

BUDGET RESPONSIBILITY AND NATIONAL AUDIT ACT 2011

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

Part 2: National Audit

13. [Part 2](#) of the Act modernises the governance arrangements for the NAO. The provisions were previously included in the Constitutional Reform and Governance Bill where they formed Part 7 of the Act as introduced. The clauses were scrutinised by the House of Commons but were lost in the House of Lords during the “wash-up” stage immediately before the 2010 General Election.¹

Previous audit legislation

14. The office of Comptroller and Auditor General (C&AG) was created in 1866 when the role of the Comptroller of the Exchequer was combined with that of the Commissioners for Audit. The C&AG is still appointed under the Exchequer and Audit Departments Act 1866 (the “1866 Act”). The National Audit Act 1983 (the “1983 Act”) built on that framework and provided for the C&AG to be head of the NAO, an office which consists of the C&AG and the staff appointed by the C&AG. The C&AG audits the accounts of Government departments and a wide range of other public bodies under a number of statutory powers. Under the 1983 Act, the C&AG carries out “value for money” examinations of the way in which departments and other public bodies have used their resources. In addition, the C&AG audits certain public funds and has rights of inspection and examination over other bodies which receive public money.
15. Under the 1983 Act, a committee of Members of Parliament, the Public Accounts Commission (“the Commission”), was set up to oversee the activities of the C&AG and the NAO. Its functions include agreeing the voted resources of the NAO.

The Commission’s Review

16. In July 2007, the Commission initiated a review of the corporate governance arrangements of the NAO to ensure that they conformed to best practice. The Commission’s Report was published as HC 402 on 6 March 2008.²
17. The Commission recommended that the NAO should remain the Government’s auditor, independent of Government and answerable directly to Parliament through the

¹ House of Commons, Committee of the whole House, Constitutional Reform and Governance Act debate, 4 November 2009: Column 922. Available at:

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091104/debtext/91104-0014.htm>

² The Public Accounts Commission ‘Corporate Governance of the National Audit Office: Response to John Tiner’s Review’ 4 March 2008, HC402. Available at:

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpacomm/402/402.pdf>

Commission. Its audit reports, both financial and value for money, should continue to be laid in Parliament and the Committee of Public Accounts (PAC) would continue to hold scrutiny hearings on some of them. As chief executive of the NAO, the C&AG should continue to lead its audit work and to make professional judgements on its audit reports. However, the Commission said that the NAO should also have a board with a majority of non-executives, including a non-executive chair. The board would be charged with setting the strategic direction for the NAO and supporting the C&AG. The C&AG would have a fixed term of ten years instead of the current unlimited term. The Government accepted the Commission's recommendations, which it sought to implement through the Constitutional Reform and Governance Act (see above).

The provisions of Part 2

18. **Part 2** of the Act therefore makes provision for the modernisation of the NAO's governance arrangements. It continues the office of C&AG as an independent officer of Parliament but limits the term of appointment to that office to ten years. It provides for the establishment of a new corporate body, the new NAO, whose functions will include providing resources for the C&AG's functions, monitoring the carrying out of those functions and approving the provision of certain services. The NAO will have a majority of non-executives and be led by a non-executive chair. The C&AG will be the NAO's chief executive but will not be an NAO employee. Within the new governance framework, the C&AG continues to have complete discretion in the carrying out of the C&AG's functions. Part 2 also confers legislative competence on the National Assembly for Wales to pass legislation concerning the governance arrangements of the Auditor General for Wales.
19. When the Commission met on 16 December 2008, it published the Government's draft clauses and (subject to a recommendation that the C&AG's pay should be linked to that of the Lord Chief Justice and that the employment restriction should last for five years) said it was content with the clauses.³

³ Its recommendations are available at

http://www.parliament.uk/parliamentary_committees/public_accounts_commission/tpacfm161208.cfm