

CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Transparency of Government Financial Reporting to Parliament

Section 43: Inclusion in departmental estimates of resources used by designated bodies

276. *Subsection (1)* provides that the section amends the Government Resources and Accounts Act 2000 (“the GRAA 2000”).
277. *Subsection (2)* inserts a new section 4A into the GRAA 2000. Its provisions are as follows:
278. New section 4A(1) gives the Treasury powers to give directions regarding how a government department must prepare a Supply Estimate for approval by the House of Commons in respect of a financial year.
279. New section 4A(2) gives the Treasury powers to direct that the departmental Supply Estimate include information relating to resources expected to be used by any body that is a designated body in relation to that department.
280. New section 4A(3) provides that a body is a designated body in relation to a government department either if it is designated by an order made by the Treasury or it falls within a description of a body designated in relation to the department by a Treasury order.
281. New section 4A(4) provides for a body to be designated either for a particular financial year or generally.
282. New section 4A(5) to (8) makes provision in relation to bodies funded out of a devolved Consolidated Fund. Section 4A(5) provides that subsections (6) and (7) apply if the Treasury expect the use of resources by a body in a financial year to involve payments out of a devolved Consolidated Fund to or for the benefit of a body but do not expect the use of resources by the body to involve payments out of the Consolidated Fund of the United Kingdom to or for the benefit of that body. Examples of such bodies would include Sportscotland (an NDPB funded entirely by the Scottish Executive) and the Higher Education Funding Council for Wales (also an NDPB, which provides funding to higher education institutions in Wales and is funded by the Welsh Assembly Government). There is no intention of designating any body that is wholly funded from a devolved Consolidated Fund. If, exceptionally, a UK government department were to make a payment to a body operating in a devolved area and largely funded by a devolved administration, the Treasury plans to agree administrative arrangements that would ensure such a body were not designated.

- 283. New section 4A(6) provides that if the conditions in section 4A(5) are met the Treasury must notify the relevant government department that the conditions are met and treat the body as though it were not designated for that year.
- 284. New section 4A(7) prevents the Treasury from making an order designating a body if the conditions in section 4A(5) are met and no order is already in force in relation to that body.
- 285. New section 4A(8) provides for the Treasury, where appropriate, to consult the Scottish Ministers, the Welsh Ministers or the Department of Finance and Personnel for Northern Ireland before designating a body or a description of a body.
- 286. New section 4A(9) provides that in determining for any purpose whether a body has a particular relationship with a government department, the fact that a departmental Supply Estimate includes information relating to that body, or departmental resource accounts include information relating to the body, is to be disregarded. This provision is intended to make it clear that designating a body does not of itself alter the existing relationship between that body and the government department.
- 287. New section 4A(10) provides that an order made by the Treasury under section 4A(3) must be made by statutory instrument.
- 288. New section 4A(11) provides that a statutory instrument containing such an order will be subject to the negative resolution procedure.
- 289. New section 4A(12) defines what is meant by ‘a devolved Consolidated Fund’ (see section 4A(5)).
- 290. *Subsection (3)* amends section 5(1) of the GRAA 2000. Section 5(1), as amended, will require a government department to include the resources used or acquired, held or disposed of by any designated body when preparing resource accounts.
- 291. *Subsection (4)* amends section 6(1) of the GRAA 2000. That section requires the Comptroller and Auditor General to satisfy himself of certain matters when examining any resource accounts which he receives from a department. Section 6(1), as amended, will require the Comptroller and Auditor General to satisfy himself, amongst other things, that the financial transactions of the department and the financial transactions of any designated body are in accordance with any relevant authority.

Section 44: Corresponding provision in relation to Wales

- 292. *Subsection (1)* provides that the section amends Part 5 of the Government of Wales Act 2006 (“GOWA 2006”).
- 293. *Subsection (2)* inserts a new section 126A into the GOWA 2006. Its provisions are as follows:
- 294. New section 126A(1) gives the Welsh Ministers the power to include information relating to the use of resources by a designated body in a Budget Motion for the financial year.
- 295. New section 126A(2) provides the Welsh Ministers with the power to designate bodies for these purposes. Ministers can designate individual bodies, or categories of bodies. Designation must be made by order.
- 296. New section 126A(3) provides for a body to be designated either for a particular financial year or generally.
- 297. New section 126A(4) requires the Welsh Ministers to obtain the consent of the Treasury before designating any body that they expect will receive funding from a “relevant Consolidated Fund” in a particular financial year. New section 126A(5) defines a

“relevant Consolidated Fund” as the UK Consolidated Fund, the Scottish Consolidated Fund or the Consolidated Fund of Northern Ireland.

298. New section 126A(6) requires the Welsh Ministers to consult with the Treasury before designating a body or a description of body, in cases where Treasury consent is not needed but the Welsh Ministers consider it appropriate to consult.
299. New section 126A(7) provides that in determining for any purpose whether a body has a particular relationship with a “relevant person”, the fact that the budget motion, or the “relevant person’s” resource accounts, include information relating to the body, is to be disregarded. This provision is intended to make it clear that designating a body does not of itself alter the existing relationship between that body and the Welsh Ministers (or other “relevant person”).
300. New section 126A(8) provides that an order made by the Welsh Minister under section 126A(2) must be made by statutory instrument.
301. New sections 126A(9) and (10) provides that a statutory instrument containing such an order will be subject to either the affirmative or negative resolution procedure in the Assembly. The choice of procedure will be made by the Welsh Ministers as appropriate in recognition of their key budgetary responsibilities. For instance, the Welsh Ministers may choose to use the affirmative procedure where they are proposing major changes to designated bodies, and it is appropriate for the Assembly to have the opportunity to debate these fully; while the Welsh Ministers may choose the negative procedure in cases where minor or uncontroversial amendments are to be made.
302. *Subsection (3)* provides that the section amends Schedule 8 to the GOWA 2006.
303. *Subsection (4)* inserts a new paragraph 13(1A) to the GOWA 2006. Paragraph 13(1) of Schedule 8 to the GOWA 2006 provides that the Auditor General for Wales must, for each financial year, prepare accounts in accordance with directions given by the Treasury. The new paragraph 13(1A) provides that such directions to prepare accounts may include directions to prepare accounts relating to financial affairs and transactions of persons other than the Auditor General. This would allow the inclusion of information about bodies designated in relation to the Auditor General.
304. *Subsection (5)* amends paragraph 15 of Schedule 8 to the GOWA 2006, which relates to the audit of accounts prepared by the Auditor General. *Subsection (5)* makes consequential amendments to paragraph 15 to allow the auditors of the Auditor General for Wales’s accounts to obtain necessary information concerning transactions of designated bodies which are included in those accounts.
305. *Subsection (6)* amends paragraph 17(8) of Schedule 8 to the GOWA 2006 to allow the Auditor General for Wales to have access to documents and financial information relating to the financial affairs of any designated body included in the accounts of the Public Services Ombudsman for Wales.
306. *Subsection (7)* amends Schedule 1 to the Public Services Ombudsman (Wales) Act 2005. Paragraph 16(1) of that Schedule provides that the Ombudsman must, for each financial year, prepare accounts in accordance with directions given to him by the Treasury. *Subsection (7)* inserts a new paragraph 16(1A) to allow such directions to include directions to prepare accounts relating to financial affairs and transactions of persons other than the Ombudsman. This would allow the inclusion of information about bodies designated in relation to the Ombudsman.