

Bill no: 6/16

Tuvalu

**PUBLIC BUDGET ACCOUNTS AND AUDIT
COMMITTEE BILL 2016**

First Reading



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Arrangement of Sections

Section

1	Short Title	5
2	Commencement.....	5
3	Interpretation.....	5
4	Public Budget, Accounts and Audit Committee	6
5	Chair and Deputy Chair	7
6	Secretariat.....	7
7	Meetings of the Committee	7
8	Quorum and voting	8
9	Duties of the Committee	8
10	Response to Committee's reports.....	9
11	Annual Report	10
12	Sub-Committees.....	10
13	Power to take evidence.....	10
14	Sittings to be in public except in certain cases.....	10
15	Disclosure and publishing of evidence taken in private.....	11
16	Continuance of evidence	11
17	Power to summon witnesses	11
18	Warrant in case of disobedience of summons.....	12
19	Witness to obey summons.....	12
20	Preventing witnesses from giving evidence	12
21	Witnesses not to refuse to be sworn etc.....	12
22	False evidence	13
23	Privileges and protection of witnesses	13
24	Witnesses' expenses.....	13
25	Offences	13
26	Allowances and Travel Costs.....	13

SCHEDULE	15
FORM A - OATH OF WITNESS	15
FORM B - AFFIRMATION OF WITNESS	16
FORM C - SUMMONS TO A WITNESS	17



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A BILL FOR AN ACT TO PROVIDE FOR A PARLIAMENTARY
COMMITTEE OF PUBLIC BUDGETS ACCOUNTS AND AUDIT

1 Short Title

This Bill may be cited as the Public Budget Accounts and Audit Committee Bill 2016.

2 Commencement

This Act shall come into force on the day it is published by exhibition.

3 Interpretation

(1) In this Act, unless the context otherwise requires:

“**Act**” means the Public Budget, Accounts and Audit Committee Act 2016

“**Audit Office**” means the Office of the Auditor-General

“**Auditor-General**” means the Tuvalu Auditor-General

“**Chair**” means the Chair of the Public Budget, Accounts and Audit Committee

“**Deputy Chair**” means the Deputy Chair of the Public Budget, Accounts and Audit Committee

“**Minister**” means the Minister who administers the *Public Finance Act* of Tuvalu

“**Independent Auditor**” means the Independent Auditor referred to in section 19 of the *Audit Act* of Tuvalu

“Member” means a member of the Public Budget, Accounts and Audit Committee

“public sector entity” includes—

- (a) a government department; or
- (b) a Falekaupule; or
- (c) a statutory body; or
- (d) a public enterprise; or
- (e) an entity that is controlled by one, or more than one government department, Falekaupule, or statutory body, or public enterprise, or by a combination of government departments, Falekaupule or statutory bodies or public enterprises; or
- (f) an entity controlled by an entity that is a public sector entity under paragraph (e);

For the purpose of this definition an entity is controlled by one or more other entities if the other entity or entities together:

- (i) control the entity within the meaning of any applicable financial reporting standard; or
- (ii) control directly or indirectly the composition of the governing body of the entity; or
- (iii) hold more than 50% of the voting shares.

“reasonable expense” means the rates afforded to public servants when on duty travel within Tuvalu.

“the committee” means the Public Budget, Accounts and Audit Committee for the time being constituted under this Act.

4 Public Budget, Accounts and Audit Committee

- (1) There is established under this Act a Public Budget, Accounts and Audit Committee.
- (2) The Speaker to Parliament shall appoint the members of the Committee. The Committee shall consist a minimum of three (3) and a maximum of five (5) private members of Parliament.
- (3) Each member shall hold office during the tenure of Parliament for which they are appointed.
- (4) Each member shall cease to hold office when Parliament is dissolved or when the member ceases to be a private member of Parliament.
- (5) In the event of a resignation of a member from the Committee; the Speaker shall as soon as practicable appoint another member.

- (6) The Auditor-General or a representative of the Auditor-General shall act as an advisor to the Committee.

5 Chair and Deputy Chair

- (1) Members of the Committee shall elect the Chair and Deputy Chair of the Committee.
- (2) The Chair shall preside at all meetings of the Committee at which he or she is present.
- (3) In the event of the absence of the Chair from a meeting of the Committee, the Deputy Chair shall preside at that meeting.
- (4) In the event of the absence of both the Chair and the Deputy Chair from a meeting of the Committee, the members present may appoint one of their members to preside at the meeting, and the member so presiding shall, in relation to the meeting, have all the powers and functions of the Chair.

6 Secretariat

- (1) There shall be a full time Secretariat to the Committee:
- (a) consisting at a minimum of one full time staff member with sufficient Technical, Financial and Legal expertise;
 - (b) who is funded as part of the Office of the Speaker's budget; and
 - (c) is remunerated at an equivalent rate to an Assistant Secretary.
- (2) The secretariat shall be appointed by the public service Commission.

7 Meetings of the Committee

- (1) The Committee may meet at such times and at such places within Tuvalu as the Committee or the Chair determines, but shall not meet at any place outside Tuvalu.
- (2) At any time when the Chair is absent from Tuvalu or is, for any reason, unable to perform the duties of his office or there is a vacancy in the office of Chair, the Deputy Chair may exercise the powers of the Chair.
- (3) Subject to this Act, the practice and procedure of the Committee shall be determined and prescribed by the Committee.
- (4) If a Member misses two consecutive sitting days of the Committee without the permission of the Chair, that member is deemed to have resigned from the committee.

8 Quorum and voting

- (1) At a meeting of the Committee, half or more of the membership shall constitute a quorum.
- (2) All questions to the Committee shall be decided by a simple majority of members present. In the event of an equality of votes, the Chair or other member presiding shall have a casting vote.
- (3) Where the members present do not vote unanimously, the manner in which each member votes shall, if a member so requires, be recorded in the minutes and in the Committee's report.

9 Duties of the Committee

- (1) The duties of the Committee are to:
 - (a) Examine the public accounts and the accounts of the public sector entities of Tuvalu, including the financial statements given to the Auditor-General under Part 3.1 of the *Audit Act*;
 - (b) Examine the financial affairs of the Tuvalu Government and public sector entities to which this Act applies;
 - (c) Examine all reports of the Auditor-General that are tabled in Parliament;
 - (d) Report to Parliament with any comment or recommendation it thinks fit, on any items or matters in those accounts, statements and reports, or any circumstances connected with them, that the Committee thinks should be drawn to the attention of the Parliament;
 - (e) Report to Parliament any alteration that the Committee thinks desirable in the:
 - (i) Form of the public accounts or in the method of keeping them; or
 - (ii) Mode of receipt, control, issue or payment of public monies; or
 - (iii) The management of public properties;
 - (f) Inquire into any question connected with the public accounts or the public sector entities which is referred to the Committee by Parliament, and to report back on that question;
 - (g) Consider and monitor:
 - (i) The operations of the Audit Office including reviewing the annual report;
 - (ii) The resources of the Audit Office, including funding, staff and information technology; and
 - (iii) Reports of the Independent Auditor on operations of the Audit Office;

- (h) Report to Parliament on any matter arising out of the Committee's considerations of the matters listed in paragraph (g), or on any other matter relating to the Auditor-General's functions and powers, that the Committee considers should be drawn to the attention of Parliament;
 - (i) Report to Parliament on the performance of the Audit office at any time;
 - (j) Approve the draft budget proposal for the Audit Office submitted under section 16 of the *Audit Act*;
 - (l) Make recommendations to Parliament, and to the Minister on the draft budget proposal referred to in paragraph (j);
 - (m) Determine the audit priorities of Parliament and to advise the Auditor-General of those priorities;
 - (n) Appoint the Independent Auditor of the Audit Office;
 - (o) Determine the audit priorities of Parliament for audits of the Audit Office and to advise the Independent Auditor of those priorities;
 - (p) Examine how the Government of Tuvalu and the public sector entities intend to commit public funds in the current and future years;
 - (q) Examine the performance of the Government of Tuvalu and public sector entities in ensuring that the objectives for which public funds were provided are met;
 - (r) Report to Parliament with any comment or recommendation it thinks fit, on:
 - (i) any items or matters on how the Tuvalu Government and public sector entities of Tuvalu intends to commit public funds in the current and future years; and
 - (ii) the performance of the Tuvalu Government and public sector entities in ensuring that the objectives for which public funds were provided are met; or
 - (iii) any other related matters which the Committee thinks should be drawn to the attention of the Parliament;
 - (s) Any other duties given to the Committee by this Act, by any other law or by the Standing Orders approved by the Parliament.
- (2) Nothing in subsection (1) authorises the Committee to direct the activities of the Auditor-General, the Audit Office or the Independent Auditor.

10 Response to Committee's reports

Upon the presentation of a Committee's report to Parliament there shall be:

- (a) A consideration by Parliament in the form of a debate;
- (b) An immediate verbal response to the report by the Government to Parliament; and

- (c) A written response from the Tuvalu Government addressing the recommendations of the Committee's Report tabled in Parliament not later than the first day of the next Session.

11 Annual Report

- (1) The Committee shall, in relation to each calendar year, prepare a report on the performance of its duties during the year.
- (2) The annual report of the Committee shall be presented to be tabled in Parliament no later than 4 months after the end of each calendar year.

12 Sub-Committees

- (1) Subject to the provisions of this Act, the Committee may appoint a Sub-Committee or Sub-Committees of two (2) or more of its members to inquire into and report to the Committee upon such matters with which the Committee shall consider or as the Committee directs.
- (2) The provisions of this Act apply in relation to a Sub-Committee in the same way as they apply in relation to the Committee.
- (3) A Sub-Committee shall report in writing to the Committee as soon as practicable on each matter referred to it by the Committee.
- (4) A Sub-Committee may sit at any time provided that the Committee is not sitting at that time.

13 Power to take evidence

- (1) For the purposes of this Act, the Chair or Deputy Chair of the Committee shall appoint persons empowered to administer oaths or affirmations on their behalf.
- (2) The Committee shall take evidence on oath or affirmations and the Chair or the Deputy Chair shall appoint persons empowered to administer oaths or affirmations to witnesses appearing before the Committee.
- (3) The oath or affirmation administered to a witness shall be in accordance with Form A or Form B.

14 Sittings to be in public except in certain cases

- (1) Subject to subsection (2) and (3), the Committee shall take all evidence in public.
- (2) If a witness requests the Committee to take evidence in private, the Committee may upon its discretion take the evidence in private.

- (3) The Committee at its own discretion may take any other evidence in private.
- (4) The discretion of the Committee in subsections (2) and (3) only apply if in the Committee's opinion the evidence relates to a secret or confidential matter.

15 Disclosure and publishing of evidence taken in private

- (1) Subject to subsections (2) and (3), the Committee shall publish or disclose any evidence taken in private.
- (2) If evidence is taken in private at the request of a witness and has not already been published:
 - (a) The Committee or a member of the Committee shall not disclose or publish any of the evidence without the prior consent of the witness who gave it; and
 - (b) Any other person shall not disclose or publish any of the evidence without the consent of the witness who gave it and without the authorisation of the Committee.
- (3) If evidence is taken in private other than at the request of a witness and has not already been published, a member of the Committee or any other person shall not disclose or publish any of the evidence without the authorisation of the Committee.
- (4) The Committee may, in writing and signed by the Chair, give an authorisation for the purposes of subsection 2(b) or subsection (3).

16 Continuance of evidence

If the Committee or a Sub-Committee at anytime has taken evidence in relation to a matter and the Committee has ceased to exist before reporting on the matter, the Committee shall as next constituted consider that evidence as if it had been given before it.

17 Power to summon witnesses

- (1) The Chair or Deputy Chair of the Committee may request an empowered person to summon any person to appear before it to give evidence or produce documents.
- (2) A summons to a witness shall be in accordance with Form C and shall be signed by the Chair or the Deputy Chair or a person acting in that position.
- (3) A summons to a witness shall be served upon the witness personally. If the witness cannot be found, then summons shall be by post to his or her usual place of business or of abode.

18 Warrant in case of disobedience of summons

- (1) The Chair or Deputy Chair may request an empowered person to issue a warrant for the apprehension of any person:
 - (a) who fails; or
 - (b) having appeared fails to continue to attend in obedience; to appear to a summons under section 17.
- (2) The warrant issued shall be in accordance with the Criminal Procedure Code.
- (3) The person executing the warrant under this section shall;
 - (a) Apprehend the person in respect of whom it is issued;
 - (b) Bring that person before the Committee; and
 - (c) Detain that person in custody until he or she is released by order of the Chair or the Deputy Chair.
- (4) The warrant may be executed by the police or a person to whom it is addressed or by a person authorized by him to assist him in its execution, and the person executing the warrant may enter a building, place or ship for the purpose of executing the warrant.

19 Witness to obey summons

- (1) A person upon whom a summons has been served shall comply with the summons.
- (2) Subsection (1) does not apply if the person proves that he has a lawful excuse. The legal burden is with the person being summoned to prove that the excuse is lawful.

20 Preventing witnesses from giving evidence

- (1) A person shall not dissuade or prevent a witness from obeying a summons under this Act.
- (2) Any person who dissuades or prevent a witness from obeying a summons commits an offence and shall be liable to 6 months imprisonment or a fine of \$200.

21 Witnesses not to refuse to be sworn etc.

- (1) A person summoned to appear before the Committee shall not refuse:
 - (a) To be sworn or to make an affirmation; or
 - (b) To answer a question put to them by the Committee or by any member thereof; or

- (c) To produce a document which he is required by the Committee or by a member thereof to produce.
- (2) Subsection (1) does not apply if the person proves that he or she has lawful cause for the refusal. The legal burden is on the witness to prove the lawful cause for the refusal.

22 False evidence

Any person who gives false evidence on oath or affirmation before the Committee commits the offence of perjury in accordance with the Penal Code.

23 Privileges and protection of witnesses

- (1) Any person appearing or summoned to appear before the Committee as a witness shall have the same protection and privileges as a witness in proceedings in any court of Tuvalu.
- (2) A person shall not be subject to any violence, punishment, damage, loss or disadvantage on account of having appeared as a witness or on account of any evidence lawfully given before the Committee.

24 Witnesses' expenses

A witness appearing before the Committee shall be entitled to be paid for any reasonable expenses incurred in appearing before the Committee.

25 Offences

- (1) A person who contravenes, or fails to comply with, any provisions of this Act is guilty of an offence.
- (2) Any offence committed under this Act for which a penalty is not prescribed, shall be liable to 2 years imprisonment or \$500 fine.

26 Allowances and Travel Costs

- (1) The Chair and other members of the Committee shall be paid such allowances as are prescribed in the Prescription of Salaries Act.
- (2) The prescribed allowances are not payable unless the Chair or Deputy Chair certifies in writing that they are payable.
- (3) Members are entitled to domestic travel costs to attend meetings of the Committee. These costs shall be consistent with other travel costs accorded to Members of Parliament under the Prescription of Salaries Act.

- (4) The domestic travel costs are not payable unless the Chair or Deputy Chair certifies in writing.
- (5) Prescribed allowances and domestic travel costs in respect of which such certification has been given are payable out of the Consolidated Fund, and shall be appropriated.
- (6) The total amount paid out of the Consolidated Fund in respect of allowances and travel costs payable under the subsection (5) shall not exceed 20,000AUD in any financial year.
- (7) Where in any financial year, the amount of 20,000AUD is planned to be exceeded, a supplementary budget shall be produced and appropriated in line with the Government's budget process.

SCHEDULE

FORM A - OATH OF WITNESS

(Section 13)

I solemnly swear that the evidence I shall give before the Committee shall be the truth, the whole truth, and nothing but the truth, so help me God!"

(Add or delete where and when applicable)

Signature of Deponent

FORM B - AFFIRMATION OF WITNESS

(Section 1)

Isolemnly and sincerely affirm and declare that the evidence I shall give before the Committee shall be The truth, the whole truth, and nothing but the truth”

(Add or delete where and when applicable)

Signature of Deponent

FORM B - AFFIRMATION OF WITNESS

(Section 1)

Isolemnly and sincerely affirm and declare that the evidence I shall give before the Committee shall be The truth, the whole truth, and nothing but the truth”

(Add or delete where and when applicable)

Signature of Deponent

PUBLIC BUDGET ACCOUNTS AND AUDIT COMMITTEE BILL 2016

FAKAMATALAGA FAKAMAINA

(Tefakamatalagafakamainateneiseai se vaega o tetulafonofakatautautenei)

A teTulafonofakatautautenei e uigamote Public Budget Accounts and Audit Committee (PBAAC) e fakamalosiakafakamatea ne ia a malosiotekomititenei (Public Budget Accounts and Audit Committee). Eavakafoki ne iatetulaga otemafai netekomiti o fakatinokaefakataunuanagaluegafai pelafokikitetausigaoteOfisa oteTagataSukeTupeiteiloiloga o anagaluegafai.

TeTulafonofakatautautenei e sui ne iatesekiseni 49 oteFakanofonofoga o tePalamene(Parliamentary Rules of Procedure). Temanakogatauake suiieitesekiseni 49kotemeakemafai o tai avakatetulagatutokotasiotekomiti i tulaga o anagaluegafai, kemafai netekomiti o galue i sose taimi e manakoginakegalueieilatoukaekemafaifoki o fakalausatulaga o galuegafai atekomitimaitafaoteiloilogaotelipoti ateTagataSukeTupe.

MafuligatauailotoiteTulafonofakatautauteneikote komiti:

- kamafai o toe onookaefaianafautuagakiluga i akauni ateMalomoakauni o fakapotopotogamailalo o teMalo o Tuvalu (public sector entities’);
- kafakamalosisinatetulagatutokotasi o tekomi, pelamotemafai o galue i sose taimi e manakoginakegalueiei, kaekemafaifoki o tutokotašitefakatokagamotefakaaogaga o tenafakataugatupe;
- kaonookaesusukesuke ne iagaluegafai ateTagataSukeTupe;
- fakatokafakamatalaga o tulaga o anagaluega ne fai e aualaitelipotifakaotiotetausagakitePalamene;
- kamafai ne tekomi o iloilogina ne ia a mea tau tupe a teMalomofakapotopotogamailalo o teMalo (public sector entities’);
- kaisise namalosifaopopo o kami/aumaiso se tino e manakoginakefai ne anafakamatalaga;
- kaisi ne anaofisagalue (secretariat);

- kaisi se mafai o fakafesiliteMalokemafai o talikilugaitelipoti atekomitimoanafautuga.