



# Government of Wales Act 1998

## 1998 CHAPTER 38

### PART VI

#### REFORM OF WELSH PUBLIC BODIES

##### *Accountability*

#### **144 Accounts, audit and reports.**

- (1) The Secretary of State may by order make provision about—
  - (a) the accounts of any body specified in Part I or II of Schedule 17,
  - (b) the audit of any such body's accounts, or
  - (c) reports by any such body on its exercise of its functions.
- (2) An order under subsection (1) may not make any provision about, or about the audit of, the accounts kept in pursuance of section 98(1) of the <sup>M1</sup>National Health Service Act 1977 (accounts subject to audit by auditors appointed by the Audit Commission) by any body specified in Part II of Schedule 17.
- (3) An order under subsection (1) may include provision imposing, varying or abolishing requirements in respect of any accounts or reports or the audit of any accounts and, in particular, may provide for—
  - (a) designating accounting officers and specifying their responsibilities,
  - (b) the preparation by a body of accounts extending to financial affairs and transactions of any undertaking (as defined in section 259(1) of the <sup>M2</sup>Companies Act 1985) of which the body is (or, if it were an undertaking as so defined, would be) a parent undertaking (within the meaning of section 258 of that Act),
  - (c) the granting to auditors, and persons considering reports by any auditor or body, of rights of access to documents and of rights to obtain information, explanations and assistance from persons holding or accountable for documents,

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- (d) the giving of directions by the Assembly (or, before the first ordinary election, by the Secretary of State), and
  - (e) the publication and public inspection of documents.
- (4) The Secretary of State may by order make provision for designating accounting officers of any body specified in Part III of Schedule 17 and specifying their responsibilities.
- (5) An order under subsection (1) or (4) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (6) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1) or (4).
- (7) 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 a person designated in pursuance of subsection (3)(a) or (4) as an accounting officer of a body specified in Schedule 17, and
  - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.
- (8) The Secretary of State may by order amend any of the Parts of Schedule 17 by—
- (a) adding any public body (other than the Auditor General for Wales, [<sup>F1</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru], the Welsh Administration Ombudsman [<sup>F2</sup>the Children’s Commissioner for Wales], the Health Service Commissioner for Wales, a county council, a county borough council or a community council) whose functions relate exclusively to Wales or an area of Wales,
  - (b) omitting any body, or
  - (c) altering the description of any body.
- (9) In this section—
- (a) “audit”, in relation to any accounts, includes their examination and certification and reporting on them or on any examination of them, and
  - (b) “body” includes office.

#### Textual Amendments

**F1** Words in s. 144(8)(a) substituted (1.1.2001) by 2000 c. 21 s. 73(3)(a); S.I. 2000/3230, art. 2, **Sch.**

**F2** Words in s. 144(8)(a) inserted (13.11.2000) by 2000 c. 14, s. 72, **Sch. 2 para. 18**; S.I. 2000/2992, art. 2(1), **Sch. 1**

#### Marginal Citations

**M1** 1977 c. 49.

**M2** 1985 c. 6.

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## 145 Examinations into use of resources.

- (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which a body or office specified in Schedule 17 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 any body or office in respect of which an examination is carried out.
- (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 (or, before the first ordinary election, the views of the Secretary of State) 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) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations under this section, or section 6 or 7 of the <sup>M3</sup>National Audit Act 1983 (economy etc. examinations), in respect of a body or office specified in Schedule 17.
- (6) 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,before he carries out an examination under section 6 or 7 of the <sup>M4</sup>National Audit Act 1983 (economy etc. examinations) in respect of a body or office specified in Schedule 17.

### Marginal Citations

- M3** 1983 c. 44.  
**M4** 1983 c. 44.

VALID FROM 01/04/2005

### <sup>F3</sup>145A Studies for improving economy etc in services

- (1) The Auditor General for Wales may undertake or promote studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of any relevant body or bodies.
- (2) The Auditor General for Wales may also undertake or promote other studies relating to the provision of services by any relevant body or bodies.
- (3) Subsections (1) and (2) do not entitle the Auditor General for Wales to question the merits of the policy objectives of any relevant body.
- (4) 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 studies which he should undertake or promote under this section.

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- (5) For the purposes of this section each of the following is a “relevant body”—
- (a) a person who prepares auditable accounts within the meaning given in section 95(7);
  - (b) any other person (other than a local government body in Wales) in relation to whom, by virtue of provision made by or under this or any other Act, the Auditor General for Wales carries out examinations or studies relating to the economy, efficiency and effectiveness with which that person has used his resources in discharging his functions;
  - (c) a person (other than a registered social landlord in Wales) in respect of whom the Auditor General for Wales has functions by virtue of provision made under section 146A.
- (6) Where the Auditor General for Wales undertakes or promotes a study under this section he may arrange for a report containing—
- (a) the results of the study, and
  - (b) his recommendations (if any),
- to be laid before the Assembly.
- (7) In this section—
- “local government body in Wales” has the meaning given in section 12(1) of the Public Audit (Wales) Act 2004; and
- “registered social landlord in Wales” has the meaning given in section 146A(2).]

#### Textual Amendments

**F3** S. 145A inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), ss. 3, 73; S.I. 2005/558, art. 2, Sch. 1

VALID FROM 01/04/2005

#### [<sup>F4</sup>145B Studies at request of educational bodies

- (1) The Auditor General for Wales may undertake studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of a body specified in the first column of the Table, if requested to do so by the body (or one of the bodies) specified in relation to it in the second column of the Table.

<i>Subject of study</i>	<i>Requesting body</i>
The governing body of an institution in Wales within the higher education sector.	The governing body or the Higher Education Funding Council for Wales.
The governing body of an institution in Wales receiving financial support under Part 1 of the Education Act 1994.	The governing body or the appropriate funding agency.

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The governing body of an institution in Wales within the further education sector.

The governing body or the National Council for Education and Training for Wales.

- (2) Subsection (1) does not entitle the Auditor General for Wales to question the merits of the policy objectives of a body.
- (3) Where the Auditor General for Wales undertakes a study under subsection (1) he may, with the consent of the body that requested the study, arrange for a report containing—
- (a) the results of the study, and
  - (b) his recommendations (if any),
- to be laid before the Assembly.
- (4) The Auditor General for Wales may, at the request of the Higher Education Funding Council for Wales, give the council advice in connection with the discharge of the council's functions under section 124B(2)(b) of the Education Reform Act 1988 or paragraph 18(2)(b) of Schedule 7 to that Act.
- (5) The Auditor General for Wales may, at the request of a higher education corporation or further education corporation in Wales—
- (a) advise them in connection with the appointment of persons to audit their accounts;
  - (b) arrange for their accounts for a financial year to be audited by one or more members of the staff of the Auditor General for Wales appointed by the corporation.
- (6) In subsection (5)—
- (a) “higher education corporation” and “further education corporation” have the same meaning as in the Further and Higher Education Act 1992;
  - (b) references to the accounts of a higher education corporation include references to a statement of accounts prepared by the corporation under section 124B of the Education Reform Act 1988 or paragraph 18 of Schedule 7 to that Act.
- (7) This section must be construed as one with the Education Act 1996; and references in any enactment to the Education Acts include this section.]

#### Textual Amendments

- F4** S. 145B inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 4, 73**; [S.I. 2005/558](#), **art. 2**, **Sch. 1**

VALID FROM 01/04/2005

#### [<sup>F5</sup>145C Studies relating to registered social landlords

- (1) The Assembly and the Auditor General for Wales may agree on one or more programmes of studies designed to enable the Auditor General for Wales to

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make recommendations for improving economy, efficiency and effectiveness in the discharge of the functions of registered social landlords in Wales.

- (2) If a programme is agreed, the Auditor General for Wales shall ensure that studies giving effect to the programme are undertaken by him or on his behalf.
- (3) It shall be a term of every such programme that the Assembly make good to the Auditor General for Wales the full costs incurred by him in undertaking the programme.
- (4) This section does not entitle the Auditor General for Wales to question the merits of the policy objectives of a registered social landlord in Wales.
- (5) Where a study is undertaken under this section by the Auditor General for Wales or on his behalf, he may arrange for a report containing—
  - (a) the results of the study, and
  - (b) his recommendations (if any),
 to be laid before the Assembly.
- (6) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed under section 95(3)(a) or (b) in relation to a study under this section.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) The Auditor General for Wales may disclose to the Assembly information obtained by him or a person acting on his behalf in the course of a study under this section.
- (9) “Registered social landlord in Wales” means a body which is—
  - (a) registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996, and
  - (b) mentioned in any of paragraphs (a) to (c) of section 56(2) of that Act.]

#### Textual Amendments

**F5** S. 145C inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 5, 73**; [S.I. 2005/558](#), art. 2, [Sch. 1](#)

VALID FROM 31/01/2008

#### [<sup>F6</sup>145D Advice and assistance for registered social landlords

- (1) The Auditor General for Wales may, if he thinks it appropriate to do so, provide advice or assistance to a registered social landlord in Wales for the purpose of the exercise by the registered social landlord of its functions.
- (2) Advice or assistance under this section may be provided on such terms and conditions, including conditions as to payment, as the Auditor General for Wales thinks fit.

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- (3) This section has effect without prejudice to paragraph 21 of Schedule 8 to the Government of Wales Act 2006 (arrangements between Auditor General for Wales and certain bodies).
- (4) In this section, “registered social landlord in Wales” means a body which is—
- (a) registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996, and
  - (b) mentioned in any of paragraphs (a) to (c) of section 56(2) of that Act.]

#### Textual Amendments

- F6** S. 145D inserted (E.W.) (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 166, 245; S.I. 2008/172, art. 2(g) (as amended by S.I. 2008/337, art. 3)

### 146 Transfer etc. of functions of Comptroller and Auditor General.

- (1) The Secretary of State may by order provide for any function of the Comptroller and Auditor General, so far as relating to a body or office falling within subsection (2), to be transferred to, or become a function also of, the Auditor General for Wales.
- (2) The bodies and offices falling within this subsection are—
- (a) any body or office specified in Schedule 17, and
  - (b) any body or office (other than one specified in Schedule 17) whose functions relate exclusively to Wales or an area of Wales (but not the Auditor General for Wales, [<sup>F7</sup>Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru], the Welsh Administration Ombudsman, the Health Service Commissioner for Wales, a county council, a county borough council or a community council).
- (3) An order under subsection (1) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).
- (4) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1).

#### Textual Amendments

- F7** Words in s. 146(2)(b) substituted (1.1.2001) by 2000 c. 21, s. 73(3)(a); S.I. 2000/3230, art. 2, Sch.

VALID FROM 01/04/2005

### [<sup>F8</sup>146A Transfer etc of functions of Assembly

- (1) The Assembly may, with the consent of the Auditor General for Wales, by order provide for any of its supervisory functions in respect of a public body or a registered social landlord in Wales—
- (a) to be exercised on its behalf by the Auditor General for Wales, or
  - (b) to be transferred to the Auditor General for Wales.

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(2) In this section—

“public body” means—

- (a) a body exercising functions of a public nature, or
- (b) a body entirely or substantially funded from public money,

(and for this purpose “body” includes office);

“registered social landlord in Wales” means a body which is—

- (a) registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996, and

- (b) mentioned in any of paragraphs (a) to (c) of section 56(2) of that Act;

“supervisory functions”, in respect of a public body or a registered social landlord in Wales, means functions of examining, inspecting, reviewing or studying the financial or other management of the public body or registered social landlord or the way in which it discharges any of its functions.

(3) The Assembly may direct the Auditor General for Wales to prepare a report on his exercise, generally or in respect of a specific body or matter, of any function transferred to him by an order under subsection (1)(b).

(4) The Auditor General for Wales must lay before the Assembly any report prepared by him in accordance with a direction under subsection (3).

(5) An order under subsection (1) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).]

#### Textual Amendments

**F8** S. 146A inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 1, 73**; [S.I. 2005/558](#), **art. 2**, **Sch. 1**

#### 147 Environment Agency.

(1) The Secretary of State may by order—

- (a) make provision for any function of the Comptroller and Auditor General relating to the Environment Agency to become a function also of the Auditor General for Wales so far as it relates to any of the Agency’s Welsh functions or to any funding provided to the Agency by the Assembly, or
- (b) make provision about reports to the Assembly by the Environment Agency on the Agency’s activities in exercise of its Welsh functions (including provision for the giving of directions by the Assembly about such reports).

(2) An order under subsection (1) may contain any appropriate consequential, incidental, supplementary or transitional provisions or savings (including provisions in the form of amendments or repeals of enactments).

(3) An Order in Council under section 22 may include any provision that may be included in an order under subsection (1).

(4) In this section references to the Environment Agency’s Welsh functions are to its functions so far as exercisable in relation to Wales or to a cross-border body, or an



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English border area, in relation to which environmental functions of the Assembly are exercisable; and “environmental functions of the Assembly” means functions of the Assembly in a field in which the Environment Agency also has functions.

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