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# Appendix

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# An Act Respecting the Office of Auditor General

## Short title

1 This Act may be cited as the Auditor General Act. *R.S., c. 28, s. 1.*

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## Interpretation

2 (1) In this Act,

(a) “agency of government” means any department, board, commission, foundation, agency, association or other body of persons, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors of which,

(i) are appointed by an Act of the Legislature or by order of the Governor in Council, or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

(b) “Auditor General” means a person appointed pursuant to this Act and includes any person appointed in his place and stead;

(c) “Minister” means the Minister of Finance;

(d) “public property” means property immovable or movable, real or personal, belonging to Her Majesty in right of the Province and includes property belonging to an agency of Her Majesty in said right.

(2) Unless otherwise provided in this Act, the words and expressions used herein have the same meaning as in the Provincial Finance Act. *R.S., c. 28, s. 2.*

## Auditor General and Deputy Auditor General

3 (1) Subject to the approval of the House of Assembly by majority vote, the Governor in Council shall appoint a person to be the Auditor General.

(1A) Subject to subsection (1B), the Auditor General holds office for a term of ten years and may not be re-appointed.

(1B) The Governor in Council shall remove the Auditor General on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members of the House of Assembly voting thereon requiring the Governor in Council to remove the Auditor General from office.

(2) The Auditor General shall be paid out of the Consolidated Fund of the Province such salary as the Governor in Council determines.

(3) Notwithstanding subsection (2) hereof, the salary of the Auditor General shall not be reduced by the Governor in Council except on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members of the House of Assembly voting thereon requiring the Governor in Council so to do.

(4) Upon written advice of the President of the Executive Council and the Leader of the Official Opposition, the Governor in Council may, at any time the Legislature is not in session, suspend the Auditor General for cause, but the suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.

(5) The Governor in Council may appoint a person to be Deputy Auditor General who shall hold office during pleasure and shall be paid such salary as the Governor in Council determines and shall perform such duties as are assigned to him by the Auditor General and who shall during any vacancy in the office of the Auditor General or during the illness or absence of the Auditor General have and exercise all the powers of the Auditor General.

(6) Such officers and employees as are necessary to enable the Auditor General to perform his duties shall be appointed in accordance with the Civil Service Act.

(7) The Auditor General and the Deputy Auditor general shall be qualified auditors. *R.S., c.28, s.3; 2005, c.13, s.1.*

## Experts

4 (1) The Auditor General may engage the services of such counsel, accountants and other experts to advise him in respect of matters as he deems necessary for the efficient carrying out of his duties and functions under this Act.

(2) The compensation paid to those persons mentioned in subsection (1) hereof shall be determined by the Auditor General within the total dollar limitations established for the Office of the Auditor General in The Appropriations Act for the year in which the compensation is paid and shall be paid out of the Consolidated Fund of the Province. *R.S., c.28, s.4.*

## Oath

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5 (1) The Auditor General and every officer, agent and other person employed in the execution of any duty under this Act or under any regulations made hereunder, before entering upon his duties, shall take and subscribe to the following oath:

I, .....solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Office of the Auditor General and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. So help me God.

(2) This oath shall be taken before such person, and returned and recorded in such manner, as the Governor in Council prescribes. *R.S., c.28, s.5.*

## Public Service Superannuation Act

6 The Auditor General and all officers and employees of the Auditor General are employees within the meaning of the Public Service Superannuation Act and are entitled to all benefits therein set forth. *R.S., c.28, s.6.*

## Powers and duties

7 (1) The Auditor General shall supervise and be responsible for all matters relating to the conduct of his office and of persons employed by him and shall have all the powers and perform all the duties conferred and imposed upon him by this Act, any other Act and the Governor in Council.

(2) The Auditor General may delegate to any person employed by him any duty, act or function that by this Act he is required to do other than reporting to the House of Assembly or to the Governor in Council. *R.S., c.28, s.7.*

## Examination of account

8 The Auditor General shall examine in such manner and to the extent he considers necessary such of the accounts of public money received or expended by or on behalf of the Province, and such of the accounts of money received or expended by the Province in trust for or on account of any government or person or for any special purposes or otherwise, including, unless the Governor in Council otherwise directs, any accounts of public or other money received or expended by any agency of government appointed to manage any department, service, property or business of the Province, and shall ascertain whether in his opinion

- (a) accounts have been faithfully and properly kept;
- (b) all public money has been fully accounted for, and the rules and procedures applied are sufficient to secure an effective check on the assessment, collection and proper allocation of the capital and revenue receipts;
- (c) money which is authorized to be expended by the Legislature has been expended without due regard to economy or efficiency;
- (d) money has been expended for the purposes for which it was appropriated by the Legislature and the expenditures have been made as authorized; and
- (e) essential records are maintained and the rules and procedures applied are sufficient to safeguard and control public property. *R.S., c.28, s.8.*

## Annual report

9 (1) The Auditor General shall report annually to the House of Assembly on the financial statements of the Government that are included in the public accounts required under Sections 9 and 10 of the Provincial Finance Act, respecting the fiscal year then ended.

- (2) The report forms part of the public accounts and shall state
  - (a) whether the Auditor General has received all of the information and explanations required by the Auditor General; and
  - (b) whether in the opinion of the Auditor General, the financial statements present fairly the financial position, results of operations and changes in financial position of the Government in accordance with the stated accounting policies of the Government and as to whether they are on a basis consistent with that of the preceding year.

(3) Where the opinion of the Auditor General required by this Section is qualified, the Auditor General shall state the reasons for the qualified opinion. *1998, c.5, s.1.*

## Other reports

9A (1) The Auditor General shall report annually to the House of Assembly and may make, in addition to any special report made pursuant to this Act, not more than two additional reports in any year to the House of Assembly on the work of the Auditor General's office and shall call attention to every case in which the Auditor General has observed that

- (a) any officer or employee has willfully or negligently omitted to collect or receive any public money belonging to the Province;
- (b) any public money was not duly accounted for and paid into the Consolidated Fund of the Province;
- (c) any appropriation was exceeded or was applied to a purpose or in a manner not authorized by the Legislature;
- (d) an expenditure was not authorized or was not properly vouched or certified;
- (e) there has been a deficiency or loss through fraud, default or mistake of any person;
- (f) a special warrant, made pursuant to the provisions of the Provincial Finance Act, authorized the payment of money; or
- (g) money that is authorized to be expended by the Legislature has not been expended with due regard to economy and efficiency.

(2) The annual report of the Auditor General shall be laid before the House of Assembly on or before December 31st of the calendar year in which the fiscal year to which the report relates ends or, if the House is not sitting, it shall be filed with the Clerk of the House.

(3) Where the Auditor General proposes to make an additional report, the Auditor General shall send written notice to the Speaker of the House of Assembly thirty days in advance of its tabling or filing pursuant to subsection (2).

(4) Whenever a case of the type described in clause 1(a), (b) or (e) comes

to the attention of the Auditor General, the Auditor General shall forthwith report the circumstances of the case to the Minister.

(5) The Auditor General shall, as soon as practical, advise the appropriate officers or employees of an agency of Government of any significant matter discovered in an audit.

(6) Notwithstanding subsection (1), the Auditor General is not required to report to the House of Assembly on any matter that the Auditor General considers immaterial or insignificant. *1998, c.5, s.1.*

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### Review and opinion of revenue estimates

9B (1) The Auditor General shall annually review the estimates of revenue used in the preparation of the annual budget address of the Minister of Finance to the House of Assembly and provide the House of Assembly with an opinion on the reasonableness of the revenue estimates.

(2) The opinion of the Auditor General shall be tabled with the budget address. *1998, c.5, s.1.*

### Access to information

10 (1) Notwithstanding the provisions of any other Act, every officer, clerk or employee of an agency of government shall provide the Auditor General with such information and explanation as the Auditor General requires and the Auditor General shall have free access, at all times, to the files, records, books of account and other documents, in whatever form, relating to the accounts of any agency of government.

(2) The Auditor General, if he deems it expedient, may station one or more of his officers in any agency of government to enable him more effectively to carry out his duties under this Act, and the agency of government shall provide necessary office accommodation for such officer or officers. *R.S., c.28, s.10.*

### Audit before payment

11 (1) The Auditor General, if directed by the Governor in Council, shall audit the accounts of any agency of government before payment.



(2) Where the Auditor General is directed to audit, before payment, certain accounts or classes of accounts, no payment of such accounts may be made until the Auditor General has certified them to be correct or the Minister directs. *R.S., c.28, s.11.*

### Examination of security

12 The Auditor General may examine in such manner and to the extent he considers necessary such of the securities representing any debt of the Province which have been redeemed and cancelled. *R.S., c.28, s.12.*

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### Security required

13 The Auditor General shall require every person employed by him who examines the accounts of an agency of government to comply with any security requirements applicable to officers and employees of that agency of government. *R.S., c.28, s.13.*

### Powers, privileges, immunities

14 The Auditor General shall have, in the performance of his duties, the same powers, privileges and immunities as a Commissioner appointed under the Public Inquiries Act. *R.S., c.28, s.14.*

### Special audit and report

15 Notwithstanding any provision of this Act, the Auditor General may, and where directed by the Governor in Council or the Treasury and Policy Board shall, make an examination and audit of

(a) the accounts of an agency of government; or

(b) the accounts in respect of financial assistance from the government or an agency of the government of a person or institution in any way receiving financial assistance from the government or an agency of government,

where

(c) the Auditor General has been provided with the funding the Auditor General considers necessary to undertake the examination and audit; and

(d) in the opinion of the Auditor General, the examination and audit will not unduly interfere with the other duties of the Office of the Auditor General pursuant to this Act,

and the Auditor General shall perform the examination and audit and report thereon. *R.S., c.28, s.15; 2005, c.13, s.2.*

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### Payment for statutory audit

16 (1) Where under this Act or any other Act of the Legislature, the Auditor General is, or may be, required to examine and audit or inquire into the accounts of any agency of government, the Governor in Council may direct that the cost of the examination and audit or inquiry be paid by that person, institution or agency of government, and upon such direction such payment shall be made.

(2) The Auditor General may charge fees for the examination and audit or inquiry, or such other professional services rendered by the Office of the Auditor General, on the basis approved by the Treasury and Policy Board. *R.S., c.28, s.16; 2005, c.13, s.3.*

### Examination by chartered accountant

17 (1) Where the Governor in Council pursuant to this Act or any other Act has directed that the accounts of public money received or expended by any agency of government shall be examined by a chartered accountant or accountants other than the Auditor General, the chartered accountant or accountants shall

(a) deliver to the Auditor General immediately after the completion of the audit a copy of the report of findings and recommendations to management and a copy of the audited financial statements relating to the agency of government; and

(b) make available to the Auditor General, upon request, and upon reasonable notice, all working papers, schedules and other documentation relating to the audit or audits of the agency accounts.

(2) Notwithstanding that a chartered accountant or accountants other than the Auditor General have been directed to examine the accounts of an agency of government, the Auditor General may conduct such additional examination and investigation of the records and operations of the agency of government as he deems necessary. *R.S., c.28, s.17; revision corrected 1999.*

### Where other auditor designated

18 Nothing in this Act shall be construed to require the Auditor General to audit or report upon the accounts of any agency of government if the Governor in Council, in pursuance of statutory authority in that behalf, has designated another auditor to examine and report upon the accounts of the agency of the government. *R.S., c.28, s.18.*

### Powers and authorities

19 The Auditor General shall have all the powers and authorities exercisable by a deputy head under the Civil Service Act. *R.S., c.28, s.19.*

### Regulations

20 The Governor in Council may make such regulations as are deemed expedient for the better carrying out of this Act. *R.S., c.28, s.20.*

### Annual estimate

21 The Auditor General shall prepare annually an estimate of the sums required to be provided by the Legislature for the carrying out of this Act during the fiscal year, which estimate shall be transmitted to the Treasury and Policy Board for its approval, and shall be laid before the Legislature with the other estimates for the year. *R.S., c.28, s.21; 2005, c.13, s.4.*

### Expenses

22 The expenses to be incurred under this Act shall be paid out of the Consolidated Fund of the Province. *R.S., c.28, s.22.*



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## Regulations Act

23 Regulations made by the Governor in Council pursuant to Section 20 shall be regulations within the meaning of the Regulations Act. *R.S., c.28, s.23.*

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