



# Budget Responsibility and National Audit Act 2011

## 2011 CHAPTER 4

### PART 2

#### NATIONAL AUDIT

##### *Comptroller and Auditor General*

#### **11 Office of Comptroller and Auditor General**

- (1) The office of Comptroller and Auditor General (or, in Welsh, Rheolwr ac Archwilydd Cyffredinol) is to continue.
- (2) It is for Her Majesty by Letters Patent to appoint a person to be Comptroller and Auditor General.
- (3) Her Majesty's power is exercisable on an address of the House of Commons.
- (4) It is for the Prime Minister to move the motion for the address.
- (5) To do so the Prime Minister must have the agreement of the person who chairs the Committee of Public Accounts.
- (6) The person appointed holds office for 10 years.
- (7) The person may not be appointed again.

#### **Commencement Information**

**11** S. 11 in force at 1.4.2012 by [S.I. 2011/2576, art. 5](#)

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## 12 Status etc

- (1) The Comptroller and Auditor General continues by that name to be a corporation sole.
- (2) The Comptroller and Auditor General continues to be an officer of the House of Commons.

But section 4(4) of the House of Commons (Administration) Act 1978 (which provides for the application of provisions of that Act to staff employed in or for the purposes of the House of Commons) does not apply in relation to the office of Comptroller and Auditor General.

- (3) The person who is Comptroller and Auditor General may not be a member of the House of Lords.
- (4) The Comptroller and Auditor General is not to be regarded—
  - (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (5) The person who is Comptroller and Auditor General may not hold any other office or position to which a person may be appointed, or recommended for appointment, by or on behalf of the Crown.

### Commencement Information

**12** S. 12 in force at 1.4.2012 by S.I. 2011/2576, art. 5

## 13 Remuneration arrangements

- (1) Before a person is appointed as Comptroller and Auditor General, remuneration arrangements are to be made in relation to the person jointly by the Prime Minister and the person who chairs the Committee of Public Accounts.
- (2) The remuneration arrangements—
  - (a) may make provision for a salary, allowances, arrangements for a pension and other benefits, and
  - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
- (3) But no element is to be performance-based.
- (4) The arrangements may in particular make provision for the principal civil service pension scheme (as defined in section 2(10) of the Superannuation Act 1972) to apply to service as Comptroller and Auditor General as if it were service in employment in the civil service of the State.
- (5) Amounts payable by virtue of this section are to be charged on, and paid out of, the Consolidated Fund.
- (6) The Treasury may by statutory instrument make regulations for purposes supplementary to this section so far as it relates to arrangements for pensions.
- (7) Regulations under subsection (6) may provide for a statutory provision not to apply, or to apply with modifications, in relation to arrangements for a pension payable to the Comptroller and Auditor General, including, in a case where provision within

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subsection (4) has been made, for the principal civil service pension scheme to apply with modifications.

- (8) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of the House of Commons.

**Commencement Information**

**I3** S. 13 in force at 1.1.2012 by S.I. 2011/2576, art. 3(a) (with art. 4)

**14 Resignation or removal**

- (1) The Comptroller and Auditor General may resign from office by giving written notice to the Prime Minister.
- (2) Her Majesty may remove the Comptroller and Auditor General from office on an address of both Houses of Parliament.

**Commencement Information**

**I4** S. 14 in force at 1.4.2012 by S.I. 2011/2576, art. 5

**15 Employment etc of former Comptroller and Auditor General**

- (1) This section applies to a person who was appointed as Comptroller and Auditor General under this Part but who no longer holds that office.
- (2) Before—
- (a) taking up an office or position of a description specified by the Public Accounts Commission, or
  - (b) entering into an agreement or other arrangements of such a description, the person must consult such person as is specified by the Commission.
- (3) Subsections (4) and (5) apply for the period of 2 years starting with the day after that on which the person ceased to be Comptroller and Auditor General.
- (4) The person must not—
- (a) hold an office or position to which a person may be appointed, or recommended for appointment, by or on behalf of the Crown, or
  - (b) be a member, director, officer or employee of a body or other person whose accounts are required by a statutory provision to be audited or examined by, or to be open to the inspection of, the Comptroller and Auditor General.
- (5) The person must not, in any capacity, provide services to—
- (a) the Crown or any body or other person acting on behalf of the Crown, or
  - (b) a body or other person whose accounts are required by a statutory provision to be audited or examined by, or to be open to the inspection of, the Comptroller and Auditor General.
- (6) But subsections (4) and (5) do not prevent a person from holding any of the following offices—
- (a) Auditor General for Scotland;

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- (b) Auditor General for Wales;
- (c) Comptroller and Auditor General for Northern Ireland.

**Commencement Information**

**I5** S. 15 in force at 1.4.2012 by S.I. 2011/2576, art. 5

**16 Provision of services**

The Comptroller and Auditor General may provide services to any person in any place within or outside the United Kingdom under agreements or other arrangements entered into by the Comptroller and Auditor General.

**Commencement Information**

**I6** S. 16 in force at 1.4.2012 by S.I. 2011/2576, art. 5

**17 How functions are to be exercised**

- (1) The Comptroller and Auditor General has complete discretion in the carrying out of the functions of that office, including in determining whether to carry out an examination under Part 2 of the National Audit Act 1983 and as to the manner in which any such examination is carried out.
- (2) Subsection (1) is subject to—
  - (a) subsections (3) and (4), and
  - (b) any other statutory provision.
- (3) The Comptroller and Auditor General must aim to carry out functions efficiently and cost-effectively.
- (4) The Comptroller and Auditor General must, as the Comptroller and Auditor General considers appropriate, have regard to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow.
- (5) For further provision that affects the carrying out of the Comptroller and Auditor General's functions, see (in particular)—
  - (a) section 7A of the National Audit Act 1983 (inserted by section 18 of this Act), which requires the Comptroller and Auditor General to have regard to certain proposals made by the Committee of Public Accounts;
  - (b) section 20 and Schedule 2, which provide for the establishment of a body corporate called the National Audit Office and for the Comptroller and Auditor General to be one of the body's nine members and its chief executive;
  - (c) Schedule 3, which makes provision about the relationship between the National Audit Office and the Comptroller and Auditor General.

**Commencement Information**

**I7** S. 17 in force in so far as not already in force at 1.4.2012 by S.I. 2011/2576, art. 5

**I8** S. 17 in force for specified purposes at 1.1.2012 by S.I. 2011/2576, art. 3(b) (with art. 4)

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## 18 Economy, efficiency and effectiveness examinations

In Part 2 of the National Audit Act 1983 (economy, efficiency and effectiveness examinations), after section 7 insert—

### “7A Proposals made by Committee of Public Accounts

In determining whether to carry out any examination under this Part, the Comptroller and Auditor General must have regard to any proposals made by the Committee of Public Accounts.”

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#### Commencement Information

**I9** S. 18 in force at 1.4.2012 by S.I. 2011/2576, art. 5

## 19 Auditing of companies

In section 25 of the Government Resources and Accounts Act 2000 (examinations by Comptroller and Auditor General), after subsection (10) insert—

“(11) Subsection (10)(c) does not apply to an order under subsection (6) if the only bodies to which the order relates are bodies which are companies as defined in section 1(1) of the Companies Act 2006.

See sections 475 and 482 of that Act for provision about the interaction between Part 16 of that Act (audit) and orders under subsection (6).

(12) An order to which subsection (10)(c) does not apply by virtue of subsection (11) is subject to annulment in pursuance of a resolution of either House of Parliament.”

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#### Commencement Information

**I10** S. 19 in force at 1.11.2011 by S.I. 2011/2576, art. 2(a)

### *National Audit Office*

## 20 Incorporation of NAO

(1) There is to be a body corporate called the National Audit Office (or, in Welsh, Y Swyddfa Archwilio Genedlaethol).

(2) In this Part “NAO” means the National Audit Office.

(3) Schedule 2 contains provision about NAO.

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#### Commencement Information

**I11** S. 20(1)(2) in force at 1.11.2011 by S.I. 2011/2576, art. 2(b)

**I12** S. 20(3) in force in so far as not already in force at 1.1.2012 by S.I. 2011/2576, art. 3(c) (with art. 4)

**I13** S. 20(3) in force for specified purposes at 1.11.2011 by S.I. 2011/2576, art. 2(c)

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## 21 Efficiency etc

NAO must aim to carry out its functions efficiently and cost-effectively.

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### Commencement Information

**I14** S. 21 in force at 1.4.2012 by S.I. 2011/2576, art. 5

## 22 Relationship with Comptroller and Auditor General

Schedule 3 contains provision about the relationship between NAO and the Comptroller and Auditor General.

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### Commencement Information

**I15** S. 22 in force in so far as not already in force at 1.4.2012 by S.I. 2011/2576, art. 5

**I16** S. 22 in force for specified purposes at 1.1.2012 by S.I. 2011/2576, art. 3(d) (with art. 4)

## 23 NAO's expenditure

- (1) NAO's expenditure is to be paid out of money provided by Parliament.  
(But see sections 13(5) and 24(1) and paragraph 6(2) of Schedule 2.)
- (2) For each financial year NAO and the Comptroller and Auditor General must jointly prepare an estimate of NAO's use of resources.
- (3) This must cover (in particular) the resources required for the purposes of paragraph 2(1) of Schedule 3 (which requires NAO to provide resources for the Comptroller and Auditor General's functions).
- (4) The person who chairs NAO and the Comptroller and Auditor General must jointly submit the estimate to the Public Accounts Commission.
- (5) The Commission must—
  - (a) review the estimate, and
  - (b) lay it before the House of Commons with such modifications (if any) as the Commission considers appropriate.
- (6) In doing this the Commission must have regard to any advice given by the Committee of Public Accounts or the Treasury.

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### Commencement Information

**I17** S. 23 in force in so far as not already in force at 1.4.2012 by S.I. 2011/2576, art. 5

**I18** S. 23 in force for specified purposes at 1.1.2012 by S.I. 2011/2576, art. 3(h) (with art. 4)

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### *Miscellaneous and supplementary*

## **24 Indemnification**

- (1) There is to be charged on and paid out of the Consolidated Fund any amount payable by an indemnified person in consequence of any liability for breach of duty (whether under a contract or otherwise) incurred by an indemnified person in relation to any audit, examination or inspection carried out as part of the Comptroller and Auditor General's functions.
- (2) The liability must not be to another indemnified person.
- (3) The following are indemnified persons—
  - (a) the Comptroller and Auditor General;
  - (b) NAO;
  - (c) a past or present member of NAO;
  - (d) a past or present employee of NAO.

#### **Commencement Information**

**I19** S. 24 in force at 1.4.2012 by S.I. 2011/2576, art. 5

## **25 Interpretation**

- (1) In this Part—
  - “NAO” has the meaning given by section 20(2);
  - “Public Accounts Commission” means the body established by section 2 of the National Audit Act 1983;
  - “statutory provision” means a provision of an Act or subordinate legislation (within the meaning of section 21(1) of the Interpretation Act 1978), whenever passed or made;
  - “use of resources” is to be read in accordance with section 27 of the Government Resources and Accounts Act 2000.
- (2) For the purposes of this Part each of the following is a financial year—
  - (a) the period which begins with the appointed day and ends with the following 31 March;
  - (b) each successive period of 12 months.
- (3) In paragraph (a) of subsection (2) “the appointed day” means the day appointed for the purposes of that paragraph by an order made by the Treasury by statutory instrument.
- (4) Section 13 of the National Audit Act 1983 (interpretation of references to Committee of Public Accounts) applies for the purposes of this Part as it applies for the purposes of that Act.

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

**C1** S. 25(2)(a): 1.4.2012 appointed by S.I. 2012/727, art. 2

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**Commencement Information**

**I20** S. 25 in force at 1.11.2011 by S.I. 2011/2576, art. 2(f)

**26 Transitional provision and consequential amendments**

- (1) Schedule 4 contains transitional provision.
- (2) Schedule 5 contains consequential amendments.

**Commencement Information**

- I21** S. 26(1) in force in so far as not already in force at 1.4.2012 by S.I. 2011/2576, art. 5
- I22** S. 26(1) in force for specified purposes at 1.1.2012 by S.I. 2011/2576, art. 3(i) (with art. 4)
- I23** S. 26(2) in force at 1.4.2012 by S.I. 2011/2576, art. 5

*Auditor General for Wales*

**27 Powers of National Assembly for Wales**

Schedule 6 contains provision amending the Government of Wales Act 2006.



**Changes to legislation:**

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