

## **Law No. (20) of the year 2013**

### **On the establishment of the Administrative Control Authority**

#### **The General National Congress:**

##### **Upon review of:**

- The temporary Constitutional Declaration issued on 3 August 2011 and the amendments thereof;
- General National Congress Decree No. (62) of 2013 on adopting the amendment of the General National Council's bylaws;
- The Penal Code and the Code of Criminal Procedure and the supplementary provisions thereto;
- The law of the financial system of the State of Libya, and budget, accounting and inventory regulation;
- Law No. (11) of 1996 on reorganizing popular inspection and the amendments thereof;
- The Justice System Law and the amendments thereof;
- Law No. (2) of 2007 on establishing and organizing the Financial Audit apparatus;
- Law No. (3) of 2007 on establishing and organizing the Financial Audit Authority;
- National Transitional Council Decree No. (119) of 2011 on establishing the Auditing Bureau and determining its powers;
- Law No. (12) of 2010 issuing the Labor Relations Law, and its executive

regulations;

- Law No. (19) of 2013 on reorganizing the Audit Bureau;
- And based on the conclusions of the General National Congress in its 99<sup>th</sup> ordinary session on 23/06/2013.

**Issued the following law:**

### **Chapter (1)**

#### **On the Establishment of the Administrative Control Authority**

##### **Article (1)**

An authority called the "Administrative Control Authority" shall be established in accordance with the provisions of this Law. It shall possess legal personality and independent financial liability. It shall be subordinate to the legislative authority.

##### **Article (2)**

The Administrative Control Authority shall be presided over by a chairman and one or more deputy heads. A sufficient number of members and employees shall be annexed to it. The chairman and deputy chairman shall be appointed for a period of three years, renewable once.

##### **Article (3)**

The Administrative Control Authority shall be presided over by a person renowned for competence, honesty, and integrity. He shall be appointed and relieved of his post and his resignation shall be accepted by virtue of a decision by the legislature. In terms of salary and benefits, he shall be treated like a minister.

##### **Article (4)**

The term of the chairman of Administrative Control Authority shall end for any of the following reasons:

1. Resignation
2. Attaining retirement age
3. Proven inability to perform duties due to medical reasons.
4. Consensual assignment to another position or duty.

5. Dismissal from service by virtue of a decision from the legislative authority.

**Article (5)**

The deputy chairman of the Administrative Control Authority shall be appointed by the State legislature. In terms of salary and financial benefits, he shall be treated as a deputy minister. He may only be dismissed from his position or transferred by virtue of a decision by the legislature, at the proposal of the chairman of the Administrative Control Authority. The executive regulation of this law shall determine the authority of the deputy chairman of the Administrative Control Authority.

**Article (6)**

The head, deputy head, and members of the Administrative Control Authority shall be Libyans holding graduate or university diplomas in law or any other scientific discipline required by the nature of the work of the Authority as determined by the chairman of the Authority for its members. Non-holders of the aforementioned diplomas may not be appointed as members or granted membership status in the Authority. In addition to the stipulations of this Article, candidates for any functions at the Authority shall have spent a minimum service period of three consecutive years in the field of the Authority.

Employees in administrative, clerical, and handicraft positions shall be exempt from the qualification requirement referred to.

**Article (7)**

A candidate for a nominated position of an investigative member at the Administrative Control Authority shall hold superior or university diplomas in law and shall have spent at least four years after obtaining the qualification in a regulatory administration or departments. Members of judicial bodies delegated to work at the Administrative Control Authority shall have spent the aforementioned period in their original function.

**Article (8)**

The chairman, deputy, and members of the Administrative Control Authority may not, while in office, engage in any public position or practice any other activity, be it commercial, industrial, or financial. They may not conclude any contract or commitment with the government or with public bodies or institutions, or serve as members on the boards of directors of companies and oversight and review committees. They may not purchase or rent, whether personally or by an intermediary, any government properties for the purpose of exploitation, even if

such is conducted through tenders. They may not sell or lease any of their properties to the government.

### **Article (9)**

The chairman of the Administrative Control Authority shall manage the Authority's affairs and handle the administrative and technical oversight of its work and employees. In this respect, he shall have the power of a minister as stipulated by the laws and regulations applicable to workers. He shall have the power vested in the Minister of Finance with respect to the use of appropriations in the Authority's budget. He shall, in particular:

1. Propose plans, programs, and methods for the exercise of oversight work and follow up on their implementation.
2. Form committees that undertake exercising their assigned tasks stipulated in this law.
3. Issue decisions regarding the granting of membership status and the status of judicial officers to the employees of the Authority and other members of the committees in charge of the tasks assigned to the Authority.
4. Propose the Authority's draft annual budget.
5. Issue regulations and decisions organizing the work of the Authority, the affairs of its members and staff, financial and administrative affairs, procurement, and contracting.
6. Represent the Authority in its relations with third parties and before the judiciary.
7. The chairman of the Authority may delegate some of these competences to his deputy and his deputy shall replace him in his absence.

### **Article (10)**

The Authority shall exercise the powers assigned to it under the provisions of this law, and shall consist of divisions determined, along with their competences, by a decision from the Authority chairman. The Authority chairman may also establish branches, offices, or units for the Authority in some cities and regions.

### **Article (11)**

The chairman, deputy, and members of the Administrative Control Authority shall have the capacity of judicial officers regarding the implementation of the provisions of the present law. Such capacity may also be granted to the Authority employees if required by the nature of their job by virtue of a decision issued by the Authority chairman.

### **Article (12)**

The members of the Administrative Control Authority are technical employees granted the status of membership by virtue of a decision issued by the Authority chairman. The executive regulation of this law shall determine the requirements to be granted membership.

### **Article (13)**

In cases other than *in flagrante delicto*, members of the Administrative Control Authority may only be apprehended or subjected to any investigation procedures by a written authorization of the Authority chairman. In cases of *in flagrante delicto*, the Authority chairman shall be notified within the twenty-four hours subsequent to the arrest.

### **Article (14)**

The appointment, promotion, reassignment -- whether within the Authority or outside it -- delegation, and secondment of members and employees of the Authority, as well as the acceptance of their resignation and termination of their service, shall be effected by a decision issued by the Authority chairman. The executive regulation shall determine the provisions and controls to improve the efficiency of the workers in the Authority to serve its objectives and fulfill the requirements of oversight activity.

### **Article (15)**

A committee for the members and employees of the Authority shall be formed by a decision issued by the Authority chairman, and it shall undertake the competences and powers provided for in the Labor Relations Act and the executive regulation of this law.

### **Article (16)**

The salaries of the employees of the Authority and other benefits granted to them shall be determined by virtue of a decision by the legislature, at the proposal of the chairman of the Authority.

### **Article (17)**

The Authority's employees shall have the right to healthcare, treatment, and compensation for injuries they suffer at or because of work without being personally responsible for them. The executive regulation of this law shall determine the rules and regulations necessary for this purpose.

A fund called the "Workers Fund" shall be formed in the Authority with the aim of providing social and cultural care and assistance to the Authority personnel. The Fund organization, management, identification of resources, and disbursement rules shall be determined by virtue of a decision from the Authority chairman.

### **Article (18)**

The provisions of the Labor Relations Act shall apply to the Authority chairman, deputy, members, and employees with regard to any issue not stipulated in a provision of this law.

### **Article (19)**

Before taking office, Authority members and employees shall take the legal oath to carry out their duties with honesty and integrity. The executive regulation of this law shall determine the text of the oath and the party before which the oath shall be taken.

### **Article (20)**

Disciplinary sanctions that may be imposed on the Authority members are as follows:

- Reprimand
- Warning
- Deduction of the salary for a period not exceeding one month per year
- Denial of annual bonuses for a period of two years
- Denial of promotion for a period of one year
- Withdrawal of membership
- Discharge.

The Authority chairman may impose the sanctions of reprimand, warning, or

salary deduction for a maximum period of fifteen days at a time. These sanctions may only be imposed after hearing the member and ensuring his defense through a committee formed by the Authority chairman and comprised of three members whose grades are not lower than that of the member referred to investigation.

#### **Article (21)**

The activities of the Authority and its technical employees shall be subject to inspection as stipulated by the executive regulation of this law.

#### **Article (22)**

The disciplinary trial of Authority members shall take place before a council comprised of:

- A Supreme Court counsellor delegated by the Court's general assembly (as chairman)
- A counsellor from the Court of Appeal delegated by the Court's general assembly (as member)
- A member of the Authority, whose grade shall be no less than 14, appointed by the

Authority chairman (as member)

The executive regulation of this law shall determine the procedures of the disciplinary trial.

#### **Article (23)**

The investigation procedures with non-member Authority employees, their disciplinary trials, and their penalties shall be in accordance with the provisions of the Labour Relations Law.

### **Chapter (2)**

#### **Objectives of the Administrative Control Authority**

#### **Article (24)**

The Authority aims to achieve an effective administrative control over the executive bodies in the state and monitor their works to confirm the extent to which they achieve their responsibilities and perform their duties in their areas of competence and implement the laws and regulations. It also aims to ensure that in

the performance of their works, employees strive to serve citizens. The Authority further works to detect and investigate crimes and offenses related to the performance of public functions duties and the dignity thereof, and to take the necessary measures to hold violators accountable.

In order to achieve these purposes, the Authority shall exercise the competencies stipulated in this law for ministries, authorities, local administration units, Libyan embassies and consulates overseas, public and private bodies and institutions of public interest, and private sector companies and agencies that exercise works for the aforementioned authorities, as well as the parties to which the State contributes or supervises.

### **Chapter (3)** **Competences of the Administrative Control Authority**

#### **Article (25)**

Without prejudice to the right of the administrative body to follow up, supervise, examine complaints, and investigate, the Authority shall exercise its competencies in these matters as specified below:

- Conduct the necessary investigations and periodically inspect all entities subject to its control to ensure that the performance of tasks assigned to them is in accordance with the legislation in force and that their employees are performing their jobs without mediation, favoritism, or abuse of their positions.
2. Follow up on the performance of these bodies, combat administrative lawlessness, and conduct necessary investigations to detect any administrative unfair practice contrary to laws and regulations against any of the workers.
3. Detect administrative crimes and violations committed by the workers of bodies that fall under the control of the Authority during the exercise of their work or because of it, and take the necessary measures to control such crimes and violations.
4. Detect crimes and violations committed by individuals who are not mentioned in the preceding paragraph, in the event they target the performance of job duties or public service or harm the public interest, and take the necessary measures to control such crimes and violations.
5. Conduct the necessary investigations to reveal the causes of deficiencies at



work in various fields performed by the state, uncover the defects of the applicable regulations that would obstruct the proper functioning of state facilities, and propose solutions to avoid defects.

6. Research and study the complaints and reports submitted by individuals, civil society organizations, or any party in the country to the Authority and act upon them in the light of the results of the research and study.
7. Study and discuss the complaints, investigations, media polls, views, and proposals relating to the functioning of the entities subject to the control of the Authority as published in newspapers and various media outlets.
8. Study laws, regulations, decisions, and systems in force to ensure their adequacy for the purposes for which they were legislated, propose amendments leading to avoid their shortcomings, investigate the causes of deficiencies, inaction, or deviation in application, and propose ways to correct and avoid them.
9. Provide an opinion about the candidates for senior posts at the request of the competent authorities.

#### **Article (26)**

The following bodies shall be subordinate to the control of the Administrative Control Authority:

1. The Cabinet, ministries, and all administrative units financed from the general budget.
2. The public bodies and institutions, authorities, independent bodies, and administrative units subordinate to the Cabinet and ministries.
3. Disciplinary agencies and entities.
4. Land, air, and sea ports of entry.
5. Public companies.
6. Companies in which the State or a public body, institution, or company contributes not less than 25% of its capital, whether inside or outside Libya.

7. Production companies, units, and services acquired if they did not yet pay their obligations for the acquisition.
8. The liquidation committees of public companies.
9. Private bodies, institutions, and associations of public interest that the State supports or contributes to their budget.
10. Libyan embassies and consulates abroad and the like.
11. Any other entity subject to the control of the Authority by virtue of a decision by the legislature or at the request of the government.

#### **Article (27)**

In order to exercise its competences, the Administrative Control Authority shall employ the necessary means to investigate, detect, and control violations, crimes, and shortcomings at work. For this purpose, the Authority may conduct individual oversight if there is a serious justification requiring it, provided this measure is taken by virtue of a written authorization from the Authority chairman.

#### **Article (28)**

The Administrative Control Authority may ask for police assistance to conduct the investigations and oversight referred to in the previous article. In all cases, a report indicating the incident and the outcome of the investigation, surveillance, or control conducted by the Authority shall be issued by security services.

#### **Article (29)**

The Administrative Control Authority shall take the necessary actions and measures to protect informants of crimes, witnesses, and experts from any attack because of what they have done to communicate, testify, or share expertise.

#### **Article (30)**

The Administrative Control Authority may, at any time, undertake a spot inspection of the entities subject to its control. The Authority member shall have the right to review all documents relating to those entities, even if they are confidential. It shall also have the right to keep the accounts, documents, records, and other papers and summon whoever it deems fit in order to hear his statement.

### **Article (31)**

Oversight and investigation personnel in the Authority may request that an employee be provisionally suspended from work for the public interest or the interest of the investigation, if there are substantial grounds for this action. The suspension decision shall be issued by the Authority chairman or his authorized representative, and the period of suspension may not be more than three months, except by virtue of a decision from the authority that is competent to discipline.

### **Article (32)**

If the Administrative Control Authority reveals actions that harmed public funds, whether movable or immovable, the Authority chairman may order the suspension of the person who caused the damage. He may also stop the disposition of funds from the bank accounts of the party that was harmed. Such funds shall not be released before ensuring that the damage has ceased and it is without prejudice to the provisions concerning criminal and disciplinary responsibility.

### **Article (33)**

In the event investigations or surveillance uncover matters requiring investigation, the Authority chairman or his deputy shall refer the documents to the competent investigating department in the Authority or to the Public Prosecutor, according to the case.

### **Article (34)**

The Authority shall investigate the financial and administrative violations committed by workers in entities that are subject to its oversight, whether they have been discovered and seized during the exercise of its duties or were referred to it by the competent authorities. Referral to investigation shall be decided by the Authority chairman or his authorized representative.

Investigation into financial violations attributed to employees and workers shall be conducted by the investigation member in the Authority. The executive regulation of this law shall determine the investigation procedures and the proceedings.

### **Article (35)**

The investigation member may summon the defendant, witnesses in the entities subject to the control of the Authority, and others connected to the facts of the investigation. He may also resort to experts if need be.

The provisions prescribed in the Code of Criminal Procedure shall apply to the defendant and the witnesses, including the arrest warrant. The provisions on judicial experience shall apply to the experts.

### **Article (36)**

The Administrative Control Authority shall notify the work entity that the defendant is subordinate to that he is being investigated, unless he was referred to investigation by the concerned entity.

### **Article (37)**

The defendant shall be notified of the investigation at least three days before it starts. He may attend all the investigation stages, unless it is in the investigation's interest that it is carried out in his absence.

### **Article (38)**

The Authority members may, without the permission of the Public Prosecution, inspect work places and other spaces used by staff accused of committing violations. The Authority may only conduct body searches and inspect the houses of the employees accused of violations after obtaining written permission from the Public Prosecution if there are substantial grounds to take this action, in accordance with the Code of Criminal Procedure. The Authority may resort to police officers during the inspection and a report shall be prepared to document the inspection, its result, and the presence or absence of the employee when it was conducted.

### **Article (39)**

Upon the completion of the investigation, the investigation member shall submit the case file to the director of the entity concerned with the investigation, with a memorandum containing the results of the investigation, its facts, characterization and his opinion, noting whether the defendant or defendants are provisionally suspended from work or not.

### **Article (40)**

If the Authority chairman or his authorized representative finds that the violation does not warrant a sanction beyond the sanctions that may be imposed by the entity to which the employee to be sanctioned is subordinate, the documents shall be referred to the entity in question to issue its decision as it sees fit. The entity shall notify the Authority of its decision within fifteen days from the date of issuance.

If the Authority chairman or his authorized representative finds that the violation warrants a sanction beyond the sanctions that may be imposed by the entity to which the employee who should be sanctioned is subordinate, the documents shall

be referred to the competent disciplinary board. The employee and the entity he is subordinate to shall be notified of such.

#### **Article (41)**

The decisions issued by the competent disciplinary boards shall be notified to the Administrative Control Authority within fifteen days from the date of issuance, in accordance with the provisions of the second paragraph of Article (40) of this law.

The Authority chairman or his authorized representative may appeal the decisions referred to before the competent court on the corresponding dates and in accordance with the procedures established for this purpose.

#### **Article (42)**

In the event the investigation reveals the occurrence of a criminal offense or the facts being investigated administratively constitute criminal offenses, the Authority shall refer the documents to the competent Public Prosecution within a period not exceeding one month to take legal action in their regard.

### **Chapter (4)**

#### **Disciplinary Board for Financial Violations**

##### **Article (43)**

A disciplinary board called the "Disciplinary Board for Financial Violations" shall be established in accordance with the provisions of this Law. It shall have the power to prosecute the employees and staff of the entities subject to the oversight of the Administrative Control Authority and the Audit Office for financial violations committed in violation of the provisions of the law of the financial system of the State of Libya and the regulations issued pursuant thereto and other financial violations stipulated in the legislation in force governing the work in the entities subject to the control of the Authority.

##### **Article (44)**

The Disciplinary Board for Financial Violations shall be comprised of:

1. A magistrate whose grade is no less a counselor in the competent Court of Appeals, selected by the Court general assembly, as chairman.
2. One of the members of the Audit Office whose grade is not less than thirteenth, appointed by the Audit Office chairman, as member.
3. One of the members of the Law Department, appointed by the Minister of Justice, as member.

4. An employee from the Ministry of Labor and Rehabilitation whose degree is not less than thirteenth, appointed by the Minister of Labor and Rehabilitation, as member.
5. An employee from the Ministry of Finance whose degree is not less than thirteenth, appointed by the Minister of Finance, as member.
6. The Board shall have a secretary from among the workers of the Authority selected by the Authority chairman.

If the person referred to disciplinary trial is a member of the Board, the relevant entity shall select a replacement. Membership in the Board shall not exceed two years. The Board shall be formed by virtue of a decision from the Authority chairman. Other Boards may be established, provided that the decision determines the jurisdiction of each board and the composition of these boards be according to the provisions of this Article.

Disciplinary trials for people selected from the legislature shall be before a board formed by virtue of a decision from the legislature.

#### **Article (45)**

The referral to the Disciplinary Board for Financial Violations shall be from the director of the department concerned with the investigation after the Authority chairman adopts the decision. The investigation member shall undertake the disciplinary proceedings before the Disciplinary Board for Financial Violations.

#### **Article (46)**

The Disciplinary Board for Financial Violations shall hold its meetings at the headquarters of the Administrative Control Authority or one of its branches. The meetings shall only be valid if attended by the chairman and at least three of its members. In the case of a tie vote, the side with which the chairman voted shall prevail. Meetings shall be confidential and its decisions shall be issued by the majority of members. The Board's decisions shall include the reasons they were based on and they shall be notified to the employee concerned within fifteen days from the date of issuance. The Board's decision shall be conclusive and may not be appealed except before the administrative judiciary. The executive regulation shall determine the disciplinary procedures not stipulated in the provisions of this law.

#### **Article (47)**

Testimonies before the disciplinary board shall be given after swearing the oath and with respect to absence, refraining from testimony, and false testimony, the provisions related thereto in the Penal Code and Criminal Procedure Code before the Court of Misdemeanors shall apply to witnesses. The boards shall have the powers prescribed for the Court of Misdemeanors in this regard.

#### **Article (48)**

The disciplinary sanctions that may be imposed by the Disciplinary Board for Financial Violations are as follows:

- Reprimand
- Warning
- Deduction of the salary for a period not exceeding one month per year
- Denial of promotion for a period of minimum one year and maximum three years
- Fine of one thousand LYD minimum and five thousand LYD maximum
- Demotion
- Dismissal

Such sanctions shall be imposed by virtue of a decision from the Disciplinary Board for Financial Violations. The employee's end of service shall not preclude his disciplinary trial before a disciplinary board. Compelling the entity to correct the violation upon notification shall not prejudice the implementation of the provisions of this Article.

#### **Article (49)**

A monthly bonus shall be granted to the chairman, members, and secretary of the Disciplinary Board, and its amount shall be determined by virtue of a decision by the chairman of the Administrative Control Authority.

**Chapter (5)**  
**Final and Transitional Provisions**  
**Article (50)**

The Cabinet, ministries, and their affiliated entities shall forward a copy of the minutes of their meetings and decisions upon issuance to the Administrative Control Authority. These entities shall also forward to the Authority copies of their letters that grant benefits, impose financial obligations, or include changes in powers and legal positions.

If the Authority finds that the decisions referred to it by the entities subject to its control violate the legislation in force, it shall appeal such decisions before the administrative judiciary circuits. The withdrawal of the appeal by the Authority shall require suspension of implementation of the contested decision pending the issuance of a final judgment on it.

**Article (51)**

The entities subject to the oversight of the Administrative Control Authority shall notify the latter of the violations that take place within them as they are uncovered. It shall also notify the Authority of the results of investigations into these violations. The Administrative Control Authority shall take the legal measures in their regard.

**Article (52)**

Entities subject to the oversight of the Administrative Control Authority shall study the observations and inquiries directed to them and respond to them on time. Any employee in the entities subject to the oversight of the Authority who have concealed information requested by the members of the Authority to undertake their works or refrain from submitting it or informing them of it, shall be punishable disciplinarily, as well as anyone who refrains with no acceptable excuse from implementing a summons to hear his accounts or who delays in responding to the remarks or correspondence of the Authority in general or fails to respond to them without an acceptable excuse.

**Article (53)**

The Administrative Control Authority may resort to the police and other regulatory services to undertake the tasks required for the implementation of the provisions of this law. It may also resort to experts in matters relating to its functions from people who do not work in the Authority. A decision in this regard shall be issued by the Authority chairman.



#### **Article (54)**

The reports prepared by the Administrative Control Authority shall constitute the body of the reports issued by Research and Judicial Expertise Centre.

#### **Article (55)**

The Administrative Control Authority shall develop its draft annual budget and submit it to the Minister of Finance no later than the thirty-first of August of each fiscal year. The Minister of Finance shall include the draft budget as prepared by the Authority in the state general budget. In the event the draft budget of the Authority includes an increase of the total allocations over the previous financial year, the Minister of Finance may seek clarifications and justifications for the increase from the Authority. In the event the increase is not approved, the matter shall be referred to the legislature to decide on it.

An ad hoc committee formed by virtue of a decision from the legislature shall review the accounts of the Authority and the decision shall set the review standards and regulations.

#### **Article (56)**

The Administrative Control Authority shall submit to the legislature an annual report on its works detailing its remarks and recommendations and noting the measures taken with regard to the violations and infractions revealed to it. The Authority may publish the violations it disciplined and the measures taken in their regard through various media outlets.

Whenever necessary, the Administrative Control Authority may submit to the concerned authorities a report on the issues and topics revealed by the oversight activity and which it finds important to the degree that they require speedy consideration.

#### **Article (57)**

Executive regulations and decisions in force related to the work of the Administrative Control Authority shall continue to be applied in accordance with the provisions of legislation, and that until the issuance of texts that amend or repeal them.

#### **Article (58)**

The executive regulation of this law shall be issued by virtue of a decision from the legislature at the proposal of the Authority chairman.

**Article (59)**

Workers and movable and immovable assets shall be distributed between the Audit Office and the Administrative Control Authority by a committee formed by virtue of a decision from the Presidency Office of the General National Congress (GNC), at the proposal of the follow-up committee of oversight agencies in the GNC.

**Article (60)**

This law shall enter into force from its date of issuance and it shall be published in the Official Gazette.

**General National Congress --  
Libya**

**Issued in Tripoli**

**On 23 Ramadan 1434 AH**

**Corresponding to 01/08/2013 AD**