

AG Project Bulletin 01

7 October 20

IFAA Auditor General project

Dear Colleagues,

I will prepare a discussion paper on the basics for Wednesday 13 November, when we will meet at IFAA at 12noon.

Meanwhile, here are two items

- A list of the relevant legislation related to the role of the Auditor General w r t reporting to Parliament
- An EXAMPLE of the information on AGSA reports on departments that is summarised by Parliament for the information of SCOPA

The reference legislation

Relevant legislation related to the role of the Auditor General w r t reporting to Parliament

The Constitution

- Chapter 9 of the Constitution, 1996 establishes the Auditor-General of South Africa (AGSA) as one of the state institutions supporting constitutional democracy. The Constitution guarantees the independence of the Auditor-General, stating that the AGSA must be impartial and must exercise its powers and perform its functions without fear, favour or prejudice. The functions of the AGSA are described in section 188 of the Constitution and further regulated in the Public Audit Act (PAA) – *see below*

The AGSA annually produces audit reports on all government departments, public entities, municipalities and public institutions (these have to be tabled by the Executive). Over and above these entity-specific reports, the audit outcomes are analysed in general reports that cover both the Public Finance Management Act (PFMA) and Municipal Finance Management Act (MFMA) cycles. In addition, reports on discretionary audits, performance audits and other special audits are also produced. The AGSA tables reports to the legislature with a direct interest in the audit, namely Parliament, provincial legislatures or municipal councils. These reports are used by these structures in accordance with their own rules and procedures for oversight of the Executive.

Public Finance Management Act (PFMA), No. 1 of 1999 [as amended]

- The PFMA and the MFMA (similar law for municipalities) - outline the standards required of public entities for financial management (The PFMA/MFMA provide the benchmark for the Auditor General, internal auditors and independent auditors of public entities.) The Executive is required by the PFMA to table audit reports in Parliament. This includes reports of the AG on departments and entities.

This key legislation is well interpreted on the National Treasury website:
<http://www.treasury.gov.za/legislation/PFMA/default.aspx>

Public Audit Act (PAA), No. 25 of 2004 [as amended]

- The Public Audit Act – was amended from 1 April 2019 to allow the AG to focus on fraud, theft or a breach of a fiduciary duty identified during an audit. The new powers for the AG only took effect from 2019/20 – so Parliament will only get to review the effects of the new dispensation from October 2020, when the 2019/20 Annual Reports are tabled. “The AGSA is accountable to the National Assembly in terms of section 181(5) of the Constitution and section 3(d) of the PAA and has to report on its activities and performance of its functions in terms of section 10 of the PAA. The main accountability instruments are the AGSA's budget and strategic plan, as well as the annual report, both of which are tabled annually in the National Assembly. The Standing Committee on the Auditor-General (SCoAG), established in terms of section 10(3) of the PAA, oversees the performance of the AGSA on behalf of the National Assembly.” [<https://www.agsa.co.za/AboutUs/Legislation.aspx> - includes links to the PAA and Constitution] AGSA can perform functions under the broader mandate described in the Constitution. Section 4 of the PAA distinguishes between “mandatory” and “discretionary” audits.

Companies Act No. 71 of 2008 [as amended]

- The AG needs, in some cases, to be guided by the Companies Act, as well as enabling legislation for certain state-owned entities, in addition to the PFMA . Shareholders compacts between SOEs and their government departments define mandates and expectations that define the purpose of the financial management in each case. Some SOEs are not audited by the AG, but by private sector auditing firms {this applies to Eskom, for instance.}

Money Bills Amendment Procedure and Related Matters Act, No. 9 of 2009 [as amended]

- The Money Bills Act –specifies particular functions for Parliament in its oversight over public budgeting and public expenditure. This critical [and USELESS] law was enacted to allow Parliament a real role in deciding on budgetary allocations. Treasury (Uncle Trevor) was TOTALLY opposed to Parliament meddling in the budget. This was said to be a technical task, best left to the experts at the Treasury. This Act was a compromise, which allowed Parliament to transmit annual Budgetary Review and Recommendation Reports (BRRR – B triple-Rs) to the Minister of Finance, to tell the Executive how to frame the next year’s budget. The BRRRs absorb a HUGE amount of Portfolio Committee time and recommendations from frustrated Parliamentarians are routinely ignored by the Executive. The Money Bills Act does not refer to the Auditor General, but AG reports are the basis for many BRRRs. Also the Money Bills Act is a reminder of the pitfalls when Parliament tries to be “interventionist”. In the 1990’s Parliamentarians were indignant about the austerity spending under GEAR; now Parliament is indignant that the Executive does not ensure there are consequences for corruption and maladministration in public sector finances. The levers available to Parliament are limited, in the face of executive power.

Example

Standing Committee on Public Accounts: 2018/19 – Analysis of audit outcomes for categorisation (Group 1) – 15 October 2019

This file is sent as an EXAMPLE of the sort of information that is prepared by Parliament's Research Unit for SCOPA.

The file summarises the audit outcomes for seventeen departments over the last FIVE YEARS.

It also summarises the reasons for the most recent (2018/19) audit findings and lists amounts of both **Irregular** and **Fruitless & Wasteful Expenditure**.

It is an important technical issue that the AG does not report directly to Parliament, in most respects The AG reports to the Executive. Then the Executive tables audited financial statements and auditor reports in Parliament. This is required by the PFMA.

Standing Committee on Public Accounts: 2018/19 –Analysis of audit outcomes for categorisation (Group 1) :

File name: 6172 Analysis_of_Department_Audit_outcomes to 2019.docx