

15 October 2018

Mr. Kieran Lenihan
Clerk, Public Accounts Committee
Dáil Éireann
Leinster House
Kildare Street
Dublin 2

Dear Kieran

I refer to correspondence dated 1 October 2018 (**Ref: PAC32-I-1063**) regarding a meeting of the Committee of Public Accounts on 27 September 2018 where the Committee requested a note to ascertain the views of the Department of Public Expenditure and Reform regarding the Exchequer and Audit Departments Act, 1866 and whether it serves its purpose in light of current developments e.g. cyber fraud.

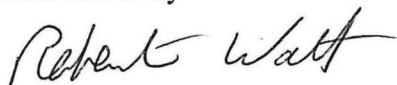
The information note requested by the Committee is provided in Appendix 1. As you will see the 1866 Act is one part of a series of legislation which provide the legal framework for Government accounting. You will also see that this is periodically reviewed, to ensure that the framework as a whole takes account of new developments, and remains fit for purpose.

In that context, I would like to take this opportunity to highlight to the Committee that OECD have been commissioned to conduct an assessment of the central Government Accounting Framework and to identify a road map for implementation of financial reporting reforms. The review/assessment will include a gap analysis between the current accounting framework and international best practice and accounting standards. The review team recently visited Ireland and met a range of stakeholders, including the Chair of the Committee of Public Accounts.

The OECD will deliver a report of their findings and recommendations in December 2018. On foot of the OECD review DPER will consider the legal and statutory changes required to bringing forward proposals to improve financial reporting and co-ordination in government accounting across central Government Departments and Offices.

I hope this material is of assistance to the Committee.

Yours sincerely



Robert Watt
Secretary General

Note for the Committee of Public Accounts on the Exchequer and Audit Departments Act, 1866

This note was prepared in response to a request from the Committee of Public Accounts for a note on the views of the Department of Public Expenditure and Reform regarding the Exchequer and Audit Departments Act, 1866 and whether it serves its purpose in light of current developments.

In addition to the Constitution, the main statutory provisions relating to the audit of Government Departments are contained in the following Acts:

- Exchequer and Audit Departments Act 1866 [hereinafter “the 1866 Act”]
- Exchequer and Audit Departments Act 1921 [hereinafter “the 1921 Act”]
- Comptroller & Auditor General Act 1923 [hereinafter “the 1923 Act”]
- Comptroller & Auditor General (Amendment) Acts 1944 – 1964
- Comptroller & Auditor General (Amendment) Act 1993 [hereinafter “the 1993 Act”]
- Comptroller & Auditor General and Committees of the Houses of the Oireachtas (Special Provisions) Act, 1998 [hereinafter “the 1998 Act”]

Article 33 of the Constitution provides for the Office of the C&AG “*to control on behalf of the State all disbursements and to audit all accounts of moneys administered by or under the authority of the Oireachtas*”. Article 33 stipulates that the C&AG, who may not be a member of either House of the Oireachtas or hold any other office or position of emolument, shall be appointed by the President on the nomination of Dáil Éireann. He must report to the Dáil. His independence is secured by the Constitutional requirement that he cannot be removed from office except for stated misbehaviour or incapacity and then only upon resolutions passed by both Houses of the Oireachtas. The Constitution provides that otherwise the terms and conditions of the Office of C&AG are determined by law.

The 1866 Act created the first effective machinery for a retrospective annual audit of expenditure and for the UK Treasury to enforce standards of financial practice. It provided for the appointment, terms and conditions and functions of the C&AG. The 1866 Act also set out to regulate the receipt, custody and issue of public moneys, and to provide for the audit of the public accounts. The 1866 Act also set out that the C&AG’s investigations would be considered by a dedicated parliamentary committee, the Committee of Public Accounts (PAC).

The 1921 Act amended and updated certain provisions in the 1866 Act. Sections 1-6 set out detailed statutory functions of the C&AG in relation to his examination and audit of appropriation accounts, revenue accounts and other accounts including departmental stock and store and trading accounts. Sections 7-8 of the Act dealt with the salary of the C&AG and with staff of his office. These sections were superseded by the 1923 Act and subsequent amendments. The provisions of the 1921 Act were consolidated and updated in the 1993 Act.

The 1923 Act covered the terms and conditions of appointment of the C&AG. With the exception of section 4 (which deals with the powers of the Minister for Finance in relation to the appointment etc. of staff in the C&AG's Office), part of section 6 (relating to the power of the C&AG to regulate the conduct of the internal business of his Office), and part of section 7 (relating to the reporting duty to the Dáil of the C&AG), the greater part of this Act was consolidated and updated in the 1993 Act.

The Comptroller and Auditor General (Amendment) Acts 1944 – 64 amended and repealed earlier provisions in relation to the salary and pension of the C&AG. The Acts of 1944 – 1964 were repealed in total by the 1993 Act.

The purpose of the 1993 Act was to bring the legislation governing national audit up to date on the basis of a review carried out of developments here and abroad and to consolidate existing legislation relating to the functions of the C&AG. The Government published a White Paper entitled “The Role of the Comptroller & Auditor General” in order to give the background to its proposals for expanding the role of the C&AG as set out in the Comptroller & Auditor General (Amendment) Bill 1992. The text of the 1993 Act is at appendix 5.

Many of the legislative provisions contained 1866 Act have been repealed by subsequent legislation, such as the 1921 Act and the 1993 Act. However, it remains the situation that some of legislative provisions contained in the 1866 continue to remain extant.

Section 24 of the Exchequer and Audit Departments Act, 1866

As set out in earlier correspondence to the Committee of Public Accounts Section 24 of 1866 Act prescribes that the sums that have actually come in course of payment in a year should be shown in the Appropriation Account for that year. This means that all payments made by a Department/Office in the year must be recognised in the Appropriation Account for that year.

Payment procedures must not be initiated where a liability has not matured for payment. In the case of goods and services, payment is due when the goods or services have been provided satisfactorily and the supplier has submitted their account (which may be in electronic format) and when optimum advantage has been taken of the credit terms, if any, allowed by the supplier, at the same time avoiding the incurrence of any interest on late payments.

In the case of grant payments, payment is due when the grant or benefit payment has been fully approved and processed in accordance with the terms and conditions of the particular scheme and when the applicant has fulfilled all the necessary conditions. Effectively this means that Departments/Offices do not pay for goods or services in advance.

It is the case that regardless of whatever modernisation of the central Government Financial Reporting Framework takes place, if it is determined that central Government continues to account on a cash basis we will continue to look for that test to be honoured.