
WELSH STATUTORY INSTRUMENTS

2010 No. 683 (W.66)

LOCAL GOVERNMENT, WALES

**The Accounts and Audit (Wales)
(Amendment) Regulations 2010**

Made - - - - 4 March 2010
Laid before the National
Assembly for Wales - - 10 March 2010
Coming into force in accordance with regulation 2

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the National Assembly for Wales by sections 39 and 58 of the Public Audit (Wales) Act 2004⁽¹⁾ and now vested in them⁽²⁾ and after consulting, in accordance with section 39(2) of that Act, the Auditor General for Wales, such associations of local authorities as appear to the Welsh Ministers to be concerned and such bodies of accountants as appear to the Welsh Ministers to be appropriate:

Title

1. The title of these Regulations is The Accounts and Audit (Wales) (Amendment) Regulations 2010.

Commencement

2.—(1) Subject to paragraph (3), these Regulations come into force on 31 March 2010.

(2) Paragraph (3) applies where, by virtue of an agreement entered into before, and continuing in force until on or after the date on which these Regulations are made, between a local government body and—

- (a) a senior employee; or
- (b) a relevant police officer,

there is a duty of confidentiality owed by the body in relation to the remuneration paid to or received by the senior employee or relevant police officer.

(3) Where this paragraph applies, the amendments made by regulations 6 and 7 of these Regulations to regulation 7 of the Accounts and Audit (Wales) Regulations 2005⁽³⁾ (“the 2005

(1) 2004 c. 23.

(2) These functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) S.I. 2005/368 (W.34) as amended by S.I. 2007/388 (W.39) and 2008/912.

Regulations”) do not come into force until 1 April 2010, in so far as those amendments would require a breach of the duty of confidentiality owed by the local government body, under the agreement by virtue of which this paragraph applies, in relation to remuneration to be included in the accounts of the local government body.

(4) In this regulation—

- (a) “local government body” has the same meaning as in the 2005 Regulations; and
- (b) “senior employee”, “relevant police officer” and “remuneration” have the meaning given to those expressions by regulation 7A(4) which is inserted into the 2005 Regulations by regulation 7 of these Regulations.

Amendment of the Accounts and Audit (Wales) Regulations 2005

3. The Accounts and Audit (Wales) Regulations 2005 are amended in accordance with regulations 4 to 18.

Interpretation and application

4.—(1) In regulation 2(1) (interpretation and application), insert the following definitions in the appropriate places—

““joint committee” (“*cyd-bwyllgor*”) means a joint committee of two or more local authorities;”, and

““minor joint committee” (“*is-gydbwyllgor*”) means a joint committee whose gross income or expenditure (whichever is the higher) for the year is, and each of the two immediately preceding years was, less than £1,000,000;”.

(2) After regulation 2(2) insert—

“(2A) Any reference in these Regulations to a proper practice⁽⁴⁾ in relation to an internal drainage board, means the accounting practices contained in the “Governance and Accountability in Internal Drainage Boards in England: A Practitioners Guide 2006” (as revised in November 2007) issued jointly by the Association of Drainage Authorities and the Department for Environment, Food and Rural Affairs (which document is, by these Regulations, to apply to an internal drainage board in Wales as it applies to an internal drainage board in England).”.

Accounting records and control systems

5. In regulation 5(3)(c) (accounting records and control systems), for “National Assembly for Wales” in both cases substitute “Welsh Ministers”.

Statement of accounts

6. For regulation 7 substitute—

“7.—(1) A body to which paragraphs (2) and (3) apply must prepare in accordance with proper practices in relation to accounts a statement of accounts for each year, prefaced by an explanatory foreword, which must include such of the following accounting statements as are relevant to the functions of the body—

- (a) housing revenue account;
- (b) firefighters' pension fund, if any;

(4) Proper practices in relation to certain bodies may be identified in regulations made under section 21 of the Local Government Act 2003 (c. 26). Section 21 does not apply to internal drainage boards.

(c) any other statements relating to each and every other fund in relation to which the body is required by any statutory provision to keep a separate account.

(2) This paragraph applies to the following bodies—

- (a) a county council or a county borough council;
- (b) a joint authority;
- (c) a committee of a local authority (including a joint committee which is not a minor joint committee);
- (d) a National Park authority for a National Park;
- (e) a police authority for a police area;
- (f) a fire and rescue authority.

(3) Where in relation to a community council, the gross income or expenditure (whichever is the higher) for the year is, and for each of the two immediately preceding years was, £1,000,000 or more, the requirements of paragraph (1) above and regulation 7A apply to that council in respect of that period.

(4) Where a county council or a county borough council is required by section 74 of the 1989 Act to maintain a Housing Revenue Account the statement of accounts required by paragraph (1) must include a note prepared in accordance with proper practices in relation to any Major Repairs Allowance grant paid to the county council or county borough council under section 31 of the 2003 Act detailing income and expenditure and any balance on any account used to record the grant.”.

Declaration of remuneration

7. After regulation 7 insert—

“Declaration of remuneration

7A.—(1) The statement of accounts required by regulation 7(1) must be accompanied by a note of—

- (a) except in relation to persons to whom paragraph (b) applies, the number of employees or police officers in the year to which the accounts relate whose remuneration fell in each bracket of a scale in multiples of £5,000 starting with £60,000;
- (b) the remuneration, set out according to the categories listed in paragraph (3), by the local government body during the relevant financial year of—
 - (i) senior employees, or
 - (ii) relevant police officers,

in respect of their employment by the local government body or in their capacity as a police officer, whether on a permanent or temporary basis.

(2) The persons whose remuneration is to be noted under paragraph (1)(b) must be identified by way of job title only, except that those persons whose salary is £150,000 or more per year must also be identified by name.

(3) The categories are:

- (a) the total amount of salary, fees or allowances paid to or receivable by the person;
- (b) the total amount of bonuses paid to or receivable by the person;
- (c) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax, and were paid to or receivable by the person;

- (d) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the termination of their employment by the local government body, or, in the case of a relevant police officer, the total amount of any payment made to a relevant police officer who ceases to hold office before the end of a fixed term appointment;
- (e) the relevant body's contribution to the person's pension;
- (f) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within (a) to (d) above, are emoluments of the person, and are received by the person in respect of their employment by the local government body or in their capacity as a police officer; and
- (g) in relation to relevant police officers, any payments, whether made under the Police Regulations 2003⁽⁵⁾ or otherwise, which do not fall within (a) to (f) above.

(4) In this regulation—

“contribution to the person's pension” means an amount to be calculated as follows—

- (a) in relation to contributions to the local government pension scheme established under section 7 of the Superannuation Act 1972⁽⁶⁾, the sum of—
 - (i) the common rate of employer's contribution specified in a rates and adjustments certificate prepared under regulation 36 (actuarial valuations and certificates) of the Local Government Pension Scheme (Administration) Regulations 2008⁽⁷⁾, being the amount appropriate for that body calculated in accordance with the certificate and regulation 39(4) (employer's contributions) of those Regulations, multiplied by the person's pensionable pay; and
 - (ii) if applicable, the appropriate sum within the meaning of regulation 40⁽⁸⁾ (employer's payment following resolution to increase membership or award additional pension) of those Regulations;
- (b) in relation to contributions to the firefighters' pension scheme established under the Fire Services Acts 1947 and 1959⁽⁹⁾, the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraph G2(3) and (4) of Schedule 2 to the Firemen's Pension Scheme Order 1992⁽¹⁰⁾, multiplied by the person's pensionable pay;
- (c) in relation to contributions to the firefighters' pension scheme established under the Fire and Rescue Services Act 2004⁽¹¹⁾, the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraphs (2) and (3) of Rule 2 of Part 13 of Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007⁽¹²⁾, multiplied by the person's pensionable pay;

⁽⁵⁾ S.I. 2003/527.

⁽⁶⁾ 1972 c. 11.

⁽⁷⁾ S.I. 2008/239.

⁽⁸⁾ Regulation 40 was substituted by S.I. 2009/3150.

⁽⁹⁾ 1947 c. 41 and 1959 c. 44. Both these Acts have been repealed by the Fire and Rescue Services Act 2004 (c. 21) which contained savings in respect of pension schemes established under them.

⁽¹⁰⁾ S.I. 1992/129. Paragraphs G2(3) and (4) were inserted by article 2 of, and paragraph 39(b) of Schedule 1 to, the Firefighters' Pension Scheme (Wales) (Amendment) Order 2007 (S.I. 2007/1074) (W.112). Article 4 of the Fire and Rescue Services Act 2004 (Firefighters' Pension Scheme (Wales) Order 2004 (S.I. 2004/2918) (W.257) changed the name of the scheme from “Firemen's Pension Scheme” to “Firefighters' Pension (Wales) Scheme”.

⁽¹¹⁾ 2004 c. 21.

⁽¹²⁾ S.I. 2007/1072 (W.110).

- (d) in relation to contributions to police pension schemes established under the Police Pensions Regulations 1987(13) or the Police Pensions Regulations 2006(14), the percentage of pensionable pay specified in regulation 5(1) of the Police Pension Fund Regulations 2007(15), multiplied by the person's pensionable pay;

“employee” includes a holder of an office under the local government body, but does not include a person who is an elected councillor, and “employment” is to be construed accordingly;

“relevant police officer” means—

- (a) in relation to a police force maintained under section 2 of the Police Act 1996(16), the chief constable, and
- (b) any other senior police officer whose salary is £150,000 per year or more;

“remuneration” means all amounts paid to or receivable by a person, and includes sums due by way of expenses allowance (so far as those sums are chargeable to United Kingdom income tax), and the estimated money value of any other benefits received by an employee otherwise than in cash;

“senior employee” means an employee whose salary is £150,000 or more per year, or an employee whose salary is £60,000 or more per year (to be calculated pro rata for an employee employed for fewer than the usual full time hours for the local government body concerned) who falls within at least one of the following categories—

- (a) a person employed by a local government body to which section 2 of the Local Government and Housing Act 1989(17) applies who—
- (i) has been designated as head of paid service under section 4 of that Act;
- (ii) is a statutory chief officer within the meaning of section 2(6)(18) of that Act; or
- (iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;
- (b) the person who is the head of staff for any local government body to which section 4 of the Local Government and Housing Act 1989 does not apply; or
- (c) a person who has responsibility for the management of the local government body to the extent that the person has power to direct or control the major activities of the body (in particular activities involving the expenditure of money), whether solely or collectively with other persons; and

“senior police officer” means a member of a police force holding a rank above that of superintendent.”.

Internal drainage boards

8. After regulation 7A (declaration of remuneration), insert—

(13) S.I. 1987/257.

(14) S.I. 2006/3415.

(15) S.I. 2007/1932. Regulation 5(1) was amended by regulations 42 and 46 of the Police Pensions (Amendment) Regulations 2008 (S.I. 2008/1887).

(16) 1996 c. 16.

(17) 1989 c. 42.

(18) Section 2(6) was amended by section 18 of, and Schedule 2 to, the Children Act 2004 (c. 31); section 582 of, and Schedule 37 to, the Education Act 1996 (c. 56); and section 127 of the Greater London Authority Act 1999 (c. 29). It was also partially repealed by section 180 of, and Schedules 13 and 14 to, the Local Government etc (Scotland) Act 1994 (c. 39) and section 54 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).

“Internal drainage boards

7B. An internal drainage board must charge to a revenue account an amount equal to the retirement benefits payments and contributions to pension funds which are payable for that year in accordance with—

- (a) the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007⁽¹⁹⁾; and
- (b) the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000⁽²⁰⁾ or the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006⁽²¹⁾.”.

Other accounting statements

9.—(1) Regulation 8 (other accounting statements) is amended as follows.

(2) In paragraph (2)—

- (a) omit sub-paragraph (b);
- (b) at the end of sub-paragraph (c) insert—
 - “; and
 - (d) a joint committee which is a minor joint committee”.

(3) In paragraph (3)—

- (a) in sub-paragraph (a), for “£100,000” substitute “£200,000”;
- (b) in sub-paragraph (a), for “and (2)” substitute “and 7A”;
- (c) in sub-paragraph (b), for “£100,000” substitute “£200,000”; and
- (d) in sub-paragraph (c), for “£100,000” substitute “£200,000”.

(4) Omit paragraph (4).

Preparation and signing of statement of accounts etc

10. After regulation 8 insert—

“Preparation of statement of accounts etc

8A. A local government body must ensure that—

- (a) the statement of accounts, or
- (b) where no statement of accounts is required to be prepared, the income and expenditure account and the statement of balances, or
- (c) where no income and expenditure account and statement of balances are required to be prepared, the record of receipts and payments of the body,

is prepared in accordance with these Regulations.

Signing etc of statement of accounts etc

8B.—(1) The responsible financial officer of a local government body must—

⁽¹⁹⁾ S.I. 2007/1166, amended by S.I. 2008/1083, 2008/2425, 2009/3150 and 2010/234.

⁽²⁰⁾ S.I. 2000/1410, amended by S.I. 2001/3649, 2002/769, 2003/1022 and 2005/3069, and revoked by S.I. 2006/2914 with savings.

⁽²¹⁾ S.I. 2006/2914, amended by S.I. 2009/3150.

- (a) in the case of a body which has prepared a record of receipts and payments, sign and date that record, and certify that it properly presents that body's receipts and payments for the year to which the record relates;
 - (b) in the case of a body which has prepared an income and expenditure account and statement of balances, sign and date the account and statement, and certify that they present fairly the financial position of the body at the end of the year to which they relate and that body's income and expenditure for that year;
 - (c) in the case of a community council to which regulation 7(3) applies or a community council which has determined in accordance with regulation 8(3)(a), sign and date the statement of accounts, and certify that it presents fairly the financial position of the council at the end of the year to which it relates and of that council's income and expenditure for that year;
 - (d) in the case of any other body, sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body's income and expenditure for that year.
- (2) The responsible financial officer must comply with paragraph (1)—
- (a) before the 30 June following the end of a year; and
 - (b) immediately before the approval referred to in regulation 9(3) is given.
- (3) The responsible financial officer must also comply with paragraph (1) immediately before any approval referred to in regulation 9(4) is given.
- (4) If the responsible financial officer does not comply with paragraph (2) or (3), the local government body must:
- (a) publish immediately a statement setting out reasons for his or her non-compliance; and
 - (b) agree to a course of action to ensure compliance as soon as practicable.”.

Approval of statement of accounts

11. For regulation 9 substitute—

“Approval of statement of accounts etc

9.—(1) In this regulation “accounts” means the statement of accounts, the income and expenditure account and the statement of balances, or the record of receipts and payments, as required by regulation 7(1) or 8(1) or (3).

(2) A local government body must approve the accounts in accordance with this regulation.

(3) Approval pursuant to paragraph (2) must take place as soon as reasonably practicable and in any event before the 30 September immediately following the end of a year.

(4) If the accounts were approved pursuant to paragraph (3) before the conclusion of an audit of those accounts, the accounts must be approved as soon as reasonably practicable after the receipt of any report from the auditor which contains the auditor's final findings from the audit and which is issued before the conclusion of the audit.

(5) The approval required by paragraph (4) is in addition to approval pursuant to paragraph (3).

(6) The approval required by paragraphs (3) and (4) must be by a resolution of a committee of the local government body or otherwise by a resolution of the body meeting as a whole.

(7) Following approval in accordance with paragraph (3) and (4), the accounts must be signed and dated by the person presiding at the committee or meeting at which that approval was given.

(8) Where any material amendment is made to the accounts, the responsible financial officer must report such amendment to the local government body or the committee of that body immediately before the body or committee is to approve the accounts pursuant to regulation 9(3) or (4).”.

Publication of statement of accounts etc

12. In regulation 10 (publication of statement of accounts etc)—

- (a) in paragraph (1), omit the words “Subject to paragraph (3),”;
- (b) in paragraph (2)(a), for “7(3)” substitute “7(2)”;
- (c) in paragraph (2)(b), for “7(4)” substitute “7(3)”;
- (d) omit paragraph (3).

Publication of income and expenditure account and receipts and payments

13. In regulation 11(1) and (3) (publication of income and expenditure account and receipts and payments), in each case, for “31 December” substitute “30 September”.

Written notice of proposed objection

14. In regulation 16 (written notice of proposed objection)—

- (a) omit “proposed” from the heading;
- (b) in paragraph (1)—
 - (i) for “a proposed” substitute “an”;
 - (ii) for “proposes to rely” substitute “relies”; and
- (c) omit paragraph (2).

Notice of conclusion of audit

15. In regulation 17 (notice of conclusion of audit), omit paragraphs (3) and (4).

Joint committees etc

16. In regulation 19 (joint committees etc)—

- (a) in paragraph (1)(b), for “regulation 7(3)” substitute “regulation 7(2)”;
- (b) in paragraph (2), for “National Assembly for Wales” substitute “Welsh Ministers”.

Offences

17. In regulation 21(2) (offences), after “7,” insert “7A,”.

Transitional provision

18. After regulation 22 insert—

“Transitional provision

- 23.**—(1) This regulation applies to bodies referred to in regulation 8(2)(a) to (c) and (3).
(2) In respect of the years ending with 31 March 2010 and 2011—
- (a) the references to 30 June in regulation 8B are to be read as references to 30 September; and
 - (b) the references to 30 September in regulations 9 and 11 are to be read as references to 31 December.”.

4 March 2010

Carl Sargeant
Minister for Social Justice and Local
Government, one of the Welsh Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Accounts and Audit (Wales) Regulations 2005 (“the 2005 Regulations”). The 2005 Regulations make provision with respect to the accounts and audit of local government bodies in Wales whose accounts are required to be audited in accordance with Part 2 of the Public Audit (Wales) Act 2004 Act (“the 2004 Act”) (other than local probation boards).

These Regulations are made under sections 39 and 58 of the 2004 Act.

These Regulations come into force on 31 March 2010 and thus have effect in relation to accounts for the 2009/2010 financial year (except as indicated otherwise in this Note).

Regulation 4 provides for a definition of a minor joint committee and identifies which document describes proper accounting practices, for the purposes of these Regulations, for internal drainage boards.

Regulations 6 and 7 restructure the provisions in the 2005 Regulations concerning (a) which bodies are to prepare statements of accounts and (b) the note of staff remuneration which is to accompany such statements. The 2005 Regulations require that note is to be made of the number of all employees whose total remuneration was more than £60,000 per year, to be listed in brackets of a scale of £10,000. Regulation 7 extends this requirement to police officers, and also changes the brackets in the scale to multiples of £5,000. It excludes officers who are caught by the new requirement for disclosure of individual remuneration details.

These Regulations also introduce a new requirement for the disclosure of the individual remuneration details of senior employees and relevant police officers for each financial year, under the following categories:

- (i) salary, fees and allowances;
- (ii) bonuses;
- (iii) expenses allowance;
- (iv) compensation for loss of employment;
- (v) pension contribution;
- (vi) any other emoluments; and
- (vii) in the case of relevant police officers, any other payments made to them.

“Employee” includes an office holder under a local government body (but not an elected councillor). A senior employee is a person whose salary is more than £150,000 per year, or whose salary is at least £60,000 per year (to be calculated pro rata for a part-time employee) and who is:

- (a) the designated head of paid service, a statutory chief officer or a non-statutory chief officer of a local government body, those terms having the meaning given by the Local Government and Housing Act 1989;
- (b) the head of staff for a local government body which does not have a designated head of paid service; or
- (c) any person having responsibility for the management of the local government body to the extent that the person has power to direct or control the major activities of the body.

A ‘relevant police officer’ is a chief constable and any other police officer above the rank of superintendent whose salary is £150,000 or more per year.

The definition given to “contribution to the person’s pension” makes clear that the figure to be disclosed is the proportion of the local government body’s contribution to the relevant contribution scheme which can be related to the senior employee or relevant police officer and does not include any contribution made by the senior employee or relevant police officer.

The obligation to disclose the remuneration of senior employees and relevant police officers does not apply for accounts prepared for the financial year 2009/2010 in cases where the person concerned has the benefit of a confidentiality agreement in respect of the remuneration received.

Internal Drainage Boards, which are responsible for the drainage of land in some parts of the country under the Land Drainage Act 1991 (c. 59), prepare their annual accounts on a basis which fully recognises the future pension liability that has accrued for that year in respect of their employees. In the accounting practices followed by local authorities such liabilities are replaced by the employer contribution they are required to make to the pension fund and other amounts due to be paid in the year. Regulation 8 of these Regulations applies the same principle to drainage boards.

Regulation 9 provides that a minor joint committee will be required to prepare an income and expenditure account and a balance sheet for each financial year. It also increases from £100,000 to £200,000 the threshold for community councils whose gross expenditure is less than £1m. Thus—

- in the case where the community council’s expenditure is £200,000 or more, such a council may choose whether to prepare a statement of accounts or an income and expenditure account and a statement of balances, and
- in the case where the community council’s expenditure is less than £200,000, such a council may choose whether to prepare a record of receipts and payments or an income and expenditure account and a statement of balances.

Regulation 10 re-structures the provisions in the 2005 Regulations which impose obligations on local government bodies to prepare statements of accounts etc in accordance with the 2005 Regulations. It also re-structures and extends the obligations on responsible finance officers to sign and certify the statements etc at appropriate times.

Regulation 11 amends the provision in the 2005 Regulations concerning approval of accounts, so that a local government body must approve the accounts for the previous financial year by 30 September. A second approval must be obtained if the first approval was given before the conclusion of the audit of those accounts.

The local government bodies to whom the 2005 Regulations apply must publish their accounts or publish requisite information. Regulation 13 amends the existing provision so that the relevant date for publication for all bodies is to be 30 September.

Regulation 15 amends the provision in the 2005 Regulations concerning the documents which are to be made available for public inspection after the conclusion of audit. Regulation 18 makes transitional provision for community councils with gross income or expenditure of less than £1m, port health authorities, licensing planning committees and internal drainage boards. The following requirements will not have effect until the accounts for the 2012/2013 financial year—

- the requirement for responsible financial officers to sign and certify accounts by 30 June (in the meantime this will be 30 September) (see regulation 8B(2)(a) of the 2005 Regulations as inserted by these Regulations);
- the requirements for these bodies to approve accounts and publish their accounts (or requisite information) by 30 September (in the meantime this will be 31 December) (see regulations 9(3) and 11 of the 2005 Regulations as amended by these Regulations).

Some minor amendments are made to the 2005 Regulations.