
 STATUTORY INSTRUMENTS

1983 No. 249

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Accounts and Audit (Transitional Provisions) Regulations
1983**

<i>Made</i>	- - - -	28th February 1983
<i>Laid before Parliament</i>		9th March 1983
<i>Coming into Operation</i>		1st April 1983

The Secretary of State for the Environment, in exercise of his powers under sections 166 and 167 of the Local Government Act 1972(a), and of sections 33(3) and 35 of the Local Government Finance Act 1982(b), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.— (1) These regulations may be cited as the Accounts and Audit (Transitional Provisions) Regulations 1983 and shall come into operation on 1st April 1983.

(2) In these regulations “the 1972 Act” means the Local Government Act 1972.

Modification etc. of statutory provisions

2.— (1) There are hereby prescribed, for the purposes of the continuance on and after 1st April 1983 of the statutory provisions mentioned in sub-paragraph (2) below in relation to accounts for periods beginning before that date, the modifications, additions and omissions set out in Schedule 1 to these regulations.

(2) The statutory provisions referred to in sub-paragraph (1) above are—

- (a) Part VIII of the 1972 Act;
- (b) paragraph 7 of Schedule 29 to the 1972 Act;
- (c) paragraph 39 of Schedule 3 to the Water Act 1973(c), and
- (d) paragraph 2 of the Internal Drainage Boards (Audit) Directions 1975(d).

3. The Accounts and Audit Regulations 1974(e) shall be amended in accordance with Schedule 2 to these regulations.

(a) 1972 c. 70.
(c) 1973 c. 37.
(e) S.I. 1974/1169.

(b) 1982 c. 32.
(d) S.I. 1975/345.

Item No.	Regulation	Affecting	Applicable to	
			Motor vehicles	Trailers
10A	46B	Rear under-run protection	Yes	Yes
10B	46C	Sideguards	No	Yes
10C	46D	Sideguards	Yes	Yes
21A	105A	Maintenance of rear under-run protection	Yes	Yes
21B	105B	Maintenance of sideguards	Yes	Yes

David Howell,
Secretary of State for Transport.

25th February 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Goods Vehicles (Plating and Testing) Regulations 1982 in the following respects:—

1. In consequence of the application of the Motor Vehicles (Type Approval for Goods Vehicles) (Great Britain) Regulations 1982 to certain vehicles manufactured on or after 1st October 1982 and first used on or after 1st April 1983, amendments are made on account of the provision in section 48(5) of the Road Traffic Act 1972 that a certificate of conformity or a Minister's approval certificate shall be treated as a plating certificate (see Regulations 4, 6, 7(a), 9, 10, 11 and 12).

2. In consequence of the amendments to certain maximum weights at which vehicles may be used on a road in Great Britain achieved by the Motor Vehicles (Construction and Use) (Amendment) (No. 7) Regulations 1982 (S.I. 1982/1576) and the provision made in the Motor Vehicles (Construction and Use) (Amendment) (No. 4) Regulations 1982 (S.I. 1982/1272) for maximum train weights to be included as plated weights for vehicles other than motor vehicles constructed or adapted to form part of an articulated vehicle, certain provisions relating to weights have been amended (See Regulations 7(b) and (c), 8 and 13).

3. The prescribed fee for re-tests of certain vehicles is increased from £10 to £21 in the case of a motor vehicle and from £6 to £11 in the case of a trailer (see Regulation 5).

4. Rear under-run protection and sideguards are added to the prescribed construction and use requirements (see Regulation 14).

5. In respect of the amendments summarised above the provisions relating to the interpretation of the Regulations have been amended (see Regulation 3).

SCHEDULE 1

MODIFICATIONS, ADDITIONS AND OMISSIONS IN STATUTORY PROVISIONS

PART I

Part VIII of the Local Government Act 1972

1. In Section 154 of the 1972 Act—

(a) in subsection (1), for the words “either a district auditor or an approved auditor” there shall be substituted the words “the auditor (being either the district auditor or an approved auditor) who was on 31st March 1983 the auditor in relation to those accounts”; and

(b) for subsections (2) to (11) there shall be substituted—

“(2) If it appears to the Audit Commission for Local Authorities in England and Wales (in this Part of this Act referred to as “the Commission”) that, with respect to any accounts required to be audited in accordance with this Part of this Act the audit of which has not been concluded—

(a) neither the district auditor nor an approved auditor is for the time being appointed to audit the accounts, or

(b) any of the circumstances mentioned in subsection (3) below applies,

the accounts concerned shall be audited by an auditor appointed by the Commission after consultation with the body concerned; and the provisions of this Part of this Act shall have effect as if by virtue of subsection (1) above the accounts were to be audited by the district auditor.

(3) The circumstances mentioned in subsection (2) above are that the approved auditor appointed in relation to the accounts concerned—

(a) has died, or

(b) is for any reason unable or unwilling to act, or

(c) has ceased to be qualified as mentioned in Section 164(2) below, or

(d) by agreement with the body who appointed him has terminated his appointment.

(4) A person shall not be appointed under subsection (2) above unless he is a member of one or more of the bodies mentioned in section 13(6) of the Local Government Finance Act 1982 or has such other qualifications as have been approved for the purposes of that section by the Secretary of State.”.

2. In Section 156 of the 1972 Act—

(a) for the words from the beginning to “as he thinks necessary”, where first occurring, there shall be substituted the words “The Commission may appoint such number of district auditors as appear to it to be necessary”;

(b) for the words “as he thinks necessary” where next occurring there shall be substituted the words “as appear to the Commission to be necessary”, and

(c) for subsection (2) there shall be substituted—

“(2) Any appointment of a district auditor or a person to assist a district auditor having effect immediately before 1st April 1983 shall have effect as if made by the Commission under subsection (1) above.”

(3) No appointment of a district auditor shall be made under subsection (1) above unless the person so appointed is a member of one or more of the bodies mentioned in section 13(6) of the Local Government Finance Act 1982 or has such other qualifications as have been approved for the purposes of that section by the Secretary of State.”

3. In Section 159(4) of the 1972 Act, for the words “the Secretary of State, requesting him to direct a district auditor” there shall be substituted the words “the Commission, requesting it to direct an auditor or auditors appointed by it”.

4. In Section 160(1) of the 1972 Act, for the words “the Secretary of State” there shall be substituted the words “the Commission”.

5. In Section 162 of the 1972 Act—

(a) for the words “the Secretary of State” in the first place in which they occur there shall be substituted the words “the Commission”, and

(b) for the words from “that the Secretary of State” to “district auditor” there shall be substituted the words “that the Commission may consider whether it should direct an auditor or auditors appointed by it”.

6. In Section 163 of the 1972 Act, for the words “the Secretary of State”—

(a) in subsection (1) in the second place in which they occur, and

(b) in subsection (2),

there shall be substituted the words “the Commission”.

7. In section 164 of the 1972 Act—

(a) for subsection (1) there shall be substituted—

“(1) In this Part of this Act, “approved auditor” means an auditor who is qualified under subsection (2) below, and whose appointment by a body whose accounts are required to be audited in accordance with this Part of this Act has been approved by the Secretary of State before 1st April 1983.”;

(b) for subsections (3) to (6) there shall be substituted—

“(3) If at any time it appears to the Commission that an approved auditor has ceased to fulfil the first condition (mentioned in subsection (4) below) or that the terms of his appointment have ceased to fulfil the second condition (mentioned in subsection (5) below) the Commission may—

(a) after giving not less than one month’s notice in writing to the approved auditor and to the body who appointed him informing them that the Commission is considering the revocation of the auditor’s approval, and

- (b) after considering any representations made to it by the auditor or that body,
give notice in writing to the auditor and the body who appointed him that the approval of the auditor's appointment is withdrawn; and on the receipt of such a notice by the body concerned the auditor's appointment shall terminate.
- (4) The first condition referred to in subsection (3) above is that the approved auditor has the experience, staff and facilities necessary for carrying out an efficient audit of the accounts ("the relevant accounts") in relation to which he was appointed.
- (5) The second condition referred to in subsection (3) above is that the terms of the approved auditor's appointment are appropriate to the appointment of an auditor to audit the relevant accounts.";
- (c) in subsection (7), for the words from the beginning to "withdraw his approval" there shall be substituted the words "For the purpose of assisting the Commission in considering whether it should exercise its power under subsection (3) above to withdraw the approval"; and for the words from "by him" to "Secretary of State" there shall be substituted the words "by the Commission, make available for inspection on its behalf"; and
- (d) for subsections (8) to (10) there shall be substituted—
- "(8) Where the Commission gives notice under subsection (3) above that the approval of an auditor's appointment is withdrawn, and there are at the date of that notice accounts of the body concerned which are required to be audited in accordance with this Part of this Act but the audit of those accounts has not been concluded—
- (a) the Commission shall, after consultation with the body who appointed that auditor, appoint another auditor in relation to those accounts; and
- (b) the provisions of this Part of this Act shall have effect as if the accounts were to be audited by the district auditor.
- (9) A person shall not be appointed under subsection (8) above unless he is a member of one or more of the bodies mentioned in section 13(6) of the Local Government Finance Act 1982 or has such other qualifications as have been approved for the purposes of that section by the Secretary of State."

8. In Section 165 of the 1972 Act—

- (a) in subsection (1)—
- (i) for the words "the Secretary of State" there shall be substituted the words "the Commission";
- (ii) for the words "if it appears to him" there shall be substituted the words "if it appears to the Commission";
- (iii) for the words "a district auditor" there shall be substituted the words "an auditor or auditors appointed by it".
- (b) after subsection (1) there shall be inserted—
- "(1A) If it appears to the Secretary of State—
- (a) that it is desirable that there should be an extraordinary audit of the accounts of any such body as is mentioned in subsection (1) —

- (i) in pursuance of an application, made to him before 1st April 1983 under this section as originally enacted, from such a body or from a local government elector for the area of such a body, or
- (ii) in pursuance of a report from an approved auditor, made to him before 1st April 1983 under section 162 above as originally enacted; or

(b) that such an audit is for any other reason desirable in the public interest,

he may require the Commission to direct an auditor or auditors appointed by it to hold such an audit.

(1B) Where under the foregoing provisions of this section the Commission directs an auditor or auditors appointed by it to hold an extraordinary audit, the provisions of this Part of this Act shall apply as if the audit were to be held by the district auditor.”, and

- (c) in subsection (4), for the words “the Secretary of State” to “thinks fit” there shall be substituted the words “the Commission, but it may, if it thinks fit”.

PART II

Paragraph 7 of Schedule 29 to the Local Government Act 1972

In paragraph 7 of Schedule 29 to the 1972 Act—

- (a) in sub-paragraph (2), for the words from “shall, with respect to” to the end there shall be substituted the words “shall be conducted by the auditor (being either the district auditor or an approved auditor) who was on 31st March 1983 the auditor in relation to those accounts.”,

- (b) for sub-paragraphs (3) and (4) there shall be substituted—

“(3) Where by virtue of sub-paragraph (2) above the audit of any accounts is to be conducted by an approved auditor, the provisions of section 164 above shall apply in relation to that auditor.

(4) If it appears to the Audit Commission for Local Authorities in England and Wales that, with respect to any accounts to which sub-paragraph (2) above applies the audit of which has not been concluded—

- (a) neither the district auditor nor an approved auditor is for the time being appointed to audit the accounts, or
- (b) any of the circumstances mentioned in section 154(3) above applies,

the accounts concerned shall be audited by an auditor appointed by the Commission after consultation with the body concerned, and the provisions of Part VIII of this Act shall have effect as if by virtue of sub-paragraph (2) above the accounts were to be audited by the district auditor.

(4A) A person shall not be appointed under subsection (4) above unless he is a member of one or more of the bodies mentioned in section 13(6) of the Local Government Finance Act 1982 or has such other qualifications as have been approved for the purposes of that section by the Secretary of State.”, and

- (c) in sub-paragraph (5), for the words “sub-paragraphs (2) to (4) above” there shall be substituted the words “sub-paragraphs (2) to (4A) above”.

PART III

Paragraph 39 of Schedule 3 to the Water Act 1973

In paragraph 39 of Schedule 3 to the Water Act 1973, for the words "by a district auditor or an approved auditor appointed under that Part of that Act" there shall be substituted the words "by the auditor (being either the district auditor or an approved auditor) who was on 31st March 1983 the auditor in relation to those accounts"; and for the words "county council" there shall be substituted the words "local authority".

PART IV

The Internal Drainage Boards (Audit) Directions 1975

In paragraph 2 of the Internal Drainage Boards (Audit) Directions 1975, for the words "county council" there shall be substituted the words "local authority".

SCHEDULE 2

AMENDMENT OF ACCOUNTS AND AUDIT REGULATIONS 1974

1. In regulation 2(2), after the definition of "auditor", there shall be inserted—

"'the Commission' means the Audit Commission for Local Authorities in England and Wales;"

2. In regulation 13, for the words "the Secretary of State" there shall be substituted the words "the Commission".

3. In regulation 16 —

(a) for the words "the Secretary of State" in the first two places in which they occur, there shall be substituted the words "the Commission", and

(b) for the words from "the body shall supply" to the end of the regulation there shall be substituted the words "the body shall supply the Commission with such further information as it may at any time require."

4. In regulation 17, for the words from the beginning to "he may also direct" there shall be substituted the words "Where, under section 165 of the Act of 1972 the Commission directs an auditor or auditors appointed by it to hold an extraordinary audit of the accounts of a body, it may also direct".

Tom King,

Secretary of State for the Environment.

28th February 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Part III of the Local Government Finance Act 1982 ("the 1982 Act") establishes the Audit Commission for Local Authorities in England and Wales ("the Commission") which came into being on 21st January 1983, the principal function of which is to secure the audit of accounts of local authorities and other public bodies (mentioned in Section 12 of the 1982 Act) for periods beginning on and after 1st April 1983, which is the day appointed for that purpose by Order (S.I. 1983/165) under section 33(2) of the 1982 Act.

In respect of accounts of such bodies for periods beginning before that date, section 33(3) of the Act empowers the Secretary of State to provide by regulations for the continuance after that date of statutory provisions applying to such accounts before that date, subject to such modifications, additions and omissions as may be prescribed.

Regulation 2 and Schedule 1 to these Regulations make such provision. Part I of the Schedule makes modifications, additions and omissions in Part VIII of the Local Government Act 1972, which provides for the audit of the accounts of local authorities, parish meetings, committees of local authorities, and certain accounts of the Common Council of the City of London. The effect of the modifications etc. is to transfer to the Commission the Secretary of State's functions of appointing district auditors, receiving copies of auditors' reports, directing extraordinary audits and collecting audit fees. The functions and appointments of district auditors and approved auditors respectively remain in being, but no further appointments of auditors will be made by the bodies themselves, the Commission having a power to appoint an auditor where for any reason there is no auditor in relation to accounts the audit of which has not been concluded. The Secretary of State is given a power to require an extraordinary audit in the public interest.

Parts II to IV of Schedule 1 effect consequential modifications in relation to accounts of other public bodies, of water authorities and the National Water Council and of internal drainage boards which are also required to be audited in accordance with Part VIII of the Local Government Act 1972.

Regulation 3 and Schedule 2 effect amendments to the Accounts and Audit Regulations 1974 consequential on the modifications to Part VIII of the Local Government Act 1972 in relation to auditors' reports, extraordinary audits and the collection of fees.

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