

These notes refer to the Budget Responsibility and National Audit Act 2011 (c.4) which received Royal Assent on 22 March 2011

BUDGET RESPONSIBILITY AND NATIONAL AUDIT ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Schedule 5: Consequential Amendments relating to Part 2

Paragraphs 2 to 34

Exchequer and Audit Departments Act 1866

223. *Paragraph 2* repeals sections of the Exchequer and Audit Departments Act 1866 that relate to the appointment and tenure of the C&AG. New provision is made in this Act, in particular in *sections 8, 9 and 11*.

Exchequer and Audit Departments Act 1957

224. *Paragraph 3* repeals the Exchequer and Audit Departments Act 1957. New provision for the C&AG's salary and powers of delegation are made in *section 13* of, and *paragraph 6* of *Schedule 3* to, this Act.

Public Records Act 1958

225. *Paragraph 4* provides for the reference to the NAO in Schedule 1 to the Public Records Act 1958 to be read as a reference to new NAO.

Superannuation Act 1972

226. *Paragraph 6* amends section 13 of the Superannuation Act 1972, which deals with the pension arrangements of the C&AG, so that it will not apply to a C&AG who is appointed under this Act. New pension arrangements are provided for under *section 13*. *Paragraph 7* amends the entry for staff of the NAO in Schedule 1 to the Superannuation Act 1972. This allows NAO employees to continue to be eligible for membership of the Principal Civil Service Pension Scheme. Any entitlement of a member of staff of the NAO who leaves before the creation of new NAO is not affected.

House of Commons Disqualification Act 1975

227. *Paragraph 8* amends Schedule 1 to the House of Commons Disqualification Act 1975. Members of the NAO (including the C&AG) and NAO employees are disqualified from becoming members of the House of Commons.

Northern Ireland Assembly Disqualification Act 1975

228. *Paragraph 9* amends Schedule 1 to the Northern Ireland Assembly Disqualification Act to disqualify NAO members (including the C&AG) and employees from becoming members of the Northern Ireland Assembly.

Parliamentary and other Pensions and Salaries Act 1976

229. *Paragraph 10* omits section 6(3) of the Parliamentary and other Pensions and Salaries Act 1976. Its provisions on the C&AG's salary are superseded by those in *section 13*.

Race Relations Act 1976

230. *Paragraph 11* provides for the C&AG and the new NAO to be subject to the general statutory duty under section 71 of the Race Relations Act 1976. It also provides for continuity between the old and the new structures for things done or in the process of being done. It also provides that the amendments made by *sub-paragraph (1)* cease to have effect when the repeal of the Race Relations Act 1976 by Schedule 27 to the Equality Act 2010 has effect for all purposes.

Interpretation Act 1978

231. *Paragraph 12* amends the definition of Comptroller and Auditor General in Schedule 1 to the Interpretation Act 1978 to remove the reference to appointments made under the Exchequer and Audit Departments Act 1866.

National Audit Act 1983

232. *Paragraph 13* omits a number of sections of the National Audit Act 1983 which are superseded by provisions in this Act. They include provisions on: the appointment process of the C&AG (see *section 11*); the status of the NAO (see *section 20* and *Schedule 2*); and NAO's expenditure and audit (see *section 23* and *paragraph 25* of *Schedule 2*). The repeal of section 3(4) of the 1983 Act does not affect staff of old NAO who cease to be members of PCSPS before the transfer of property, rights and liabilities under *paragraph 1(3)* of *Schedule 4* comes into effect.

Finance Act 1989

233. *Paragraph 14* amends section 182 of the Finance Act 1989 to ensure that an existing offence for disclosing certain types of information (including tax and social security information) held by the C&AG and members of staff of NAO will continue to cover NAO and its employees in relation to the new structure of the NAO. The offence will also continue to apply to the Comptroller and Auditor General for Northern Ireland, and the staff of the Northern Ireland Audit Office.

Social Security Administration Act 1992

234. *Paragraph 15* amends section 123 of the Social Security Administration Act 1992 to ensure that a disclosure offence which protects social security information related to particular persons continues to apply in relation to the new structure of the NAO. The offence also continues to apply to the Comptroller and Auditor General for Northern Ireland and the staff of the Northern Ireland Audit Office.

Taxation of Chargeable Gains Act 1992

235. *Paragraph 16* adds paragraph 4 of Schedule 4 (which provides no gain or loss treatment for a transfer from the C&AG to the new NAO) to a list of "no gain/ no loss provisions" in section 288(3A) of the Taxation of Chargeable Gains Act 1992.

National Lottery etc. Act 1993

236. *Paragraph 17* amends the National Lottery etc. Act 1993 to provide that the National Lottery Commission will continue to be permitted to make disclosures to the C&AG in connection with value for money examinations under Part 2 of the National Audit Act 1983.

Employment Rights Act 1996

237. *Paragraph 18* amends the Employment Rights Act 1996.

Government of Wales Act 1998

238. *Paragraph 19* repeals paragraph 1 of Schedule 12 to the Government of Wales Act 1998. This paragraph amends section 3 of the Exchequer and Audit Departments Act 1866 which is itself being repealed.

Government Resources and Accounts Act 2000

239. *Paragraph 20* amends paragraph 18 of Schedule 1 to the Government Resources and Accounts Act 2000 to omit provisions related to the preparation of the NAO's accounts which have been superseded by those in *paragraphs 24 and 25* of *Schedule 2* to this Act.

Freedom of Information Act 2000

240. *Paragraphs 22 and 23* provide for the continuity of obligations under the Freedom of Information Act 2000 between the old NAO, the new NAO and the C&AG. The new NAO will take on the information obligations of old NAO. It will hold information on behalf of the C&AG under the new structure and be responsible for dealing with requests under that Act.

Public Finance and Accountability (Scotland) Act 2000

241. *Paragraph 24* amends the reference to the NAO in section 26D of the Public Finance and Accountability (Scotland) Act 2000 to take account of the structural change to NAO and thereby ensure that information may continue to be released to the C&AG and the NAO under this section for data-matching purposes.

Constitutional Reform Act 2005

242. *Paragraph 25* omits paragraph 7 of Schedule 6 to the Constitutional Reform Act 2005. This provision is superseded by the new arrangements for delegation of the C&AG's functions in *paragraph 6* of *Schedule 3* to this Act.

Government of Wales Act 2006

243. *Paragraphs 26 to 28* insert references to the NAO into paragraphs 5 and 8 in Parts 2 and 3 of Schedule 5 to the Government of Wales Act 2006, and paragraphs 4 and 7 in Parts 2 and 3 of Schedule 7 to that Act, to reflect the fact that certain functions currently carried out by the C&AG will in future be carried out by the NAO. The National Assembly for Wales will not be able to modify functions of either the C&AG or the NAO without the consent of the Secretary of State.

Companies Act 2006

244. *Paragraph 30* omits section 1230(3)(a) of the Companies Act 2006 which is superseded by the new duty for NAO to provide the C&AG with resources under *paragraph 2* of *Schedule 3* to the Act.

Corporate Manslaughter and Corporate Homicide Act 2007

245. *Paragraph 32* omits the reference to old NAO from Schedule 1 to the Act, but enables proceedings to be taken against old NAO in the event that offences are alleged to have been committed by old NAO before this provision comes into force. The offence in section 1 of the 2007 Act automatically applies to new NAO because it is a body corporate.

Parliamentary Standards Act 2009

246. *Paragraph 33* amends paragraph 1 of Schedule 1 to the Parliamentary Standards Act 2009, which deals with the membership of the Independent Parliamentary Standards Authority. It updates the qualification requirements for the auditor member of the Authority which are based on eligibility to audit the NAO.

Equality

247. *Paragraph 34* amends Part 1 of Schedule 19 of the Equality Act 2010 to include the C&AG. As a public authority specified in Schedule 19, the C&AG will be subject to the public sector equality duty.