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**LAW TO PROVIDE FOR THE OFFICE OF THE AUDITOR-GENERAL
OF THE STATE AND FOR OTHER CONNECTED PURPOSES**

ENACTED by the House of Assembly of Niger State of Nigeria and by the Authority of the same in the present State Assembly as follows: -

- 1 This Law may be cited as Office of the Auditor-General of the State Law, 2021 and shall come into operation on the 8th day of July, 2021. **Citation/Commencement**

- 2 In this Law unless the context otherwise requires: **Interpretation**

“Accountant General” means the Accountant-General of the State;

“Auditor-General” means Auditor-General of the State appointed under the Constitution;

“Commission” means the State Civil Service Commission;

“Commissioner” means the State Commissioner for the time being assigned with responsibility for finance;

“Constitution” means the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

“Financial year” means 31st December of a year;

“Financial statement” includes Statement of financial performance, statement of financial position, cash flow statement, statement in changes in net assets/equity and a comparison of budget and actual amounts;

“Government” means Government of Niger State;

“Governor” means Executive Governor of Niger State;

“House of Assembly” means the House of Assembly of Niger State;

“Officer” means the holder of an office in the public service of the state;

“Parastatals” include Ministries, Departments and Agencies of the State;

“Professional Accounting Body” means certificate awarding accounting institutes like ICAN, ANAN and similar bodies;

“Public Accounts Committee” means Public Accounts Committee of the House of Assembly;

“Public Moneys” include:

- (a) The public revenue of the state; and
- (b) Any trust or other moneys held in his official capacity whether temporarily or otherwise by an officer either alone or jointly with any person;

“State” means Niger State;

“Statutory Expenditure” has the meaning assigned to it under subsection (2) of Section 1 of the Finance Control and Management Law, 2011.

- 3 (1) There shall be established an office for the Auditor-General to be known as the “Office of the Auditor-General for the State”.
- (2) The office of the Auditor General shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The office of the Auditor General shall be headed by the Auditor General or any person for the time being acting in that capacity.
- 4 (1) The Auditor-General shall be appointed by the Governor on the recommendation of the Commission and subject to the confirmation of the House of Assembly.
- (2) In recommending persons for appointment as Auditor-General, the Commission shall subject to section 4 advertise the vacancy, interview the applicants and recommend three (3) successful candidates to the Governor, one of whom shall be appointed as Auditor-General.
- (3) The Commission may recommend person for appointment as Auditor-General from the public service or private sector.
- (4) An Auditor-General shall not be removed from office except in accordance with the following circumstances:
- (a) His removal by the Governor acting on an address supported by two-third majority of the House of Assembly praying his removal on the ground of misconduct or his inability to discharge his functions.
- Establishment of the Office of the Auditor-General of the State.**
- Appointment, removal and salary.**

(b) Where the Auditor-General voluntarily resigns from his position after giving the Governor a Three (3) months notice of his intention to resign.

(5) Where the Office of the Auditor-General becomes vacant under subsection (4), the Governor may appoint a person to act as acting Auditor-General.

(6) Except with the sanction of a resolution of the House of Assembly, an acting Auditor General shall not stay in office for a period exceeding Six (6) months.

Qualification.

5 (7) The Auditor-General shall be paid such salary, allowances, pension and severance pay "as determined by the Revenue Mobilization Allocation and Fiscal Commission".

Subject to the mode of appointment of the Auditor-General as contained in the Constitution, a person to be appointed Auditor-General shall:

(a) have a B.Sc or HND in Accountancy or an Accounting related discipline with at least Fifteen (15) years post qualification experience;

(b) be a registered member of a recognized professional accounting body;

(c) possess proven professional ability and expertise; and

(d) not have been convicted of any offence involving dishonesty by a court of law or found guilty of professional misconduct by any professional body established by Law.

6 (1) An Auditor-General appointed from the public service shall remain in office until his retirement as may be prescribed by Law.

Tenure

(2) Where the Auditor-General is appointed from the private sector, he shall hold the office of the Auditor-General for a period of Four (4) years subject to renewal for another period of Four (4) years only.

7 (1) The Office of the Auditor-General shall consist of the following departments:

Structure of the office.

- (a) Ministries' Audit Department;
 - (b) Project Monitoring/Evaluation Department;
 - (c) Revenue Audit Department;
 - (d) Extra-Ministerial Department;
 - (e) Finance and Administration Department
 - (f) Annual Account/Accountant General's Department;
 - (g) Research and Planning Department;
 - (h) Audit Information Technology Department;
 - (i) Inspectorate Department; and
 - (j) Investigation Department.
- (2) Nothing in subsection (1) of this section shall preclude the Auditor-General from recommending to the Establishment Committee the addition, abolition or merger of any of the departments established herein.
- (3) The Auditor-General may establish a Special Investigation Department within the Office of the Auditor-General to deal with issues of fraud, and staff assigned to the department shall have specific responsibility for investigating cases of fraud, corruption and ensuring that appropriate standards for gathering of criminal and audit evidence are in place.
- (4) When in the course of carrying out a financial compliance or performance audit, staff from the Office of the Auditor-General, or auditors appointed under this Law, discover what they believe to be criminal, fraud and corruption, they shall immediately notify the Auditor-General and the head of the Special Investigations Department.
- (5) The Auditor-General shall determine if the case should be assigned to the Special Investigations Department for further examination.
- (6) After completing their examinations, if the officers of the Special Investigations Department determine that sufficient evidence exists to warrant criminal investigation and prosecution, they shall recommend to the Auditor-General to refer the case to the Police or any other appropriate authority.

- 8 (1) In addition to the powers conferred on the Auditor-General by the Constitution, the Auditor-General shall:
- (a) carry out quarterly audit and periodic checks on all revenues accruing to the State from all sources;
 - (b) carry out periodic checks on donations, grants and loans accruable to parastatals, corporations and commissions;
 - (c) ensure that Government business is effectively, efficiently and economically performed;
 - (d) carry out forensic Audit, if necessary;
 - (e) decide on the procedure according to which auditing shall be done;
 - (f) decide on the steps to be taken as a result of an audit;
 - (g) at his discretion, determine the nature and extent of audit to be carried out and request the details, statements of account and financial statements which he considers necessary;
 - (h) in writing, require any person in the employment or connected or related to the activities of an institution whose accounts are being audited by him to appear before him at a time and place mentioned in the request to provide explanation and to produce to him, all such records, books, vouchers and documents in the possession or under the control of such person;
 - (i) investigate and make extracts from any record, book, document and other information of any institution or entity whose accounts are being audited by him free of charge;
 - (j) cooperate with persons, institutions and associations in Nigeria and in other countries on such conditions as he deems fit for the proper performance of his duties;
 - (k) surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;

- (l) surcharge any sum which has not been duly brought into the account upon the person by whom that sum ought to have been brought into account;
- (m) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;
- (n) revoke any surcharge with the prior approval of the Public Accounts Committee;
- (o) certify that amount due from any person upon whom he has made a surcharge;
- (p) certify that at the conclusion of the audit, the allowance of accounts subject to any disallowances or surcharges which may have been made;
- (q) direct the withholding of the emoluments and allowances of any person who fail or refuse to reply to audit queries within 30 days and for as long as the person fail to comply;
- (r) have unrestricted access to information and records necessary for proper discharge of his statutory obligations;
- (s) carry out performance Audit or risk based audit;
- (t) access record of all monies accruing to the State or any Government body or Institution;
- (u) audit donations, grants, loans and other forms of assistance accruable to the State or any of its agencies, whether from local or foreign bodies or institutions;
- (v) be responsible for policy making, organization and administration of the office of the Auditor-General; and
- (w) be responsible for issuing directives and circulars concerning accounts and proper auditing standards.

- (2) Notwithstanding the provisions of paragraphs (l), (m), (n) and (o) of subsection (1), no liability to surcharge shall be incurred on an employee of the Local Government who can prove to satisfaction of the Auditor-General that he acted in pursuance of, and in accordance with the term of resolution of the Local Government Council or of a Committee duly appointed by the Council or on the written instructions of any employee of the Local Government, to whose orders, in relation to the matter in question, he was subject.
- (3) Nothing in subsection (2) shall exempt any person from liability to surcharge where that person knew or ought reasonably to have known that at that time, any resolution or any written instructions were unlawful.
- (4) The Auditor-General may engage the services of specially qualified firms or individuals or other accounting firms to serve on contract basis for a limited engagement, including those required as part of agreements with International organizations provided that all Audit opinions arising there from shall be that of the Auditor-General and conforms with the provisions of this Law.
- (5) Without prejudice to the provision of subsection (6) of section 125 of the Constitution, the Auditor-General shall not be subject to the direction and control of any authority in:
 - (a) selection of the audit issues;
 - (b) planning, programming, conduct, reporting, follow-up of audit;
 - (c) organization and management of his office; or
 - (d) enforcement of his decisions where the application of sanctions is part of his mandate.
- (6) The Auditor-General shall not be involved or seen to be involved in any manner, in the management of any auditable entity.
- (7) The Auditor-General shall have full discretion in the discharge of his responsibilities, to cooperate with government or public entities that strive to improve the use and management of public funds.

(8) The Auditor-General may at his discretion, accept requests for audit or investigation from the Governor or the House of Assembly.

9 (1) Any person who is aggrieved by a decision of the Auditor-General on any matter with respect to which he made an object at the audit, and any person aggrieved by a disallowance or surcharge made by the Auditor-General may appeal to the High Court.

Appeals from decisions of Auditor-General

(2) Any appeal under this section shall be lodged by the person aggrieved by the decision, disallowance or of the surcharge as the case may be.

(3) The High Court on such appeals shall have power to confirm, vary or quash the decision of the Auditor-General, and to remit the case to the Auditor-General with such directions as the Court thinks fit for giving effect to the decision on appeal.

Operations

The Auditor-General shall satisfy himself that:

10 (a) all reasonable precautions have been taken to safeguard the collection of public moneys and that the rules, regulations and guidelines relating thereto have been duly complied with;

(b) all moneys appropriated or otherwise disbursed have been expended and applied for the purpose for which the grants made by the government were intended to provide and that the expenditure conforms to the authority which governs it;

(c) adequate financial regulations exist for accounting and financial operations in the State and that they are duly observed;

(d) money has been expended with due regard to economy, efficiency and effectiveness; and

(e) satisfactory procedures have been established to audit and report the quality of financial management and reporting.

11 (1) The Auditor-General shall draw the attention of the appropriate authorities in writing to any irregularity observed during the examination of the accounts as soon as the facts of such irregularity have been established and confirmed;

Procedure.

- (2) The Auditor-General shall as a result of the audit conducted by him, make such queries and observations addressed to the Accountant-General or any other Accounting Officer and call for such accounts, vouchers, statements, documents and explanations as he deems fit.
- (3) The Auditor-General shall specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had made surcharge, and the reason for the surcharge and to report the circumstances of the case to the Accounting Officer of the affected Department or Institution.
- (4) The Auditor-General may hold follow-up meetings and post audit meetings if necessary to ensure that audited entities:
 - (a) properly address observations and recommendations made by him;
 - (b) properly address observations and recommendations made by the House of Assembly; or
 - (c) take corrective and remedial action on the aforesaid observations and recommendations.

12 Subject to the provisions of the Constitution relating to the audit of accounts of or appointment of Auditors for government, statutory corporations, commissions, authorities, agencies, including persons and bodies appointed by law, the Auditor-General shall:

Audit of public accounts.

- (a) furnish each public entity with a list of not less than three (3) audit firms from which such bodies shall appoint their external Auditors;
- (b) provide guidelines on the level of fees to be paid to external auditors.

13 (1) In the exercise of the powers conferred on the Auditor-General by the Constitution in respect of the accounts of statutory corporations, commissions, etc., the Auditor-General shall ascertain whether in his opinion:

Auditor-General to carry out periodic checks on entity's account

- (a) the accounts have been properly kept;

- (b) all public monies have been fully accounted for, rules and procedures applicable are sufficient to secure an effective check on the assessment, collection and proper allocation of revenue;
 - (c) monies have been expended for the purpose for which they were appropriated and the expenditures have been made as authorized; and
 - (d) essential records are maintained and the rules and procedures applied are in accordance with applicable statutory provisions, stated accounting policies of the government, with generally acceptable accounting practice, and are essentially consistent with those of the preceding year and sufficient to safeguard and control public property.
- (2) In the exercise of the powers conferred on him by the Constitution, the Auditor-General shall have powers to authorize persons under him to draw attention to the following:
- (a) the profitability, liquidity, stability and solvency of the parastatals, corporations, or agencies and also the performance of the shares or investments of the corporation on the capital markets, where applicable;
 - (b) whether there was any delay in payment of the government's portion of any declared dividend into the Consolidated Revenue Fund;
 - (c) any significant case of fraud or losses and if so, their underlying causes and persons responsible for such fraud or losses;
 - (d) any internal control weakness which were identified and the general corporate performance indicating:
 - (i) achievement against set targets and objectives; and;
 - (ii) whether the finances of the body have been conducted with due attention to economy, efficiency and effectiveness, having regards to the resources utilized.

(a) the extent to which a public entity including ministries, statutory corporations, parastatals, commissions, authorities, agencies, persons and bodies established by law are carrying out their activities effectively and efficiently;

(b) a public entity's compliance with its statutory obligations;

(c) any act or omission of a public entity in order to determine whether waste has resulted or may have resulted or may result; and

(d) any act or omission showing or appearing to show a lack of probity or financial prudence by a public entity or any of its members, office holders and employees.

15 (1) The financial statements of the State shall be submitted to the Auditor-General by the Accountant-General not later than three (3) months after the end of the financial year.

Submission of Annual Audited Accounts.

(2) The Accounting Officers of all Ministries and other extra-ministerial agencies shall submit their Ministries' financial statements to the Auditor-General not later than three (3) months after the end of the financial year.

(3) The Accounting Officers of all statutory corporations, parastatals, authorities, commissions, agencies, including all persons and bodies established by an Act of the House of Assembly, shall submit their audited financial statements along with management letters thereon to the Auditor-General not later than three (3) months after the end of the financial year.

(4) The report of the Auditor-General on the Financial Statements mentioned in this section shall be laid before the House of Assembly within 90 days of receiving such reports.

(5) Failure to comply with the provisions of subsections (1), (2) and (3) of this section, is an offence punishable on conviction to a fine not less than N100,000.00 against the person responsible.

- (6) The conviction and sentence of a person of an offence contrary to sub-section (1) and (2) of this section shall be a ground for the removal of that person by the appropriate authority.
- (7) Subject to the provisions of the Constitution, the House of Assembly shall publish its findings on the Auditor-General's report on the Accountant-General's financial statement mentioned therein, within 120 days of receiving such report, after they have been examined by the Public Accounts Committee.

- 16 (1) The funds of the office of the Auditor-General shall consist of: **Funds**
- (a) sums appropriated or granted to the fund from time to time by the State;
 - (b) moneys accruing to the office of the Auditor-General by way of endowment, grants, gifts or otherwise;
 - (c) all charges and fees received by the office of the Auditor-General;
 - (d) interest as may accrue from investments made by the office of the Auditor-General; and
 - (e) other sums of money or property as may in any manner become payable to or vested in the office of the Auditor-General in connection with its function under this Law.
- (2) Any amount appropriated to the office of the Auditor-General shall be paid to it monthly on a first line charge basis.
- (b) The Executive shall not control or limit the access of these resources.
- (3) The Auditor-General may appeal to the House of Assembly for additional funds where the fund available to the Office of the Auditor-General is insufficient to allow him fulfill his mandate.
- (4) The office of the Auditor-General may, with the consent of the Governor or in accordance with the general guidelines approved by the Governor, borrow by way of loan or overdraft from any source any monies required by it for meeting its obligations and discharging its functions under this Law so however that where the sum or the aggregate of the sums involved at any one time does not exceed ₦100,000.00, no such consent or authority shall be required.

- 17 (5) The Auditor-General shall be the accounting officer of the office of the Auditor-General. **Estimate and annual plans for the office.**

The office of the Auditor-General shall prepare and submit to the House of Assembly in respect of the Office of the Auditor-General:

- (a) estimates of revenues and expenditure; and
- (b) a draft annual plan that:
 - (i) describes the Auditor-General's proposed work programme for that year; and
 - (ii) includes the interim report for that financial year.
- (c) a financial statement relating to the office of the Auditor-General for the immediate preceding financial year.

- 18 (1) The Auditor-General shall prepare and submit the following reports to the House of Assembly in accordance with Section 8 of this Law: **Annual Reports of the Auditor-General.**
- (a) annual financial statements of his office prepared in accordance with generally acceptable accounting principles, in accordance with the provision of this Law;
 - (b) an account of the implementation of the annual activity report required under Section 15;
 - (c) list of public entities and parastatals whose financial statements were audited by the Auditor-General;
 - (d) list of public entities and parastatals that fail to comply with Section 8 of this Law;
 - (e) annual reports on cases of fraud investigated or prosecuted under section 7 of this Law;
 - (f) annual Performance Audit Report on projects, supplies and value-for-money Audit; and
 - (g) annual audit report on taxes and other revenue collections.

(2) The reports mentioned in subsections (1) (a) and (b) of this section shall be submitted to the House of Assembly not later than six (6) months after the end of the Financial Year.

19 (1) All private audit firms and consultants taking upon consultancy jobs relating to audit work shall be registered at a fee with the Office of the Auditor-General and Registration Certificates shall be issued to them by the Auditor-General.

Independent Auditor for Public Corporations and Boards.

(2) Such audit and consultancy work shall include:

(a) Revenue audit and consultancy work including tax audit;

(b) Government bank accounts audit;

(c) Audit of Government offices including special investigations;

(d) Staff audit including payment at sight;

(e) Pension audit including verification of "I am alive certificate";

(f) Contracts in respect of estate/building or valuation of Government assets;

(g) Assessment and evaluation of the effectiveness of Government electronic information systems.

20 The Auditor-General or any person acting under his authority shall not be liable in his personal capacity in any civil proceedings;

Immunity

(a) in the performance of any duty or the exercise of any power vested or conferred upon him under this Law;

(b) in giving evidence or an explanation or producing any document before a Committee of the House of Assembly in connection with his report.

21 Subject to the provisions of any Law, the Auditor-General and his staff shall swear to and adhere to an Oath of Secrecy in the performance of their duties.

Oath of Secrecy

22 (1) There is hereby established for the office of the Auditor-General an Establishment Committee consisting of:

Establishment Committee

- (a) the Auditor-General who shall be the Chairman;
 - (b) a representative of the Civil Service Commission not below the rank of a Permanent Secretary;
 - (c) a representative of the Head of Service not below the rank of a Permanent Secretary;
 - (d) the Director of Finance and Administration of the office of the Auditor-General;
 - (e) a representative of the Attorney-General of the State not below the rank of a Director;
 - (f) two (2) retired civil servants appointed by the Governor on part-time basis who prior to their retirement, were holders of the office of the Auditor-General or Directors in the office of the Auditor-General.
- (2) The Establishment Committee shall:
- (a) be responsible for employment, promotion and discipline of employee of the office of the Auditor-General;
 - (b) specify the procedure, terms of employment and remuneration of employees of the office of the Auditor-General; and
 - (c) be responsible for the review and approval of any recommendation by the Auditor-General for changes in the operational structure of the Office of the Auditor-General.
- (3) Notwithstanding the provisions of subsection (1) of this section, employees of the office of the Auditor-General may be appointed by way of transfer or secondment from the public service of the State.
- (4) Service in the office of the Auditor-General shall be pensionable under the pension Law of the State and accordingly, employees of the Auditor-General's office shall in respect of their services, be entitled to pensions, gratuities and other retirement benefits as prescribed there under.
- (5) The Pension Law of the State shall in its application by virtue of subsection (4) of this section to any office, have effect subject to the provision of this section as if the office were in the Civil Service of the State within the meaning of the Constitution.

23. (1) A person has committed an offence if he:
- (a) obstructs, hinders or resists the Auditor-General or any person authorized by him in the exercise of his duties and powers under this Law;
 - (b) refuses or fails to comply with any lawful request of the Auditor-General or his representative;
 - (c) makes a statement or gives information to the Auditor-General or his representative which is false or misleading;
 - (d) presents himself directly or indirectly as having authority under this Law without such lawful authority; or
 - (e) offers bribe, gratuity, recompense or reward to the Auditor General or any staff of his office in order for the Auditor General or any of the staff of his office to neglect or refrain from the performance of his duty.
- (2) Any person who commits an offence under subsection (1) of this section shall on conviction, be liable;
- (a) in the case of an individual, to a fine not less than ₦2,000,000; or a term of imprisonment of not less than three (3) years;
 - (b) in the case of a Corporate body, to a fine not less than ₦5,000,000.
- (3) A staff of the Auditor-General's office or any auditor acting with his authority or appointed on his recommendation or under a contract with the Auditor-General's Office commits an offence if he:
- (a) demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty;
 - (b) willfully fails to report to the Auditor-General any abuse or irregularity that comes to his notice in the course of his auditing duties; or
 - (c) makes any report to the Auditor-General which he knows to be false or has no reason to believe to be true.

- (4) Any person who commits an offence under subsection (3) of this section shall on conviction, be liable;
- (a) in the case of a staff of the Auditor-General's office or any auditor acting with his authority or a person appointed on his recommendation, to a fine not less than ₦2,000,000; or a term of imprisonment of not less than three (3) years;
- (b) in the case of a Corporate body appointed on his recommendation or under a contract with the Auditor-General's Office, to a fine not less than ₦5,000,000.

24 (1) The Auditor-General shall adhere to and cause to be adhered to work and audit standards and code of ethics recommended by the Financial Reporting Council of Nigeria (FRCN). **Code of ethics**

(2) Where the recommendation of the FRCN is silent on an issue, the Auditor-General may apply the auditing standards and code of ethics recommended by the International Organization of Supreme Audit Institutions (INTOSAI), African Organization of English Speaking Supreme Audit Institutions (AFROSAI-E) or recommendations made by a professional accounting body.

25 (3) The Auditor-General shall determine the auditing standards, guidelines and code of ethics specific to each audit carried out by the Office of the Auditor-General.

The functions and powers of the Auditor-General under this Law shall be without prejudice to any other functions or powers of the Auditor-General under the Constitution or any other law. **Other laws**

26 The Auditor-General's Law 2015 is hereby repealed. **Repeal**

FIRST SCHEDULE

I assented this.....^{14th} day of ^{July}.....2021 Time.....^{11-06 AM}.....


Alhaji Abubakar Sani Bello
Governor of Niger State

SECOND SCHEDULE

I withheld assent this..... day of.....2021 Time.....

Alhaji Abubakar Sani Bello
Governor of Niger State

THIRD SCHEDULE

I, **Abdullahi M. Kagara**, Clerk to the Legislature of Niger State hereby certify that this Law has been passed in accordance with Sub-Section 3 of Section 100 of the Constitution of the Federal Republic of Nigeria 1999. This printed impression has been carefully compared by me with the Bill, which has been passed by the Legislature and found by me to be a true and correctly printed copy of the said Bill.



ABDULLAHI M. KAGARA
Clerk to the Legislature

