

## EXECUTIVE NOTE

### **Draft SSI: The Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2008**

The above instrument was made in exercise of the powers conferred by sections 483(1)-(3) and (5) of the Companies Act 2006. The instrument is subject to affirmative resolution procedure.

#### **Policy Objectives**

Under section 1226 of the Companies Act 2006 the Auditor General for Scotland (AGS) will be eligible to audit the accounts of companies with effect from 6 April 2008. The purpose of the instrument is to enable the AGS to audit the accounts of qualifying non-departmental public bodies (NDPBs) established as companies in accordance with the public sector audit requirements set out in the Public Finance and Accountability (Scotland) Act 2000 instead of the commercial sector audit requirements set out in the Companies Act 2006. This would put the specified company NDPBs on the same footing as statutory NDPBs for audit and accountability purposes.

In order to qualify for specification under section 483 of the Companies Act 2006 a company must:

- be non-profit-making;
- have its registered office in Scotland; and
- exercise in or as regards Scotland functions of a public nature **and** / **or** be entirely or substantially funded by a body the accounts of which are required by statute to be audited by the AGS.

Under section 482(2) of the Companies Act 2006 a company - or subsidiary undertaking - can only qualify as non-profit making if every group undertaking is non-profit making. As a result only the company NDPBs listed in the schedule to the instrument are currently eligible for specification. The remaining company NDPBs are non-statutory public corporations i.e. market bodies that normally derive a significant proportion of their income from the sale of goods and services.

#### **Consultation**

Audit Scotland was consulted during the preparation of the instrument.

#### **Financial Effects**

The instrument has no material financial effects on the Scottish Government, local government or on business.

Scottish Government Finance Directorate  
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