



Isle of Man

Ellan Vannin

AT 15 of 2015

AUDIT (AMENDMENT) ACT 2015



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**Isle of Man***Ellan Vannin*

AUDIT (AMENDMENT) ACT 2015

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AN ACT to amend the Audit Act 2006; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – OPENING PROVISIONS

1 Short title

The short title of this Act is the Audit (Amendment) Act 2015.

2 Commencement

- (1) This Act, other than section 1 and this section, comes into operation on such day or days as the Treasury may by order appoint.
- (2) An order under subsection (1) may include such consequential, incidental, supplementary, transitional and transitory provision as the Treasury considers appropriate.

3 Expiry

- (1) This Act expires —
 - (a) on the day after its promulgation if all of its provisions are in operation on its promulgation; or
 - (b) otherwise, on the day after the last provision is brought into operation.
- (2) But the expiry does not —
 - (a) revive any provision, which this Act amends, as the provision operated before the amendment commenced;

- (b) revive anything not in operation or existing when the amendment took effect;
- (c) affect the continuing operation of the amendment; or
- (d) revive any provision repealed by the earlier operation of this Act.

PART 2 — AUDIT ACT 2006 AMENDED

4 Audit Act 2006 amended

The *Audit Act 2006* is amended in accordance with this Part.

5 Section A1 inserted — forms of inspection

Before section 1 (but after the cross-heading “Scope of Act”) insert —

▣ A1 Forms of inspection under the Act

- (1) The Treasury may direct accounts to which this Act applies —
 - (a) to be audited;
 - (b) to be the subject of an assurance review; or
 - (c) to be examined.
- (2) Subsections (3) to (5) respectively define “**audit**”, “**assurance review**” and “**examination**” for the purposes of this Act, and in this Act a reference to “**inspecting**” accounts is a reference to doing any of these things (and cognate expressions are to be construed accordingly).
- (3) “**Audit**” in relation to an account means an audit of financial statements conducted in accordance with international standards on auditing as those standards have effect in the United Kingdom.
- (4) “**Assurance review**” means a review of such matters in connection with an account and conducted in such manner and by such person as the Treasury may direct.
- (5) “**Examination**” in relation to an account is an examination conducted —
 - (a) in such manner as the Treasury may direct; and
 - (b) by an examiner for the time being approved by the Treasury.
- (6) Unless otherwise provided, accounts to which this Act applies must be audited. **▣**

6 Section 1 amended – bodies subject to inspection

- (1) Section 1 is amended as follows.

- (2) In subsection (1) for “audited” (in both places) substitute ~~“~~inspected~~”~~.
- (3) In subsection (2)(a) —
 - (a) for “subsection (1)(a) to (f)” substitute ~~“~~subsection (1)~~”~~; and
 - (b) for “audited” substitute “inspected”.
- (4) The section heading accordingly becomes “Bodies subject to inspection under this Act”.

7 Section 2 amended — yearly accounts

In section 2(1) for “audited” substitute ~~“~~inspected~~”~~.

8 Section 3 amended — appointment of auditors

- (1) Section 3 is amended as follows.
- (2) In subsection (1) omit the words following “in writing by the Treasury”.
- (3) In subsection (4) omit “Subject to subsection (5),”.
- (4) Subsections (5) and (6) are repealed.

9 Sections 3A and 3B inserted — appointment of assurance reviewer and examiner

After section 3 insert the following —

~~“~~3A Appointment of assurance reviewer

- (1) All accounts required to be the subject of an assurance review in accordance with this Act shall be reviewed by a qualified auditor appointed in writing by the Treasury.
- (2) The Treasury may appoint different assurance reviewers for the purpose of conducting assurance reviews of the accounts of different bodies, or different accounts of the same body.
- (3) If 2 or more persons are appointed to conduct assurance reviews of 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 assurance review.
- (4) A person is qualified for the purpose of subsection (1) if, and only if, that person —
 - (a) is eligible for appointment as auditor of a company under section 14 of the *Companies Act 1982*; and

- (b) is not disqualified by section 4B below. **22**.

3B Appointment and qualifications of an examiner

- (1) All accounts required to be examined in accordance with this Act shall be examined by a qualified examiner.
- (2) An examiner is to be appointed by the body whose accounts are to be examined, and the fees and terms of engagement of the examiner are to be agreed between the body and the examiner.
- (3) For the purposes of this Act, a person is qualified to act as an examiner if, and only if, that person —
 - (a) is an accountant or a person holding a qualification prescribed under section 11(1)(c) of the *Charities (Registration) Act 1989*; and
 - (b) is not disqualified by section 4B below.

10 Sections 4A and 4B inserted — duties of certain inspectors, and persons disqualified for acting as such

After section 4 insert —

23 4A General duties of an assurance reviewer or examiner

- (1) An assurance reviewer or an examiner, in inspecting any accounts under this Act, must, by review of the accounts and otherwise satisfy himself or herself there is nothing that would indicate that the accounts have not been prepared as to —
 - (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;
 - (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 conducting an assurance review or an examination the inspector must also consider, so far as is practicable in the circumstances of the inspection being undertaken, whether any of the following is or may be contrary to law —
 - (a) the application of money, provided by Tynwald, by or on account of, the relevant body;
 - (b) the payment or application of money or other property held or received by or on account of the body;
 - (c) a transaction effected by or on account of the body.

- (3) In conducting any assurance review or examination the inspector must by inspection of the accounts and otherwise satisfy himself or herself that there is not anything that would indicate that —
- (a) the internal organisation of the relevant body, and the internal controls maintained by it, are such as to be insufficient to secure the proper management of the finances of the body and economy and efficiency in the use of its resources; and
 - (b) if the relevant body is a designated body for the purposes the *Treasury Act 1985*, the body has failed to comply 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.

4B Persons disqualified as inspector

The following are disqualified for acting as an inspector under this Act —

- (a) a member of the Council or the Keys;
- (b) a member of, or a person employed by, a Department or Statutory Board;
- (c) an employee of the Public Services Commission;
- (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 a company which would be a subsidiary, within the meaning of section 1 of the *Companies Act 1974*, of that Department or Statutory Board if the Department or Statutory Board were itself a company. .

11 Section 5 amended — access to documents and information

- (1) Section 5 is amended as follows.
- (2) Throughout the section—

- (a) for “audit” substitute **43** inspection **22**;
 - (b) for “audited” substitute **43** inspected **22**.
 - (c) for “auditor” substitute **43** inspector **22**.
- (3) The heading to the section accordingly becomes **43** Inspector’s right of access to documents and information **22**.

12 Section 6 amended – auditor’s report

- (1) Section 6 is amended as follows.
- (2) Throughout the section –
 - (a) for “audit” substitute **43** inspection **22**.
 - (b) for “auditor” substitute **43** inspector **22**;
- (3) In subsection (2) –
 - (a) in paragraph (a) after “4(1)” insert **43** or 4A(1) **22**;
 - (b) in paragraph (b) after “4(2)” insert **43** or 4A(2) **22**; and
 - (c) in paragraph (c) after “4(3)” insert **43** or 4A(3) **22**.
- (4) The heading to the section accordingly becomes **43** Inspector’s report **22**.

13 Section 7 amended – special directions to auditor

- (1) In section 7 –
 - (a) for “auditing” substitute **43** inspecting **22**
 - (b) for “auditor” (wherever occurring) substitute **43** inspector **22**.
- (2) The heading to the section accordingly becomes **43** Special directions to inspector **22**.

14 Section 8 amended – special report

- (1) Section 8 (special report) is amended as follows.
- (2) Throughout the section –
 - (a) for “auditor” substitute **43** inspector **22**;
 - (b) for “audit” substitute **43** inspection **22**.
- (3) In subsection (3) for “a report” where it first occurs substitute **43** an auditor’s report **22**.
- (4) After that subsection insert –
- (5) At the end of the section add –
 - 43** (4) Section 6(6) applies to a report by an assurance reviewer or an examiner as it applies to a report under section 6(1).

- (5) If an examiner or an assurance reviewer is of opinion as mentioned in subsection (2) the appropriate authority may direct that the accounts in question be audited. **22**.

15 Section 9 amended – warning notices

- (1) Section 9 is amended as follows.
- (2) In subsections (1) and (2) –
- (a) for “audit” (wherever occurring) substitute **22** inspection **22**; and
 - (b) for “auditor” (wherever occurring) substitute **22** inspector **22**.
- (3) In subsection (5)(c) at the beginning insert **22** if the warning notice and notice in reply have been given after an audit, **22**.

16 Section 11 amended – extraordinary audit

In section 11(1) and (2) for “audited” substitute **22** inspected **22**.

17 Section 12 amended – regulations as to accounts and audit

- (1) Section 12 is amended as follows.
- (2) In subsection (1)–
- (a) in the opening words for “audited” substitute **22** inspected **22**;
 - (b) in paragraph (f) for “auditor” substitute **22** inspector **22**;
 - (c) for paragraph (g) substitute –
 - 22**(g) any duties of the inspector in addition to those specified in section 4 or 4A (as the case requires);
 - (d) in paragraphs (h) to (j) and (l) –
 - (i) for “audit” substitute **22** inspection **22**;
 - (ii) for “auditor” substitute **22** inspector **22**; and
 - (e) for paragraph (k) substitute –
 - 22** (k) the steps to be taken for bringing to the attention of the public–
 - (i) inspections under this Act;
 - (ii) inspectors’ reports under section 6;
 - (iii) auditors’ reports under section 8; and
 - (iv) notices under section 9. **22**
- (3) In subsections (2), (5) and (6) for “audited” substitute **22** inspected **22**.
- (4) The heading to the section accordingly becomes –

12 Regulations as to accounts and inspection

18 Section 13 – Treasury directions

(1) Section 13 is amended as follows.

(2) For subsection (2) substitute –

(2) Directions under this section may –

- (a) apply to a body whose accounts are to be inspected;
- (b) apply to all bodies whose accounts are to be inspected; or
- (c) make different provision for –
 - (i) different bodies,
 - (ii) different classes of body, or
 - (iii) different classes of inspection.

Nothing in this subsection limits the operation of section 26(4) of the *Interpretation Act 1976*.

(3) The heading to the section accordingly becomes –

13 Directions about accounts and inspections

19 Section 14 substituted – fees for certain inspections

(1) For section 14 substitute –

14 Fees for audits and assurance reviews

- (1) The Treasury must determine the fee to be paid in respect of any audit or assurance review under this Act.
- (2) Before determining a fee under subsection (1) the Treasury must consult the body whose accounts are to be the subject of the audit or assurance review and the person who is to conduct it.
- (3) A body whose accounts are to be audited or to be the subject of an assurance review must pay the fee determined under subsection (1) for the audit or assurance review to the person appointed to conduct it.

(2) Upon the coming into operation of section 5 of the *Tynwald Auditor General Act 2011* section 14 as substituted by subsection (1) above is further amended as follows –

- (a) in subsection (1) for “The Treasury” substitute the Tynwald Auditor General; and
- (b) in subsection (2) –
 - (i) for “the Treasury” substitute the Tynwald Auditor General; and

- (ii) after “consult” insert **“the Treasury,”**.

20 Section 15 amended – accounts of officers

- (1) Section 15(1) is amended as follows.
- (2) For “audited” (wherever occurring) and “auditor” substitute respectively **“inspected”** and **“inspector”**.
- (3) The heading to the section accordingly becomes **“Inspection of officers’ accounts”**.

21 Section 16 amended – laying accounts and reports before Tynwald.

In section 16 for “audited” and “auditor” (wherever occurring) substitute respectively **“inspected”** and **“inspector”**.

22 Section 18 amended – consultative body

- (1) Section 18 is amended as follows.
- (2) For “audit” and “audited” (wherever occurring) substitute respectively **“inspection”** and **“inspected”**.
- (3) For subsection (1)(c) substitute –
“(c) inspectors;”
- (4) In subsection (1)(c) after “3” insert **“ or 3A”**.
- (5) In subsection (2)(b) for the words from “for the purposes of” to the end substitute **“to act as inspectors, or any class of such persons”**.

23 Section 19 amended – subordinate legislation etc

- (1) Section 19 is amended as follows.
- (2) In subsection (1)(a) omit “or (2)(a)”.
- (3) For subsection (2) substitute –
“(2) Orders under section 1(2)(a) and directions under section 13 must be laid before Tynwald as soon as practicable after they are made.”

24 Section 21 amended – interpretation

In section 21 at the appropriate points in the alphabetical list insert –

- “assurance reviewer”** means a person appointed by the appropriate authority to perform the duties in section 4A in relation to the accounts of the relevant body;
- “examiner”** means a person appointed by the relevant body to examine its accounts in accordance with section 4A; and

“inspect”, in relation to any accounts is to be construed in accordance with section A1;.

PART 3 – CLOSING PROVISIONS

25 Consequential amendments

The Schedule has effect to amend other enactments in consequence of the foregoing provisions of this Act.

26 Repeal

In section 11(2) of the *Casino Act 1987* paragraphs (b) and (c) (which are spent) are repealed.

SCHEDULE

CONSEQUENTIAL AMENDMENTS

[Section 25]

1 The Allotments Act 1928

In section 3(3) for “audited accordingly.” substitute **“inspected in accordance with the *Audit Act 2006* accordingly.”**

2 The Blind Persons Welfare Act 1937

(1) The *Blind Persons Welfare Act 1937* is amended as follows.

(2) For section 6 substitute —

“6 Inspection of Society’s accounts

The annual accounts of the Society must be inspected in accordance with the *Audit Act 2006*. **”**

(3) In section 7 for “and with the certificate and report of the auditor thereon, and also” substitute **“together with the report of the inspector appointed under the *Audit Act 2006* and”**.

3 National Assistance (Isle of Man) Act 1951

In Schedule 3, Part 1, paragraph 2(g) for “audited” substitute **“inspected”**.

4 Finance Act 1958

For section 4 substitute —

“4 Inspection of accounts

The accounts of the General Revenue and of the Reserve Fund are to be inspected in accordance with the provisions of the *Audit Act 2006*, and a report on the inspection is to be laid before Tynwald. **”**

5 Collection of Fines, etc. Act 1985

In section 3(3) for “audited” substitute **“inspected”**.

6 Local Government Act 1985

(1) Paragraph 6 of Schedule 2 is amended as follows.

(2) In subparagraph (2) for “auditor” substitute **“inspector”** and for “audit” substitute **“inspect”**.

(3) At the end insert —

▯ (3) In subparagraph (2) “inspect” has the meaning given in section 21 of the *Audit Act 2006*. ▯.

7 Legal Aid Act 1986

In section 14 for “audit” substitute ▯inspection ▯.

8 Burials Act 1986

(1) The *Burials Act 1986* is amended as follows.

(2) In section 14—

- (a) in subsection (1) for “each year commencing the 1st April,” substitute “each accounting year”;
- (b) in subsection (7)(a) for “audit” substitute ▯inspection ▯; and
- (c) in subsection (8) for the definition of “relevant accounting year” substitute —

▯ “relevant accounting year” means the accounting year immediately preceding that in which the rate is levied. ▯.

(3) For section 17 substitute —

▯17 Accounts

- (1) The churchwardens must, in every accounting year, prepare for the burial grounds of each ancient parish, accounts of their income and expenditure in the preceding accounting year.
- (2) The accounts must be inspected in accordance with the *Audit Act 2006*.
- (3) Once inspected, the accounts must be sent to —
 - (a) the Department of Infrastructure;
 - (b) every local authority within which there are hereditaments on which rates are chargeable in respect of a burial ground to which the accounts relate.
- (4) In the case of the ancient parishes of Braddan or Onchan a copy of the accounts and the inspector’s report must also be sent to the Corporation.
- (5) Nothing in subsection (3) or (4) limits the Treasury’s power to give directions under section 13 of the *Audit Act 2006* (which may for example, require the publication of the accounts and the inspector’s report in other ways). ▯.

(4) In section 24(1) at the appropriate places in the alphabetical list insert —

“**accounting year**” means the period beginning on 1 April in one year and ending on 31 March in the following year; **22**;

“**the Corporation**” means the Mayor, Aldermen and Burgesses of the Borough of Douglas;”;

“**inspection**”, in relation to any accounts, is to be construed in accordance with the definition of “inspect” in section 21 of the *Audit Act 2006*; **22**.

9 Government Departments Act 1987

In Schedule 1, paragraph 3(2) for “auditor” substitute **66** inspector **22**.

10 Summary Jurisdiction Act 1989

In section 55(5) for “audited” substitute **66** inspected **22**.

11 High Court Act 1991

In section 31(5) for “audited” substitute **66** inspected **22**.

12 Data Protection Act 2002

In Schedule 5, paragraph 5 for “audited” substitute **66** inspected **22**.

13 Noise Act 2006

For section 7(2) substitute —

66 (2) This section does not exempt —

- (a) a person from liability under section 10 of *the Audit Act 2006* (application by auditor to the High Court); or
- (b) the Chief Constable from liability under section 14 of the *Police Act 1993* (liability for wrongful acts of constables). **22**.

14 Tynwald Auditor General Act 2011

(1) The *Tynwald Auditor General Act 2011* is amended as follows.

(2) In section 3—

(a) in subsection (2)(a) for sub-paragraphs (x) and (xi) of the definition of “relevant persons” substitute —

66 (x) an inspector within the meaning of the *Audit Act 2006*; **22**; and

(b) for subsection (3) substitute —

66 (3) For the sake of clarity, the person mentioned in subsection (2)(a)(x) is a relevant person only in connection with the conduct of inspections under the *Audit Act 2006*. **22**.

- (3) For section 5(a) substitute —
- (a) to conduct audits and assurance reviews under the Audit Act 2006;
- (4) In section 6(8) for “audited” substitute inspected.
- (5) In Schedule 1 in paragraph 3(1)(c) for “audited” substitute inspected.
- (6) In Schedule 2 after paragraph 6 insert —
- 6A In section 3A(1) and (2) for “the Treasury” wherever occurring substitute the Tynwald Auditor General.

15 Tynwald Commissioner for Administration Act 2011

- (1) The *Tynwald Commissioner for Administration Act 2011* is amended as follows.
- (2) In section 3 (interpretation) —
- (a) in subsection (3)(b) (definition of “**relevant investigators**”) for subparagraphs (v) and (vi) substitute —
- (v) an inspector within the meaning of the *Audit Act 2006*; and
- (b) for subsection (4) substitute —
- (4) For the sake of clarity, the person mentioned in subsection (3)(b)(v) is a relevant investigator only in connection with that officer’s conduct of inspections under the *Audit Act 2006*.
- (3) In Schedule 1 (appointment and functions of the Commissioner), paragraph 3(1)(c) for “audited” substitute inspected.