

## National Audit Office Act

Passed 29 January 2002

RT I 2002, 21, 117

Entered into force 4 March 2002

Amended by the following Acts:

<b>Passed</b>	<b>Published</b>	<b>Entered into force</b>
12.06.2002	RT I 2002, 57, 356	01.08.2002
29.01.2003	RT I 2003, 21, 121	15.03.2003
17.12.2003	RT I 2003, 88, 588	01.01.2004
18.12.2003	RT I 2003, 90, 601	01.01.2008
11.05.2005	RT I 2005, 32, 235	01.01.2006
11.10.2006	RT I 2006, 48, 357	18.11.2006
25.01.2007	RT I 2007, 16, 77	01.01.2008
13.12.2007	RT I 2008, 1, 5	14.01.2008
18.02.2009	RT I 2009, 15, 94	10.03.2009, applies to a person with regard to whom a judgment of conviction enters into force after the entry into force of the Act
16.12.2009	RT I 2010, 1, 2	shall enter into force on the start date of the authority of the XII composition of the <i>Riigikogu</i>
22.04.2010	RT I 2010, 19, 101	01.06.2010
28.10.2010	RT I, 12.11.2010, 1	15.11.2010, in part 01.01.2011
08.12.2010	RT I, 28.12.2010, 6	01.01.2012
17.06.2011	RT I, 08.07.2011, 8	22.07.2011
15.09.2011	RT I, 22.09.2011, 3	02.10.2011
12.12.201	RT I, 29.12.2012, 1	01.01.2013, in part 01.04.2013 and 01.07.2013

## Chapter 1 GENERAL PROVISIONS

### **§ 1. Scope of application of Act**

This Act regulates the organisation and the bases for the activities of the National Audit Office.

### **§ 2. Status of National Audit Office**

The National Audit Office operates as an independent state body exercising economic control.

### **§ 3. Purpose of activities of National Audit Office**

The purpose of the activities of the National Audit Office is to exercise economic control in order to assure the Riigikogu and the public that the funds of the public sector are used legally and effectively.

### **§ 4. Covering expenses of National Audit Office**

The expenses necessary for the activities of the National Audit Office are covered out of the state budget.

### **§ 5. Supervision of activities of National Audit Office**

The activities of the National Audit Office are audited annually by an audit undertaking appointed by the Riigikogu on the proposal of the Finance Committee and in auditing the activities of the National Audit Office the audit undertaking has the same rights as the National Audit Office has in conducting audits.

[RT I, 12.11.2010, 1 – entry into force 15.11.2010]

### **§ 5<sup>1</sup>. Registration of National Audit Office**

The National Audit Office shall be registered in the national register of state and local authorities pursuant to the procedure provided for in the statutes of the register.

[RT I 2002, 57, 356 – entry into force 01.08.2002]

## **Chapter 2**

### **FUNCTIONS AND COMPETENCE OF NATIONAL AUDIT OFFICE**

#### **§ 6. Economic control (audit)**

(1) The main function of the National Audit Office is to exercise economic control (audit).

(2) In the course of an audit, the National Audit Office may assess:

1) the auditee's internal control, financial management, financial accounting and financial statements;

2) the legality of the auditee's economic activities, including economic transactions;

3) the performance of the auditee's management, organisation and activities;

4) the reliability of the auditee's information technology systems.

(3) The National Audit Office shall assess performance on the basis of the functions assigned to the auditees by legislation, the goals and objectives set in national programmes and development plans, the principle of sound management, and the following criteria:

- 1) economy, i.e. minimising the expenses incurred for achieving the aims of the auditee;
- 2) efficiency, i.e. the relationship between expenses and the results achieved through incurring them;
- 3) effectiveness, i.e. the actual impact of an activity compared to the intended impact.

(4) The National Audit Office conducts audits in accordance with the generally accepted rules and practices of the professional activities of auditors.

#### **§ 7. Audited entities**

(1) The National Audit Office exercises economic control over the following authorities and persons:

- 1) the Chancellery of the Riigikogu, the Office of the President of the Republic, the courts, Eesti Pank, the Government Office and the Office of the Chancellor of Justice;
- 2) government authorities and the state authorities administered by them;
- 3) local authorities, taking into account the provisions of subsections (2) and (21) of this section;
- 4) legal persons in public law;
- 5) foundations and non-profit associations founded by the state or a legal person in public law or where the state or a legal person in public law is a member;
- 6) companies where the state or legal persons in public law or the foundations specified in clause 5) of this subsection jointly or separately exercise dominant influence through a majority holding or otherwise, and the subsidiaries of such companies;
- 7) companies who have obtained loans from the state or whose loans or other contractual obligations are secured by the state;
- 8) other persons performing public functions pertaining to the use and preservation of state assets.

(2) Within the scope laid down in clauses 6 (2) 1), 2) and 4) of this Act, the National Audit Office audits:

- 1) local authorities regarding the possession, use and disposal of municipal assets;
- 2) foundations and non-profit associations founded by a local authority or where a local authority is a member;
- 3) companies where a local authority exercises dominant influence through a majority holding or otherwise, and the subsidiaries of such companies.

(21) Within the scope laid down in subsections 6 (2) and (3) of this Act, the National Audit Office shall audit the use by local authorities of immovable and movable property of the state transferred into their possession, of earmarked allocations and subsidies granted from the state budget, and of funds allocated for the performance of state functions.

(3) The National Audit Office audits the use and preservation of the state assets which have been transferred into the possession of other persons. With regard to persons who receive state subsidies and earmarked allocations the National Audit Office has the right to take procedural steps in order to verify the existence of the circumstances serving as the prerequisite for the subsidies or allocations and the legality of the use of the subsidies or allocations.

(4) The National Audit Office audits the use of the funds of the European Union allocated via state and local authorities and the performance of the obligations assumed towards the European Union in connection with such funds. With regard to the final recipients of the funds of the European Union and persons having obligations towards the European Union, the National Audit Office has the right to take procedural steps for the purpose of verifying the existence of the circumstances serving as the prerequisite for obtaining the funds of the European Union as well as the legality of use of the funds and performance of the obligations.

[RT I 2005, 32, 235 – entry into force 01.01.2006]

### **§7<sup>1</sup>. Auditor of consolidation group of state**

- (1) The National Audit Office is the auditor of the consolidation group of the state.
- (2) The National Audit Office coordinates and instructs the performance of the professional functions of certified auditors upon auditing the consolidated and non-consolidated annual accounts of the state, annual accounts of state accounting entities

(save those of the National Audit Office) and the legality of the transactions of the state and the state accounting entities (save that of the National Audit Office).

(3) The National Audit Office determines and discloses the minimum of the legislation and the transaction classes that are included in the annual audit of the legality of the transactions of the consolidation entities of the state. The National Audit Office is the prescribed user of the results of the audit of the legality of transactions carried out to the extent determined by the National Audit Office.

[RT I, 12.11.2010, 1 – entry into force 15.11.2010]

### **§ 8. Obligation to submit reports**

State authorities and legal persons in public law are required to send a copy of their annual reports to the National Audit Office within two weeks after approval of the report, but not later than by March 15 in the year following the accounting year.

[RT I 2003, 88, 588 – entry into force 01.01.2004]

### **§ 9. Cooperation in internal control and internal audit**

The National Audit Office cooperates with local authorities and the Government of the Republic in order to improve the internal control and internal audit systems of government authorities and authorities administered by government authorities.

[RT I 2005, 32, 235 – entry into force 01.01.2006]

### **§ 10. Reports of National Audit Office to Riigikogu**

(1) The Auditor General submits to the Riigikogu an overview of the use and preservation of state assets concurrently with the deliberation of the consolidated annual report of the state in the Riigikogu. The overview is published in the Riigi Teataja.

[RT I 2010, 19, 101 – entry into force 01.06.2010]

(2) The National Audit Office submit to the Riigikogu an annual report on its activities along with a certified auditor's report within one month after the receipt of the auditor's report. The audit of the annual accounts and the legality of the transactions of the National Audit Office shall be completed not later than by June 30 in the year following the accounting year. The annual report of the National Audit Office is made public along with the certified auditor's report.

[RT I, 12.11.2010, 1 – entry into force 15.11.2010]

## **§ 11. Inquiries of members of Riigikogu**

The Auditor General shall respond to the inquiries of the members of the Riigikogu pursuant to the procedure provided by law.

## **§ 12. Participation in legislative drafting**

(1) The National Audit Office has the right to make proposals to the Riigikogu, the Government of the Republic, ministers and bodies of local authorities for drafting, amending and modifying Acts, regulations and other legislation.

(2) Draft legislation of general application of the Government of the Republic or ministers concerning financial management, financial accounting or reporting shall be submitted to the National Audit Office within reasonable time before the adoption thereof.

[RT I 2005, 32, 235 – entry into force 01.01.2006]

## **§ 13. Foreign relations**

(1) The National Audit Office communicates independently with the supreme audit institutions of foreign states and participates in the activities of the international organisations of such institutions. The National Audit Office cooperates with the European Court of Auditors.

(2) The National Audit Office may conduct joint audits with the audit institutions of foreign states or international audit institutions if so prescribed in an international agreement and audit international organisations in accordance with the documents providing for the activities of such organisations.

## **§ 14. Non-interference with politics**

The National Audit Office shall not assess political goals.

### **Chapter 3**

### **AUDITOR GENERAL**

## **§ 15. Status and duties of Auditor General**

(1) The National Audit Office shall be directed by the Auditor General who in directing the office has the same rights as those granted by law to a minister for directing a ministry.

(2) The Auditor General shall:

1) determine the number, names and areas of activity of the audit departments and services of the National Audit Office, approve the statutes of the audit departments and services and establish the number of the posts of officials and the number of the positions of employees;

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

2) establish the rules of procedure of the National Audit Office, audit guidelines and other rules necessary for the activities of the National Audit Office;

3) establish additional requirements for employment in service and entry into employment contracts, appoint and and release from service officials of the National Audit Office, and enter into and terminate employment contracts with employees of the National Audit Office;

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

4) appoint one of the Directors of Audit of the National Audit Office as the deputy of the Auditor General;

5) ensure the timely preparation and submission of the draft budget and annual report of the National Audit Office pursuant to the procedure provided by law;

6) represent the National Audit Office or authorise another person to represent the National Audit Office in civil acts.

[RT I 2003, 88, 588 – entry into force 01.01.2004]

#### **§ 16. Participation of Auditor General in sittings of Government of the Republic**

(1) The Auditor General may participate in the sittings of the Government of the Republic with the right to speak in matters related to the duties of the Auditor General.

(2) Agendas of sittings of the Government of the Republic together with draft legislation to be discussed shall be sent to the Auditor General.

#### **§ 17. Appointment to office of Auditor General**

The Auditor General shall be appointed to office by the Riigikogu for a term of five years on the proposal of the President of the Republic.

#### **§ 18. Security check of candidate for Auditor General**

(1) A candidate for the position of Auditor General shall pass a security check before being appointed as the Auditor General, except if the candidate has a valid permit to access state secrets classified as “top secret” or if at the time of becoming a candidate the person holds a position that has access to all the levels of state secrets by virtue of office.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(2) A person acquires the status of a candidate for the position of Auditor General after the President of the Republic has proposed to the person to apply for the office and the person has agreed to it in writing.

(3) The security check of a candidate for the position of Auditor General shall be performed by the Security Police Board pursuant to the procedure provided for in the Security Authorities Act.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(4) In order to pass the security check, a candidate for the position of Auditor General shall submit a completed application form for a permit for access to state secrets classified as “top secret” to the Security Police Board through the Office of the President of the Republic as well as a written consent which permits the authority performing security checks to obtain information concerning the candidate from natural and legal persons and state and local authorities and bodies in the course of performance of the security check.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(5) The Security Police Board shall, within three months as of receipt of the documents specified in subsection (4) of this section, present the information collected as a result of the security check to the President of the Republic and shall provide an opinion concerning the compliance of the candidate for the position of Auditor General with the conditions for the issue of a permit for access to state secrets.

(6) If the powers of the Auditor General terminate prematurely, a security check of the candidate for the position of Auditor General shall be performed within one month as of receipt of the documents specified in subsection (4) of this section. With the permission of the National Security Committee of the Government of the Republic, the term for performing the security check may be extended by one month if the circumstances specified in clause 33 (4) 1) or 2) of the State Secrets and Classified Information of Foreign States Act arise or if it is possible that circumstances specified in clauses 3) or 4) may arise within one month.



[RT I 2007, 16, 77 – entry into force 01.01.2008]

(7) Based on information gathered in the course of a security check, a candidate for the position of Auditor General may be appointed to office within nine months as of the time when the authority that performed the security check submitted the information gathered in the course of the security check to the President of the Republic. Upon expiry of the term, a candidate for the position of Auditor General may be appointed to office after a new security check has been performed.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

### **§ 19. Requirements for Auditor General**

(1) The Auditor General must be an Estonian citizen who has active legal capacity, is of high moral character and fully proficient in the official language.

[RT I 2008, 1, 5 – entry into force 14.01.2008]

(2) The Auditor General must have higher academic education and know the general principles of public administration and economics.

### **§ 20. Oath of office of Auditor General**

(1) The Auditor General shall assume office during the first working week of the plenary session of the Riigikogu following appointment, taking the following oath of office before the Riigikogu:

“I swear to remain faithful to the people of Estonia, the Republic of Estonia and its constitutional order, and to perform, in an impartial manner, all the duties required of my office according to my conscience and in conformity with the Constitution and the law.”

(2) The Auditor General shall sign the text of the oath of office and it shall be deposited in the Chancellery of the Riigikogu during the term of office of the Auditor General and in the National Archives after the resignation of the Auditor General.

### **§ 21. Termination of powers of Auditor General**

The powers of the Auditor General are deemed to be terminated:

- 1) as of the date of expiry of the five-year term specified in § 17 of this Act;
- 2) as of the date of acceptance of their letter of resignation;

3) as of the date of entry into force of a judgment of the Supreme Court en banc in the case of their extended incapacity to perform their duties for more than six consecutive months;

4) as of the date of entry into force of a judgment of conviction for an intentionally committed criminal offence;

5) as of the date of entry into force of a judgment of conviction which prescribes imprisonment for a criminal offence committed due to negligence;

6) upon their death.

## **§ 22. Resignation of Auditor General**

In order to resign, the Auditor General shall submit a written application to the President of the Republic who shall make a proposal to the Riigikogu to release the Auditor General from office. The Auditor General shall notify the President of the Republic of the resignation from office at least four months in advance.

[RT I 2003, 21, 121 – entry into force 15.03.2003]

## **§ 23. Extended incapacity of Auditor General to perform duties**

(1) If the Auditor General is incapable to perform their functions for six consecutive months due to an illness or for any other reason, the President of the Republic shall file a reasoned petition with the Supreme Court to declare by a judgment that the Auditor General is unable to perform their functions.

(2) The Supreme Court en banc shall review the petition and make a judgment promptly.

(3) A judgment of the Supreme Court en banc, by which the Auditor General is declared unable to perform their duties over an extended period, shall enter into force as of the date of proclamation of the judgment.

(4) A judgment of the Supreme Court en banc, which has entered into force, shall release the Auditor General from office.

## **§ 24. Criminal prosecution of Auditor General**

(1) The Auditor General may be prosecuted pursuant to criminal procedure only on the proposal of the Chancellor of Justice and with the consent of the majority of the composition of the Riigikogu.

(2) The powers of the Auditor General shall be suspended as of the date of a resolution of the Riigikogu consenting to the criminal prosecution of the Auditor General.

(3) The powers of the Auditor General shall be restored as of the date of:

1) entry into force of a judgment of acquittal;

2) entry into force of a judgment of conviction for a criminal offence committed due to negligence if the punishment imposed was not imprisonment;

3) termination of criminal proceedings in a case concerning the Auditor General.

(4) The Auditor General shall be removed from office as of the date of:

1) entry into force of a judgment of conviction for an intentionally committed criminal offence;

2) entry into force of a judgment of conviction which prescribes imprisonment for a criminal offence committed due to negligence.

(5) The procedure for criminal prosecution of the Auditor General shall be provided for in the Procedure for Bringing Criminal Charges against a Member of Riigikogu, Auditor General, Chancellor of Justice, Chief Justice of Supreme Court and Justice of Supreme Court Act.

#### **§ 25. Substitution for Auditor General**

(1) If the Auditor General is temporarily unable to perform their duties, the duties shall transfer to the Director of Audit appointed by the Auditor General as the deputy of the Auditor General.

(2) The deputy of the Auditor General shall perform the duties of the Auditor General also in the event of termination of the powers of the Auditor General until the new Auditor General has taken office.

(3) If neither the Auditor General nor the deputy appointed by the Auditor General is able to perform the duties of the Auditor General or if the Auditor General is unable to perform their duties and a deputy has not been appointed, the duties shall be performed by the Director of Audit who is senior in terms of age.

#### **§ 25<sup>1</sup>. Auditor General's access to state secrets and classified information of foreign states**

(1) By virtue of office the Auditor General has the right to access state secrets and classified information of foreign states for performance of the duties imposed on the Auditor under the Constitution and Acts of the Republic of Estonia and legislation adopted on the basis thereof.

(2) If, under an international agreement, the performance of a security check is the mandatory prerequisite for granting the right to access classified information of foreign states, a security check shall also be performed regarding the Auditor General.

(3) For performing the security check specified in subsection (2) of this section the Auditor General shall fill in the application form for a permit for access to state secrets and sign a consent form that authorises the authority performing the security check to obtain during the security check information about the Auditor General from natural and legal persons and from state and local authorities and bodies, and submit them to the Security Authorities Surveillance Select Committee of the Riigikogu.

(4) The Security Authorities Surveillance Select Committee of the Riigikogu shall appoint an authority to perform a security check of the Auditor General and submit the documents specified in subsection (3) of this section to the authority.

(5) Within three months as of the receipt of the data media specified in subsection (3) of this section, the authority who performs the security check shall submit the information gathered in the course of the security check of the Auditor General to the Security Authorities Surveillance Select Committee of the Riigikogu for making a decision on whether the Auditor General has passed the security check. A certificate of access to classified information of foreign states shall be issued pursuant to the procedure provided for in the State Secrets and Classified Information of Foreign States Act.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

## **§ 26. Restrictions on activities of Auditor General**

(1) During the term of office, the Auditor General shall not:

1) hold office in any other state or local authority or in any legal person in public law;

2) be a member of the council of a local authority;

3) participate in the activities of a political party;

4) belong to the management board, supervisory board or another supervisory body of a company;

5) engage in enterprise, except with their personal investments and the income earned therefrom and income earned from disposal of their assets and property.

(2) The Auditor General is permitted to engage in research and teaching, unless this hinders the performance of their duties.

[RT I 2006, 48, 357 – entry into force 18.11.2006]

### **§ 27. Benefits related to office of Auditor General**

(1) The salary of the Auditor General shall be provided for in the Salaries of Higher State Public Servants Act.

[RT I 2010, 1, 2 – entry into force 01.01.2012]

(2) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(3) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(4) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(41) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(42) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(43) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(5) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(6) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(61) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(7) [Repealed – RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(8) The Auditor General whose authority is terminated pursuant to clause 21 1) of this Act or due to an illness pursuant to clause 21 3) of this Act has the right to receive compensation in an amount equal to the salary rate for six months.

## **Chapter 4**

### **STRUCTURE OF NATIONAL AUDIT OFFICE**

#### **§ 28. Structural units of National Audit Office**

(1) The structural units of the National Audit Office include audit departments and services.

(2) Audit departments are structural units engaged in the principal activities of the National Audit Office.

(3) Services are structural units which perform support functions in assistance of the audit departments.

### **§ 29. Status and duties of Director of Audit**

(1) A Director of Audit is the head of an audit department of the National Audit Office appointed to office by the Auditor General for an unspecified term.

(2) A Director of Audit:

1) directs an audit department;

2) appoints officials performing the audits prescribed in the annual work schedule of the National Audit Office;

3) issues notices of proceedings for collection of information necessary for audits;

4) ensures carrying out audits in accordance with Acts and other legislation;

5) signs audit reports;

6) represents the National Audit Office within the limits of competence determined by the Auditor General;

7) performs other duties arising from law or assigned by the Auditor General.

## **Chapter 5**

### **SERVICE AND EMPLOYMENT RELATIONSHIPS IN NATIONAL AUDIT OFFICE**

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 30. Employees of National Audit Office**

The staff of the National Audit Office comprises officials and employees. Employees shall be employed under an employment contract.

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 30<sup>1</sup>. Requirements for officials of National Audit Office**

An official of the National Audit Office is a person appointed to office in accordance with the Public Service Act, who has academic higher education.

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 31. Application of Public Service Act**

The provisions of the Public Service Act apply to the officials of the National Audit Office and to the Auditor General, taking account of the specifications provided by this Act.

### **§ 32. Appraisal of employees of National Audit Office**

[Repealed – RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 33. Remuneration of employees of and experts involved by National Audit Office**

[Repealed – RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 34. Additional remuneration of employees of National Audit Office**

[Repealed – RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 35. Occupational pension of Directors of Audit of National Audit Office**

[Repealed – RT I, 06.07.2012, 1 – entry into force 01.04.2013]

### **§ 36. Participation in pressure activities of officials**

The officials of the National Audit Office shall not strike. The officials of the National Audit Office also also not participate in any other service-related pressure activities that interfere with the activities of the National Audit Office.

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

## **Chapter 6**

### **BASES FOR AUDIT ACTIVITIES OF NATIONAL AUDIT OFFICE**

### **§ 37. Planning work of National Audit Office**

(1) The National Audit Office shall decide independently on the conduct of audits and the time and nature thereof.

(2) Mandatory audit duties cannot be imposed on the National Audit Office.

(3) The work of the National Audit Office shall be based on the work schedule approved by the Auditor General.

### **§ 38. Persons participating in audits**

(1) Audits shall be carried out by officials appointed by Directors of Audit.

(2) The National Audit Office has the right to involve experts in audits in order to solve issues requiring special knowledge.

(3) Supervision over audits shall be exercised by Directors of Audit. If officials of several audit departments participate in an audit, supervision over the audit shall be exercised by the Director of Audit of the department specified in the work schedule. If an audit is carried out by a Director of Audit, supervision over the audit shall be exercised by the Auditor General.

### **§ 39. Removal of persons participating in audits**

(1) A Director of Audit, official or an expert involved shall not participate in an audit and is required to remove themselves if circumstances casting doubt on their impartiality become evident.

(2) A Director of Audit shall decide whether the circumstances specified in subsection (1) of this section have occurred; in the event of assessing the impartiality of a Director of Audit, the respective decision shall be made by the Auditor General.

### **§ 40. Notice of proceedings**

(1) A Director of Audit shall prepare a notice of proceedings for the collection of information necessary for an audit according to the work schedule of the National Audit Office and the notice shall be submitted to the person or authority with regard to whom the procedural step is to be taken.

(2) If necessary, a notice of proceedings shall be prepared by the Auditor General personally.

(3) A notice of proceedings shall set out the names of the officials taking the procedural steps and of the experts involved, the procedural steps to be taken and the time of taking thereof.

### **§ 41. Procedural steps of National Audit Office**

(1) Procedural steps of the National Audit Office include the following:

1) requests for information;

2) collection of explanations;

3) inspections.



(2) Procedural steps may be taken by all persons so authorised by a notice of proceedings.

(3) The Auditor General also has the right to take procedural steps prescribed in a notice of proceedings even if their name is not indicated in the notice.

(4) If a procedural step is taken for the purpose of collecting information which the National Audit Office is not entitled to request or if a procedural step violates the rights of a person in any other manner, such person may file an appeal with an administrative court against the step of the National Audit Office.

#### **§ 42. Right to take procedural steps**

The National Audit Office shall take procedural steps with regard to auditees, unless otherwise provided by this Act.

#### **§ 43. Request for information**

(1) The National Audit Office has the right to access any and all information necessary for the performance of its functions, including restricted information.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(2) All auditees are required to submit information necessary for the National Audit Office and permit making copies and transcripts of and extracts from documents.

(3) With good reason, the National Audit Office has the right to confiscate documents and seal files and storage spaces of documents, money and tangible assets. A report shall be prepared on the confiscation of documents and the auditee shall retain a copy of the report and a copy of the confiscated document.

(4) For the purpose of verifying circumstances relating to the use and preservation of state assets, local authorities' assets and assets of other legal persons in public law, the Auditor General or an official authorised by the Auditor General has the right to receive information and documents from persons other than the auditees and to examine and make transcripts of the information and documents and to receive information, certified statements and transcripts of documents concerning financial and other operations from banks and other credit institutions.

(5) For the purposes of performance of its functions, the National Audit Office has the right to receive information from audit undertakings holding an activity license and to receive information about the auditees and, for examination purposes, receive working papers and other documents from the internal auditors of the auditees.

[RT I, 12.11.2010, 1 – entry into force 15.11.2010]

(6) At the request of the National Audit Office, state authorities and local authorities shall assist the National Audit Office in obtaining information necessary for auditing.

(7) Officials of the National Audit Office having the right to access the state secrets or classified information of foreign states of the corresponding level have the right to access data media containing state secrets pursuant to the State Secrets and Classified Information of Foreign States Act.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

#### **§ 44. Collection of explanations**

At the request of the National Audit Office, an auditee is required to give written or oral explanations concerning issues specified by the National Audit Office within a reasonable term determined by the National Audit Office. The National Audit Office may demand that an employee or public servant of an auditee give explanations at the seat of the National Audit Office.

#### **§ 45. Inspection**

Persons authorised in a notice of proceedings may enter the territory and facilities of an auditee, verify the existence of cash, securities and other assets and, if necessary, take inventory and carry out audit measurement tests. An auditee shall grant unconditional and immediate access to all things and areas which are in its possession and relevant to the audit.

#### **§ 46. Obstruction of activities of National Audit Office**

(1) Obstruction of the activities of the National Audit Office means:

1) concealment from the National Audit Office of information necessary for the performance of the functions of the National Audit Office, refusal to provide or avoiding provision of such information, and submission of falsified documents;

2) refusal to give explanations or avoiding giving explanations, and giving a knowingly false explanation;

3) obstruction of an inspection.

(2) The National Audit Office shall give notice of events of obstruction of its activities to a Select Committee of the Riigikogu.

[RT I 2003, 88, 588 – entry into force 01.01.2004]

#### **§ 47. Protection of information**

(1) The Auditor General, employees of the National Audit Office and experts involved shall use information unavailable to the public, which has become known to them in connection with the performance of their duties, only in the interests of performance of the functions of the National Audit Office.

(2) The Auditor General, employees of the National Audit Office and experts involved shall maintain the confidentiality of the state secrets, trade secrets and information subject to banking secrecy, classified information of foreign states and protected personal data, which have become known to them in connection with the performance of the functions of the National Audit Office also after termination of their service relationship or contract.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

#### **§ 48. Prohibition to interfere with work of auditee**

(1) The National Audit Office shall not interfere with the work of an auditee more than necessary for taking procedural steps. The National Audit Office shall notify an auditee to be audited of the audit and the aims of the audit within a reasonable period of time before commencing the audit.

(2) The National Audit Office shall not disclose its positions or assessments concerning the results of an audit before disclosure of the audit report.

#### **§ 49. Obligation to create conditions required for procedural steps**

An auditee shall create the conditions necessary for taking procedural steps, including provide necessary premises and means of communication.

#### **§ 50. Drawing up audit reports**

(1) An audit report may contain observations, assessments and recommendations concerning:

- 1) the internal control, financial management, financial accounting and financial statements of the auditee;
- 2) the legality of the economic activities, including economic transactions of the auditee;
- 3) the performance of the auditee with regard to its management, organisation and activities;

4) the reliability of the information technology systems of the auditee.

(2) An audit report may contain recommendations of the National Audit Office concerning elimination and future prevention of the deficiencies identified in the course of the audit.

(3) An audit report shall be signed by the Director of Audit exercising supervision over the audit or, in the events specified in the work schedule of the National Audit Office, by the Auditor General. If the Director of Audit who signs the audit report is not a certified public sector auditor for the purposes of the Authorised Public Accountants Act, the report shall also be signed by a certified public sector auditor as defined in the Authorised Public Accountants Act in the event of performance of assuring professional functions provided for in subsection 45 (2) of the State Budget Act.

[RT I, 12.11.2010, 1 – entry into force 01.01.2011]

(4) Before signature, an audit report shall be presented for examination to the relevant minister or rural municipality government or city government as well as to other persons and bodies whom the assessments or recommendations contained in the report concern. A person or a body who has received the report shall submit their written opinion concerning the recommendations regarding them to the National Audit Office and notify the National Audit Office within a reasonable period of time specified by the National Audit Office of the measures implemented.

(5) After examination of the opinions of the persons and bodies specified in subsection (4) of this section, the National Audit Office may revise the audit report.

[RT I 2005, 32, 235 – entry into force 01.01.2005]

#### **§ 51. Disclosure of audit report**

(1) The National Audit Office is required to disclose an audit report except where the report contains information concerning a state secret or trade secret or information subject to banking secrecy or classified information of foreign states or if disclosure thereof is contrary to legislation in any other manner. In such an event the National Audit Office is required to disclose such parts of the report which are permitted to be disclosed.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(2) Written opinions which persons and bodies specified in subsection 50 (4) of this Act have submitted concerning the report shall be disclosed together with the report.

(3) In the event of suspicion of a violation of law containing the elements of a criminal offence, the National Audit Office shall submit all relevant materials to an investigative body which shall inform the National Audit Office of the results of a review of the materials submitted.

## **§ 52. Discussion of audit results**

(1) The Auditor General shall submit audit results to the appropriate Select Committee of the Riigikogu.

(2) A representative of the National Audit Office and an auditee or another relevant person shall be invited to participate in the discussion of the audit results in the Select Committee.

(3) For the purposes of discussing audit results, the Select Committee has the right to:

1) summon officials and private persons and obtain oral and written explanations from them;

2) demand that relevant documents be submitted by any and all state authorities, local authorities, legal persons and natural persons.

(4) Sessions of the Select Committee where audit results are discussed shall be public. A session or a part thereof may be declared closed by a decision of the Committee in order to protect personal data under protection, information subject to banking secrecy, a trade secret, a state secret or classified information of foreign states.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(5) As a result of a discussion of audit results, the Select Committee may submit inquiries to the Government of the Republic. The Government of the Republic shall respond to inquiries within one month.

## **Chapter 7 FINAL PROVISIONS**

### **Division 1**

#### **Implementing Provisions**

### **§ 53. Entry into employment contracts with officials of National Audit Office**

The service relationship of an official of the National Audit Office who at the time of entry into force of this Act works in a position which, according to the composition of structural units approved by the Auditor General, need not be filled with a person with the status of an official, shall be terminated within two months as of the entry into force of this Act and an employment contract setting out at least the same rights and

obligations which the person had when working as an official shall be entered into with the person. If the official does not consent to enter into an employment contract, the official shall be released from service and a one-off compensation in the amount of their two months' salary shall be paid to the official.

#### **§ 54. Audits in progress**

Audits commenced before the entry into force of this Act shall be completed pursuant to the procedure in force before the entry into force of this Act.

#### **§ 54<sup>1</sup>. Right to occupational pension of Auditor General**

Upon attainment of the retirement age, the following persons shall be entitled to the occupational pension of the Auditor General:

1) persons who have held the office of the Auditor General for at least five years by 1 January 2013;

2) the person who holds the office of the Auditor General on 1 January 2013 and holds the office for at least five years.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

#### **§ 54<sup>2</sup>. Right to survivor's pension of dependant of Auditor General**

The Auditor General's surviving dependant family member who is incapacitated for work has the right to the survivor's pension in the event of the death of the Auditor General holding office as of 1 January 2013.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

#### **§ 54<sup>3</sup>. Right of Director of Audit of National Audit Office to occupational pension**

Upon attainment of the retirement age, the following persons shall be entitled to the occupational pension of a Director of Audit of the National Audit Office:

1) persons who have held the office of a Director of Audit for at least 15 years by 1 January 2013;

2) persons who have held the office of a state official or local authority official for at least 15 years by 1 January 2013, including for at least five years as a Director of Audit of the National Audit Office;

3) persons holding the office of a Director of Audit of the National Audit Office on 1 January 2013 and who have completed at least 50 percent of the length of office

required for receiving the occupational pension specified in clause 1) of this section and who will complete the length of office by the time of retirement;

4) persons holding the office of a Director of Audit of the National Audit Office on 1 January 2013 and who have completed at least 50 percent of the length of both offices required for receiving the occupational pension specified in clause 1) of this section and who will complete the length of the offices by the time of retirement;

5) persons who are state officials or local authority officials on 1 January 2013 and who have held the office of a Director of Audit of the National Audit Office for at least five years and completed at least 50 percent of the 15-year term of office of a state official or local authority official and who will complete the length of office by the time of retirement.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

#### **§ 54<sup>4</sup>. Amount of occupational pension of Auditor General**

The amount of the occupational pension of the Auditor General shall be:

1) 50 percent of the salary of the Auditor General in force on the date as of which the occupational pension is granted, provided that the person has held the office of the Auditor General for at least five years;

2) 70 percent of the salary of the Auditor General in force on the date as of which the occupational pension is granted, provided that the person has held the office of the Auditor General for at least ten years.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

#### **§ 54<sup>5</sup>. Amount of survivor's pension of dependant of Auditor General**

(1) The amount of the survivor's pension payable in the event of the death of the Auditor General who has held the office for less than ten years to each of their surviving dependant family member who is incapacitated for work shall be 12.5 percent of the salary of the Auditor General in force on the date as of which the survivor's pension is granted. The survivor's pensions of the family members of the Auditor General shall not exceed 37.5 percent of the salary of the Auditor General as of the given date.

(2) The amount of the survivor's pension payable in the event of the death of the Auditor General who has held the office for ten years or more to each of their surviving dependant family member who is incapacitated for work shall be 17.5 percent of the salary of the Auditor General in force on the date as of which the survivor's pension is

granted. The survivor's pensions of the family members of the Auditor General shall not exceed 52.5 percent of the salary of the Auditor General as of the given date.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

**§ 54<sup>6</sup>. Amount of occupational pension of Director of Audit of National Audit Office**

The amount of the occupational pension of a Director of Audit of the National Audit Office shall be 60 percent of the salary of the Auditor General of the National Audit Office in force on the date as of which the occupational pension is granted.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

**§ 54<sup>7</sup>. Granting and paying occupational pension and survivor's pension**

(1) The occupational pension and survivor's pension shall be granted and paid in accordance with the procedure provided for in the State Pension Insurance Act, unless otherwise provided by this Act.

(2) The occupational pension and the survivor's pension, except for the pension calculated on the basis of the salary of the current year, shall be indexed annually by April 1 using the pension index approved by a regulation of the Government of the Republic on the basis of § 26 of the State Pension Insurance Act.

(3) The portion of the occupational pension and the survivor's pension that exceeds the old-age pension or the survivor's pension calculated on the basis of the State Pension Insurance Act shall be paid from the state budget via the budget of the National Audit Office.

(4) At the time of receipt of the occupational pension and the survivor's pension, a pension shall not be entitled to any other state pensions. The occupational pension shall not be increased on the basis of § 113 of the Public Service Act. If a person is entitled to several state pensions, one pension shall be granted to the person at the person's choice.

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(5) The occupational pension shall not be paid during the period in which the Auditor General or a Director of Audit of the National Audit Office holds an office that entitles the person to such occupational pension or is a member of the Riigikogu, the President of the Republic, a member of the Government of the Republic, the Chief Justice or a Justice of the Supreme Court, the Commander of the Defence Forces, the Chancellor of Justice or the Governor of Eesti Pank.



(6) The occupational pension shall not be paid in the event of removal of the Auditor General from office or in the event of release of a Director of Audit of the National Audit Office from office under § 91, 92, 94 or 95 of the Public Service Act, except for the circumstances provided for in clause 4) of § 15 of the Public Service Act or due to the entry into force of a judgment of conviction.

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(7) A person who has been convicted for an offence specified in Chapter 15 or in Division 2 of Chapter 17 of the Penal Code, for which the Penal Code provides imprisonment of no less than five years, shall lose the right to the occupational pension.

(8) If the occupational pension provided for in this Act has been paid to the person, the payment of the pension shall be terminated as of the month following the month of entry into force of the judgment. In the event of losing the right to the occupational pension, the person shall retain the right to apply for pension on common grounds.

(9) Within ten working days after the entry into force of the judgment, the court shall inform the Social Insurance Board of the circumstance due to which the person loses the right to the occupational pension.

(10) The provisions of subsection (7) of this section apply to a person with regard to whom a judgment of conviction entered into force after 10 March 2009.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

### **§ 55. Pension of official of National Audit Office**

(1) A person receiving the pension of an official of the National Audit Office under the National Audit Office Act in force until the entry into force of this Act shall be entitled to the pension on the grounds and in the amount in force until the entry into force of this Act, except regarding the recalculation of the salary and pension serving as the basis for the pension.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(2) An official of the National Audit Office who, by the time of entry into force of this Act, has completed at least 70 percent of the term of office required for the receipt of the pension of an official of the National Audit Office has the right to the pension of an official of the National Audit Office on the grounds and in the amount in force until the entry into force of this Act, except regarding the recalculation of the salary and pension serving as the basis for the pension, provided that before retirement the person

completes the term of office required for the pension of an official of the National Audit Office.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(3) The pension of an official of the National Audit Office shall be calculated on the basis of the salary of their last office in the National Audit Office in force on the date as of which the pension is granted.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(4) The pension of an official of the National Audit Office, except for the pension calculated on the basis of the salary of the current year, shall be indexed annually by April 1 using the pension index approved by a regulation of the Government of the Republic on the basis of § 26 of the State Pension Insurance Act.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

(5) The pension of an official of the National Audit Office shall be paid from the state budget via the budget of the National Audit Office.

[RT I, 29.03.2012, 3 – entry into force 01.01.2013]

#### **§ 55<sup>1</sup>. Implementation of Act**

(1) The provisions of this Act in the wording in force before 15 November 2010 apply to accounting periods which started on 1 January 2009 or earlier and to the reports drawn up regarding the periods.

(2) The wording of subsection 50 (3) of this Act, which entered into force on 1 January 2011 applies to accounting periods which will commence on 1 January 2012 or later.

[RT I, 22.09.2011, 3 – entry into force 02.10.2011]

#### **Division 2**

#### **Amendment and Repeal of Acts**

**§§ 56-57. [Omitted from this text.]**