

EXPLANATORY MEMORANDUM

Explanatory Memorandum to - The Accounts and Audit (Wales) (Amendment) Regulations 2010

This Explanatory Memorandum has been prepared by Social Justice and Local Government Department and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

i. Description

This Statutory Instrument amends existing Regulations, the Accounts and Audit (Wales) Regulations 2005 (“the 2005 Regulations”).

These amending Regulations take account of a number of accounting developments and advances in best practice, mainly concerning technical accounting, financial and governance arrangements. Also addressed is some minor tidying up of mainly redundant references in the current legislation. The most important aspects addressed by the revised legislation include changes to the process of signing and approval of accounts; (for the main local government bodies) redefining the certification of accounts (i.e. moving the basis from ‘Presents Fairly’ to ‘True and Fair View’ and additional requirements for reporting senior officer remuneration.

Further amending regulations deal with matters solely regarding community and town councils, in particular related to earlier closing of statutory accounts; the definition of “proper practices” and the thresholds limits at which particular accounting regimes need to be applied.

ii. Matters of special interest to the Subordinate Legislation Committee

None.

iii. Legislative Background

Sections 39 and 58 of the Public Audit (Wales) Act 2004 conferred powers on the National Assembly for Wales to make regulations on these matters. Those powers are now vested in the Welsh Ministers (by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. These Regulations are made using the negative resolution procedure.

iv. Purpose and intended effect of the legislation

The 2005 Regulations set the regulatory accounting and audit framework for local government bodies in Wales. They cover responsibilities for the control and effectiveness for financial management of a body; governance arrangements; preparation of accounting statements; signing and approval of accounts and interaction with the public as regards making available documents via publication or inspection.

These amendment regulations make some important changes, alongside some minor technical amendments and remove or tidy up redundant references. The intended effects of the changes are as follows:-

- Restructure the provisions which govern the way different local government bodies prepare and certify their statement of accounts. Larger local government Bodies (principal councils, police authorities, fire and rescue authorities and national park authorities) will certify their accounts on the basis of an accounting test that provides a 'True and Fair View'. For community councils whose gross expenditure is less than £1m, the threshold is increased from £100,000 to £200,000 against which they are required to prepare accounts on an 'Income and Expenditure' or if they choose a 'Statement of Accounts' basis
- Community councils currently with expenditure in excess of £100,000 are required to complete accounts on an Income and Expenditure basis. This change to regulation will allow such councils to complete accounts on a 'Receipts and Payments' basis. However as now, they may on a voluntary basis continue accounts preparation at the next higher level should they choose.
- Current remuneration reporting requirements are changed to provide more information. The scope of the current note which records the number of employees with remuneration in bands of £10,000 starting from £60,000 is amended to exclude senior officers (who are picked up elsewhere) and the banding changes from £10,000 to £5,000. The definition of remuneration is clarified and now specifically includes contribution from the body to a person's pension.
- Remuneration for the officers of a local government body with salary over £60,000 is captured in a new note. Senior employees and 'relevant police officers' posts will be identified and their remuneration, by defined categories, disclosed. Where officers have a salary in excess of £150,000 they will be identified by name and post. This latter obligation does not apply for accounts prepared in 2009-10 where the person concerned has the benefit of a confidentiality agreement in respect of remuneration received.
- Certification and approval of accounts – the date by which accounts must be approved by government bodies (or a committee of the body) has been moved from 30th June to 30th September. This enables approval to take place on audited rather than draft accounts. If the audit of accounts is not completed by the 30 September then there is a new requirement for the accounts to be certified and approved again by the Responsible Finance Officer of the local government body (or its relevant committee).
- There are changes to the documents made available for public inspection following the conclusion of the annual audit. The documents made available will be the final published accounts.
- Community councils, port health authorities, licensing planning committees and internal drainage boards will be required to certify and publish accounts in line with other local government bodies. This will move the dates for certification and approval from, respectively, 30 September and 31 December to 30 June and 30 September respectively. However the move to

this timetable will be delayed until the 2012-13 financial year allowing time to prepare for bringing in this change.

- Regulations describe the proper (accounting) practices that internal drainage boards should follow and confirm how pension costs should be treated within their accounts. 'Minor' joint committees are also defined in order to enable them to follow proper (accounting) practices more suited to their relative size.

v. **Implementation.**

These regulations, except where specified differently (above), come into force on 31 March 2010 and will affect the completion of 2009-10 financial accounts.

There are no specific legal ramifications if this legislation is not made.

A regulatory impact assessment has not been produced for this instrument as no impact on business, charities or the voluntary sector is foreseen.

vi. **Consultation**

A consultation on policy intentions was undertaken over the period 8 May 2009 to 31 July 2010 with a wide range of appropriate stakeholders. This included amongst others, all local government bodies in Wales, Wales Audit Office, Welsh Local Government Association, One Voice Wales and the Chartered Institute of Public Finance and Accountancy. A further consultation on the draft Regulations was undertaken over the period 26 January 2010 to 19 February 2010. The shortened period for consultation was discussed with and supported as suitable by the WLGA.

The findings from the consultation on policy and the draft regulations were generally supportive and positive. The additional reporting requirements on senior officer remuneration did raise a number of comments, in particular the suggestion that all senior officers should be named as part of the additional disclosure note. This has been partly addressed and now only officers on a salary over £150,000 will be named. The additional disclosure will align reporting in local government bodies more closely with other public sector entities.

A number of other comments raised resulted in small mainly technical change to the regulations which improved the clarity or intent of the original policy intentions.

vii. **Post implementation review**

The current regulatory framework has been in place since April 2005. Since that time the effectiveness of the system in place has been kept under regular review by assembly officials and in regular formal and informal situations with interested stakeholders, examples being local authorities, WLGA, Wales Audit Office and One Voice Wales.

viii. **Summary**

The 2010 amendment regulations have provided an opportunity to review and update the framework and processes for accounting and auditing in Welsh local government bodies. The main changes made should help to improve information available for public scrutiny and also improve the effectiveness of scrutiny and streamline the certification and approval processes. Formalising the need to 're-certify' and 're-approve' the audited accounts of the body was well supported and again aligns the accounts production and approval process more closely with private sector organisations.

For smaller bodies such as community councils, bringing forward the certification and approval of their accounts was welcomed by a small majority of respondents and will align the process with other similar bodies in England and other larger Welsh public sector bodies. The timescale for however has been put back to 2012-13.