Public Audit (Wales) Act 2013

2013 anaw 3

PART 2

THE WALES AUDIT OFFICE AND ITS
RELATIONSHIP WITH THE AUDITOR GENERAL

CHAPTER 1

THE WALES AUDIT OFFICE

13 Incorporation of Wales Audit Office

(1) There is to be a body corporate called the Wales Audit Office ("the WAO").

(2) Schedule 1 contains provision about the WAO.

Commencement Information

I1 S. 13 in force at 4.7.2013 for specified purposes by S.I. 2013/1466, **art. 2(e)**

I2 S. 13 in force at 1.4.2014 in so far as not already in force by S.I. 2013/1466, **art. 3(1)**

14 Powers

The WAO may do anything (including acquiring or disposing of any property or rights and accepting gifts of money or other property) which is calculated to facilitate, or which is incidental or conducive to, the exercise of any of its functions.

Commencement Information

I3 S. 14 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(f)**

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Changes to legislation: *Public Audit (Wales) Act 2013, PART 2 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

15 Efficiency

The WAO must aim to carry out its functions efficiently and cost-effectively.

Commencement Information
I4 S. 15 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(g)**

CHAPTER 2

RELATIONSHIP BETWEEN THE AUDITOR GENERAL AND THE WAO

General

16 Relationship with the Auditor General

(1) The Auditor General is to be the chief executive (but not an employee) of the WAO.

(2) Schedule 2 contains further provision about the relationship between the WAO and the Auditor General.

Commencement Information
I5 S. 16 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(h)**

17 WAO to monitor and provide advice

(1) The WAO must, in such manner as it considers appropriate, monitor the exercise of the Auditor General's functions.

(2) The WAO may provide advice to the Auditor General about the Auditor General's functions.

(3) The Auditor General must have regard to any advice given.

Commencement Information
I6 S. 17(1) in force at 1.4.2014 by S.I. 2013/1466, **art. 3(1)**
I7 S. 17(2)(3) in force at 4.7.2013 for specified purposes by S.I. 2013/1466, **art. 2(i)**
I8 S. 17(2)(3) in force at 1.4.2014 in so far as not already in force by S.I. 2013/1466, **art. 3(1)**

18 Delegation and joint exercise of functions of the Auditor General

(1) The Auditor General may delegate any of the functions of that office to—
- (a) an employee of the WAO,
- (b) a person who provides services to the WAO, or
- (c) an employee of the WAO and a person who provides services to the WAO acting jointly.

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(2) But a function may only be delegated if the employee or other person is authorised (or in the case of subsection (1)(c) both are authorised) to exercise functions of the Auditor General under a scheme prepared by the Auditor General.

(3) A scheme must describe the conditions subject to which a delegation under subsection (1) must be made.

(4) An employee or other person may not be authorised under a scheme unless the employee or person agrees to comply with the code of audit practice issued under section 10(1).

(5) A scheme may include different provision for different cases or classes of case.

(6) The Auditor General may revise a scheme at any time.

(7) In preparing or revising a scheme the Auditor General must consult the WAO.

(8) If the scheme makes provision to that effect, any function of the Auditor General may be exercised jointly by—
   (a) the Auditor General and an employee of the WAO,
   (b) the Auditor General and a person who provides services to the WAO, or
   (c) the Auditor General, an employee of the WAO and a person who provides services to the WAO.

(9) A delegation does not prevent the Auditor General from doing anything personally.

(10) Provision made under subsection (1) for the delegation of a function, or under subsection (8) for the joint exercise of a function, does not affect the Auditor General's responsibility for that function.

(11) The function of preparing a scheme under this section may not be delegated.

Commencement Information

I9 S. 18 in force at 4.7.2013 for specified purposes by S.I. 2013/1466, **art. 2(j)**

I10 S. 18 in force at 1.4.2014 in so far as not already in force by S.I. 2013/1466, **art. 3(1)**

Provision of services

19 Provision of services

(1) Arrangements may be made between the WAO and a relevant authority—
   (a) for any function of the authority to be exercised by the WAO or by an employee of the WAO;
   (b) for any function of the authority to be exercised by the Auditor General;
   (c) for administrative, professional or technical services to be provided—
      (i) to or for the purposes of the authority by the WAO,
      (ii) by, or on behalf of, the authority to the WAO, or
      (iii) by, or on behalf of, the authority to the Auditor General;
   (d) for administrative, professional or technical services to be provided to or for the purposes of the authority by the Auditor General.

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(2) But the WAO must consult the Auditor General before entering into arrangements of the type mentioned in subsection (1)(b), (c)(iii) or (d).

(3) Any arrangements under subsection (1)(a) or (b) for the exercise of a function of a relevant authority do not affect the relevant authority's responsibility for that function.

(4) If the condition in subsection (5) is met, the WAO and a relevant authority, a qualified auditor, or an accountancy body may—

(a) make arrangements to co-operate with, and give assistance to, each other, or

(b) make arrangements for that authority, auditor or body and the Auditor General to co-operate with, and give assistance to, each other.

(5) The condition is that—

(a) the WAO considers that to do so would facilitate, or be conducive to, the exercise of the functions of the Auditor General or the WAO, and

(b) the relevant authority, qualified auditor or accountancy body in question considers that to do so would facilitate, or be conducive to, the exercise of the functions of that authority, person or body.

(6) But the WAO must consult the Auditor General before entering into arrangements of the type mentioned in subsection (4)(b).

(7) The WAO may make arrangements under this section on such terms, including terms about payment, as the WAO thinks fit.

(8) But terms relating to payment to the WAO must be made in accordance with a scheme for charging fees prepared under section 24.

(9) In this section—

"accountancy body"means—

(a) a body which is a recognised supervisory body for the purposes of Part 42 of the Companies Act 2006, or

(b) an approved European body of accountants;

"qualified auditor" means a person who is—

(a) eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, or

(b) a member of an approved European body of accountants;

"approved European body of accountants" means a body of accountants which—

(a) is established in the United Kingdom or another EEA state, and

(b) is for the time being approved by the Welsh Ministers by order;

"relevant authority" means any Minister of the Crown or government department, any public authority (including any local authority), or the holder of any public office.

Commencement Information

I11 S. 19 in force at 1.4.2014 by S.I. 2013/1466, **art. 3(1)**

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Income and expenses

20 Expenditure

(1) For each financial year the Auditor General and the WAO must jointly—
- (a) prepare an estimate of the income and expenses of the WAO, and
- (b) lay the estimate before the National Assembly.

(2) Each estimate must cover (amongst other things) the resources required for the purposes of section 21 (resources for Auditor General).

(3) Each estimate must be laid before the National Assembly at least five months before the beginning of the financial year to which it relates.

(4) The National Assembly may make any modifications to the estimate which it considers appropriate (subject to subsection (5)).

(5) No modification can be made under subsection (4) unless—
- (a) the Auditor General and the WAO have been consulted, and
- (b) any representations that either may make have been taken into account.

Commencement Information
I12 S. 20 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(k)**

21 Provision of resources for Auditor General's functions

(1) The WAO must provide resources for the exercise of the Auditor General's functions as required by the Auditor General.

(2) In particular, the WAO is responsible for—
- (a) employing staff to assist in the exercise of those functions;
- (b) securing services from any person for the purposes of those functions;
- (c) holding property for the purposes of those functions;
- (d) holding documents or information acquired or generated in the course of, or otherwise for the purposes of, those functions (see paragraph 4(2) of Schedule 2);
- (e) keeping records in relation to those functions.

Commencement Information
I13 S. 21 in force at 1.4.2014 by S.I. 2013/1466, **art. 3(1)**

22 Borrowing

The WAO may borrow sums in sterling (by way of overdraft or otherwise) to be applied for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet it.

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Commencement Information

I14 S. 22 in force at 1.4.2014 by S.I. 2013/1466, **art. 3(1)**

Fees

23 General provision relating to fees

(1) Fees and other sums received by the Auditor General must be paid to the WAO.

(2) The WAO may charge a fee in relation to the audit of a person's accounts or statement of accounts by the Auditor General.

(3) The WAO may charge a fee in relation to—

(a) an examination, certification or report under paragraph 18(3) of Schedule 8 to the Government of Wales Act 2006 (certain examinations into the economy etc with which a person has used resources);

(b) an examination under section 145 of the Government of Wales Act 1998 (examinations into the use of resources) or a study under section 145A of that Act (studies for improving economy etc in services), where undertaken at a person's request;

[[F1](ba) an examination, certification or report under section 31 of the Tax Collection and Management (Wales) Act 2016 in respect of the Welsh Revenue Authority's Tax Statement;**]**

(c) an examination or study undertaken by the Auditor General at a person's request under section 46(4) of the Environment Act 1995;

[[F2](ca) an examination under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (examinations of public bodies for the purposes of assessing the extent to which a body has acted in accordance with the sustainable development principle);**]**

(d) any services provided or functions exercised under section 19.

(4) The WAO must charge a fee in relation to—

(a) the provision of services to a body under paragraph 20 of Schedule 8 to the Government of Wales Act 2006 (certification of claims, returns etc at the request of a body);

(b) a study at the request of an educational body under section 145B of the Government of Wales Act 1998.

(5) Fees under this section—

(a) may only be charged in accordance with a scheme prepared by the WAO under section 24;

(b) may not exceed the full cost of exercising the function to which the fee relates;

(c) are payable to the WAO by the person to whom the function being exercised relates.

Textual Amendments

F1 S. 23(3)(ba) inserted (1.4.2018) by Tax Collection and Management (Wales) Act 2016 (anaw 6), **ss. 36**, 194(2); S.I. 2018/33, art. 3

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F2 S. 23(3)(ca) inserted (1.4.2016) by Well-being of Future Generations (Wales) Act 2015 (anaw 2), s. 56(2), **Sch. 4 para. 32**; S.I. 2016/86, art. 3

Commencement Information

I15 S. 23 in force at 1.4.2014 by S.I. 2013/1466, **art. 3(1)**

24 Scheme for charging fees

(1) The WAO must prepare a scheme relating to the charging of fees by the WAO.

(2) The scheme must include the following—

(a) a list of the enactments under which the WAO may charge a fee;

(b) where those enactments make provision for the WAO to prescribe a scale or scales of fees, that scale or those scales;

(c) where those enactments make provision for the WAO to prescribe an amount to be charged, that amount;

(d) where no provision is made for a scale or scales of fees or for an amount to be prescribed, the means by which the WAO is to calculate the fee.

(3) The scheme may, amongst other things—

(a) include different provision for different cases or classes of case, and

(b) provide for times at which and the manner in which payments are to be made.

(4) The WAO—

(a) must review the scheme at least once in every calendar year,

(b) may revise or remake the scheme at any time, and

(c) must lay the scheme (and any revision to it) before the National Assembly.

(5) Where the Welsh Ministers prescribe a scale or scales of fees under—

(a) section 64F of the Public Audit (Wales) Act 2004 (fees for data matching), or

(b) section 27A of the Local Government (Wales) Measure 2009 (Welsh Ministers' power to prescribe a scale of fees),

to have effect instead of a scale or scales prescribed by the WAO, the WAO must revise the scheme to include the scale or scales prescribed by the Welsh Ministers instead of those prescribed by the WAO.

(6) If a revision made in accordance with subsection (5) is the only revision to a scheme, it does not require the approval of the National Assembly.

(7) The scheme takes effect when approved by the National Assembly or, in the case of a revision made in accordance with subsection (5), once it has been laid before the Assembly.

(8) The WAO must publish the scheme (and any revision to it) as soon as reasonably practicable after it takes effect.

Commencement Information

I16 S. 24 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(l)**

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Annual plan

25 Annual plan

(1) Before the beginning of each financial year, the Auditor General and the WAO must jointly prepare an annual plan for that year.

(2) The annual plan must set out the following—

(a) the Auditor General's work programme;

(b) the WAO's work programme;

(c) the resources available, and which may become available, to the WAO;

(d) how those resources are to be used in order to undertake the Auditor General's programme;

(e) how those resources are to be used in order to undertake the WAO's programme;

(f) the maximum amount of the resources available, and which may become available, that it is anticipated will be allocated by the WAO to the Auditor General for the purpose of undertaking the Auditor General's programme.

(3) In this Chapter—

"Auditor General's work programme" means the Auditor General's priorities for the year in exercising his or her functions;

"WAO's work programme" means the WAO's priorities for the year in exercising its functions under this Act.

Commencement Information

I17 S. 25 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(m)**

26 Annual plan: National Assembly

The Auditor General and the chair of the WAO must lay the annual plan before the National Assembly.

Commencement Information

I18 S. 26 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(n)**

27 Annual plan: effect

The Auditor General and the WAO are not to be bound by the annual plan, but they must have regard to it in the exercise of their functions, including (but not limited to) when exercising functions relating to the provision of resources by the WAO to the Auditor General under section 21.

Commencement Information

I19 S. 27 in force at 4.7.2013 by S.I. 2013/1466, **art. 2(o)**

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