
WELSH STATUTORY INSTRUMENTS

2005 No. 558 (W.48) (C.24)

PUBLIC AUDIT, ENGLAND AND WALES

The Public Audit (Wales) Act 2004 (Commencement No. 2 and Transitional Provisions and Savings) Order 2005

Made - - - - *8 March 2005*

The National Assembly for Wales, in exercise of the powers conferred upon it by section 73 of the Public Audit (Wales) Act 2004(1), hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Public Audit (Wales) Act 2004 (Commencement No. 2 and Transitional Provisions and Savings) Order 2005.

(2) In this Order, “the Act” (“*y Ddeddf*”) means the Public Audit (Wales) Act 2004.

(3) References to sections and Schedules are, unless otherwise stated, references to sections of, and Schedules to, the Act.

Provisions coming into force

2.—(1) The provisions of the Act specified in the first column of Schedule 1 to this Order come into force on 1 April 2005.

(2) The provisions referred to in paragraph (1) above come into force for the purposes specified in the second column of the Schedule to this Order.

Transitional provisions and savings

3. Schedule 2 to this Order has effect for the purposes of making transitional provisions and savings in relation to the provisions to which they refer.

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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2).

8 March 2005

D. Elis-Thomas
The Presiding Officer of the National Assembly

SCHEDULE 1

Article 2

Sections 1 to 6	All purposes.
Section 7	Subject to the provisions of paragraph 1 of Schedule 2 to this Order, all purposes.
Sections 8 to 11	All purposes.
Sections 13 to 15	All purposes.
Sections 17 to 19	All purposes.
Subsections (4) to (6) of section 20	All purposes.
Subsections (3) and (4) of section 21	All purposes.
Sections 22 to 38	All purposes.
Section 39	All purposes for which it has not already been commenced, but only in relation to accounts or statements of accounts prepared in respect of a financial year beginning on or after 1 April 2005.
Sections 40 to 49	All purposes.
Section 50 and Schedule 1	All purposes for which they have not already been commenced.
Sections 51 to 53	All purposes.
Sections 55 to 57	All purposes.
Part 3	All purposes.
Section 65	All purposes.
Section 66 and Schedule 2	Subject to the provisions of Schedule 2 to this Order, all purposes.
Section 67	All purposes.
Sections 69 to 70	All purposes.
Section 72 and Schedule 4	Subject to the provisions of Schedule 2 to this Order, all purposes.

SCHEDULE 2

Article 3

Transitional Provisions and Savings

Power of the Auditor General to charge a fee for auditing accounts

1. Despite the coming into force of section 7 and Schedule 4, section 93(3) of the Government of Wales Act 1998⁽³⁾ is to continue to have effect, as if it had not been repealed by the Act, in so

(3) 1998 c. 38

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far as it relates to fees for auditing the accounts of the Assembly prepared in respect of any financial year beginning before 1 April 2005.

Accounts and audit regulations

2.—(1) Sub-paragraph (2) applies despite—

- (a) the coming into force of section 67 and paragraphs 35, 36 and 38(3) of Schedule 2, and
- (b) the repeal, by Schedule 4, of the words “or the National Assembly for Wales” in section 52(1) of the Audit Commission Act 1998⁽⁴⁾.

(2) The power of the Assembly to make regulations under sections 27 and 52(1) of the Audit Commission Act 1998 is to remain in force, in relation to accounts or statements of accounts prepared in respect of any financial year beginning before 1 April 2005.

Audit Commission Act 1998: provisions concerning recovery of amounts not accounted for

3. Despite the coming into force of subsections (1) and (2) of section 69 and of paragraph 38(3) of Schedule 2—

- (a) section 2 of the Audit Commission Act 1998 is to continue to apply to the accounts of a local government body in Wales (other than a police authority for a police area in Wales) for the purposes of —
 - (i) section 16(1)(a) of that Act, to the extent that that provision is saved by sub-paragraph (c); and
 - (ii) section 18 of that Act, to the extent that that section is saved by sub-paragraph (b);
- (b) section 18 of the Audit Commission Act 1998 is to remain in force—
 - (i) in so far it relates to accounts of a local government body in Wales (other than a police authority for a police area in Wales) prepared in respect of a financial year beginning before 1 April 2005; and
 - (ii) so that the function of an auditor under subsection (1) of that section is to be exercisable only in relation to a matter in respect of which a local government elector has made an objection under section 16(1)(a) of that Act;
- (c) the rights of a local government elector under section 16(1)(a) of the Audit Commission Act 1998 to attend before an auditor and make objections are to remain in force in so far as —
 - (i) the objection relates to any matter in respect of which an auditor could take action under section 18(1) of that Act, as saved by sub-paragraph (b);
 - (ii) the accounts in question are accounts of a local government body in Wales (other than a police authority for a police area in Wales); and
 - (iii) the accounts in question were prepared in respect of a financial year beginning before 1 April 2005.

(4) 1998 c. 18

EXPLANATORY NOTE

(This note is not part of the Order)

This Order largely completes the bringing into force, in England and Wales, of the provisions of the Public Audit (Wales) Act 2004 (“the Act”).

References to sections or Schedules are, unless indicated otherwise, references to sections of, or Schedules to, the Act.

Article 2 of this Order brings into force, on 1 April 2005, the provisions of the Act listed in the first column of Schedule 1 to this Order. Unless otherwise specified in the second column of Schedule 1 to this Order, or in Schedule 2 thereto, those provisions will come into force on that date for all purposes.

The general effect of the provisions of the Act brought into force by this Order is to confer a number of new functions on the Auditor General for Wales. The most significant effect of the new functions is that the Auditor General will, from the coming into force of this Order, exercise most of the functions currently exercised in Wales by the Audit Commission for Local Authorities and the National Health Service in England and Wales (“the Audit Commission”).

Part 1 of the Act (sections 1 to 11) deals with provisions relating to the functions of the Auditor General for Wales. Part 1 deals with how that office is to be funded and also addresses staffing and other administrative matters and makes provision for additional functions of the Auditor General.

Part 2 of the Act (sections 12 to 59) deals with local government bodies in Wales (as defined in section 12) in the context of the new arrangements proposed by the Act. Under the provisions of the Audit Commission Act 1998 (“the 1998 Act”), the Audit Commission is currently responsible for appointing the auditors of the accounts of these bodies. In relation to local government bodies in Wales, the Act transfers that responsibility to the Auditor General for Wales.

Part 3 of the Act (sections 60 to 64) adds responsibility for auditing the accounts of Welsh NHS bodies (as defined in section 60) to the remit of the Auditor General for Wales.

Part 4 of the Act (sections 65 to 75) contains miscellaneous, transitional and general provisions.

Schedule 1 deals with amendments to the audit of Best Value arrangements under the Local Government Act 1999. Schedule 2 deals with minor and consequential amendments made necessary by the Act. Schedule 3, which has already been commenced, sets out arrangements for detailed statutory transfer schemes required by the Act and Schedule 4 sets out relevant repeals.

Article 3 and Schedule 2 to this Order make transitional provision and savings.

Paragraph 1 of Schedule 2 to this Order ensures that the Auditor General for Wales cannot charge the National Assembly for Wales for auditing its accounts for the financial year 2004 — 05. This provision is necessary as the audit work will be done after the Act comes into force, but relates to a period during which section 93(3) of the Government of Wales Act 1998 prohibited the Auditor General for Wales for charging for that work.

Paragraph 2 of Schedule 2 to this Order preserves the Assembly’s power to make accounts and audit regulations under the 1998 Act in respect of accounts for financial years beginning before 1 April 2005. For later financial years, the Assembly will make such regulations under section 39 of the Act.

Paragraph 3 of Schedule 2 to this Order saves, in respect of local government bodies in Wales, the provisions of section 18 of the 1998 Act, which provides powers for recovering amounts not accounted for, and other related provisions of that Act. (The saving does not apply to one category of local government bodies in Wales, police authorities, because the relevant provisions of the 1998

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Act have already been repealed, in respect of them, by the Local Government Act 2000). The saving applies only to accounts of the bodies concerned for financial years beginning before 1 April 2005. It is also limited to the situation in which a local government elector for the area of a relevant body has made an objection under section 16(1)(a) of the 1998 Act.

The only provisions of the Act which will not be in effect when this Order comes into force are subsections (1) to (5) of section 54, which impose restrictions on the circumstances in which certain information obtained by the Auditor General for Wales or an auditor can be disclosed.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement (in each case)</i>	<i>S.I. No.(in each case)</i>
Section 12	31 January 2005	2005 No. 71 (W.9) (C.3)
Section 16		
Subsections (1) to (3) of section 20, for the purposes of the prescription of scales of fees for the audit of accounts prepared in respect of financial years beginning on or after 1 April 2005		
Subsections (1), (2) and (5) of section 21		
Section 39, for the purpose of consulting on, and making, regulations in relation to accounts or statements of accounts prepared in respect of financial years beginning on or after 1st April 2005		
Section 50 and paragraphs 1 and 7 of Schedule 1, for the purpose of bringing into effect:		
(a) paragraph 1 of Schedule 1, in so far as necessary for the purposes of (b) below, and		
(b) paragraph 7 of Schedule 1, in so far as it provides for a new section 8A to be inserted after section 8 of the Local Government Act 1999.		

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<i>Provision</i>	<i>Date of Commencement (in each case)</i>	<i>S.I. No.(in each case)</i>
Subsections (6) to (8) of section 54		
Section 58		
Section 59		
Section 68 and Schedule 3		