



# Public Audit (Wales) Act 2013

2013 anaw 3

## 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

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- (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).
- (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).

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- (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).
- (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.

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## **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—
  - (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—

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- (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).

## **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);

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- (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—

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