



# Public Audit (Wales) Act 2004

## 2004 CHAPTER 23

### PART 2

#### LOCAL GOVERNMENT BODIES IN WALES

#### CHAPTER 1

#### ACCOUNTS AND AUDIT

#### *Local government bodies in Wales*

### 12 Local government bodies in Wales

- (1) In this Part “local government body in Wales” means any of these—
- (a) a local authority in Wales;
  - (b) a committee of a local authority in Wales (including a joint committee of two or more local authorities in Wales);
  - [<sup>F1</sup>(ba) a corporate joint committee;]
  - (c) a port health authority for a port health district wholly in Wales;
  - (d) a National Park authority for a National Park in Wales;
  - (e) a conservation board established by order of the Assembly under section 86 of the Countryside and Rights of Way Act 2000 (c. 37);
  - (f) a [<sup>F2</sup>police and crime commissioner] for a police area in Wales;
  - [<sup>F3</sup>(fa) a chief constable of a police force maintained under section 2 of the Police Act 1996 for a police area in Wales;]
  - (g) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;
  - (h) an internal drainage board for an internal drainage district wholly in Wales;
  - (i) a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43) for an area in Wales;

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*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)*

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- [<sup>F4</sup>(j) a Welsh probation trust (as defined by paragraph 13(6) of Schedule 1 to the Offender Management Act 2007).]
- (2) The Assembly may by order amend subsection (1) by—
- (a) adding a public body whose functions relate exclusively to Wales or an area of Wales;
  - (b) omitting a body;
  - (c) altering the description of a body.
- (3) In subsection (2) “public body” means a body which—
- (a) exercises functions of a public nature, or
  - (b) is entirely or substantially funded from public money.

#### Textual Amendments

- F1** S. 12(1)(ba) inserted (1.4.2021) by [The Public Audit \(Wales\) Act 2004 \(Amendment\) \(Local Government Bodies in Wales\) Order 2021 \(S.I. 2021/349\)](#), arts. 1(2), **2(2)**
- F2** Words in s. 12(1)(f) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 337(a)**; S.I. 2012/2892, art. 2(i)
- F3** S. 12(1)(fa) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 337(b)**; S.I. 2012/2892, art. 2(i)
- F4** S. 12(1)(j) inserted (1.3.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 5(6), 41(1), **Sch. 1 para. 13(5)(a)**; S.I. 2008/504, art. 2(a)

### *Audit of accounts*

#### [<sup>F5</sup>13 **Audit of accounts of local government bodies in Wales**

- (1) A local government body in Wales—
- (a) must make up its accounts each year to 31 March or such other date as the Welsh Ministers may generally or in any special case direct;
  - (b) must ensure that its accounts are audited in accordance with this Chapter.
- (2) The Auditor General for Wales must audit the accounts of local government bodies in Wales.]

#### Textual Amendments

- F5** S. 13 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), ss. **11(1)**, 35(2) (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1) (with art. 4(1))

#### [<sup>F6</sup>14 **Appointment of auditors**

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#### Textual Amendments

- F6** Ss. 14, 15 omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 21** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

*Changes to legislation:* There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)

**Modifications etc. (not altering text)**

- C1** S. 14 applied (1.4.2005) by Local Government Act 1999 (c. 27), s. 7(8B) (as inserted by Public Audit (Wales) Act 2004 (c. 23), ss. 50, 73, **Sch. 1 para. 5(12)**; S.I. 2005/558, **art. 2**, Sch. 1)

**F<sup>6</sup>15** **Persons to assist auditors**

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**Textual Amendments**

- F6** Ss. 14, 15 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 21** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F<sup>7</sup>16** **Code of audit practice**

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**Textual Amendments**

- F7** S. 16 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 22** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**17** [**F<sup>8</sup>**General duties on audit of accounts]

- (1) This section applies in relation to the audit of a body's accounts under this Chapter.
- (2) [**F<sup>9</sup>**The Auditor General for Wales must], by examination of the accounts and otherwise, satisfy himself of these things—
- (a) that the accounts are prepared in accordance with regulations under section 39;
  - (b) that they comply with the requirements of all other statutory provisions applicable to the accounts;
  - (c) that proper practices have been observed in the compilation of the accounts;
  - (d) that the body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources;
  - (e) that the body, if required to publish information in pursuance of a direction under section 47 (performance information) has made such arrangements for collecting and recording the information and for publishing it as are required for the performance of its duties under that section.

**F<sup>10</sup>**(3) .....

**F<sup>10</sup>**(4) .....

**Textual Amendments**

- F8** S. 17 heading substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 23(4)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F9** Words in s. 17(2) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 23(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

*Changes to legislation:* There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)

**F10** S. 17(3)(4) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 23(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F11 18 Auditors' rights to documents and information**

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**Textual Amendments**

**F11** Ss. 18, 19 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 24** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**Modifications etc. (not altering text)**

**C2** S. 18 applied (1.4.2005) by Local Government Act 1999 (c. 27), s. 7(3A) (as inserted by Public Audit (Wales) Act 2004 (c. 23), ss. 50, 73, **Sch. 1 para. 5(3)**; S.I. 2005/558, **art. 2**, Sch. 1)

**F11 19 Auditors' rights to documents and information: offences**

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**Textual Amendments**

**F11** Ss. 18, 19 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 24** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**Modifications etc. (not altering text)**

**C3** S. 19 applied (1.4.2005) by Local Government Act 1999 (c. 27), s. 7(3A) (as inserted by Public Audit (Wales) Act 2004 (c. 23), ss. 50, 73, **Sch. 1 para. 5(3)**; S.I. 2005/558, **art. 2**, Sch. 1)

**20 [F12 Fees in respect of functions exercised by the Auditor General for Wales]**

[F13(A1) The Wales Audit Office must, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013, charge a fee in respect of functions exercised by the Auditor General for Wales—

- (a) in auditing the accounts of local government bodies in Wales under this Chapter, and
- (b) in undertaking studies at the request of a local government body under section 44.]

(1) [F14The Wales Audit Office] must prescribe a scale or scales of fees payable for one or more financial years in respect of the audit of accounts of local government bodies in Wales under this Chapter.

(2) Before prescribing a scale of fees under subsection (1) [F15the Wales Audit Office] must consult—

- (a) any associations [F16of local government bodies] in Wales which appear to [F15the Wales Audit Office] to be concerned, and

[F17(b) such other persons as the Wales Audit Office thinks fit.]

F18(3) .....

*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)*

(4) A local government body in Wales must, subject to subsection (5), pay to [<sup>F19</sup>the Wales Audit Office] the fee payable in respect of the audit in accordance with the appropriate scale.

(5) If it appears to [<sup>F20</sup>the Wales Audit Office] that the work involved in a particular audit differed substantially from that envisaged by <sup>F21</sup>... the appropriate scale, [<sup>F20</sup>the Wales Audit Office] may charge a fee which differs from that referred to in subsection (4).

[<sup>F22</sup>(5A) But a fee charged under this section may not exceed the full cost of exercising the function to which it relates.]

<sup>F23</sup>(6) .....

#### Textual Amendments

- F12** S. 20 heading substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F13** S. 20(A1) inserted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F14** Words in s. 20(1) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(4)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F15** Words in s. 20(2) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(5)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F16** Words in s. 20(2)(a) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(5)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F17** S. 20(2)(b) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(5)(c)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F18** S. 20(3) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(6)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F19** Words in s. 20(4) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(7)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F20** Words in s. 20(5) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(8)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F21** Words in s. 20(5) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(8)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F22** S. 20(5A) inserted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(9)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F23** S. 20(6) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 25(10)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

#### Modifications etc. (not altering text)

- C4** S. 20(4)-(6) applied (31.1.2005) by Local Government Act 1999 (c. 27), s. 8A(4) (as inserted by Public Audit (Wales) Act 2004 (c. 23), ss. 50, 73, **Sch. 1 para. 7**; S.I. 2005/71, **art. 2**, Sch.)

#### Commencement Information

- I1** S. 20 partly in force; s. 20 not in force at Royal Assent see s. 73; s. 20(1)-(3) in force for certain purposes at 31.1.2005 by S.I. 2005/71, **art. 2**, Sch.; s. 20(4)-(6) in force at 1.4.2005 by S.I. 2005/558, **art. 2**, Sch. 1

<sup>F24</sup>**21 Fees prescribed by Assembly**

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*Changes to legislation:* There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)

#### Textual Amendments

**F24** S. 21 omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 26** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

#### Modifications etc. (not altering text)

**C5** S. 21 applied (with modifications) (1.4.2010) by Local Government (Wales) Measure 2009 (nawm 2), ss. 27(6), 53(2); S.I. 2009/3272, art. 3(1), **Sch. 2**

#### Commencement Information

**I2** S. 21 wholly in force at 1.4.2005; s. 21 not in force at Royal Assent see s. 73; s. 21(1)(2)(5) in force at 31.1.2005 by S.I. 2005/71, **art. 2, Sch.**; s. 21(3)(4) in force at 1.4.2005 by S.I. 2005/558, **art. 2, Sch. 1**

### *Auditors' reports and recommendations*

## 22 Immediate and other reports in public interest

- (1) In auditing accounts of a body under this Chapter, [<sup>F25</sup>the Auditor General for Wales] must consider whether, in the public interest, he should make a report on any matter which comes to his notice in the course of the audit, in order for it to be—
  - (a) considered by the body, or
  - (b) brought to the attention of the public.
- (2) If [<sup>F25</sup>the Auditor General for Wales] considers that, in the public interest, he should make a report such as is mentioned in subsection (1), he must consider whether the public interest requires the matter to be made the subject of an immediate report.
- (3) If [<sup>F25</sup>the Auditor General for Wales] considers that the public interest requires the matter to be made the subject of an immediate report, he must make the report immediately.
- (4) If [<sup>F25</sup>the Auditor General for Wales] considers that the public interest does not require the matter to be made the subject of an immediate report, he must make the report at the conclusion of the audit.
- (5) In a case within subsection (3), [<sup>F25</sup>the Auditor General for Wales] must send the report to the body<sup>F26</sup> ... immediately after making it.
- (6) In a case within subsection (4), [<sup>F25</sup>the Auditor General for Wales] must send the report to the body<sup>F27</sup> ... before the end of the period of 14 days starting with the day on which he concludes the audit.

#### Textual Amendments

**F25** Words in s. 22 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 27(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F26** Words in s. 22(5) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 27(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F27** Words in s. 22(6) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 27(4)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

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## 23 General report

- (1) This section applies if [<sup>F28</sup>the Auditor General for Wales] has concluded his audit of a body's accounts under this Chapter.
- (2) If a statement of accounts is required to be prepared by regulations under section 39, [<sup>F28</sup>the Auditor General for Wales] must enter on the statement—
  - (a) a certificate that he has completed the audit in accordance with this Chapter, and
  - (b) his opinion on the statement.
- (3) In any other case, [<sup>F28</sup>the Auditor General for Wales] must enter on the accounts—
  - (a) a certificate that he has completed the audit in accordance with this Chapter, and
  - (b) his opinion on the accounts.
- (4) But if [<sup>F28</sup>the Auditor General for Wales] makes a report under section 22 at the conclusion of the audit, he may include the certificate and opinion referred to in subsections (2) and (3) in the report instead of making an entry on the statement or accounts.

### Textual Amendments

**F28** Words in s. 23 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), Sch. 4 para. 28 (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

## 24 Consideration of reports in public interest

- (1) This section applies if [<sup>F29</sup>the Auditor General for Wales] makes a report under section 22 on a matter which comes to his notice in the course of the audit of the accounts of a body.
- (2) The body must take the report into consideration—
  - (a) as soon as practicable after receiving it, if the body is a body mentioned in subsection (3);
  - (b) in accordance with section 25, in any other case.
- (3) The bodies referred to in subsection (2)(a) are—
  - (a) a port health authority;
  - (b) a conservation board;
  - (c) an internal drainage board;
  - (d) a local probation board;
  - [<sup>F30</sup>(e) a probation trust.]
- (4) The agenda supplied to members of the body for the meeting of the body at which the report is to be considered must be accompanied by the report.
- (5) Subsection (6) applies to these powers—
  - (a) the power under section 1(4)(b) of the Public Bodies (Admission to Meetings) Act 1960 (c. 67) to exclude items from the matter supplied under that section (supply of agenda etc. to newspapers);



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- (b) the power under [F31section 100BA(2)] of the Local Government Act 1972 (c. 70) to—
  - (i) exclude documents from the documents [F32published under section 100BA(1)] of that Act, or
  - (ii) exclude items from the matter supplied under [F33section 100BA(9)] of that Act (public access to agenda and reports before meetings and supply of agenda etc. to newspapers).
- (6) The powers mentioned in subsection (5) do not include power to exclude the report.
- (7) Part 5A of the Local Government Act 1972 has effect in relation to the report as if [F34section 100C(1B)(d)] of that Act (public access to copies of reports for 6 years after meeting) were not limited to so much of the report as relates to an item during which the meeting was open to the public.

#### **Textual Amendments**

- F29** Words in s. 24 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\), s. 35\(2\), Sch. 4 para. 29](#) (with [Sch. 3 paras. 2, 3](#)); [S.I. 2013/1466, art. 3\(1\)](#)
- F30** S. 24(2)(e) inserted (1.3.2008) by [Offender Management Act 2007 \(c. 21\), ss. 5\(6\), 41\(1\), Sch. 1 para. 13\(5\)\(b\)](#); [S.I. 2008/504, art. 2\(a\)](#)
- F31** Words in s. 24(5)(b) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/356\), regs. 1\(2\), 2\(2\)\(a\)\(i\)](#) (with regs. 10, 11)
- F32** Words in s. 24(5)(b)(i) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/356\), regs. 1\(2\), 2\(2\)\(a\)\(ii\)](#) (with regs. 10, 11)
- F33** Words in s. 24(5)(b)(ii) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/356\), regs. 1\(2\), 2\(2\)\(a\)\(iii\)](#) (with regs. 10, 11)
- F34** Words in s. 24(7) substituted (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2021 \(S.I. 2021/356\), regs. 1\(2\), 2\(2\)\(b\)](#) (with regs. 10, 11)

## **25 Procedure for consideration of reports and recommendations**

- (1) This section applies if a body is required under section 24(2)(b) to take a report into consideration in accordance with this section.
- (2) This section also applies if [F35the Auditor General for Wales, in auditing] any accounts of a local government body in Wales—
  - (a) sends to the body a written recommendation, and
  - (b) states in the document containing the recommendation that in his opinion the recommendation should be considered in accordance with this section.
- (3) But subsection (2) does not apply if the body is—
  - (a) a port health authority;
  - (b) a conservation board;
  - (c) an internal drainage board;
  - (d) a local probation board;
  - [F36(e) a probation trust.]



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- (4) If this section applies, the body must consider the report or recommendation at a meeting held by it before the end of the period of one month starting with the day on which <sup>F37</sup>the Auditor General for Wales] sends the report or recommendation to it.
- (5) At the meeting the body must decide—
- (a) if a report under section 22 is considered at the meeting, whether the report requires it to take any action;
  - (b) if a recommendation within subsection (2) is considered at the meeting, whether the recommendation is to be accepted;
  - (c) what action (if any) to take in response to the report or recommendation.
- (6) <sup>F38</sup>The Auditor General for Wales] may extend the period of one month mentioned in subsection (4) in relation to a report or recommendation if he is satisfied that it is reasonable to allow the body more time to comply with its duties under subsections (4) and (5) in relation to the report or recommendation.
- (7) A period may be extended under subsection (6) more than once.
- (8) Nothing in section 101 of the Local Government Act 1972 (c. 70) (delegation of functions) applies to a duty imposed on a body by this section.
- <sup>F39</sup>(8A) Where a duty imposed on a body by this section is imposed on a corporate joint committee, the duty may not be discharged on behalf of the corporate joint committee by—
- (a) a sub-committee of the corporate joint committee, or
  - (b) any other person.]
- (9) This section does not affect any duties (so far as they relate to the subject-matter of a report or recommendation) imposed by or under—
- (a) this Act;
  - (b) sections 114 to 116 of the Local Government Finance Act 1988 (c. 41) (reports by chief finance officers);
  - (c) section 5 of the Local Government and Housing Act 1989 (c. 42) (functions of monitoring officers);
  - (d) any other enactment.

#### Textual Amendments

- F35** Words in s. 25(2) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 30\(2\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F36** S. 25(3)(e) inserted (1.3.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 5(6), 41(1), [Sch. 1 para. 13\(5\)\(c\)](#); S.I. 2008/504, [art. 2\(a\)](#)
- F37** Words in s. 25(4) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 30\(3\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F38** Words in s. 25(6) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 30\(4\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F39** S. 25(8A) inserted (1.4.2021) by [The Public Audit \(Wales\) Act 2004 \(Amendment\) \(Local Government Bodies in Wales\) Order 2021 \(S.I. 2021/349\)](#), arts. 1(2), [2\(3\)](#)

## 26 Publicity for meetings under section 25

- (1) This section applies if a body is required under section 25(4) to hold a meeting.

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- (2) The meeting may be held on a particular day only if, at least seven clear days before that day, a notice complying with subsection (3) has been published in a newspaper circulating in the area of the body.
- (3) A notice complies with this subsection if it—
- (a) states the time and place of the meeting, [<sup>F40</sup>(but where the meeting is to be held by a body mentioned in subsection (3A) through remote means only, there is no need for the notice to state the place of the meeting)]
  - [<sup>F41</sup>(aa) in the case of a meeting held through remote means by a body mentioned in subsection (3A), also gives details of how to access the meeting;]
  - (b) indicates that the meeting is to be held to consider [<sup>F42</sup>the Auditor General for Wales]’s report or recommendation (as the case may be), and
  - (c) describes the subject-matter of the report or recommendation.
- [<sup>F43</sup>(3A) The bodies referred to in subsection (3)(a) and (aa) are—
- (a) a local authority in Wales;
  - (b) a committee of a local authority in Wales (including a joint committee of two or more local authorities in Wales);
  - [ a corporate joint committee;]
- [<sup>F44</sup>(ba)
- (c) a National Park authority for a National Park in Wales;
  - (d) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies.]

[<sup>F43</sup>(3B) In subsection (3)(a) and (aa) the references to a meeting of a body held through remote means are to a meeting held by means of equipment or other facility which enables persons who are not in the same place to speak to and be heard by each other (whether or not the equipment or facility enables those persons to see and be seen by each other).]

(4) As soon as practicable after the meeting the body must—

    - (a) ensure that [<sup>F42</sup>the Auditor General for Wales] is notified of the decisions made by the body under section 25(5),
    - (b) obtain the approval of [<sup>F42</sup>the Auditor General for Wales] to a written summary of those decisions (“the approved summary”), and
    - (c) ensure that a notice containing the approved summary is published in one or more newspapers circulating in the area of the body.

(5) The approved summary need not summarise any decision made at the meeting while the public were excluded—

    - (a) under section 100A(2) of the Local Government Act 1972 (confidential information);
    - (b) in pursuance of a resolution under section 100A(4) of that Act (exempt information);
    - (c) in pursuance of a resolution under section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 (c. 67) (protection of public interest).

(6) But if sections 100C and 100D of the Local Government Act 1972 (c. 70) (availability for inspection [<sup>F45</sup>and publication] after meeting of minutes, background papers and other documents) apply in relation to the meeting the approved summary must indicate

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the documents in relation to the meeting which are [<sup>F46</sup>published electronically or] open for inspection under those sections.

- (7) This section does not affect any provisions made in relation to meetings of a body by section 24(4) to (7) or by or under—
- (a) the Local Government Act 1972;
  - (b) the Public Bodies (Admission to Meetings) Act 1960;
  - (c) any other enactment.

#### Textual Amendments

- F40** Words in s. 26(3)(a) inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/356), regs. 1(2), **2(3)(a)(i)** (with regs. 10, 11)
- F41** S. 26(3)(aa) inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/356), regs. 1(2), **2(3)(a)(ii)** (with regs. 10, 11)
- F42** Words in s. 26 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 31** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F43** S. 26(3A)(3B) inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/356), regs. 1(2), **2(3)(b)** (with regs. 10, 11)
- F44** S. 26(3A)(ba) inserted (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **29**
- F45** Words in s. 26(6) inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/356), regs. 1(2), **2(3)(c)(i)** (with regs. 10, 11)
- F46** Words in s. 26(6) inserted (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Miscellaneous Provisions) Regulations 2021 (S.I. 2021/356), regs. 1(2), **2(3)(c)(ii)** (with regs. 10, 11)

## 27 Additional publicity for immediate reports

- (1) This section applies where under section 22(5) [<sup>F47</sup>the Auditor General for Wales] has sent a report made under section 22(3) to a body.
- (2) From the time when the report is received by the body any member of the public may—
- (a) inspect the report at all reasonable times without payment;
  - (b) make a copy of the report or any part of it at all reasonable times without payment;
  - (c) require the body to supply him on payment of a reasonable sum with a copy of the report or any part of it.
- (3) On receiving a report sent to it under section 22(5) a body must immediately—
- (a) ensure that a notice is published in one or more newspapers circulating in the area of the body, and
  - (b) supply a copy of the report to every member of the body.
- (4) The notice published under subsection (3) must—
- (a) identify the subject-matter of the report, and

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- (b) state that any member of the public may inspect the report and make a copy of it or any part of it between such times and at such place or places as are specified in the notice.
- (5) [<sup>F48</sup>The Auditor General for Wales] may—
  - (a) notify any person that he has made the report;
  - (b) supply a copy of the report or of any part of it to any person.
- (6) A person who has custody of a report made under section 22(3) commits an offence if—
  - (a) he obstructs a person in the exercise of a right conferred by subsection (2) (a) or (b), or
  - (b) he refuses to comply with a requirement under subsection (2)(c).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) A body commits an offence if it fails to comply with a requirement of subsection (3).
- (9) A body guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) Nothing in this section affects the operation of section 24(4) to (7).

#### **Textual Amendments**

- F47** Words in s. 27(1) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 32\(2\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F48** Words in s. 27(5) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 32\(3\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

## **28 Additional publicity for non-immediate reports**

- (1) This section applies where under section 22(6) [<sup>F49</sup>the Auditor General for Wales] has sent a report made under section 22(4) to a body.
- (2) [<sup>F49</sup>the Auditor General for Wales] may—
  - (a) notify any person that he has made the report;
  - (b) publish the report;
  - (c) supply a copy of the report or any part of it to any person.
- (3) From the time when the report is sent to the body—
  - (a) [<sup>F49</sup>the Auditor General for Wales] must ensure that any member of the public may—
    - (i) inspect the report at all reasonable times without payment;
    - (ii) make a copy of the report or any part of it at all reasonable times without payment;
  - (b) any member of the public may require [<sup>F49</sup>the Auditor General for Wales] to supply him on payment of a reasonable sum with a copy of the report or any part of it.

<sup>F50</sup>(4) .....

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#### Textual Amendments

- F49** Words in s. 28 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 33(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F50** S. 28(4) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 33(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

*[<sup>F51</sup>Public inspection etc and action by the Auditor General for Wales]*

#### Textual Amendments

- F51** S. 29 crossheading substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 34(4)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

### 29 [<sup>F52</sup>Inspection of statements of accounts and Auditor General for Wales' reports]

- (1) A local government elector for the area of a local government body in Wales may—
- at all reasonable times and without payment inspect and make a copy of any statement of accounts prepared by the body under regulations made under section 39;
  - at all reasonable times and without payment inspect and make a copy of any report (other than a report under section 22(3)) made to the body by [<sup>F53</sup>the Auditor General for Wales];
  - require a copy of a statement or report falling within paragraph (a) or (b) to be delivered to him on payment of a reasonable sum for each copy.
- (2) A person who has custody of a document falling within paragraph (a) or (b) of subsection (1) commits an offence if—
- he obstructs a person in the exercise of a right under this section to inspect or make a copy of the document, or
  - he refuses to supply a copy of the document to a person entitled to the copy under subsection (1)(c).
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) In this section references to a copy of a document include a copy of any part of it.

#### Textual Amendments

- F52** S. 29 heading substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 34(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F53** Words in s. 29(1)(b) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 34(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

### 30 Inspection of documents and questions at audit

- (1) At an audit of accounts under this Chapter an interested person may—

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- (a) inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them;
  - (b) make a copy of all or any part of the accounts and of any of the other documents mentioned in paragraph (a).
- (2) At the request of a local government elector for any area to which accounts to be audited under this Chapter relate, [<sup>F54</sup>the Auditor General for Wales] must give the elector or any representative of his an opportunity to question [<sup>F55</sup>the Auditor General] about the accounts.
- (3) But nothing in this section entitles a person—
- (a) to inspect any accounts or other document relating to a body to the extent that the accounts contain, or the document contains, personal information;
  - (b) to require any personal information to be disclosed by [<sup>F56</sup>the Auditor General for Wales] in answer to any question.
- (4) In subsection (3) “personal information” means information relating to an individual which is available to the body for reasons connected with either of these—
- (a) the fact that the individual holds or has held an office or employment under the body;
  - (b) the fact that payments or other benefits are or have been made or provided to the individual by the body in respect of an office or employment under another person.
- (5) For the purposes of subsection (4) payments made or benefits provided to an individual in respect of an office or employment include any payment made or benefit provided to an individual in respect of his ceasing to hold the office or employment.

#### Textual Amendments

- F54** Words in s. 30(2) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 35(2)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F55** Words in s. 30(2) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 35(2)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F56** Words in s. 30(3) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 35(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

### 31 Right to make objections at audit

- (1) At an audit of accounts under this Chapter a local government elector for the area to which the accounts relate, or any representative of his, may make objections before [<sup>F57</sup>the Auditor General for Wales] as to—
- (a) any matter in respect of which [<sup>F57</sup>the Auditor General for Wales] has a power to apply for a declaration under section 32;
  - (b) any other matter in respect of which [<sup>F57</sup>the Auditor General for Wales] has the power to make a report under section 22.
- (2) A local government elector proposing to make an objection under subsection (1) must—
- (a) give written notice to [<sup>F57</sup>the Auditor General for Wales] of the proposed objection and the grounds on which it is to be made, and



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- (b) at the same time, send a copy of the notice to the body whose accounts are being audited.

#### Textual Amendments

**F57** Words in s. 31 substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), Sch. 4 para. 36 (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

### 32 Declaration that item of account is unlawful

- (1) Where it appears to [<sup>F58</sup>the Auditor General for Wales in] carrying out an audit under this Chapter that an item of account is contrary to law, [<sup>F59</sup>he] may apply to the court for a declaration that the item is contrary to law.
- (2) On an application under this section the court may make or refuse to make the declaration applied for.
- (3) If the court makes the declaration applied for it may also order rectification of the accounts.
- (4) If [<sup>F60</sup>the Auditor General for Wales] decides not to make an application for a declaration under this section in relation to an item of account, he must notify a person who has made an objection under section 31(1)(a) in relation to the item of account of his decision.
- (5) Subsection (4) does not apply if the person who has made the objection has failed to comply with section 31(2).
- (6) A person notified under subsection (4) of [<sup>F61</sup>the Auditor General for Wales]'s decision may require the auditor to state in writing the reasons for his decision before the end of the permitted period, which is 14 days starting with the day on which the person is notified of [<sup>F61</sup>the Auditor General for Wales]'s decision.
- (7) A person who receives reasons for [<sup>F61</sup>the Auditor General for Wales]'s decision under subsection (6) may appeal to the court against the decision before the end of the permitted period, which is 28 days starting with the day on which he receives the reasons.
- (8) On an appeal under subsection (7) the court has the same powers in relation to the item of account as it would have if [<sup>F61</sup>the Auditor General for Wales] had applied to the court for a declaration under subsection (1) in relation to the item of account.
- (9) On an application or appeal under this section relating to the accounts of a body, the court may make such order as it thinks fit for the payment by the body of expenses incurred in connection with the application or appeal by—
  - (a) [<sup>F61</sup>the Auditor General for Wales];
  - (b) the person by whom the appeal is brought.
- (10) The High Court and the county [<sup>F62</sup>court] have jurisdiction for the purposes of this section.



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### Textual Amendments

- F58** Words in s. 32(1) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 37\(2\)\(a\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F59** Word in s. 32(1) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 37\(2\)\(b\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F60** Words in s. 32(4) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 37\(3\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F61** Words in s. 32(6)-(9) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 37\(4\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F62** Word in s. 32(10) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 124](#); S.I. 2014/954, art. 2(c) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

### *Prevention of unlawful expenditure etc*

## 33 Advisory notices

- (1) [<sup>F63</sup>The Auditor General for Wales] may issue a notice under this section (an “advisory notice”) if he has reason to believe that one or more of the requirements specified in subsection (2) is met [<sup>F64</sup>in respect of a local government body in Wales].
- (2) The requirements are that—
- (a) the body or an officer of the body is about to make or has made a decision which involves or would involve the body incurring expenditure which is unlawful;
  - (b) the body or an officer of the body is about to take or has begun to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency;
  - (c) the body or an officer of the body is about to enter an item of account, the entry of which is unlawful.
- (3) For the purposes of this section and section 34 the actions of any of these are to be treated as the actions of a body—
- (a) a committee or sub-committee of the body;
  - (b) a person (other than an officer of the body) authorised to act on behalf of the body.
- (4) An advisory notice is a notice which meets these requirements—
- (a) it is addressed to the body or officer;
  - (b) it specifies which of the requirements specified in subsection (2) is met and the decision, course of action or item of account to which the notice relates;
  - (c) it specifies that the notice will take effect on the day a copy of it is served on the person to whom it is addressed;
  - (d) it requires the body or officer to give [<sup>F65</sup>the Auditor General for Wales] not less than the specified period of notice in writing of the intention of the body or officer to—
    - (i) make or implement the decision to which the notice relates,
    - (ii) take or continue to take the course of action to which the notice relates,
 or

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- (iii) enter the item of account to which the notice relates.
- (5) For the purposes of subsection (4)(d) the specified period of notice is the period (not exceeding 21 days) specified in the advisory notice.
- (6) A copy of an advisory notice—
- (a) must be served on the body to which, or to an officer of which, it is addressed;
  - (b) if the notice is addressed to an officer, must be served on him;
  - (c) may be served on any other person considered appropriate by [<sup>F66</sup>the Auditor General for Wales].
- (7) [<sup>F67</sup>The Auditor General for Wales] must before the end of the required period serve a statement of his reasons for the belief referred to in subsection (1) on—
- (a) the body, and
  - (b) if the advisory notice is addressed to an officer of the body, the officer.
- (8) The required period for the purposes of subsection (7) is 7 days starting on the day on which a copy of the advisory notice was served on the person to whom it is addressed.
- (9) A document to be served on an officer of a body under this section must be served on him by addressing it to him and—
- (a) delivering it to him at an office of the body at which he is employed,
  - (b) leaving it at such an office, or
  - (c) sending it by post to such an office.
- (10) An advisory notice may at any time be withdrawn by [<sup>F68</sup>the Auditor General for Wales].
- (11) [<sup>F69</sup>The Auditor General for Wales] must give notice in writing of the withdrawal to any body or person on whom a copy of the advisory notice was served under subsection (6).
- <sup>F70</sup>(12) .....

#### Textual Amendments

- F63** Words in s. 33(1) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(2)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F64** Words in s. 33(1) inserted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(2)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F65** Words in s. 33(4)(d) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F66** Words in s. 33(6)(c) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(4)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F67** Words in s. 33(7) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(5)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F68** Words in s. 33(10) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(6)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F69** Words in s. 33(11) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(7)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F70** S. 33(12) omitted (1.4.2014) by virtue of Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 38(8)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

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### 34 Effect of an advisory notice

- (1) Subsections (2) to (4) apply while an advisory notice has effect.
- (2) If the advisory notice relates to a decision, it is not lawful for the body concerned or an officer of the body to make or implement the decision unless and until the conditions set out in subsection (5) are met.
- (3) If the advisory notice relates to a course of action, it is not lawful for the body concerned or an officer of the body to take or continue to take the course of action unless and until the conditions set out in subsection (5) are met.
- (4) If the advisory notice relates to an item of account, it is not lawful for the body concerned or an officer of the body to enter the item of account unless and until the conditions set out in subsection (5) are met.
- (5) The conditions are—
  - (a) that the body has considered, in the light of the advisory notice and the statement under section 33(7), the consequences of doing the thing mentioned in whichever of subsections (2) to (4) is applicable;
  - (b) that the body or officer has given [<sup>F71</sup>the Auditor General for Wales] the period of notice in writing required by the advisory notice under section 33(4)(d);
  - (c) that that period has expired.
- (6) An advisory notice takes effect on the day on which a copy of the notice is served on the person to whom it is addressed.
- (7) An advisory notice ceases to have effect—
  - (a) if a statement of reasons is not served in accordance with section 33(7), at the end of the period specified in section 33(8);
  - (b) in any other case, when it is withdrawn under section 33(10).
- (8) [<sup>F72</sup>The Wales Audit Office] may recover from the body concerned any expenses reasonably incurred [<sup>F73</sup>by the Auditor General for Wales] in or in connection with the issue of an advisory notice.
- (9) In this section “the body concerned”, in relation to an advisory notice, means the body to which, or to an officer of which, the notice is addressed.

#### Textual Amendments

- F71** Words in s. 34(5)(b) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 39(2)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F72** Words in s. 34(8) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 39(3)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)
- F73** Words in s. 34(8) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 39(3)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

### 35 Advisory notices: legal actions

- (1) Subsection (2) applies if—
  - (a) before an advisory notice is served, a body enters into a contract to dispose of or acquire an interest in land, and

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- (b) before the disposal or acquisition is completed, an advisory notice takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition.
- (2) The existence of the advisory notice does not prejudice any remedy in damages which may be available to any person as a result of the body's failure to complete the contract.
- (3) No action lies against [<sup>F74</sup>the Auditor General for Wales] in respect of loss or damage alleged to have been caused as a result of the issue of an advisory notice which was issued in good faith.

#### Textual Amendments

**F74** Words in s. 35(3) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 40** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

### 36 Power of auditor to make a claim for judicial review

- (1) [<sup>F75</sup>The Auditor General for Wales] may make a claim for judicial review with respect to a decision of [<sup>F76</sup>a local government body in Wales] or a failure of the body to act, if it is reasonable to believe that the decision or failure to act would have an effect on the body's accounts.
- (2) Subsection (1) is subject to section 31(3) of the [<sup>F77</sup>Senior Courts Act 1981] (no claim for judicial review without permission of court).
- (3) The existence of the powers conferred on [<sup>F78</sup>the Auditor General for Wales] under this Part is not a ground for refusing—
- (a) a claim falling within subsection (1), or
  - (b) an application for permission to make a claim falling within subsection (1).
- (4) On a claim by [<sup>F79</sup>the Auditor General for Wales] for judicial review with respect to a decision of a body or a failure of a body to act, the court may make any order it thinks fit for the payment by the body of expenses incurred by [<sup>F80</sup>the Auditor General for Wales or the Wales Audit Office] in connection with the claim.

#### Textual Amendments

**F75** Words in s. 36(1) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 41(2)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F76** Words in s. 36(1) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 41(2)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F77** Words in s. 36(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2**

**F78** Words in s. 36(3) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 41(3)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F79** Words in s. 36(4) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 41(4)(a)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

**F80** Words in s. 36(4) substituted (1.4.2014) by Public Audit (Wales) Act 2013 (anaw 3), s. 35(2), **Sch. 4 para. 41(4)(b)** (with Sch. 3 paras. 2, 3); S.I. 2013/1466, art. 3(1)

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*Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)*

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### *Miscellaneous*

#### **37 Extraordinary audit**

- (1) The Auditor General for Wales may <sup>F81</sup>... hold an extraordinary audit of the accounts of a local government body in Wales if the condition in subsection (2) or the condition in subsection (3) is met.
- (2) The condition is that it appears to the Auditor General for Wales to be desirable to hold an extraordinary audit of the body's accounts.
- (3) The condition is that an application for an extraordinary audit of the body's accounts is made by a local government elector for the area of the body.
- (4) [<sup>F82</sup>the Welsh Ministers] may require the Auditor General for Wales to <sup>F83</sup>... hold an extraordinary audit of the accounts of a local government body in Wales if it appears to [<sup>F82</sup>the Welsh Ministers] to be desirable in the public interest for an extraordinary audit of the body's accounts to be held.
- (5) These provisions apply to an extraordinary audit under this section as they apply to an ordinary audit under this Chapter—
  - <sup>F84</sup>(a) .....
  - (b) sections 17 to 19;
  - (c) sections 22 to 28;
  - (d) sections 31 and 32.
- (6) An extraordinary audit of a body's accounts may be held under this section only if 3 clear days' notice in writing of the audit is given to the body.
- (7) The expenditure incurred in holding an extraordinary audit of a body's accounts under this section must be met in the first instance by the Auditor General for Wales.
- (8) [<sup>F85</sup>The Wales Audit Office] may recover all or part of the expenditure from the body.

#### **Textual Amendments**

- F81** Words in s. 37(1) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 42\(3\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F82** Words in s. 37 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 42\(2\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F83** Words in s. 37(4) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 42\(4\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F84** S. 37(5)(a) omitted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 42\(5\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F85** Words in s. 37(8) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 42\(6\)](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

#### **38 Audit of accounts of officers**

- (1) This section applies if an officer of a local government body in Wales receives money or other property—
  - (a) on behalf of the body, or
  - (b) for which he ought to account to the body.

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*Changes to legislation:* There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)

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- (2) [<sup>F86</sup>the Auditor General for Wales] must audit the officer's accounts.
- (3) These provisions apply with the necessary modifications to the accounts and audit—
  - (a) section 13(1);
  - (b) sections 17 to 24;
  - (c) sections 27 to 32;
  - (d) section 37;
  - (e) section 39.

#### Textual Amendments

**F86** Words in s. 38(2) substituted (1.4.2014) by virtue of [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), [Sch. 4 para. 43](#) (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

### 39 Accounts and audit regulations

- (1) The [<sup>F87</sup>Welsh Ministers] may by regulations applying to local government bodies in Wales make provision with respect to—
  - (a) the keeping of accounts;
  - (b) the form, preparation and certification of accounts and of statements of accounts;
  - (c) the deposit of the accounts of a body at the offices of the body or at another place;
  - (d) the publication of information relating to accounts and the publication of statements of accounts;
  - (e) the exercise of any rights of objection or inspection conferred by section 29, 30 or 31 and the steps to be taken by a body for informing local government electors for the area of the body of those rights.
- (2) Before making any regulations under this section the [<sup>F87</sup>Welsh Ministers] must consult—
  - (a) the Auditor General for Wales,
  - (b) any associations of local authorities in Wales which appear to [<sup>F88</sup>them] to be concerned, and
  - (c) any bodies of accountants which appear to [<sup>F88</sup>them] to be appropriate.
- (3) A person commits an offence if—
  - (a) without reasonable excuse he contravenes a provision of regulations under this section, and
  - (b) the regulations declare that contravention of the provision is an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Subsection (6) applies if—
  - (a) a person is convicted of committing an offence under subsection (3) in relation to a body, and
  - (b) expenses are incurred by [<sup>F89</sup>the Auditor General for Wales or the Wales Audit Office] in connection with proceedings for the offence.



*Changes to legislation:* There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)

- (6) The expenses may be recovered [<sup>F90</sup>by the Wales Audit Office] from the convicted person or the body, to the extent that they are not recovered from any other source.

#### Textual Amendments

- F87** Words in s. 39 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 44(2)** (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F88** Word in s. 39(2) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 44(3)** (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F89** Words in s. 39(5)(b) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 44(4)** (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F90** Words in s. 39(6) inserted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 44(5)** (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)

#### Commencement Information

- I3** S. 39 partly in force; s. 39 not in force at Royal Assent see s. 73; s. 39 in force for specified purposes at 31.1.2005 by [S.I. 2005/71](#), **art. 2, Sch.**; s. 39 in force for further specified purposes at 1.4.2005 by [S.I. 2005/558](#), **art. 2, Sch 1**

## 40 Documents relating to [<sup>F91</sup>police and crime commissioners and chief constables]

- (1) If the Auditor General for Wales [<sup>F92</sup>makes a report under section 22] and the report relates to a [<sup>F93</sup>police and crime commissioner for, or the chief constable of a police force maintained under section 2 of the Police Act 1996 for,] a police area in Wales, he must send a copy of the report to the Secretary of State and the [<sup>F94</sup>Welsh Ministers].
- (2) If the Auditor General for Wales has sent a document (or a copy of a document) relating to one or more [<sup>F95</sup>police and crime commissioners] for police areas in Wales to a [<sup>F96</sup>police and crime commissioner] for a police area in Wales, he may send a copy of the document to the Secretary of State and the [<sup>F94</sup>Welsh Ministers].
- [<sup>F97</sup>(3) If the Auditor General for Wales has sent a document (or a copy of a document) relating to one or more chief constables of police forces maintained under section 2 of the Police Act 1996 for a police area in Wales, the Auditor General may send a copy of the document to the persons to whom a copy of a document may be sent under subsection (2).]

#### Textual Amendments

- F91** Words in s. 40 title substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 338(2)**; S.I. 2012/2892, art. 2(i)
- F92** Words in s. 40(1) substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 45(3)** (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F93** Words in s. 40(1) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 338(3)**; S.I. 2012/2892, art. 2(i)
- F94** Words in s. 40 substituted (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 45(2)** (with [Sch. 3 paras. 2, 3](#)); S.I. 2013/1466, art. 3(1)
- F95** Words in s. 40(2) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 338(4)(a)**; S.I. 2012/2892, art. 2(i)
- F96** Words in s. 40(2) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 338(4)(b)**; S.I. 2012/2892, art. 2(i)



**Changes to legislation:** There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1. (See end of Document for details)

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**F97** S. 40(3) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), Sch. 16 para. 338(5); S.I. 2012/2892, art. 2(i)

**Changes to legislation:**

There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Chapter 1.