

EXPLANATORY MEMORANDUM TO
THE LOCAL AUDIT (AUDITOR RESIGNATION AND REMOVAL)
REGULATIONS 2014

2014 No. 1710

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The Local Audit and Accountability Act 2014 (“the Act”) provides for local public bodies to appoint their own auditors, and also to be responsible for their removal and replacement. Local auditors may also resign from office. This instrument sets out the processes to be followed by the local public body, auditor panel, and auditor, in cases of resignation or removal and makes provision for subsequent replacement.

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

None.

4. **Legislative Context**

4.1 The Act makes new provision for the audit of local public bodies (“relevant authorities”) once the Audit Commission for Local Authorities and the National Health Service in England and Wales is abolished in 2015. Part 3 of the Act is concerned with matters such as the appointment of auditors of such authorities (“local auditors”), and also their resignation or removal.

4.2 These Regulations, made under section 16 of the Act, contain further provision about the removal from office, or resignation, of local auditors of relevant authorities. See section 2 of, and Schedule 2 to, the Act in relation to the bodies that are relevant authorities for the purposes of the Act.

5. **Territorial Extent and Application**

This instrument applies to England and Wales.

6. **European Convention on Human Rights**

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

7. Policy background

7.1 Local public bodies will be responsible for appointment of, and management of the ongoing relationship with, their auditors. They will also be responsible for their removal. Local auditors may resign from office. In all cases the relevant authority will be required to appoint a replacement auditor.

7.2 Resignation or removal of an auditor is expected to be a very rare occurrence. The arrangements for removal and resignation provide for transparency in the process so that both authority and auditor can make the reasons for their decisions public, and for the auditor panel to provide independent advice to the authority on any decision about removal of the auditor, or circumstances around the auditor's resignation.

7.3 In the case of removal, the authority must give the auditor 28 days notice of the proposal to remove them; the auditor will have the right to respond, and any response must be shared with the auditor panel; the panel will advise on the proposal, and the authority must take this advice into account; the auditor, and a member of the auditor panel, may attend and speak at any meeting considering removal; the authority must publish a notice of their decision, including the auditor's response, the panel's advice, and if the authority has not followed that advice, reasons why; the authority must give notify the supervisory body by which the local auditor is recognised of the auditor's removal from office.

7.4 In the case of resignation, the auditor must give the authority 28 days notice of resignation including a statement of relevant circumstances to the authority, who must forward it to the auditor panel; the authority must respond in writing to the auditor's notice; that notice and the authority's response must be published by the authority and forwarded to the auditor panel. Following resignation, the auditor panel must investigate the circumstances of the resignation, giving a view on those circumstances and explaining any action it considers required of the authority to address issues raised

7.5 In either case (resignation or removal), the authority is required to make a new appointment within three months of the auditor's departure; if it fails to do so it must inform the Secretary of State, who then has the power to appoint, or direct the appointment of, a specific auditor. This is intended to give sufficient time to make a replacement appointment, whilst ensuring as short a time as possible without an auditor.

8. Consultation outcome

8.1 Public consultation, lasting four weeks, from 25th November to 20th December 2013, was undertaken on a draft of these regulations. The consultation paper can be found here:

http://localaudit.readandcomment.com/wp-content/uploads/2013/11/Future_of_Local_Audit_-_Consultation_on_secondary_legislation_.pdf

A summary of consultation response can be found here:
<https://www.gov.uk/government/consultations/future-of-local-audit-consultation-on-secondary-legislation>

8.2 The measures about the processes for resignation or removal contained in the draft regulations did not attract adverse comment. Of respondents expressing a view on the timetable for subsequent replacement of the auditor within three months of their predecessor's departure, 69% considered this period too short; 31% suggested six months instead. However the Government considers that three months is a reasonable timescale and should be achievable in most cases; the Secretary of State's power here is in any case discretionary and need not be used if the authority has made significant progress towards a replacement appointment.

9. Guidance

The Government will develop guidance in partnership with the sector on the new arrangements for local audit, which may include advice on how the relevant authority or auditor panel approach auditor resignation or removal and subsequent replacement.

10. Impact

10.1 The impact on charities or voluntary bodies is nil; however there will be an impact on audit firms, with annualised costs per annum rising from around £1.04million to £2.18million. However this is offset by the opening up of the local public sector audit market to firms, enabling them to realise greater profits than in the baseline year and a decreased contribution to system costs (see Annex 3 of impact assessment for the Act).

10.2 The impact on the public sector in complying with the new audit arrangements in total is estimated to range from £2.98million per annum to £4.48million per annum, a best estimate of £3.73million per annum, which equates to roughly £4,800 per body per year in compliance costs (see Annex 2 of impact assessment for the Act).

10.3 An Impact Assessment was published alongside the introduction of the Local Audit and Accountability Bill to Parliament which provides an assessment of the overall cost and impact of the new regime. This can be accessed at the following address:-
<http://www.parliament.uk/documents/impact-assessments/IA13-11A.pdf>.

11. Regulating small business

Whilst the legislation does not apply to small business in a wider sense there will be an impact on audit firms. The detailed costs and benefits are set out in Annex 3 of the impact assessment for the Act. However, whilst the new arrangements will result in an increased cost to audit firms, this is offset by the opening up of the local public sector audit market to a wider range of firms,

enabling them to realise greater profits over the longer term, with a decreasing contribution to system costs over the current regime.

12. Monitoring & review

12.1 As part of the Government's commitment to review the implementation of new legislation within three to five years of receiving Royal Assent, Government has set out some general principles towards developing a possible approach to such a review and assessing the impacts/outcomes associated with the Government's reforms to local audit. An overriding objective for the final approach would be to ensure that any proposed measurement is both proportionate and cost effective.

12.2 The aims and success criteria of the local audit reforms are to:

- Deliver greater localism, decentralisation and transparency;
- Maintain competitive audit fees; and
- Uphold high standards of auditing.

The post implementation review will provide Government, Parliament and the public with the evidence to demonstrate that the local audit framework is achieving its anticipated outcomes

13. Contact

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