

**The Act and Instructions relating to the Office
of the Auditor General – with comments**

**Act No 21 of 7 May 2004 relating to the Office of the
Auditor General**

**Instructions no 700 of 11 March 2004 concerning the
activities of the Office of the Auditor General**

Up to date as of 18 August 2011

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Introduction

The Act and Instructions relating to the Office of the Auditor General entered into force on 1 July 2004. The act replaced the Act of 18 February 1918 on the Auditing of Governmental Accounts. The instructions replaced previous instructions concerning the activities of the Office of the Auditor General issued by the Storting. Both the Act and the Instructions essentially entail a codification of established practices.

The act contains provisions concerning the OAG's purpose and its monitoring duties, its place in the state administration, organisation, necessary instruments for the performance of monitoring etc. The relationship to other relevant legislation is also regulated in the Act. This applies, for example, to the Freedom of Information Act, the Public Administration Act, the Security Act, the Personal Data Act, the Civil Service Act and the Public Service Dispute Act. The instructions contain additional rules relating to the OAG's management and auditing duties, among other things.

This guide contains supplementary comments on all the provisions in the Act and Instructions. The comments are primarily based on the summary by the Standing Committee on Scrutiny and Constitutional Affairs of the OAG's proposed comments on the provisions and the Committee's own comments, which the Storting endorsed during its consideration of the Act and Instructions, cf. Recommendation no 54 (2003-2004) to the Odelsting and Recommendation no 136 (2003-2004) to the Storting. Previous relevant resolutions by the Storting and statements by the Standing Committee on Scrutiny and Constitutional Affairs are also mentioned in reference to certain provisions. Some of the comments are taken from the OAG's proposal of 2 October 2003 for a new act and instructions.

An overview of the sources of law, with reference and links to important preparatory works to the Act and Instructions, is included at the end of the document.

Act no 21 of 7 May 2004 relating to the Office of the Auditor General (the Auditor General Act)

Chapter 1 The Office of the Auditor General's purpose, organisation etc.

Section 1 The Office of the Auditor General's purpose

The Office of the Auditor General is the Storting's auditing and monitoring body.

The Office of the Auditor General shall ensure, through auditing, monitoring and guidance, that the state's revenues are paid as intended, and that the state's resources and assets are used and administered in a sound financial manner and in keeping with the decisions and intentions of the Storting.

Comments:

The *first paragraph* establishes that the OAG is the Storting's auditing and monitoring body.

The *second paragraph* lays down an overriding goal for all the auditing and monitoring work performed by the OAG, which encompasses both the income and expense side of the central government accounts, and the accounts of subordinate agencies.

Section 2 The Office of the Auditor General's independence

The Office of the Auditor General shall perform its duties in an autonomous and independent manner, and determine itself how the work shall be arranged and organised.

Comments

This provision establishes that the OAG shall conduct its activities in an autonomous and independent manner. The principle of autonomy and independence did not follow directly from the previous act or instructions, but the OAG's activities have always been based on this principle, and it is a prerequisite for all auditing and monitoring. The OAG does not come under the Government's power to issue instructions. Nor, moreover, can the Government or the public administration introduce rules or pass resolutions that prevent the OAG from performing its auditing and monitoring activities or that interfere with the execution of its duties. Nor can the Ministry of Finance place any restrictions on resources in relation to the OAG or interfere with the budgetary process.

The Storting can establish a framework for the OAG's activities, both legally (by act of law, instructions or plenary decisions) and financially (the budget and the Appropriations Regulations). The Storting and the OAG have a shared understanding that, within the established framework, the OAG has an independent status and a responsibility to clarify the detailed contents of and execution of its auditing duties etc.

When the Act was adopted, the Storting emphasised that it is important to establish a legal basis for the independence of the OAG. Among other things, such independence is an important prerequisite for the OAG to be able to act independently of changing political constellations. The Storting may nonetheless instruct the OAG, through plenary decisions, to initiate an investigation into individual matters. This right to issue instructions must be exercised with caution, however, and in a manner that cannot raise any doubts about the independence of the OAG. Reference is also made to Section 9 seventh paragraph and the comments on this provision.

Section 3 Instructions for the Office of the Auditor General's activities

The Storting lays down instructions for the Office of the Auditor General's activities.

Comments

This provision presupposes that the Storting will issue detailed rules for the OAG's activities in the form of instructions. Such instructions were adopted by the Storting on 11 March 2004. The new instructions replace previous instructions issued by the Storting for the OAG's activities.

Section 4 The Office of the Auditor General's management

The Office of the Auditor General is managed by a board of five auditors general that are elected by the Storting pursuant to Article 75 k of the Norwegian Constitution. The auditors general and their personal deputies are elected by the Storting for a term of four years with effect from 1 January of the year following a Storting election. The Storting also elects the Chairman and Vice Chairman of the Board.

The Chairman of the Board is the Office of the Auditor General's general manager.

The Chairman must not assume any position or office in the public or private sector without the consent of the Storting, unless such position or office follows from the position of chair of the Board.

The other members of the Board must not assume any duties, assignments or offices that may be in conflict with their role as auditors general. The Board will determine whether the duty, assignment or office is of such a nature.

Comments

The *first paragraph* establishes that the OAG is managed by a board of five auditors general who are elected by the Storting for a term of four years pursuant to Article 75 k of the Norwegian Constitution. This is a continuation of the organisational model that was introduced by the Act of 1918 on the Auditing of Governmental Accounts. The provision specifies that the auditors general and deputy members shall take office on 1 January in the year following a general election to the Storting, as opposed to from 1 July, which applied

earlier. The provision also states that the Storting shall elect the chair and deputy chair from among the auditors general.

The *second paragraph* establishes that the Chairman of the Board is the OAG's general manager, and this entails the chairman working on a full-time basis for the duration of his elected term. The distribution of roles between the Board of Auditors General and the general manager is regulated in Section 1 of the Instructions.

The *third paragraph* limits the chairman's right to hold or assume other positions or offices in the private or public sector. This provision does not constitute a prohibition on holding or taking on such assignments or offices, but it does require the Storting's consent. If the position or office is a natural consequence of the position of auditor general, it is not necessary to obtain such consent, cf., for example, duties associated with the OAG's cooperating bodies.

The *fourth paragraph* regulates the right of the other board members to take on duties, assignments or offices that may be in conflict with their duties as auditors general. It is not prohibited to take on other duties, assignments or offices, but the Board must make a discretionary assessment in each individual case as to whether the nature of the assignment is such that it will come into conflict with the role of auditor general.

Section 5 Appointment of the Office of the Auditor General's civil servants

The Board of Auditors General appoints managers in the Office of the Auditor General. Other civil servants in the Office of the Auditor General are appointed by the Office of the Auditor General's appointments committee.

The provisions in Act no 3 of 4 March 1983 relating to civil servants etc., Sections 2 to 5, relating to the announcement of vacancies, nominations, and the permanent and temporary appointment of civil servants apply as appropriate.

Comments

The *first paragraph* establishes that the Board of Auditors General appoints managers in the OAG, and that other civil servants are appointed by the OAG's appointments committee.

Detailed rules for the nomination and appointment procedures in the OAG are set out in separate personnel regulations.

Practical considerations require that applicants to and employees of the OAG shall have the same rights and employment protection as elsewhere in the government administration. Section 1 of the Civil Service Act states that the act applies to employees of the Norwegian civil service, which also includes employees of the OAG. With respect to the special appointment provisions in Sections 2 to 5 of the Civil Service Act, it follows from the *second paragraph* that they apply insofar as they are appropriate. This reservation must be seen in light of the fact that, pursuant to the first paragraph, the OAG's competence to make appointments rests with the Board, which means that the Board has the competence assigned to the King pursuant to the Civil Service Act Section 3 no 1 second paragraph and Section 4 no 1. The provisions of the Auditor General Act and the Civil Service Act are otherwise supplemented by the Working Environment Act (Act no 62 of 17 June 2005).

Regulations issued by the government administration will apply to the OAG unless they are in violation of the Auditor General Act or if, on constitutional grounds, it is not relevant to invoke them.

Section 6 Salaries and pensions

The salaries and pensions of the auditors general are determined by the Storting's Presidium. The Auditor General shall be a member of the Norwegian Public Service Pension Fund with the rights and obligations that follow from Act no 26 of 28 July 1949 concerning the Norwegian Public Service Pension Fund.

The salaries, pensions and working conditions for civil servants are determined by the Office of the Auditor General in accordance with the agreements and provisions that apply to employees in central government service.

Act no 2 of 18 July 1958 relating to public service disputes applies to the Office of the Auditor General.

Comments

This provision regulates the stipulation of salaries and pensions for the auditors general and the OAG's civil servants.

Pursuant to the *first paragraph*, the Storting's Presidium shall decide the salaries and pensions of the auditors general. This also includes remuneration of the deputy auditors general. The pension of the Chairman of the Board of Auditors General (the Auditor General) follows from the rules governing the Norwegian Public Service Pension Fund. The other members of the Board of Auditors General do not receive a pension in relation to their office for the OAG.

Pursuant to the *second paragraph*, the salaries, pensions and working conditions of civil servants are decided by the OAG in accordance with the agreements and provisions that apply to employees in central government service. The regulation of salaries etc. must thus be in line with what applies to other central government agencies. Due to the OAG's constitutional status, it is up to the OAG itself to decide matters that, pursuant to collective agreements, fall under the employer's managerial prerogative.

Pursuant to the *third paragraph*, the Public Service Dispute Act applies to the OAG. This has also been assumed earlier, but it is now stated directly in the Auditor General Act. There is an understanding, however, between the OAG and the Ministry of Labour that the OAG's constitutional status means that the OAG shall not be affected by any labour dispute in which the employer wishes to impose a lockout.

Section 6a Pension scheme for auditors general appointed before 1 January 2011

The pension for an auditor general appointed before 1 January 2011 shall be calculated pursuant to the provisions of Act no 26 of 28 July 1949 concerning the Norwegian Public Service Pension Fund, with the special provisions that follow from this section.

For an auditor general who leaves office after reaching the age of 67 years, the earnings period used as the basis for calculating pension pursuant to the Act concerning the Norwegian Public Service Pension Fund shall be increased by up to 15 years. The earnings period is increased correspondingly when calculating disability, widow's, widower's and children's pension.

The auditors general's retirement pension based on the full earnings period is 57 per cent of the pension basis. If the auditor general leaves his/her position with a right to a pension, the pension basis is the stipulated annual gross remuneration. If the auditor general leaves his/her position earlier, the pension basis shall be the annual gross remuneration at the time he/she leaves the position. For current pensions being paid as of 1 January 2011, the pension basis as of 1 January 2011 shall correspond to the stipulated annual gross remuneration on that date. The same applies to auditors general who have left their position without drawing a pension before 1 January 2011.

The retirement pension is subject to life expectancy adjustment pursuant to the Act concerning the Norwegian Public Service Pension Fund Section 24, such, however, that, when drawn after reaching the age of 67 years and based on the full earnings period, the pension shall not exceed 57 per cent of the pension basis.

A member may be entitled to a guaranteed pension level pursuant to the rules in Section 24a of the Act concerning the Norwegian Public Service Pension Fund, such, however, that the guaranteed pension level for members who have served the full earnings period is 57 per cent of the pension basis.

Pensions pursuant to this paragraph are regulated in accordance with Section 42 of the Act concerning the Norwegian Public Service Pension Fund.

Comments

The provision was added by Act no 78 of 17 December 2010 in connection with an amendment of the rule in Section 6 first paragraph concerning the pension of the auditor general. Previously, the auditor general's pension was stipulated by the Storting's Presidium, as were the pensions of the other members of the Board of Auditors General. Section 6 contains transitional provisions for auditors general appointed before 1 January 2011.

Section 7 Administrative proceedings in civil servant matters

The rules of the Public Administration Act apply to decisions relating to the appointment, termination, suspension, dismissal or transfer of civil servants in the Office of the Auditor General. The same applies to decisions to impose disciplinary sanctions on or award pensions to civil servants.

The Storting can introduce rules that supplement or make exceptions to the application of the Public Administration Act pursuant to the first paragraph, and it may stipulate to what extent regulations issued pursuant to the Public Administration Act shall not apply in such matters.

Comments

The OAG is formally exempt from the Public Administration Act due to constitutional considerations. In the preparatory works to the Public Administration Act, however, it is assumed that the OAG must follow the rules of the act with respect to matters relating to civil servants. The *first paragraph* therefore establishes that the provisions of the Public Administration Act relating to civil servant matters shall apply to the OAG.

The *second paragraph* points out that the Storting can stipulate in more detail what provisions in the Public Administration Act shall apply to administrative proceedings in civil servant matters, and that it may issue detailed rules concerning the provisions. The Storting can also determine the extent to which the regulations issued pursuant to the Public Administration Act shall apply to civil service matters in the OAG. In cases of this type, the OAG should in principle be subject to the same case processing requirements that otherwise apply in the central government administration. No grounds have presently been found to exist for establishing special rules for the OAG. It is assumed, for example, that Chapter 5 of the Regulations to the Public Administration Act concerning parties' right of access to information in matters relating to appointments in the public administration shall apply to the OAG. The question of application in the OAG must be considered on a case-by-case basis in connection with future amendments of the regulations. Constitutional considerations may justify exceptions or clarifications.

Section 8 The Office of the Auditor General's budget and financial statements

The Office of the Auditor General's proposed budget is submitted directly to the Storting by the Board.

The financial statements of the Office of the Auditor General are approved by the Board and audited by an auditor appointed by the Storting. The financial statements and auditor's report shall be submitted to the Storting.

Comments

This provision regulates the procedure for approval of the budget and accounts for the OAG, and for auditing of the financial statements.

The *first paragraph* establishes that the OAG is entitled to submit its budget proposal directly to the Storting. Responsibility for submission of the annual budget proposal to the Storting rests with the OAG's highest administrative level, the Board of Auditors General. In its consideration of the Act, the Storting emphasised that the right to submit the budget directly to the Storting is an important prerequisite for the OAG's independence.

The *second paragraph* stipulates that the OAG's financial statements shall be audited by an auditor appointed by the Storting. The Board shall approve the financial statements of the OAG. Both the financial statements and auditor's report shall be submitted to the Storting.

Chapter 2 The Office of the Auditor General's duties etc.

Section 9 The Office of the Auditor General's duties

The Office of the Auditor General shall audit the Central Government Financial Statements and all financial statements that are rendered by central government agencies or other authorities that are accountable to the central government, including government corporations, government agencies with special powers, government funds and other agencies or entities where it is so stipulated in a special act (financial auditing).

The Office of the Auditor General shall monitor the administration of the state's proprietary interests in companies etc. (corporate control).

The Office of the Auditor General shall perform a systematic analysis with respect to economy, efficiency and effectiveness on the basis of the decisions and intentions of the Storting (performance audit).

The Office of the Auditor General shall through auditing contribute to the prevention and detection of irregularities and errors.

The Office of the Auditor General can advise the government administration to prevent future errors and omissions.

The Office of the Auditor General can accept international auditing, monitoring or development assistance assignments.

A plenary session of the Storting can instruct the Office of the Auditor General to initiate a special investigation. The Storting cannot instruct the Office of the Auditor General on how or by what criteria it shall perform its auditing and monitoring work, cf. Section 2.

Comments

The *first paragraph* establishes that the OAG will still have audit responsibility for all central government financial statements defined as financial statements rendered by central government agencies and other authorities that are accountable to the central government. The OAG will also have audit responsibility for government corporations, government agencies with special powers and government funds. The OAG also has audit responsibility for other agencies or entities, where such responsibility is stipulated in the act regulating the activities of such agency or entity.

What is to be defined as 'financial statements that are rendered by central government agencies and other authorities that are accountable to the central government' may change over time, depending on how the central government administration is organised and how the central government accounting system is organised.

Pursuant to the wording of the first paragraph, the Government Pension Fund is also included with its two parts: the Government Pension Fund – Global and the Government Pension Fund – Norway. Pursuant to the Act relating to the Government Pension Fund, the fund shall be managed by the Ministry of Finance, while administrative responsibility is delegated through regulations to Norges Bank and Folketrygdfondet, respectively. On the basis of statements from the Storting, however, the provision must be interpreted restrictively, cf.

Recommendation no 138 (2010-2011) to the Storting, and, in particular, Recommendation no 436 (2010-2011) to the Storting. The OAG's auditing duties are limited to auditing the Ministry of Finance's overall administration of the Government Pension Fund and pertaining entries in the central government accounts. In addition, the OAG monitors the minister's exercising of his/her authority over Norges Bank and Folketrygdfondet, cf. Chapters 5 and 3 of the Instructions. Over and above this, the OAG shall not monitor Norges Bank / the Government Pension Fund – Global and Folketrygdfondet/ the Government Pension Fund – Norway. See also the comments on Section 11 of the Instructions.

The content of the auditing is stipulated in Section 3 of the Instructions, and reference is therefore made to the comments on this provision.

The *second paragraph* establishes by law that the OAG shall monitor the administration of the state's proprietary interests in companies etc. (corporate control), and it is a continuation of the monitoring conducted by the OAG in accordance with previous instructions issued by the Storting.

Corporate control encompasses state-owned limited liability companies, state-owned enterprises, companies organised through separate legislation and certain other separate legal entities that are wholly-owned by the state, such as the student welfare organisations and the Norwegian Risk Capital Development Fund for Developing Countries. This control also encompasses companies in which the state owns so many shares that it represents 50 per cent or more of the votes, or in which the state has a controlling interest through its shareholdings or by virtue of state control of the company's interests etc., cf. Section 5 third paragraph of the Instructions.

The OAG does not normally conduct a financial audit of companies in which the state has ownership interests.

The content of this monitoring is set out in Section 5 of the Instructions, cf. the comments on this provision.

The *third paragraph* stipulates that the OAG shall perform systematic analyses with respect to economy, productivity, efficiency and effectiveness on the basis of the decisions and intentions of the Storting (performance audits). This is in accordance with current practice and the international definition of performance auditing. It is assumed that environmental auditing is covered by this definition.

That the OAG shall have a critical monitoring function in addition to its regular auditing of accounts was established under the provisions of the general instructions of 1918, but this function has also been developed in accordance with the express wishes of the Storting, cf., for example, the Storting's consideration of Recommendation no 277 (1977-78) to the Storting concerning the Storting's monitoring of the government administration.

During its consideration of the Act, the Storting emphasised that performance auditing is an important instrument for acquiring knowledge about the government administration's activities. Since performance audits have become an increasingly important part of the OAG's duties, it is important, in the Storting's view, to maintain a distinction in principle between the objectives, regulations and instructions that can be derived from the Storting's decisions and intentions, and the objectives or instructions that are stipulated by the administration itself. The Storting also points out that the selection of performance audit projects must be based on an assessment of whether the matter is of major economic or social importance.

The detailed content of performance audits is regulated in Section 9 of the Instructions, and reference is therefore also made to the comments on this provision.

The *fourth paragraph* establishes the OAG's role in relation to preventing and identifying irregularities and errors through auditing. This provision is new in relation to the act of 1918. During its consideration of the Act, the Storting pointed out that the OAG has an important role in combating irregularities and corruption, which is underlined by empowering the OAG to report its findings and suspicions to the police or other supervisory authorities. It follows from Section 15 fourth paragraph that the OAG can report such matters unconstrained by its duty of confidentiality.

The *fifth paragraph* establishes that the OAG has an advisory function in relation to the government administration. This guidance must not formally or in practice be binding in relation to subsequent auditing or monitoring assessments.

During its consideration of the Act, the Storting emphasised the importance of exercising this guidance function with caution and in a manner that does not jeopardise the independence and objectivity of the monitoring. The government administration has an independent responsibility for its own decisions, regardless of the guidance received. Section 5 of the OAG's guide to verbal communication with the ministries and entities in connection with audits contains guidelines for how the OAG shall exercise its advisory function.

The *sixth paragraph* establishes that the OAG can accept international auditing, monitoring or development assistance assignments. The Storting will be informed of such assignments in the annual report on the activities (Document 2). The assignments must be adapted to ordinary auditing and monitoring duties, and the available resources.

The *seventh paragraph* establishes that a plenary session of the Storting can instruct the OAG to initiate a special investigation, but that it cannot instruct the OAG on how or by what criteria the auditing and monitoring work shall be carried out. This is an elaboration of the general principle of the independent and autonomous position of the OAG, cf. Section 2. The OAG may freely formulate its assessments or criticism of the matters that are investigated by order of the Storting.

The term 'plenary session of the Storting' is used in this provision. This means that it is not possible pursuant to this provision to delegate authority to the Storting's committees or bodies outside the Storting.

During its consideration of the Act, the Storting pointed to how the Frøiland Committee emphasised that the Storting's right to issue instructions must be exercised with caution and in a manner that does not raise doubt about the independence of the OAG. The Storting also emphasised that, while it is indisputable that the Storting can issue general instructions on how the OAG shall conduct its activities, the OAG must decide itself how any requests from committee or individual representatives shall be followed up.

Section 10 Requirements for the performance of auditing

The Office of the Auditor General shall be objective and neutral in the performance of its duties. The auditing shall be planned, executed and reported as dictated by law, instructions and the generally accepted auditing standards of the Office of the Auditor General.

The Office of the Auditor General may use external assistance for special monitoring or auditing tasks.

Comments

The *first paragraph* establishes that the OAG shall be objective and neutral in the performance of its duties. The auditing and monitoring shall be planned, executed and reported as required by law, instructions and the generally accepted auditing standards of the OAG. The generally accepted auditing standards of the OAG will be related to the Auditor General Act and the OAG's standards and guidelines for its auditing work, which are based on recognised international standards for public auditing.

During its consideration of the Act, the Storting pointed out that the OAG is not a political body; it is managed by a board and its day-to-day activities are conducted independently of the Storting. It has always been a clear prerequisite that the OAG shall function independently of changing political constellations, and its assessments shall be of a professional and not a politically partisan nature. The Storting pointed out that the objectivity and neutrality requirements are important prerequisites if the OAG is to maintain its legitimacy as an independent monitoring body. Reference was made to the fact that, during the review of the Gardermoen development, fundamental questions of principle were raised about what matters the OAG is responsible for assessing. The Storting underlined the importance of the OAG not making purely political assessments of matters relating to accountability.

The *second paragraph* stipulates the right to make use of external assistance. Auditing or monitoring responsibility will nonetheless rest with the OAG.

Section 11 The Office of the Auditor General's reporting to the Storting

The Office of the Auditor General shall report the results of its auditing and monitoring to the Storting.

Before a matter is reported to the Storting, the Office of the Auditor General's comments shall be submitted to the responsible cabinet minister for comments.

Comments

The *first paragraph* establishes by law the principle that the OAG shall report the results of its auditing and monitoring to the Storting. The OAG's obligation to submit reports was not explicitly stated in the previous act, but it has always been a prerequisite given that the OAG is the Storting's monitoring body. The content of the reporting is regulated in Sections 15 to 17 of the Instructions, cf. also the comments on these provisions.

The *second paragraph* gives the responsible minister, who is constitutionally responsible, the right to familiarise him/herself with and comment on the OAG's remarks before a matter is reported to the Storting. This provision is a codification of earlier practice.

This provision does not regulate communication with the ministry, audited entities etc. during the preparatory case processing. Rules for this are stipulated in Section 15 second paragraph of the Instructions and elsewhere in standards and guidelines for auditing work.

Chapter 3 The Office of the Auditor General's right to information etc.

Section 12 The Office of the Auditor General's right to demand information and access. Right to conduct analyses

The Office of the Auditor General may, unhindered by duty of confidentiality, demand any and all information, expositions or documents and carry out such investigations as it finds necessary for it to perform its tasks.

The Office of the Auditor General's right to information pursuant to paragraph 1 above applies to the political leadership, officials and civil servants in the government administration, and others who are in the government administration's service, and in relation to the management, employees and auditors of companies etc. that are wholly state-owned and wholly owned subsidiaries of such companies. If the government administration entrusts financial or accounting tasks to others outside the central government, the Office of the Auditor General's right to relevant information also applies directly in relation to these entities. The Office of the Auditor General's right also applies to persons who have performed duties as mentioned in the first and second sentence.

In matters that concern monitoring of whether grants or contributions of state funds to public or private entities are used in accordance with the stated intentions, the right to information pursuant to paragraph 1 also applies to the grant recipient.

The Office of the Auditor General has the same right to access and information that the administration can demand from

- a) others who are delegated central government administrative authority or tasks financed by state funds, and
- b) private individuals who supply goods or services to the state.

Comments

The *first paragraph* establishes by law that the OAG has a general right to information, right of access and right to conduct investigations that is not limited by the fact that information is confidential pursuant to the law, regulations or instructions. The OAG can also carry out any necessary investigations of audited or monitored entities.

This provision applies to the ministries and all audited entities, as well as to companies in which the state owns all the shares and wholly-owned subsidiaries of such companies. The OAG has now prepared a guide to the practising of access to documents in accordance with the Auditor General Act and the Instructions for the OAG.

If a conflict arises between the government administrations's need for confidentiality and internal discussions, on the one hand, and the OAG's need for access to documents, on the other, the committee's majority points out that the OAG can raise the matter with the Storting in such cases. The Storting can consider the question of disclosure on the basis of Article 75 f of the Constitution. This is a detailed procedure, however, that will only be used in exceptional cases. On a few occasions, the OAG has raised the question of access to

documents in its comments to the Storting, cf. Document no 3:2 (2001-2001) and Document 1 (2009-2010).

The *second paragraph* contains a list of who the OAG can demand information from pursuant to the first paragraph. The OAG can request information from the political leadership, senior state officials and civil servants in the government administration, i.e. both the ministries and the subordinate agencies. This also applies to others in the service of the government administration who are not otherwise part of the central government administration. In addition, the provision encompasses the boards of directors, managers, other employees and auditors of wholly state-owned companies etc. and wholly-owned subsidiaries of such companies. The state has the same rights as any other shareholder in partly state-owned companies. This has consequences for the OAG's access to and procedures for obtaining information concerning these companies. Detailed rules on right of access to and investigations of wholly-owned and partly state-owned companies in which the OAG monitors the administration of the state's interests are set out in the Instructions.

The second paragraph second sentence establishes the OAG's right to obtain information from others outside the central government when central government agencies have delegated financial and accounting tasks to these entities.

The OAG's right to obtain information will primarily apply for as long as the persons in question hold their offices or positions. In exceptional cases, it may nevertheless become necessary to obtain information from former ministers and others in order to shed sufficient light on a matter. For reasons of a legal nature, it is therefore stipulated that the OAG's right to obtain information also applies to persons who have performed duties as mentioned in the first and second sentence. The OAG must exercise great caution, however, when approaching former ministers directly. Even though it may be necessary to obtain information, there is a risk of encroaching on the area of applicability of the Impeachable Offences Act. This problem is not relevant, however, in relation to former senior state officials.

The *third paragraph* enshrines in law the right to information pursuant to the first paragraph in matters that concern monitoring of whether grants or contributions of state funds to public or private entities are used in accordance with the intentions. The OAG will have legal authority to conduct such monitoring regardless of whether such a condition has been stipulated in connection with the grant in question. This scope of this provision is limited to public and private entities, and, hence, it does not cover private individuals who receive central government contributions. Pursuant to this provision, the OAG will be entitled to monitor both the government administration (cf. the first paragraph) and individual grant recipients.

Pursuant to the *fourth paragraph*, the right of access to information and to carry out investigations also applies to others to whom central government tasks have been delegated or who supply goods or services to the state. This provision entitles the OAG to obtain information etc. from, for example, private legal persons and municipal bodies /agencies to whom central government administrative authority or tasks financed by state funds are delegated. Central government administrative authority includes both direct statutory authority and delegated authority. It is a prerequisite that the access to information is part of the OAG's duties as they are laid down in this act.

The OAG's right to obtain information from private service providers shall correspond to the right of the government administration in each individual case, cf. the wording '...that the government administration can demand from'. The government administration's right to information in individual cases can follow from an act of law, instructions, agreements, general contract law principles or generally accepted principles for public administration.

Section 13 Participation in general meetings etc.

The Office of the Auditor General shall be notified and is entitled to be present at general meetings, enterprise general meetings, corporate assembly meetings, supervisory board meetings, and the meeting of any body with a corresponding function in companies that are wholly state-owned and the wholly owned subsidiaries of such companies. The Office of the Auditor General has the right to speak at the meetings. All the relevant case documents shall be submitted to it together with the notice. The Office of the Auditor General decides whether and to what extent the case documents for meetings in wholly state-owned subsidiaries shall be submitted.

The Office of the Auditor General is entitled to participate in the meetings mentioned in paragraph 1 for partially state-owned companies together with the representative of the state's ownership interests. The notification of meetings and submission of relevant case documents shall be agreed on with the ministry or with the wholly state-owned entity that looks after the state's interests.

Comments

This provision regulates the OAG's right to receive notification of and be present at meetings of relevant governing bodies in companies in which the OAG monitors the administration of the state's interests.

The *first paragraph* is intended to meet the OAG's need for necessary information and ensure it has a right to be present at the entities' general meetings or other bodies with a corresponding control or ownership function. Which such bodies exist in the individual companies is clear from the legislation or from the provisions that regulate the individual entity.

The provisions are a continuation of corresponding provisions in previous instructions laid down by the Storting. The rules concerning notification methods, deadlines for notification and scope of the documents may also follow from the legislation that regulates the entities.

The *second paragraph* establishes the OAG's right to be present at the general meeting or other bodies with a corresponding function in partly state-owned companies together with a representative of the state's ownership interests. The OAG does not have a right to speak at such meetings.

The same rules will apply to any foreign companies in which the state has ownership interests, provided that this is not in violation of foreign legislation. Unless otherwise agreed, communication and submission of relevant documents will normally take place through the ministry or wholly state-owned Norwegian entities that attend to the state's interests.

Section 14 Preparations for audits

Entities that are encompassed by the Office of the Auditor General's auditing and monitoring shall make the preparations deemed appropriate by the Office of the

Auditor General for the performance of the auditing and monitoring duties prescribed by law or instructions.

The Office of the Auditor General can conduct the audit and monitoring on the premises where the financial statements and necessary documentation are available, and the Office of the Auditor General shall have access to the IT systems that the entities use.

Information to the Office of the Auditor General shall be produced in the form, on the medium and at the time determined by the Office of the Auditor General. The information shall be prepared and submitted to the Office of the Auditor General free of charge.

Comments

The *first paragraph* establishes that all entities encompassed by the OAG's monitoring shall make the preparations deemed appropriate by the OAG for the performance of its auditing and monitoring duties. This provision concerns wholly state-owned companies in which the OAG monitors the minister's administration of the state's interests.

The OAG has prepared a separate guide to communication with the ministries and entities in connection with audits.

The *second paragraph* establishes the OAG's right to carry out auditing and monitoring in the location in which the necessary documentation is available.

Pursuant to the *third paragraph*, the audited entity shall submit the requested information in the form, medium and at the time decided by the OAG. The OAG shall not make any payment for preparation of the information in a specific manner, and nor shall it reimburse the costs of submission. The audited entities shall therefore normally cover any costs relating to the transfer of data, visitor offices etc.

During its consideration of the Act, the Storting endorsed the Frøiland Committee's view that the initial contact in performance audits should go via the leadership of the individual ministry, so that the minister, or whoever the minister delegates authority to, can select the persons who are most knowledgeable on the matter, and such that the leadership is informed. It is pointed out that such a procedure is important in order to ensure that the OAG obtains the best possible basis for its evaluation, and that the responsibility is placed where it belongs, namely with the leadership. The leadership or management of the ministry or body in question should normally be given an opportunity to be present during interviews of employees, and requests relating to verification of the exercise of judgement should be referred to the political leadership.

Chapter 4 The Office of the Auditor General's administrative proceedings, etc. The general public's right to access to information

Section 15 Duty of confidentiality

Anyone who provides a service or works for the Office of the Auditor General undertakes to ensure that others do not obtain access to or knowledge of whatever has

been disclosed to them concerning matters of a personal nature or information on operational or commercial secrets in connection with their service or work.

This duty of confidentiality will continue to apply after the individual in question has completed the service or work. Moreover, they must not make use of the information mentioned in paragraph 1 in connection with their own activities, or their services or work for others.

The provisions in Sections 13 a to 13 f of the Public Administration Act apply otherwise as appropriate.

Notwithstanding the provision in paragraph 1, civil servants of the Office of the Auditor General may, on the decision of the chairman of the board, give evidence and submit documentation concerning audit tasks to the police when a criminal investigation has been opened. The Office of the Auditor General can also make a report to the police if an audit uncovers matters that give reason to suspect that a criminal offence has been committed. The Office of the Auditor General can also cooperate whenever relevant with other public supervisory authorities. Information may be provided even if the audit has not been completed and without reporting the matter to the audited entity or the supervisory ministry.

If the provisions in Section 204, subsection 2 of the Civil Disputes Act and Section 118 of the Criminal Procedure Act are applied, then the general manager of the Office of the Auditor General shall give consent.

Comments

This provision regulates the question of the duty of confidentiality for anyone who provides a service or works for the OAG.

The *first paragraph* establishes that the auditors general, civil servants in the OAG and others who perform services for the OAG have a duty of confidentiality in relation any information disclosed to them in connection with their work, cf. the corresponding provision in Section 9 of the Act concerning the Storting's Ombudsman for Public Administration. The particular need for confidentiality in connection with the activities of the OAG as a monitoring body means that a somewhat more extensive duty of confidentiality is required than follows from the duty of confidentiality provisions that apply to the government administration. Because, among other things, of the relationship of trust with audited entities, employees of the OAG must sign a more extensive declaration of confidentiality than set out in this provision.

This duty of confidentiality does not apply if the disclosure of information is part of the duties of the auditors general or the civil servants. It is not common, however, for the OAG to make reference to confidential information in its reports to the Storting. In exceptional cases where it may be necessary to submit confidential or classified information, this information will be submitted and handled in the same manner as when the Government submits such information to the Storting. The method of submission must in such case be subject to a concrete assessment in the case in question.

The *second paragraph* makes it clear that the duty of confidentiality also applies after the individual in question has completed his/her service. It is not permitted for a person to make use of information as mentioned in the first paragraph in connection with his/her own activities or work for others.

The *third paragraph* establishes that the provisions of the Public Administration Act relating to limitations on the duty of confidentiality etc. (Sections 13a to 13f of the Public Administration Act) apply when appropriate to the OAG. The detailed application of the provisions of the Public Administration Act follows from internal guidelines.

The *fourth paragraph* corresponds to Section 13 b no 6 of the Public Administration Act. It means that the OAG can inform the police and cooperate with the relevant supervisory authority in the event of suspicion of a criminal offence prior to the conclusion of an audit and before the matter is reported to the audited entity or the supervisory ministry.

The question of the right of civil servants in the OAG to give evidence at a trial or lawsuit is regulated by internal instructions for the work procedures in the OAG. The OAG's competence to give consent is regulated by the *fifth paragraph*, which stipulates that consent to give evidence pursuant to Section 204 no 2 of the Civil Disputes Act and Section 118 of the Criminal Procedure Act shall be granted by the Auditor General. On 1 January 2008, the Civil Disputes Act was replaced by the Dispute Act (Act no 90 of 17 June 2005). The provision in Section 204 no 2 of the Civil Disputes Act has been included in the new Dispute Act Section 22-3, such, however, that the Auditor General Act has not been amended correspondingly. The OAG's point of view on the question of consent may be subject to review by a court of law in accordance with what otherwise applies pursuant to the Dispute Act and Criminal Procedure Act.

Section 16 The Office of the Auditor General's handling of classified information

The provisions of the Security Act apply as appropriate to the Office of the Auditor General's handling of classified information.

The Storting may introduce rules that supplement or make exceptions to the application of the Security Act to the Office of the Auditor General, and it may stipulate to what extent regulations issued pursuant to the Security Act shall apply to the Office of the Auditor General.

Comments

This provision regulates the OAG's relationship to Act no 10 of 20 March 1998 relating to Protective Security Services (the Security Act). The OAG is formally exempted from the Security Act's provisions because of constitutional considerations, cf. Section 2 fifth paragraph. The importance of handling classified information in a proper manner dictates, however, that the rules of the Security Act shall also apply to the OAG's handling of such information.

The Board of Auditors General has adopted separate instructions for information security in the OAG. Detailed supplementary provisions to the Instructions have also been drawn up. They are divided into a user part (for all employees) and an administrative part (for managers and special functions).

The *first paragraph* states that the provisions of the Security Act shall apply as far as they are appropriate. The limitations in this connection will be those that follow from constitutional considerations.

It follows from the *second paragraph* that the Storting can decide which provisions in the Security Act or regulations issued pursuant to this act shall apply to the OAG. The relationship to the Security Act is regulated in detail in Section 14 of the Instructions.

Section 17 The Office of the Auditor General's handling of personal data

The Office of the Auditor General can collect and handle all types of personal data. The information shall be deleted as soon as it is no longer of any relevance to monitoring.

The Office of the Auditor General's handling of personal data in auditing and monitoring work is exempted from Sections 18, 27, 31 and 33 of the Personal Data Act.

Comments

More detailed guidelines for handling personal data are regulated in the OAG's security instructions and supplementary rules, cf. the comments on Section 16.

The *first paragraph* establishes the OAG's right to handle all types of personal data, cf. Section 8 first paragraph and Section 9 first paragraph letter b of the Personal Data Act. It follows from Section 28 first paragraph of the Personal Data Act that the controller shall not store personal data longer than is necessary to achieve the purpose of the processing.

It follows from the *second paragraph* that the OAG is exempted from certain provisions of the Personal Data Act when the processing is part of its monitoring activities. The exemptions apply to the provision relating to the right of access (Section 18), rules on rectification/erasing/supplementing/blocking on [the controller's] own initiative (Section 27) and exemption from the rules concerning the obligation to give notification and obtain a licence (Sections 31 and 33). The Personal Data Act otherwise applies in its entirety to the OAG's processing of personal data, cf. Section 1-1 of the regulations relating to the Personal Data Act.

Section 18 The general public's right of access to the Office of the Auditor General's documents

Anyone can familiarise themselves with the public content of documents in a particular case at the Office of the Auditor General when the document has been received by or sent from the Office of the Auditor General. The provisions of the Freedom of Information Act apply correspondingly as appropriate.

Case documents that are prepared by or for the Office of the Auditor General in cases that are under consideration for submission to the Storting as part of the constitutional monitoring shall not be made public until the case has been received by the Storting. The Office of the Auditor General will notify the relevant government agency that the case is of such a nature. If such a case is closed without any submission to the Storting, it will become public when the Office of the Auditor General has notified the government agency in question that the case has been closed.

The Storting may introduce rules that supplement or make exceptions to the application of the Security Act to the Office of the Auditor General, and it may stipulate to what extent regulations issued pursuant to the Security Act shall apply to the Office of the Auditor General.

Comments

Internal guidelines have been drawn up for how the principle of public access shall be practised by the OAG.

The *first paragraph* states that the principle of public access to documents shall apply to the OAG, and that the Freedom of Information Act shall apply as appropriate.

The *second paragraph* is a provision concerning deferred public access to documents in cases under consideration by the OAG for submission to the Storting. The documents shall not be made public until the case has been received by the Storting.

This rule is justified, among other things, on the grounds that broad discussion of matters that may turn out to have a natural explanation, or that an incomplete account of critical questions raised during the OAG's preparatory handling, may mean the central government administration having to devote considerable resources to refuting and ensuring clarification of the matters in question. Due to the OAG's central position in Norwegian society, anything that is perceived as criticism from the office may have a considerable impact. Moreover, it may be difficult to achieve the same amount of publicity for corrections, because this will not always be perceived as an interesting story by the press. Thus, the general public can easily be left with the erroneous impression that there is something reprehensible about the government agency in question.

The board has decided that deferred public access shall apply to all documents that are exchanged between the OAG and the government administration as part of the performance of financial audits, performance audits and corporate control. The OAG cannot consent to public access at an earlier point in time.

Deferred public access to case documents will be set aside when Document no 1 or Document no 3 is submitted to the Storting. If it is decided not to submit a case to the Storting as a Document no 3-case after completion of a performance audit, or if a performance audit is concluded before completion, for example after the completion of a feasibility study, the government agencies / responsible ministry in question shall be notified in a separate letter.

It follows from the *third paragraph* that the Storting can issue more detailed rules concerning the application of the Freedom of Information Act to the OAG, including deciding which regulations issued pursuant to the Freedom of Information Act shall apply to the OAG. Such rules are set out in Section 13 of the Instructions.

Section 19 Impartiality

Nobody who provides a service or does work for the Office of the Auditor General shall perform an auditing or monitoring task if they or their close associates have a connection with the audited or monitored entity, or its employees or representatives, or if there are any other special circumstances that could weaken confidence in their independence or objectivity.

Close associates are defined as:

- a) a spouse or person whom the person in question lives with in a marriage-like relationship,**
- b) direct lineal ancestors or descendants and siblings and their spouses or persons with whom they live together in a marriage-like relationship, and**
- c) direct lineal ancestors or descendants and siblings of a person mentioned under litra a.**

The provisions in Sections 6 to 9, paragraph 1 of the Public Administration Act apply to anyone who handles administrative matters for the Office of the Auditor General.

Comments

In order for the OAG to fulfil its role as the Storting's monitoring body, it is crucial that no one can question the impartiality of its civil servants in relation to the entities that they audit or monitor. Pursuant to the *first paragraph* therefore, the civil servant cannot have a connection to the audited/monitored entity that can weaken the independence or objectivity of the individual in question in the performance of his/her tasks. It follows from the first paragraph that circumstances that can influence impartiality shall be considered before an auditing assignment is performed.

This provision applies to everyone who performs a service for or holds office in the OAG, and it regulates individuals' actual impartiality, for example when the person in question has been responsible for entries or transactions that are to be monitored. Moreover, it also covers other circumstances that can weaken the outside world's confidence in the performance of the auditing/monitoring. What must be given decisive weight is the proximity to or dependence between the OAG's civil servants and key officials in the audited entity. The civil servants to whom this applies in particular are the manager of the entity, the treasurer or accountant or others who have performed or contributed significantly to the transactions that are to be monitored.

Correspondingly, a person may be disqualified on grounds of partiality if a close associate of the individual in question has a connection to the audited or monitored entity or its employees or representatives, as mentioned above. Each individual has an obligation to consider whether there are any circumstances indicating that they cannot perform monitoring or auditing tasks for the OAG.

The *second paragraph* establishes who shall be regarded as a close associate. Firstly, it applies to spouses and cohabitants of persons mentioned in the first paragraph. Secondly, it includes the person in question's parents, grandparents, children, grandchildren and siblings, and their spouses and cohabitants. Thirdly, it also includes a spouse or cohabitant's siblings, parents, grandparents, children and grandchildren.

In the *third paragraph*, the impartiality provisions of the Public Administration Act Sections 6 to 9 first paragraph are made applicable to the auditors general and the civil servants in the OAG in connection with the handling of administrative matters.

The impartiality rules for auditing and monitoring assignments in the OAG pursuant to the first and second paragraphs are based on the corresponding provisions of the Auditors Act. When handling administrative matters pursuant to the third paragraph, the impartiality rules

of the Public Administration Act will apply. This means, for example, that the imputed disqualification rule in Section 6 third paragraph of the Public Administration Act will apply in such cases. Imputed disqualification means that a decision in a case cannot be made by a directly subordinate official in the same government agency if a superior official is disqualified. Such a rule will not be appropriate, however, for auditing and monitoring work pursuant to the first paragraph since 'decisions' are not made here in the sense of the Public Administration Act. In addition, it will be difficult to implement an imputed disqualification rule, since the OAG does not have any other agency to which the matter can be entrusted. Detailed procedural rules for impartiality issues relating to auditing and monitoring matters are regulated by internal guidelines.

Chapter 5 Entry into force and transitional provisions. Repeal and amendment of other acts

Section 20 Entry into force and transitional provisions

The Act comes into force on 1 July 2004, with the exception of Section 21, subsections 3, 5, 7 and 14, which come into force on 1 January 2005.

The Office of the Auditor General's assumption of the audit responsibility for the Norwegian State Housing Bank and the State Educational Loan Fund, cf. the amending legislation in Section 21, subsections 3 and 7, will become effective from the 2005 fiscal year. The Office of the Auditor General relinquishes audit responsibility for foundations, cf. the amending legislation in Section 21, subsections 5 and 14, with effect from the 2005 fiscal year.

Section 21 Repeal and amendment of other acts

As of 1 July 2004, other acts will be amended as follows: - - -

Instructions concerning the Office of the Auditor General's activities

Laid down by the Storting on 11 March 2004 under the provisions of Act no 21 of 7 May 2004 relating to the Office of the Auditor General.

Chapter 1 Management and organisation of the work in the Office of the Auditor General

Section 1 The Board of Auditors General (the Board)

The Board is the Office of the Auditor General's supreme body and shall consider matters of significance and fundamental importance.

All matters that the Office of the Auditor General submits to the Storting shall have been considered by the Board. The individual auditor general has the right to add his/her own comments to matters that are reported to the Storting.

The Board or the person(s) whom it empowers issues necessary provisions for the Office of the Auditor General's civil servants and the working procedures in the entity.

Resolutions passed by the Board require the concurrence of at least three auditors general.

The Board's chairman shall convene meetings of the auditors general as often as this is deemed necessary, or if an auditor general so requests. The meeting will be chaired by the Board's chairman, or by the deputy chairman when the chairman is absent.

The division of labour between the Board and the general manager can be supplemented with internal guidelines issued by the Board.

The secretary general acts as permanent secretary to the Board.

Comments

The provisions in Chapter 1 must be seen in conjunction with Section 4 of the Act, in which key provisions relating to the OAG's management are set out.

As the entity's supreme body, the Board shall consider matters of significance and fundamental importance. In general, it will be the Board itself that decides the types of cases that shall be considered by the Board. Responsibility for ongoing case processing and decisions relating to the responsibility for administrative, personnel-related and professional matters shall rest with the chairman of the Board. In practice, it will be the chairman who decides which matters require consideration by the Board.

All matters that are submitted to the Storting shall have been considered by the Board. This task cannot be delegated to the OAG's staff. This prohibition on delegating tasks does not include informal inquiries and other ongoing contact with the Storting's Presidium, the committee, administration etc. in connection with day-to-day work. If matters of significance or principle are involved, the Board shall nevertheless consider the matter.

Which matters and reports the OAG shall submit to the Storting is further regulated in Section 11 of the Act and Sections 15 to 17 of the Instructions. Reference is also made to Section 8 of the Act concerning the OAG's budget and accounts.

The Board will normally agree about which reports and matters are of such a nature that the Storting must be informed, but the Board can decide matters by majority decision. If consensus is not achieved regarding the OAG's formulations in a matter that is reported to the Storting, the individual auditor general can add his/her comments to the matter when it is submitted.

It is up to the Board or the person or persons it authorises to issue rules for the civil servants and the work procedures in the OAG. The development and adoption of these guidelines will nonetheless be a natural part of the work of the management of the OAG.

The Board is quorate when at least three auditors general concur.

The general manager shall convene meetings of the Board as often as this is deemed necessary or if one of the auditors general so requests. The Board normally holds around ten meetings a year. The chairman chairs the meetings. In the chairman's absence, the deputy chairman fills in as chair of the meeting.

The division of labour between the Board and the general manager can be supplemented by internal guidelines issued by the Board. There is no duty to prepare such guidelines. If such guidelines are issued, however, they cannot limit the authority and responsibility delegated to the general manager pursuant to Section 2 first paragraph of the Instructions.

The secretary general shall be the Board's secretary, cf. the secretary general's job description and job instructions.

Section 2 The Management of the Office of the Auditor General

The chairman of the Board is responsible for the Office of the Auditor General's day-to-day administration and for financial, personnel and professional matters.

The Secretary General is the entity's highest-ranking civil servant. The Secretary General attends to the day-to-day management tasks set out in the job description adopted by the Board, and deputises for the chairman of the Board in the consideration of and decisions about professional and administrative matters that are otherwise considered or decided by the chairman.

The Secretary General is head of the Office of the Auditor General in the general manager's absence. If the chairman can no longer attend to the day-to-day management due to prolonged illness or death during his/her term of office, the deputy chairman of the Board steps in as general manager until a new chairman is elected.

Comments

The chairman of the Board is responsible for the entity's day-to-day administration and for financial, personnel and professional matters. This is a codification of established practice. It is not deemed expedient for the Instructions to exhaustively regulate which specific tasks are the responsibility of the chairman and which tasks are to be considered by the Board.

The Secretary General is the entity's highest-ranking civil servant and permanent deputy to the chairman in the consideration of and decisions regarding professional and administrative matters that are otherwise considered or decided by the chairman. These tasks are described in more detail in the job description and job instructions for the Secretary General adopted by the Board.

The secretary general is in charge of the entity in the chairman's absence and when the latter is absent on travel, holiday etc. If, due to prolonged absence, the chairman can no longer attend to the day-to-day management of the OAG, the deputy chairman of the Board will step in as general manager until the Storting elects a new chairman. This provision continues established practice.

Chapter 2 Financial auditing

Section 3 The content of the auditing

By auditing accounts, the Office of the Auditor General shall verify whether the financial statements give a correct picture of the financial activity, including:

- a) confirming that the accounts do not contain material errors and omissions, and**
- b) verifying whether the transactions in the financial statements reflect the decisions and intentions of the Storting and the current regulations and whether they are acceptable in the light of norms and standards for financial management in the central government.**

Comments

This provision stipulates the objective and content of financial auditing, cf. Section 9 first paragraph of the Act. It is a continuation of Section 5 of the repealed instructions of 1918, but it has been updated in line with modern auditing methodology. The content of financial auditing otherwise follows from the OAG's standards and guidelines for auditing, cf. Section 10 first paragraph of the Act.

Section 4 The submission of accounts, necessary documentation etc. to the Office of the Auditor General

The ministries and the central government agencies for which the Office of the Auditor General is responsible for auditing shall submit to the Office of the Auditor General the documentation that is deemed necessary for the Office of the Auditor General's auditing and monitoring.

The following documentation shall be submitted to the Office of the Auditor General as soon as possible and no later than the deadlines that have been specified by the Ministry of Finance:

- a) central government financial statements and other financial statements rendered by government agencies,**

- b) other statements that shall be submitted in accordance with Section 13 of the Appropriations Regulations,**
- c) statements related to the appropriation and capital accounts, and**
- d) copies of all letters of allocation and annual reports.**

The Office of the Auditor General can decide itself what other documentation shall be submitted to the Office of the Auditor General and set deadlines for so doing.

Comments

This provision requires ministries and government agencies to submit to the OAG on their own initiative such documentation as is assumed to be necessary for the OAG's auditing or monitoring in addition to the documentation that is to be submitted as a matter of routine, cf. the second paragraph letters a to d.

Even though a duty to act is imposed on central government agencies, it will also be part of the OAG's monitoring and auditing work to request the information that is deemed necessary. The provision thus allows for the OAG issuing specific rules regarding what other documentation shall be submitted to the OAG and to set deadlines for so doing.

Reference is otherwise made to Section 12 of the Act regarding the OAG's right to demand information and access, and the comments on this provision.

Chapter 3 Corporate control

Section 5 The content and scope of the control

Through its monitoring of the administration of the state's proprietary interests in companies etc., the Office of the Auditor General shall assess whether the cabinet minister has performed his/her duties as administrator of the state's interests in accordance with the decisions and intentions of the Storting.

This monitoring includes the analyses, etc. that are deemed necessary in order for the Office of the Auditor General to be able to make a qualified assessment of the individual cabinet minister's administration of the state's interests. In wholly owned companies etc. and their wholly owned subsidiaries, the monitoring can also include systematic analyses of the company's economy, efficiency and effectiveness on the basis of the decisions and intentions of the Storting.

The control specified in paragraph 1 also encompasses companies where the state owns so many shares that it represents 50 per cent or more of the votes, or where, through its shareholdings or by virtue of state control of company interests etc., the state has a controlling interest. The Office of the Auditor General determines in each individual case whether the state is deemed to have a controlling interest.

The provisions in these instructions also apply to monitoring of state ownership of companies abroad as long as this does not conflict with the foreign national legislation.

Comments

This provision stipulates the objective and content of the OAG's corporate control, cf. Section 9 second paragraph of the Act.

The OAG's corporate control shall be carried out within the limits that the Storting has approved and intended with respect to the Government and the ministry's control of the company's activities, and its requirements with respect to the content of the reports shall be set on this basis. Here, reference is made to the Ingvaldsen report of 1977, in which the Committee stated that the OAG's duties are to check whether the minister administers the state's interests in a lawful and economically justifiable manner and that he/she ensures that the resolutions that the Storting has passed are implemented.

In its consideration of Document no 3:2 (2002-2003), cf. Recommendation no 123 (2002-2003) to the Storting, the Storting stated that, in addition to taking a view on how the minister has performed his/her duties as administrator of the state's financial interests in the company etc., the OAG shall also assess whether other tasks of a more societal nature are being attended to. Here, reference is made to examples such as the management of natural resources and access to important common goods such as infrastructure and a broad range of services (e.g. in the transport and communications and cultural sectors).

In its consideration of the Instructions, the Storting has emphasised that the control must not be such that it will be an obstacle to the commercial aspects of the operations.

It follows from the *second paragraph* that, in addition to ownership control, which is part of the day-to-day corporate control, the OAG's corporate control can also include performance audits of wholly-owned companies. The provision entails an expansion of the monitoring of the administration of the state ownership in relation to the OAG's mandate prior to 2004. This change is in line with the Frøiland Committee's recommendation, cf. Document no 14 (2002-2003), which the Storting endorsed, cf. Recommendation no 210 (2002-2003) to the Storting and Recommendation no 123 (2002-2003) to the Storting, cf. Document no 3:2 (2002-2003).

The implementation of corporate control otherwise follows from standards and guidelines for auditing, cf. Section 10 first paragraph of the Act.

The *third paragraph* specifies how extensive the state's interests must be in order for the OAG to be tasked with monitoring the company. This provision is a continuation of previous rules. It is the OAG that must decide in each individual case whether the state shall be deemed to have a controlling interest. So far, the OAG has followed the rule of thumb that, when the state's ownership interest is lower than 50 per cent, the OAG shall nonetheless monitor the company if the state has a controlling position as a result of the shareholder situation. This must be evaluated specifically in each individual case.

The *fourth paragraph* is a special provision concerning state-owned companies abroad.

Section 6 Information from wholly and partially state-owned companies

In companies that are owned in their entirety by the state, an agreement shall ordinarily be reached with the general manager or an employee who has been appointed by the general manager as to how the Office of the Auditor General can obtain information, documents, etc. from other employees, with the exception of factual information related to the accounts. When the Office of the Auditor General deems it

necessary, however, it can demand information and the submission of documents directly from each employee.

When the Office of the Auditor General deems it necessary for its control, it can demand, through the ministry or through a wholly state-owned enterprise, that the representative of the state's interests at a general meeting of a partially owned company shall demand that the general meeting order an elected auditor to furnish information within the scope of his/her duties.

For companies abroad in which the state has ownership interests, communication will go via the relevant ministry or wholly state-owned Norwegian enterprise that manages the state's interests, unless some other arrangement has been made.

Comments

It follows from Section 12 of the Act that the OAG is entitled to information concerning entities and companies that are subject to the OAG's auditing and monitoring. This provision regulates how such information shall be obtained.

The *first paragraph* applies to wholly state-owned companies. It states that, as a main rule, the OAG shall address its inquiries to the general manager or persons appointed by him/her. In situations where this is necessary, the inquiry can be made directly to the individual employee. This provision is new in relation to previous instructions from the Storting, but it is in accordance with established practice.

The *second paragraph* is a special provision concerning partly-owned companies. Pursuant to the Norwegian Limited Liability Companies Act, the general meeting can demand that an auditor provide information within the scope of his/her duties. This provision entitles the OAG to require the person who represents the state's ownership interests at a general meeting to table such a demand.

The *third paragraph* applies to foreign companies in which the state has ownership interests. This provision establishes that communication here shall go via the appropriate ministry that manages the interests in the company in question, or via wholly state-owned enterprises that have an ownership interest in the foreign enterprise.

Section 7 The cabinet minister's reporting to the Office of the Auditor General

No later than one month after the general meeting, enterprise general meeting, or any other similar meeting is held, the cabinet minister in question shall submit the following to the Office of the Auditor General:

- a) the entity's annual financial statements and consolidated accounts, if any, with the auditor's report,**
- b) the annual report of the board of directors,**
- c) minutes and/or records from meetings of the business's management and supervisory bodies pertaining to the consideration and adoption of the enterprise's annual report and financial statements, and**
- d) the minister's report on the administration of the state's interests in the individual**

business or the individual groups of entities. A separate report is given for each entity or each group of entities. The Office of the Auditor General can specify further guidelines for which conditions, etc. the report from the cabinet minister shall discuss.

The Office of the Auditor General decides the extent to which documents mentioned in paragraph 1, litra a to c shall be obtained for subsidiaries and subsidiaries' interests in other companies when the state's interests in the parent company are managed by the ministry in question.

In entities that do not have bodies such as a general meeting, enterprise general meeting or other similar body, the cabinet minister in question shall submit documents and the report mentioned in paragraph 1 to the Office of the Auditor General no later than one month after the annual financial statements for the business in question have been approved.

Comments

This provision specifies what documents the minister shall submit to the OAG after the annual report and financial statements have been approved by the general meeting, enterprise general meeting or similar body in companies in which the state has ownership interests. This provision is primarily a continuation of previous provisions in instructions issued by the Storting.

Section 8 Submission of minutes from meetings, etc.

The Office of the Auditor General can require copies of minutes from meetings and correspondence, including reports, memos etc., between the companies and the appropriate ministry.

The companies that are wholly owned by the state shall routinely send the Office of the Auditor General complete transcripts of minutes from meetings of all of the management and supervisory bodies in the company.

The Office of the Auditor General decides the extent to which documents mentioned in paragraphs 1 and 2 shall be obtained when they pertain to individual subsidiaries and companies owned by these subsidiaries and when the parent company's interests are administered by the ministry.

The cabinet minister shall routinely send the Office of the Auditor General the information that the cabinet minister in question obtains or gathers concerning partially-owned companies in which the cabinet minister manages the state's interests or where the cabinet minister manages the state's interests in the parent company. An agreement can be made with the cabinet minister as to whether this information shall be submitted by the cabinet minister or directly from the companies to the Office of the Auditor General.

When it deems it necessary for its monitoring, the Office of the Auditor General can demand that the cabinet minister obtain any information that the cabinet minister or a government agency may demand access to as an owner. The Office of the Auditor General can obtain from the ministry correspondence and other communications between the ministry and the company in which the state has ownership interests.

Comments

This provision regulates the OAG's right to demand the submission of documentation from state-owned companies in addition to what follows from Section 7, and it is primarily a continuation of previous provisions in instructions issued by the Storting.

Chapter 4 Performance audits

Section 9 The content of the auditing

Through systematic analyses of economy, efficiency and effectiveness on the basis of the decisions and intentions of the Storting, the Office of the Auditor General shall furnish relevant information to the Storting about the implementation and effectiveness of government measures etc., including whether:

- a) the government administration uses resources to perform tasks in accordance with the decisions and intentions of the Storting**
- b) the government administration's use of resources and policy instruments is effective in relation to the goals adopted by the Storting in the relevant fields**
- c) regulations laid down by the Storting are complied with**
- d) the government administration's management tools, policy instruments and regulations are effective and expedient in relation to following up the Storting's decisions and intentions**
- e) the basis provided by the Government to the Storting for the Storting's decisions is adequate, and**
- f) the government administration implements adopted environmental policies in a manner that complies with the principle of sustainable development and good management of natural resources**

Performance audits should be limited to matters of fundamental, economic or major social importance.

Comments

This provision specifies the content and objective of performance audits, cf. Section 9 third paragraph of the Act.

The *first paragraph* specifies that, through its analyses, the OAG shall provide relevant information to the Storting about implementation and effectiveness on the basis of the decisions and intentions of the Storting. In its consideration of the Instructions, the Storting emphasised that there is a distinction between goals set by the Storting and goals set by the government administration. The aim of a performance audit is to establish whether the decisions and intentions of the Storting have been fulfilled. The OAG is not an auditing body for the government. The OAG's monitoring of the government administration's own goals and regulations together with evaluations of the appropriateness of management tools and policy instruments should therefore be related to the decisions and intentions of the Storting. There must also be clear evidence that a majority of the Storting supports a particular interpretation before it can be said to be intended by the Storting.

The OAG's approach to the question of whether the Government has furnished correct information to the Storting must be to evaluate whether incorrect or misleading information has been given to the Storting or its bodies, or whether information of material importance to matters that are considered by the Storting has been withheld. Breach of the government's duty of disclosure to the Storting can arise not only through the Government withholding information that it was aware of, but also through it not having not conducted an adequate analysis of a matter before it was presented to the Storting. The Government also has a duty to inform the Storting about important circumstances of which it becomes aware after a matter has been submitted to the Storting for consideration. The OAG's scrutiny of the quality of the information that the Government provides to the Storting is a sensitive auditing topic. If the OAG discovers a failure to disclose information, it is important that the conclusions drawn are not formulated in such a way that they explicitly state an opinion on whether the duty of disclosure has been breached. The OAG's neutrality and legitimacy could otherwise be called into question.

Investigations focusing on due process protection for individuals are mainly a task for the Storting's Ombudsman for Public Administration. However, the OAG's analyses relating to efficiency and administrative procedures may also touch upon matters relating to due process protection.

Environmental auditing is also part of the auditing profession and it falls within the content and scope of performance auditing as laid down in this provision.

The detailed content and implementation of performance audits otherwise follows from standards and guidelines for auditing, cf. Section 10 first paragraph of the Act. Reference is also made to Section 9 third paragraph of the Act.

The *second paragraph* states that the selection of performance audit projects must be based on an evaluation of whether the matter is of fundamental, economic or major social importance.

Section 10 Submission of necessary documentation to the Office of the Auditor General

In the Office of the Auditor General's execution of a performance audit, Section 4, paragraphs 1 and 3 apply correspondingly.

Comments

This provision refers to the fact that Section 4 first and third paragraphs also apply to performance audits. Among other things, this means that ministries and central government agencies shall submit documentation unsolicited to the OAG that is assumed to be necessary for the implementation of performance audits that are under way.

Chapter 5 The Office of the Auditor General's monitoring of The Norwegian Central Bank (Norges Bank)

Section 11 The content and scope of the control

The Office of the Auditor General monitors the way the cabinet minister exercises his/her authority over Norges Bank, cf. Section 2, paragraph 4 of the Norges Bank Act. The Office of the Auditor General does not monitor whether the bank has conducted its business in accordance with the economic policy guidelines that have been laid down by the central government authorities, cf. Section 2, paragraph 1 of the Norges Bank Act.

Comments

This provision is primarily a continuation of Section 2 of the previous instructions for the OAG's monitoring of Norges Bank. The OAG shall monitor the way in which the minister exercises his/her authority over Norges Bank, cf. Section 2 fourth paragraph of the Norges Bank Act. If the OAG were to undertake a complete monitoring of whether the bank can be said to meet its objectives as laid down by the Storting, this would, in principle, also entail continuously assessing whether the bank has exercised its authority in accordance with the central government authorities' economic policy guidelines. Among other things, this would mean that the bank's foreign exchange and credit operations would have to be directly monitored. It is not possible for the OAG to carry out this type of monitoring task without simultaneously having ongoing audit responsibility. In the Instructions, it has therefore been clarified that the OAG shall not monitor whether the bank has conducted its business in accordance with the economic policy guidelines that have been laid down by the central government authorities, cf. Section 2 first paragraph of the Norges Bank Act.

Norges Bank manages the Government Pension Fund – Global on behalf of the Ministry of Finance, cf. the comment on Section 9 of the Act. The Supervisory Council of Norges Bank, which is appointed by the Storting, supervises the bank's operation and its compliance with the rules for its activities. The work of the Supervisory Council is supported by a pertaining supervisory secretariat. The tasks of these monitoring bodies can overlap with the OAG's monitoring. Guidelines have therefore been drawn up for the exchange of information and coordination of auditing and supervision between the OAG and Norges Bank's Supervisory Council concerning the Government Pension Fund – Global.

Section 12 Submission of documentation and the right of access to information

As soon as possible after Norges Bank's annual report and accounts have been received by the ministry, the cabinet minister shall submit the following to the Office of the Auditor General:

- a) the bank's annual accounts, adopted by the Supervisory Council, with the auditor's report,**
- b) the Executive Board's annual report,**

- c) the Supervisory Council's statement on the minutes of the meetings of the Executive Board and any other matters that may pertain to the bank, and
- d) the cabinet minister's report pertaining to the ministry's and the government's exercising of authority in matters that pertain to Norges Bank.

The Office of the Auditor General shall regularly be sent copies of the Executive Board's and the Supervisory Council's minutes.

The Office of the Auditor General has the right to demand the information that it deems necessary for its monitoring from the appropriate ministry, the bank and its audit function.

Comments

This provision regulates the minister's duty to submit documents to the OAG that are necessary for monitoring purposes, and the OAG's right to necessary information and right of access to information in the ministry, the bank and the audit function. This provision is a continuation of a corresponding provision in previous instructions for the OAG's monitoring of Norges Bank.

Chapter 6 The Office of the Auditor General's relationship to the Freedom of Information Act and the Security Act

Section 13 The general public's right of access to information – the application of the Freedom of Information Act in the Office of the Auditor General

Documents in a particular case, as mentioned in Section 18 of the Auditor General Act, means correspondence to and from the Office of the Auditor General about matters in the same case. Documents from a monitored entity that are enclosed as an annex in a case, or that are obtained in the course of the Office of the Auditor General's monitoring, cannot be made available to the public by the Office of the Auditor General. The same applies to documents where a copy is routinely sent to the Office of the Auditor General.

Documents that are exchanged between the Storting and the Office of the Auditor General and that concern the Office of the Auditor General's budget and internal administration can be exempted from public disclosure.

Documents that are exchanged between the Office of the Auditor General's management, administration and employees can be exempted from public disclosure.

Anyone who is denied access to a case at the Office of the Auditor General can appeal the decision to the Office of the Auditor General's Board. The Office of the Auditor General's Board decides ultimately whether access shall be granted.

Regulations specified under the provisions of Section 11 of the Freedom of Information Act apply equivalently to the Office of the Auditor General to the extent that they are appropriate. The Office of the Auditor General can issue provisions equivalent to regulations that the King can issue pursuant to Section 8 of the Freedom of Information Act.

Comments

Supplementary rules concerning the application of the Freedom of Information Act in the OAG are presented here, cf. Section 18 second paragraph of the Auditor General Act. In 2009, the Freedom of Information Act was replaced by Act no 16 of 19 May 2006 relating to the right of access to documents held by public authorities and public undertakings (the new Freedom of Information Act).

The *first paragraph* defines what shall be defined as documents in relation to the principle of right of access to documents in the OAG. The government administration's documents that are obtained in the course of the OAG's monitoring or documents sent to the OAG as a matter of routine cannot be made available to the public by the OAG.

Pursuant to the *second paragraph*, correspondence between the Storting and the OAG that concerns the OAG's budget and internal administration can be exempted from public disclosure. It is natural that the OAG follows the Storting's practice with regard to granting access to these documents.

Pursuant to the *third paragraph*, correspondence between the OAG's management, administration and employees can be exempted from public disclosure. In each individual case, these documents must be evaluated with regard to their content before it is decided whether or not access shall be granted.

Pursuant to the *fourth paragraph*, anyone who is denied access to a case at the OAG is entitled to appeal the decision. The Board is the appeal body and ultimately decides the question of whether access to documents shall be granted. Section 32 of the Freedom of Information Act applies to the Board's consideration of appeals.

The *fifth paragraph* states that regulations issued pursuant to Section 11 of the Freedom of Information Act shall apply to the extent that they are appropriate. The general authority to issue regulations in Section 11 of the Freedom of Information Act has now been continued in the new Freedom of Information Act Section 27. The reference to Section 8 of the Freedom of Information Act concerns the right to issue rules concerning fees for access. This rule has now been continued in Section 8 of the new Freedom of Information Act. The reference means that the OAG is entitled to issue rules concerning fees for access granted by the OAG.

Section 14 The Office of the Auditor General's handling of classified information

Section 9, paragraph 1, litra c and Section 10 of the Security Act do not apply to the Office of the Auditor General.

The Office of the Auditor General is authorised to issue security clearances for personnel at the Office of the Auditor General and for personnel employed or hired by a supplier in connection with classified procurements made by the Office of the Auditor General.

In the execution of preventative security services, the Office of the Auditor General can apply for assistance from the Norwegian National Security Authority.

Comments

This provision further regulates which provisions of the Security Act or regulations issued pursuant to that act shall apply to the OAG, cf. Section 16 second paragraph of the Act. The rule is based on constitutional considerations.

Certain exceptions from the Act have been specified with regard to the powers of the Norwegian National Security Authority. This rule is also a codification of a long-standing practice whereby the OAG is authorised to issue its own security clearances. In addition, the rule states that the OAG has a right to seek assistance from the Norwegian National Security Authority in carrying out preventative security work.

Chapter 7 Reporting to the Storting and the government administration

Section 15 Reporting on the Office of the Auditor General's annual audit and monitoring

The Office of the Auditor General shall submit an annual report to the Storting that shall contain:

- a) the results of the audit of the previous year's Central Government Financial Statements, subordinate agencies' financial statements and financial statements for the administration of Svalbard,**
- b) the results of the monitoring of the administration in the previous year of the state's proprietary interests in companies etc. The Office of the Auditor General shall also report to the Storting any comments it may have received about the way the cabinet minister exercised his/her authority over the Norwegian Central Bank (Norges Bank),**
- c) the ministries' follow-up of previous matters that have not been resolved in a satisfactory manner, and**
- d) other matters of importance for an evaluation of the overall administration of the ministry.**

The Office of the Auditor General shall report the results of the financial auditing to the audited entity. In each individual case, a decision is made as to whether the results shall also be reported to the ministry under which the entity is organised. When the annual audit has been completed, the Office of the Auditor General shall send the audited entity a final audit letter summarising the audit for the fiscal year in question.

Comments

It follows from the *first paragraph* that the annual report to the Storting on the OAG's auditing and monitoring (Document no 1) shall be formulated as an auditor's report on the previous year's Central Government Financial Statements and subordinate agencies' financial statements. This will give the Storting a more comprehensive basis for deciding whether the Central Government Financial Statements and the financial statements prepared by subordinate agencies are of satisfactory quality, and whether there are grounds for criticising the ministry's administration or for holding the minister accountable.

The report shall also include information about the results of the monitoring work that has been carried out in connection with the administration of the state's proprietary interests in companies etc., together with follow-up of previous matters that have not been satisfactorily resolved. This information was previously reported in separate reports to the Storting. Other matters of importance to evaluating the ministry's overall administration shall also be mentioned. In its consideration of the Act, the Storting emphasised its own need for information showing whether appropriated funds have actually been used for the purposes intended by the Storting and whether adopted goals have been achieved.

The provision prescribes annual reporting for both financial auditing and corporate control. It can be questioned whether the separate reporting of corporate control in Document 3:2 introduced with effect from the 2009-2010 auditing year is sufficiently reflected in the wording of the Instructions. The OAG hopes to achieve swift clarification of this point in the Instructions.

A separate template and internal procedures have been adopted for reporting to the Storting. The *second paragraph* provides further guidelines for the OAG's audit communication and reporting to the government administration.

Section 16 Reporting on completed performance audits

The Office of the Auditor General shall report continuously to the Storting on completed performance audits.

Comments

This provision states that the OAG shall report continuously to the Storting on completed performance audits. This is a continuation of established practice.

In its consideration of the Instructions, the Storting expressed its satisfaction with the current practice whereby individual reports are used for matters that deserve special consideration. It was emphasised, however, that the number of Document no 3-reports must be kept at a level that enables satisfactory consideration by both the OAG and the Storting.

The Storting also pointed out that the OAG mainly monitors administration, rather than responsibility. It is therefore up to the Storting to decide the extent to which the audit reports shall subsequently be used as a basis for holding cabinet ministers accountable.

Section 17 Report on the Office of the Auditor General's activities

The Office of the Auditor General shall submit an annual report to the Storting about the Office of the Auditor General's activities. This report shall include a general overview of the previous year's activities and financial statements.

Comments

The OAG shall submit an annual report to the Storting that provides a general overview of the previous year's activities and financial statements.

Chapter 8 Other provisions

Section 18 Entry into force. Rescinding of other instructions

These instructions enter into force on 1 July 2004.

At the same point in time, the following instructions will be rescinded:

- 1. Instructions for Government Auditing of 30 January 1918**
- 2. Instructions of 27 May 1977 for the Office of the Auditor General's monitoring of the administration of the state's proprietary interests in state-owned companies, limited companies and individual bodies organised through separate legislation etc.**
- 3. Instructions of 10 April 1987 for the Office of the Auditor General's monitoring of Norges Bank (the Norwegian Central Bank)**
- 4. Instructions of 10 March 1992 for the Office of the Auditor General's monitoring of the administration of bodies organised through the Act of 30 August 1991 relating to state-owned enterprises**
- 5. Temporary instructions concerning right of access to documents for the Office of the Auditor General of 14 June 2000**

The Instructions of 10 June 1994 for the Office of the Auditor General's monitoring/auditing of foundations organised in accordance with Act no 11 of 23 May 1980 concerning Foundations etc. (the Foundation Act) will be rescinded as of 1 January 2005.

Appendix – Source of law overview

The Act and Instructions relating to the Office of the Auditor General

Act no 21 of 7 May 2004 relating to the Office of the Auditor General is supplemented by Instructions no 700 of 11 March 2004 for the activities of the Office of the Auditor General. The Act and Instructions both entered into force on 1 July 2004.

The Act replaced the Act of 18 February 1918 on the Auditing of Governmental Accounts.

The new Instructions replaced previous instructions issued by the Storting for the OAG's activities:

- Instructions for Government Auditing of 30 January 1918
- Instructions of 27 May 1977 for the Office of the Auditor General's monitoring of the administration of the state's proprietary interests in state-owned companies, limited companies and individual bodies organised through separate legislation etc.
- Instructions of 10 April 1987 for the Office of the Auditor General's monitoring of Norges Bank (the Norwegian Central Bank)
- Instructions of 10 March 1992 for the Office of the Auditor General's monitoring of the administration of bodies organised through the Act of 30 August 1991 relating to state-owned enterprises and
- temporary instructions of 14 June 2000 concerning right of access to documents for the Office of the Auditor General.

Instructions of 10 June 1994 for the Office of the Auditor General's monitoring/auditing of foundations organised in accordance with Act no 11 of 23 May 1980 concerning Foundations etc. (the Foundation Act) was repealed with effect from 1 January 2005.

The preparatory works to the Act and Instructions

Work on drafting the Act started after the following statement was made in the Storting's Standing Committee on Scrutiny and Constitutional Affairs in its recommendation relating to Document no 2 (1994-1995): 'The Committee is aware that the Act on the Auditing of Governmental Accounts and the Instructions for the Office of the Auditor General are out-dated on several points, and considers it desirable that the Office of the Auditor General prepare the necessary amendments,' cf. Recommendation no 149 (1994-1995) to the Storting.

An administrative report on a new act and instructions for the Office of the Auditor General was published as the Office of the Auditor General's Administrative Report no 1, 2000. The report was distributed for consultation on 7 April 2000.

One month later, the Storting's Presidium decided to examine the Storting's monitoring function, on the basis of a seminar in March 2000, see Recommendation no 175 (1999-2000) to the Storting. The Presidium made reference to the OAG's report on the Act and made the following statement: 'Some of the issues that are issues considered in the report are very important in relation to a broader assessment of the Storting's monitoring activities. This applies in particular to the sections on the independence and integrity of the Office of the Auditor General, performance audits and the OAG's reporting to the Storting. In the

Presidium's opinion, there are good reasons for not excluding such issues from the remit of the committee that is now to be appointed.' A separate committee was appointed to prepare the report. It was chaired by Ranveig Frøiland (the Frøiland Committee). Secretary General Bjørg Selås was a member of the committee.

On the basis of the consultation submissions, the OAG prepared a proposal for a new act and instructions for the Office of the Auditor General. The proposal was submitted to the Storting in a letter of 17 January 2001 to the Storting's Presidium. On 19 January 2001, the Presidium submitted the OAG's proposal to the Frøiland Committee with reference to the Committee's remit.

On 8 February 2001, the Presidium forwarded the proposal to the Government, represented by the Office of the Prime Minister, and requested the Government to state an opinion on the proposal. Prime Minister Stoltenberg issued a statement in a letter to the Presidium of 30 April 2001, and a copy of the statement was sent to the Frøiland Committee. After the change of Government in autumn 2001, the Bondevik Government issued a statement in the matter, in which it primarily endorsed the Stoltenberg Government's assessments.

On 30 September 2002, the Frøiland Committee issued its report, 'The Storting's Monitoring of the Government and Administration', cf. Document no 14 (2002-2003). The Committee's majority proposed certain amendments to the OAG's proposal for a new act and instructions. In its consideration of the Frøiland Committee's report, cf. Recommendation no 210 (2002-2003) to the Storting, the Storting endorsed the Committee's views on certain matters of principle. Consideration of the individual proposals for provisions was postponed, however, until consideration of the OAG's proposal for a new act and instructions.

The OAG made certain adjustments and additions to the proposal for a new act and instructions in letters of 30 September and 23 October 2002, and 7 May 2003.

The Standing Committee on Scrutiny and Constitutional Affairs submitted the proposal for a new act and instructions to the Ministry of Justice for legal review on 19 March 2003. The ministry's comments became available on 5 May 2003. On 6 May 2003, the Committee forwarded these comments to the OAG and requested it to prepare a complete, revised proposal. Such a proposal was submitted to the Ministry of Justice in a letter of 26 June 2003 for new consideration. On the basis of the ministry's new review, a revised proposal for a new act and instructions was presented and submitted to the Storting's Standing Committee on Scrutiny and Constitutional Affairs in a letter of 2 October 2003.

This proposal was the basis for the Storting's consideration of a new act and instructions for the Office of the Auditor General, cf. Recommendation no 54 to the Odelsting and Recommendation no 136 (2003-2004) to the Storting.

Amendments to the Act and Instructions

On 1 January 2009, the former Freedom of Information Act was replaced by Act no 16 of 19 May 2006 relating to the right of access to documents held by public authorities and public undertakings (the (new) Freedom of Information Act). In that connection, the references to the Freedom of Information Act in the Auditor General Act Section 18 were updated to refer to the new Freedom of Information Act. Chapter 6 of the Instructions concerning the OAG's

relationship to the Freedom of Information Act and the Security Act has not been amended correspondingly.

In connection with the changing of the rules for retirement pension in the National Insurance Act (including life expectancy adjustment of pensions), the Storting also wished to discontinue the special pension schemes for members of the Storting, ministers, Supreme Court judges, the Storting's Ombudsman for Public Administration and the Auditor General. Previously, the Auditor General's pension was stipulated by the Storting (represented by the Storting's Presidium), as were the pensions of the other members of the Board of Auditors General. By Act no 78 of 17 December 2010, which entered into force on 1 January 2011, Section 6 first paragraph of the Auditor General Act was amended so that the Auditor General's pension follows the rules of the Norwegian Public Service Pension Fund. See Recommendation no 146 L (2010-2011) to the Storting. At the same time, a new provision was added to the Act relating to the Office of the Auditor General. Section 6 contains transitional provisions for auditors general appointed before 1 January 2011.

At the same time, clarifications were included in Section 6 first paragraph and Section 8 second paragraph, so that they now expressly state that it is the Storting's Presidium and not a plenary session of the Storting that stipulate the salaries and pensions of the auditors general and appoint an auditor for the OAG's financial statements. This was only a clarification in line with established practice, cf. a similar arrangement for the Storting's Ombudsman for Public Administration. The background to the amendment relating to Act no 3 of 21 January 2011 has been explained, see Recommendation no 25 L (2010-2011) to the Storting¹.

The instructions concerning the activities of the Office of the Auditor General have not been amended since they were adopted by the Storting on 11 March 2004.

¹ This matter was considered by the Storting *before* the changes were made to the pension rules as mentioned above, but the Act was passed *after* approval of Act no 78 of 17 December 2010, which had then already entered into force. The latter act had taken the new wording of the provisions into account.