



Isle of Man

Ellan Vannin

AT 15 of 2006

AUDIT ACT 2006



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**Isle of Man***Ellan Vannin*

AUDIT ACT 2006

Received Royal Assent: 16 October 2006
Announced to Tynwald: 16 October 2006
Commenced: 1 April 2007

AN ACT to make new provision for the audit of accounts of public bodies; to amend the law relating to the audit of charities; and for connected purposes.

Scope of Act

1 Bodies subject to audit under this Act

- (1) Subject to subsection (2), the accounts of the following bodies shall be audited in accordance with this Act —
- (a) every Department;
 - (b) every Statutory Board;
 - (c) every local authority;
 - (d) every body established by or under any statutory provision and consisting of or including persons appointed by one or more bodies referred to in paragraphs (a), (b), and (c);
 - (e) every company, more than half of the equity share capital of which is beneficially owned by one or more Departments or Statutory Boards or is otherwise held by or in trust for the Government, and which is not liable to comply with section 109(3) (filing of accounts) of the *Companies Act 1931*;
 - (f) every company which is a subsidiary of a body referred to in paragraph (e);
 - (g) every office or department of the Government or the Legislature;
 - (h) any other body to which the Treasury by order direct that this subsection shall apply; and
 - (i) any other body whose accounts are directed by any statutory provision other than this Act to be audited in accordance with this Act.
- (2) This Act applies to —

- (a) all accounts of the bodies referred to in subsection (1)(a) to (f), except so far as the Treasury by order directs that accounts specified in the order shall not be audited in accordance with this Act;
- (b) in the case of a body specified in an order under subsection (1)(h) —
 - (i) where the order directs that subsection (1) shall apply in relation to accounts specified in the order, those accounts;
 - (ii) otherwise, all accounts of the body;
- (c) such accounts of a body referred to in subsection (1)(i) as are specified for the purpose in the provision in question.

Accounting year

2 Yearly accounts

- (1) All accounts required to be audited in accordance with this Act shall be made up yearly to 31st March or such other date as the Treasury may generally or in any special case direct.
- (2) Subsection (1) has effect subject to any express statutory provision to the contrary.

Audit of accounts

3 Appointment of auditor

- (1) All accounts required to be audited in accordance with this Act shall be audited by a qualified auditor appointed in writing by the Treasury for such period, not exceeding 5 years, as the Treasury thinks fit.
- (2) The Treasury may appoint different auditors for the purpose of auditing the accounts of different bodies, or different accounts of the same body.
- (3) If 2 or more auditors are appointed to audit the accounts of a body they may be appointed —
 - (a) to act jointly,
 - (b) to act separately in relation to different parts of the accounts, or
 - (c) to discharge different functions in relation to the audit.
- (4) Subject to subsection (5), a person is qualified for the purpose of subsection (1) if, and only if, that person is eligible for appointment as auditor of a company under section 14 of the *Companies Act 1982*.
- (5) The following persons are not qualified for the purpose of subsection (1) —
 - (a) a member of the Council or the Keys;

- (b) a member of or employed by a Department or Statutory Board;
 - (c) a member of the Isle of Man Civil Service;
 - (d) a partner in a firm, any member of which is a person within paragraph (a), (b) or (c);
 - (e) a member of a limited liability company, any member of which is a person within paragraph (a), (b) or (c);
 - (f) in relation to the accounts of a body referred to in section 1(1)(c), (d), (e), (f), (h) or (i), a person who is, or who is a partner in a firm, or a member of a limited liability company, any member of which is, a member of or employed by that body;
 - (g) in relation to the accounts of a Department or Statutory Board, a person who is, or who is a partner in a firm, or a member of a limited liability company, any member of which is, a member of or employed by —
 - (i) a company more than half of the equity share capital of which is beneficially owned by that Department or Statutory Board, or
 - (ii) a company which is a subsidiary of that Department or Statutory Board.
- (6) A person appointed by the Isle of Man Gambling Supervision Commission as an accountant under section 2(2)(a) of the *Casino Act 1986* shall not be treated as employed by that body for the purposes of this section.¹

4 General duties of auditor

- (1) In auditing any accounts in accordance with this Act, an auditor shall by examination of the accounts and otherwise satisfy himself or herself that the accounts —
- (a) give a true and fair view of the financial affairs of the relevant body for the period, or at the date, to which they relate, as the case may be,
 - (b) comply with any regulations under section 12, and any directions under section 13, which are applicable to them, and
 - (c) comply with the requirements of any other statutory provision applicable to them.
- (2) In auditing the accounts the auditor shall also consider whether —
- (a) the application by or on account of the relevant body of money provided by Tynwald,
 - (b) the payment or application of money or other property held or received by or on account of the body, or
 - (c) a transaction effected by or on account of the body,

is or will be contrary to law.

- (3) In auditing the accounts the auditor shall also consider —
- (a) whether the internal organisation of the relevant body, and the internal controls maintained by it, are such as to secure the proper management of the finances of the body and economy and efficiency in the use of its resources; and
 - (b) where the relevant body is a designated body for the purposes of the *Treasury Act 1985*, whether the body has complied with any principles or code of conduct prescribed by the Council of Ministers and specified for the purpose of this paragraph by direction of the Treasury.

5 Auditor's right of access to documents and information

- (1) In relation to any accounts to be audited in accordance with this Act, the relevant body shall provide the auditor with every facility and all information which the auditor may reasonably require for the purpose of the audit.
- (2) Without prejudice to the generality of subsection (1), the auditor has a right of access at all reasonable times to every document or record to which this section applies, access to which appears to the auditor to be necessary for the purpose of the audit.
- (3) This section applies to any document or record in the custody or control of —
- (a) the relevant body;
 - (b) a person who has received financial assistance from the relevant body, whether by way of grant, loan or guarantee;
 - (c) a person from whom the relevant body has acquired an interest in any property;
 - (d) a body corporate any share or other interest in which the relevant body has acquired; and
 - (e) a person who has supplied goods or services —
 - (i) to the relevant body in pursuance of a contract to which the body was party, or
 - (ii) in pursuance of a relevant sub-contract.
- (4) This section also applies to a document or record of a description specified in an order made by the Treasury for the purpose of this section.
- (5) In relation to any accounts to be audited in accordance with this Act, the auditor may —

- (a) by notice in writing require a person who appears to the auditor to be in possession or control of a document or record to which this section applies and which is specified in the notice —
 - (i) to produce the document or record to the auditor, or
 - (ii) if the document or record is contained in a computer, to produce it in a form which may be taken away and in which it is visible and legible;
 - (b) by notice in writing require a person who appears to the auditor to have information of the kind specified in subsection (6) —
 - (i) to give the auditor any assistance, information and explanation which appears to the auditor necessary for the purpose of the audit; or
 - (ii) to attend before the auditor in person to give any such assistance, information or explanation, or
 - (iii) if the information is contained in a computer, to produce it in a form which may be taken away and in which it is visible and legible;
 - (c) at any reasonable time have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in used in connection with a document or record specified in a notice under paragraph (a) or information referred to in paragraph (b); and
 - (d) by notice in writing require the person by whom or on whose behalf the computer is or has been used, or any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford the auditor such assistance as the auditor may reasonably require.
- (6) The information referred to in subsection (5)(b) is information relating to —
- (a) the relevant body;
 - (b) a document to which this section applies; or
 - (c) the person in whose custody or control such a document is.
- (7) A person who —
- (a) intentionally obstructs an auditor exercising a right conferred by subsection (2) or (5)(c),
 - (b) without reasonable excuse fails to give an auditor exercising that right any assistance or information which the auditor may reasonably require of that person for the purpose of the audit in question, or
 - (c) without reasonable excuse fails to comply with a notice given under subsection (5)(a), (b) or (d),

is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000, or both.

- (8) In this section “relevant sub-contract”, in relation to a body, means a contract the performance of which fulfils, or contributes to the fulfilment of, an obligation to supply goods or services to the body under another contract.

6 Auditor’s report

- (1) Where an auditor has concluded an audit of any accounts in accordance with this Act, the auditor shall prepare a report on the accounts.
- (2) Where, in relation to the accounts, the auditor —
- (a) is not satisfied as to any of the matters specified in section 4(1),
 - (b) considers that any matter specified in section 4(2) is contrary to law, or
 - (c) considers that the relevant body has failed in any respect mentioned in section 4(3),

the auditor’s report shall include a statement to that effect, with particulars of the default in question.

- (3) The auditor shall send a copy of the report under subsection (1) to —
- (a) the relevant body;
 - (b) the appropriate authority; and
 - (c) in the case of accounts of a body referred to in section 1(1)(e) or (f), the relevant Department or Statutory Board.
- (4) Subject to subsection (5), the auditor shall comply with subsection (3) not later than —
- (a) 14 days after the conclusion of the audit; and
 - (b) such date after the end of the period to which the accounts relate as may be prescribed under section 12(1)(j),

whichever is the earlier.

- (5) Where the auditor does not comply with subsection (3) by the date referred to in subsection (4)(b), the auditor shall, not later than that date, notify the bodies referred to in subsection (3) of the failure and the reasons for it.
- (6) As soon as practicable after the relevant body receives the report of the auditor, it shall take the report into consideration; and the agenda supplied to the members of the body for a meeting of the body at which the report is taken into consideration shall be accompanied by the report.

- (7) The relevant body shall take such steps as may be prescribed under section 12(1)(k) for bringing the report of the auditor to the attention of the public.

7 Special directions to auditor

- (1) The Treasury may direct an auditor, in auditing any accounts in accordance with this Act, to investigate or review any matters connected with the accounts or the activities of the relevant body and specified in the direction.
- (2) Where the Treasury has given a direction under subsection (1), the auditor's report under section 6(1) shall include the results of the investigation or review.

8 Special report

- (1) Where an auditor is conducting or has concluded an audit of accounts in accordance with this Act, the auditor shall consider —
- (a) whether any matter which has come to the auditor's notice in the course of the audit should, in the public interest, be —
- (i) considered by the relevant body, or
- (ii) brought to the attention of the public; and
- (b) if so, whether the public interest requires the matter to be made the subject of an immediate report.
- (2) Where the auditor is of opinion that any such matter should, in the public interest, be considered by the relevant body or brought to the attention of the public, then —
- (a) if the auditor is of opinion that the public interest requires the matter to be made the subject of an immediate report, the auditor shall prepare such a report and send a copy of it to the bodies specified in section 6(3);
- (b) in any other case, the auditor shall include particulars of the matter in the report under section 6(1).
- (3) Section 6(6) and (7) applies to a report under subsection (2)(a) as it applies to a report under section 6(1).

9 Warning notices

- (1) This section applies where —
- (a) an auditor is carrying out or has concluded an audit of accounts under this Act, and
- (b) it appears to the auditor that the relevant body is about to make or has made a decision, or is about to take or has begun to take a course of action, involving —

- (i) the application by or on account of the body of money provided by Tynwald,
 - (ii) the payment or application of money or other property held or received by or on account of the body, or
 - (iii) a transaction effected by or on account of the body, which is or will be contrary to law.
- (2) For the purposes of this section a decision or action of a member, officer, committee or sub-committee of a body shall be treated as a decision or action of the body.
- (3) The auditor may give to the relevant body a notice in writing (a “warning notice”) –
 - (a) specifying the decision or course of action, or proposed decision or course of action, in question, and
 - (b) stating the reasons why the auditor considers that the application, payment or transaction involved is or will be contrary to law;and shall send a copy of the notice to the appropriate authority.
- (4) Where a warning notice is given to a body, the body shall forthwith –
 - (a) consider in the light of the notice the consequences of the decision or course of action, or proposed decision or course of action, in question, and
 - (b) determine whether or not to uphold the decision, continue with the course of action, make the proposed decision or take the proposed course of action, as the case may be.
- (5) The body shall within the time prescribed under section 12(1)(m) –
 - (a) by notice in writing (a “notice in reply”) inform the auditor of –
 - (i) its determination under subsection (4)(b), and
 - (ii) if it has determined to uphold the decision, continue with the course of action, make the proposed decision or take the proposed course of action, as the case may be, its reasons for so doing;
 - (b) send a copy of the notice in reply to the appropriate authority; and
 - (c) take such steps as may be prescribed under section 12(1)(k) for bringing the warning notice and notice in reply to the attention of the public.
- (6) If a body fails to comply with a requirement of subsection (4) or (5), it is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.
- (7) The relevant body shall pay to the auditor the expenses reasonably incurred by the auditor in giving a warning notice.

10 Application by auditor to High Court

- (1) This section applies where —
 - (a) an auditor is carrying out or has concluded an audit of accounts under this Act, and
 - (b) it appears to the auditor that —
 - (i) the application by or on account of the relevant body of money provided by Tynwald,
 - (ii) the payment or application of money or other property held or received by or on account of that body, or
 - (iii) a transaction effected or to be effected by or on account of that body,is or will be contrary to law,
whether or not the auditor could take or has taken action under section 9.
- (2) Where this section applies, the auditor may apply to the High Court for a declaration that the application, payment or transaction is or will be contrary to law.
- (3) Where on an application under subsection (2) the High Court makes the declaration applied for, it may also —
 - (a) grant an injunction on such terms as it thinks fit,
 - (b) order rectification of the accounts in question,
 - (c) order that the relevant body pay the auditor's costs of the application, and
 - (d) make such other order as appears to it to be appropriate.
- (4) The costs and expenses reasonably incurred by an auditor in making an application under subsection (2) shall be defrayed by the appropriate authority so far as they are not ordered to be paid by the relevant body under subsection (3)(c).

11 Extraordinary audit

- (1) If Tynwald is of opinion that an extraordinary audit of any accounts required to be audited in accordance with this Act is desirable in the public interest, it may by resolution direct an auditor to conduct an extraordinary audit of those accounts.
- (2) Without prejudice to subsection (1), the appropriate authority may direct an auditor to conduct an extraordinary audit of the accounts of any body whose accounts are required to be audited in accordance with this Act, if it appears to that authority that such an audit is desirable in the public interest.
- (3) Sections 3 to 10 (except section 6(4) and (5)) apply to an extraordinary audit as they apply to any other audit under this Act.

- (4) The expenses of an extraordinary audit shall be defrayed by the appropriate authority.

12 Regulations as to accounts and audit

- (1) In relation to accounts which are required to be audited in accordance with this Act, the Treasury shall by regulations make provision with respect to —
- (a) the keeping of the accounts;
 - (b) the form, preparation and certification of the accounts;
 - (c) the accounting standards to be complied with in the compilation of the accounts;
 - (d) the deposit and public inspection of the accounts at the offices of the relevant body or elsewhere;
 - (e) the form, preparation and publication of statements of, and information relating to, the accounts;
 - (f) the time at which, and the manner and form in which, the accounts and information relating to them shall be provided to the auditor;
 - (g) any duties of the auditor in addition to those specified in section 4;
 - (h) the practices to be adopted by the auditor in conducting an audit;
 - (i) subject to sections 6(2) and 8(2)(b), the contents of the auditor's report under section 6;
 - (j) the date by which the auditor shall comply with section 6(3);
 - (k) the steps to be taken for bringing audits under this Act, auditors' reports under sections 6 and 8 and notices under section 9 to the attention of the public;
 - (l) the considerations to be taken into account by the auditor in determining the public interest in relation to any question under section 8; and
 - (m) the time within which the steps mentioned in section 9(5) are to be taken.
- (2) In relation to accounts which are required to be audited in accordance with this Act, the Treasury may by regulations make provision with respect to —
- (a) the standards with which the internal organisation of the relevant body, and the internal controls maintained by that body, should comply for the purpose of securing the proper management of the finances of the body and economy and efficiency in the use of its resources;

- (b) the time at which, and the manner and form in which, information relating to the matters referred to in paragraph (a) shall be provided to the auditor.
- (3) Regulations under subsection (1)(a), (b) and (c) shall be so framed as to secure that the accounts to which they apply give a true and fair view of the financial affairs of the relevant body for the period, or at the date, to which the accounts relate, as the case may be.
- (4) Regulations under subsection (1)(c) or (h) or (2)(a) may require compliance with standards or the adoption of practices recommended by a body specified in the regulations, and may in particular require compliance with standards or the adoption of practices recommended by that body from time to time (that is, after as well as before the making of the regulations).
- (5) The Treasury may by regulations –
 - (a) require a body whose accounts are required to be audited in accordance with this Act to appoint or nominate an officer of the body for any purposes relating to the financial affairs of the body which are specified in the regulations;
 - (b) specify the qualifications to be held by an officer so appointed or nominated; and
 - (c) impose on an officer so appointed or nominated duties relating to the accounts of the body, or to the audit of those accounts.
- (6) Regulations under this section may apply to all bodies whose accounts are to be audited in accordance with this Act, or to any class of such bodies.
- (7) If any person intentionally contravenes any provision of regulations under this section, the contravention of which is declared by the regulations to be an offence, that person shall be liable on summary conviction to a fine not exceeding £5,000.

13 Directions as to accounts and audit

- (1) The Treasury may give directions, not being inconsistent with any provision of this Act or of regulations under section 12, for supplementing any regulations under that section.
- (2) Directions under this section may apply to all bodies whose accounts are to be audited in accordance with this Act, or to any class of such bodies.

14 Audit fees

- (1) The Tynwald Auditor General shall determine the fee to be paid in respect of any audit under this Act.
- (2) Before determining the fee the Tynwald Auditor General must consult –

- (a) the Treasury;
 - (b) the body whose accounts are to be audited; and
 - (c) if the audit is not to be conducted by the Tynwald Auditor General, the person who is to conduct it.
- (3) A body whose accounts are to be audited must pay the fee determined under subsection (2) to the person who is to conduct the audit.²

15 Audit of accounts of officers

- (1) Where an officer of a body whose accounts are required to be audited in accordance with this Act receives any money or other property on behalf of that body, or receives any money or other property for which the officer ought to account to that body, the accounts of the officer shall be audited by the auditor of the accounts of that body.
- (2) This Act applies with any necessary modifications to the accounts of –
- (a) the head of an office or department referred to in section 1(1)(g), and
 - (b) an officer referred to in subsection (1).

16 Laying of accounts and reports before Tynwald

Subject to the standing orders of Tynwald, the appropriate authority shall lay before Tynwald –

- (a) any accounts audited in accordance with this Act,
- (b) the auditor's report or reports on any such accounts, and
- (c) any other report of an auditor, a copy of which is required by this Act to be sent to the Treasury.

Charities

17 Accounts of registered charities

- (1) [Substitutes section 5 of the *Charities Registration Act 1989*.]
- (2) [Amends section 11(1) of the *Charities Registration Act 1989* by substituting paragraphs (b), (c) and (d) for paragraph (b).]
- (3) This section does not apply to the accounts of a charity for an accounting year ending more than 5 months before the coming into operation of this section.

*Miscellaneous and supplemental***18 Consultative body**

- (1) The Treasury shall establish a body for the purpose of advising —
 - (a) the Treasury,
 - (b) the Department,
 - (c) persons appointed under section 3, and
 - (d) bodies whose accounts are to be audited in accordance with this Act,on any matter relating to accounts which are to be audited in accordance with this Act and the audit of such accounts.
- (2) The body referred to in subsection (1) shall include representatives of —
 - (a) bodies whose accounts are to be audited in accordance with this Act, or bodies representative of those bodies or any class of those bodies, and
 - (b) bodies representative of persons qualified for the purpose of section 3(1), or of any class of those persons.

19 Subordinate legislation etc.

- (1) None of the following shall come into operation unless it is approved by Tynwald —
 - (a) an order under section 1(1)(h) or (2)(a) or section 5(4); and
 - (b) regulations under section 12.
- (2) Each of the following shall be laid before Tynwald as soon as practicable after it is made —
 - (a) a direction under section 13; and
 - (b) an order under section 14.
- (3) Before making any regulations under section 12, or giving any direction under section 13, the Treasury shall consult such of the following as appear to it to be appropriate —
 - (a) the body established under section 18,
 - (b) bodies whose accounts are to be audited in accordance with this Act, or bodies representative of those bodies or any class of those bodies,
 - (c) bodies representative of persons qualified for the purpose of section 3(1), or of any class of those persons,
 - (d) bodies responsible for accounting standards and auditing practices in the United Kingdom.

- (4) Before making any regulations under section 12, or giving any direction under section 13, affecting —
- (a) a local authority,
 - (b) a joint board, or
 - (c) the churchwardens of a parish (in relation to their functions under the *Burials Act 1986*),
- the Treasury shall consult the Department.

20 Offences by corporations

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any member or officer of the body corporate or any person who is purporting to act in any such capacity, that member or officer as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

21 Interpretation

- (1) In this Act —

“**the appropriate authority**”, in relation to a body or the accounts of a body, means —

- (a) the Department, where the body is a local authority, a joint board or the churchwardens of a parish;
- (b) the Treasury, in any other case;

“**auditor**”, in relation to any accounts, means the person appointed under section 3 for the purpose of auditing those accounts;

“**body**” includes any legal or natural person;

“**the Department**” means the Department of Infrastructure;³

“**equity share capital**” has the meaning given by section 1 of the *Companies Act 1974*;

“**joint board**” means a body established by or under any statutory provision and consisting of or including persons appointed by one or more local authorities;

“**the relevant body**”, in relation to any accounts, means the body whose accounts they are;

“**subsidiary**” has the same meaning as in the *Companies Act 1974*.

- (2) For the purposes of this Act —

- (a) the application of money provided by Tynwald is contrary to law if, without the sanction of Tynwald, it is applied otherwise than for the purpose for which it was intended;

- (b) the payment or application of money or other property held or received by a body is contrary to law if it is paid or applied otherwise than as required by any statutory provision or rule of law applicable to it;
- (c) a transaction effected by or on account of a body is contrary to law if —
 - (i) it is outside the powers of the body, or
 - (ii) it is effected otherwise than in accordance with any statutory provision or rule of law applicable to it.

22 Amendments and repeals

- (1) The enactments specified in Schedule 1 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 2 are repealed to the extent specified in column 3 of that Schedule.

23 Short title, commencement etc.

- (1) This Act may be cited as the Audit Act 2006.
- (2) This Act shall come into operation on such day or days as the Treasury may by order appoint.⁴
- (3) Different days may be appointed under subsection (2) in relation to different bodies or descriptions of bodies, or different accounts of the same body or description of bodies; and nothing in this Act applies to the accounts of any body in respect of a period commencing before the day so appointed in relation to that body.
- (4) Subsection (3) does not apply to section 17.

SCHEDULE 1

AMENDMENT OF ENACTMENTS

Section 22(1)

PART 1 – ENACTMENTS RELATING TO PUBLIC AUDIT

Part 1 amends the following Acts –

Industrial and Building Societies Act 1892 q.v.

Finance Act 1958 q.v.

Income Tax Act 1970 q.v.

Isle of Man Loans Act 1974 q.v.

Collection of Fines etc. Act 1985 q.v.

Burials Act 1986 q.v.

Government Departments Act 1987 q.v.

Summary Jurisdiction Act 1989 q.v.

High Court Act 1991 q.v.

Post Office Act 1993 q.v.

Electricity Act 1996 q.v.

Data Protection Act 2002 q.v.]

PART 2 – ENACTMENTS RELATING TO CHARITIES

Part 2 amends the following Acts –

Charities Act 1986 q.v.

Church Act 1992 q.v.

National Health Service Act 2001 q.v.]

Schedule 2

ENACTMENTS REPEALED

Section 22(2)

[Sch 2 repeals the following Act wholly –

Audit Act 1983

and the following Acts in part –

Local Government Act 1985

Treasury Act 1985

Local Elections Act 1986

Casino Act 1986

Highways Act 1986

Government Departments Act 1987

Statute Law Revision Act 1992.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

-
- ¹ Subs (6) amended by Gambling (Amendment) Act 2006 s 3(2).
² S 14 substituted by Tynwald Auditor General Act 2011 Sch 2.
³ Definition of 'the Department' amended by SD155/10 Sch 5.
⁴ ADO (whole Act) 1/4/2007 (SD831/06).