|  |
| --- |
| **Drafting instructions format** |
| **Ministry**: Ministry of Finance & Treasury |
| **Phone/fax/email**: |
| **Consultant name and contact**: |
| **Policy Officer**: |
| **Cabinet approval in principle (date)**: |
| **Target parliament sittings**: |
| **Purpose**:1. What is the main objective?

To create a modern, independent supreme audit institution (SAI), to be known as the **National Audit Office,** following Sections 5–9 and Section 18 of the *Lima Declaration of Guidelines on Auditing Precepts*, Principals 1, 2, 4 and 8 of the *Mexico Declaration on SAI Independence*, as well as United Nations Resolution A/66/209 (22 December 2011) and Resolution A/69/470 69/228.1. What purpose does the proposal serve?

To provide for the functions, duties and powers of the Auditor-General, the establishment of the National Audit Office and the National Audit Fund, the audit and examination of the financial statements of the government, public entities, provincial governments, and public purpose entities, to create offences for failing to provide information or documents to the Auditor-General or for disclosing protected information, to repeal parts vi, vii and viii of the *Public Finance and Audit Act* (Cap. 120) and for related matters.1. State the secondary objectives and purposes:

To provide for the appointment of the Auditor-General and Deputy Auditor-General; to provide for the powers of the National Audit Office as well as the powers of the independent auditors and to provide for the public accountability of same; to prepare financial and other audits of the institutions in (b) *supra*; to conduct performance audits or special investigations, to oblige the Auditor-General to report cases of incompetence or inefficiency, to report to the Speaker on matters arising from audit, to provide for certain offences for those persons who fail to comply with the Bill; to require independent audits of the Auditor-General and the National Audit Office; to exempt the Auditor-General, the National Audit Office and others under its direction, from civil or criminal liability for carrying out their duties under the Bill; and to require the Auditor-General to conduct audits in accordance with international auditing standards applicable to SAIs issued by the International Organization of Supreme Audit Institutions. |
| **Problem/Dimension**: (What facts constitute the problem to be addressed?)It has long been recognised that Part VI of the *Public Finance and Audit Act* is out of date, and that the legislation about public sector auditing needs to be modernised to reflect the international norms and practices now applicable to SAIs.The SAI performance measurement framework (PMF) assessment found the Office of the Auditor-General of the …. (OAG..) has an appropriately broad mandate in relation to the public sector, but noted the scope of the mandate under the existing legislation is unclear and in need of restatement. The assessment also noted a particular point of difficulty in the existing legislation concerning any trust, fund, or account not described in the Constitution or section 38 of the *Public Finance and Audit Act*. This provides that the Auditor-General “shall not be required” to audit such accounts unless the responsible Minister has directed the head of the entity to prepare accounts for audit. The SAI PMF assessment found this provision to be unsatisfactory – as has also been recognised in the preparation of the draft Bill.The Solomon Islands need a modern law that provides for an independent National Audit Office as part of the Government’s legislative package to support the national anti-corruption strategy.Article 108 of *Solomon Islands' Constitution* of 1978 with Amendments through 2009, provides for an Auditor-General but it does not clearly state the independent role of this important institution.Further, the Constitution only recognises the office of Auditor-General, but not the institution which supports his work. The OAGSI has existed as a public service organisation for many years, but the lack of separate statutory recognition has implications for its independence and ability to function effectively as the nation’s SAI.The provision regarding the appointment of the Auditor-General by the Governor-General acting on the advice of the Public Service Commission (section 108(2)), and the provision for the Auditor-General to retire at age 55 subject to a longer term with the agreement of the Governor-General on the advice of the Commission (section 129), are now inconsistent with international standards. |
| **Solution**: (What are the solutions to the problems as seen by the Ministry?)The evolution of the [SAI name] into a modern and independent SAI. |
| **Machinery**: (How does the Ministry estimate the proposed legislation will be implemented?) |
| **Target persons**: (Who is to be regulated?) [SAI name]  |
| **Target conduct/activity**: (What is the conduct or activity to be regulated?)Defining international SAI requirements for a modern National Audit Office. |
| **Outstanding policy**: (State any unresolved matters of policy)***Legislative reform relating to the [SAI]: Policy Paper*** has been prepared. Currently, as noted elsewhere, the Auditor-General operates under [for example, Part VI of the ***Public Finance and Audit Act***], while the rest of the Act has been repealed and modernised. |
| **Existing laws**: (State any existing laws dealing with the issue)[for example, Part VI of the ***Public Finance and Audit Act.***] |
| **Consultation**: (State consultation [within and outside government], including views and how those views have been reflected or addressed in the legislative policy)Replacement legislation has been in planning and consultation since [year]. With the approval of Cabinet when the now (almost all repealed) [***Public Financial Management Act****]* was drafted, a draft Auditor-General Bill (the draft bill) was prepared in [year] (if any). |
| **Commencement Date:** (Date of gazettal, deferred (to be fixed by Minister), retrospective or fixed by Parliament) |
| **Repeals, transitional and consequential amendments**: (Existing rights, conduct, authority, licence etc that may be affected by the new law)Part VI of the ***Public Finance and Audit Act*** needs to be repealed and a new *Auditor-General Act* enacted. |
| **Other necessary information:**In light of the rapidly changing nature of SAI standards, it would be helpful to include a mandatory review or “sunset clause,” perhaps in the following format:***Review*** 1. *At a date no later than 5 [10?] years, or any other time deemed necessary after this Act comes into force, the Ministry, shall cause the Auditor-General to conduct a review as to whether this Act and the Regulations still comply with the principles stated in Section xx.*
2. *In cases where the circumstances or purposes, which caused the development and implementation of this Act or the Regulations, have changed or ceased to exist, the Ministry shall direct the Auditor-General to initiate the appropriate procedures for revision or withdrawal of this Act and the Regulations.*
 |
| **Attachments**: (Reports, recommendations, case laws, legal or expert opinions, precedent Acts or model Bills etc)See draft Bill and Regulations attached from (previous year) along with a copy of the Policy. |
| **Name of AG:** |
| **Signature:** | **Date:** |
|  |