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*The Accountability and Independence of the  
Auditors-General of Australia: A Comparison of their  
Enabling Legislation*

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# **THE ACCOUNTABILITY AND INDEPENDENCE OF THE AUDITORS-GENERAL OF AUSTRALIA: A COMPARISON OF THEIR ENABLING LEGISLATION<sup>#</sup>**

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# **THE ACCOUNTABILITY AND INDEPENDENCE OF THE AUDITORS-GENERAL OF AUSTRALIA: A COMPARISON OF THEIR ENABLING LEGISLATION**

## **ABSTRACT**

This study reports results on a comparison of the enabling legislation of all nine auditors-general of Australia from a public sector accountability and auditor independence perspective. Following on from the Joint Committee of Public Accounts (JCPA) 1989 and 1996 reports, and in particular English and Guthrie (2000), this study identifies and compares the current legislation applicable to the nine auditors-general of Australia with regard to their independence, autonomy, mandate, funding issues, and related parliamentary powers. This study finds that overall, the enabling legislation for all auditors-general are somewhat similar, and the enabling legislation of the Commonwealth and the Victorian auditors-general are strikingly similar. The policy implications of this study's findings are that for all auditors-general examined there are provisions that could be further strengthened through amendments to their enabling legislation.

## INTRODUCTION

The purpose of this study is to compare the enabling legislation of all nine auditors-general of Australia from a public sector accountability and auditor independence perspective. The auditors-general of Australia include: the Commonwealth Auditor General (C/W); the six state auditors-general (New South Wales (NSW), Queensland (QLD), South Australia (SA), Tasmania (TAS), Victoria (VIC), and Western Australia (WA)); and the two territory auditors-general (The Australian Capital Territory (ACT), and the Northern Territory (NT)).

Motivation for this examination comes from four main sources. Firstly, public sector audit is fundamental to the accountability of parliament, particularly governments and the executive, as well as the public sector generally (Barrett 1996). Public sector audit provides an independent scrutiny of government and public sector use of monies and other resources (Taylor 1996). Their role includes reporting on the fairness of an entity's financial reports, the entity's compliance with applicable statute and regulations, as well as on providing special reports on matters of performance (Funnell and Cooper 1998).

However, such reporting only adds value or credibility when auditor independence, both in fact and appearance is not threatened or compromised (Funnell 1994; 1997). Further, it is reasonable to expect that auditors have a wide-ranging mandate, as well as adequate funding for effective fulfilment of their so-called 'watchdog' role (Funnell 1996). Therefore, from a public policy perspective, a comparison of the enabling legislation of all auditors-general of Australia is useful in highlighting the extent to which their enabling legislation provides the necessary platform for maintaining public sector accountability and supporting key requisites related to independence, mandate, and funding.

As a second motivation for the study, in recent times the ability of the public sector auditor to fulfil its role in ensuring public sector accountability has received considerable attention. Reports such as those of the Joint Committee of Public Accounts (JCPA) (1989; 1996) examine in detail the extent to which the Commonwealth auditor-general was able to fulfil his watchdog role. These landmark reports were in part motivated by perceived and real threats to the fulfilment of this role, particularly as related to independence, funding, and mandate. Professional auditing standards, such as AUP 32 (AuSB 2001), as well as the JCPA 1996 report reinforce independence as a cornerstone requirement for auditors to be able to fulfil

their watchdog role. For example, the JCPA's 1996 report on *Guarding the Independence of the Auditor-General* states that "the independence of the auditor-general is fundamental to public accountability", and that it is necessary to "put beyond doubt the auditor-general's freedom from direction by the executive or the Parliament in the performance of audit functions" (JCPA 1996, p. 7). In its earlier inquiry, the JCPA (1989) noted the need to strengthen or at least maintain traditional accountability of federal government organisations and officials to parliament through public sector audits that emphasise compliance, probity, and financial processes. Therefore, this study allows for a review of the extent to which the recommendations on enhancement of public sector auditor independence, funding, and mandate as contained in the JCPA reports appear in the enabling legislation of the auditors-general.

As a consequence of the radical reforms proposed in Victoria in the late 1990s, a third motivation comes from comparing the enabling legislation for the auditor-general of Victoria, the *Audit Act (1994)*, with those of the other auditors-general of Australia. This is particularly warranted because of two recent rounds of legislative change to the *Audit Act (1994)* and other related acts. In 1997 significant legislative changes were made in the guise of National Competition Policy<sup>1</sup>, under the former Kennett Government. These changes included the creation of *Audit Victoria*, a body comprising mostly staff from the Office of the former auditor-general of Victoria and empowered to tender for public sector audits competing against private sector providers of audit services. However, the legislative changes also removed the operational functions of the Office of the Victorian auditor-general. This received attention in both the media and academic literature (for example: De Martinis, Clark and Roberts 1998; Guthrie and English 1997; and Houghton and Jubb 1998). At the same time changes were made to the *Constitution Act (1975)* enshrining the auditor-general as an independent officer of parliament. Subsequent legislative changes were made under the Bracks Government in 2000, particularly in restoring the operational responsibility of the auditor-general of Victoria through the dissolution of *Audit Victoria*. Therefore, given such

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<sup>1</sup> National Competition Policy was a Commonwealth government initiative aimed at increasing economic competition. States and Territories were required to undertake a review of legislation identifying impediments to competition where this may be contrary to public interest. Victoria remains the only jurisdiction to have undertaken a review of the enabling legislation of the auditor-general in the context of National Competition Policy.

legislative changes, this study will show the extent to which the Victorian *Audit Act (1994)* is different to the enabling legislation of the other auditors-general of Australia<sup>2</sup>.

The final motivation for this study, and related to the specific examination of the Victorian *Audit Act (1994)*, is the intention to contribute to the continuing policy debate as covered in a previous special edition of this journal in 1997 (Vol. 7 No. 1): *Privatising the Role of the Auditor-General in Victoria*. That edition contained an editorial (English 1997) as well as articles from leading academics and the two main professional accounting bodies of Australia (ASCPA 1997; Craswell 1997; English 1997; Guthrie and English 1997; ICAA 1997). The debate questioned the appropriateness of privatising the role of the auditor-general in Victoria through the creation of *Audit Victoria* (now dissolved). It centred on issues related to the independence and operational effectiveness of the auditor-general, and the ability to adequately fulfil a watchdog role in ensuring government and public sector accountability. Although this debate continues to receive academic attention in other journals, mainly in the form of a case study approach (De Martinis, Clark and Roberts 1998; English and Guthrie 2001; Houghton and Jubb 1998; Zifcak 1997), no study has yet taken the approach of comparing the enabling legislation of the auditor-general of Victoria to that of the other auditors-general of Australia.

Following on from the JCPA 1989 and 1996 reports, English and Guthrie (2000) present a framework that outlines key elements necessary for public sector audit to fulfil its role. These elements include legislative provisions ensuring the independence, autonomy, mandate, and adequate funding of the auditor-general and his office. In addition, the framework recognises the need for related parliamentary powers ensuring that the auditor-general is also accountable to parliament. This study adapts the framework presented by English and Guthrie (2000) to enable a comparison of the current legislation applicable to all nine auditors-general of Australia with regard to independence, autonomy, mandate, funding issues, and related parliamentary powers. The study examines the enabling legislation and not what may or may not happen in practice.

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<sup>2</sup> There have been a number of studies (Craswell 1997; English 1997; and Houghton and Jubb 1998) that deal with the impact of Maddock et al. (1997) on the enabling legislation of the auditor-general of Victoria. However, the focus of this paper is on providing a cross sectional analysis of the enabling legislation of the auditors-general of the Australian states and territories as at September 2000 (ie. post Maddock et al 1997).

This paper is structured as follows. The next section presents results based on a comparison of the enabling legislation of the nine auditors-general of Australia using the accountability and auditor independence framework as adapted from English and Guthrie (2000). The final section presents a summary of the results, and policy implications in terms of addressing the findings through changes to the enabling legislation.

## **COMPARISON OF THE ENABLING LEGISLATION OF THE AUDITORS- GENERAL OF AUSTRALIA**

English and Guthrie (2000) examine the role, powers, and autonomy of the Commonwealth Auditor-General in the context of the accountability mechanisms available to parliament. This is shown in Table 1. The two-part framework describes (i) the *accountability mechanisms available to parliament* related to audit scope, auditor-general appointment, tabling of reports, funding, and oversight, and (ii) the *powers required by auditors-general to conduct audits* related to independence, mandate and funding source.

Insert Table 1 about here

To facilitate this study's examination of each auditor-general's enabling legislation, the framework as contained in Table 1 is adapted and restructured such that the four accountability mechanisms and three power/autonomy issues contained therein are separated to form the basis of Tables 2 to 6. This restructuring of Table 1 allows for the comparative analysis of the key accountability mechanisms available to parliament and the key powers required by auditors-general to conduct audits as related to audit mandate, independence, and funding, as contained in the auditors'-general enabling legislation. Within Tables 2 to 6 a total of thirty issues are identified which are related to the parliamentary accountability mechanisms and the auditors'-general required powers<sup>3</sup>.

Note that from Table 1 *scope of audit in the public sector*, appearing under the first column titled *accountability mechanisms to parliament*, and *mandate to perform audits*, appearing

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<sup>3</sup> Tables 2 to 6, containing a total of 270 cells (ie 9 auditors-general x 30 issues), are summaries of more detailed charts that include the actual wording extracted from the enabling legislation for each auditor-general. These charts are available from the authors upon request.

under the second column titled *powers required by auditor-general to conduct audits*, have been combined in Table 5. Similarly, *funding determined by parliament* appearing in the first column of Table 1, and *funding of the AG* appearing in the second column of Table 1 have been combined in Table 3. This is the same for *oversight of AG* (Table 4).

The enabling legislation as at September 2000 of all auditors-general, and other legislation from which they derive their powers were examined for the study. A list of the relevant legislation is provided in the Reference section. The legislation was examined to determine whether the accountability mechanisms and the required powers were or were not explicitly addressed. To validate our findings, detailed comments on the data appearing in Tables 2 to 6 were received from representatives of the individual offices of the auditors-general via the auditors'-general peak representative body, the *Australasian Council of Auditors-General*<sup>4</sup>. Responses were received from all auditors-general. Consequently, where necessary and deemed appropriate, amendments were incorporated in the relevant parts of the paper, including the tables. The following provides a summary of the key features of the enabling legislation applicable to each auditor-general of Australia with respect to the thirty issues appearing under the separate parliamentary accountability mechanisms and required powers and autonomy of the auditor-general.

### ***Accountability Mechanisms Available to Parliament***

#### **A. Powers of Parliament in Relation to Audit**

Table 2 (Panels A and B) shows the first ten issues related to appointment, tenure, removal, and remuneration of auditors-general.

Insert Table 2 about here

Regarding the *appointment of auditors-general*, the Commonwealth auditor-general is appointed by the governor-general (on the recommendation of the minister, subject to the approval of the Joint Committee of Public Accounts and Audit). In the case of the states,

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<sup>4</sup> These include: Terry Hogan (the Audit Office of New South Wales); Johann Jantz (Victorian Auditor-General's Office); Ian McGlen (South Australian Auditor-General's Department); Janine McGuinness (Australian National Audit Office); Dr. Arthur McHugh (Auditor-General, Tasmania); Teresa Rafter (Queensland Audit Office); Barry Rowe (Office of the Auditor-General for Western Australia); and Ian Summers (Auditor-General, Northern Territory).

appointment of the auditor-general is by the governor, with the exceptions being Queensland and Victoria where appointment is by the governor-in-council. In Victoria, the appointment is made on the recommendation of the Public Accounts and Estimates Committee (PAEC). For the Territories, it is the executive who makes the appointment for the ACT and the administrator who makes the appointment for the Northern Territory. On *term of office*, generally the respective legislation provides for a fixed term of appointment for the auditor-general with these fixed terms ranging from five years through to ten years. In the case of South Australia and Western Australia the appointment is until the age of sixty-five. In relation to *eligibility for re-appointment*, the ACT, Victoria, and Tasmania provide for re-appointment of the auditor-general, however, in the case of the Commonwealth, New South Wales, Northern Territory and Queensland, the auditor-general is not eligible for re-appointment.

The process for determining the *remuneration* of the auditor-general, as distinct to the process for determining funding of his office (see section B below), is removed from the direct determination of the parliament, with the exception of Tasmania where the remuneration of the auditor-general is stipulated in the Act. A form of remuneration tribunal is used to determine the remuneration of the auditor-general in the case of the ACT, Commonwealth, and Western Australia. For Queensland and Victoria it is the governor-in-council which determines the remuneration of the auditor-general while for South Australia it is the governor. For New South Wales the legislation is silent on the process for determining remuneration. For the Northern Territory it is the administrator who determines the remuneration of the auditor-general. The relevant legislation provides for *payment* of the auditor-general to be from the consolidated fund in the case of each jurisdiction, with the exception of the ACT, New South Wales, and the Northern Territory where the legislation is silent on the matter.

When deciding on the auditor-general's *removal from office*, in each jurisdiction, the auditor-general may only be removed by the parliament. For the *appointment of an acting auditor-general*, in South Australia, Tasmania, Queensland, and for Victoria, during any absence of the auditor-general, the deputy auditor-general is to act for the auditor-general. In Victoria, the governor-in-council may appoint an acting auditor-general. For the ACT, New South Wales, the Northern Territory, and Western Australia, the acting appointment is made by the same office that is given the authority to make the initial appointment. For example, in New

South Wales the governor appoints the auditor-general and the acting auditor-general. However, in the case of the Commonwealth, whilst the governor-general appoints the auditor-general, the minister may appoint an acting auditor-general in the absence of the auditor-general.

Victoria is the only jurisdiction in which the auditor-general is required to submit an *annual work plan* to parliament (via the Public Accounts and Estimates Committee) for its consideration, with the subsequent requirement to report on actual performance against the work plan<sup>5</sup>. This may be seen as a mechanism for the parliament to influence, perhaps even unduly, the work program of the auditor-general. On the other hand, the provision may be seen as providing an accountability mechanism between the auditor-general and the parliament. In the case of the Commonwealth, the auditor-general is to have regard for the audit priorities of the parliament as determined by the Joint Committee of Public Accounts and Audit. The Commonwealth, Queensland, and Victoria parliaments have the *power to request audits*. In South Australia and Western Australia the treasurer has a similar power, and in the Northern Territory the minister has a similar power. Finally, for each jurisdiction audit reports of the auditor-general are to be *tabled in parliament*.

## B. Funding of the Office

Table 3 shows three issues related to funding of the auditors'-general offices in relation to the determination of their funding and payments for services provided, as well as cost recovery.

Insert Table 3 about here

*Funding of the office* of each auditor-general is determined within the annual appropriation act for the jurisdiction. However, for the ACT, the Commonwealth, Queensland, and Victoria,

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<sup>5</sup> The Victorian *Audit Act 1994*, Section 7A on the auditor-general's annual plan requirement states:

- (1) Before the beginning of each financial year, the Auditor-General must: (a) prepare a draft annual plan describing the Auditor-General's proposed work program for that year; and (b) submit the draft to the Parliamentary Committee.
- (2) The Parliamentary Committee must consider the draft annual plan and may comment on it.
- (3) After considering the draft annual plan, the Parliamentary Committee must return it with any comments to the Auditor-General.
- (4) The Auditor-General must complete the annual plan as soon as practicable after the passage of the annual appropriation Act for the year to which the plan relates, having regard to: (a) the annual appropriation; and (b) any comments received from the Parliamentary Committee.
- (5) Before the beginning of the financial year to which an annual plan relates, the Auditor-General must: (a) present the completed plan to the Parliamentary Committee; and (b) cause a copy of the completed plan to be transmitted to each House of the Parliament.

there is specific reference within the enabling legislation to the process of determining the funding<sup>6</sup>.

On *amounts to be paid for financial statement audits*, the fees to be imposed on auditees are generally determined by the auditor-general (ACT, Commonwealth, Queensland, South Australia, Victoria, and Western Australia). For Queensland and South Australia, the auditor-general determines these fees with the approval of the treasurer. In the case of Tasmania the treasurer in consultation with the auditor-general determine the amounts to be paid. For New South Wales, the treasurer determines the fees with the legislation not providing a role for the auditor-general in determining fees. Thus New South Wales is the exception in this respect. *Cost recovery from auditees for financial statement audits* is provided for the auditor-general in each of the jurisdictions with the exception of the Northern Territory where the legislation is silent on this matter. For the Commonwealth, Queensland, and Victoria, the reference to cost recovery from auditees is only in respect of financial audits.

### C. Oversight of Auditors-General

Table 4 shows five issues related to parliamentary oversight through the appointment of, and reporting by an independent auditor-general. Table 4 also provides detail on whether an independent auditor conducts a performance audit of the auditors-general.

Insert Table 4 about here

*Independent audit of the auditor-general's office* is provided for in each jurisdiction. There are, however, differences as to *appointment of the independent auditor*. In the case of the Commonwealth and Victoria, it is the parliament. However, for New South Wales, South Australia, Tasmania, Western Australia, and, it is the governor, or the governor-in-council for Queensland. For the ACT and the Northern Territory it is the minister and the administrator

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<sup>6</sup> For the Commonwealth auditor-general, the enabling legislation provides that Parliament is to appropriate funds for the purposes of the Audit Office (Section 50) via input from the JCPA (Section 53). For the auditor-general of Victoria, the enabling legislation provides that the Public Accounts and Estimates Committee have a consultative role when Parliament determines the auditor-general's budget (Section 7D.2). For the auditor-general of Queensland, the enabling legislation provides that the Treasurer must consult with the Public Accounts Committee in developing the proposed budget of the audit office for each financial year (Section 68(3)). For the auditor-general of the ACT, the enabling legislation provides that the Public Accounts Committee may advise the Treasurer of the appropriation that the Committee considers should be made for the auditor-general's office (Section 22).

respectively who make the appointment of the independent auditor to conduct the audit of the office of the auditor-general. Generally, *reporting by the independent auditor* is to the parliament. However, the legislation is not explicit in this respect in the case of Western Australia. For the ACT the report is to be submitted to the speaker, whilst in the case of New South Wales, the legislation provides for the report to be submitted to the treasurer.

Regarding the *independent auditor conducting performance audits*, for the ACT, Commonwealth, New South Wales, and Victoria, the legislation explicitly refers to the conduct of a performance audit as well as a financial audit. For South Australia, Tasmania, and Western Australia, whilst there is reference to the appointment of an independent auditor, those provisions do not explicitly refer to either a financial statement audit or a performance audit. Within jurisdictions there are differences in the process with the appointment of the independent financial auditor and the performance auditor or reviewer of the office. In the case of the ACT, the independent auditor conducts performance audits of the Auditor-General's Office on the request of the Public Accounts Committee. For New South Wales, whilst the governor appoints the independent auditor, the reviewer is appointed by the Public Accounts Committee. For the Northern Territory and Queensland, the legislation specifically provides for the appointment of an external reviewer to undertake a strategic review of the auditor-general's office. For the Northern Territory, the administrator, in consultation with the Public Accounts Committee and the auditor-general, appoints and determines the terms of reference of a strategic reviewer. For Queensland, the appointment and the terms of reference of the reviewer are to be determined by the governor-in-council in consultation with the parliamentary committee.

### ***Powers required by Auditors-General to Conduct Audits***

#### **D. Mandate of Auditors-General to Perform Audits**

Table 5 shows five issues related to the auditors'-general mandate to undertake both financial statement audits and performance audits. What appears to differ between the jurisdictions is the range of entities subject to audit by the auditor-general. For example, in South Australia, financial statement audits are undertaken of publicly funded bodies. In the case of Western Australia the mandate includes financial statement audits of statutory authorities and their local and foreign subsidiaries, and also financial statement audits, where required by the

treasurer, of individuals granted or loaned money by the government. Similarly in each of the jurisdictions the authority to undertake performance audits generally covers the same range of bodies that are subject to financial statement audits. The exceptions are the Northern Territory, and Western Australia. The enabling legislation for only the auditors-general of South Australia, Tasmania, and Western Australia provide for financial statement audits of individuals and bodies funded by government.

Insert Table 5 about here

#### E. Independence from Direction by Parliament or its Committees

Table 6 (Panels A and B) show seven issues related to independence. It is clear that the enabling legislation for most auditors-general is silent on many of these independence issues. However, notable exceptions are in the case of the Commonwealth and Victorian auditors-general where their legislation is explicit on all issues except on the determination of the terms and conditions of staff in the office.

Insert Table 6 about here

On the issue of whether *independence is enshrined in law*, the auditors-general of the ACT, the Commonwealth, and Victoria have their independence explicitly enshrined within their enabling legislation. For the other auditors-general, there is no legislation that enshrines their independence. Whilst the legislation for the Commonwealth and Victoria explicitly describes the auditor-general as an “independent officer of the parliament” it is not clear that there are any additional powers or rights that arise from this provision. For the ACT, the *Auditor-General Act 1996* (Section 9) states that “the Auditor-General is not subject to direction by the Executive or any Minister in the performance of the functions of the Auditor-General”. For the Commonwealth and Victoria, both the Commonwealth *Auditor-General Act 1997* (Section 8(2)) and the Victorian *Constitution Act 1975* (Section 94B (3)) use identical wording to state that “there are no implied functions, powers, rights, immunities or obligations arising from the Auditor-General being an independent officer of the Parliament.”<sup>7</sup> In the case of the Commonwealth and Victoria, the legislation explicitly

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<sup>7</sup> On the issue of independence, other provisions within Section 8 of the *Commonwealth Auditor-General Act 1997* and Section 94B of the Victorian *Constitution Act 1975* are almost identical.

describes the auditor-general as an *officer of the parliament*, unlike the other jurisdictions. For the other auditors-general, there is no legislation that enshrines them as officers of parliament.

In some cases the legislation refers to the auditor-general being *free of direction or control from anyone* (the ACT, the Commonwealth, Queensland, South Australia, and Victoria). As to *discretion in determining type of audit and auditee*, the legislation in some cases goes further to explicitly provide the auditor-general with discretion in determining the type of audit and the auditees, for example, the Commonwealth, Northern Territory, Tasmania, and Victoria. The Queensland legislation provides the auditor-general discretion as to the type of audit but does not make reference to discretion in respect of determining auditees.

The *information gathering powers* of all the auditors-general are wide ranging. For example, in the case of the auditor-general of Victoria, there are powers to call for persons or documents, however, there is no authority to access information held by private sector contractors that relate to services provided by such contractors to public sector agencies. This is an issue of increased significance in the era of New Public Management (Zifcak 1997) and the prevalent practice of contracting out the delivery of government services (Russell, Waterman and Seddon 2000).

As to whether the auditors-general may *determine terms and employment conditions of staff*, legislation in the various jurisdictions typically refers to the staff being employed under the relevant public service act. In Victoria, the Public Accounts and Estimates Committee has the power to exempt the auditor-general of any legislative requirements applicable to government agencies in respect of employment conditions. Finally, all auditors-general may *appoint contractors* to conduct audits.

## SUMMARY AND POLICY IMPLICATIONS

The purpose of this study was to compare the enabling legislation of all nine auditors-general of Australia from a public sector accountability and auditor independence perspective. The study used a two-part accountability and independence framework adapted from English and Guthrie (2000) as a basis to examine the enabling legislation. Specifically, the study

examined the extent to which the enabling legislation of each auditor-general contained provisions regarding a number of parliamentary accountability mechanisms, as well as issues related to auditor independence, funding, oversight, and mandate. The examination is warranted from the viewpoint that public sector auditors play a key role in ensuring the accountability of parliament, governments, particularly the executive, and public sector entities generally.

As a result and in terms of policy implications, this comparative analysis was able to highlight areas where existing provisions would be further strengthened through amendments in their enabling legislation, or other relevant legislation. It was clear from the results appearing in the tables that the enabling legislation, as well as other relevant legislation, are silent on many of the thirty issues. In particular, the following issues are silent for a majority of the auditors-general: *annual work to be submitted* (Table 2: item (h)); *funding of the office determined by* (Table 3: item (a)); *performance audit of the auditor-general's office* (Table 4: item (e)); *financial statement audit of individuals and bodies funded by government* (Table 5: item (c)); *independence enshrined in law* (Table 6: item (a)); *discretion in determining type of audit and auditee* (Table 6: item (c)); *auditor-general an officer of parliament* (Table 6: item (e)); and *auditor-general to determine the terms and conditions of staff in the office* (Table 6: item (f)). Therefore, such deficiencies also would be addressed through appropriate amendments to the enabling legislation, or other relevant legislation that explicitly address the issues.

Results also indicate that across the thirty issues examined the enabling legislation for the auditors-general are, at best, somewhat similar, and the enabling legislation of the Commonwealth and the Victorian auditors-general are strikingly similar. For example, having *independence enshrined in law* (Table 6, Panel A: item (a)), and the auditor-general being an *officer of parliament* (Table 6, Panel B: item (e)), the latter item being unique only to these auditors-general. At the same time notable differences also exist between these two auditors-general, particularly in Table 2. For example, in relation to *term of office* (Table 2, Panel A: item (b)), *eligibility for re-appointment* (Table 2, Panel A: item (c)), and *submission of annual work plan* (Table 2, Panel B: item (h)), the latter being a unique requirement for the Victorian-auditor-general. It is also in Table 2 where only three out of the ten issues are similar across all nine auditors-general: item (e) *auditor-general to be paid out of consolidated fund*; item (f) *removal of auditor-general from office*; and item (j) *audit reports*

*to be tabled directly to parliament.* Overall, the enabling legislation for these two auditors-general are identical with regard to twenty one of the thirty issues.

Other notable findings include the requirement for all auditors-general to *recover costs from auditees for financial statement audits*, except for the Northern Territory, where the legislation is silent on this issue (Table 3: item (c)). Further, the enabling legislation with respect to *determination of funding* for the auditor-general's office (Table 3: item (a)), and *determination of amounts to be paid for the financial statement audits* (Table 3: item (b)) are noticeably different. On *oversight of the auditors-general* by parliament (Table 4), most differences were found on the *appointment of the independent auditor* to undertake the audit of the auditor-general's office (item (b)), as well as who the *independent auditor reports to* (item (c)). On *mandate of auditors-general to perform audits* (Table 5), the items with most differences are *authority to undertake financial statement audits of companies* (item (b)), and in the *carrying out of performance audits of companies* (item (e)). On *independence from direction by parliament or its committees* (Table 6), as mentioned previously, the Commonwealth and Victorian auditors-general stand out as being different to the other auditors-general (items (a) and (e)).

Overall, parliamentary powers in terms of appointment, term of office, remuneration, removal from office, tabling reports, and oversight of the auditors-general appear adequate. On funding, and mandate of the auditors-general, again the enabling legislation appear adequate for fulfilling their watchdog role over government and public sector accountability. However, on the independence of the auditors-general from parliament and its committees, room exists to significantly improve this cornerstone requirement via changes to the enabling legislation. In particular, it is worth noting that except for the enabling legislation of the Commonwealth and Victorian auditors-general, the enabling legislation of the other auditors-general are deficient in two key auditor independence related issues. These are in having their independence enshrined in law, and in being an officer of parliament.

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Financial Administration and Audit Act 1985 incorporating amendments as at 9 July 1999

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**Table 1: Accountability Mechanisms Available to Parliament Related to Audit Mandate, Independence and Funding\***

Accountability Mechanisms Available to Parliament	Powers Required by Auditors-General to Conduct Audits
<p><b>Scope of audit in the public sector (see Table 5)</b></p> <ul style="list-style-type: none"> <li>▪ No impediment to AG conducting financial statement and performance audits of all government entities</li> </ul> <p><b>Powers of parliament in relation to audit (see Table 2)</b></p> <ul style="list-style-type: none"> <li>▪ Parliamentary audit committee to appoint, oversee AG and his/her office</li> <li>▪ Power to request audits</li> <li>▪ All audit reports to be tabled in the parliament</li> <li>▪ Recognition that parliament is the client, not the executive or auditee</li> </ul> <p><b>Funding determined by parliament (see Table 3)</b></p> <ul style="list-style-type: none"> <li>▪ Funding determined by parliament via input from parliamentary audit committee</li> </ul> <p><b>Oversight of AG (see Table 4)</b></p> <ul style="list-style-type: none"> <li>▪ Independent audit of AG</li> </ul>	<p><b>Mandate to perform audits (see Table 5)</b></p> <ol style="list-style-type: none"> <li>1. Financial statement audits of agencies</li> <li>2. Performance audits of agencies</li> <li>3. Financial statement audits of authorities and companies</li> <li>4. Performance audits of authorities and companies</li> </ol> <p><b>Independence from direction by the executive (see Table 6)</b></p> <ol style="list-style-type: none"> <li>1. Independence enshrined in law</li> <li>2. Free of direction/control from executive</li> <li>3. Discretion to determine type of audit and auditee</li> <li>4. Reporting to parliament not the executive</li> <li>5. Wide information gathering powers</li> <li>6. Audit committee of parliament to advise on audit priorities and oversee audit function</li> <li>7. Appointment of the AG by parliament not the executive</li> <li>8. AG an officer of the parliament</li> <li>9. Audit office a statutory authority and AG to determine terms and conditions of employment of staff</li> </ol> <p><b>Funding of AG (see Table 3)</b></p> <ol style="list-style-type: none"> <li>1. Sufficient to enable AG to exercise effective mandate</li> <li>2. Funding level recommended by parliamentary audit committee not by treasury</li> <li>3. No cost recovery from auditees</li> </ol> <p><b>Oversight of AG (see Table 4)</b></p> <ol style="list-style-type: none"> <li>1. Parliament to appoint independent auditor of AG</li> <li>2. Independent auditor to report to parliamentary audit committee</li> </ol>

AG = auditor-general

\*Source: English and Guthrie (2000)