

BUDGET RESPONSIBILITY AND NATIONAL AUDIT ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Schedule 3: Relationship between NAO and Comptroller and Auditor General

Paragraphs 10 to 12: Code of practice

201. *Paragraphs 10 to 12* provide for the preparation, approval and content of a code of practice which is to set out the relationship between the NAO and the C&AG. The code will allow detailed arrangements for the operation of the new NAO and its relationship with the C&AG to be set in a flexible and transparent manner. The code will not be a source of further powers for either; rather it will seek to give practical effect to the provisions of Part 2 of the Act. It is intended to be a practical way of setting out how the powers are to be used in practice, and may be adjusted from time to time to reflect the evolving requirements of NAO's business and the C&AG's priorities.
202. *Paragraph 10* provides that the NAO and C&AG must jointly prepare a code of practice dealing with the relationship between the NAO and the C&AG. The code is required to reflect the principle enunciated in *section 17(1) and (2)* of this Act that, subject to any other statutory provision, the C&AG has complete discretion in carrying out the C&AG's functions.
203. Once it has been prepared, the code must be reviewed regularly by the NAO and C&AG and revised as appropriate. In preparing and revising the code, they must consult the Treasury. They must also consider any proposals for revision made by the Commission.
204. The code requires the approval of the Commission. The chair of the NAO and C&AG are jointly to submit the code or any revision to the Commission. If the Commission approves the code, it must lay it before Parliament.
205. *Sub-paragraph (9)* requires the NAO and the C&AG to comply with the code.
206. *Paragraph 11* provides that the code must be approved by the NAO at a meeting of NAO. Approval can only be given if at least one-half of the non-executive members present and voting vote in favour.
207. *Paragraph 12* sets out a non-exhaustive list of what is to be covered by the code.
208. *Sub-paragraph (1)* provides that the code must include:
 - provision as to how the strategy is to be prepared, reviewed and revised, and the matters and the periods it should cover;
 - provision as to how resources are to be provided for the C&AG's functions under *paragraph 2(1)* of *Schedule 3*;
 - provision about the preparation of estimates for NAO resources under *section 23*;

These notes refer to the Budget Responsibility and National Audit Act 2011 (c.4) which received Royal Assent on 22 March 2011

- provision about the way in which the NAO makes decisions on approving and setting resources for NAO-approved services under *paragraph 3 of Schedule 3*;
 - provision as to how the NAO monitors the C&AG's functions under *paragraph 4 of Schedule 3*;
 - provision as to how advice is to be given by the NAO for the purposes of *paragraph 5 of Schedule 3*;
 - provision as to the way in which the C&AG's charges fees under *paragraph 8 of Schedule 3*; and
 - provision about the extent of the delegation of NAO's functions to the C&AG under *paragraph 23 of Schedule 2*.
209. The code must also place restrictions on the public comments that a NAO non-executive member may make in relation to the carrying out of the C&AG's functions.
210. *Sub-paragraph (2)* sets out some other matters that may be dealt with in the code. These are:
- the way in which the annual reports required by *paragraph 9* are to be prepared;
 - the matters about which the NAO and/or the C&AG are to consult the Commission from time to time; and
 - any standards of corporate governance.