

APPENDIX I

(See paragraph 113)

Duties and Powers of the Comptroller and Auditor General with regard to Audit of Accounts

The duties and powers of the Comptroller and Auditor General of India are laid down in the Articles 149-151 of the Constitution of India. According to Article 149, the Comptroller and Auditor General shall, pending the passing of an enactment by Parliament, perform such duties and exercise such powers as were conferred on or are exercisable by the Auditor General of India immediately before the commencement of the Constitution, *i. e.*, those duties and powers embodied in the Government of India (Audit and Accounts) Order, 1936. For the guidance of Officers and Staff of the Accounts Department, an extract of the Constitution and of the Audit and Accounts' Order No. 1936 as amended is reproduced below—

PROVISIONS IN THE CONSTITUTION

Art. 149. The Comptroller and Auditor General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on exercisable by the Auditor General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

Art. 150. The Accounts of the Union and of the States shall be kept in such form as the Comptroller and Auditor General of India, may with the approval of the President, prescribe.

Art. 151. (1) The reports of the Comptroller and Auditor General of India relating to the Accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor General of India relating to the Accounts of a State shall be submitted to the Governor or Rajpramukh of the State, who shall cause them to be laid before the Legislature of the State.

THE GOVERNMENT OF INDIA (AUDIT AND ACCOUNTS) ORDER, 1936

WHEREAS by sub-section (2) of Section one hundred and sixty-six of the Government of India Act, 1935, it is provided that the conditions of service of the Auditor General of India shall be such as may be prescribed by his Majesty in Council, and by sub-section (3) of the said Section it is further provided that the Auditor General of India shall perform such duties and exercise such powers in relation to the accounts of the Dominion and of the Provinces as may be prescribed by, or by rules made under, an Order of His Majesty in Council :

AND WHEREAS by sub-section (3) of Section one hundred and seventy of the said Act it is provided that the Auditor of Indian Home Accounts shall perform such duties and exercise such powers in relation to transactions in the

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United Kingdom affecting the revenues of the Dominion, of the Dominion Railway Authority, or of any Province as may be prescribed by, or by rules made under, an Order of His Majesty in Council :

AND WHEREAS a draft of this Order was laid before Parliament in accordance with the provisions of sub-section (1) of Section three hundred and nine of the said Act and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order :

NOW, THEREFORE, His Majesty, in the exercise of the said powers and of all other powers enabling him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered as follows:—

I. INTRODUCTORY

1. This Order may be cited as “The Government of India (Audit and Accounts) Order 1936” and shall come into operation on the 1st day of April, nineteen hundred and thirty-seven.

2. (1) In this Order the following expressions have the meanings hereby assigned to them, that is to say—

“Accounts” includes, in relation to commercial undertakings of a Government, subsidiary accounts ;

“Appropriation Accounts” means accounts relating to expenditure brought into account during a financial year to the several items specified in the schedules of authorized expenditure authenticated under Section thirty-five, or Section eighty of the Act ;

“Auditor General” means the Auditor General of India ;

“Indian Civil Service” means the service known as such at the date of the passing of the Act ;

“Province” means, subject to the provision of the next succeeding subparagraph, a Governor’s Province ;

“Rules”, in relation to leave, pension and other conditions of service, includes regulations and orders ; and

“The Act” means the Government of India Act, 1935 ; and the Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) The provisions of this Order shall apply in relation to the accounts of Coorg as they apply in relation to the accounts of a Province, subject, however, to the following adaptations, that is to say—

(a) any reference to the Governor of a Province shall be construed as a reference to the Governor General ; and

(b) the reference in the last preceding subparagraph to schedules of authorized expenditure shall be construed as a reference to the annual budget estimates of expenditure passed by the Chief Commissioner of Coorg.

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(3) As respects the period before the establishment of the Dominion—

- (a) any reference in this Order to the Dominion Government, or to the accounts or the revenues of the Dominion shall be construed as a reference to the Governor General in Council or to the accounts or the revenues of the Governor General in Council, and
- (b) the reference in sub-paragraph (1) of this paragraph to schedules of authorized expenditure shall be construed as a reference to appropriations made and expenditure authorized by the Governor General under the provisions of Section sixty-seven-A (which relates to the Indian Budget) included in the Ninth Schedule to the Act.

II. THE AUDITOR GENERAL OF INDIA

(i) Conditions of Service of Auditor General

3. The salary of the Auditor General shall be at the rate of forty-eight thousand rupees per annum.

4. The Auditor General shall on his appointment give to the Governor General an undertaking that he will not after he has ceased to hold his office accept any employment in the service of a local authority or railway company in India, or of an Indian State or Ruler, or, save with the previous consent of the Governor General any other employment in India.

5. The Auditor General may at any time by writing under his hand addressed to the Governor General resign his office.

6. (1) An Auditor General who at the date of his appointment was a member of the Indian Civil Service shall vacate his office on completing thirty-five years total service in that service and as Auditor General :

Provided that, if at the date of his appointment he had completed thirty years' service or more, he may hold office for five years.

(2) Any other Auditor General shall vacate his office on attaining the age of fifty-five years, or, if at the date of his appointment he had attained the age of fifty, after holding office for five years.

The provisions of sub-paragraphs (1) and (2) of this paragraph shall not apply to the first Auditor General of the Dominion of India.

7. (1) An Auditor General who at the date of his appointment was in the service of the Crown in India may be granted leave during his tenure of office in accordance with the rules for the time being applicable to the service to which at the date of his appointment he belonged, his service as Auditor General being treated for the purposes of those rules as continuing service counting for leave in the service to which he belonged.

(2) Any other Auditor General may be granted leave on such terms and conditions as may be prescribed by Order of the Governor General.

8. The power to grant or refuse leave to the Auditor General and to revoke or curtail leave granted to him, shall be vested in the Governor General.

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9. (1) An Auditor General who at the date of his appointment was in the service of the Crown in India shall be eligible for such pension as may be admissible under the rules for the time being applicable to the service to which at the date of his appointment he belonged, his service as Auditor General being reckoned for the purposes of those rules as service for pension, including higher additional pension, on such terms and conditions as may be prescribed by or under those rules ;

Provided that, if, when any such Auditor General vacates his office, leave might have been granted to him pending retirement under the rules for the time being applicable to his former service if he had continued to be and still was a member thereof with a claim to further employment in a permanent post, his pension in respect of the period for which leave might have been so granted shall be an amount equal to the pay and allowances which would be payable to him if he were on leave from the office of Auditor General, and his ultimate pension shall be computed as if the said period were a period of service as Auditor General.

(2) Any other Auditor General shall be eligible for such pension, if any, as may be prescribed by Order of the Governor General.

10. Subject to the provisions of Section one hundred and sixty-six of the Act and of this and any other Order made under the said Section, the conditions of service of the Auditor General, including his emoluments during any period of duty out of India and his travelling allowances while traveling on duty, shall be determined by the rules for the time being applicable to an officer of non-Asiatic domicile or, as the case may be, of Asiatic domicile, appointed by the Secretary of State in Council or the Secretary of State to a civil service in India and holding the rank of Secretary to the Government ;

Provided that nothing in this paragraph shall have effect so as to give to an Auditor General who has at the date of his appointment in the service of the Crown in India less favourable terms in respect of any of the matters aforesaid than those to which he would be entitled as a member of the service to which at the date of his appointment he belonged, his service as Auditor General being treated for the purposes of this proviso as continuing service in the service to which he belonged.

(ii) Duties and Powers of Auditor General

11. (1) Subject to the provisions of this paragraph, the Auditor General shall be responsible for the keeping of the accounts of the Dominion and of each Province, other than accounts of the Dominion relating to defence or railways and accounts relating to transactions in the United Kingdom.

(2) As respects accounts of the Dominion, the Governor General, and as respects accounts of a Province, the Governor may, after consultation with the Auditor General, make provision by rules for relieving the Auditor General from responsibility for the keeping of the accounts of any particular service or department.

(3) The Governor General, may, after consultation with the Auditor General make provision by rules relieving the Auditor General from responsibility for keeping accounts of any particular class or character.

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(4) The Auditor General shall, from the accounts kept by him and by the other persons responsible for keeping public accounts, prepare in each year accounts (including, in the case of accounts kept by him, appropriation accounts) showing the annual receipts and disbursements for the purposes of the Dominion and each Province, distinguished under the respective heads thereof, and shall submit those accounts to the Dominion Government or, as the case may be, to the Government of the Province on such dates as he may, with the concurrence of the Government concerned, determine.

(5) Notwithstanding anything in this paragraph, the Auditor General shall comply with any general or special orders of the Governor General or, as the case may be, a Governor as to the head of account under which any specified transaction or transactions of any specified class is, or are, to be included.

In issuing any such order as aforesaid the Governor General or Governor shall consult the Auditor General.

12. It shall be the duty of the Auditor General to prepare annually, in such form as he with the concurrence of the Governor General may determine, and to submit to the Governor General a General Financial Statement incorporating a summary of the accounts of the Dominion and of all the Provinces for the last preceding year and particulars of their balances and outstanding liabilities, and containing such other information as to their financial position as the Governor General may direct to be included in the Statement.

13. (1) It shall be the duty of the Auditor General—

- (i) to audit all expenditure from the revenues of the Dominion and of the Provinces and to ascertain whether moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which govern it ;
- (ii) to audit all transactions of the Dominion and of the Provinces relating to debt, deposits sinking funds, advances, suspense accounts and remittance business ;
- (iii) to audit all trading, manufacturing and profit and loss accounts and balance sheets kept by order of the Governor General or of the Governor of a Province in any department of the Dominion or of the Province ;

and in each case to report on the expenditure, transactions or accounts so audited by him.

(2) The Auditor General may with the approval of and shall if so required by, the Governor General or the Governor of any Province audit and report on—

- (i) the receipts of any department of the Dominion or, as the case may be, of the Province ;
- (ii) the accounts of stores and stock kept in any office or department of the Dominion or, as the case may be, of the Province.

The Governor General or the Governor of a Province may after consultation with the Auditor General make regulations with respect to the conduct of Audits under this sub-paragraph.

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14. If the Governor General appoints an independent officer to audit sanction to expenditure accorded by the Auditor General, the Auditor General shall produce for inspection by that officer all books and other documents relating thereto and give him such information as he may require for the purposes of his audit.

15. It shall be the duty of the Auditor General, so far as the accounts for the keeping of which he is responsible enable him so to do, to give to the Dominion Government and to the Government of every Province such information as they may from time to time require, and such assistance in the preparation of their annual financial statements as they may reasonably ask for.

16. The Dominion and every Province shall—

(i) supply to the Auditor General free of charge the Annual Budget estimates of the Dominion or of the Province and any other publications issued by a department of the Dominion or of the Province which he may require for purposes connected with his audit functions, and

(ii) give to him such information as he may require for the preparation of any account or report which it is his duty to prepare.

17. The Auditor General shall have authority to inspect any office of accounts which is under the control of the Dominion or of a Province, including treasuries and such offices responsible for the keeping of initial or subsidiary accounts as submit accounts to him.

18. The Auditor General shall have authority to require that any books and other documents relating to transactions to which his duties in respect of audit extend, shall be sent to such place as he may appoint for inspection by him ;

Provided that, if the Governor General or the Governor of a Province certifies that any such book or document is a secret book or document, the Auditor General shall accept as a correct statement of the facts stated in that book or document a statement certified as correct by the Governor General or, as the case may be, by the Governor.

19. Anything which under this Order is directed to be done by the Auditor General may be done by an officer of his department authorized by him, either generally or specially ;

Provided that except during the absence of the Auditor General on leave or otherwise, an officer shall not be authorized to submit on his behalf any report which the Auditor General is required by the Act to submit to the Governor General or the Governor of a Province.

III. THE AUDITOR OF INDIAN HOME ACCOUNTS

20. (1) The Auditor of Indian Home Accounts (hereafter in this paragraph referred to as "the Auditor") shall, under the general superintendence of the Auditor General, audit the accounts of transactions in the United Kingdom affecting the revenues of the Dominion or of any Province.

(2) In discharging his functions under this paragraph, the Auditor shall examine and audit the accounts, including appropriation accounts, of the receipt

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expenditure and disposal in the United Kingdom of all money, stores and other property due to, or held for the purposes of, the Dominion or any Province, and shall report on those accounts and, if he is satisfied as to their correctness, shall certify them.

(3) In order that the Auditor's examination of the accounts of accounting authorities and persons may, so far as possible, proceed *pari passu* with their transactions, he shall have free access, at all convenient times to their books of account and to the other documents relating to their transactions, and may require them to furnish him from time to time, either at regular intervals or when called upon, with accounts of their transactions upto such date as he may direct ;

Provided that, if the Secretary of State, or the High Commissioner for India, certifies that any such book or document as aforesaid is a secret book or document, the Auditor shall accept as a correct statement of the facts appearing in that book or document a statement certified as correct by the Secretary of State, or, as the case may be, by the High Commissioner.

(4) As respect any matter for which no provision is made by the Act or by this Order, the Auditor shall comply with any rules which may be made for his guidance by the Governor General.