

Explanatory Memorandum to The Accounts and Audit (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by Local Government and Communities Department and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Accounts and Audit (Wales) Regulations 2014.

Leighton Andrews
Minister for Public Services
22 December 2014

1. Description

- 1.1. The Accounts and Audit (Wales) Regulations 2014 replace the Accounts and Audit (Wales) Regulations 2005 (“the 2005 Regulations”) along with other related amending Regulations. The changes include consolidating all previous amendment Regulations, defining smaller and larger relevant bodies and providing clarity of the requirements for those bodies.
- 1.2. This Statutory Instrument revokes the 2005 Regulations and amending Regulations.

2. Matters of special interest to the Subordinate Legislation Committee

- 2.1. None.

3. Legislative Background

- 3.1. Sections 39 and 58 of the Public Audit (Wales) Act 2004 (“the 2004 Act”) conferred powers on the National Assembly for Wales to make regulations in relation to the accounts and audit of local government bodies in Wales. Those powers are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
- 3.2. The 2005 Regulations provide the regulatory regime underpinning the financial reporting and accounting of local government bodies in Wales. In order to designate “proper [accounting] practices” for internal drainage boards and port health authorities, it is necessary, first, to use the power contained in sections 23(2) and 24 of the Local Government Act 2003 to specify the boards as “local authorities” for the purposes of then designating a proper practice, and secondly, under section 21 of that Act, to make the designation of proper practice. Sections 13, 105 and 106 of the Local Government Act 2000 authorise the Welsh Ministers to make regulations concerning the executive arrangements in local authorities. All these powers are powers of the Welsh Ministers.
- 3.3. These Regulations are made using the negative resolution procedure.

4. Purpose and intended effect of the legislation

- 4.1. The Accounts and Audit (Wales) Regulations 2014 will revoke and replace the following legislation:-
 - the Accounts and Audit (Wales) Regulations 2005
 - S.I. 2007 No 388 (W.39)
 - S.I. 2010 No 683 (W.66)
 - S.I. 2013 No 217 (W.29)
- 4.2. Clarity
To provide clarity for all the different types of public bodies to whom the Regulations apply, namely, County and County Borough Councils, Community Councils, Police and Crime Commissioners, Chief Constables,

National Park Authorities, Fire and Rescue Authorities, Port Health Authorities, Internal Drainage Boards, Conservation Boards and Joint Committees.

The current Regulations intertwine the different requirements affecting the types of bodies making them difficult to understand. To assist relevant bodies to identify how the provisions apply to them and what is required of them; a change to the presentation of the Regulations has been made. To facilitate this, the types of relevant bodies are separated into 2 broad areas. First, "larger relevant bodies" - those required to follow accounting practices contained in the Chartered Institute of Public Finance & Accountancy CIPFA code of practice and have the freedoms provided by the prudential system of capital controls set out in part 1 of the Local Government Act 2003. Secondly, "smaller relevant bodies" - those permitted by the existing Regulations to prepare simpler published accounts and who are subject to less demanding procedural requirements. Relevant bodies are now identified specifically in the Regulations, rather than by reference to other pieces of legislation.

4.3. Smaller Relevant Body

The following will be classed as smaller relevant bodies: Community Councils, Internal Drainage Boards, Port Health Authorities, and Conservation Boards whose gross income or expenditure was no more than £2.5m in the year of account or either of the 2 preceding years. For any newly established bodies this would be applied to the year of account in its first or second years.

4.4. Larger Relevant Body

Larger relevant bodies are now defined as County or County Borough Councils, National Park Authorities, Fire and Rescue Authorities, Police and Crime Commissioners, Chief Constables and any other body which does not meet the financial qualifying condition of a smaller relevant body.

Larger relevant bodies are now required to include publication of the organisation's pay multiple, specified as the ratio between the highest paid employee and the median earnings across the organisation as a means of illustrating the relationship. This follows a recommendation from the Hutton Review on Fair Pay in the Public Sector and provides synergy between the Regulations and the requirements of the pay policy statements.

4.5. Proper Practices

Under the 2005 Regulations bodies which fall into the larger relevant body category (other than a chief constable) are required to prepare a statement of accounts in accordance with proper practices which, as defined in the Local Authorities (Capital Finance and Accounting) Regulations, is the "Code of practice on Local Authority Accounting in the UK" issued jointly by CIPFA and Local Authority Scotland Accounts Advisory Committee (LASAAC). This provision will be applied to the

smaller relevant bodies and require them to prepare accounting statements in accordance with proper practices.

As stipulated in the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003, Community Councils and Minor Joint Committees will be required to follow the accounting practices contained in the “Governance and accountability for Local Councils: A practitioners guide” issued by One Voice Wales and the Society of Local Council Clerks.

The 2005 Regulations define proper practices for Internal Drainage Boards as the “Governance and Accountability in Internal Drainage Boards in England: A Practitioners Guide 2006” (revised in 2007) and this will continue to be applied to Internal Drainage Boards in Wales.

4.6. Port Health Authorities

The new Regulations specify “proper [accounting] practice” for Port Health Authorities to follow in respect of the preparation of accounting statements, namely the “Governance and Accountability for Local Councils: A Practitioners Guide 2008 (Wales)”, the same as Community Councils.

4.7. Remuneration

An amendment in 2010 to the 2005 Regulations introduced additional disclosure notes relating to remuneration of senior officers. The new Regulations have been amended to improve the clarity of the requirements to ensure a consistent approach is applied by Welsh Local Government Bodies for the disclosures relating to remuneration.

4.8. Signing, Approval & Publication

The Regulations have been amended to reinstate these existing arrangements and make them apply to both smaller and larger bodies.

5. Implementation.

- 5.1. These Regulations come into force on 31 March 2015 and will affect the completion of 2014-15 financial accounts.

6. Consultation

- 6.1. Appropriate stakeholders were invited to comment on the proposed changes to the regulations. There were 29 replies in total, 21 from Community and Town Councils, 4 from Local Authorities including a response from the Chief Accountants Group which represents all 32 Local Government Bodies in Wales and 4 from “other” bodies, notably the Wales Audit Office (WAO) and The Chartered Institute of Public Finance and Accountancy (CIPFA). A summary of the responses can be provided by contacting Local Government Finance at LGFPMail@wales.gsi.gov.uk.

7. Regulatory Impact Assessment (RIA)

- 7.1. A regulatory impact assessment has not been produced for this instrument as the Regulations do not create an additional regulatory burden. No impact on business, charities or the voluntary sector is foreseen.

8. Post implementation review

- 8.1. The current regulatory framework has been in place since April 2005. Since that time the effectiveness of the system in place has been kept under regular review by Welsh Government officials and in regular formal and informal situations with interested stakeholders, examples being local authorities, Welsh Local Government Association, Wales Audit Office and One Voice Wales. This will continue under the new Regulations.

9. Summary

- 9.1. The 2014 Regulations have provided an opportunity to review, update and consolidate the framework and processes for accounting and auditing in Welsh local government bodies. The main changes made should help to improve information available for public scrutiny and also improve the effectiveness of scrutiny and streamline the certification and approval processes.