

2013 No. 1466 (W. 138) (C. 56)

PUBLIC AUDIT, WALES

**The Public Audit (Wales) Act 2013
(Commencement, Consequential
Amendments, Transitional and
Saving Provisions) (Wales) Order
2013**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made in consequence of the Public Audit (Wales) Act 2013 (“the Act”), which makes provision reforming public audit arrangements in Wales.

Part 1 of the Act relates to the Auditor General for Wales (“the Auditor General”). Part 2 establishes a new corporate body, the Wales Audit Office (“the WAO”) and sets out its relationship with the Auditor General.

Article 2 of this Order brings into force certain provisions of the Act on 4 July 2013, to enable certain appointments to the WAO to be made and for preparatory work to be undertaken prior to the functions of the WAO becoming fully exercisable on 1 April 2014.

All other provisions of the Act are brought into force on 1 April 2014 by article 3, to the extent that they are not already in force on that date. Article 3 also brings into force certain consequential amendments to subordinate legislation on 1 April 2014 to remove references to auditors appointed by the Auditor General, and to include references to the WAO where appropriate.

Article 4 provides that where an auditor of a local government body has been appointed by the Auditor General, the provisions of the regulations specified will continue to have effect until that auditor’s appointment has come to an end, as if the modifications made by this Order had not been made.

It provides that where a person has been appointed as an auditor under section 145B(5)(b) of the Government of Wales Act 1998, that appointment will continue to have effect (subject to earlier termination).

It also provides that where a contract has been entered into under article 4(2)(c)(v) of the Construction Contracts (England and Wales) Exclusion Order 1998, on or before 31 March 2014, that contract will continue to have effect as if that article had not been amended by this Order.

Article 5 makes saving provision in relation to the annual accounts which the Auditor General must prepare. Paragraphs 13, 14 and 15 of Schedule 8 to the Government of Wales Act 2006 are saved for the purposes of the financial year 2013-2014.

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2013**

Made

11 June 2013

The Welsh Ministers, in exercise of the powers conferred by section 35(2) and (3) of the Public Audit (Wales) Act 2013⁽¹⁾ make the following Order:

Title, commencement, application and interpretation

1.—(1) The title of this Order is the Public Audit (Wales) Act 2013 (Commencement, Consequential Amendments, Transitional and Saving Provisions) (Wales) Order 2013 and it comes into force in accordance with articles 2 and 3.

(2) This Order applies in relation to Wales.

(3) In this Order “the Act” means the Public Audit (Wales) Act 2013.

Provisions coming into force on 4 July 2013

2. The following provisions of the Act come into force on 4 July 2013—

- (a) section 1 (overview);
- (b) section 8 (how functions are to be exercised), insofar as it is necessary to prepare the code of practice, code of audit practice, annual plan and estimate of income and expenditure for the financial year 2014-2015;
- (c) section 10 (code of audit practice);
- (d) section 12 (transfer etc of supervisory functions of Welsh Ministers: consultation);

(1) 2013 anaw 3.

- (e) section 13 (incorporation of Wales Audit Office) except in respect of provisions relating to employee members;
- (f) section 14 (powers);
- (g) section 15 (efficiency);
- (h) section 16 (relationship with the Auditor General);
- (i) section 17(2) and (3) (WAO to monitor and provide advice) insofar as it is necessary to prepare the code of practice, annual plan and estimate of income and expenditure for the financial year 2014-2015;
- (j) section 18 (delegation and joint exercise of functions of the Auditor General) insofar as it is necessary to prepare the delegation scheme;
- (k) section 20 (expenditure) only insofar as it relates to the financial year 2014-2015;
- (l) section 24 (scheme for charging fees);
- (m) section 25 (annual plan);
- (n) section 26 (annual plan: National Assembly);
- (o) section 27 (annual plan: effect);
- (p) section 28 (functions of the National Assembly);
- (q) section 29(1), (2), (3)(b) and (c) and (4) (indemnification);
- (r) section 31 (directions);
- (s) section 32 (interpretation);
- (t) section 33 (transitional, supplementary and saving provisions etc);
- (u) in Schedule 1 (incorporation of Wales Audit Office)—
 - (i) paragraph 1 (membership) except in respect of provisions relating to the employee members;
 - (ii) paragraph 2 (appointment of non-executive and employee members) except in respect of provisions relating to the employee members;
 - (iii) paragraph 3 (status) except in respect of provisions relating to the employee members;
 - (iv) paragraph 4 (appointment of non-executive members);
 - (v) paragraph 5 (appointment of chair of the WAO);
 - (vi) paragraph 6 (period of appointment and re-appointment);
 - (vii) paragraph 7 (remuneration arrangements);

- (viii) paragraph 8 (other terms of appointment);
- (ix) paragraph 9 (consultation);
- (x) paragraphs 10, 11 and 12 (termination of appointments);
- (xi) paragraph 13 (additional remuneration of the Auditor General);
- (xii) paragraph 26 (disqualification as member of, or employee of, the WAO) except in respect of provisions relating to the employee members;
- (xiii) paragraph 27 (general);
- (xiv) paragraph 28 (quorum for WAO meetings);
- (xv) paragraph 29(1) (committees);
- (xvi) paragraph 30 (ballots);
- (xvii) paragraph 31 (validity); and
- (xviii) paragraph 32 (delegation of functions) except in relation to employee members and employees;
- (v) in Schedule 2 (relationship between the Auditor General and the WAO)—
 - (i) paragraph 1 (preparation and approval etc);
 - (ii) paragraph 2 (content); and
 - (iii) paragraphs 5 to 14 (temporary exercise of the functions of Auditor General by another person);
- (w) in Schedule 3 (transitional, supplementary and saving provisions)—
 - (i) paragraph 4 (WAO's procedural rules before rules are made under paragraph 27 of Schedule 1); and
 - (ii) paragraph 13 (indemnification); and
- (x) paragraph 79(2) of Schedule 4 (minor and consequential amendments) insofar as it relates to paragraph 12 of Schedule 8 to the Government of Wales Act 2006⁽¹⁾.

Provisions coming into force on 1 April 2014

3.—(1) All other provisions of the Act come into force on 1 April 2014 insofar as they have not been commenced in accordance with article 2.

(2) The Schedule to this Order provides for consequential amendments which come into force on 1 April 2014.

(1) 2006 c.32.

Transitional Provisions

4.—(1) In relation to the period where an auditor’s appointment under section 13 of the Public Audit (Wales) Act 2004⁽¹⁾ is continued by paragraph 2(2) of Schedule 3 to the Act, the following have effect as if they had not been amended by this Order—

- (a) the definition of “the auditor” in regulation 2 of the Local Authorities (Contracts) Regulations 1997⁽²⁾;
- (b) regulation 6(5)(b) of the Education Standards Grants (Wales) Regulations 2002⁽³⁾;
- (c) regulation 5(4)(b) of the Education (Capital Grants) (Wales) Regulations 2002⁽⁴⁾;
- (d) regulation 6(6)(b) of the Education (Assembly Learning Grant Scheme) (Wales) Regulations 2002⁽⁵⁾; and
- (e) the Accounts and Audit (Wales) Regulations 2005⁽⁶⁾.

(2) The appointment of any person as an auditor under section 145B(5)(b) of the Government of Wales Act 1998⁽⁷⁾ continues to have effect until the end of the period for which the appointment was made (subject to any earlier termination).

(3) The amendments made to article 4(2)(c)(v) of the Construction Contracts (England and Wales) Exclusion Order 1998⁽⁸⁾ by this Order do not apply to contracts entered into on or before 31 March 2014.

Saving Provision

5. Paragraphs 13, 14 and 15 of Schedule 8 to the Government of Wales Act 2006 are saved for the purposes of the accounts of the Auditor General for Wales for the financial year 2013-2014.

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- (1) 2004 c. 23.
 - (2) S.I. 1997/2862 as amended by S.I. 2005/761 (W. 65). There are other amending instruments which are not relevant to this Order.
 - (3) S.I. 2002/438 (W. 56) as amended by S.I. 2005/761 (W. 65).
 - (4) S.I. 2002/679 (W. 76) as amended by S.I. 2005/761 (W. 65).
 - (5) S.I. 2002/1857 (W. 181) as amended by S.I. 2005/761 (W. 65). There are other amending instruments which are not relevant to this Order.
 - (6) S.I. 2005/368 (W. 34) to which there are amendments not relevant to this Order.
 - (7) 1998 c. 38.
 - (8) S.I. 1998/648 as amended by S.I. 2005/757 (W. 62). There is another amending instrument which is not relevant to this Order.

Jane Hutt

Minister for Finance, one of the Welsh Ministers

11 June 2013

SCHEDULE

Article 3(2)

Consequential Amendments

Local Authorities (Contracts) Regulations 1997

1. In regulation 2 of the Local Authorities (Contracts) Regulations 1997 for “the auditor

appointed under section 13 of that Act to audit the accounts of the authority in accordance with Chapter 1 of Part 2 of that Act” substitute “the Auditor General for Wales”.

Construction Contracts (England and Wales) Exclusion Order 1998

2. In article 4(2)(c)(v) of the Construction Contracts (England and Wales) Exclusion Order 1998 after “the Audit Commission or” insert “a local government body in Wales whose accounts are audited by”.

Employers’ Liability (Compulsory Insurance) Regulations 1998

3. In paragraph 16 of Schedule 2 (Employers exempted from insurance) to the Employers’ Liability (Compulsory Insurance) Regulations 1998⁽¹⁾ for “The Auditor General for Wales” substitute “The Wales Audit Office”.

Education Standards Grants (Wales) Regulations 2002

4. In regulation 6(5)(b) of the Education Standards Grants (Wales) Regulations 2002 omit—

- (a) “the auditor appointed by”; and
- (b) “to audit the accounts of the authority or any auditor qualified for such appointment by virtue of section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

Education (Capital Grants) (Wales) Regulations 2002

5. In regulation 5(4)(b) of the Education (Capital Grants) (Wales) Regulations 2002 omit—

- (a) “the auditor appointed by”; and
- (b) “to audit the accounts of the authority or any auditor qualified for such appointment by virtue of section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

Education (Assembly Learning Grant Scheme) (Wales) Regulations 2002

6. In regulation 6(6)(b) of the Education (Assembly Learning Grant Scheme)(Wales) Regulations 2002 omit—

- (a) “the auditor appointed by”; and

(1) S.I. 1998/2573 as amended by S.I. 2011/686. There are other amending instruments that are not relevant to this Order.

- (b) “to audit the accounts of the authority or any auditor qualified for such appointment by virtue of section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

Accounts and Audit (Wales) Regulations 2005

7.—(1) The Accounts and Audit (Wales) Regulations 2005 are amended as follows.

(2) For each reference to “the auditor” substitute “the Auditor General for Wales”.

(3) For regulation 15(2)(c) substitute—

“(c) the auditor is the Auditor General for Wales and include the Auditor General for Wales’ address;”.

(4) In regulation 20 for “directs an auditor to hold” substitute “holds”.

Company, Limited Liability Partnership and Business Names (Public Authorities) Regulations 2009

8.—(1) The Company, Limited Liability Partnership and Business Names (Public Authorities) Regulations 2009(1) are amended as follows.

(2) In Column 1 of the Schedule (Specified “public authorities” and list of other Government departments and other bodies whose views must be sought) insert at the appropriate place—

“Wales Audit Office (known in Welsh as “Swyddfa Archwilio Cymru”)”.

(3) In Column 2 of the Schedule (Specified “public authorities” and list of other Government departments and other bodies whose views must be sought) insert at the appropriate place—

“Wales Audit Office (known in Welsh as “Swyddfa Archwilio Cymru”)”.

(1) S.I. 2009/2982 to which there are amendments not relevant to this Order.