

EXPLANATORY MEMORANDUM

This Explanatory Memorandum is laid before Parliament by Command of Her Majesty.

GOVERNMENT RESOURCES AND ACCOUNTS ACT 2000 (AUDIT OF PUBLIC BODIES) ORDER 2004

POWERS

The above instrument is made in exercise of powers conferred upon HM Treasury by sections 25(6), (7) and (10) of the Government Resources and Accounts Act 2000.

(This instrument replaces one that was laid on 24 May. That was withdrawn partly because it had no commencement date and partly because of a possible hybrid problem. The Order contained provisions for audit by the C&AG of Thurrock Development Corporation. However, ODPM had laid draft Orders to create two further development corporations in the London Thames Gateway and West Northamptonshire. It was considered that we should await the Parliamentary process on these instruments before considering the audit arrangements for all three bodies together.)

COMPATIBILITY WITH CONVENTION RIGHTS

The Financial Secretary to the Treasury states that, in her view, the provisions of the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2004 is compatible with the convention rights.

REASON FOR THE ORDERS

The Government set out its policy on audit and access powers for the Comptroller and Auditor General (C&AG) in its response, published on 13 March 2002 (Cm 5456), to Lord Sharman's report "Audit and Accountability in Central Government".

The Government legislated¹ for the C&AG to become the statutory auditor of those Non-departmental Public Bodies (NDPBs) that are currently audited by private firms or where the C&AG is currently appointed by agreement (other than NDPBs which are companies and the Museum of London, which is treated as a local authority for audit purposes and which will therefore continue to be audited by auditors appointed by the Audit Commission). The Government accepted Lord Sharman's recommendation that the C&AG would take over the audit responsibility as existing contracts with auditors expire. NDPBs that are also companies need to be audited by a Companies Act auditor and further legislative changes will be needed to remove

¹ The Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 (SI/2003/1326), in conjunction with The Government Resources and Accounts Act 2000 (Rights of Access of Comptroller and Auditor General) Order 2003 (SI/2003/1325)

statutory barriers that currently mean that the C&AG cannot carry out Companies Act audits.

Since the 2003 legislation was approved by Parliament, the Hearing Aid Council has been reclassified as a NDPB and the intention of the 2004 Order is to provide for the C&AG to become its statutory auditor. The Order also takes account of a further development in respect of the Sea Fisheries Industry Authority. The 2003 Order (footnote 1) provided that the C&AG would become responsible for auditing the Sea Fisheries Industries Authority as from the financial year 2005-2006. This was to enable contracts with the then auditors to run their course. Since then, however, the auditors have resigned the audit and there is now no body with legal responsibility to carry out the audit. The Government is therefore taking the opportunity to bring forward the date when the C&AG becomes responsible for auditing the SFIA from financial year 2005-2006 to 2003-2004.

REGULATORY IMPACT AND COSTS

A Regulatory Impact Assessment (RIA) setting out the impact the 2003 Orders were expected to have on those potentially affected by the Orders was deposited in the Libraries of both Houses on 3 April 2003. The RIA noted that the impact of the Orders was not expected to be significant. In particular, the C&AG had given assurances that he would contract out an equal number of additional audits as are currently awarded by departments to private firms.

The RIA concluded that the overall cost of the new arrangements was expected to be broadly the same as if the current arrangements had continued. It acknowledged that the new arrangements might not be completely without cost in each individual case. However, in the light of the assurances provided by the C&AG that the new powers are unlikely to be used in a way which, taken as a whole, increased existing burdens, the RIA concluded that the Government is satisfied that on balance the advantages and disadvantages of these arrangements added up to a clear and continuing net gain for Parliament and the public.

We believe that these arguments hold good for the 2004 Order and do not propose to carry out a separate RIA for these two bodies.

APPLICABILITY

The Order will apply throughout the UK. It does not, however, affect the powers of the Auditors General for Scotland or Wales or of the Comptroller and Auditor General for Northern Ireland.

POINT OF CONTACT

The point of contact for questions on the Order is: David Barton, Treasury Officer of Accounts Team - Tel No. 020 7270 5365.

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