
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

AUDITOR-GENERAL OF SOUTH AFRICA**NO. 443****01 APRIL 2020****Public Audit Act, 2004 (Act No. 25 of 2004):****Audit Fees Regulations**

I, Thembekile Makwetu, Auditor-General of South Africa, in terms of section 52(1) of the Public Audit Act, 2004 (Act No. 25 of 2004), read together with sections 13 and 23 of the Act, do hereby make the regulations set out in the schedule hereto.

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Short title

1. These regulations are the Audit Fees Regulations.

Definitions

2. In these regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Audit Act, 2004 (Act No. 25 of 2004) has the same meaning, and –

"Act" means the Public Audit Act, 2004; and

"in writing" includes any electronic means recognised by the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).

Process to consult National Treasury on the frequency, nature and scope of audits and the basis for determination of audit fees

3. (1) The Auditor-General must, in accordance with subregulations (2) and (3) –

- (a) in respect of the frequency, nature and scope of audits referred to in section 11 of the Act, annually by the first day of July; and
- (b) in respect of the basis for the calculation of audit fees to be recovered from auditees in respect of audits referred to in section 11 of the Act, whenever he or she deems it necessary,

invite the National Treasury to make submissions to him or her for purposes of the financial year commencing on 1 April of the subsequent year.

(2) For purposes of the matters contemplated in subregulation (1)(a), the Auditor-General must provide the National Treasury with relevant information, which may include –

- (a) information on the frequency, nature and scope of audits referred to in section 11 of the Act he or she proposes to determine;
- (b) information on the different categories of audits the Auditor-General proposes to determine for purposes of section 13(3)(a) of the Act, if any;
- (c) information on any specific directives the Auditor-General proposes to issue in respect of any specific case for purposes of section 13(3)(b) of the Act, if any;
- (d) the list of auditees, identified by the Auditor-General in accordance with section 23(6) of the Act, whose audit fee exceeds one percent of the total current and capital expenditure of such auditee for the relevant financial year;
- (e) the Auditor-General's views in respect of an auditee's ability to settle its audit fees;
- (f) the motivation underlying the Auditor-General's proposed determinations.

- (3) For purposes of the matters contemplated in subregulation (1)(b), the Auditor-General must provide the National Treasury with relevant information, including a draft of the document detailing the basis for the calculation of audit fees to be recovered from auditees in respect of audits referred to in section 11 of the Act.
- (4) The National Treasury must provide its submission, if any, to the Auditor-General –
- (a) in respect of the matters contemplated in subregulation (1)(a), by the first day of every August;
 - (b) in respect of the matters contemplated in subregulation (1)(b), by the date stipulated by the Auditor-General.
- (5) In the event that the National Treasury has not provided any submission as contemplated in subregulation (4), the Auditor-General must proceed with his or her determination on the basis that the National Treasury has no objection to the proposed determination.
- (6) The Auditor-General may only consult the oversight mechanism, as contemplated in sections 13(1) and 23(1) of the Act, after completion of the process contemplated in this regulation.

Notification of treasury by Auditor-General on default by auditee to pay audit fees

4. The Auditor-General must when an auditee fails to pay the full amount of the audit fees determined by the Auditor-General by the date determined by the Auditor-General, in writing and within 30 days of that auditee failing to pay such amount inform the National Treasury in writing and, when applicable, the relevant provincial treasury, thereof and provide the National Treasury and the relevant provincial treasury with any information relevant to the matter.

Submission by Auditor-General on treasury's proposed directive to defray audit fees from budget

- 5.(1) If the National Treasury or the relevant provincial treasury, as the case may be, is in accordance with section 23(5) of the Act considering the desirability of directing that audit fees recoverable from an auditee, other than a national or provincial department, must be defrayed from a vote on the national or a provincial budget, that treasury must prior to issuing such a directive—
- (a) provide the Auditor-General with relevant information; and
 - (b) invite the Auditor-General to make submissions on the desirability of issuing such a directive.

(2) In the event that the Auditor-General has not provided any submission as contemplated in paragraph (b) of subregulation (1), the relevant treasury may proceed with its consideration of a directive on the basis that the Auditor-General has no objection to the proposed determination.

(3) In the event that a treasury issues a directive that the audit fees in question must be defrayed from a vote on the national or a provincial budget, that treasury must forthwith in writing inform the Auditor-General and the auditee of that decision.

(4) In the event that a provincial treasury issues a directive that the audit fees in question must be defrayed from a vote in a provincial budget, that treasury must forthwith in writing inform the National Treasury and the auditee of that decision.

Notification of Auditor-General by National Treasury on auditee experiencing financial difficulty to pay audit fee excess

6. In the event that the audit fee of an auditee, other than a department as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), exceeds one percent of the total current and capital expenditure of such auditee for the relevant financial year, and the National Treasury –

(a) was consulted by the Auditor-General as contemplated in subsection 23(6)(b)(i) of the Act; and

(b) is of the opinion that the auditee has financial difficulty to pay such excess, the National Treasury must at least one month prior to the commencement of a financial year of that auditee in writing inform the Auditor-General of its opinion in respect of that auditee.

Publication of agreement

7. The Auditor-General must forthwith after –

(a) the conclusion of an agreement as contemplated in section 23(7)(a) of the Act on the annual date of consultation, the determination of criteria to be applied to determine whether an auditee has financial difficulty and the approval of the process to determine an estimate of the funds required as a direct charge for audit fees; or

(b) the determination made by the oversight mechanism as contemplated in section 23(7)(b) of the Act,

publish such agreement, determination or approval, or any subsequent amendment thereof, for general information in the *Gazette*.