

# **PUBLIC AUDIT (WALES) ACT 2004**

---

## **EXPLANATORY NOTES**

### **TERRITORIAL EXTENT AND DEVOLUTION**

#### **Part 1: Auditor General for Wales**

##### **Administrative matters**

##### *Section 11: Access to information, etc by Auditor General*

35. **Section 11** substitutes section 95 of the GOWA. The substituted section 95 enhances the right of access of the Auditor General to documents and information etc. in the light of the recommendations in Lord Sharman of Redlynch's report - "Holding to Account - the Review of Audit and Accountability for Central Government (February 2001)". The substituted section 95(1) of the GOWA provides that the Auditor General has, at all reasonable times, a right of access to every document relating to a relevant person which appears to him necessary for:-
- his examination of any auditable accounts;
  - undertaking economy, efficiency and effectiveness studies under sections 145A and 145C of the GOWA;
  - his functions of carrying out any other examination or study into the economy, efficiency and effectiveness with which any person has used their resources in discharging their functions.
36. A "relevant person" for the purposes of the substituted section 95 of the GOWA is a person by whom the auditable accounts are prepared or where relevant, the person to whom the study or examination relates. In the case of auditable accounts that the National Assembly may be directed by HM Treasury, under section 97 of GOWA, to prepare the relevant person is the person to whose financial affairs and transactions the accounts relate.
37. Substituted section 95(2) of the GOWA makes it clear that the enhanced power of access to documents enables the Auditor General to have access to documents in a financial chain relating to the use of public money. For instance an Assembly Sponsored Public Body (i.e. the equivalent, in Wales, of a Non-Departmental Public Body in England) may (in accordance with its own specific powers) use grant-in-aid paid to it by the Assembly to provide a grant, loan or guarantee to a third party. The Assembly Sponsored Public Body may contract with another organisation to provide a service to it and certain components of this service may in turn be sub-contracted. Substituted section 95 of the GOWA entitles the Auditor General, if necessary, to have access to documents and the benefit of assistance, information and explanation in respect of any of these transactions. The aim of this provision is to ensure, for example, that regularity, propriety and the principles of value for money are applied to the use of public money.
38. By virtue of the substituted section 95(2)(c) of the GOWA, the Assembly has a power to extend the categories of documents for the purposes of this section. It may by order

specify any other description of documents to which the Auditor General's right of access under substituted section 95 of the GOWA will apply. Before making such an order, the Assembly must consult HM Treasury and the Auditor General. The Assembly may use this power in order to extend the description of documents etc. that the Auditor General may access in order to trace the use of public funds. For example, if the Auditor General is auditing the accounts of or carrying out a value for money exercise in relation to the Assembly, the Auditor General may need to have access to documents relating to the use of funds paid by grant-in-aid to an Assembly Sponsored Public Body. If that body had itself provided financial assistance to Company X and Company X had contracted with contractor A who in turn had sub-contracted with contractor B, the Assembly may make an order to ensure that the Auditor General could have access, if necessary, to such documents held by contractor B.

39. There will be some cases where the Auditor General undertakes specific work (e.g. value for money studies under section 145B(1) of the GOWA) at the request of the person/body to whom the work relates. In such cases, the statutory right of access may not apply and the Auditor General will need to agree access rights with the person/body to whom the work relates.
40. The Auditor General may, under substitute section 95(3)(a) and (b) of the GOWA, require a person whom he thinks has information, which relates to a relevant person or a person who holds or controls a document to which his right of access under substituted section 95(1) of the GOWA applies or which relates to the document itself to:-
  - give him any assistance, information and explanation which the Auditor General thinks necessary for the purpose of the examination or study that he is undertaking;
  - attend before him in person for the purposes of providing the assistance, information or explanation or to produce the documents.
41. The Auditor General also has the power under substituted section 95(3)(c) of the GOWA to require such a person to provide him with any facility that the Auditor General may reasonably require. This entitles the Auditor General to such things as adequate accommodation, lighting, heating, access to relevant computer hardware and software etc. to enable him to do his work. Furthermore, for the purposes of an examination of auditable accounts the Auditor General can require a relevant person to provide him with accounts of such of the relevant person's transactions as the Auditor General may specify (substituted section 95(5) of the GOWA).