

# **BUDGET RESPONSIBILITY AND NATIONAL AUDIT ACT 2011**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS AND SCHEDULES**

#### ***Schedule 6: Powers of National Assembly for Wales: Auditor General for Wales***

248. This Schedule amends Schedules 5 and 7 to the Government of Wales Act 2006 (“the 2006 Act”) to confer legislative competence on the National Assembly for Wales (“the Assembly”) in relation to the Auditor General for Wales (“AGW”).

#### ***Paragraphs 2 to 4: Assembly Measures***

249. *Paragraphs 2 to 4* amend Schedule 5 to the 2006 Act, which deals with the Assembly’s competence to pass legislation known as Assembly Measures under Part 3 of the 2006 Act.
250. *Paragraph 3* amends Part 1 of Schedule 5 to the 2006 Act, which sets out the matters to which provisions of Assembly Measures may relate, by inserting a new matter 14.1 in the field of public administration. The competence conferred by matter 14.1 would enable an Assembly Measure to make certain kinds of provision in relation to the AGW, for example to put in place new governance arrangements for the AGW. The provision made by the Assembly could be similar to that set out elsewhere in Part 2 in relation to the C&AG and NAO.
251. *Paragraph 4* amends Part 2 of Schedule 5 to the 2006 Act, which sets out restrictions on the Assembly’s competence to pass Assembly Measures. The amendments provide for exceptions to the prohibitions on Assembly Measures being able to modify certain provisions of the Government of Wales Act 1998 (“the 1998 Act”) and the 2006 Act, and will enable those Acts to be amended by Assembly Measure if the purpose of the amendment is about putting in place governance arrangements relating to the AGW. The amendments made by *paragraph 4(3)* also include provisions to protect the AGW’s independence from the Assembly and Welsh Assembly Government.

#### ***Paragraphs 5 to 7: Acts of the Assembly***

252. *Paragraphs 5 to 7* amend Schedule 7 to the 2006 Act, which deals with the Assembly’s competence to pass legislation known as Assembly Acts under Part 4 of the 2006 Act. Under sections 103 and 105 of the 2006 Act, the “Assembly Act provisions” enabling the Assembly to pass Assembly Acts can only be brought into force if the majority of those voting in a referendum held throughout Wales vote in favour. The purpose of the amendments made to Schedule 7 to the 2006 Act by *paragraphs 5 to 7* is to ensure that, upon the coming into force of the Assembly Act provisions, the Assembly would not lose any of the competence which it would have as a result of the amendments made to Schedule 5 by *paragraphs 2 to 4*.
253. *Paragraph 6* amends Part 1 of Schedule 7 to the 2006 Act, which sets out the subjects to which provisions of Assembly Acts may relate, by inserting in paragraph 14 a new

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

subject “Auditor General for Wales”. Paragraph 14 already includes the subject “Audit, examination, regulation and inspection of auditable public authorities”. The new subject would enable an Assembly Act to make similar types of provision in relation to the AGW as matter 14.1 in Schedule 5 (but it is worded differently in view of the subjects already included in Schedule 7 and the more general drafting style of that Schedule).

254. *Paragraph 7* amends Part 2 of Schedule 7 to the 2006 Act, which sets out restrictions on the Assembly’s competence to pass Assembly Acts. The amendments provide for exceptions to the prohibitions on Assembly Acts being able to modify certain provisions of the 1998 and 2006 Acts. These exceptions will enable an Assembly Act to modify Schedule 8 to the 2006 Act, which deals with the office of AGW, and will enable an Assembly Act to modify other provisions of the 1998 and 2006 Acts if the purpose of the amendment relates to the oversight or supervision of the AGW. The amendments made by *paragraph 7(3)* also include provisions to protect the AGW’s independence from the Assembly and Welsh Assembly Government.