

EXPLANATORY MEMORANDUM TO
THE ACCOUNTS AND AUDIT (AMENDMENT) (ENGLAND)
REGULATIONS 2006

2006 No. 564

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This instrument amends the Accounts and Audit Regulations 2003 (SI 2003/533)(“the 2003 Regulations”).
- 2.2 It makes a number of amendments to the specific accounting and auditing rules for relevant bodies (these are bodies (mainly local authorities) subject to audit by the Audit Commission and are listed in Schedule 2 to the Audit Commission Act 1998).
- 2.3 It also makes amendments, recommended by the Joint Committee on Statutory Instruments, to the definition of “working day”, regulation 10 (signing and approval of statement of accounts etc) and the list of provisions whose breach amounts to the commission of a criminal offence.
- 2.4 The instrument amends the 2003 Regulations so that they now apply to passenger transport executives. Consequently, the Accounts and Audit (Passenger Transport Executives and London Transport Executive) Regulations 1983 are revoked.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 Some of the amendments to the 2003 Regulations relate to matters reported by the Joint Committee on Statutory Instruments in its 19th Report of session 2002-03.
- 3.2 The definition of “working day” in regulation 2 of the 2003 Regulations is amended to exclude Christmas Day and Good Friday. The definition has also been amended to refer to the statute under which bank holidays are designated.
- 3.3 Regulation 10 of the 2003 Regulations has been amended to include a procedure for a relevant body to follow if it is of the view that it cannot approve the accounts.

3.4 The provisions to which paragraph (1) of regulation 22 (offences) of the 2003 Regulations applies do not now include regulation 4(1).

4. Legislative Background

The Audit Commission Act 1998 makes provision in respect of local authorities and other bodies subject to audit. The 2003 Regulations are made under section 27 of that Act and make provision in respect of the keeping of accounts, their form, preparation and certification and other related matters.

5. Extent

This instrument applies to relevant bodies in England.

6. European Convention on Human Rights

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The term "proper practices" is used in a number of provisions in the 2003 Regulations to refer to accepted codes of professional practice for accounting and audit. In order to distinguish this term from "proper practices" as defined in section 21 of the Local Government Act 2003 references to proper practices have been amended to clarify the different categories of proper practices.

7.2 Paragraph (2A) has been inserted into regulation 2 of the 2003 Regulations to provide for references to a relevant body, in the context of a parish meeting shall be taken to be references to the chairman of that meeting. This amendment has been made to simplify the drafting of the 2003 Regulations.

7.3 A requirement for the findings of reviews of the system of internal control (referred to in regulation 4(2) of the 2003 Regulations) to be considered and approved by a committee of the relevant body, or by members of the body meeting as a whole, has been included. There is currently no requirement for bodies to review systems of internal control. A key aim of the amendments to the regulations is to strengthen governance and accountability.

7.4 The punctuation in regulation 5(1) of the 2003 Regulations has been corrected.

7.5 Regulation 6 of the 2003 Regulations is amended to provide a clearer structure to the regulation, separating the access rights of the internal audit function from the provisions on audit standards and effectiveness.

The amendment also requires the relevant body to conduct an annual review of how effective its internal audit systems are and for the findings of the review to be considered by a committee of the body, or by the body as a whole. The objective of this amendment is to strengthen governance and accountability within relevant bodies.

- 7.6 Regulation 7 of the 2003 Regulations is amended to delete some of the listed provisions in regulation 7(1) and to rely on the term “proper practices in relation to accounts”. This term will require accepted professional practices to be followed, and, in the case of bodies covered by section 21 of the Local Government Act 2003 (which include all local authorities), will apply the definition of proper practices in that section. The removal of the requirement for specific statements will allow the accounts of relevant bodies to keep up with developments in generally accepted accounting practice (GAAP). The regulation continues to list statements not required by GAAP but needed to ensure a fair presentation of the finances of the bodies that maintain these funds and accounts.
- 7.7 The amendment also adds a reference to a new item not required by GAAP, the new firefighters’ pension fund which is a requirement of the Firefighters’ Pension Scheme set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 (as amended). From 1st April 2006 fire and rescue authorities will be required to pay employer contribution and employee contributions into this pension fund. The pension fund will appear as a separate income and expenditure statement in such an authority’s statement of accounts.
- 7.8 The amendment to regulation 7(2) adds a requirement to prepare a note to show whether the new Dedicated Schools Grant has been spent in accordance with regulations made under the School Standards and Framework Act 1998. This requirement has been included because of the significance of the Dedicated Schools Grant in the finances of local education authorities.
- 7.9 Regulation 8 inserts a new regulation 7A to require Passenger Transport Executives to charge retirement benefits to a revenue account. This amendment is included to enable Executives to comply with the requirements of the Accounting Standards Board’s ‘FRS17’. Companies are required to comply fully with FRS 17 for accounting periods beginning on or after 1 January 2005. Because of the requirement that PTE statements of accounts must be no less informative than if the disclosure requirements of the Companies Acts applied to them PTEs must comply with FRS 17 in preparing their accounts for the year ending on 31st March 2006 and subsequent years. Regulation 7A will enable PTEs to comply with the FRS, but ensure that retirement benefits continue to be financed on the basis of charges required by the regulations governing the statutory pension schemes. This mirrors regulation 30 of the Local Authorities (Capital Finance

and Accounting) (England) Regulations 2003 (SI 2003 No 3146), which makes similar provision for local authorities.

- 7.10 The application of regulations 7 and 9 of the 2003 Regulations has been amended. Broadly the amendments (in regulation 7 and 10) provide that bodies with income or expenditure below £1 million (“smaller relevant bodies” - see the new definition inserted into regulation 2 of the 2003 Regulations) need only produce an annual return (regulation 9 of the 2003 Regulations). Those with an income or expenditure of £1 million or more must prepare a full statement of accounts (regulation 7 of the 2003 Regulations). In line with ODPM policy to reduce burdens on local bodies, this amendment provides for smaller bodies with income or expenditure below £1 million to produce a simplified Annual Return instead of a full statement of accounts. This will reduce administrative burdens and audit costs for smaller bodies.
- 7.11 The substitution of regulation 9(3) increases from £100,000 to £200,000 the threshold at which smaller relevant bodies have the option of keeping their accounts on an income and expenditure, or receipts and payments basis, this will have the effect of reducing their administrative burden and audit costs.
- 7.12 Regulation 10(3)(a) and (4)(a) of the 2003 Regulations, requires the relevant body’s committee, to whom the relevant body has delegated the function, to approve the accounts by a certain time. Failure to approve the statement of accounts would be an offence. The JCSI queried two aspects of this regulation. It queried the fact that there was no express requirement for the relevant body to arrange for the committee to approve the accounts and it also queried whether the relevant body was obliged to approve the accounts irrespective of any concern it might have about them. The effect of the amendments to regulation 10(3) of the 2003 Regulations is to require the body or one of its committees to consider the statement of accounts before it is approved by the body. Similar arrangements for smaller relevant bodies are prescribed in regulation 10(4) of the 2003 Regulations. In response to JCSI’s second criticism, we have included a new provision (regulation 10(6)) which allows the body not to approve the accounts and provides a procedure for such cases.
- 7.13 In order to bring the timing of the approval of the statement of accounts of smaller relevant bodies in line with that of other bodies, for “September” in regulation 10(4) of the 2003 Regulations there is substituted “June”. Also the dates in regulation 10(5) are amended and the cross-reference so as to provide for these bodies to move toward the new June date in regulation 10(4)(a) over a three year period.
- 7.14 Regulation 12 of the 2003 Regulations applies provisions equivalent to those in the amended regulation 11 to smaller relevant bodies. In particular in order to bring the timing of the publication of the

statement of accounts of smaller relevant bodies in line with that of other bodies, for “December” in regulation 12(1) substituted “September”. Regulation 12 has been amended to reflect the changes to regulation 9 of the 2003 Regulations and to include a transitional provision allowing these bodies to move toward the September date in regulation 12(1) over a three year period.

- 7.15 Regulation 18 of the 2003 Regulations requires a relevant body to give notice when the audit is concluded. Paragraphs (3) and (4) have been amended so these provisions apply to any material amendment to the supporting account documents, whether as a result of an auditor’s report or not.
- 7.16 Regulation 19 of the 2003 Regulations has been substituted to reflect the fact that the annual letter to local government bodies may now, in some cases, be issued by the Commission itself.
- 7.17 The amending regulations have been the subject of both an informal consultation with the Audit Commission in the early stages of its formulation, and a formal consultation with the Audit Commission, such associations of local authorities as appeared to the Secretary of State to be concerned and such bodies of accountants as appeared appropriate, as required by section 27(3) of the Audit Commission Act 1998.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies
- 8.2 The impact on the public sector is negligible.

9. Contact

Sangeeta Karadia at the Office of the Deputy Prime Minister (Tel: 020 7944 4108 or e-mail: sangeeta.karadia@odpm.gsi.gov.uk) can answer any queries regarding the instrument.