

**EXPLANATORY MEMORANDUM TO**  
**THE BUDGET RESPONSIBILITY AND NATIONAL AUDIT ACT 2011**  
**(CONSEQUENTIAL AMENDMENTS) ORDER 2012**

**2012 No. 725**

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This instrument makes amendments to subordinate legislation in consequence of the commencement of Part 2 of the Budget Responsibility and National Audit Act 2011 (c.4) (“the Act”). The amendments reflect the continuation of the office of Comptroller and Auditor General (C&AG) by section 11 of the Act and the establishment of the National Audit Office as a body corporate (no longer headed by the C&AG) by section 20 of the Act.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative context**
  - 4.1 Section 28(1) of the Act provides that the Treasury may make such provision as it considers appropriate in consequence of any provision of the Act. Section 28(2)(a) provides that an order under this section may amend or revoke any provision of subordinate legislation made on or before the last day of the Session in which the Act is passed.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to all of the United Kingdom. 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.
6. **European Convention on Human Rights**
  - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
  - *What is being done and why*
  - 7.1 Part 2 of the Act makes provision for the modernization of the NAO’s governance arrangements. It continues the office of Comptroller &

Auditor General, who is an independent officer of Parliament, but limits the term of appointment to that office to ten years. It establishes a new corporate body, the new NAO, whose functions include providing resources for the exercise of the C&AG's functions, monitoring the carrying out of those functions and approving the provision of services by the C&AG.

7.2 The Order makes amendments to subordinate legislation in consequence of the commencement on 1 April 2012 of provisions in Part 2 of the Act under which the new NAO will become fully operational and the existing C&AG will continue in office as if he had been appointed under the Act (an appointed day order is also made for this and other purposes).

7.3 Some amendments replace a reference to the old NAO with a reference to the new NAO or a reference to the staff of the (old) NAO with a reference to its members and employees. Others make appropriate changes to references to the C&AG or the NAO.

## 8. **Consultation outcome**

8.1 The NAO were consulted on this instrument and were content. No other external consultation was carried out because this instrument affects only subordinate legislation.

## 9. **Guidance**

9.1 No guidance is needed or required.

## 10. **Impact**

10.1 An impact assessment has not been prepared for this Instrument because no material impact on the private sector, voluntary sector or public sector is foreseen.

## 11. **Regulating small business**

11.1 The legislation does not apply to small business.

## 12. **Monitoring and review**

12.1 No monitoring or review is needed for this instrument.

## 13. **Contact**

13.1 David Barton at HM Treasury can answer any queries regarding this instrument (email: david.barton@hmtreasury.gsi.gov.uk)