



Public Audit (Wales) Act 2013

2013 anaw 3

An Act of the National Assembly for Wales to make provision reforming audit arrangements in Wales; continuing the office of Auditor General for Wales and creating a new body to be known as the Wales Audit Office; providing for the Auditor General for Wales to audit local government bodies in Wales; and for connected purposes. [29 April 2013]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

Introduction

1 Overview

The main provisions of this Act—

- (a) prescribe that the office of Auditor General for Wales is to continue upon the terms set out in Part 1, Chapter 1;
- (b) create a new corporate body called the Wales Audit Office (the “WAO”) and confer functions upon it (Part 2 and Schedules 1 and 2);
- (c) prescribe governance arrangements for the Auditor General for Wales and the WAO, including arrangements for oversight of the Auditor General by the WAO, and provisions regarding the relationship between the two (Part 2, Chapter 2 and Schedules 1 and 2);
- (d) prescribe how the functions of the Auditor General for Wales are to be exercised, and make provision for the Auditor General to audit the accounts of local government bodies in Wales (Part 1, Chapter 2).

PART 1

AUDITOR GENERAL FOR WALES

CHAPTER 1

THE OFFICE OF AUDITOR GENERAL FOR WALES

2 Office of Auditor General for Wales

- (1) The office of Auditor General for Wales (the “Auditor General”) is to continue.
- (2) It is for Her Majesty to appoint a person to be Auditor General on the nomination of the National Assembly.
- (3) No nomination is to be made until the National Assembly is satisfied that reasonable consultation has been undertaken with such bodies as appear to the Assembly to represent the interests of local government bodies in Wales.
- (4) The person appointed holds office for up to 8 years.
- (5) The person may not be appointed again.
- (6) The validity of any act or omission of a person appointed as Auditor General is not affected by any defect in the person’s nomination or appointment.

3 Resignation or removal

- (1) A person appointed as Auditor General holds office until the end of the period for which the person was appointed (subject to subsections (2) and (3)).
- (2) Her Majesty may relieve a person from office as Auditor General before the end of the period for which the person was appointed—
 - (a) at the person’s request, or
 - (b) on Her Majesty being satisfied that the person is incapable for medical reasons of performing the duties of the office and of requesting to be relieved of it.
- (3) Her Majesty may remove a person from office as Auditor General before the end of the period for which the person was appointed on the making of a recommendation, on the ground of the person’s misbehaviour, that Her Majesty should do so.
- (4) A recommendation for the removal of a person from office as Auditor General may not be made unless—
 - (a) the National Assembly has resolved that the recommendation should be made, and
 - (b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour is not less than two-thirds of the total number of Assembly seats.

4 Disqualification

- (1) A person cannot be appointed as Auditor General if the person is disqualified on any of the grounds specified in subsection (3).

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- (2) A person ceases to be Auditor General if the person is disqualified on any of the grounds specified in subsection (3).
- (3) A person is disqualified from being Auditor General if the person is—
 - (a) a Member of the National Assembly;
 - (b) the holder of any other office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of—
 - (i) the Crown,
 - (ii) the National Assembly, or
 - (iii) the National Assembly Commission;
 - (c) a Member of the House of Commons or House of Lords;
 - (d) a Member of the Scottish Parliament;
 - (e) a Member of the Northern Ireland Assembly;
 - (f) an employee of the Wales Audit Office.

5 Employment etc of former Auditor General

- (1) This section applies to a person who was appointed as Auditor General under this Part but who no longer holds that office.
- (2) Before—
 - (a) taking up an office or position of a description specified by the National Assembly, or
 - (b) entering into an agreement or other arrangement of a description so specified, the person must consult any person specified by the National Assembly.
- (3) The National Assembly must publish a list of—
 - (a) the offices and positions specified for the purposes of subsection (2)(a);
 - (b) the agreements and other arrangements specified for the purposes of subsection (2)(b).
- (4) Subsections (5) and (6) apply for a period of 2 years starting with the day on which the person ceases to be Auditor General.
- (5) The person must not—
 - (a) hold an office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of—
 - (i) the Crown,
 - (ii) the National Assembly, or
 - (iii) the National Assembly Commission; or
 - (b) be a member, director, officer or employee of a person listed in subsection (7).
- (6) The person must not, in any capacity, provide services to—
 - (a) the Crown or any body or other person acting on behalf of the Crown,
 - (b) the National Assembly or any body or other person acting on behalf of the Assembly,
 - (c) the National Assembly Commission or any body or other person acting on behalf of the Commission, or
 - (d) a person listed in subsection (7).

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(7) The persons are—

- (a) a person whose accounts, or statements of accounts, fall to be examined by the Auditor General in accordance with provision made by or by virtue of an enactment;
- (b) a person to whom a value for money study or examination carried out by the Auditor General in accordance with provision made by or by virtue of an enactment relates;
- (c) a person to whom a study carried out by the Auditor General in accordance with section 145A(2) of the Government of Wales Act 1998 (studies relating to the provision of services by any relevant body or bodies) relates;
- (d) a registered social landlord to whom the Auditor General provides advice or assistance under section 145D of the Government of Wales Act 1998;
- (e) a person in respect of whom the Auditor General has functions, or in respect of whom the Auditor General exercises functions on behalf of the Welsh Ministers, by virtue of section 146A of the Government of Wales Act 1998 (transfer of functions of Welsh Ministers);
- (f) a person to whose financial affairs and transactions accounts prepared by the Welsh Ministers under section 131 of the Government of Wales Act 2006 are to relate by virtue of subsection (3) of that section;
- (g) a person to whose financial affairs and transactions accounts prepared by the National Assembly Commission under section 137 of the Government of Wales Act 2006 are to relate by virtue of subsection (2) of that section.

(8) But subsections (5) and (6) do not prevent a person from holding any of the following offices—

- (a) Comptroller and Auditor General;
- (b) Auditor General for Scotland;
- (c) Comptroller and Auditor General for Northern Ireland.

(9) In this section, “a value for money study or examination” means a study or examination into the economy, efficiency and effectiveness with which a person has discharged that person’s functions, or has used resources in discharging those functions.

6 Status etc

- (1) The person for the time being holding the office of Auditor General continues, by the name of that office, to be a corporation sole.
- (2) The Auditor General is not to be regarded as holding office under Her Majesty or as exercising any functions on behalf of the Crown.
- (3) But the Auditor General is to be taken to be a Crown servant for the purposes of the Official Secrets Act 1989.

7 Remuneration

- (1) Before a person is appointed as Auditor General, remuneration arrangements are to be made in respect of that person by the National Assembly.
- (2) But before those arrangements can be made, the First Minister must be consulted.
- (3) The remuneration arrangements—

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- (a) may make provision for a salary, allowances, gratuities, arrangements for a pension and other benefits, and
 - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
- (4) But no element is to be performance-based.
- (5) The National Assembly Commission must make payments to the Minister for the Civil Service, at such times as the Minister may determine, of such amounts as may be so determined, in respect of—
- (a) the provision of pensions, allowances, gratuities or other benefits by virtue of section 1 of the Superannuation Act 1972 to or in respect of any person who holds or has ceased to hold office as Auditor General, and
 - (b) the expenses incurred in administering those pensions, allowances, gratuities or other benefits.
- (6) Amounts payable by virtue of this section are to be charged on, and paid out of, the Welsh Consolidated Fund.

CHAPTER 2

AUDITOR GENERAL'S FUNCTIONS

General provision about the exercise of the Auditor General's functions etc

8 How functions are to be exercised

- (1) The Auditor General has complete discretion as to the manner in which the functions of that office are exercised and is not subject to the direction or control of the National Assembly or the Welsh Government.
- (2) But this discretion is subject to subsection (3).
- (3) The Auditor General must—
 - (a) aim to carry out his or her functions efficiently and cost-effectively;
 - (b) have regard, as he or she considers appropriate, to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow;
 - (c) have regard to advice given to him or her by the WAO (see section 17(3)).

9 Supplementary powers

- (1) The Auditor General may do anything calculated to facilitate, or which is incidental or conducive to, the carrying out of any of the Auditor General's functions.
- (2) But the Auditor General may not do anything which is or could become the responsibility of the WAO by virtue of paragraphs (a) to (c) of section 21(2) (provision of resources for Auditor General's functions).

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10 Code of audit practice

- (1) The Auditor General must issue a code of audit practice prescribing the way in which the functions of the Auditor General specified in subsection (2) are to be carried out.
- (2) The functions are—
 - (a) examining any accounts or statements of accounts that fall to be examined by the Auditor General in accordance with provision made by or by virtue of an enactment;
 - (b) carrying out, undertaking or promoting value for money studies or examinations in accordance with provision made by or by virtue of an enactment;
 - (c) those contained in, or transferred to the Auditor General under, the following provisions of the Government of Wales Act 1998—
 - (i) section 145A(2) (undertaking or promoting other studies relating to the provision of services by certain bodies);
 - (ii) section 145C(8) (disclosing information obtained in the course of a study in respect of a registered social landlord to the Welsh Ministers);
 - (iii) section 145D (providing advice and assistance to a registered social landlord);
 - (iv) section 146 (transfer of functions of the Comptroller and Auditor General in respect of certain bodies to the Auditor General);
 - (v) section 146A (transfer etc to the Auditor General of supervisory functions of Welsh Ministers in respect of certain bodies);
 - (vi) section 147 (transfer of functions of the Comptroller and Auditor General in respect of the Environment Agency to the Auditor General);
 - (d) those contained in the following provisions of the Public Audit (Wales) Act 2004—
 - (i) Part 2 (audit of local government bodies in Wales);
 - (ii) section 45 (conducting, or assisting the Secretary of State in conducting, benefit administration studies);
 - (iii) section 51 (referring matters related to social security to the Secretary of State);
 - (e) those contained in the following provisions of Schedule 8 to the Government of Wales Act 2006—
 - (i) paragraph 17 (access to documents);
 - (ii) paragraph 20 (certification of claims, returns etc at the request of a body).
- (3) The Auditor General must comply with the code.
- (4) The code must embody what appears to the Auditor General to be the best professional practice with respect to the standards, procedures and techniques to be adopted in carrying out functions of a kind specified in subsection (2).
- (5) The code may make different provision for different cases or classes of case.
- (6) Before issuing the code (including any revised code) the Auditor General must consult such persons as the Auditor General thinks appropriate.

- (7) The Auditor General must arrange for the code (including any revised code) to be published.
- (8) In this section, “a value for money study or examination” means a study or examination into the economy, efficiency and effectiveness with which a person has discharged that person’s functions, or has used resources in discharging those functions.

Functions relating to local government

11 Audit of local government bodies

- (1) For section 13 of the Public Audit (Wales) Act 2004 (audit of accounts of local government bodies in Wales) substitute—

“13 Audit of accounts of local government bodies in Wales

- (1) A local government body in Wales—
 - (a) must make up its accounts each year to 31 March or such other date as the Welsh Ministers may generally or in any special case direct;
 - (b) must ensure that its accounts are audited in accordance with this Chapter.
- (2) The Auditor General for Wales must audit the accounts of local government bodies in Wales.”.
- (2) In section 16 of the Local Government (Wales) Measure 2009 (meaning of “relevant regulators” and “relevant functions”), omit paragraph (e) of subsection (2).

Provision relating to the transfer of supervisory functions of the Welsh Ministers

12 Transfer etc of supervisory functions of Welsh Ministers: consultation

In the Government of Wales Act 1998, in section 146A (transfer etc to the Auditor General of supervisory functions of Welsh Ministers in respect of certain bodies), after subsection (1) insert—

- “(1A) But before making an order under subsection (1), the Welsh Ministers must consult the Wales Audit Office.”.

PART 2

THE WALES AUDIT OFFICE AND ITS RELATIONSHIP WITH THE AUDITOR GENERAL

CHAPTER 1

THE WALES AUDIT OFFICE

13 Incorporation of Wales Audit Office

- (1) There is to be a body corporate called the Wales Audit Office (“the WAO”).
- (2) Schedule 1 contains provision about the WAO.

14 Powers

The WAO may do anything (including acquiring or disposing of any property or rights and accepting gifts of money or other property) which is calculated to facilitate, or which is incidental or conducive to, the exercise of any of its functions.

15 Efficiency

The WAO must aim to carry out its functions efficiently and cost-effectively.

CHAPTER 2

RELATIONSHIP BETWEEN THE AUDITOR GENERAL AND THE WAO

General

16 Relationship with the Auditor General

- (1) The Auditor General is to be the chief executive (but not an employee) of the WAO.
- (2) Schedule 2 contains further provision about the relationship between the WAO and the Auditor General.

17 WAO to monitor and provide advice

- (1) The WAO must, in such manner as it considers appropriate, monitor the exercise of the Auditor General’s functions.
- (2) The WAO may provide advice to the Auditor General about the Auditor General’s functions.
- (3) The Auditor General must have regard to any advice given.

18 Delegation and joint exercise of functions of the Auditor General

- (1) The Auditor General may delegate any of the functions of that office to—

- (a) an employee of the WAO,
 - (b) a person who provides services to the WAO, or
 - (c) an employee of the WAO and a person who provides services to the WAO acting jointly.
- (2) But a function may only be delegated if the employee or other person is authorised (or in the case of subsection (1)(c) both are authorised) to exercise functions of the Auditor General under a scheme prepared by the Auditor General.
- (3) A scheme must describe the conditions subject to which a delegation under subsection (1) must be made.
- (4) An employee or other person may not be authorised under a scheme unless the employee or person agrees to comply with the code of audit practice issued under section 10(1).
- (5) A scheme may include different provision for different cases or classes of case.
- (6) The Auditor General may revise a scheme at any time.
- (7) In preparing or revising a scheme the Auditor General must consult the WAO.
- (8) If the scheme makes provision to that effect, any function of the Auditor General may be exercised jointly by—
- (a) the Auditor General and an employee of the WAO,
 - (b) the Auditor General and a person who provides services to the WAO, or
 - (c) the Auditor General, an employee of the WAO and a person who provides services to the WAO.
- (9) A delegation does not prevent the Auditor General from doing anything personally.
- (10) Provision made under subsection (1) for the delegation of a function, or under subsection (8) for the joint exercise of a function, does not affect the Auditor General's responsibility for that function.
- (11) The function of preparing a scheme under this section may not be delegated.

Provision of services

19 Provision of services

- (1) Arrangements may be made between the WAO and a relevant authority—
- (a) for any function of the authority to be exercised by the WAO or by an employee of the WAO;
 - (b) for any function of the authority to be exercised by the Auditor General;
 - (c) for administrative, professional or technical services to be provided—
 - (i) to or for the purposes of the authority by the WAO,
 - (ii) by, or on behalf of, the authority to the WAO, or
 - (iii) by, or on behalf of, the authority to the Auditor General;
 - (d) for administrative, professional or technical services to be provided to or for the purposes of the authority by the Auditor General.
- (2) But the WAO must consult the Auditor General before entering into arrangements of the type mentioned in subsection (1)(b), (c)(iii) or (d).

- (3) Any arrangements under subsection (1)(a) or (b) for the exercise of a function of a relevant authority do not affect the relevant authority’s responsibility for that function.
- (4) If the condition in subsection (5) is met, the WAO and a relevant authority, a qualified auditor, or an accountancy body may—
- (a) make arrangements to co-operate with, and give assistance to, each other, or
 - (b) make arrangements for that authority, auditor or body and the Auditor General to co-operate with, and give assistance to, each other.
- (5) The condition is that—
- (a) the WAO considers that to do so would facilitate, or be conducive to, the exercise of the functions of the Auditor General or the WAO, and
 - (b) the relevant authority, qualified auditor or accountancy body in question considers that to do so would facilitate, or be conducive to, the exercise of the functions of that authority, person or body.
- (6) But the WAO must consult the Auditor General before entering into arrangements of the type mentioned in subsection (4)(b).
- (7) The WAO may make arrangements under this section on such terms, including terms about payment, as the WAO thinks fit.
- (8) But terms relating to payment to the WAO must be made in accordance with a scheme for charging fees prepared under section 24.
- (9) In this section—
- “accountancy body” means—
- (a) a body which is a recognised supervisory body for the purposes of Part 42 of the Companies Act 2006, or
 - (b) an approved European body of accountants;
- “qualified auditor” means a person who is—
- (a) eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, or
 - (b) a member of an approved European body of accountants;
- “approved European body of accountants” means a body of accountants which—
- (a) is established in the United Kingdom or another EEA state, and
 - (b) is for the time being approved by the Welsh Ministers by order;
- “relevant authority” means any Minister of the Crown or government department, any public authority (including any local authority), or the holder of any public office.

Income and expenses

20 Expenditure

- (1) For each financial year the Auditor General and the WAO must jointly—
- (a) prepare an estimate of the income and expenses of the WAO, and
 - (b) lay the estimate before the National Assembly.

- (2) Each estimate must cover (amongst other things) the resources required for the purposes of section 21 (resources for Auditor General).
- (3) Each estimate must be laid before the National Assembly at least five months before the beginning of the financial year to which it relates.
- (4) The National Assembly may make any modifications to the estimate which it considers appropriate (subject to subsection (5)).
- (5) No modification can be made under subsection (4) unless—
 - (a) the Auditor General and the WAO have been consulted, and
 - (b) any representations that either may make have been taken into account.

21 Provision of resources for Auditor General's functions

- (1) The WAO must provide resources for the exercise of the Auditor General's functions as required by the Auditor General.
- (2) In particular, the WAO is responsible for—
 - (a) employing staff to assist in the exercise of those functions;
 - (b) securing services from any person for the purposes of those functions;
 - (c) holding property for the purposes of those functions;
 - (d) holding documents or information acquired or generated in the course of, or otherwise for the purposes of, those functions (see paragraph 4(2) of Schedule 2);
 - (e) keeping records in relation to those functions.

22 Borrowing

The WAO may borrow sums in sterling (by way of overdraft or otherwise) to be applied for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet it.

Fees

23 General provision relating to fees

- (1) Fees and other sums received by the Auditor General must be paid to the WAO.
- (2) The WAO may charge a fee in relation to the audit of a person's accounts or statement of accounts by the Auditor General.
- (3) The WAO may charge a fee in relation to—
 - (a) an examination, certification or report under paragraph 18(3) of Schedule 8 to the Government of Wales Act 2006 (certain examinations into the economy etc with which a person has used resources);
 - (b) an examination under section 145 of the Government of Wales Act 1998 (examinations into the use of resources) or a study under section 145A of that Act (studies for improving economy etc in services), where undertaken at a person's request;

- (c) an examination or study undertaken by the Auditor General at a person's request under section 46(4) of the Environment Act 1995;
 - (d) any services provided or functions exercised under section 19.
- (4) The WAO must charge a fee in relation to—
- (a) the provision of services to a body under paragraph 20 of Schedule 8 to the Government of Wales Act 2006 (certification of claims, returns etc at the request of a body);
 - (b) a study at the request of an educational body under section 145B of the Government of Wales Act 1998.
- (5) Fees under this section—
- (a) may only be charged in accordance with a scheme prepared by the WAO under section 24;
 - (b) may not exceed the full cost of exercising the function to which the fee relates;
 - (c) are payable to the WAO by the person to whom the function being exercised relates.

24 Scheme for charging fees

- (1) The WAO must prepare a scheme relating to the charging of fees by the WAO.
- (2) The scheme must include the following—
- (a) a list of the enactments under which the WAO may charge a fee;
 - (b) where those enactments make provision for the WAO to prescribe a scale or scales of fees, that scale or those scales;
 - (c) where those enactments make provision for the WAO to prescribe an amount to be charged, that amount;
 - (d) where no provision is made for a scale or scales of fees or for an amount to be prescribed, the means by which the WAO is to calculate the fee.
- (3) The scheme may, amongst other things—
- (a) include different provision for different cases or classes of case, and
 - (b) provide for times at which and the manner in which payments are to be made.
- (4) The WAO—
- (a) must review the scheme at least once in every calendar year,
 - (b) may revise or remake the scheme at any time, and
 - (c) must lay the scheme (and any revision to it) before the National Assembly.
- (5) Where the Welsh Ministers prescribe a scale or scales of fees under—
- (a) section 64F of the Public Audit (Wales) Act 2004 (fees for data matching), or
 - (b) section 27A of the Local Government (Wales) Measure 2009 (Welsh Ministers' power to prescribe a scale of fees),
- to have effect instead of a scale or scales prescribed by the WAO, the WAO must revise the scheme to include the scale or scales prescribed by the Welsh Ministers instead of those prescribed by the WAO.
- (6) If a revision made in accordance with subsection (5) is the only revision to a scheme, it does not require the approval of the National Assembly.

- (7) The scheme takes effect when approved by the National Assembly or, in the case of a revision made in accordance with subsection (5), once it has been laid before the Assembly.
- (8) The WAO must publish the scheme (and any revision to it) as soon as reasonably practicable after it takes effect.

Annual plan

25 Annual plan

- (1) Before the beginning of each financial year, the Auditor General and the WAO must jointly prepare an annual plan for that year.
- (2) The annual plan must set out the following—
 - (a) the Auditor General’s work programme;
 - (b) the WAO’s work programme;
 - (c) the resources available, and which may become available, to the WAO;
 - (d) how those resources are to be used in order to undertake the Auditor General’s programme;
 - (e) how those resources are to be used in order to undertake the WAO’s programme;
 - (f) the maximum amount of the resources available, and which may become available, that it is anticipated will be allocated by the WAO to the Auditor General for the purpose of undertaking the Auditor General’s programme.
- (3) In this Chapter—

“Auditor General’s work programme” means the Auditor General’s priorities for the year in exercising his or her functions;

“WAO’s work programme” means the WAO’s priorities for the year in exercising its functions under this Act.

26 Annual plan: National Assembly

The Auditor General and the chair of the WAO must lay the annual plan before the National Assembly.

27 Annual plan: effect

The Auditor General and the WAO are not to be bound by the annual plan, but they must have regard to it in the exercise of their functions, including (but not limited to) when exercising functions relating to the provision of resources by the WAO to the Auditor General under section 21.

PART 3

MISCELLANEOUS AND GENERAL

28 Functions of the National Assembly

- (1) The National Assembly may by standing orders make provision regarding the exercise of the functions conferred upon it by or under this Act.
- (2) Such provision includes, but is not limited to, delegating functions to the Presiding Officer, the Deputy Presiding Officer, a committee or sub-committee of the National Assembly or the chair of such a committee or sub-committee.
- (3) This section does not apply to the National Assembly's functions under section 30 (orders).

29 Indemnification

- (1) There is to be charged on and paid out of the Welsh Consolidated Fund any amount payable by an indemnified person in consequence of any liability for a breach of duty.
- (2) The liability must not be to another indemnified person.
- (3) The following are indemnified persons—
 - (a) a former or current Auditor General appointed under this Act;
 - (b) the WAO;
 - (c) a former or current member of the WAO;
 - (d) a former or current employee of the WAO;
 - (e) a person who is providing, or has provided, services to the Auditor General or to the WAO under arrangements made by the WAO.
- (4) A breach of duty for the purposes of subsection (1) means a breach of duty (whether under a contract or agreement or otherwise, and whether by reason of an act or omission) incurred by an indemnified person in exercising functions that fall to be exercised by that person in accordance with the provision of an enactment.

30 Orders

- (1) A power of the Welsh Ministers to make an order under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing an order under section 33 (transitional, supplementary etc provision) that contains a provision amending, repealing or otherwise modifying an enactment (other than an enactment contained in subordinate legislation) or prerogative instrument may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly.
- (3) Any other statutory instrument containing an order under this Act, apart from an instrument containing only an order under section 35 (commencement), is subject to annulment in pursuance of a resolution of the National Assembly.
- (4) Any power of the Welsh Ministers to make an order under this Act (apart from an order under section 35 (commencement)) includes power—

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- (a) to make different provision for different cases or classes of case, or for different purposes;
- (b) to make provision generally or subject to specific exemptions or exceptions, or in relation to specific cases or classes of case;
- (c) to make such supplementary, transitional, transitory, consequential, saving, incidental and other provision as the Welsh Ministers think necessary or appropriate.

31 Directions

- (1) Any direction given under this Act—
 - (a) must be given in writing;
 - (b) may be varied or revoked by a later direction;
 - (c) may make provision generally or in relation to specific cases or classes of case;
 - (d) may make different provision for different cases or classes of case, or for different purposes.
- (2) Subsection (1) does not limit the powers under this Act to give directions.

32 Interpretation

In this Act—

“Auditor General” (“*Archwilydd Cyffredinol*”) means the Auditor General for Wales (see Chapter 1 of Part 1);

“enactment” (“*deddfiad*”) means any enactment whenever passed or made, including—

- (a) an enactment contained in this Act, any other Act of the Assembly or an Assembly Measure, and
- (b) subordinate legislation (within the meaning given in the Interpretation Act 1978), whether made under an Act of the Assembly, an Assembly Measure or otherwise;

“financial year” (“*blwyddyn ariannol*”) means the 12 months ending with 31 March;

“local government body” (“*corff llywodraeth leol*”) has the meaning given in section 12 of the Public Audit (Wales) Act 2004;

“National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“National Assembly Commission” (“*Comisiwn y Cynulliad Cenedlaethol*”) means the National Assembly for Wales Commission;

“WAO” (“*SAC*”) means the Wales Audit Office (see Chapter 1 of Part 2);

“Welsh Government” (“*Llywodraeth Cymru*”) means the Welsh Assembly Government.

33 Transitional, supplementary and saving provisions etc

- (1) Schedule 3 (transitional etc provisions) has effect.
- (2) The Welsh Ministers may by order make such supplementary, transitional, transitory, consequential, saving, incidental and other provision as they think appropriate in connection with, or to give full effect to, this Act.

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

- (3) The provision that may be made under subsection (2) includes, amongst other things, amendments, repeals and revocations of any enactment or prerogative instrument.
- (4) Nothing in Schedule 3 limits the power conferred by subsection (2); and such an order may, amongst other things, make modifications of that Schedule.

34 Minor and consequential amendments

Schedule 4 (minor and consequential amendments) has effect.

35 Commencement

- (1) The following provisions come into force on the day on which this Act receives Royal Assent—
 - (a) section 30;
 - (b) this section;
 - (c) section 36.
- (2) Subject to subsection (1), this Act comes into force in accordance with provision made by the Welsh Ministers by order.
- (3) An order under subsection (2) may—
 - (a) make provision for different days to be appointed for different purposes;
 - (b) include supplementary, transitional, transitory, consequential, saving, incidental and other provision in relation to commencement.

36 Short title

The short title of this Act is the Public Audit (Wales) Act 2013.

SCHEDULE 1

(introduced by section 13(2))

INCORPORATION OF WALES AUDIT OFFICE

PART 1

MEMBERSHIP AND STATUS

Membership

- 1 (1) The WAO is to have 9 members.
- (2) They are to be—
 - (a) 5 persons who are not employees of the WAO (“non-executive members”) (see Part 2 of this Schedule),
 - (b) the Auditor General (see Part 3 of this Schedule), and
 - (c) 3 employees of the WAO (“the employee members”) (see Parts 4 and 5 of this Schedule).

Appointment of non-executive and employee members

- 2 (1) The members of the WAO (other than the Auditor General) are to be appointed in accordance with the provisions of this Schedule.
- (2) All appointments must be on merit.
- (3) A person cannot be appointed as a member of the WAO if the person is disqualified from being appointed on any of the grounds specified in Part 6 of this Schedule.
- (4) A person ceases to be a member of the WAO if the person is disqualified on any of those grounds.

Status

- 3 (1) Neither the WAO nor any of its members is to be regarded—
 - (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) But members of the WAO are to be taken to be Crown servants for the purposes of the Official Secrets Act 1989.
- (3) The WAO’s property is not to be regarded as property of, or held on behalf of, the Crown.
- (4) This paragraph does not apply to the Auditor General (and for provisions about the status of the Auditor General, see section 6).

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

PART 2

NON-EXECUTIVE MEMBERS

Appointment of non-executive members

- 4 (1) Non-executive members are to be appointed by the National Assembly.
- (2) Appointments made under sub-paragraph (1) must be based on the conclusions of a fair and open competition.

Appointment of chair of the WAO

- 5 (1) The chair of the WAO is to be appointed by the National Assembly from amongst the non-executive members.
- (2) But no appointment can be made until the First Minister has been consulted.
- (3) The National Assembly may extend an appointment under this paragraph in accordance with the procedure required for the original appointment.
- (4) An extension of an appointment counts as a separate appointment for the purposes of paragraphs 6 to 8.

Period of appointment and re-appointment

- 6 (1) An appointment under this Part of this Schedule is to be for a period of no more than 4 years.
- (2) A person may not be appointed under this Part of this Schedule more than twice.

Remuneration arrangements

- 7 (1) The National Assembly may make remuneration arrangements in relation to the person who chairs the WAO (subject to sub-paragraph (2) and paragraph 9).
- (2) But no arrangements can be made until the First Minister has been consulted.
- (3) Amounts payable by virtue of sub-paragraph (1) are to be charged on, and paid out of, the Welsh Consolidated Fund.
- (4) The National Assembly may make remuneration arrangements in relation to any other non-executive member.
- (5) Amounts payable under sub-paragraph (4) are to be paid by the WAO.
- (6) Remuneration arrangements under this paragraph—
- (a) may provide for a salary, allowances, gratuities, and other benefits to cover expenses properly and necessarily incurred, but not for a pension, and
 - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
- (7) But no element is to be performance-based.

Other terms of appointment

- 8 (1) The National Assembly may determine other terms for an appointment under this Part of this Schedule (subject to paragraph 9).
- (2) Those terms may include restrictions on—
- (a) the offices or positions (including offices and positions to which persons may be appointed, or recommended or nominated for appointment, by or on behalf of the Crown, the National Assembly, or the National Assembly Commission)—
 - (i) that the non-executive member may hold while, or after ceasing to be, a member;
 - (ii) that the chair of the WAO may hold while, or after ceasing to be, chair, and
 - (b) the agreements or other arrangements (including agreements and arrangements with the Crown, the National Assembly or the National Assembly Commission or bodies or other persons acting on behalf of the Crown, the National Assembly or the National Assembly Commission)—
 - (i) to which the non-executive member may be a party while, or after ceasing to be, a member;
 - (ii) to which the chair of the WAO may be a party while, or after ceasing to be, chair.
- (3) But restrictions may only be imposed while a person is a non-executive member and for a maximum of 2 years afterwards, starting with the day on which the person ceases to be a non-executive member.

Consultation

- 9 (1) No arrangements under paragraph 7 or determination under paragraph 8 may be made unless there has been consultation with an appropriate person with oversight of public appointments.
- (2) Consultation required under sub-paragraph (1) is in addition to the consultation required under paragraph 7(2).

Termination of appointments

- 10 (1) The person who chairs the WAO may resign from the position of chair by giving written notice to the National Assembly.
- (2) A non-executive member may resign by giving written notice to the National Assembly.
- (3) The term of appointment of a person who resigns in accordance with sub-paragraphs (1) or (2) ends when the resignation is accepted.
- 11 (1) The National Assembly may terminate the appointment of a non-executive member by giving the member written notice if—
- (a) the member has been absent from meetings of the WAO without the WAO's permission for a period or periods totalling 3 months or more in any 12 month period,
 - (b) the member has become bankrupt or has made an arrangement with creditors,

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- (c) the member’s estate has been sequestrated in Scotland or the member has entered into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 as the debtor or has, under Scots law, made a composition or arrangement with, or granted a trust deed for, the member’s creditors,
 - (d) the member is unfit to continue the appointment because of misconduct,
 - (e) the member has failed to comply with the terms of the appointment, or
 - (f) the member is otherwise unable, unfit or unwilling to carry out the member’s functions.
- (2) If a non-executive member whose appointment is terminated under sub-paragraph (1) is the chair of the WAO, that person’s appointment as chair is also terminated.
- 12 (1) The National Assembly may terminate the appointment of a non-executive member as chair of the WAO.
- (2) But before an appointment can be terminated the First Minister must be consulted.
- (3) The National Assembly may terminate the appointment if the chair of the WAO—
- (a) has failed to comply with the terms of appointment, or
 - (b) is otherwise unwilling to carry out the functions of chairing the WAO.

PART 3

AUDITOR GENERAL

Additional remuneration of the Auditor General

- 13 (1) The WAO may make provision for additional payments to be made to the Auditor General by way of allowances and other benefits to cover expenses properly and necessarily incurred by the Auditor General in his or her capacity as a member and chief executive of the WAO.
- (2) Payments made under sub-paragraph (1) may be made in addition to the remuneration payable to the Auditor General under section 7.
- (3) Amounts payable by virtue of sub-paragraph (1) are to be paid by the WAO.

PART 4

EMPLOYEE MEMBERS

Appointment

- 14 The employee members are to comprise—
- (a) a person appointed in accordance with paragraph 15 (“the appointed member”), and
 - (b) 2 persons appointed in accordance with paragraph 16 (“the elected members”).

The appointed member

- 15 (1) The Auditor General must recommend a person to the non-executive members for appointment under this paragraph.
- (2) The non-executive members must—
- (a) appoint that person, or
 - (b) require the Auditor General to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

The elected members

- 16 (1) The WAO must conduct a ballot of its staff for the purpose of appointing a person or, as the case may be, persons under this paragraph.
- (2) The elected members are to be appointed by the non-executive members in accordance with the result of the ballot.
- (3) An appointment made under this paragraph is to be treated as an appointment on merit for the purposes of paragraph 2(2) (appointment of WAO members to be on merit).

Terms of appointment

- 17 (1) The terms of the employee members' appointment are to be determined by the non-executive members.
- (2) The terms may include remuneration arrangements which—
- (a) may provide for allowances, gratuities, and other benefits to cover expenses properly and necessarily incurred by the person in the capacity of member of the WAO, and
 - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
- (3) The remuneration arrangements may not provide for payment of a salary or, subject to sub-paragraph (5), a pension.
- (4) Amounts payable by virtue of sub-paragraph (2) are to be paid by the WAO.
- (5) If an employee member (“E”) is a participant in a pension scheme under the terms of E's employment with the WAO, the remuneration arrangements must (without affecting the continuity of that employment) provide for E's service as an employee member to be treated for the purposes of the scheme as service as an employee of the WAO.

Other terms of appointment

- 18 (1) The non-executive members may determine other terms for an appointment of an employee member.
- (2) Those terms may include restrictions on—
- (a) the offices or positions (including offices and positions to which persons may be appointed, or recommended or nominated for appointment, by or on behalf of the Crown, the National Assembly, or the National Assembly

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Commission) that the employee member may hold while, or after ceasing to be, a member;

- (b) the agreements or other arrangements (including agreements and arrangements with the Crown, the National Assembly or the National Assembly Commission or bodies or other persons acting on behalf of the Crown, the National Assembly or the National Assembly Commission) to which the employee member may be a party while, or after ceasing to be, a member.

- (3) But restrictions may only be imposed while a person is an employee member and for a maximum of 2 years afterwards, starting with the day on which the person ceases to be an employee member.

Termination of appointments

- 19 The appointment of an employee member terminates—
 - (a) if the terms of appointment provide for it to expire at the end of a period, at the end of that period, and
 - (b) in any event, when the member ceases to be an employee of the WAO.
- 20 (1) An employee member may resign by giving written notice to the non-executive members.
- (2) The appointment is terminated upon acceptance of the resignation by the non-executive members.
- 21 The non-executive members may terminate the appointment of an employee member by giving the member written notice if—
 - (a) the member has been absent from meetings of the WAO without the WAO's permission for a period or periods totalling 3 months or more in any 12 month period,
 - (b) the member has become bankrupt or has made an arrangement with creditors,
 - (c) the member's estate has been sequestrated in Scotland or the member has entered into a debt arrangement programme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 as the debtor or has, under Scots law, made a composition or arrangement with, or granted a trust deed for, the member's creditors,
 - (d) the member is unfit to continue the appointment because of misconduct,
 - (e) the member has failed to comply with the terms of the appointment, or
 - (f) the member is otherwise unable, unfit or unwilling to carry out the member's functions.

PART 5

EMPLOYEES

Appointment

- 22 (1) The WAO may employ staff.

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- (2) A person cannot be appointed as a member of staff of the WAO if the person is disqualified from being appointed on any of the grounds specified in Part 6 of this Schedule.
- (3) A person ceases to be a member of staff of the WAO if the person is disqualified on any of those grounds.
- (4) Staff of the WAO are to be employed on such terms as the WAO may determine.
- (5) A person who is an employee of the WAO may not hold any office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of the Crown, the National Assembly or the National Assembly Commission.

Status

- 23 A member of the staff of the WAO is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- 24 But a member of the staff of the WAO is to be taken to be a Crown servant for the purposes of the Official Secrets Act 1989.

Remuneration arrangements

- 25 (1) The WAO must pay employees such remuneration as may be provided for by or under the terms of their employment.
- (2) The WAO must make payments to the Minister for the Civil Service, at such times as the Minister may determine, of such amounts as may be so determined in respect of—
- (a) the provision of pensions, allowances, gratuities or other benefits by virtue of section 1 of the Superannuation Act 1972 to or in respect of any persons who are or have been members of the staff of the WAO, and
 - (b) the expenses incurred in administering those pensions, allowances, gratuities or other benefits.

PART 6

DISQUALIFICATION AS MEMBER OF, OR EMPLOYEE OF, THE WAO

- 26 (1) A person cannot be appointed as a member or employee of the WAO if the person is disqualified on any of the grounds specified in sub-paragraph (3).
- (2) A person ceases to be a member or employee of the WAO if the person is disqualified on any of the grounds specified in sub-paragraph (3).
- (3) A person is disqualified from being a member or employee of the WAO if the person is—
- (a) a Member of the National Assembly;
 - (b) the holder of any other office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of—
 - (i) the Crown,
 - (ii) the National Assembly, or

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- (iii) the National Assembly Commission;
- (c) a Member of the House of Commons or House of Lords;
- (d) a Member of the Scottish Parliament; or
- (e) a Member of the Northern Ireland Assembly.

(4) Sub-paragraph (3)(b) is to be disregarded in the case of the Auditor General.

PART 7

PROCEDURAL RULES

General

27 The WAO must make rules for the purpose of regulating the WAO's procedure.

Quorum for WAO meetings

- 28
- (1) The rules must provide for a quorum for any meetings of the WAO (including meetings of committees or sub-committees set up under paragraph 29).
 - (2) The rules may provide that different quorums may apply in different circumstances (for example, in relation to particular meetings or for particular purposes).
 - (3) The rules must provide that in all circumstances a quorum cannot be met unless a majority of the members present are non-executive members.

Committees

- 29
- (1) The rules may include—
 - (a) provision for the setting up of committees of the WAO and for those committees to set up sub-committees, and
 - (b) provision regulating the procedures of those committees and sub-committees.
 - (2) An employee of the WAO who is not an employee member may be a member of a committee or sub-committee.
 - (3) A person who is neither a member of the WAO nor an employee of the WAO may be a member of a committee or sub-committee, provided that no functions of the WAO are delegated to the committee or sub-committee (see paragraph 32).

Ballots

30 The rules must include provision about the conduct of ballots for the purpose of appointing employee members (see paragraph 16).

PART 8

OTHER MATTERS

Validity

- 31 The validity of anything done by the WAO (including anything done by its non-executive members, the employee members, any committee or sub-committee and by any employee of the WAO) is not affected by—
- (a) a vacancy, or
 - (b) a defective appointment.

Delegation of functions

- 32 (1) The WAO may delegate any of its functions to—
- (a) any of its members, employees or committees, or
 - (b) a person who provides services to the WAO.
- (2) A committee may delegate functions (including functions delegated to it) to a sub-committee.
- (3) The delegation of a function does not prevent the WAO or the committee (as the case may be) from carrying out the function itself.
- (4) The delegation of a function does not affect the WAO's or the committee's responsibility for the function (as the case may be).
- (5) Functions under the following provisions may not be delegated—
- (a) section 20(1)(a) (estimating the income and expenses of the WAO for each financial year);
 - (b) section 25(1) (preparing an annual plan for each financial year with the Auditor General);
 - (c) paragraph 27 of Part 7 of this Schedule (making rules for the purpose of regulating the WAO's procedure);
 - (d) paragraph 34(2) of Part 8 of this Schedule (recommending a person to audit the accounts of the WAO, etc);
 - (e) paragraph 3 of Part 2 of Schedule 2 (jointly preparing a report or an interim report each financial year on the exercise of the functions of the Auditor General and the WAO);
 - (f) paragraph 5 of Part 3 of Schedule 2 (designating another person to temporarily exercise the functions of the Auditor General).

WAO accounts

- 33 (1) The Auditor General is to be the accounting officer for the WAO.
- (2) The accounting officer must, for each financial year, in accordance with directions given by the Treasury—
- (a) keep proper accounts and proper records in relation to them, and
 - (b) prepare a statement of accounts.
- (3) A statement of accounts must give a true and fair view of—
- (a) the state of the WAO's affairs at the end of the financial year, and

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- (b) the WAO's income and expenditure in the financial year.
- (4) The directions which the Treasury may give include (but are not limited to) directions as to—
 - (a) the financial affairs and transactions to which the accounts or statement of accounts are to relate;
 - (b) the information to be contained in the accounts and the manner in which the accounts are to be presented;
 - (c) the methods and principles in accordance with which the accounts are to be prepared;
 - (d) the additional information (if any) that is to accompany the accounts or statement of accounts.
- (5) The directions which the Treasury may give may also include directions to prepare accounts relating to financial affairs and transactions of persons other than the WAO.
- (6) The accounting officer for the WAO has, in relation to the accounts and finances of the WAO, such other responsibilities which are from time to time specified by the National Assembly.

Audit etc of the WAO

- 34 (1) It is for the National Assembly to appoint a person as auditor of the WAO's accounts, and to determine that person's terms of appointment.
- (2) The WAO may recommend a person for the purposes of sub-paragraph (1).
- (3) A person is eligible for appointment only if the person is a qualified auditor as defined in section 19.
- (4) If a person appointed as the auditor ceases to be a qualified auditor, the person ceases to be the auditor.
- (5) The person appointed as auditor must have regard to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow.
- (6) The WAO must pay the auditor such remuneration as may be provided for by or under the terms of the auditor's appointment.
- 35 (1) A statement of accounts prepared under paragraph 33 must be—
 - (a) signed by the accounting officer of the WAO, and
 - (b) submitted by the chair of the WAO to the auditor appointed under paragraph 34,
 no later than 5 months after the end of the financial year to which the statement relates.
- (2) The auditor must—
 - (a) examine and certify any statement of accounts received under sub-paragraph (1), and
 - (b) lay the statement of accounts as certified by him or her, together with his or her report on it, before the National Assembly.
- (3) The auditor must, in particular, be satisfied from an examination of the statement of accounts—

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- (a) that the expenditure to which the statement relates has been incurred lawfully and in accordance with the authority which governs it;
 - (b) that money to which the statement relates, received by the WAO for a particular purpose or particular purposes, has not been expended otherwise than for that purpose or those purposes;
 - (c) that the statement complies with the requirements of any enactment applicable to the accounts or statement;
 - (d) that proper practices have been observed in the compilation of the statement.
- (4) The auditor has a right of access at all reasonable times to every document which appears to the auditor to be necessary for the purposes of the audit of the accounts.
- (5) The auditor may—
- (a) require any person holding or accountable for such document to provide any assistance, information or explanation which the auditor reasonably thinks necessary for those purposes;
 - (b) require a relevant person to provide the auditor, at times specified by the auditor, with accounts of such of the transactions of the relevant person as the auditor may specify.
- (6) A “relevant person” means—
- (a) the Auditor General,
 - (b) the WAO, or
 - (c) any person to whose financial affairs and transactions the accounts relate in consequence of paragraph 33(5).
- (7) The auditor may—
- (a) carry out examinations into the economy, efficiency and effectiveness with which the Auditor General has used resources in discharging the Auditor General’s functions;
 - (b) carry out examinations into the economy, efficiency and effectiveness with which the WAO has used resources in discharging the WAO’s functions;
 - (c) lay a report of the results of any such examinations before the National Assembly.
- (8) For the purposes of carrying out such examinations, the auditor—
- (a) has a right of access at all reasonable times to every document in the possession, or under the control, of the Auditor General or the WAO which the auditor reasonably requires for those purposes;
 - (b) may require any person holding or accountable for any of those documents to provide any assistance, information or explanation which the auditor reasonably thinks necessary for those purposes.

Documentary evidence

- 36 (1) The application of the WAO’s seal is to be authenticated by the signature of—
- (a) a member of the WAO, or
 - (b) an employee of the WAO authorised (whether generally or specifically) for that purpose by the WAO.
- (2) A document purporting to be duly executed under the WAO’s seal or signed on its behalf—

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- (a) is to be received in evidence, and
- (b) is to be taken to be executed or signed in that way, unless the contrary is proved.

SCHEDULE 2

(introduced by section 16(2))

RELATIONSHIP BETWEEN THE AUDITOR GENERAL AND THE WAO

PART 1

CODE OF PRACTICE

Preparation and approval etc

- 1 (1) The WAO and the Auditor General must jointly prepare a code of practice dealing with the relationship between the WAO and the Auditor General.
- (2) In doing so, they must seek to reflect the principle set out in section 8(1) and (2).
- (3) The WAO and the Auditor General must jointly review the code regularly and revise it as appropriate.
- (4) The code (including any revision) must be approved by the National Assembly.
- (5) For this purpose, the chair of the WAO and the Auditor General must lay the code (or revision) before the National Assembly.
- (6) The WAO and the Auditor General must each comply with a code approved by the National Assembly.
- (7) The WAO and the Auditor General must arrange for an approved code to be published.

Content

- 2 (1) The code must include—
 - (a) provision about how the WAO is to monitor the Auditor General's functions for the purposes of section 17(1);
 - (b) provision about how advice is to be given by the WAO to the Auditor General for the purposes of section 17(2) (including the nature of the advice to be given);
 - (c) provision about standards for corporate governance.
- (2) The code may include provision about any other matter relevant to the relationship between the WAO and the Auditor General.

PART 2

REPORTS AND DOCUMENTS

Reports

- 3
- (1) The Auditor General and the chair of the WAO must for each financial year jointly prepare an annual report on the exercise during the year of the functions of the Auditor General and the WAO.
 - (2) An annual report must include (amongst other things) an assessment of the extent to which—
 - (a) the exercise of the functions of the Auditor General and the WAO has been consistent with the annual plan prepared for the year under section 25;
 - (b) the priorities set out in the plan were achieved.
 - (3) At least once during each financial year the Auditor General and the chair of the WAO must also jointly prepare a report on the exercise of the functions of the Auditor General and the WAO (an “interim report”).
 - (4) An interim report must include (amongst other things) an assessment of the extent to which—
 - (a) the exercise of the functions of the Auditor General and the WAO has been consistent with the annual plan prepared for the year under section 25;
 - (b) progress has been made to achieve the priorities set out in the plan.
 - (5) Nothing in this paragraph prevents the National Assembly from requiring the Auditor General and chair of the WAO to prepare an interim report at any time during a financial year.
 - (6) The Auditor General and the chair of the WAO must jointly—
 - (a) lay the annual report before the National Assembly as soon as practicable after the end of a financial year;
 - (b) lay interim reports before the National Assembly on dates to be determined from time to time by the Assembly.

Documents and information

- 4
- (1) Any document or information which a person is required to provide, or may provide, to the Auditor General, may be provided to the WAO (either by that person or by the Auditor General).
 - (2) For the purposes of section 3(2) of the Freedom of Information Act 2000 and regulation 3(2) of the Environmental Information Regulations 2004 (or any regulations replacing those regulations), any document or information held by the WAO as mentioned in section 21(2)(d) of this Act is treated as held by the WAO on its own behalf.

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PART 3

TEMPORARY EXERCISE OF THE FUNCTIONS OF AUDITOR GENERAL BY ANOTHER PERSON

- 5 The WAO, with the agreement of the National Assembly, may designate a person to exercise the functions of Auditor General temporarily in place of the Auditor General (“a temporary designation”).
- 6 A temporary designation may occur only in the following circumstances—
- (a) the office of Auditor General is vacant,
 - (b) the Auditor General is unwilling to discharge the functions of the office,
 - (c) the WAO and the National Assembly consider that the Auditor General is unable to discharge the functions of the office, or
 - (d) the WAO and the National Assembly consider that there are grounds to remove the Auditor General from office because of misbehaviour.
- 7 The functions of the Auditor General referred to in paragraph 5 include (but are not limited to)—
- (a) functions as chief executive of the WAO (see section 16);
 - (b) if relevant, functions as accounting officer of the WAO (see paragraph 33(1) of Part 8 of Schedule 1);
 - (c) the power to delegate under section 18.
- 8 A person who is designated to exercise the functions of the Auditor General must be an employee of the WAO.
- 9 A person who is designated to exercise those functions will continue to be employed by the WAO on the same terms.
- 10 But that person will be designated to exercise functions on such additional terms (including terms as to remuneration) as are agreed by the WAO and the National Assembly.
- 11 The terms as to remuneration—
- (a) may provide for allowances, gratuities, and other benefits to cover expenses properly and necessarily incurred by the person in exercising the functions, and
 - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
- 12 But the terms as to remuneration may not provide for payment of an additional salary or pension.
- 13 The WAO must pay the person such remuneration as may be provided for by or under any additional terms as to remuneration as are agreed.
- 14 The duration of a temporary designation in relation to a circumstance referred to in paragraph 6—
- (a) may not exceed 6 months, but
 - (b) may be extended once by the WAO in relation to that circumstance, with the agreement of the National Assembly, for up to a further 6 months.

SCHEDULE 3

(introduced by section 33(1))

TRANSITIONAL, SUPPLEMENTARY AND SAVING PROVISIONS

PART 1

THE AUDITOR GENERAL

Previous Auditor General to continue to be Auditor General

- 1 (1) This paragraph applies to the person who is the Auditor General immediately before the appointed day.
- (2) On and after the appointed day the person—
 - (a) continues to be the Auditor General and is treated as having been appointed to that office under Part 1 of this Act;
 - (b) holds the office for 8 years less a period equal to that during which the person was the Auditor General before the appointed day.
- (3) The person's remuneration arrangements under section 7 are to be made by the National Assembly before the appointed day (but are not to cover any period before the appointed day).
- (4) But before those arrangements can be made, the First Minister must be consulted.
- (5) In this paragraph "the appointed day" means the day on which this paragraph comes into force.

Savings for auditors appointed under section 13 of the Public Audit (Wales) Act 2004

- 2 (1) This paragraph applies where, immediately before the coming into force of section 11 (audit of accounts of local government bodies in Wales), an appointment of a person as an auditor in relation to the accounts of a local government body in Wales has effect under section 13 of the Public Audit (Wales) Act 2004.
- (2) That appointment of the person as an auditor continues to have effect until the end of the period for which the appointment was made (subject to any earlier termination).
- (3) The Public Audit (Wales) Act 2004 applies with the following modifications in relation to an auditor whose appointment is continued by sub-paragraph (2)—
 - (a) Part 2 and section 64E(4) have effect as if they had not been amended by this Act, and
 - (b) section 20 has effect as if each reference to the Auditor General for Wales were a reference to the WAO (and any scale of fees already prescribed by the Auditor General for Wales under that section continues to have effect in relation to the auditor whose appointment is continued unless and until varied or replaced by a scale prescribed by the WAO).
- (4) The following provisions of the Local Government (Wales) Measure 2009 have effect in relation to an auditor whose appointment is continued by sub-paragraph (2) as if they had not been amended by this Act—
 - (a) section 16(2)(e);
 - (b) section 25(5)(b).

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

Savings in respect of restrictions on disclosure of information

- 3 (1) Where information has been obtained by—
- (a) an auditor appointed under section 13 of the Public Audit (Wales) Act 2004 under a provision of that Act that has been amended by this Act,
 - (b) a person acting on his or her behalf, or
 - (c) a person acting on behalf of the Auditor General under a provision of any of the following enactments that has been amended by this Act—
 - (i) section 145C of the Government of Wales Act 1998,
 - (ii) Part 1 of the Local Government Act 1999,
 - (iii) Part 1 or Part 3A of the Public Audit (Wales) Act 2004, or
 - (iv) Part 1 of the Local Government (Wales) Measure 2009,
- the operation of any provision about the disclosure of information is not affected by the amendment of that provision.
- (2) So far as may be necessary for continuing the operation of any provision about the disclosure of information, information obtained as mentioned in sub-paragraph (1) is to be treated in the same way as information obtained by the Auditor General.

PART 2

THE WAO

WAO's procedural rules before rules are made under paragraph 27 of Schedule 1

- 4 (1) This paragraph applies until the first rules under paragraph 27 of Schedule 1 are made.
- (2) Any matter to be decided by the WAO (including any matter to be decided for the purpose of preparing or making those rules) is to be decided in accordance with the procedure determined by the chair of the WAO (which may include the procedure for determining the quorum for any meeting at which the matter is to be decided).

PART 3

TRANSFER OF FUNCTIONS ETC

Transfer of staff

- 5 (1) On the appointed day the members of the staff of the Auditor General are transferred to the employment of the WAO.
- (2) For any purpose relating to a person who becomes an employee of the WAO by virtue of sub-paragraph (1)—
- (a) that person's contract of employment—
 - (i) is not terminated by the transfer, and
 - (ii) has effect from the appointed day as if originally made between that person and the WAO;
 - (b) a period of employment as a member of the staff of the Auditor General immediately before the appointed day—

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

- (i) is to be treated as a period of employment with the WAO, and
 - (ii) is to be treated as continuous employment as a member of the staff of the WAO for the purposes of section 218(3) of the Employment Rights Act 1996.
- (3) Without prejudice to sub-paragraph (2), where a person becomes an employee of the WAO by virtue of sub-paragraph (1)—
 - (a) all property, rights and liabilities which the Auditor General has under or in relation to the contract of employment of that person are transferred to the WAO, and
 - (b) anything done before the appointed day by or in relation to the Auditor General in respect of the person or the contract is to be treated from that day as having been done by or in relation to the WAO.
- (4) A contract of employment (or rights, powers, duties and liabilities under or in connection with it) is not transferred under this paragraph if the employee objects to the transfer and informs the Auditor General or the WAO of that objection.
- (5) If the employee informs the Auditor General or the WAO of an objection under sub-paragraph (4)—
 - (a) the contract of employment is terminated immediately before the appointed day, but
 - (b) the employee is not treated, for any purpose, as having been dismissed by the Auditor General.
- (6) Nothing in this paragraph affects any right of a person to terminate his or her contract of employment if (apart from the change of employer) a substantial change is made to the person's detriment in his or her working conditions.
- (7) In this paragraph “the appointed day” means the day on which this paragraph comes into force.

Variation of employment contracts

- 6 (1) This paragraph applies where there is a purported variation of the employment contract of—
 - (a) an employee of the Auditor General;
 - (b) an employee of the WAO whose employment transferred under paragraph 5.
- (2) The variation is void if the sole or principal reason for varying the contract is—
 - (a) the transfer mentioned in paragraph 5(1), or
 - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- (3) Nothing in this paragraph prevents a variation if the sole or principal reason for the variation is—
 - (a) a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce, or
 - (b) a reason unconnected with the transfer.

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

Collective agreements

- 7 (1) This paragraph applies where a collective agreement made by or on behalf of the Auditor General satisfies the conditions specified in sub-paragraph (2).
- (2) The conditions are that the agreement—
- (a) existed at the time of the transfer mentioned in paragraph 5(1),
 - (b) was made with a trade union recognised by the Auditor General, and
 - (c) applied in respect of an employee whose employment transferred under paragraph 5(1) (“a transferred employee”).
- (3) After the transfer mentioned in paragraph 5(1)—
- (a) the agreement, in its application to a transferred employee, is to have effect as if made with the trade union by or on behalf of the WAO, and
 - (b) anything done before the transfer under or in connection with the agreement in respect of a transferred employee by or in relation to the Auditor General is to be treated as having been done by or in relation to the WAO.
- (4) Nothing in this paragraph prejudices the application of sections 179 and 180 of the 1992 Act (collective agreements presumed to be unenforceable in specified circumstances) to the agreement.
- (5) In this paragraph—
- “collective agreement” has the same meaning as in the 1992 Act,
 - “recognised” has the meaning given in section 178(3) of the 1992 Act,
 - “trade union” has the same meaning as in the 1992 Act, and
 - “1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992.

Trade union recognition

- 8 (1) Where before the transfer mentioned in paragraph 5(1) an independent trade union was recognised by the Auditor General to any extent in relation to any employee whose employment transferred, after the transfer—
- (a) that union is to be treated as having been recognised by the WAO to the same extent in relation to those employees, and
 - (b) any agreement for recognition may be varied or rescinded accordingly.
- (2) In this paragraph—
- “independent trade union” has the meaning given in section 5 of the 1992 Act,
 - “recognised” has the meaning given in section 178(3) of the 1992 Act, and
 - “1992 Act” means the Trade Union and Labour Relations (Consolidation) Act 1992.

Dismissal in relation to transfer

- 9 (1) Sub-paragraphs (2) and (3) apply—
- (a) to an employee of the Auditor General;
 - (b) to an employee of the WAO whose employment transferred under paragraph 5.

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

- (2) If an employee to whom this sub-paragraph applies is dismissed, that employee is to be treated as unfairly dismissed for the purposes of Part X of the Employment Rights Act 1996 if the sole or principal reason for the dismissal is—
 - (a) the transfer mentioned in paragraph 5(1), or
 - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- (3) If an employee to whom this sub-paragraph applies is dismissed, the reason for that dismissal is to be treated for the purposes of sections 98(1) and 135 of the Employment Rights Act 1996 (reason for dismissal) as having been for redundancy if the sole or principal reason for the dismissal is a reason connected with the transfer mentioned in paragraph 5(1) that is an economic, technical or organisational reason entailing changes in the workforce.
- (4) Sub-paragraph (3) does not prejudice the application of section 98(4) of the Employment Rights Act 1996 (test of fair dismissal).
- (5) But sub-paragraph (2) does not apply if the application of section 94 of the Employment Rights 1996 Act (right not to be unfairly dismissed) to the dismissal is excluded by or under any provision of that Act, the Employment Tribunals Act 1996 or the Trade Union and Labour Relations (Consolidation) Act 1992.

Transfer of other property, rights and liabilities

- 10 (1) On the transfer day, the property, rights and liabilities to which the Auditor General is entitled or subject in connection with any transferred function are transferred to and vest in the WAO.
- (2) Sub-paragraph (1) operates in relation to property, rights and liabilities—
 - (a) whether or not they would otherwise be capable of being transferred;
 - (b) irrespective of any kind of requirement for consent that would otherwise apply.
- (3) Anything (including legal proceedings) which relates to—
 - (a) any transferred function, or
 - (b) any property, rights or liabilities transferred by virtue of sub-paragraph (1) in connection with any transferred function,and which is in the process of being done by or in relation to the Auditor General immediately before the transfer day may be continued on or after that day by or in relation to the WAO.
- (4) Anything which was done by or in relation to the Auditor General for the purposes of or in connection with—
 - (a) any transferred function, or
 - (b) any property, rights or liabilities transferred by virtue of sub-paragraph (1) in connection with any transferred function,and which is in effect immediately before the transfer day has effect on or after that day as if done by or in relation to the WAO.
- (5) In any instruments, contracts or legal proceedings which relate to—
 - (a) any transferred function, or

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

- (b) any property, rights or liabilities transferred by virtue of sub-paragraph (1) in connection with any transferred function,
and which are made or commenced before the transfer day, a reference to the Auditor General is to be treated on or after that day as a reference to, or as including a reference to, the WAO.
- (6) This paragraph does not apply in relation to rights and liabilities under a contract of employment as a member of the staff of the Auditor General transferred to the WAO by virtue of paragraph 5.
- (7) In this paragraph—
“transferred function” (“*swyddogaeth a drosglwyddir*”) means a function—
(a) conferred or imposed on the WAO by a provision of this Act which re-enacts (with or without modifications) a provision of any enactment which conferred or imposed the same or substantially the same function on the Auditor General, or
(b) conferred or imposed on the WAO by any enactment in consequence of the amendment of that enactment by or under this Act;
“transfer day” (“*diwrnod trosglwyddo*”), in relation to a transferred function, means the day when the function first became exercisable by the WAO.
- 11 (1) A certificate issued by the Welsh Ministers that property has been transferred by virtue of paragraph 10(1) is conclusive evidence of the transfer.
- (2) Paragraph 10 has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property, rights or liabilities.
- (3) A right of pre-emption, right of return or other similar right does not operate or become exercisable as a result of any transfer of property or rights by virtue of paragraph 10(1).
- (4) Any such right has effect in the case of any such transfer as if the transferee were the same person in law as the transferor and no transfer of the property or rights had taken place.
- (5) Such compensation as is just is to be paid to any person in respect of any such right which would, apart from sub-paragraph (3), have operated in favour of or become exercisable by that person but which, in consequence of the operation of that sub-paragraph, cannot subsequently operate in favour or become exercisable by that person.
- (6) But no compensation is to be paid under sub-paragraph (5) to the Auditor General, to the WAO, or to a former Auditor General.
- (7) Compensation payable by virtue of sub-paragraph (5) is to be paid by the WAO.
- (8) Any amount paid under sub-paragraph (7) is to be charged on and paid out of the Welsh Consolidated Fund.
- (9) Sub-paragraphs (2) to (8) apply in relation to the creation of rights or interests, or the doing of anything else, in relation to property as they apply in relation to a transfer of property, and references to the transferor and transferee are to be read accordingly.

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

- (10) In this paragraph “right of return” means any right under a provision for the return or reversion of property in specified circumstances.

Criminal liability of the Auditor General

- 12 (1) To the extent that any criminal liability incurred by the Auditor General is connected with property, rights or liabilities transferred to the WAO by virtue of paragraph 10, that criminal liability is transferred to the WAO.
- (2) Paragraph 10(3) to (5) applies in relation to criminal liability transferred by virtue of this paragraph as it applies to a liability transferred by virtue of paragraph 10(1).

Indemnification

- 13 (1) The liabilities covered by section 29 include—
- (a) liabilities that arise before the coming into force of that section, and
 - (b) liabilities that arise in relation to any act or omission occurring before the coming into force of that section.
- (2) Sub-paragraph (3) applies where—
- (a) a sum becomes payable by a former Auditor General appointed before the coming into force of section 2, and
 - (b) that sum would have been charged on the Welsh Consolidated Fund under paragraph 9(1) of Schedule 8 to the Government of Wales Act 2006 prior to the repeal of that paragraph by this Act.
- (3) Paragraph 9(1) of Schedule 8 to the Government of Wales Act 2006 continues to have effect with respect that person and that sum as if that repeal had not come into force.

SCHEDULE 4

(introduced by section 34)

MINOR AND CONSEQUENTIAL AMENDMENTS

Superannuation Act 1972

- 1 In Schedule 1 to the Superannuation Act 1972 (offices to which section 1 of that Act applies), in the list of “Other bodies” for “Employment as a member of the staff of the Auditor General for Wales” substitute “Employment as a member of the staff of the Wales Audit Office”.

Finance Act 1989

- 2 In section 182 of the Finance Act 1989 (disclosure of information), in subsection (4) (a), after sub-paragraph (iii), insert—
- “(iia) of the Wales Audit Office and any member or employee of that Office,”.

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

Social Security Administration Act 1992

- 3 In subsection (8) of section 123 of the Social Security Administration Act 1992 (unauthorised disclosure of information relating to particular persons) after paragraph (ba), insert—
- “(bb) any member of the staff of the Wales Audit Office, and any person providing services to that Office””.

Education Act 1997

- 4 In section 41A of the Education Act 1997 (inspections involving collaboration of Auditor General for Wales), in subsection (6), for “the Auditor General for Wales an amount equal to the full costs incurred by the Auditor General for Wales in providing the assistance” substitute “the Wales Audit Office a fee, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013 (which may not exceed the full cost incurred by the Auditor General in providing the assistance)”.

Government of Wales Act 1998

- 5 The Government of Wales Act 1998 is amended as follows.
- 6 (1) Section 145C is amended as follows.
- (2) In subsection (2), omit “or on his behalf”.
- (3) In subsection (3) (studies relating to registered social landlords), for “make good to the Auditor General for Wales the full costs incurred by him in undertaking the programme” substitute “pay to the Wales Audit Office a sum in respect of the costs incurred (which may not exceed the full cost incurred in undertaking the programme), in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013”.
- (4) After subsection (9), insert—
- “(10) In this section, a reference to a person acting on behalf of the Auditor General for Wales is a reference to a person acting on the Auditor’s behalf by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013.”.
- 7 (1) Section 145D (advice and assistance for registered social landlords) is amended as follows.
- (2) In subsection (2), for “the Auditor General for Wales thinks fit” substitute “the Wales Audit Office thinks fit, but any terms as to payment may only be made in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013”.
- (3) After subsection (2), insert—
- “(2A) Any sums charged in relation to advice or assistance provided under this section may not exceed the full cost of providing that advice or assistance.”.
- (4) In subsection (3), for “paragraph 21 of Schedule 8 to the Government of Wales Act 2006 (arrangements between Auditor General for Wales and certain bodies)” substitute “section 19 of the Public Audit (Wales) Act 2013 (arrangements for the provision of services between the Wales Audit Office and certain bodies)”.

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

- 8 In subsection (2) of section 146 (transfer of functions of Comptroller and Auditor General), in paragraph (b), after “the Auditor General for Wales,” insert “the Wales Audit Office.”

Local Government Act 1999

- 9 The Local Government Act 1999 is amended as follows.
- 10 In subsection (7) of section 11 (inspectors’ powers and duties), omit paragraph (b).
- 11 Omit section 12A (fees: inspections under section 10A).
- 12 Omit section 13A (reports of inspections under section 10A).
- 13 In subsection (7) of section 23 (accounts), omit “or the Auditor General for Wales”.
- 14 In subsection (2) of section 25 (coordination of inspections, etc), omit paragraph (aa).
- 15 In section 26 (guidance), omit subsection (3A).
- 16 For paragraph (b) of section 33(3) (finance), substitute—
“(b) the Wales Audit Office in respect of expenditure incurred or to be incurred by the Auditor General for Wales under the Local Government (Wales) Measure 2009.”.

Freedom of Information Act 2000

- 17 The Freedom of Information Act 2000 is amended as follows.
- 18 (1) Subsection (5) of section 36 (exempt information: prejudice to effective conduct of public affairs) is amended as follows.
- (2) In paragraph (gb), after “the Auditor General for Wales” insert “, the Wales Audit Office”.
- (3) In paragraph (k) after the first reference to “the Auditor General for Wales”, insert “or the Wales Audit Office”.
- 19 In Part 6 of Schedule 1 (public authorities to which the Act applies - other public bodies and offices: general), insert at the appropriate place “the Wales Audit Office”.

Public Audit (Wales) Act 2004

- 20 The Public Audit (Wales) Act 2004 is amended as follows.
- 21 Omit section 14 (appointment of auditors) and 15 (persons to assist auditors).
- 22 Omit section 16 (code of audit practice).
- 23 (1) Section 17 (general duties of auditors) is amended as follows.
- (2) In subsection (2), for “An auditor must” substitute “The Auditor General for Wales must”.
- (3) Omit subsections (3) and (4).
- (4) Accordingly, the heading of section 17 becomes “General duties on audit of accounts”.
- 24 Omit section 18 (auditors’ rights to documents and information) and 19 (auditor’ rights to documents and information: offences).

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

- 25 (1) Section 20 (fees for audit) is amended as follows.
- (2) Before subsection (1), insert—
- “(A1) The Wales Audit Office must, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013, charge a fee in respect of functions exercised by the Auditor General for Wales—
- (a) in auditing the accounts of local government bodies in Wales under this Chapter, and
- (b) in undertaking studies at the request of a local government body under section 44.”.
- (3) Accordingly, the heading of section 20 becomes “Fees in respect of functions exercised by the Auditor General for Wales”.
- (4) In subsection (1), for “The Auditor General for Wales” substitute “The Wales Audit Office”.
- (5) In subsection (2)—
- (a) for “the Auditor General for Wales” each time those words appear substitute “the Wales Audit Office”;
- (b) in paragraph (a), for “of local authorities” substitute “of local government bodies”;
- (c) for paragraph (b), substitute—
- “(b) such other persons as the Wales Audit Office thinks fit.”.
- (6) Omit subsection (3).
- (7) In subsection (4), for “the Auditor General for Wales” substitute “the Wales Audit Office”.
- (8) In subsection (5)—
- (a) for “the Auditor General for Wales” each time those words appear substitute “the Wales Audit Office”;
- (b) omit “him when prescribing”.
- (9) After subsection (5) insert—
- “(5A) But a fee charged under this section may not exceed the full cost of exercising the function to which it relates.”.
- (10) Omit subsection (6).
- 26 Omit section 21 (fees prescribed by Assembly).
- 27 (1) Section 22 (immediate and other reports in the public interest) is amended as follows.
- (2) For each reference to “an auditor” or “the auditor” substitute “the Auditor General for Wales”.
- (3) In subsection (5), omit “, and a copy of the report to the Auditor General for Wales,”.
- (4) In subsection (6), omit “, and a copy of the report to the Auditor General for Wales,”.
- 28 In section 23 (general report), for each reference to “an auditor” or “the auditor” substitute “the Auditor General for Wales”.

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

- 29 In section 24 (consideration of reports in the public interest), for “an auditor” substitute “the Auditor General for Wales”.
- 30 (1) Section 25 (procedure for consideration of reports and recommendations) is amended as follows.
- (2) In subsection (2), for “an auditor of” substitute “the Auditor General for Wales, in auditing”.
- (3) In subsection (4), for “the auditor” substitute “the Auditor General for Wales”.
- (4) In subsection (6), for “An auditor” substitute “The Auditor General for Wales”.
- 31 In section 26 (publicity for meetings under section 25), for each reference to “an auditor” or “the auditor” substitute “the Auditor General for Wales”.
- 32 (1) Section 27 (additional publicity for immediate reports) is amended as follows.
- (2) In subsection (1), for “an auditor” substitute “the Auditor General for Wales”.
- (3) In subsection (5), for “An auditor who has made a report under section 22(3)” substitute “The Auditor General for Wales”.
- 33 (1) Section 28 (additional publicity for non-immediate reports) is amended as follows.
- (2) For each reference to “an auditor” or “the auditor” substitute “the Auditor General for Wales”.
- (3) Omit subsection (4).
- 34 (1) Section 29 (inspection of statements of accounts and auditors’ reports) is amended as follows.
- (2) In paragraph (b) of subsection (1), for “an auditor” substitute “the Auditor General for Wales”.
- (3) Accordingly the heading of section 29 becomes “Inspection of statements of accounts and Auditor General for Wales’ reports”.
- (4) Accordingly the cross-heading before section 29 becomes “Public inspection etc and action by the Auditor General for Wales”.
- 35 (1) Section 30 (inspection of documents and questions at audit) is amended as follows.
- (2) In subsection (2)—
- (a) for “the auditor of those accounts” substitute “the Auditor General for Wales”, and
- (b) for “the auditor” substitute “the Auditor General”.
- (3) In subsection (3), for “a body’s auditor” substitute “the Auditor General for Wales”.
- 36 In section 31 (right to make objection at audit), for each reference to “the auditor” substitute “the Auditor General for Wales”.
- 37 (1) Section 32 (declaration that item of account is unlawful) is amended as follows.
- (2) In subsection (1)—
- (a) for “an auditor” substitute “the Auditor General for Wales in”, and
- (b) for “the auditor” substitute “he”.
- (3) In subsection (4), for “an auditor” substitute “the Auditor General for Wales”.

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

- (4) In subsections (6) to (9), for each reference to “an auditor” or “the auditor” substitute “the Auditor General for Wales”.
- 38 (1) Section 33 (advisory notices) is amended as follows.
- (2) In subsection (1)—
- (a) for “An auditor of accounts of a local government body in Wales” substitute “The Auditor General for Wales”, and
- (b) after “is met” insert “in respect of a local government body in Wales”.
- (3) In paragraph (d) of subsection (4), for “the auditor of the body’s accounts” substitute “the Auditor General for Wales”.
- (4) In paragraph (c) of subsection (6), for “the auditor by whom the notice is issued” substitute “the Auditor General for Wales”.
- (5) In subsection (7), for “The auditor by whom an advisory notice is issued” substitute “The Auditor General for Wales”.
- (6) In subsection (10), for “the person who for the time being is the auditor of the body to which, or to an officer of which, the notice was addressed” substitute “the Auditor General for Wales”.
- (7) In subsection (11), for “The auditor by whom an advisory notice is withdrawn” substitute “The Auditor General for Wales”.
- (8) Omit subsection (12).
- 39 (1) Section 34 (effect of an advisory notice) is amended as follows.
- (2) In paragraph (b) of subsection (5), for “the person who is for the time being the auditor of the body’s accounts” substitute “the Auditor General for Wales”.
- (3) In subsection (8)—
- (a) for “An auditor” substitute “The Wales Audit Office”, and
- (b) for “by him” substitute “by the Auditor General for Wales”.
- 40 In subsection (3) of section 35 (advisory notices: legal actions), for “an auditor” substitute “the Auditor General for Wales”.
- 41 (1) Section 36 (power of auditor to make a claim for judicial review) is amended as follows.
- (2) In subsection (1)—
- (a) for “An auditor appointed to audit accounts of a local government body in Wales” substitute “The Auditor General for Wales”, and
- (b) for the first reference to “the body” substitute “a local government body in Wales”.
- (3) In subsection (3) for “an auditor” substitute “the Auditor General for Wales”.
- (4) In subsection (4)—
- (a) for “an auditor” substitute “the Auditor General for Wales”, and
- (b) for “the auditor” substitute “the Auditor General for Wales or the Wales Audit Office”.
- 42 (1) Section 37 (extraordinary audit) is amended as follows.

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

- (2) For each reference to “the Assembly” substitute “the Welsh Ministers”.
 - (3) In subsection (1) omit “direct an auditor to”.
 - (4) In subsection (4) omit “direct an auditor to”.
 - (5) In subsection (5), omit paragraph (a).
 - (6) In subsection (8), for “The Auditor General for Wales” substitute “The Wales Audit Office”.
- 43 In subsection (2) of section 38 (audit of accounts of officers), for “The auditor of a body’s accounts” substitute “the Auditor General for Wales”.
- 44 (1) Section 39 (accounts and audit regulations) is amended as follows.
- (2) For each reference to “Assembly” substitute “Welsh Ministers”.
 - (3) In subsection (2), for each reference to “it” substitute “them”.
 - (4) In paragraph (b) of subsection (5), for “an auditor” substitute “the Auditor General for Wales or the Wales Audit Office”.
 - (5) In subsection (6), after “may be recovered” insert “by the Wales Audit Office”.
- 45 (1) Section 40 (documents relating to police and crime commissioners and chief constables) is amended as follows.
- (2) For each reference to “Assembly” substitute “Welsh Ministers”.
 - (3) In subsection (1), for “receives a copy of a report under section 22(5) or (6)” substitute “makes a report under section 22”.
- 46 (1) Section 41 (studies for improving economy etc in services) is amended as follows.
- (2) In subsections (1) to (5), omit each reference to “or promote”, “or promotes” and “or promoting”.
 - (3) In paragraph (a) of subsection (1), omit “also best value authorities for the purposes of Part 1 of the Local Government Act 1999 or”.
 - (4) In subsection (6), for “the Assembly” substitute “the Welsh Ministers”.
- 47 (1) Section 42 (studies on impact of statutory provisions etc) is amended as follows.
- (2) In subsection (1)—
 - (a) omit “or promote”, and
 - (b) in paragraph (b) for “the Assembly” substitute “the Welsh Ministers”.
 - (3) In subsection (2), for each reference to “the Assembly” substitute “the National Assembly for Wales”.
 - (4) In subsection (3), omit “or promoting”.
 - (5) In subsection (4), for each reference to “Assembly” substitute “Welsh Ministers”.
- 48 In subsection (1) of section 44 (studies at request of local government bodies in Wales), omit “or promote”.
- 49 (1) Section 45 (benefit administration studies for Secretary of State) is amended as follows.

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

- (2) In subsection (7), for the second reference to “the Auditor General for Wales” substitute “the Wales Audit Office”.
- (3) In subsection (8), for “the Auditor General for Wales” substitute “the Wales Audit Office, (but may not exceed the full cost incurred by the Auditor General for Wales in conducting, or assisting the Secretary of State to conduct, the study)”.
- (4) After subsection (8), insert—
- “(9) A fee payable under this section must be charged in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013.”.
- 50 In subsection (2) of section 46 (performance standards: relevant bodies), for “the Assembly” substitute “the Welsh Ministers”.
- 51 In subsection (5) of section 47 (publication of information as to standards of performance), for “The Assembly” substitute “The Welsh Ministers”.
- 52 (1) Section 51 (social security references and reports to Secretary of State) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3), for paragraph (a) substitute—
- “(a) made by him under section 22, and”.
- 53 (1) Section 52 (rights of Auditor General for Wales to documents and information) is amended as follows.
- (2) In subsection (2), in paragraph (c), for “the Assembly” substitute “the Welsh Ministers”.
- (3) Omit subsection (6).
- (4) In subsection (8), for “the Assembly” substitute “the Welsh Ministers”.
- (5) After subsection (8) insert—
- “(9) A statutory instrument containing an order under subsection (2)(c) is (unless a draft of the order has been laid before, and approved by a resolution of the National Assembly for Wales) subject to annulment in pursuance of a resolution of the Assembly.”.
- 54 (1) Section 53 (rights of Auditor General for Wales to documents and information: offences) is amended as follows.
- (2) In paragraph (b) of subsection (3), after “the Auditor General for Wales” insert “or the Wales Audit Office”.
- (3) In subsection (4), after “may be recovered” insert “by the Wales Audit Office”.
- 55 (1) Section 54 (restriction on disclosure of information) is amended as follows.
- (2) In subsection (1), for “or an auditor, or by a person acting on behalf of the Auditor General for Wales or an auditor” substitute “or a person acting on behalf of the Auditor General for Wales by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”.
- (3) In subsection (1)—

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- (a) in paragraph (a), omit “or Part 1 of the [Local Government Act 1999 \(c 27\)](#)”,
and
 - (b) in paragraph (b) omit “or Part 1 of the Local Government Act 1999”.
- (4) In subsection (2)—
- (a) in paragraph (b)—
 - (i) omit “or an auditor”, and
 - (ii) omit “or Part 1 of the Local Government Act 1999”;
 - (b) in paragraph (e), for “the Assembly” substitute “the Welsh Ministers”.
- (5) Omit subsection (2ZB).
- (6) In subsection (2ZC)—
- (a) omit “or (2ZB)”, and
 - (b) omit “or an auditor”.
- (7) Omit subsections (6) to (8).
- 56 (1) Section 54ZA (consent under section 54(2ZC)) is amended as follows.
- (2) In subsection (3), omit “or an auditor”.
 - (3) In subsection (6), for “A person to whom a request for consent is made” substitute “The Auditor General for Wales”.
- 57 In subsection (1) of section 56 (publication of information by Auditor General for Wales), in paragraph (a), omit “by an auditor”.
- 58 In section 58 (orders and regulations), for each reference to “the Assembly” substitute “the Welsh Ministers”.
- 59 In section 59 (interpretation of Part 2), omit subsections (2) and (3).
- 60 In section 61 (audit of Welsh NHS bodies), in paragraph (b) of subsection (2), for “the Assembly” substitute “the National Assembly for Wales”.
- 61 (1) Section 62 (co-operation with Assembly, Audit Commission or CHAI) is amended as follows.
- (2) In paragraph (a) for “the Assembly” substitute “the Welsh Ministers”.
 - (3) Accordingly, the heading of section 62 becomes “Co-operation with Welsh Ministers, Audit Commission or Care Quality Commission”.
- 62 In subsection (1) of section 64A (power to conduct data matching exercises), omit “or arrange for them to be conducted on his behalf”.
- 63 (1) Section 64B (mandatory provision of data) is amended as follows.
- (2) In subsection (1), after “or a person acting on his behalf” insert “by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”.
 - (3) In subsection (4)—
 - (a) after “the Auditor General” insert “or by the Wales Audit Office”, and
 - (b) after “from that body” insert “by the Wales Audit Office”.
- 64 In subsection (1) of section 64C (voluntary provision of data), after “a person acting on his behalf” insert “by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”.

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- 65 (1) Section 64D (disclosure of results of data matching etc) is amended as follows.
- (2) In subsection (2) in paragraph (b), for “an auditor” substitute “the Auditor General”.
- (3) In subsection (6)(b), for sub-paragraph (iv) substitute—
- “(iv) a health and social care body mentioned in paragraphs (a) to (e) of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.”.
- 66 In subsection (4) of section 64E (publication), omit “an auditor or”.
- 67 (1) Section 64F (fees for data matching) is amended as follows.
- (2) Before subsection (1), insert—
- “(A1) The Wales Audit Office may, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013, charge a fee in respect of a data matching exercise undertaken by the Auditor General for Wales.”.
- (3) In subsections (1) and (6) for each reference to “Auditor General for Wales” substitute “Wales Audit Office”.
- (4) In subsection (2), for “the Auditor General” substitute “the Wales Audit Office”.
- (5) In subsections (3), (4), (5) and (8) for each reference to “Auditor General” substitute “Wales Audit Office”.
- (6) In subsection (7), for “the Assembly” substitute “the National Assembly for Wales”.
- (7) After subsection (8) insert—
- “(9) Any terms as to payment agreed by the Wales Audit Office under subsection (8) must be in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013.
- (10) A fee charged under this section may not exceed the full cost of exercising the function to which it relates.”.
- 68 In subsection (4) of section 64G (code of data matching practice), in paragraph (a) for “the Assembly” substitute “the National Assembly for Wales”.
- 69 (1) Section 67A (assistance by Auditor General to inspectorates) is amended as follows.
- (2) In subsection (2), for “the Auditor General for Wales” substitute “the Wales Audit Office”.
- (3) At the end of subsection (2), after the word “agree”, insert “, but any terms as to payment agreed by the Wales Audit Office must be made in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013”.
- (4) After subsection (2), insert—
- “(3) Any sums charged in relation to assistance provided under this section may not exceed the full cost of providing that assistance.”.

Government of Wales Act 2006

- 70 The Government of Wales Act 2006 is amended as follows.

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- 71 In section 37 (power to call), in subsection (1), after “functions” insert “, relevant to the exercise of any of the Auditor General for Wales’ functions, or relevant to the oversight and supervision of the Auditor General for Wales, or to the oversight and supervision of the exercise of any of his or her functions”.
- 72 In subsection (1)(c) of section 120 (destination of receipts), for “the Auditor General” substitute “the Wales Audit Office”.
- 73 In subsection (3)(c) of section 124 (payments out of Welsh Consolidated Fund), for “the Auditor General” substitute “the Wales Audit Office”.
- 74 In subsection (4) of section 129 (approvals to draw), for “the Auditor General” substitute “the Wales Audit Office”.
- 75 In subsection (1) of section 143 (Audit Committee reports), omit paragraph (b).
- 76 (1) Subsection (2) of section 144 (publication of accounts and audit reports etc) is amended as follows.
- (2) In paragraph (b) for “paragraph 14 of Schedule 8” substitute “paragraph 34 of Schedule 1 to the Public Audit (Wales) Act 2013”.
- (3) In paragraph (c) omit “or estimate” and “or paragraph 12(3) of Schedule 8”.
- (4) After paragraph (c) insert—
- “(d) any estimate of income and expenses of the Wales Audit Office laid before the Assembly under section 20(1) of the Public Audit (Wales) Act 2013 (including any modifications made to that estimate under section 20(4) of that Act),
 - (e) any scheme for charging fees laid before the Assembly by the Wales Audit Office under section 24(4)(c) of the Public Audit (Wales) Act 2013,
 - (f) any annual plan laid before the Assembly by the Auditor General and the chair of the Wales Audit Office under section 26 of the Public Audit (Wales) Act 2013,
 - (g) any report laid before the Assembly under paragraph 3(6) of Schedule 2 to the Public Audit (Wales) Act 2013 (reports on the exercise of the functions of the Auditor General and the Wales Audit Office).”.
- 77 (1) Section 145 (Auditor General) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (2) for “the Auditor General see Schedule 8” insert “the Auditor General for Wales or Archwilydd Cyffredinol Cymru (referred to in this Act as “the Auditor General”) see Schedule 8 and the Public Audit (Wales) Act 2013”.
- 78 (1) Schedule 7 (Acts of the Assembly) is amended as follows.
- (2) In the table in paragraph 2(1) (provisions protected from modification by Assembly Act) of Part 2 (general restrictions), after the entry for the “[Re-use of Public Sector Information Regulations 2005 \(S.I. 2005/1505\)](#)” insert—

“[The Public Audit \(Wales\) Act 2013 \(anaw 3\)](#)”

Sections 2(1) to (3), 3(2) to (4), 6(2) to (3) and section 8(1) in so far as that section relates to the Auditor General’s exercise

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of functions free from the direction or control of the Assembly or Welsh Assembly Government.”

(3) After sub-paragraph (2) of paragraph 2, insert—

“(2A) Sub-paragraph (1), so far as it applies in relation to sections 2(1) to (3), 3(2) to (4), 6(2) to (3) and 8(1) of the Public Audit (Wales) Act 2013 does not apply in relation to any provision to which sub-paragraph (4) applies.

(2B) But, subject to sub-paragraph (2C), a provision to which sub-paragraph (4) applies cannot modify or confer power by subordinate legislation to modify section 8(1) of the Public Audit (Wales) Act 2013.

(2C) Sub-paragraph (2B) does not prevent the conferral of functions on a committee of the Assembly that—

- (a) does not consist of or include any of the following persons—
 - (i) the First Minister or any person designated to exercise the functions of the First Minister,
 - (ii) a Welsh Minister appointed under section 48,
 - (iii) the Counsel General or any person designated to exercise the functions of the Counsel General, or
 - (iv) a Deputy Welsh Minister, and
- (b) is not chaired by an Assembly member who is a member of a political group with an executive role.”.

(4) In paragraph 5 (restrictions regarding modification of the Government of Wales Act 2006) of Part 2—

- (a) in sub-paragraph (2)(c), omit “, other than paragraphs 1(1) to (3), 2(2) to (4) and 3”, and
- (b) omit sub-paragraphs (5) and (6).

79 (1) Schedule 8 (Auditor General for Wales) is amended as follows.

(2) Omit paragraphs 1 to 16.

(3) In sub-paragraph (1) of paragraph 17 (access to documents), in paragraph (c), for “Act” substitute “enactment”.

(4) In sub-paragraph (7) of paragraph 17—

- (a) for “Act” substitute “enactment”, and
- (b) at the end of the sub-paragraph, before the full stop, insert “, apart from accounts that fall to be examined under Part 2 of the Public Audit (Wales) Act 2004”.

(5) In paragraph 18 (other powers)—

- (a) in sub-paragraph (1), after “the Welsh Ministers may”, insert “, having first consulted the Wales Audit Office,”, and
- (b) after sub-paragraph (3) insert—

“(3A) But before entering into an agreement under sub-paragraph (3), the Welsh Ministers or a Minister of the Crown (as the case may be) must consult the Wales Audit Office.”.

(6) Omit paragraph 21.

Companies Act 2006

- 80 The Companies Act 2006 is amended as follows.
- 81 In subsection (6) of section 1229 (supervision of Auditors General by the Independent Supervisor), after “to any person” insert “or, in the case of the Auditor General for Wales, for payment by the Wales Audit Office of such a fine”.
- 82 In section 1230 (duties of Auditors General in relation to supervision arrangements), after subsection (3)(b), insert—
- “(c) in the case of expenditure of the Auditor General for Wales, to be regarded as expenditure of the Wales Audit Office for the purposes of section 20 of the Public Audit (Wales) Act 2013.”.

Local Government (Wales) Measure 2009

- 83 The Local Government (Wales) Measure 2009 is amended as follows.
- 84 (1) Section 21 (special inspections) is amended as follows.
- (2) In subsection (4)—
- (a) for “direct the Auditor General to” substitute “request that the Auditor General”, and
- (b) for “direction” substitute “request, unless it is not reasonable to do so”.
- (3) In subsection (5), for “direction” substitute “request”.
- (4) In subsection (6), for “giving a direction” substitute “making a request”.
- (5) In paragraph (b) of subsection (7), for “directed the Auditor General to” substitute “requested that the Auditor General”.
- 85 In section 25 (statement of practice), omit paragraph (b) of subsection (5).
- 86 In section 26 (inspectors’ powers and duties), in subsection (11), for “a member of the Auditor General’s staff or a person providing services to the Auditor General” substitute “or a person exercising the functions of the Auditor General for Wales by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013,”.
- 87 (1) Section 27 (fees) is amended as follows.
- (2) In subsection (1), for “The Auditor General for Wales” substitute “The Wales Audit Office”.
- (3) In subsection (3), for “the Auditor General for Wales” substitute “the Wales Audit Office, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013,”.
- (4) In subsection (4), for the reference to “the Auditor General” and “the Auditor General for Wales” substitute “the Wales Audit Office”.
- (5) After subsection (4) insert—
- “(4A) But a fee charged under this section may not exceed the full cost of exercising the function to which it relates.”.
- (6) In subsection (5), for both references to “the Auditor General” substitute “the Wales Audit Office”.

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- (7) Omit subsection (6).
- 88 After section 27 (fees) insert—
- “27A Welsh Ministers’ power to prescribe a scale of fees**
- (1) The Welsh Ministers may, by regulations, prescribe a scale or scales of fees to have effect instead of a scale or scales prescribed by the Wales Audit Office under section 27(1),
 - (2) A scale of fees prescribed under subsection (1) has effect for the period specified in relation to it in the regulations.
 - (3) Subsection (4) applies if—
 - (a) a scale of fees is prescribed under subsection (1) in place of a scale prescribed by the Wales Audit Office, and
 - (b) the scale prescribed by the Wales Audit Office would otherwise be the appropriate scale for the purposes of section 27(3) and (4).
 - (4) The references to the appropriate scale in section 27(3) and (4) are to be read as references to the scale prescribed under subsection (1).
 - (5) Before making regulations under subsection (1) the Welsh Ministers must consult—
 - (a) the Wales Audit Office,
 - (b) any associations of local government bodies in Wales which appear to the Welsh Ministers to be concerned, and
 - (c) such other persons as they think fit.
 - (6) Regulations made under this section are subject to annulment in pursuance of a resolution of the National Assembly for Wales.”.

Local Democracy, Economic Development and Construction Act 2009

- 89 The Local Democracy, Economic Development and Construction Act 2009 is amended as follows.
- 90 In section 46 (codes of practice), in subsection (4) for “section 16 of the [Public Audit \(Wales\) Act 2004 \(c 23\)](#)” substitute “section 10 of the Public Audit (Wales) Act 2013”.
- 91 (1) Section 50 is amended as follows.
- (2) In subsection (1), for “under this Chapter must pay the appointing audit authority”, substitute “by the Audit Commission under this Chapter must pay the Audit Commission”.
 - (3) After subsection (1), insert—
 - “(1A) An entity in relation to which a person is appointed by the Auditor General for Wales under this Chapter must pay the Wales Audit Office, in accordance with a scheme for charging fees prepared under section 24 of the Public Audit (Wales) Act 2013, a fee in respect of the discharge by that person of any of the functions specified by subsection (2) in relation to the entity.”.

- (4) In subsection (3), for “the audit authority” substitute “the Audit Commission or the Wales Audit Office (as the case may be)”.
- (5) In subsection (4)—
- (a) for the first reference to “this section” substitute “subsection (1)”, and
 - (b) for “the audit authority” substitute “the Audit Commission”.
- (6) After subsection (4), insert—
- “(4A) The amount of a fee payable under subsection (1A) is, subject as follows, to be such as may be specified in or determined under a scale or scales of fees prescribed by the Wales Audit Office for the purposes of this section.
- But a fee charged under subsection (1A) may not exceed the full cost of exercising the function to which it relates.”.
- (7) In subsection (5)—
- (a) for “subsection (4)” substitute “subsection (4) or (4A)”, and
 - (b) for “the audit authority” substitute “the Audit Commission or the Wales Audit Office (as the case may be)”.
- (8) In subsection (6), for “the audit authority” substitute “the Audit Commission or the Wales Audit Office (as the case may be)”.
- (9) Omit subsections (10) and (11).
- (10) In subsection (12)—
- (a) for each reference to “the audit authority” substitute “the Audit Commission or the Wales Audit Office (as the case may be)”;
 - (b) after “subsection (4)”, insert “or (4A) (as the case may be)”.

Equality Act 2010

- 92 In Part 2 of Schedule 19 to the Equality Act 2010 (public authorities: relevant Welsh authorities), under the heading “other public authorities”, insert at the appropriate place “the Wales Audit Office or Swyddfa Archwilio Cymru.”.