



Public Audit (Wales) Act 2004

2004 CHAPTER 23

PART 1

AUDITOR GENERAL FOR WALES

New functions of the Auditor General for Wales

1 Transfer of functions of Assembly

After section 146 of the Government of Wales Act 1998 (c. 38) insert—

“146A Transfer etc of functions of Assembly

(1) The Assembly may, with the consent of the Auditor General for Wales, by order provide for any of its supervisory functions in respect of a public body or a registered social landlord in Wales—

- (a) to be exercised on its behalf by the Auditor General for Wales, or
- (b) to be transferred to the Auditor General for Wales.

(2) In this section—

“public body” means—

- (a) a body exercising functions of a public nature, or
- (b) a body entirely or substantially funded from public money,

(and for this purpose “body” includes office);

“registered social landlord in Wales” means a body which is—

- (a) registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996, and
- (b) mentioned in any of paragraphs (a) to (c) of section 56(2) of that Act;

“supervisory functions”, in respect of a public body or a registered social landlord in Wales, means functions of examining, inspecting, reviewing or studying the financial or other management of the public

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body or registered social landlord or the way in which it discharges any of its functions.

- (3) The Assembly may direct the Auditor General for Wales to prepare a report on his exercise, generally or in respect of a specific body or matter, of any function transferred to him by an order under subsection (1)(b).
- (4) The Auditor General for Wales must lay before the Assembly any report prepared by him in accordance with a direction under subsection (3).
- (5) An order under subsection (1) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments)."

2 Additional functions of Auditor General

After section 96 of the Government of Wales Act 1998 (c. 38) insert—

“96A Reports in public interest

- (1) Where the Auditor General for Wales thinks that it would be in the public interest for him to bring to the public’s attention a matter coming to his notice in the course of an examination or study to which subsection (2) applies, he may prepare a report on that matter.
- (2) This subsection applies to—
 - (a) an examination of auditable accounts (other than accounts falling to be examined under section 96(3)(a)), and
 - (b) an examination or study under section 100, 145 or 145A, except one undertaken at the request of the body or bodies to which it relates.
- (3) The Auditor General for Wales must, as soon as practicable after preparing a report under subsection (1), lay the report before the Assembly.
- (4) In this section “auditable accounts” has the meaning given in section 95(7).

96B Certification of claims, returns etc.

- (1) The Auditor General for Wales must, if so required by a relevant body, make arrangements for—
 - (a) certifying any claim or return in respect of a grant made or subsidy paid to that body by the Assembly, a Minister of the Crown or a public authority;
 - (b) certifying any account submitted by that body to the Assembly or a Minister of the Crown with a view to obtaining payment under a contract between that body and the Assembly or, as the case may be, the Minister;
 - (c) certifying that body’s calculation under paragraph 5(6)(a) of Schedule 8 to the Local Government Finance Act 1988 of the amount of its non-domestic rating contribution for a financial year, and for certifying the amount calculated;

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- (d) certifying any return by that body which, by or under any enactment, is required or authorised to be certified by the body's auditor or under arrangements made by the Auditor General for Wales.

(2) In this section—

“public authority” means a body established by or under the Community Treaties or any enactment; and

“relevant body” means—

- (a) a body whose accounts, or statements of accounts, are “auditable accounts” within the meaning given in section 95(7), or
- (b) a local government body in Wales (within the meaning given in section 12(1) of the Public Audit (Wales) Act 2004).

96C Ancillary powers of Auditor General

(1) Arrangements may be made between the Auditor General for Wales and a relevant authority—

- (a) for any function of that authority to be exercised by, or by a member of the staff of, the Auditor General for Wales, or
- (b) for administrative, professional or technical services to be provided by him to that authority or by that authority to him.

(2) Any arrangements under subsection (1)(a) for the exercise of any function of a relevant authority do not affect the responsibility of the relevant authority on whose behalf the function is exercised.

(3) The Auditor General for Wales and—

- (a) a relevant authority,
- (b) a qualified auditor, or
- (c) an accountancy body,

may make arrangements to co-operate with, and give assistance to, each other if each considers that to do so would facilitate, or be conducive to, the exercise of his or its own functions.

(4) The Auditor General for Wales may make arrangements under this section on such terms and conditions, including conditions as to payment, as he thinks fit.

(5) In this section—

“accountancy body” means—

- (a) a body which is a recognised supervisory body for the purposes of Part 2 of the Companies Act 1989, or
- (b) a body of accountants, established in the United Kingdom or another EEA State, which is for the time being approved by the Assembly for the purposes of this section;

“EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993;

“qualified auditor” means a person eligible to be appointed as an auditor under section 14 of the Public Audit (Wales) Act 2004 (auditors appointed in respect of local government bodies in Wales); and

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“relevant authority” means any government department, any local or other public authority or the holder of any public office.”

Accountability of certain public bodies in Wales

3 Studies for improving economy etc in services

After section 145 of the Government of Wales Act 1998 (c. 38) insert—

“145A Studies for improving economy etc in services

- (1) The Auditor General for Wales may undertake or promote studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of any relevant body or bodies.
- (2) The Auditor General for Wales may also undertake or promote other studies relating to the provision of services by any relevant body or bodies.
- (3) Subsections (1) and (2) do not entitle the Auditor General for Wales to question the merits of the policy objectives of any relevant body.
- (4) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee as to the studies which he should undertake or promote under this section.
- (5) For the purposes of this section each of the following is a “relevant body”—
 - (a) a person who prepares auditable accounts within the meaning given in section 95(7);
 - (b) any other person (other than a local government body in Wales) in relation to whom, by virtue of provision made by or under this or any other Act, the Auditor General for Wales carries out examinations or studies relating to the economy, efficiency and effectiveness with which that person has used his resources in discharging his functions;
 - (c) a person (other than a registered social landlord in Wales) in respect of whom the Auditor General for Wales has functions by virtue of provision made under section 146A.
- (6) Where the Auditor General for Wales undertakes or promotes a study under this section he may arrange for a report containing—
 - (a) the results of the study, and
 - (b) his recommendations (if any),
 to be laid before the Assembly.
- (7) In this section—

“local government body in Wales” has the meaning given in section 12(1) of the Public Audit (Wales) Act 2004; and

“registered social landlord in Wales” has the meaning given in section 146A(2).”

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4 Studies at request of educational bodies

After section 145A of the Government of Wales Act 1998 (c. 38) (inserted by section 3) insert—

“145B Studies at request of educational bodies

- (1) The Auditor General for Wales may undertake studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of a body specified in the first column of the Table, if requested to do so by the body (or one of the bodies) specified in relation to it in the second column of the Table.

<i>Subject of study</i>	<i>Requesting body</i>
The governing body of an institution in Wales within the higher education sector.	The governing body or the Higher Education Funding Council for Wales.
The governing body of an institution in Wales receiving financial support under Part 1 of the Education Act 1994.	The governing body or the appropriate funding agency.
The governing body of an institution in Wales within the further education sector.	The governing body or the National Council for Education and Training for Wales.

- (2) Subsection (1) does not entitle the Auditor General for Wales to question the merits of the policy objectives of a body.
- (3) Where the Auditor General for Wales undertakes a study under subsection (1) he may, with the consent of the body that requested the study, arrange for a report containing—
- the results of the study, and
 - his recommendations (if any),
- to be laid before the Assembly.
- (4) The Auditor General for Wales may, at the request of the Higher Education Funding Council for Wales, give the council advice in connection with the discharge of the council’s functions under section 124B(2)(b) of the Education Reform Act 1988 or paragraph 18(2)(b) of Schedule 7 to that Act.
- (5) The Auditor General for Wales may, at the request of a higher education corporation or further education corporation in Wales—
- advise them in connection with the appointment of persons to audit their accounts;
 - arrange for their accounts for a financial year to be audited by one or more members of the staff of the Auditor General for Wales appointed by the corporation.
- (6) In subsection (5)—
- “higher education corporation” and “further education corporation” have the same meaning as in the Further and Higher Education Act 1992;

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(b) references to the accounts of a higher education corporation include references to a statement of accounts prepared by the corporation under section 124B of the Education Reform Act 1988 or paragraph 18 of Schedule 7 to that Act.

(7) This section must be construed as one with the Education Act 1996; and references in any enactment to the Education Acts include this section.”

5 Studies relating to registered social landlords

After section 145B of the Government of Wales Act 1998 (c. 38) (inserted by section 4) insert—

“145C Studies relating to registered social landlords

- (1) The Assembly and the Auditor General for Wales may agree on one or more programmes of studies designed to enable the Auditor General for Wales to make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of registered social landlords in Wales.
- (2) If a programme is agreed, the Auditor General for Wales shall ensure that studies giving effect to the programme are undertaken by him or on his behalf.
- (3) It shall be a term of every such programme that the Assembly make good to the Auditor General for Wales the full costs incurred by him in undertaking the programme.
- (4) This section does not entitle the Auditor General for Wales to question the merits of the policy objectives of a registered social landlord in Wales.
- (5) Where a study is undertaken under this section by the Auditor General for Wales or on his behalf, he may arrange for a report containing—
 - (a) the results of the study, and
 - (b) his recommendations (if any),
 to be laid before the Assembly.
- (6) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under section 95(3)(a) or (b) in relation to a study under this section.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) The Auditor General for Wales may disclose to the Assembly information obtained by him or a person acting on his behalf in the course of a study under this section.
- (9) “Registered social landlord in Wales” means a body which is—
 - (a) registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996, and
 - (b) mentioned in any of paragraphs (a) to (c) of section 56(2) of that Act.”

Status: Point in time view as at 01/04/2005.

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Funding of Auditor General

6 Expenses and accounts

- (1) Section 93 of the Government of Wales Act 1998 (c. 38) (expenses, fees and accounts) is amended as follows.
- (2) In subsection (1) after “him” insert “ or met by virtue of subsection (2A) ”.
- (3) After subsection (2) insert—

“(2A) The Auditor General for Wales may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.”
- (4) After subsection (6) insert—

“(6A) Nothing in subsection (5) or (6) authorises the Audit Committee—

 - (a) to examine that part of any estimate which relates to estimated income or expenditure of the office of the Auditor General for Wales relating to Part 2 of the Public Audit (Wales) Act 2004 (local government bodies in Wales), or
 - (b) to lay an estimate before the Assembly with modifications relating to such estimated income or expenditure.”

7 Fees

After section 93 of the Government of Wales Act 1998 (the title to which becomes “Expenses and accounts”) insert—

“93A Fees

- (1) The Auditor General for Wales may charge a fee for auditing a person’s accounts.
- (2) Where the Auditor General for Wales—
 - (a) provides services under section 96(3)(b) by carrying out an examination in relation to a person, or
 - (b) at the request of any person other than the Assembly, provides services under section 145A,the Auditor General for Wales may charge that person a fee not exceeding the full cost of providing those services.
- (3) Where the Auditor General for Wales—
 - (a) provides services to a body under section 96B, or
 - (b) provides services at the request of a body under section 145B of this Act or section 44 of the Public Audit (Wales) Act 2004 (studies at request of local government bodies in Wales),the Auditor General for Wales must charge that body a fee which covers the full cost of providing those services.

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- (4) For the purposes of this section “body” includes a local government body in Wales (within the meaning given in section 12(1) of the Public Audit (Wales) Act 2004).”

Commencement Information

- II** S. 7 wholly in force at 1.4.2005, see s. 73 and S.I. 2005/558, art. 2, Sch. 1 (subject to Sch. 2)

Administrative matters

8 Auditor General’s seal

In section 90 of the Government of Wales Act 1998 (c. 38) (establishment of office of Auditor General for Wales), after subsection (7) insert—

“(8) The application of the seal of the Auditor General for Wales is to be authenticated by the signature of—

- (a) the Auditor General for Wales, or
- (b) any member of his staff authorised by him (generally or specially) for that purpose.

(9) A document purporting to be duly executed under the seal of the Auditor General for Wales or to be signed on his behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.”

9 Staff etc of the Auditor General

(1) Section 92 of the Government of Wales Act 1998 (appointment and remuneration of staff etc of Auditor General for Wales) is amended as follows.

(2) Omit subsections (1) and (3).

(3) In subsection (6)—

- (a) for “The Assembly” substitute “ The Auditor General for Wales ”, and
- (b) for “he”, in both places it occurs, substitute “ the Minister ”.

(4) For subsection (8) substitute—

“(8) Any function of the Auditor General for Wales may be exercised by—

- (a) a member of his staff, or
- (b) a person providing services to him,

who is authorised by the Auditor General for Wales for that purpose.

(8A) Any function of the Auditor General for Wales may be exercised jointly by him and a person providing services to him who is authorised by him for that purpose.

(8B) Any provision made under subsection (8) for the exercise of any function does not affect the responsibility of the Auditor General for Wales on whose behalf the function is exercised.”

(5) In subsection (9) for “for the Assembly” substitute “ within subsection (9A) ”.

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(6) After that subsection insert—

- “(9A) Accounts (or statements of accounts) are within this subsection if, in accordance with provision made by or under this or any other Act, they—
- (a) fall to be examined by the Auditor General for Wales, and
 - (b) are required to be laid before the Assembly.”

10 Accounting officer

After section 94 of the Government of Wales Act 1998 (c. 38) insert—

“94A Accounting officer

- (1) The accounting officer for the Wales Audit Office is the Auditor General for Wales.
- (2) But where—
 - (a) the Auditor General for Wales is incapable of discharging his responsibilities as accounting officer, or
 - (b) the office of Auditor General for Wales is vacant,the Audit Committee may designate a member of the staff of the Auditor General for Wales to be the accounting officer for so long as paragraph (a) or (b) applies.
- (3) The accounting officer for the Wales Audit Office has, in relation to the accounts of the Auditor General for Wales and the finances of the Wales Audit Office, the responsibilities which are from time to time specified by the Audit Committee.
- (4) In this section references to responsibilities include in particular—
 - (a) responsibilities in relation to the signing of accounts,
 - (b) responsibilities for the propriety and regularity of the finances of the Wales Audit Office, and
 - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Wales Audit Office are used.
- (5) The responsibilities which may be specified under this section include responsibilities owed to—
 - (a) the Audit Committee, or
 - (b) the House of Commons or its Committee of Public Accounts.
- (6) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
 - (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Wales Audit Office, and
 - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (7) In this section “the Wales Audit Office” means the Auditor General for Wales and the members of his staff.”

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Changes to legislation: There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Part 1. (See end of Document for details)

11 Access to information, etc by Auditor General

For section 95 of the Government of Wales Act 1998 (c. 38) (access to documents by Auditor General for Wales) substitute—

“95 Access to documents by Auditor General

- (1) The Auditor General for Wales has a right of access at all reasonable times to every document relating to a relevant person which appears to him necessary—
 - (a) for the purposes of his examination of any auditable accounts;
 - (b) for the purposes of undertaking studies under section 145A or 145C;
 - (c) for the purposes of carrying out, in accordance with any provision made by or by virtue of this or any other Act, other examinations or studies into the economy, efficiency and effectiveness with which any person has used his resources in discharging his functions.
- (2) The documents relating to a relevant person to which the right conferred by subsection (1) applies may include, in particular—
 - (a) a document which is held or controlled by a person who has received financial assistance from the relevant person by means of a grant, loan or guarantee or as a result of the taking of an interest in any property or body corporate;
 - (b) a document which is held or controlled by a person who has supplied goods or services to the relevant person in pursuance of a contract to which the relevant person was party or has supplied goods or services in pursuance of a relevant sub-contract;
 - (c) a document of a description specified in an order made by the Assembly.
- (3) The Auditor General for Wales may require a person whom he thinks has information of the kind mentioned in subsection (4)—
 - (a) to give him any assistance, information and explanation which the Auditor General for Wales thinks necessary for any of the purposes mentioned in paragraphs (a) to (c) of subsection (1);
 - (b) to attend before him in person to—
 - (i) give the assistance, information or explanation, or
 - (ii) produce any document which is held or controlled by the person and to which the right conferred by subsection (1) applies;
 - (c) to provide any facility which the Auditor General for Wales may reasonably require for any of the purposes mentioned in paragraphs (a) to (c) of subsection (1).
- (4) The information is information which relates to—
 - (a) a relevant person;
 - (b) a document to which the right conferred by subsection (1) applies; or
 - (c) a person who holds or controls such a document.
- (5) The Auditor General for Wales may, for the purposes of his examination of any auditable accounts, require a relevant person to provide him, at times specified by him, with accounts of such of the person’s transactions as he may specify.

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- (6) For the purposes of subsection (2)(b), a contract is a relevant sub-contract if its performance fulfils, or contributes to the fulfilment of, an obligation to supply goods or services to the relevant person in another contract.
- (7) In this section—
- “auditable accounts” means any accounts or statement of accounts falling to be examined by the Auditor General for Wales in accordance with any provision made by or by virtue of this or any other Act; and
- “relevant person” means—
- (a) in a case within subsection (1)(a)—
- (i) the person by whom the auditable accounts are prepared, and
- (ii) in the case of any accounts which the Assembly is directed to prepare under section 97, any person to whose financial affairs and transactions the auditable accounts are to relate by virtue of directions under subsection (2) of that section, and
- (b) in any other case, a person to whom the study or examination relates.
- (8) Before making an order under subsection (2)(c), the Assembly must consult the Treasury and the Auditor General for Wales.”

Status:

Point in time view as at 01/04/2005.

Changes to legislation:

There are currently no known outstanding effects for the Public Audit (Wales) Act 2004, Part 1.