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WELSH STATUTORY INSTRUMENTS

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**2005 No. 761 (W.65)**

**PUBLIC AUDIT, WALES**

**The Public Audit (Wales) Act 2004 (Consequential  
Amendments) (Wales) Regulations 2005**

*Made* - - - - *15 March 2005*

*Coming into force* - - *1 April 2005*

The National Assembly for Wales, in exercise of the powers conferred by the enactments specified in the Schedule to this instrument, hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Public Audit (Wales) Act 2004 (Consequential Amendments) (Wales) Regulations 2005 and come into force on 1 April 2005.

(2) These Regulations apply in relation to Wales only.

**Subordinate legislation amended**

2.—(1) The National Health Service Trusts (Public Meetings) Regulations 1991<sup>(1)</sup> are amended as follows.

(2) In regulation 3 —

(a) in paragraph (a), after the words “NHS trust”, insert “all or most of whose hospitals, establishments and facilities are situated in England”;

(b) after that paragraph, insert —

“(aa) the circumstances in which an NHS trust all or most of whose hospitals, establishments and facilities are situated in Wales shall hold a public meeting are those where it has received a report made under the provisions of section 96A of the Government of Wales Act 1998;”.

3.—(1) The Education (Grants) (Travellers and Displaced Persons) Regulations 1993<sup>(2)</sup> are amended as follows.

(2) In paragraph (4)(b) of regulation 7—

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(1) S.I.1991/482, as amended by section 54(2) of, and paragraph 4(1) of Schedule 4 to, the Audit Commission Act 1998 (c. 18).

(2) S.I. 1993/569, as amended by section 54(2) of, and paragraph 4(1) of Schedule 4 to, the Audit Commission Act 1998 (c. 18).

- (a) for “the Audit Commission for Local Authorities and the National Health Service in England and Wales”, substitute “the Auditor General for Wales”;
- (b) for “section 3(5)-(7) of the Audit Commission Act 1998”, substitute “section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

**4.—(1)** The Local Authorities (Contracts) Regulations 1997**(3)** are amended as follows.

(2) In regulation 2, omit the definition of “the auditor”, and substitute, in the appropriate place, the following —

““the auditor” means, in relation to a local authority which is a local government body in Wales, as defined in section 12 of the Public Audit (Wales) Act 2004, the auditor appointed under section 13 of that Act to audit the accounts of the authority in accordance with Chapter 1 of Part 2 of that Act; and in relation to any other local authority, the auditor appointed under section 3 of the Audit Commission Act 1998 to audit the accounts of the authority in accordance with that Act.”.

**5.—(1)** The Education (Publication of Local Education Authority Inspection Reports) Regulations 1998**(4)** are amended as follows.

(2) In paragraph (1)(f) of regulation 4, at the beginning, insert “in relation to a local education authority in England,”.

(3) After paragraph (1)(f) of regulation 4, insert —

“(fa) in relation to a local education authority in Wales, the Auditor General for Wales;”.

**6.—(1)** The National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000**(5)** are amended as follows.

(2) In paragraph (6) of regulation 7—

- (a) omit the words “Audit Commission” where they first appear, and substitute “Auditor General for Wales”; and
- (b) omit the words “section 28(1)(d) of the Audit Commission Act 1998” and substitute “section 96B of the Government of Wales Act 1998”.

**7.—(1)** The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001**(6)** are amended as follows.

(2) In regulation 5(1)—

- (a) at the end of sub-paragraph (e), omit the word “or”;
- (b) at the end of sub-paragraph (f), insert—

“; or —

- (g) the disclosure is made to the Auditor General for Wales for the purposes of any function of his or hers or of an auditor under Part 2 of the Public Audit (Wales) Act 2004”.

**8.—(1)** The Education Standards Grants (Wales) Regulations 2002**(7)** are amended as follows.

(2) In paragraph (5)(b) of regulation 6—

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(3) S.I. 1997/2862, as amended by section 54(2) of, and paragraph 4(1) of Schedule 4 to, the Audit Commission Act 1998 (c. 18).  
(4) S.I. 1998/880.  
(5) S.I. 2000/2993 (W. 193), as amended by S.I. 2004/1390 (W. 140).  
(6) S.I. 2001/2281 (W. 171).  
(7) S.I.2002/438 (W. 56).

- (a) for “the Audit Commission for Local Authorities and the National Health Service in England and Wales”, substitute “the Auditor General for Wales”;
- (b) for “section 3(5), (6) and (7) of the Audit Commission Act 1998”, substitute “section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

**9.**—(1) The Education (Capital Grants) (Wales) Regulations 2002<sup>(8)</sup> are amended as follows.

(2) In paragraph (4)(b) of regulation 5—

- (a) for “the Audit Commission for Local Authorities and the National Health Service in England and Wales”, substitute “the Auditor General for Wales”;
- (b) for “section 3(5), (6) and (7) of the Audit Commission Act 1998”, substitute “section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

**10.**—(1) The Education (Assembly Learning Grant Scheme) (Wales) Regulations 2002<sup>(9)</sup> are amended as follows.

(2) In paragraph (6)(b) of regulation 6—

- (a) for “the Audit Commission for Local Authorities and the National Health Service in England and Wales”, substitute “the Auditor General for Wales”;
- (b) for “section 3(5), (6) and (7) of the Audit Commission Act 1998”, substitute “section 14(4) and (9) of the Public Audit (Wales) Act 2004”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(10)</sup>.

15 March 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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<sup>(8)</sup> S.I.2002/679 (W. 76).  
<sup>(9)</sup> S.I.2002/1857 (W.181).  
<sup>(10)</sup> 1998 c. 38.

## THE SCHEDULE

Preamble

**PART 1 —****Enactments containing powers conferred upon the National Assembly for Wales**

|                                       |  |
|---------------------------------------|--|
| Education Act 1996 <b>(11)</b>        | Section 484 (as amended by the School Standards and Framework Act 1998 <b>(12)</b> and the Education Act 2002 <b>(13)</b> ). |
| Local Government Act 2000 <b>(14)</b> | Section 73(1).   |

**PART 2 —****Enactments conferring functions which have been transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999**(15)** (Article 2 and Schedule 1)**

|   |  |
|---|--|
| National Health Service Act 1977 <b>(16)</b>        | Section 126(4) (as amended by the National Health Service Reform and Health Care Professions Act 2002 <b>(17)</b> ) and section 128(1) (as amended by the National Health Service and Community Care Act 1990 <b>(18)</b> ). |
| Education Reform Act 1988 <b>(19)</b>               | Section 210 (as amended by the Education Act 1996 <b>(20)</b> ) and the Further and Higher Education Act 1992 <b>(21)</b> )) and section 232.  |
| National Health Service and Community Care Act 1990 | Section 5 and Schedule 2, paragraph 7(2) and (3) (as amended, in the case of paragraph (2), by the Audit Commission Act 1998 <b>(22)</b> and the Public Audit (Wales) Act 2004 <b>(23)</b> )).                               |
| Education Act 1996                                  | Sections 489 (as amended by the School Standards and Framework Act 1998) and 569(1).   |
| Education Act 1997 <b>(24)</b>                      | Section 39(3).   |

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**(11)** 1996 c. 56.

**(12)** 1998 c. 31.

**(13)** 2002 c. 32.

**(14)** 2000 c. 22.

**(15)**

S.I. 1999/672.

**(16)** 1977 c. 49.

**(17)** 2002 c. 17.

**(18)** 1990 c. 19.

**(19)** 1998 c. 18.

**(20)** 2004 c. 23.

**(21)** 1988c.40.

**(22)** 1996 c. 56.

**(23)** 1992 c. 13.

**(24)** 1997 c. 44.

|   |  |
|---|--|
| Local Government (Contracts) Act 1997 <b>(25)</b> | Sections 3(2)(e) and (f) and (3) and all other powers enabling it in that behalf.                                |
| Health Act 1999 <b>(26)</b>                       | Section 31 (as amended by the National Health Service Reform and Health Care Professions Act 2002 <b>(27)</b> ). |

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The general effect of the provisions of the Public Audit (Wales) Act 2004 (“the Act”) is to confer a number of new functions on the Auditor General for Wales. The most significant effect of the new functions is that the Auditor General will, from the coming into force of this Order, exercise most of the functions currently exercised in Wales by the Audit Commission for Local Authorities and the National Health Service in England and Wales (“the Audit Commission”).

The amendments made by these Regulations are consequential upon that change. They amend five sets of Regulations in the education field, two sets relating to the National Health Service, and two in the local government field.

In the field of education, regulations 3, 8, 9 and 10 amend the requirements, laid down in the subordinate legislation amended, for the certification of grants. In each case, the amendments provide that, in relation to Wales, certification is henceforward to be done by an auditor appointed by the Auditor General for Wales (rather than by the Audit Commission), or an auditor qualified for such appointment.

The remaining provision concerning the education field, regulation 5, provides that reports of inspections of local education authorities in Wales carried out under section 38 of the Education Act 1997 (as amended) are to be sent to the Auditor General for Wales, rather than to the Audit Commission.

Regulations 2 and 6 deal with matters related to the National Health Service.

Regulation 2 concerns the circumstances in which a National Health Service trust in Wales must hold a public meeting. It maintains the position that a meeting must be held where a National Health Service trust receives a public interest report from its auditor. As a consequence of the Act, such reports will, from 1 April 2005, be made by the Auditor General for Wales, rather than the Audit Commission. The amendments made by regulation 2 reflect this.

Regulation 6 provides that, where National Health Service bodies and local authorities in Wales enter into pooled fund arrangements under the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000, the accounts of the pooled fund should be audited by the Auditor General for Wales, instead of the Audit Commission.

Amendments to subordinate legislation in the field of local government are made by regulations 4 and 7.

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**(25)** 1997 c. 65.

**(26)** 1999 c. 8.

**(27)** 2002 c. 17.

**Status:** *This is the original version (as it was originally made).*

Regulation 4 amends the definition of “the auditor” in the Local Authorities (Contracts) Regulations 1997. The effect of the amendment is that, for bodies which are local authorities for the purposes of those Regulations, and are also local government bodies in Wales for the purposes of section 12 of the Act, “the auditor” means the auditor appointed by the Auditor General for Wales under section 13 of the Act. This impacts on the requirements which certain of those local authorities must fulfil in order for a contract into which they enter to be a certified contract under the Local Government (Contracts) Act 1997.

Regulation 7 adds the Auditor General for Wales to the list of persons to whom local authority monitoring officers are allowed to disclose information for certain purposes, under the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.