

LOCAL AUDIT AND ACCOUNTABILITY ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 7 – Miscellaneous and Supplementary

Section 45 and Schedule 12: Related amendments

153. This Schedule (which is given effect to by section 45) makes a range of amendments to various Acts, related to the changes made by this Act. Many of these are consequential and remove redundant references to the Audit Commission; however some make more significant changes to existing legislation. Of particular note are the following:
154. [Paragraphs 2, 30, 44, 46, 69 and 82 to 84](#) make consequential amendments to legislation setting out the powers and duties of certain inspection authorities: Her Majesty's Chief Inspector of Prisons, HM Inspectors of Constabulary, HM Inspector of the Crown Prosecution Service, HM Inspectorate of Probation, HM Chief Inspector of Children's Services and Skills, and the Care Quality Commission. The amendments remove references to the Audit Commission, which previously had powers to carry out inspections of certain local authorities and so would co-ordinate those with other inspectorates. They also insert provisions to enable inspectorates to do anything they think appropriate to facilitate an inspection carried out under new section 10 of the Local Government Act 1999 (see section 34 and Schedule 10).
155. [Paragraphs 50 and 51](#) amend sections 21 and 22 of the Local Government Act 2003. Section 21 provides a definition of proper practices in relation to accounts and gives a power to define accounting practices by regulation. These powers have formerly been used to apply professional accounting codes to principal local authorities and to establish accounting practices that avoid unwarranted increases in council tax. Section 22 provides a related definition of "revenue account." Both of these sections only apply to bodies that are local authorities as defined in that Act, plus three types of bodies (parish councils, community councils and charter trustees).
156. The effect of Paragraphs 50 and 51 is to extend the list of bodies to which sections 21 and 22 apply to include all relevant authorities under section 2 other than health service bodies. Any further bodies included as a relevant authority in future will also be brought within sections 21 and 22, unless they are health service bodies.
157. [Paragraph 79](#) amends paragraph 9 of Schedule 13 to the Serious Crime Act 2007 by omitting the reference to Schedule 7 of the same Act. Schedule 7 modified section 32D(8)(b) of the Audit Commission Act 1998 by specifying that "... a person who discloses information to which this section applies is guilty of an offence and liable ... on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both". The Local Audit and Accountability Act 2014 does not contain any imprisonable criminal sanctions in relation to data matching.

158. [Paragraphs 89 to 96](#) amend the Housing and Regeneration Act 2008 to enable the housing regulator to appoint a local auditor to undertake an extraordinary audit of a local authority's social housing accounts. This is consistent with the regulator's existing power under section 210 of that Act to order an extraordinary audit as part of an inquiry under section 206 in respect of a private registered provider of social housing.

NHS charities

159. [Paragraphs 118 to 122](#) make amendments to the provisions in the Charities Act 2011 which concern the audit or examination of the accounts of English NHS charities. An English NHS charity is a charitable trust which has as its trustee an English NHS body, such as an NHS trust (see section 149(7) of the Charities Act 2011). English NHS charities are generally established by English NHS bodies in order to handle their charitable funds.
160. [Paragraph 119\(2\)](#) replaces the requirement in section 149 of the Charities Act 2011 that the accounts of larger NHS charities should be audited by a person appointed by the Audit Commission with a requirement that the audit be carried out by someone who is eligible to act as an auditor under either the Companies Act 2006, this Act, or who is a member of a body specified in regulations under the Charities Act 2011. Section 144(1) of the Charities Act 2011 provides that this applies to NHS charities whose gross income in the year exceeds £500,000; or whose gross income in the year exceeds the accounts threshold (specified in section 133 of the Charities Act 2011) and whose assets exceed £3.26 million.
161. [Paragraph 119\(3\)](#) requires the trustees of smaller English NHS charities, with income of between £25,000 and £500,000 in the year in question, to appoint either an auditor (in the same way as larger English NHS charities) or a qualified independent examiner. Currently, the Audit Commission decides whether the accounts of smaller NHS charities should be audited or examined. [Paragraph 119\(4\)](#) sets out the criteria for someone to be qualified as an independent examiner.
162. [Paragraph 119\(5\)](#) removes the imposition of the requirements in section 3 of the Audit Commission Act 1998 on the audit of accounts of English NHS charities. The main provisions in that section relate to who should be appointed as an auditor. For NHS charities, these would be superseded by the provision in [paragraph 118\(2\)](#). Other provision in section 3 concerns the terms of appointment of auditors, which would become a matter for the trustees of an NHS charity.
163. [Paragraph 119\(6\)](#) extends the existing provision in section 149(5) of the Charities Act 2011 whereby the Charities Commission can give directions about the carrying out of examinations of the accounts of smaller NHS charities, so that the Charities Commission can also give guidance about the selection of independent examiners.
164. [Paragraph 120](#) has the effect that if an NHS charity is the parent charity for a group of charities that meets the definition of larger group in section 151 of the Charities Act 2011, the auditor for the group accounts would in future be appointed by the trustees of that charity, rather than the Audit Commission. [Paragraph 117](#) makes similar provision where a NHS charity is the parent charity for a group of charities that meets the definition of smaller group in section 152 of the Act.