurance for internal audit activities within the Ministries, Departments and Agencies and the Metropolitan, Municipal and District Assemblies.

3. Functions of the Agency

(1) The Agency shall set standards and procedures for the conduct of internal audit activities in the Ministries, Departments and Agencies and the Metropolitan, Municipal and District Assemblies.

(2) The Agency shall ensure that

- (a) financial, managerial and operating information reported internally and externally is accurate, reliable and timely,
 - (b) the financial activities of the Ministries and District Assemblies are in compliance with laws, policies, plans, standards and procedures,
 - (c) national resources are adequately safeguarded,
 - (d) national resources are used economically, effectively and efficiently,
 - (e) plans, goals and objectives of Ministries and District Assemblies are achieved, and
 - (f) risks are adequately managed in the Ministries and District Assemblies.
- (3) Without limiting subsections (1) and (2), the Agency shall
- (a) promote economy, efficiency and effectiveness in the administration of government programmes and operations,
 - (b) prepare plans to be approved by the Board for the development and maintenance of an efficient internal audit for the Ministries and District Assemblies,
 - (c) facilitate the prevention and detection of fraud, and

1. The Act was issued as the Internal Audit Agency Law, 2003 (Act 658) assented to on 31st December, 2003 and notified in the *Gazette* on 31st December, 2003.

- (d) provide a means for keeping the Ministries and District Assemblies fully and currently informed about problems and deficiencies related to the administration of their programmes and operations and the necessity for appropriate corrective action.

(4) The Agency shall monitor, undertake inspections and evaluate the internal auditing of the Ministries and District Assemblies.

4. Governing body of the Agency

The Agency shall have a governing Board known as the Internal Audit Board.

5. Membership of the Board

(1) The Board shall consist of the following members appointed by the President in accordance with article 70 of the Constitution

- (a) the chairperson,
- (b) the Minister responsible for Finance or a representative of the Minister,
- (c) the Minister for Local Government and Rural Development or a representative of the Minister,
- (d) the chairperson of the Public Services Commission or a representative of the chairperson,
- (e) the Director-General of the Agency appointed under section 12,
- (f) two other members appointed from the private sector, and
- (g) two professional accountants each with not less than ten years experience in the profession nominated by the Council of the Institute of Chartered Accountants (Ghana).

(2) The President shall in appointing members of the Board consider the integrity, knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Agency.

6. Functions of the Board

The Board shall formulate policies for the Agency and shall

- (a) establish appropriate structures for the effective and efficient execution of the object of the Agency,
- (b) secure the achievement of the object of the Agency,
- (c) approve plans for the development and maintenance of an efficient internal audit for bodies and institutions to whom this Act applies, and
- (d) take reasonable and timely action on the reports submitted to it by the Director-General.

7. Tenure of office of members of the Board

Members of the Board other than ex officio members shall hold office for a period of four years and are eligible for re-appointment, but a member shall not be appointed for more than two terms in succession.

8. Allowances for members

Members of the Board other than the Director-General shall be paid the allowances approved by the President in consultation with the Minister.

9. Meetings of the Board

(1) The Board shall meet at least once every three months at the times and places determined by the chairperson.

(2) The chairperson may at any time, and shall, on the written request of the Director-General or four other members of the Board, call a special meeting of the Board.

(3) The chairperson shall preside at the meetings of the Board, and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board is three members including the Director-General or the person acting as Director-General.

(5) A decision at a meeting of the Board shall be taken by the majority of the members present and voting and where there is equality of votes, the chairperson or the person presiding shall have a casting of vote.

(6) The Board may co-opt a person to act as an adviser at its meetings but a co-opted person is not entitled to vote at a meeting on a matter for decision by the Board.

(7) The validity of any proceedings of the Board shall not be affected by a vacancy in its membership or by a defect in the appointment or qualification of any of its members.

(8) Subject to this section the Board shall regulate its own procedures.

10. Disclosure of interest

(1) A member of the Board who is directly or indirectly interested in a matter being considered or dealt with by the Board shall disclose the nature of the interest at a meeting of the Board and shall not take part in the deliberation or decision of the Board with respect to the matter.

(2) A member who fails to disclose an interest under subsection (1) is liable to be removed from the Board.

11. Committees of the Board

The Board may for the performance of its functions appoint committees comprising members or non-members or both and may assign to a committee the functions of the Board that the Board may determine, but a committee composed exclusively of non-members may only advise the Board.

12. Director-General

(1) There shall be appointed by the President, in accordance with article 195 of the Constitution an officer who shall be the chief executive of the Agency and be designated the Director-General.

(2) The Director-General shall not, while holding office, occupy any other office or employment which is likely to conflict with the duties of the Director-General whether or not there is remuneration attached to it.

(3) Despite subsection (3), the Director-General may with the approval of the Board act as a member of a commission appointed by the Government, to enquire into a matter affecting accountability, management and governance.

(4) Subject to this section, the Director-General shall be appointed on the terms and conditions specified in the letter of appointment.

13. Functions of the Director-General

(1) The Director-General is responsible, subject to directions of the Board on matters of policy and subject to this Act, for the day-to-day management and administration of the Agency and may take the decisions and exercise powers that are necessary for the attainment of the object and functions of the Agency.

(2) Without limiting subsection (1), the Director-General shall

- (a) secure the execution of the policies of the Board,
- (b) make regular reports to the Board on the management and operations of the Agency,
- (c) provide the data, statistics and advice necessary for the formulation of policies for the attainment of the object of the Agency, and
- (d) perform any other functions directed by the Board.

14. Independence and powers of the Director-General

(1) Subject to the Constitution and this Act, the Director-General, in the performance of the functions as Director-General is not subject to the direction and control of any other person or authority, but a public body, organ or the head of a Minister or District Assembly may request the Director-General to carry out specific investigations considered reasonable by the Director-General.

(2) The Director-General or a person authorised by the Director-General is entitled

- (a) to be given the information and explanations that the Director-General may request in the performance of functions under this Act, and
- (b) to inspect books, records and offices in the performance of functions under this Act or any other enactment and shall be given access to the books, records and offices on demand.

(3) Where there is a critical financial or economic crisis or exigency which requires immediate action and there is insufficient time to call a meeting of the Board, the Director-General may with the concurrence of the chairperson of the Board exercise the powers of the Board and take the necessary action.

(4) Where an action is taken by the Director-General under subsection (3), the Director-General shall as soon as practicable call a meeting of the Board to report the action taken for ratification or review by the Board.

15. Secretariat and other staff of the Agency

(1) There shall be a secretariat of the Agency, the head of which is the Director-General.

(2) There shall be appointed by the President in accordance with article 195 of the Constitution any other public officers as the Agency may require for the performance of its functions.

(3) Public officers may be transferred or seconded to the Agency as requested by the Director-General and approved by the Board.

(4) The President may, in accordance with article 195 (2) of the Constitution, delegate the power of appointment under this Act.

*Internal Audit Units***16. Establishment of internal audit units**

(1) There shall be established in each Ministry or District Assembly an internal audit unit which shall constitute a part of the Ministry or District Assembly.

(2) There shall be appointed for each internal audit unit, personnel required to ensure an effective and efficient internal auditing of the Ministry or District Assembly concerned.

(3) An internal audit unit established under subsection (1) shall in accordance with this Act and standards and procedures provided by the Agency, carry out an internal audit of its Ministry or District Assembly and shall submit reports on the internal audit it carries out to the Director-General of the Agency.

(4) The internal audit unit of a Ministry shall submit a copy of its internal audit report to its management body and any other persons as it is required to submit the report.

(5) The autonomous bodies of the Constitution are subject to the standards and procedures of the Agency and shall have internal audit units.

(6) The internal audit units of the autonomous bodies shall not be subject to the Agency but are subject to the Auditor-General.

(7) A copy of the internal audit report of an autonomous body shall be submitted to the Auditor-General.

(8) A copy of an internal audit report of a District Assembly shall be submitted to its Regional Co-ordinating Council.

(9) A Regional Co-ordinating Council shall furnish the Agency with a copy of an internal audit report submitted under subsection (6).

(10) The Audit Report Implementation Committees of the Ministries and District Assemblies as established under section 30 (1) of the Audit Service Act, 2000 (Act 584) are responsible for the implementation of the recommendations of the internal audit reports.

17. Action by the Agency

The Agency may on examination of an internal audit report, take the appropriate action including recommendation of prosecution and disciplinary action in respect of any breaches found.

18. Exhibition of professionalism and competence

Internal auditors operating by virtue of this Act,

- (a) shall exhibit the highest level of professionalism in the gathering, evaluation and communication of information when auditing and shall act only in areas for which they have the necessary knowledge, skills, experience and competence;
- (b) shall perform internal auditing in accordance with Generally Accepted Principles of Internal Auditing and the standard and guidelines of the Agency as established under section 3 (1); and
- (c) shall in the performance of their functions make a balanced assessment of the issues of relevance to the work and should not be influenced by their personal interest or the interests of other persons.

19. Integrity

Internal auditors to whom this Act applies shall

- (a) perform their functions with honesty and diligence;
- (b) not knowingly be a party to an illegal activity or engage in acts that discredit the work of internal auditing or the Ministries or District Assemblies;
- (c) make disclosures required by law and the standards and procedures as established under section 3 (1);
- (d) not participate in a activity or a relationship that may impair or is likely to be taken to impair unbiased assessment, including an activity or a relationship that may be in conflict with the interests of the Ministries or district Assemblies;
- (e) not accept anything or a favour that may impair or might be taken to affect their professional judgment; and
- (f) disclose the material facts known to them, the non-disclosure of which may distort a reporting activity.

20. Confidentiality

(1) Internal auditors shall respect the value and ownership of information they receive and shall not disclose information without authority unless there is a legal or professional obligation to do so.

(2) Internal auditors shall be prudent in the use and protection of information acquired in the course of their duties.

(3) Internal auditors shall not use information for any personal gain or in any manner that would be contrary to this Act or detrimental to the legitimate and ethical objectives of the Agency, MDAs and MMDAs.

*Financial and Miscellaneous Provisions***21. Accounts and audit**

(1) The Agency shall keep proper books of account and other records in relation to these in the form determined by the Controller and Accountant-General and approved by the Auditor-General.

(2) The Agency shall, not later than three months after the end of the financial year, submit for audit to the Auditor-General, its books of account and records.

(3) The Auditor-General shall, not later than three months after the submission under subsection (2), audit the books of account of the Agency.

(4) The financial year of the Agency shall be the same as the financial year of the Government.

22. Funds of the Agency

The funds of the Agency are

- (a) moneys provided to the Agency by Parliament for the performance of its functions; and
- (b) moneys that accrue to the Agency.

23. Annual report to the President

(1) The Board shall not later than three months after the end of each financial year submit to the President a report of the activities of the Agency in respect of the preceding financial year and shall in the report

- (a) state its findings on activities of the internal audit units of the Ministries and the District Assemblies;
- (b) provide details of its expenditure for the preceding financial year as compared with its budgeted expenditures for that year.

(2) The President shall cause the report with the comments of the President to be laid before Parliament by the Minister.

24. Regulations

(1) The President may, on the advice of the Board, by legislative instrument, prescribe Regulations necessary for the effective implementation of this Act.

(2) In furtherance of subsection (1) Regulations may be made in respect of

- (a) the persons or bodies to whom reports of the internal audit units shall be distributed by the Board;
- (b) the protection of internal auditors; and
- (c) any other matter in accordance with this Act.

(3) The Regulations may be signed by a Minister authorised by the President.

25. Offences and penalties

(1) A person commits an offence and is liable on summary conviction to a fine not less than one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment,

- (a) gives the Director-General an information or explanation which that person knows to be false or which that person has no reason to believe to be true;
- (b) fails to produce for inspection by the Director-General or otherwise fails to give the Director-General access to a book, record or an office when requested by the Director-General;
- (c) wilfully suppresses an information or explanation required by the Director-General;
- (d) obstructs the Director-General in any way in the performance of functions under this Act; or
- (e) provides information which that person knows to be false or which that person has no reason to believe to be true to an internal auditor.

(2) An internal auditor who acts in breach of any of the provisions of section 18, 19 or 20 shall be subject to the action that the Board shall recommend including criminal prosecution.

(3) A member of staff or employee of the Agency who

- (a) demands or takes a bribe, gratuity, recompense or reward for the neglect, omission, commission or performance of a function under this Act,
- (b) wilfully fails to report to the Director-General an abuse or irregularity that comes to the notice of that person in the course of the performance of functions under this Act, or
- (c) makes a report to the Director-General which that person knows to be false or which that person has no reason to believe to be true,

commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(4) For the purposes of subsection (1), the Director-General includes an officer acting under the instructions of the Director-General.

26. Interpretation

In this Act unless the context otherwise requires,

“**Agency**” means the Internal Audit Agency established under section 1;

“**Board**” means the Board of the Internal Audit Agency;

“**District Assemblies**” included as Metropolitan and Municipal Assemblies;

“**functions**” included as powers and duties;

“**Minister**” means the Minister responsible for Finance;

“Ministries” includes Ministries, Departments and Agencies and all government bodies and institutions that receive government subvention wholly or partially;

“Regulations” means Regulations made under this Act.

27. Transitional provision

(1) Internal audit officers and the public officers performing internal audit work in a Ministry or District Assembly immediately before the coming into force of this Act shall on the coming into force of this Act be deemed to constitute the members of an internal audit unit of the Ministries or District Assemblies for the purposes of this Act.

(2) Despite subsection (1), public officers performing internal audit duties in a Ministry or District Assembly on the date of the coming into force of this Act may be re-assigned to the internal audit units that the appointing authority may determine.
