

REPUBLIC OF SOUTH AFRICA

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# **PUBLIC AUDIT AMENDMENT BILL**

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*(As initiated by the Standing Committee on the Auditor-General, as a Committee Bill, for introduction in the National Assembly (proposed section 75); prior notice of introduction published in Government Gazette No. 41386 of 19 January 2018)  
(The English text is the official text of the Bill)*

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(STANDING COMMITTEE ON THE AUDITOR-GENERAL)

**[B 13—2018]**

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**GENERAL EXPLANATORY NOTE:**

[                    ]     Words in bold type in square brackets indicate omissions from existing enactments.

                         Words underlined with a solid line indicate insertions in existing enactments.

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## **BILL**

To amend the Public Audit Act, 2004, so as to delete certain definitions and to insert new definitions; to provide for certainty regarding the discretion of the Auditor-General with regard to certain audits; to authorise the Auditor-General to undertake performance audits and to provide audit or audit related services to an international association, body, institution or organisation; to provide for the Auditor-General to refer suspected material irregularities arising from an audit performed under this Act, to a relevant public body for investigation; to empower the Auditor-General to take appropriate remedial action; to provide for the Auditor-General to issue a certificate of debt where an accounting officer or accounting authority failed to recover losses from a responsible person and to instruct the relevant executive authority to collect the debt; to provide for the establishment, powers and functions of a remuneration committee; to provide for consultation between the Independent Commission for the Remuneration of Public Office-bearers and the remuneration committee; to provide for additional reporting requirements; to provide for the defraying of certain excess audit fees as a direct charge against the National Revenue Fund; to revise the provisions relating to the appointment of an audit committee for the Auditor-General; to provide that the Auditor-General makes regulations on specific issues; to substitute certain expressions; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 25 of 2004, as amended by section 14 of Act 22 of 2014**

**1.** Section 1 of the Public Audit Act, 2004 (Act No. 25 of 2004) (hereinafter referred to as the “principal Act”), is hereby amended—

(a) by the insertion before the definition of “audit” of the following definitions:

“**‘accounting authority’** means a body or person defined as an accounting authority in the Public Finance Management Act, or any body or person designated as an accounting authority in terms of any other law, as the case may be;

**‘accounting entity’** means an accounting entity referred to in section 188(1)(c) of the Constitution;

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- ‘accounting officer’** means a person defined as an accounting officer in the Public Finance Management Act or the Municipal Finance Management Act, or any person designated as an accounting officer in terms of any other law, as the case may be;”;
- (b) by the deletion of the definition of “accounting entity” after the definition of “audit”;
- (c) by the insertion after the definition of “audit fees” of the following definition:  
**‘Auditing Profession Act’** means the Auditing Profession Act, 2005 (Act No. 26 of 2005);”;
- (d) by the insertion after the definition of “authorised auditor” of the following definition:  
**‘Constitution’** means the Constitution of the Republic of South Africa, 1996;”;
- (e) by the insertion after the definition of “Deputy Auditor-General” of the following definition:  
**‘executive authority’** means the executive authority as provided for in any relevant legislation applicable to an auditee;”;
- (f) by the insertion after the definition of “legislature” of the following definition:  
**‘material irregularity’** means any non-compliance with, or contravention of, legislation, fraud, theft or a breach of a fiduciary duty identified during an audit performed under this Act that resulted in or is likely to result in a material financial loss, the misuse or loss of a material public resource or substantial harm to a public sector institution or the general public;”;
- (g) by the insertion after the definition of “oversight mechanism” of the following definition:  
**‘prescribed’** means prescribed by regulation made in terms of section 52;”;
- (h) by the deletion of the definition of “Public Accountants’ and Auditors’ Act”;
- (i) by the insertion after the definition of “relevant legislature” of the following definition:  
**‘remuneration committee’** means the remuneration committee established in terms of section 5(2)(bA);”;
- (j) by the substitution for the full stop at the end of the definition of “supreme audit institution” of a semi colon and the insertion after that definition of the following definition:  
**‘this Act’** includes the regulations.”.

#### **Amendment of section 4 of Act 25 of 2004**

2. Section 4 of the principal Act is hereby amended—
- (a) by the insertion after subsection (3) of the following subsection:  
“(3A) The discretion of the Auditor-General as contemplated in subsection (3) applies to any public entity contemplated in subsection (3)(a) and any other institution contemplated in subsection (3)(b) that meets prescribed criteria.”;
- (b) by the substitution for subsection (4) of the following subsection:  
“(4) In the event of any conflict between [a provision of] this section and any other legislation, [existing when this section takes effect, the provision of] this section prevails.”.

#### **Amendment of section 5 of Act 25 of 2004**

3. Section 5 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:  
“(1) The Auditor-General may, at a fee, and without compromising the role of the Auditor-General as an independent auditor[, provide]—
- (a) provide audit related services to an auditee referred to in section 4(1) or (3) or other body, which is commonly performed by a supreme audit institution on condition that—
- (i) no services may be provided in respect of any matter that may subsequently have to be audited by the Auditor-General;

- (ii) such service will not directly result in the formulation of policy; and
- (iii) there must be full and proper disclosure of such services in terms of section 10(1)(b)[.];
- (aA) perform an appropriate audit of any institution referred to in section 4(1) or (3) to determine whether appropriate and adequate measures have been implemented to ensure that resources are procured economically and utilised efficiently and effectively; 5
- (aB) provide audit and audit related services commonly performed by an independent audit institution to an international association, body, institution or organisation on condition that— 10
- (i) such service does not—
- (aa) compromise the efficiency;
- (bb) put an undue strain on the resources; or
- (cc) detract from the constitutional functions, 15
- of the Auditor-General; and
- (ii) there must be full and proper disclosure of such services in terms of section 10(1)(b);
- (b) provide advice and support to a legislature or any of its committees outside the scope of the Auditor-General’s normal audit and reporting functions; 20
- (c) provide comments in a report on any responses by an auditee to reported audit findings, or responses by an auditee to a report of any legislature arising from its review of an audit report; or
- (d) carry out an appropriate investigation or special audit of any institution referred to in section 4(1) or (3), if the Auditor-General considers it to be in the public interest or upon the receipt of a complaint or request.”; 25
- (b) by the insertion after subsection (1) of the following subsections: 30
- “(1A) The Auditor-General may, as prescribed, refer any suspected material irregularity identified during an audit performed under this Act to a relevant public body for investigation, and the relevant public body must keep the Auditor-General informed of the progress and the final outcome of the investigation. 35
- (1B) The Auditor-General has the power to—
- (a) take any appropriate remedial action; and
- (b) issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action, as set out in Part 1A of this Chapter.”; and
- (c) by the substitution for subsection (2) of the following subsection: 40
- “(2) In addition to subsections (1), (1A) and (1B), the Auditor-General **[may]**—
- (a) may co-operate with persons, institutions and associations, nationally and internationally;
- (b) may appoint advisory and other structures outside the administration of the Auditor-General to provide specialised advice to the Auditor-General; **[and]** 45
- (bA) must establish a remuneration committee, consisting of not less than three and not more than five members of which the majority may not be in the employ of the Auditor-General, and who must be suitably qualified and experienced in human resource practices, including remuneration practices, to make recommendations to— 50
- (i) the Independent Commission on the salary, allowances and benefits of the Auditor-General; and
- (ii) the Auditor-General on the conditions of employment, the remuneration, allowances and benefits of the employees of the Auditor-General contemplated in section 34; 55
- (bB) must appoint a chairperson of the remuneration committee from the members contemplated in paragraph (bA), who must not be in the employ of the Auditor-General; and 60
- (c) may do any other thing necessary to fulfil the role of Auditor-General effectively.”.

**Insertion of Part 1A in Chapter 2 of Act 25 of 2004**

4. The following part is hereby inserted in Chapter 2 after Part 1 of the principal Act:

***“Part 1A: Remedial Action***

**Taking remedial action**

**5A.** (1) The Auditor-General must, within a reasonable time after the issuing of an audit report in terms of section 20, follow up on whether the accounting officer or accounting authority has implemented the recommendations contained in the audit report relating to any material irregularity, within the time-frame stipulated in the audit report. 5

(2) If the accounting officer or accounting authority has failed to implement the recommendations contained in the audit report referred to in subsection (1), the Auditor-General must take appropriate remedial action to address the failure to implement the recommendations. 10

(3) Where a material irregularity resulted in a financial loss to the State, and the accounting officer or accounting authority failed to implement the recommendations contained in the audit report referred to in subsection (1), the remedial action taken by the Auditor-General in terms of subsection (2) must include a directive to the accounting officer or accounting authority to determine the amount of the loss, if not yet determined, and to recover such loss as required in terms of any applicable legislation, from the responsible person. 15  
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**Failure to comply with specific remedial action**

**5B.** (1) Subject to subsections (4) and (5), where the accounting officer or accounting authority has failed to implement the remedial action referred to in section 5A(3), the Auditor-General must issue a certificate of debt, as prescribed, to the accounting officer or accounting authority requiring the accounting officer or accounting authority to repay the amount specified in the certificate of debt to the State. 25

(2) The Auditor-General must submit a copy of the certificate of debt, referred to in subsection (1), to the responsible executive authority to collect the amount specified in the certificate of debt from the accounting officer or accounting authority in terms of the debt recovery process applicable to the executive authority. 30

(3) The executive authority must keep the Auditor-General informed of progress made in collecting the amount due by the accounting officer or accounting authority. 35

(4) The Auditor-General, in determining whether to issue a certificate of debt in terms of subsection (1), must consider the written representations, as prescribed, received from the accounting officer or accounting authority, and may have due regard to— 40

- (a) the progress or outcome of an investigation conducted by the Auditor-General in terms of section 29;
- (b) the progress or outcome of any investigation contemplated in section 5(1A); or
- (c) any other relevant factor. 45

(5) If the Auditor-General still intends to issue the certificate of debt after the consideration of the written representations, the Auditor-General must—

- (a) afford the accounting officer or accounting authority an opportunity to make an oral representation, as prescribed, to an advisory structure, established for this purpose in terms of section 5(2)(b); and
- (b) consider the written recommendations of the advisory structure referred to in paragraph (a) before issuing the certificate. 50

(6) The Auditor-General must submit a copy of the certificate of debt issued in terms of subsection (1) to the relevant legislature for tabling in the relevant legislature.”. 55

**Amendment of section 7 of Act 25 of 2004, as amended by section 15 of Act 22 of 2014**

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (1A) of the following subsection:

- “(1A) The Independent Commission must, when investigating or considering the salary, allowances and benefits of the Auditor-General, consult with—
- (a) the Cabinet member responsible for finance; and
  - (b) the remuneration committee contemplated in section 5(2)(bA) and consider any recommendations made by the remuneration committee.”

**Amendment of section 10 of Act 25 of 2004** 10

6. Section 10 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
  - “(b) the categories of services provided in terms of section 5(1)(a), (aA) and (aB);”;
- (b) by the deletion in subsection (1) of the word “and” at the end of paragraph (c); and
- (c) by the substitution in subsection (1) for the full stop at the end of paragraph (d) of a semi colon and by the addition after paragraph (d) of the following paragraphs:
  - “(e) any matters referred for investigation in accordance with section 5(1A);
  - (f) any remedial action taken in terms of section 5A(2); and
  - (g) any certificate of debt issued in terms of section 5B(1).”

**Amendment of section 12 of Act 25 of 2004** 25

7. Section 12 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (b) of the following paragraph:

- “(b) after consulting the oversight mechanism, issue a code of conduct for authorised auditors, [**prescribing**] setting out—”.

**Amendment of section 13 of Act 25 of 2004** 30

8. Section 13 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
  - “(b) the frequency, nature and scope of such audits; and”;
- (b) by the insertion after subsection (1) of the following subsection:
  - “(1A) The Auditor-General must consult the National Treasury annually on the matters referred to in subsection (1)(b) to facilitate the determination of audit fees in terms of section 23.”

**Amendment of section 20 of Act 25 of 2004**

9. Section 20 of the principal Act is hereby amended— 40

- (a) by the substitution for subsection (2) of the following subsection:
  - “(2) An audit report must reflect such opinions and statements as may be required by any legislation applicable to the auditee which is the subject of the audit, [**but**] and must reflect [**at least**] an opinion, [**or**] conclusion or findings on—
  - (a) [**whether**] the [**annual**] financial statements of the auditee [**fairly present, in all material respects, the financial position at a specific date and results of its operations and cash flow for the period which ended on that date**] in accordance with the applicable financial reporting framework and legislation;
  - (b) [**the auditee’s**] compliance with any applicable legislation relating to financial matters, financial management and other related matters; and

- (c) [the] reported [information relating to the] performance of the auditee against its predetermined objectives.”; and
- (b) by the addition after subsection (3) of the following subsection:  
“(4) An audit report may contain recommendations to address any matter raised in subsection (2).”. 5

#### Amendment of section 23 of Act 25 of 2004

10. Section 23 of the principal Act is hereby amended—

- (a) by the substitution for subsection (6) of the following subsection:  
 “(6) Subject to subsection (7), [If] if—
- (a) the audit fee of an auditee, other than a department as defined in section 1 of the Public Finance Management Act, exceeds one percent of the total current and capital expenditure of such auditee for the relevant financial year [,]; and
- (b) the National Treasury—
- (i) was consulted, as required by subsection (1); and
- (ii) is of the opinion that the auditee has financial difficulty to pay such excess,
- such excess [must] is to be defrayed [from the National Treasury’s vote, provided that the National Treasury is of the view that the auditee has financial difficulty to settle the cost. This excludes national and provincial departments] in terms of the Act that authorises the defrayment of the excess as a direct charge against the National Revenue Fund.”; and** 10
- (b) by the addition after subsection (6) of the following subsection:  
 “(7) (a) The Auditor-General and the National Treasury must agree in writing on—
- (i) the annual date of consultation contemplated in section 13(1A) and subsection (1);
- (ii) the criteria to be applied to determine whether an auditee has financial difficulty as contemplated in subsection (6)(b)(ii); and
- (iii) a process to determine an estimate of the funds required annually as a direct charge for the audit fees referred to in subsection (6), read with the Act that authorises the excess as a direct charge against the National Revenue Fund.
- (b) If the Auditor-General and the National Treasury fail to conclude a written agreement within six months after the commencement of this subsection, the oversight mechanism must, after consultation with the Auditor-General and National Treasury, determine the annual date of consultation, the criteria to determine whether an auditee has financial difficulty and process to determine the estimate of funds as referred to in paragraph (a).
- (c) The annual date of consultation, the criteria to determine whether an auditee has financial difficulty or process agreed to in terms of paragraph (a) or determined by the oversight mechanism in terms of paragraph (b), may be amended in writing by the Auditor-General and the National Treasury.”. 15

#### Amendment of section 27 of Act 25 of 2004

11. Section 27 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) An auditor appointed in terms of section 25(1)(b) must perform the functions of office as auditor in terms of [section 20 of] the [Public Accountants’ and Auditors’] Auditing Profession Act and any other applicable legislation.”. 50

#### Amendment of section 34 of Act 25 of 2004

12. Section 34 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) (a) Persons appointed [as employees] in terms of this section are employed subject to the terms and conditions of employment determined by the Auditor-General, and must be paid the remuneration, allowances and benefits determined by the Auditor-General, subject to section 35 and after considering the recommendations of the remuneration committee. 5

(b) Terms and conditions of employment contemplated in paragraph (a) must be consistent with the basic values and principles set out in section 195 of the Constitution.”. 10

#### Amendment of section 40 of Act 25 of 2004

13. Section 40 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The **[Deputy]** Auditor-General must— 15

- (a) establish an audit committee contemplated in section 43(3)(b)(ii); and
- (b) appoint the members of the audit committee **[in consultation with the Auditor-General]**.”. 15

#### Amendment of section 41 of Act 25 of 2004

14. Section 41 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 20

“(2) The financial statements must be in accordance with **[South African Statements of Generally Accepted Accounting Practice or other]** international best practice **[approved by the oversight mechanism]**.”. 20

#### Amendment of section 52 of Act 25 of 2004 25

15. Section 52 of the principal Act is hereby amended—

- (a) by the insertion after subsection (1) of the following subsection:

“(1A) The Auditor-General must, within 90 days of the date of commencement of the Public Audit Amendment Act, 2018, make regulations on— 30

- (a) the criteria to be considered in determining how to exercise his or her discretion contemplated in section 4(3);
- (b) the nature and category of matters in respect of which an investigation or special audit contemplated in section 5(1)(d) may be carried out; 35
- (c) the criteria for the referral of matters contemplated in section 5(1A);
- (d) the process, time-frames and form for the written and oral representations contemplated in section 5B(4) and (5); and
- (e) the form and content of the certificate of debt issued in terms of section 5B(1).”; and 40

- (b) by the substitution for subsection (2) of the following subsection:

“(2) The Auditor-General must, after consultation with the oversight mechanism, submit any regulations made in terms of **[subsection] subsections (1) and (1A)** to the Speaker for tabling in the National Assembly.”. 45

#### Amendment of certain expressions in Act 25 of 2004

16. The principal Act is hereby amended—

- (a) by the substitution for the expression “Public Accountants’ and Auditors’ Act”, wherever it occurs in the principal Act, of the expression “Auditing Profession Act”; and 50
- (b) by the substitution for the expression “executive authority within the meaning of the Public Finance Management Act”, wherever it occurs in the principal Act, of the expression “executive authority”.

**Amendment of the arrangement of sections to Act 25 of 2004**

17. The arrangement of sections to the principal Act is hereby amended by the insertion after the reference to the heading to section 5 of the following Part:

***“Part 1A: Remedial Action***

- |    |   |   |
|----|---|---|
| 5A | Taking remedial action                            | 5 |
| 5B | Failure to comply with specific remedial action”. |   |

**Short title and commencement**

18. (1) This Act is called the Public Audit Amendment Act, 2018, and subject to subsections (2) and (3), comes into operation on a date fixed by the President by proclamation in the *Gazette*. 10

(2) Section 5 of this Act will come into operation on the date when the Determination of Remuneration of Office-Bearers of Independent Constitutional Institutions Laws Amendment Act, 2014 (Act No. 22 of 2014), comes into operation or on the date contemplated in subsection (1), whichever date is the later.

(3) Section 10 of this Act will come into operation when the Act envisaged in section 23(6) of the principal Act (as to be amended by this Act) takes effect. 15

## **MEMORANDUM ON THE OBJECTS OF THE PUBLIC AUDIT AMENDMENT BILL, 2018**

### **1. INTRODUCTION**

- 1.1 The Public Audit Act, 2004 (Act No. 25 of 2004) (hereinafter referred to as the “principal Act”), gives effect to sections 188 and 189 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”), by establishing and assigning supreme auditing functions to the Auditor-General. Considering the provisions contained in the Constitution, read with the principal Act, the Auditor-General enjoys a large degree of independence, which allows for freedom to select the most effective ways to execute its constitutional mandate.
- 1.2 However, the principal Act does not give the Auditor-General the authority to take remedial action nor to ensure that losses suffered by the State are, where possible, recovered.
- 1.3 During the past 13 years since the commencement of the principal Act, the Auditor-General’s efforts to assign consequences for poor financial and performance management through its audit reports had yielded mixed results. Year on year the Auditor-General reports astronomical amounts of unauthorised, irregular and fruitless and wasteful expenditure.

### **2. OBJECTS OF THE BILL**

Hence, the Public Audit Amendment Bill, 2018 (hereinafter referred to as “the Bill”), seeks to amend the principal Act so as to, *inter alia*, provide for the Auditor-General to take remedial action, to ensure that losses suffered by the State are, where possible, recovered, as well as to refer certain suspected material irregularities for investigation. The Bill further seeks to empower the Auditor-General to perform international audit work and to conduct performance audits; and to align the Auditor-General’s governance arrangements to current best practice.

### **3. CONTENTS OF THE BILL**

- 3.1 Clause 1 of the Bill inserts new definitions into the principal Act and deletes certain definitions.
- 3.2 Clause 2 of the Bill inserts a new subsection (3A) into section 4 of the principal Act, which empowers the Auditor-General to prescribe criteria on how to exercise his discretion when performing discretionary audits referred to in section 4(3) of the principal Act. Clause 2 of the Bill also amends section 4(4) of the principal Act to provide that section 4 of the principal Act prevails notwithstanding any other contrary law.
- 3.3 Clause 3 of the Bill amends section 5 of the principal Act by providing for additional functions for the Auditor-General.

Clause 3 amends section 5(1) of the principal Act by inserting provisions which mandate the Auditor-General to conduct performance audits and to provide audit and audit related services to international associations, bodies, institutions or organisations, provided that certain conditions are met.

Clause 3 also inserts new subsections (1A) and (1B) into section 5 of the principal Act. The new subsection (1A) empowers the Auditor-General to refer any suspected material irregularities to a relevant public body for investigation. The new subsection (1B) empowers the Auditor-General to take any appropriate remedial action and to issue a certificate of debt where an accounting officer or accounting authority has failed to comply with remedial action.

Furthermore, clause 3 amends section 5(2) of the principal Act by providing for the establishment and functions of a remuneration committee.

- 3.4 Clause 4 of the Bill inserts a new Part 1A into Chapter 2 of the principal Act. This new Part 1A sets out the process to be followed by the Auditor-General when taking remedial action. It further provides that where a material irregularity resulted in a financial loss to the State, and the accounting officer or accounting authority failed to implement the recommendations contained in an audit report, the remedial action taken by the Auditor-General must include a directive to the accounting officer or accounting authority to recover the loss from the responsible person. Where the accounting officer or accounting authority has failed to implement the remedial action, clause 4 provides that the Auditor-General must issue a certificate of debt to the accounting officer or accounting authority to repay the amount specified in the certificate. A copy of the certificate must be submitted to the executive authority to collect the amount specified from the accounting officer or accounting authority in terms of the debt recovery process applicable to the executive authority.

This new Part 1A also stipulates that, in determining whether to issue the certificate of debt, the Auditor-General must consider any written representations received from the accounting officer or accounting authority and may have regard to certain reports or the outcome of certain investigations. It also provides that an accounting officer or accounting authority be afforded an opportunity to make oral representations to an advisory structure in the event that the Auditor-General still intends to issue the certificate of debt after considering the written representations.

- 3.5 Clause 5 of the Bill amends section 7(1A) of the principal Act by providing that the Independent Commission, when considering the remuneration of the Auditor-General, must also consult the newly established remuneration committee.
- 3.6 Clause 6 of the Bill amends section 10 of the principal Act by providing that the Auditor-General must submit reports on performance audits and international audits, submit reports on any matters referred to a relevant public body for investigation, submit reports on any remedial action taken as well as on any certificates of debt issued.
- 3.7 Clause 7 of the Bill amends section 12(3)(b) of the principal Act by substituting the word “prescribing” with the phrase “setting out”.
- 3.8 Clause 8 amends section 13(1)(b) of the principal Act to provide that the Auditor-General must also determine the frequency of audits referred to in section 11. Clause 8 also inserts a new subsection (1A) into section 13, to provide that the Auditor-General must consult the National Treasury annually on the frequency, nature and scope of audits performed in order to facilitate the determination of audit fees in terms of section 23.
- 3.9 Clause 9 of the Bill amends section 20(2) of the principal Act, to revise the content of the audit report in relation to financial statements. Furthermore, the Bill inserts a new subsection (4) into section 20 of the principal Act, to provide that an audit report may contain recommendations.
- 3.10 Clause 10 of the Bill amends section 23 of the principal Act by providing for the defraying of certain excess audit fees as a direct charge against the National Revenue Fund. The clause also provides for a process to determine the estimate of funds required annually.
- 3.11 Clause 11 of the Bill amends section 27 of the principal Act by substituting the term “Public Accountants’ and Auditors’ Act”, which has been repealed by the Auditing Profession Act, 2005 (Act No. 26 of 2005), with the term “Auditing Profession Act”.

- 3.12 Clause 12 of the Bill amends section 34 of the principal Act to provide that the Auditor-General must, in determining the remuneration, allowances and benefits of employees, consider the recommendations of the remuneration committee.
- 3.13 Clause 13 of the Bill amends section 40(1) of the principal Act by providing that the Auditor-General, instead of the Deputy Auditor-General, must establish and appoint the members of the audit committee.
- 3.14 Clause 14 of the Bill amends section 41(2) of the principal Act by providing that the financial statements of the Auditor-General need only be in accordance with international best practice.
- 3.15 Clause 15 of the Bill amends section 52 of the principal Act by specifying the regulations that must be made by the Auditor-General.
- 3.16 Clause 16 amends certain expressions in the principal Act.
- 3.17 Clause 17 amends the arrangement of sections in the principal Act.
- 3.18 Clause 18 of the Bill provides for the commencement date of the Amendment Act and further stipulates the date of coming into operation in respect of sections 5 and 10 of the Amendment Act.

#### **4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS**

- 4.1 It is projected that three additional staff members would need to be appointed in order to implement the additional functions.

#### **5. FINANCIAL IMPLICATIONS FOR THE STATE**

- 5.1 The funding for the additional powers of the Auditor-General will be considered during the annual budget processes. The remaining amendments will not have a cost implication for the State.

#### **6. DEPARTMENTS, BODIES OR PERSONS CONSULTED**

- 6.1 The following stakeholders were consulted:
- The Auditor-General; and
  - National Treasury.
- 6.2 Written public submissions were invited and public hearings were held over three days.

#### **7. PARLIAMENTARY PROCEDURE**

- 7.1 The Committee proposes that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provisions to which the procedures set out in section 74 or 76 of the Constitution apply.
- 7.2 The Committee is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.