



Government of Wales Act 1998

1998 CHAPTER 38

PART IV

ASSEMBLY FINANCE

Commencement Information

II Part IV partly in force: Ss. 80-103 in force at 1.12.1998 by [S.I. 1998/2789, art. 2](#)

Payments to Assembly etc.

80 Grants to Assembly.

- (1) The Secretary of State shall from time to time make payments to the Assembly out of money provided by Parliament of such amounts as he may determine.
- (2) Any Minister of the Crown, and any government department, may make to the Assembly payments of such amounts as the Minister or department may determine.

81 Statement of estimated payments etc.

F1

Textual Amendments

F1 [S. 81](#) repealed (25.7.2006) by [Government of Wales Act 2006 \(c. 32\)](#), ss. 161(2), 163, [Sch. 12](#) (with [Sch. 11](#))

82 Loans to Assembly by Secretary of State.

- (1) The Secretary of State may from time to time lend to the Assembly such sums as it appears to the Assembly are required for the purpose of—

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- (a) meeting a temporary excess of expenditure by the Assembly over its receipts, or
 - (b) providing the Assembly with a working balance.
- (2) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as he needs for making loans under this section.
- (3) Any loans which the Secretary of State makes under this section shall be repaid to him at such times, and interest on them shall be paid to him at such rates and at such times, as the Treasury from time to time determine.
- (4) Sums received by the Secretary of State under subsection (3) shall be paid into the National Loans Fund.
- (5) The aggregate outstanding in respect of the principal of loans made under this section shall not exceed £500 million.
- (6) The Secretary of State may from time to time by order made with the consent of the Treasury substitute for the amount specified in subsection (5) such greater amount as is specified in the order.

83 Accounts relating to loans under section 82.

- (1) The Secretary of State shall for each financial year prepare accounts in such form and manner as the Treasury may direct—
- (a) loans made by him under section 82, and
 - (b) repayments and payments of interest made to him under that section.
- (2) The Secretary of State shall send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.
- (3) The Comptroller and Auditor General shall—
- (a) examine, certify and report on accounts sent to him under subsection (2), and
 - (b) lay copies of the accounts, together with his report, before each House of Parliament.

84 Destination of receipts etc.

- (1) Sums received by the Assembly shall be paid into the Consolidated Fund (but subject as follows).
- (2) Sums received by the Assembly—
- (a) under section 80 or 82, or
 - (b) under any other provision of this Act or any other enactment for the making of payments or loans to the Assembly by a Minister of the Crown or a government department,
- are not required to be paid into the Consolidated Fund.
- (3) Sums received by the Assembly—
- (a) under section 54 of the ^{M1}Local Government Finance Act 1988 (central rating),
 - (b) under section 59 of that Act (contributions in respect of Crown hereditaments), or

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- (c) under paragraph 5 of Schedule 8 to that Act or regulations under subparagraph (15) of that paragraph (non-domestic rating contributions), are not required to be paid into the Consolidated Fund.
- (4) Sums received by the Assembly shall not be paid into the Consolidated Fund if they are required by any provision of this Act or any other enactment to be dealt with in some other way.
- (5) Sums received by the Assembly are not required to be paid into the Consolidated Fund if they are authorised (but not required) by any provision of this Act or any other enactment to be dealt with in some other way (and are so dealt with).
- (6) The Treasury may direct that sums received by the Assembly which are, or are of a description, specified in the direction are not required to be paid into the Consolidated Fund.

Modifications etc. (not altering text)

C1 S. 84(1) excluded (20.7.2002) by 2000 c. 14, s. 120(1)

Marginal Citations

M1 1988 c. 41.

Expenditure by Assembly etc.

85 Expenditure by Assembly.

- (1) No expenditure shall be incurred by the Assembly except—
- (a) in, or in connection with, the exercise of any of the functions of the Assembly, or
- (b) for a purpose for which expenditure is authorised or required to be incurred by the Assembly by any enactment.
- (2) The ways in which the Assembly may incur expenditure include, in particular, giving financial assistance (whether by way of grant, loan or guarantee) to any person engaged in any activity which the Assembly considers will secure, or help to secure, the attainment of any objective which the Assembly aims to attain in the exercise of any of its functions.
- (3) The Assembly may attach conditions to the giving of financial assistance by the Assembly; and the conditions which may be attached include, in particular, conditions requiring the repayment of the whole or any part of a grant, or the making of any other payments, in any circumstances.

Modifications etc. (not altering text)

C2 S. 85 power to amend or repeal conferred (22.12.2000) by 2000 c. 20, s. 15(1)(b); S.I. 2000/3349, art. 2

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86 Statement of proposed expenditure etc.

F2

Textual Amendments

F2 S. 86 repealed (25.7.2006) by Government of Wales Act 2006 (c. 32), ss. 161(2), 163, Sch. 12 (with Sch. 11)

87 National Loans Fund lending.

- (1) This section applies where—
 - (a) a power of a Minister of the Crown to lend money is transferred to the Assembly by an Order in Council under section 22, and
 - (b) any sums required for the exercise of the power are issued out of the National Loans Fund.
- (2) The rate of interest on any loan made by the Assembly in the exercise of the power shall be not less than the lowest rate determined by the Treasury under section 5 of the ^{M2}National Loans Act 1968 in respect of similar loans made out of the National Loans Fund on the day the loan is made.
- (3) The provision for the issue of the sums shall, so far as relating to the issue of sums required for the exercise of the power by the Assembly, have effect as provision for the issue of the sums to the Secretary of State and for imposing a duty on him to pay them to the Assembly.
- (4) If, before the power is transferred, any repayment of, or payment of interest on, any loan made in the exercise of the power is required to be made to a Minister of the Crown for payment by him into the National Loans Fund, any such repayment or payment made after the transfer shall be made to the Assembly and the Assembly shall then pay it to the Secretary of State for payment by him into that Fund.
- (5) Subsection (4) applies in relation to loans made, before the transfer, by the Minister of the Crown as well as to loans made, after the transfer, by the Assembly.

Marginal Citations

M2 1968 c. 13.

88 Accounts relating to funds paid to Assembly for lending.

- (1) The Secretary of State shall for each financial year prepare accounts in such form and manner as the Treasury may direct of—
 - (a) relevant loan funds paid by him to the Assembly, and
 - (b) sums paid to him by the Assembly which are repayments of, or payments of interest on, loans made out of relevant loan funds.
- (2) In subsection (1) “relevant loan funds” means sums which are—
 - (a) issued to the Secretary of State out of the National Loans Fund,
 - (b) paid by him to the Assembly, and
 - (c) lent by the Assembly in exercise of a power to lend money.

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- (3) The Secretary of State shall send accounts under subsection (1) relating to a financial year to the Comptroller and Auditor General no later than five months after the end of the financial year.
- (4) The Comptroller and Auditor General shall—
 - (a) examine, certify and report on accounts sent to him under subsection (3), and
 - (b) lay copies of the accounts, together with his report, before each House of Parliament.

89 Source of sums paid by Assembly.

Any enactment which—

- (a) charges the payment of any sum on the Consolidated Fund or requires or authorises the payment of any sum from that Fund, or
- (b) requires or authorises the payment of any sum out of money provided by Parliament,

shall cease to have effect in so far as that sum is payable by the Assembly.

The Auditor General for Wales

90 Auditor General for Wales.

- (1) There shall be an office of Auditor General for Wales or Archwilydd Cyffredinol Cymru.
- (2) The person for the time being holding that office shall by the name of that office be a corporation sole.
- (3) The Auditor General for Wales shall be appointed by Her Majesty.
- (4) Subject to subsections (5) and (6), the Auditor General for Wales shall hold office until the end of the period for which he is appointed.
- (5) Her Majesty may relieve the Auditor General for Wales of office before the end of the period for which he was appointed—
 - (a) at his request, or
 - (b) on Her Majesty being satisfied that he is incapable for medical reasons of performing the duties of his office and of requesting to be relieved of it.
- (6) Her Majesty may remove the Auditor General for Wales from office before the end of the period for which he was appointed if, on the ground of misbehaviour, the Secretary of State recommends that Her Majesty should do so; but the Secretary of State shall not so recommend without consulting the Assembly.
- (7) The Auditor General for Wales shall not be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown; but he shall be taken to be a Crown servant for the purposes of the ^{M3}Official Secrets Act 1989.
- ^{F3}(8) The application of the seal of the Auditor General for Wales is to be authenticated by the signature of—
 - (a) the Auditor General for Wales, or

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- (b) any member of his staff authorised by him (generally or specially) for that purpose.
- (9) A document purporting to be duly executed under the seal of the Auditor General for Wales or to be signed on his behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.]

Textual Amendments

F3 S. 90(8)(9) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 8, 73**; S.I. 2005/558, art. 2, **Sch. 1**

Marginal Citations

M3 1989 c. 6.

91 Remuneration.

- (1) The Assembly (or, before the first ordinary election, the Secretary of State) shall—
- pay the Auditor General for Wales such salary and any such allowances, and
 - make any such payments towards the provision of superannuation benefits for or in respect of him,
- as may be provided for by or under the terms of his appointment.
- (2) The Assembly shall pay to or in respect of a person who has ceased to hold office as Auditor General for Wales such amounts (if any) by way of—
- pension or gratuities, or
 - provision for those benefits,
- as may have been provided for by or under the terms of his appointment.
- (3) In Schedule 1 to the ^{M4}Superannuation Act 1972 (offices etc. to which section 1 of that Act applies), in the list of “Offices” insert—
- “Auditor General for Wales.”
- (4) The Assembly shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to subsection (3) in the sums payable out of money provided by Parliament under the ^{M5}Superannuation Act 1972.

Marginal Citations

M4 1972 c. 11.

M5 1972 c. 11.

92 Staff etc.

- (1) ^{F4}.....
- (2) The Auditor General for Wales may ^{F5}. . . appoint such staff or secure the provision of such services as he considers necessary for assisting him in the exercise of his functions.

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- (3) ^{F6}.....
- (4) The staff of the Auditor General for Wales shall be appointed on such terms and conditions as he may determine; and he shall pay his staff such remuneration as may be provided for by or under their terms of appointment.
- (5) In Schedule 1 to the ^{M6}Superannuation Act 1972 (employments etc. to which section 1 of that Act applies), at the appropriate place in the list of “Other Bodies” insert—
- “Employment as a member of the staff of the Auditor General for Wales.”
- (6) [^{F7}The Auditor General for Wales] shall pay to the Minister for the Civil Service, at such times as [^{F8}the Minister] may direct, such sums as [^{F8}the Minister] may determine in respect of any increase attributable to subsection (5) in the sums payable out of money provided by Parliament under the ^{M7}Superannuation Act 1972.
- (7) No member of the staff of the Auditor General for Wales shall be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown; but each member of his staff shall be taken to be a Crown servant for the purposes of the ^{M8}Official Secrets Act 1989.
- [^{F9}(8) Any function of the Auditor General for Wales may be exercised by—
- (a) a member of his staff, or
- (b) a person providing services to him,
- who is authorised by the Auditor General for Wales for that purpose.
- (8A) Any function of the Auditor General for Wales may be exercised jointly by him and a person providing services to him who is authorised by him for that purpose.
- (8B) Any provision made under subsection (8) for the exercise of any function does not affect the responsibility of the Auditor General for Wales on whose behalf the function is exercised.]
- (9) An authority under subsection (8) to certify or report on accounts (or statements of accounts) for the [^{F10}within subsection (9A)]—
- (a) shall extend only to accounts (or statements) which the presiding officer has certified to the Assembly that the Auditor General for Wales is unable to certify or report on himself, and
- (b) shall cease on a vacancy arising in the office of Auditor General for Wales.
- [^{F11}(9A) Accounts (or statements of accounts) are within this subsection if, in accordance with provision made by or under this or any other Act, they—
- (a) fall to be examined by the Auditor General for Wales, and
- (b) are required to be laid before the Assembly.]
- (10) The reference in subsection (9)(a) to the presiding officer includes a reference to any person for the time being performing the functions of presiding officer.

Textual Amendments

- F4** S. 92(1) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), ss. 9(1)(2), 72, 73, [Sch. 4](#); S.I. 2005/558, art. 2, [Sch. 1](#) (subject to [Sch. 2](#))
- F5** Words in s. 92(2) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), ss. 72, 73, [Sch. 4](#); S.I. 2005/558, art. 2, [Sch. 1](#) (subject to [Sch. 2](#))

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- F6** S. 92(3) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), ss. 9(1)(2), 72, 73, **Sch. 4**; S.I. 2005/558, art. 2, **Sch. 1** (subject to **Sch. 2**)
- F7** Words in s. 92(6) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 9(3)(a)**, 73; S.I. 2005/558, art. 2, **Sch. 1**
- F8** Words in s. 92(6) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 9(3)(b)**, 73; S.I. 2005/558, art. 2, **Sch. 1**
- F9** S. 92(8)-(8B) substituted (1.4.2005) for s. 92(8) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 9(4)**, 73; S.I. 2005/558, art. 2, **Sch. 1**
- F10** Words in s. 92(9) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 9(5)**, 73; S.I. 2005/558, art. 2, **Sch. 1**
- F11** S. 92(9A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 9(6)**, 73; S.I. 2005/558, art. 2, **Sch. 1**

Modifications etc. (not altering text)

- C3** S. 92(8) extended (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), {ss. 70}, 73; S.I. 2005/558, art. 2, **Sch. 1**

Marginal Citations

- M6** 1972 c. 11.
- M7** 1972 c. 11.
- M8** 1989 c. 6.

93 [^{F12}**Expenses and accounts**].

- (1) The expenses of the Auditor General for Wales shall, so far as they cannot be met out of income received by him, be met by the Assembly (or, before the first ordinary election, by the Secretary of State).
- (2) Those expenses include any sums payable by the Auditor General for Wales in consequence of a breach, in the course of the performance of any of his functions, of any contractual or other duty (whether that breach occurs by reason of his act or omission or that of a member of his staff or any other person assisting him [^{F13} or met by virtue of subsection (2A)] in the exercise of his functions).
- [^{F14}(2A) The Auditor General for Wales may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.]
- (3) [^{F15}.....]
- (4) For each financial year after the first financial year of the Assembly the Auditor General for Wales shall prepare, and submit to the Audit Committee, an estimate of the income and expenses of his office.
- (5) Each such estimate shall be submitted to the Audit Committee at least five months before the beginning of the financial year to which it relates.
- (6) The Audit Committee shall examine each such estimate submitted to it and, after having done so, shall lay the estimate before the Assembly with any such modifications as the Committee thinks fit.
- [^{F16}(6A) Nothing in subsection (5) or (6) authorises the Audit Committee—

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- (a) to examine that part of any estimate which relates to estimated income or expenditure of the office of the Auditor General for Wales relating to Part 2 of the Public Audit (Wales) Act 2004 (local government bodies in Wales), or
 - (b) to lay an estimate before the Assembly with modifications relating to such estimated income or expenditure.]
- (7) Where the Audit Committee proposes to lay such an estimate before the Assembly with modifications, the Committee shall first consult the Secretary of State and have regard to any advice which he may give.
- (8) The Auditor General for Wales shall, for each financial year, prepare accounts in accordance with directions given to him by the Treasury.
- (9) The directions which the Treasury may give under subsection (8) include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented,
 - (b) the methods and principles in accordance with which the accounts are to be prepared, and
 - (c) the additional information (if any) that is to accompany the accounts.

Textual Amendments

- F12** S. 93: side-note substituted (1.4.2005) by virtue of [Public Audit \(Wales\) Act 2004 \(c. 23\), ss. 7, 73](#); S.I. 2005/558, art. 2, [Sch. 1](#) (subject to [Sch. 2](#) para. 1)
- F13** Words in s. 93(1) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), ss. 6\(2\), 73](#); S.I. 2005/558, art. 2, [Sch. 1](#)
- F14** S. 93(2A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), ss. 6\(3\), 73](#); S.I. 2005/558, art. 2, [Sch. 1](#)
- F15** S. 93(3) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), ss. 72, 73, Sch. 4](#); S.I. 2005/558, art. 2, [Sch. 1](#) (subject to [Sch. 2](#))
- F16** S. 93(6A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), ss. 6\(4\), 73](#); S.I. 2005/558, art. 2, [Sch. 1](#)

[^{F17}93A Fees

- (1) The Auditor General for Wales may charge a fee for auditing a person's accounts.
- (2) Where the Auditor General for Wales—
- (a) provides services under section 96(3)(b) by carrying out an examination in relation to a person, or
 - (b) at the request of any person other than the Assembly, provides services under section 145A,
- the Auditor General for Wales may charge that person a fee not exceeding the full cost of providing those services.
- (3) Where the Auditor General for Wales—
- (a) provides services to a body under section 96B, or
 - (b) provides services at the request of a body under section 145B of this Act or section 44 of the Public Audit (Wales) Act 2004 (studies at request of local government bodies in Wales),

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the Auditor General for Wales must charge that body a fee which covers the full cost of providing those services.

- (4) For the purposes of this section “body” includes a local government body in Wales (within the meaning given in section 12(1) of the Public Audit (Wales) Act 2004).]

Textual Amendments

F17 S. 93A inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 7, 73; S.I. 2005/558, art. 2, Sch. 1 (subject to Sch. 2 para. 1)

94 Audit of Auditor General’s accounts.

- (1) The Assembly shall appoint an auditor of the accounts of the Auditor General for Wales.
- (2) The Assembly may not delegate the function of appointing the auditor.
- (3) A person shall not be appointed as the auditor unless—
 - (a) he is eligible for appointment as a company auditor under section 25 of the ^{M9}Companies Act 1989, or
 - (b) he is a member of a body of accountants, established in the United Kingdom or another EEA State, which is for the time being approved by the Assembly; and “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.
- (4) The Assembly may delegate to the Audit Committee the function of approving bodies of accountants, or of withdrawing approval from such bodies, but may not otherwise delegate those functions.
- (5) If a person appointed as the auditor ceases to be a person who could be so appointed, his appointment is ended and he ceases to be the auditor.
- (6) The auditor shall be appointed on such terms and conditions as the Assembly may determine; and the Auditor General for Wales shall pay the auditor such remuneration as may be provided for by or under the terms of the auditor’s appointment.
- (7) Any accounts which the Auditor General for Wales is directed to prepare under section 93(8) for any financial year shall be submitted by him (after he has signed them) to the auditor no later than five months after the end of that financial year.
- (8) The auditor shall carry out an audit of any accounts submitted to him under subsection (7); and on completing the audit the auditor shall certify the accounts and lay them, together with his report on them, before the Assembly.
- (9) The auditor—
 - (a) shall have a right of access at all reasonable times to all such documents as appear to him necessary for the purposes of his audit of the accounts of the Auditor General for Wales,
 - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for those purposes, and

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- (c) may require the Auditor General for Wales to furnish him at times specified by him with accounts of such of the transactions of the Auditor General for Wales as he may specify.
- (10) The auditor—
- (a) may carry out examinations into the economy, efficiency and effectiveness with which the Auditor General for Wales has used his resources in discharging his functions, and
 - (b) may lay before the Assembly a report of the results of any such examinations.
- (11) For the purpose of carrying out examinations under subsection (10), the auditor—
- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Auditor General for Wales as he may reasonably require for that purpose, and
 - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.

Marginal Citations

M9 1989 c. 40.

[^{F18}94A Accounting officer

- (1) The accounting officer for the Wales Audit Office is the Auditor General for Wales.
- (2) But where—
 - (a) the Auditor General for Wales is incapable of discharging his responsibilities as accounting officer, or
 - (b) the office of Auditor General for Wales is vacant,the Audit Committee may designate a member of the staff of the Auditor General for Wales to be the accounting officer for so long as paragraph (a) or (b) applies.
- (3) The accounting officer for the Wales Audit Office has, in relation to the accounts of the Auditor General for Wales and the finances of the Wales Audit Office, the responsibilities which are from time to time specified by the Audit Committee.
- (4) In this section references to responsibilities include in particular—
 - (a) responsibilities in relation to the signing of accounts,
 - (b) responsibilities for the propriety and regularity of the finances of the Wales Audit Office, and
 - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Wales Audit Office are used.
- (5) The responsibilities which may be specified under this section include responsibilities owed to—
 - (a) the Audit Committee, or
 - (b) the House of Commons or its Committee of Public Accounts.
- (6) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—

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- (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Wales Audit Office, and
 - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (7) In this section “the Wales Audit Office” means the Auditor General for Wales and the members of his staff.]

Textual Amendments

F18 S. 94A inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 10, 73**; S.I. 2005/558, art. 2, **Sch. 1**

[^{F19}95 Access to documents by Auditor General

- (1) The Auditor General for Wales has a right of access at all reasonable times to every document relating to a relevant person which appears to him necessary—
 - (a) for the purposes of his examination of any auditable accounts;
 - (b) for the purposes of undertaking studies under section 145A or 145C;
 - (c) for the purposes of carrying out, in accordance with any provision made by or by virtue of this or any other Act, other examinations or studies into the economy, efficiency and effectiveness with which any person has used his resources in discharging his functions.
- (2) The documents relating to a relevant person to which the right conferred by subsection (1) applies may include, in particular—
 - (a) a document which is held or controlled by a person who has received financial assistance from the relevant person by means of a grant, loan or guarantee or as a result of the taking of an interest in any property or body corporate;
 - (b) a document which is held or controlled by a person who has supplied goods or services to the relevant person in pursuance of a contract to which the relevant person was party or has supplied goods or services in pursuance of a relevant sub-contract;
 - (c) a document of a description specified in an order made by the Assembly.
- (3) The Auditor General for Wales may require a person whom he thinks has information of the kind mentioned in subsection (4)—
 - (a) to give him any assistance, information and explanation which the Auditor General for Wales thinks necessary for any of the purposes mentioned in paragraphs (a) to (c) of subsection (1);
 - (b) to attend before him in person to—
 - (i) give the assistance, information or explanation, or
 - (ii) produce any document which is held or controlled by the person and to which the right conferred by subsection (1) applies;
 - (c) to provide any facility which the Auditor General for Wales may reasonably require for any of the purposes mentioned in paragraphs (a) to (c) of subsection (1).
- (4) The information is information which relates to—
 - (a) a relevant person;
 - (b) a document to which the right conferred by subsection (1) applies; or

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- (c) a person who holds or controls such a document.
- (5) The Auditor General for Wales may, for the purposes of his examination of any auditable accounts, require a relevant person to provide him, at times specified by him, with accounts of such of the person's transactions as he may specify.
- (6) For the purposes of subsection (2)(b), a contract is a relevant sub-contract if its performance fulfils, or contributes to the fulfilment of, an obligation to supply goods or services to the relevant person in another contract.
- (7) In this section—
“auditable accounts” means any accounts or statement of accounts falling to be examined by the Auditor General for Wales in accordance with any provision made by or by virtue of this or any other Act; and
“relevant person” means—
(a) in a case within subsection (1)(a)—
(i) the person by whom the auditable accounts are prepared, and
(ii) in the case of any accounts which the Assembly is directed to prepare under section 97, any person to whose financial affairs and transactions the auditable accounts are to relate by virtue of directions under subsection (2) of that section, and
(b) in any other case, a person to whom the study or examination relates.
- (8) Before making an order under subsection (2)(c), the Assembly must consult the Treasury and the Auditor General for Wales.]

Textual Amendments

F19 S. 95 substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 11, 73**; S.I. 2005/558, art. 2, [Sch. 1](#)

96 Auditor General for Wales: miscellaneous.

- (1) Where the Assembly is entitled to appoint the auditor of the accounts of any person (other than the Auditor General for Wales), the Assembly may appoint the Auditor General for Wales to be the auditor (even if he would not otherwise be eligible to be appointed).
- (2) Where in such a case the auditor falls to be appointed annually, the Assembly may appoint the Auditor General for Wales to be the auditor for a year, or for two or more years, or indefinitely until further exercise of the power of appointment.
- (3) The Auditor General for Wales may—
(a) examine, certify or report on a person's accounts, or
(b) carry out examinations into the economy, efficiency and effectiveness with which a person has used his resources in discharging his functions,
if provision is made for the Auditor General for Wales to do so by an agreement entered into by the person with either the Assembly or a Minister of the Crown.
- (4) In determining how to exercise his functions under paragraph (b) of subsection (3), the Auditor General for Wales shall take into account the views of the Audit Committee

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- (or, before the first ordinary election, the views of the Secretary of State) as to the examinations which he should carry out under that paragraph.
- (5) Where by an Order in Council under section 22 there is transferred to the Assembly a function of preparing any accounts, the Secretary of State may by order provide for the transfer to the Auditor General for Wales of any function of the Comptroller and Auditor General in relation to those accounts.
- (6) An order under subsection (5) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (7) An Order in Council under section 22 may include any provision that may be included in an order under subsection (5).
- [^{F20}(8) If the Treasury designate the Assembly in respect of a financial year for the purposes of section 10 of the Government Resources and Accounts Act 2000 (whole of government accounts), the Auditor General for Wales shall carry out the audit required by section 10(2)(c) of that Act.
- ^{F20}(9) Where the Treasury make arrangements with the Assembly under section 10(8) of that Act, the Auditor General for Wales shall carry out the audit required by section 10(8)(c).]

Textual Amendments

F20 S. 96(8)(9) inserted (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 22**; S.I. 2000/3349, **art. 3**

[^{F21}96A Reports in public interest

- (1) Where the Auditor General for Wales thinks that it would be in the public interest for him to bring to the public's attention a matter coming to his notice in the course of an examination or study to which subsection (2) applies, he may prepare a report on that matter.
- (2) This subsection applies to—
- (a) an examination of auditable accounts (other than accounts falling to be examined under section 96(3)(a)), and
 - (b) an examination or study under section 100, 145 or 145A, except one undertaken at the request of the body or bodies to which it relates.
- (3) The Auditor General for Wales must, as soon as practicable after preparing a report under subsection (1), lay the report before the Assembly.
- (4) In this section “auditable accounts” has the meaning given in section 95(7).]

Textual Amendments

F21 Ss. 96A-96C inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), **ss. 2, 73**; S.I. 2005/558, **art. 2, Sch. 1**

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[^{F21}96B Certification of claims, returns etc.

- (1) The Auditor General for Wales must, if so required by a relevant body, make arrangements for—
- (a) certifying any claim or return in respect of a grant made or subsidy paid to that body by the Assembly, a Minister of the Crown or a public authority;
 - (b) certifying any account submitted by that body to the Assembly or a Minister of the Crown with a view to obtaining payment under a contract between that body and the Assembly or, as the case may be, the Minister;
 - (c) certifying that body’s calculation under paragraph 5(6)(a) of Schedule 8 to the Local Government Finance Act 1988 of the amount of its non-domestic rating contribution for a financial year, and for certifying the amount calculated;
 - (d) certifying any return by that body which, by or under any enactment, is required or authorised to be certified by the body’s auditor or under arrangements made by the Auditor General for Wales.
- (2) In this section—
- “public authority” means a body established by or under the Community Treaties or any enactment; and
- “relevant body” means—
- (a) a body whose accounts, or statements of accounts, are “auditable accounts” within the meaning given in section 95(7), or
 - (b) a local government body in Wales (within the meaning given in section 12(1) of the Public Audit (Wales) Act 2004).]

Textual Amendments

F21 Ss. 96A-96C inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 2, 73; S.I. 2005/558, art. 2, Sch. 1

[^{F21}96C Ancillary powers of Auditor General

- (1) Arrangements may be made between the Auditor General for Wales and a relevant authority—
- (a) for any function of that authority to be exercised by, or by a member of the staff of, the Auditor General for Wales, or
 - (b) for administrative, professional or technical services to be provided by him to that authority or by that authority to him.
- (2) Any arrangements under subsection (1)(a) for the exercise of any function of a relevant authority do not affect the responsibility of the relevant authority on whose behalf the function is exercised.
- (3) The Auditor General for Wales and—
- (a) a relevant authority,
 - (b) a qualified auditor, or
 - (c) an accountancy body,
- may make arrangements to co-operate with, and give assistance to, each other if each considers that to do so would facilitate, or be conducive to, the exercise of his or its own functions.

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- (4) The Auditor General for Wales may make arrangements under this section on such terms and conditions, including conditions as to payment, as he thinks fit.
- (5) In this section—
- “accountancy body” means—
- (a) a body which is a recognised supervisory body for the purposes of Part 2 of the Companies Act 1989, or
 - (b) a body of accountants, established in the United Kingdom or another EEA State, which is for the time being approved by the Assembly for the purposes of this section;
- “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993;
- “qualified auditor” means a person eligible to be appointed as an auditor under section 14 of the Public Audit (Wales) Act 2004 (auditors appointed in respect of local government bodies in Wales); and
- “relevant authority” means any government department, any local or other public authority or the holder of any public office.]

Textual Amendments

- F21** Ss. 96A-96C inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 2, 73; S.I. 2005/558, art. 2, Sch. 1

Financial accountability of Assembly etc.

97 Preparation and audit of Assembly’s annual accounts.

- (1) The Assembly shall, for each financial year, prepare accounts in accordance with directions given to it by the Treasury.
- (2) The directions which the Treasury may give under subsection (1) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Assembly.
- (3) The directions which the Treasury may give under subsection (1) include, in particular, directions as to—
 - (a) the financial affairs and transactions to which the accounts are to relate,
 - (b) the information to be contained in the accounts and the manner in which it is to be presented,
 - (c) the methods and principles in accordance with which the accounts are to be prepared, and
 - (d) the additional information (if any) that is to accompany the accounts.
- (4) Any accounts which the Assembly is directed under this section to prepare for any financial year shall be submitted by the Assembly to the Auditor General for Wales [F22no later than 30th November of the following financial year].
- (5) The Auditor General for Wales shall—
 - (a) examine and certify any accounts submitted to him under this section, and

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- (b) no later than four months after the accounts are submitted to him, lay before the Assembly a copy of them as certified by him together with his report on them.
- (6) In examining any accounts submitted to him under this section, the Auditor General for Wales shall, in particular, satisfy himself—
- (a) that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
 - (b) that money received by the Assembly for a particular purpose or particular purposes has not been expended otherwise than for that purpose or those purposes.
- (7) Where—
- (a) by virtue of any enactment other than this section the Assembly is under an obligation to prepare accounts dealing with any matters, and
 - (b) it appears to the Treasury that those matters fall to be dealt with in accounts directed to be prepared under this section,
- the Treasury may relieve the Assembly of that obligation for or in respect of such periods as they may direct.

Textual Amendments

F22 Words in s. 97(4) substituted (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 23(a)**; S.I. 2000/3349, **art. 3**

Modifications etc. (not altering text)

C4 S. 97(4): power to amend conferred (1.4.2001) by 2000 c. 20, s. 29, **Sch. 1 para. 27**; S.I. 2000/3349, **art. 3**

98 Accounting officers.

- (1) The Treasury shall designate a member of the Assembly's staff as the Assembly's principal accounting officer.
- (2) The Assembly's principal accounting officer shall have—
- (a) in relation to the Assembly's accounts and finances, and
 - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act of their responsibilities as accounting officers,
- the responsibilities which are from time to time specified by the Treasury.
- (3) The Treasury may designate other members of the Assembly's staff as additional accounting officers.
- (4) An additional accounting officer shall have—
- (a) in relation to such of the Assembly's accounts and finances as may be specified by the Treasury, and
 - (b) in relation to the performance by persons designated as accounting officers in pursuance of any provision of this Act (other than this section) of their responsibilities as accounting officers,
- the responsibilities which are from time to time specified by the Treasury.

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- (5) The responsibilities that may be specified under this section in relation to the Assembly’s accounts and finances (or any of them) include in particular—
- (a) responsibilities in relation to the signing of accounts,
 - (b) responsibilities for the propriety and regularity of the Assembly’s finances, and
 - (c) responsibilities for the economy, efficiency and effectiveness with which the Assembly uses its resources.
- (6) The responsibilities which may be specified under this section include responsibilities owed to—
- (a) the Assembly or the Audit Committee, or
 - (b) the House of Commons or its Committee of Public Accounts,
- and in the case of an additional accounting officer include responsibilities owed to the Assembly’s principal accounting officer.

99 Accounts of Assembly subsidiaries etc.

- (1) For the purposes of his examination of any accounts of the Assembly, the Auditor General for Wales—
- (a) shall have a right of access at all reasonable times to all the documents relating to the accounts of any Assembly subsidiary (whether or not the accounts of the Assembly being examined relate to the financial affairs and transactions of the subsidiary),
 - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for those purposes, and
 - (c) may require any Assembly subsidiary to furnish him at times specified by him with accounts of such of the subsidiary’s transactions as he may specify.
- (2) The Treasury may, by directions given to an Assembly subsidiary, require the subsidiary to include in any accounts which the subsidiary prepares (under, for example, the law relating to companies or charities) such additional information as may be specified in the directions.
- (3) Including information in any accounts in compliance with such directions shall not be treated as a breach of any provision which prohibits, or does not authorise, the inclusion in the accounts of that information.
- (4) In this section “Assembly subsidiary” means—
- (a) any body corporate or other undertaking (as defined in section 259(1) of the ^{M10}Companies Act 1985) of which the Assembly is a parent undertaking (within the meaning of section 258 of that Act),
 - (b) any trust of which the Assembly is a settlor, or
 - (c) any charitable institution of which the Assembly is a founder but which is neither a body corporate nor a trust.

Marginal Citations

M10 1985 c. 6.

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100 Examinations into Assembly’s use of resources.

- (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Assembly has used its resources in discharging its functions.
- (2) Subsection (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Assembly.
- (3) In determining how to exercise his functions under this section, the Auditor General for Wales shall take into account the views of the Audit Committee as to the examinations which he should carry out under this section.
- (4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this section.
- (5) In section 6(3) of the ^{M11}National Audit Act 1983 (public bodies subject to economy etc. examinations by the Comptroller and Auditor General), after paragraph (a) insert—
 - “(aa) the National Assembly for Wales;”.
- (6) ^{F23}

Textual Amendments

F23 S. 100(6) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), ss. 66, 72, 73, Sch. 2 para. 44, Sch. 4; S.I. 2005/558, art. 2, Sch. 1 (subject to Sch. 2)

Marginal Citations

M11 1983 c. 44.

101 Examinations by Comptroller and Auditor General.

- (1) For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Assembly, the Comptroller and Auditor General—
 - (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Assembly or any other person audited by the Auditor General for Wales, or of the Auditor General for Wales, as he may reasonably require for that purpose, and
 - (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.
- [^{F24}(1A) But subsection (1) does not apply in relation to any document in the custody or under the control of a Welsh NHS body (within the meaning given in section 60 of the Public Audit (Wales) Act 2004).]
- (2) The Comptroller and Auditor General shall—
 - (a) consult the Auditor General for Wales, and
 - (b) take into account any relevant work done or being done by the Auditor General for Wales,

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before he acts in reliance on subsection (1) or carries out an examination in respect of the Assembly under section 6 of the ^{M12}National Audit Act 1983 (economy etc. examinations).

Textual Amendments

F24 S. 101(1A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), ss. 66, 73, [Sch. 2 para. 45](#); [S.I. 2005/558, art. 2](#) {Sch. 1} (subject to Sch. 2)

Marginal Citations

M12 1983 c. 44.

[^{F25}101A] Whole of Government of Wales accounts.

- (1) This section applies in respect of a financial year for which the Treasury make arrangements with the Assembly under section 10(8) of the Government Resources and Accounts Act 2000 (whole of government accounts: consolidation of Welsh accounts).
- (2) The Assembly shall prepare a set of accounts for the group of bodies which provide information to the Assembly in accordance with the arrangements under section 10(8).
- (3) Accounts prepared under this section may include information referring wholly or partly to activities which—
 - (a) are not activities of bodies falling within subsection (2), but
 - (b) appear to the Assembly to be activities of a public nature.
- (4) The accounts shall contain such information in such form as the Treasury may direct.
- (5) The Treasury shall exercise the power under subsection (4) with a view to ensuring that the accounts—
 - (a) present a true and fair view, and
 - (b) conform to generally accepted accounting practice subject to such adaptations as are necessary in the context.
- (6) For the purpose of subsection (5)(a) and (b) the Treasury shall in particular—
 - (a) have regard to any relevant guidance issued by the Accounting Standards Board Limited or any other body prescribed for the purposes of section 256 of the Companies Act 1985 (accounting standards) [^{F26}or to international accounting standards (as defined in section 262 of that Act)], and
 - (b) require the accounts to include, subject to paragraph (a), a statement of financial performance, a statement of financial position and a cash flow statement.
- (7) The Assembly shall send accounts under this section to the Auditor General for Wales.
- (8) The Auditor General for Wales shall examine accounts sent to him under this section with a view to satisfying himself that they present a true and fair view.
- (9) Where the Auditor General for Wales has conducted an examination of accounts he shall—
 - (a) certify them and issue a report, and
 - (b) send the certified accounts and the report to the Assembly.

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- (10) A person who acts as auditor for the purposes of section 10(2)(c) or (8)(c) of the Government Resources and Accounts Act 2000 shall give to the Auditor General for Wales such information and explanations as he may reasonably require for the purposes of this section.
- (11) The Assembly shall by order specify dates by which the duties under subsections (7) and (9)(b) shall be performed.
- (12) Before making an order under subsection (11) the Assembly shall consult the Auditor General for Wales.]

Textual Amendments

- F25** S. 101A inserted (22.12.2000 for certain purposes and 1.4.2001 otherwise) by 2000 c. 20, s. 29, **Sch. 1 para. 24**; S.I. 2000/3349, **arts. 2, 3**
- F26** Words in s. 101A(6)(a) inserted (12.11.2004) by The Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947), regs. 1(2), 15, **Sch. 7 para. 13**

102 Audit Committee reports.

- (1) The Audit Committee may consider, and lay before the Assembly a report on, any accounts, statement of accounts or report laid before the Assembly by—
 - (a) the Auditor General for Wales, or
 - (b) the auditor appointed under section 94.
- (2) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—
 - (a) on behalf of the Committee of Public Accounts take evidence from the Assembly's principal accounting officer or any additional accounting officer designated under section 98, and
 - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

103 Publication of accounts and audit reports etc.

- (1) A document to which this subsection applies shall be published by the Assembly as soon after being laid before it as is reasonably practicable.
- (2) The documents to which subsection (1) applies are—
 - (a) any accounts, statement of accounts or report laid before the Assembly by the Auditor General for Wales,
 - (b) any accounts or report laid before the Assembly by the auditor appointed under section 94, and
 - (c) any estimate or report laid before the Assembly under section 93(6) or 102(1) by the Audit Committee.

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Funding of school inspections and forestry in Wales

104 [F27 Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.]

- (1) The provision of funding for [F27 Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru] (“the Chief Inspector”) shall be the responsibility of the Assembly.
- (2) What subsection (1) requires of the Assembly is that it shall provide such funding for the Chief Inspector as it considers appropriate.
- (3) In deciding what funding it considers appropriate to provide for the Chief Inspector, the Assembly shall have regard in particular to what it considers the Chief Inspector needs to spend in order to discharge his functions effectively.
- (4) The Assembly shall before the beginning of each financial year consult the Chief Inspector about the funding it is to provide for him in that financial year ^{F28} . . .

[F29(4A) The Assembly shall—

- (a) approve the plan submitted to it under section 87 of the Learning and Skills Act 2000; and
 - (b) determine the amount of the funding it is to provide under this section in accordance with the plan as approved by it.
- (4B) But before it gives its approval under subsection (4A)(a), the Assembly may require the Chief Inspector to modify the plan.]
- (5) But the consultation required by subsection (4) about the funding to be provided for the Chief Inspector in the first financial year in which his funding is the responsibility of the Assembly shall, if it cannot be carried out before the beginning of that financial year, be carried out as soon as is reasonably practicable.
 - (6) Schedule 6 (which makes further provision about the Chief Inspector) has effect.

Textual Amendments

- F27** Words in sidenote and s. 104(1) substituted (1.1.2001) by 2000 c. 21, s. 73(3)(a); S.I. 2000/3230, art. 2, Sch.
- F28** Words in s. 104(4) repealed (1.1.2001) by 2000 c. 21, ss. 149, 153, Sch. 9 para. 92(2), Sch. 11; S.I. 2000/3230, art. 2, Sch.
- F29** S. 104(4A)(4B) inserted (1.1.2001) by 2000 c. 21, s. 149, Sch. 9 para. 92(3); S.I. 2000/3230, art. 2, Sch.

Modifications etc. (not altering text)

- C5** S. 104(4) amended (1.1.2001) by 2000 c. 21, s. 87(1); S.I. 2000/3230, art. 2, Sch.

Commencement Information

- I2** S. 104 wholly in force at 1.7.1999; s. 104 not in force at Royal Assent; s. 104(6) in force for certain purposes at 1.5.1999 and s. 104 wholly in force at 1.7.1999 by S.I. 1999/1290, arts. 3, 4

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105 Forestry Commissioners.

- (1) The provision of funding for the exercise by the Forestry Commissioners of their functions in relation to Wales shall be the responsibility of the Assembly.
- (2) What subsection (1) requires of the Assembly is that it shall provide such funding as the Assembly considers appropriate for the exercise by the Forestry Commissioners of their functions in relation to Wales.
- (3) In deciding what funding it considers appropriate to provide for the exercise by the Forestry Commissioners of their functions in relation to Wales, the Assembly shall have regard in particular to what it considers those Commissioners need to spend in order effectively to discharge their functions in relation to Wales.
- (4) The Assembly shall before the beginning of each financial year consult the Forestry Commissioners about the funding it is to provide for them in that financial year; and in determining the amount of that funding the Assembly shall take account of the Forestry Commissioners' estimates of—
 - (a) what they will need to spend in that financial year in order effectively to discharge their functions in relation to Wales, and
 - (b) the income which they will receive in that financial year and be entitled to apply towards meeting their expenditure on the exercise of their functions in relation to Wales.
- (5) Schedule 7 (which makes further provision about the Forestry Commissioners and the exercise of their functions in relation to Wales) has effect.

Commencement Information

- I3** [S. 105](#) wholly in force at 14.5.2001; [s. 105](#) not in force at Royal Assent; [s. 105\(5\)](#) in force for certain purposes at 1.4.1999 by [S.I. 1999/782](#), [art. 2](#); [s. 105\(1\)-\(4\)](#) in force and [s. 105\(5\)](#) in force in so far as not already in force at 14.5.2001 by [S.I. 2001/1756](#), [art. 2](#)

Status:

Point in time view as at 01/02/2007.

Changes to legislation:

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