

EXPLANATORY MEMORANDUM TO
THE ACCOUNTS AND AUDIT (CORONAVIRUS) (AMENDMENT)
REGULATIONS 2020

2020 No. 404

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Accounts and Audit Regulations 2015 (S.I 2015/234) (“the 2015 Regulations”) by delaying the dates for certain public and local bodies to publish, and make available for inspection, their annual accounts and supporting documents. These Regulations apply only in relation to annual accounts relating to the 2019/20 financial year.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The 2015 Regulations set out a procedure for the audit of accounts of relevant authorities (apart from health bodies), as defined in Schedule 2 to the Local Audit and Accountability Act 2014 (“the 2014 Act”).

i. Period for exercise of public rights

- 6.2 One aspect of the process involves a period during which the rights of inspection, or to ask questions of or make objections to the local auditor under sections 26 and 27 of the 2014 Act may be exercised. Under section 26 interested persons and journalists

may inspect the accounting records and supporting documents for a relevant authority (other than a health service body) for the financial year and make copies of those documents. Section 27 allows a local government elector to make an objection to a local auditor if the elector considers that there is a matter about which the auditor could make a public interest report or apply for a declaration that expenditure is unlawful.

6.3 For “Category 1 authorities” (defined in regulation 2(1) of the 2015 Regulations) the period for the exercise of public rights must include the first 10 working days of June in the financial year immediately following the financial year to which the statement of accounts relates. A financial year begins with 1 April. For Category 1 authorities, and their statement of accounts for the financial year 2019/20, these Regulations remove the reference to the first 10 working days of June to require instead that the public inspection period must have started by the first working day of September.

6.4 For “Category 2 authorities” (also defined in regulation 2(1) of the 2015 Regulations) the period for the exercise of public rights must include the first 10 working days of July in the financial year immediately following the financial year to which the statement of accounts relates. For Category 2 authorities, and their statement of accounts for the financial year 2019/20, these Regulations remove the reference to the first 10 working days of July to require instead that the public inspection period must have started by the first working day of September.

ii. Deadline for publishing audited accounts

6.5 After the accounts of Category 1 authorities have been audited the authorities are required to publish the statement of accounts and other documents, in accordance with regulation 10 of the 2015 Regulations. The date by which the publication must take place is currently 31 July in the financial year immediately following the financial year to which the documents relate. For Category 1 authorities, and their documents relating to the financial year 2019/20, these Regulations change that deadline to 30 November 2020.

6.6 After the accounts of Category 2 authorities have been audited the authorities are required to publish the statement of accounts and other documents, in accordance with regulation 13 of the 2015 Regulations. The date by which the publication must take place is currently 30 September in the financial year immediately following the financial year to which the documents relate. For Category 2 authorities, and the documents relating to the financial year 2019/20, these Regulations change that deadline to 30 November 2020.

7. **Policy background**

What is being done and why?

7.1 These amending Regulations are being made in response to an unprecedented situation across the UK relating to COVID19 and the need to reduce the pressure on authorities to comply with legal deadlines. As such, these Regulations provide authorities with additional time to complete the audit of their accounts for 2019/20, given the likely impact of the COVID19 virus on the availability of local authority staff and auditors to complete the audit process within current deadlines due to sickness or redeployment.

- 7.2 Our view is that providing authorities with more time to produce their draft accounts ready for public inspection and a further 2 months for Category 2 bodies and 4 months for Category 1 bodies to publish their finalised accounts will help them to better manage any staff shortages resulting from the virus pandemic and also provide audit firms with more time to audit the accounts this year. Financial bodies and sector representatives have also asked for these changes to be made. The regulations will also help to mitigate the effects of underlying issues which contributed to significant delays to the completion of over 200 of the 488 Category 1 authority accounts for 2018/19, with 61 still outstanding at the end of March 2020.
- 7.3 The reason that these amendments are temporary i.e. cover only the 2019/20 accounting year is because we are seeking to reduce the immediate pressure on councils and auditors to fulfil statutory audit deadlines as a result of the COVID19 pandemic.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

- 10.1 Section 32(3) of the 2014 Act requires that any regulations be subject to consultation with certain named stakeholders. These are the Comptroller and Auditor General of the National Audit Office, appropriate representatives of relevant authorities, and recognised supervisory bodies.
- 10.2 All the named stakeholders were consulted in writing and responded. Of the 15 stakeholders consulted directly, all responded and signified that they were content with the changes. Given the specific and time limited nature of the changes it is not intended to publish a further consultation response.
- 10.3 It is our intention to notify all affected Category 1 bodies that these changes are being made and indicate that they should publicise these changes on their website to make the public aware, especially in relation to the amendment of the public inspection period. For Category 2 bodies, we will ensure that they are made aware of the changes via their audit procurement body and auditors.
- 10.4 Although the territorial extent of the regulations includes Wales, there are also separate regulations covering Welsh authorities. Officials have consulted with Welsh, Scottish and Northern Irish devolved administration officials to make them aware of the steps we have taken so that they may consider making similar arrangements.

11. Guidance

- 11.1 We are not intending to produce guidance to accompany this statutory instrument.

12. Impact

- 12.1 An Impact Assessment has not been prepared for this instrument because it will have an effect on the audit process for the 2019/20 accounts only, in order to minimise the

risks to public health arising from COVID-19. It is therefore exempt from the requirement to carry out a Regulatory Impact Assessment.

- 12.2 This instrument does not amend existing regulatory standards that applied to the existing 2015 Regulations.
- 12.3 There is no impact on charities or voluntary bodies, although there will be a positive impact on audit firms who will have more time to complete the audit of 2019/20 local authority accounts over 2020/21. There is also a positive impact on the public sector in that local authorities will have more flexibility as to how they can respond and deploy their resources in response to the pandemic.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring this legislation is to defer to the independent review, by Sir Tony Redmond, of the over-arching local audit regime set out in the 2014 Act – including the 2015 Regulations – that is already being undertaken and is due to report later this year. As these Regulations affect the audit process for a single financial year, the inclusion of a review clause would be disproportionate.

15. Contact

- 15.1 Alison Morris at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 2613 or email: Alison.morris@communities.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Chris Widgery, Deputy Director for Strategy and Improvement, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Simon Clarke, Minister of State, at the Ministry of Housing and Local Government can confirm that this Explanatory Memorandum meets the required standard.