

Draft 5a

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CONSULTATION DRAFT

AN ACT TO AMEND THE AUDIT ACT

BILL NO.

2020

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BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

**1. Subsection (1) of the Audit Act R.S.P.E.I. 1988, Cap. A-24, is amended**

**(a) by the repeal of clause (a) and the substitution of the following:**

(a) “**agency of government**” means any government department, Crown corporation, board, or other entity which

- (i) forms a reporting entity under the *Financial Administration Act*; or
- (ii) receives more than half of its funds from the Operating Fund;

(a.1) “**auditable entity**” means

- (i) an agency of government,
- (ii) a government trust,
- (iii) a public contractor, or
- (iv) a funding recipient;

**(b) by the repeal of clause (d) and the substitution of the following:**

(d) “**funding**” includes any form of payment or financial assistance, whether recurring or one-time, made directly or indirectly by an agency of government or a Crown controlled or owned corporation, to any person or organization, under the terms of any agreement, contract, policy or legislation, in any form including transfer payments, grants, subsidies, loans, guarantees, payments in lieu of taxes, a tax credit and a waiver of fees;

- (d.1) “**funding recipient**” means a person or an organization that has received funding from an agency of government or a government trust;
- (d.2) “**government trust**” means a trust that is held by or on behalf of the Province or whose financial statements are included in the financial statements of the Province;
- (d.3) “**public contractor**” means a person or organization that
  - (i) delivers programs or services on behalf of the Province, or
  - (ii) collects money from the Province or on behalf of the Province.

2. (1) **Subsection 13(1) of the Act is amended by the deletion of the words “agency of government or Crown controlled or owned corporation” and the substitution of the words “auditable entity”.**

(2) **Subsection 13(2) of the Act is repealed and the following substituted:**

**Special audits and examinations**

- (2) Without prejudice to subsection (1), the Auditor General may conduct any audit or examination the Auditor General considers necessary with respect to
  - (a) any auditable entity to determine whether it is achieving its purposes and is doing so economically and efficiently and is complying with any applicable statutory provisions;
  - (b) activities of a funding recipient related to the receipt and expenditure of funding; and
  - (c) activities of a public contractor relating to its provision of programs or services on behalf of the government.

3. **The Act is amended by the addition of the following after section 13:**

**13.1 Joint audits**

- (1) The Auditor General may undertake a joint audit, with other auditors general, of any auditable entity or program that is administered or funded by the Government and any other government.

**Report on joint audit**

- (2) A report of a joint audit carried out pursuant to subsection (1) shall be submitted to the Legislative Assembly in the manner provided for in Section 16.

4. **Section 14 of the Act is amended**

- (a) **in clause (a), by the deletion of the words “every agency of government or Crown controlled or owned corporation and shall, after notice to the agency or corporation” and the substitution of the words “every auditable entity and shall, after notice to the auditable entity”;**
- (b) **in clause (b), by the deletion of the words “agency of government or Crown controlled or owned corporation” and the substitution of the words “auditable entity”;**
- (c) **in clause (d) by the deletion of the word “and” after the semicolon;**
- (d) **in clause (e) by the deletion of the period and the substitution of a semicolon and the addition of the word “and” after the semicolon; and**

(e) **by the addition of the following after clause (e):**

(f) have unrestricted access to the records of any funding recipient or public contractor directly related to the funding or any program of the government or an agency of government.

**5. (1) Subsection 15(1) of the Act is amended by the deletion of the words “or any Crown controlled or owned corporation an auditor other than the Auditor General is appointed, the agency or corporation shall supply to the Auditor General annually a copy of all financial statements and reports prepared or audited by the auditor in relation to the agency or corporation” and the substitution of the words “or any government trust, an auditor other than the Auditor General is appointed, the agency or government trust shall supply to the Auditor General annually a copy of all financial statements and reports prepared or audited by the auditor in relation to the agency or government trust”.**

**(2) Section 15 of the Act is amended by the addition of the following after subsection (1):**

**Reports on public contractor or funding recipients**

(1.1) Where in respect of any public contractor or funding recipient an auditor other than the Auditor General is appointed, the public contractor or funding recipient shall, upon request, supply to the Auditor General a copy of all financial statements and reports prepared or audited by the auditor in relation to the public contractor or funding recipient and the auditor shall

- (a) make available to the Auditor General, on request and upon reasonable notice, all working papers, reports, schedules and other documents relating to that audit; and
- (b) perform such additional examination as the Auditor General may direct and report the auditor’s findings thereon to the Auditor General.

**(3) Subsection 15(2) of the Act is amended by the deletion of the words “agency or corporation” and the substitution of the words “auditable entity”.**

**6. Section 16 of the Act is amended**

**(a) by renumbering it as subsection 16(1); and**

**(b) by the addition of the following after subsection (1):**

**Special report**

(2) The Auditor General may make a special report to the Legislative Assembly at any time on any matter that in the opinion of the Auditor General should not be deferred until making of the annual report.

**Reporting requirement satisfied**

(3) Notwithstanding subsection (1), a special report made under subsection (2) concerning a matter set out in subsection (1) shall be deemed to have satisfied the annual reporting requirement for that matter.

**Reports more than once annually**

(4) Nothing in subsection (3) prevents the Auditor General from reporting more than once annually on any matter.

**Report to the Legislature**

- (5) A special report made under subsection (2) shall be submitted to the Speaker, and the Speaker shall
- (a) lay the report before the Legislative Assembly within 15 days of the receipt of the report; or
  - (b) where the Legislative Assembly is not sitting, lay the report before the Legislative Assembly within 15 days of the commencement of the next sitting of the Legislative Assembly.

**7. Subsection 17(2) of the Act is amended by the deletion of the words “agency of government, if the agency” and the substitution of the words “auditable entity, if the auditable entity”.**

**8. Section 20 of the Act is amended**

- (a) **in clause (a), by the deletion of the words “ the Institute of Chartered Accountants of Prince Edward Island” and the substitution of the words “CPA PEI”; and**
- (b) **in clause (b) by the deletion of the words “agency of government” and the substitution of the words “auditable entity”.**

## EXPLANATORY NOTES

**SECTION 1** adds a definition of “auditable entity” to the Act.

**SECTION 2** expands the Auditor General’s powers under section 13 of the Act to carry out financial audits or special audits and examinations to encompass all auditable entities.

**SECTION 3** expands the Auditor General’s powers to access documents under clause 14(a) and to require the provision of information under clause 14(b), to encompass all auditable entities.

**SECTION 4** gives the Auditor General the power to conduct joint audits with other auditors general, and requires a report to the Legislative Assembly on such an audit.

**SECTION 5** amends section 15 of the Act respecting the duties of outside auditors to include auditors for all auditable entities, and provides that notwithstanding the appointment of an outside auditor, the Auditor General retains the power to conduct examinations or investigations.

**SECTION 6** amends section 16 of the Act to provide the Auditor General the power to make special reports to the Legislative Assembly in addition to the annual report.

**SECTION 7** amends a reference to reflect the new definitions enacted by section 1 of this Act.

**SECTION 7** amends section 20 of the Act to correct an outdated reference to the governing body for PEI accountants, and to provide that an auditor appointed to audit the accounts of the Auditor General’s office may not be employed by an auditable entity.