

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

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## **EXPLANATORY NOTES**

### **TERRITORIAL EXTENT AND DEVOLUTION**

#### **Part 4: Miscellaneous and General**

##### **Miscellaneous**

##### ***Section 65: Public bodies subject to audit etc***

134. **Section 65** of the Act amends section 144 of the GOWA. The previous position was that section 144(8) empowered only the Secretary of State, by order, to alter the list of bodies/offices subject to audit etc. provisions in Schedule 17 of the GOWA. The Secretary of State had (and has) the power to do so, by adding any public body (subject to certain specified exceptions) to the list; omitting any public body from the list; or altering the description of any public body in the list in Schedule 17 to the GOWA.
135. The significance of Schedule 17 is, first, that if a public body is listed in Parts 1 or 2 of it, the Secretary of State can then, by order (and subject to section 144(2) of the GOWA), make provision about that public body's accounts, the audit of those accounts or about reports it must make concerning the exercise of its functions. Such an order could include a requirement that the public body's auditor be the Auditor General. Secondly, once a public body is listed in Schedule 17, the Auditor General has the power to carry out a economy, efficiency and effectiveness examination into the way in which it has used its resources in discharging its functions (see section 145(1) of the GOWA). Under the Act, the Auditor General will also have the power to carry out other studies in relation to such a body, by virtue of section 3 of the Act, which inserts a section 145A into the GOWA.
136. Section 65(2) of the Act inserts a new subsection (8A) into section 144 of the GOWA. This provision enables the Assembly, with the consent of the Secretary of State, to amend Schedule 17 of the GOWA by order. Thus the Assembly and the Secretary of State will have largely parallel powers in this regard. However, unlike the Secretary of State, the Assembly will not be able to take public bodies out of Schedule 17, only add public bodies to it or alter the description of those public bodies contained within it.
137. Section 65(4) of the Act has the effect of adding the Care Council for Wales, an Assembly Sponsored Public Body, to Part 1 of Schedule 17 to the GOWA, so as to ensure that the Auditor General has the power to undertake economy, efficiency and effectiveness examinations in respect of it. The Care Standards Act 2000 did not include the Care Council for Wales in Schedule 17 to the GOWA for this purpose, although that Act does make provision for the financial audit of the Council's accounts. The proposed amendment puts the audit of the Council on the normal statutory footing for Assembly Sponsored Public Bodies.

## **Transitional provision**

### ***Section 69: Local government bodies in Wales***

138. This section makes provision for appointments of auditors made by the Audit Commission for local government bodies in Wales to continue for the whole of their term, despite the coming into force of those provisions of the Act which, in effect, transfer the responsibility for appointing the auditors from the Audit Commission to the Auditor General. From the time that the relevant provisions of the Act come into force, however, an auditor appointed by the Audit Commission to audit the accounts of a local government body in Wales will be regarded as having been appointed by the Auditor General, and his duties will be his duties under Part 2 of the Act, not the duties he previously had under the ACA (subsection (2) of section 69).
139. Subsections (3) and (4) make similar provision in relation to persons assisting local government auditors under arrangements approved by the Audit Commission before the relevant provisions of the Act come into force.
140. Subsections (5) and (6) make transitional provision in relation to economy, efficiency and effectiveness studies or other studies which, at the time the relevant provisions of the Act come into force, are in the course of being carried out by the Audit Commission, and which touch on a local government body in Wales. The Audit Commission is to be able to complete the study under the provisions of the ACA.

### ***Section 70: Welsh NHS bodies***

141. This section makes provision equivalent to section 69, but in respect of Welsh NHS bodies. The only exception to this is that section 70 does not deal with persons assisting the auditors of Welsh NHS bodies. It is envisaged that the Auditor General will make new arrangements for any such persons, using his ancillary powers, as soon as the relevant provisions of the Act come into force.