

## SCHEDULE

Regulation 23

### Modifications to the Local Audit and Accountability Act 2014 and other Acts

## PART 1

### General modifications

1. The Act applies subject to the modifications to the Act in the rest of this Schedule.

## PART 2

### Appointment of local auditor

2. Section 7 applies in relation to an opted in authority as if—
  - (a) for subsection (1) there were substituted—

“(1) The appointing person must appoint a local auditor to audit the accounts of an opted in authority for a financial year not later than 31st December in the preceding financial year.”;
  - (b) in subsection (2)—
    - (i) for “A relevant authority” there were substituted “The appointing person”;
    - (ii) for “its accounts” there were substituted “the accounts”; and
    - (iii) in paragraph (b) for “the authority” there were substituted “the appointing person”;
  - (c) in subsection (3) for “the relevant authority” there were substituted “the appointing person”; and
  - (d) subsection (8) were omitted.

### Procedure for appointment

3. Section 8 applies in relation to an opted in authority as if—
  - (a) subsection (1) were omitted;
  - (b) in subsection (2)—
    - (i) for “The relevant authority” there were substituted “An opted in authority”;
    - (ii) for “the appointment is made” there were substituted “the appointment of a local auditor in relation to the authority is notified to the authority by the appointing person”;
    - (iii) in paragraph (a) for “it” there were substituted “the appointing person”;
    - (iv) at the end of paragraph (b) there were inserted “and”; and
    - (v) paragraphs (d) and (e) were omitted;
  - (c) in subsection (3) for “relevant authority” there were substituted “the authority”;
  - (d) in subsection (4) for “a relevant authority” both times it occurs there were substituted “an authority”;
  - (e) in subsection (5) for “The relevant authority” there were substituted “The authority”; and
  - (f) subsection (6) were omitted.

### **Requirement to have auditor panel**

4. Section 9 applies in relation to an opted in authority as if—
- (a) in subsection (1) after “relevant authority” there were inserted “other than an opted in authority”; and
  - (b) after subsection (1) there were inserted—
    - “(1A) An opted in authority may have an auditor panel at any time, but that panel must not be consulted about—
    - (a) whether or not the authority is to become an opted in authority;
    - (b) matters relating to an auditor appointed by an appointing person; or
    - (c) matters relating to an audit carried out by an auditor appointed by an appointing person.”.

### **Functions of auditor panel**

5. Section 10 applies in relation to an opted in authority as if before subsection (1) there were inserted—
- “(A1) This section is subject to section 9.”

### **Failure of appointing person to appoint local auditor**

6. In the event that the appointing person fails to appoint a local auditor to an opted in authority in accordance with Part 3 of the Act, section 12 applies as if—
- (a) for subsection (1) there were substituted—
    - “(1) If an appointing person fails to appoint a local auditor to audit the accounts of an opted in authority, other than a clinical commissioning group, in accordance with this Part, the authority must immediately inform the appointing person and the Secretary of State of that fact.”
  - (b) in subsection (2)—
    - (i) for the words from “relevant authority” to “commissioning group,” there were substituted “an appointing person”;
    - (ii) after “local auditor”, the first time those words appear, there were inserted “to audit the accounts of an opted in authority, other than a clinical commissioning group”;
    - (iii) after paragraph (a) there were inserted—
      - “(aa) direct the appointing person to appoint an auditor, or”;
  - (c) after subsection (2) there were inserted—
    - “(2A) Where an appointment is made under subsection (2)(aa)—
    - (a) the appointment takes effect on such terms as the Secretary of State may direct; and
    - (b) the appointing person may recover its reasonable administrative costs of making arrangements to appoint a local auditor for the local authority.”;
  - (d) in subsection (3)(a) “relevant” were omitted;
  - (e) in subsection (4)—
    - (i) “relevant” were omitted both times it occurs;
    - (ii) in paragraph (a), after “authority” there were inserted “and where the Secretary of State intends to direct the appointing person, that person”; and

- (iii) in paragraph (b) after “authority” there were inserted “or the appointing person”; and
- (f) in subsection (5) for “a relevant authority” there were substituted “an authority”.

### **Failure of principal authority to appoint local auditor**

7. In the event that a principal authority which is not an opted in authority fails to appoint a local auditor in accordance with Part 3 of the Act, section 12 applies as if—

- (a) in subsection (1), for “relevant authority” there were substituted “principal authority which is not an opted in authority”;
- (b) in subsection (2)—
  - (i) for “relevant authority” there were substituted “principal authority which is not an opted in authority”;
  - (ii) after paragraph (a) there were inserted—
    - “(aa) direct the person specified under regulation 3(2) of the Local Audit (Appointing Person) Regulations 2015 in relation to the class of principal authorities within which the authority falls, to appoint an auditor.”;
- (c) after subsection (2) there were inserted—
  - “(2A) Where an appointment is made under subsection (2)(aa)—
    - (a) the appointment takes effect on such terms as the Secretary of State may direct; and
    - (b) the relevant appointing person may recover its reasonable administrative costs of making arrangements to appoint a local auditor for the authority.”;
- (d) in subsection (3)(a) “relevant” were omitted;
- (e) in subsection (4)—
  - (i) “relevant” were omitted both times it occurs;
  - (ii) in paragraph (a), after “authority” there were inserted “and, where the Secretary of State intends to direct the appointing person, that person”; and
  - (iii) in paragraph (b), after “authority” there were inserted “or the appointing person”; and
- (f) in subsection (5) for “a relevant authority” there were substituted “an authority”.

### **Modification to Schedule 3 (further provisions about appointment of local auditors)**

8. Schedule 3 does not apply to opted in authorities.

### **Modification to Schedule 5 (eligibility and regulation of local auditors)**

9. Schedule 5 applies in relation to a local auditor appointed by an appointing person as if after paragraph 4 there were inserted—

- “4A. In section 1213(2) (effect of ineligibility)—
  - (a) omit “and” at the end of paragraph (a);
  - (b) insert “and” at the end of paragraph (b); and
  - (c) after paragraph (b), insert—
    - “(c) where the local auditor was appointed by an appointing person, give the notice in paragraph (b) to that person.””

**10.** Paragraph 5 of Schedule 5 applies in relation to an appointment by an appointing person, as if—

- (a) in subsection (1) of the inserted text, for “and (5)” there were substituted “, (5) and (5A)”; and
- (b) after subsection (5) of the inserted text, there were inserted—
  - “(5A) This subsection applies if—
  - (a) P is an employee or a member of the appointing person who is responsible for appointing the authority’s local auditor; or
  - (b) P is a partner or employee of a person falling within paragraph (a), or a partnership of which such a person is a partner.”.

**11.** Paragraph 6 of Schedule 5 applies in relation to a local auditor appointed by an appointing person as if the text of that paragraph were subparagraph (2) and before that paragraph there were inserted—

- “(1) In section 1215 (effect of lack of independence) in subsection (1)—
- (a) omit “and” at the end of paragraph (a);
- (b) insert “and” at the end of paragraph (b); and
- (c) after paragraph (b), insert—
  - “(c) where the local auditor was appointed by an appointing person, also give the notice in paragraph (b) to the appointing person.”

**12.** Paragraph 7 of Schedule 5 applies in relation to a local auditor appointed by an appointing person as if for the words from “after subsection (5)” to the end of that paragraph there were substituted—

- “in subsection (5)—
- (a) for “audited person” the first time it occurs substitute “appointing person who appointed the local auditor”; and
- (b) in paragraph (b) for “audited person” substitute “appointing person”.

**13.** Paragraph 16 of Schedule 5 applies in relation to an opted in authority as if—

- (a) in subsection (1) of the inserted text, after “appointed” there were inserted “by an appointing person”;
- (b) in subsections (2) and (5) of the inserted text, for “relevant authority” there were substituted “appointing person”;
- (c) in subsection (6) of the inserted text for “authority” there were substituted “appointing person”; and
- (d) subsection (7) were omitted.

**14.** Paragraph 17 of Schedule 5 applies in relation to an opted in authority as if in subsection (1) of the inserted text—

- (a) for “relevant authority” the second time it appears, there were substituted “appointing person who appointed the auditor”; and
- (b) after “section 1248” there were inserted “, and must ensure that the authority is either not required to pay a fee for the first audit, or is refunded any fee paid”.

**Modification to Schedule 6 (codes of audit practice and guidance)**

**15.** Schedule 6 applies where an appointing person has been specified under regulation 3 as if there were inserted after paragraph 1(5)(e)—

“(ea) a person specified under regulation 3 of the Local Audit (Appointing Person) Regulations 2015.”

#### **Modification to Schedule 11 (disclosure of information)**

16. Schedule 11 applies where an appointing person has been specified under regulation 3 as if the following were inserted after paragraph 1(3)(c)—

“(ca) a person specified under regulation 3 of the Local Audit (Appointing Person) Regulations 2015.”

## **PART 3**

#### **Modification to the Anti-terrorism, Crime and Security Act 2001**

17. Paragraph 53F of Schedule 4 to the Anti-terrorism, Crime and Security Act 2001<sup>(1)</sup> applies where an appointing person has been specified under regulation 3 as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Appointing Person) Regulations 2015.”

#### **Modification to the National Health Service Act 2006**

18. Paragraph 17(5) of Schedule 1A to the National Health Service Act 2006<sup>(2)</sup> applies in relation to an opted in authority as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Appointing Person) Regulations 2015”.

19. Paragraph 4 of Schedule 15 to that Act applies in relation to an opted in authority as if after “2014” there were inserted the words “as it has effect by virtue of the Local Audit (Smaller Authorities) Regulations 2015”.

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(1) 2001 c. 24. Paragraph 53F was inserted by the Local Audit and Accountability Act 2014, section 45 and Schedule 12.

(2) 2006 c. 41. Paragraph 17 of Schedule 1A and paragraph 4 of Schedule 15 were amended by the Local Audit and Accountability Act 2014, section 45 and Schedule 12