

LOCAL AUDIT AND ACCOUNTABILITY ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 2 – Basic Requirements and Concepts

Section 2 and Schedule 2: Relevant authorities

17. **Section 2** defines a “relevant authority” as a body listed in Schedule 2, which in turn lists all the persons and bodies in England to which the provisions apply. The Secretary of State may amend the list of bodies in Schedule 2 and, under section 2, make consequential amendments to any of the provisions in the Act, or make different provision for a body added to the Schedule.
18. **Schedule 13** (discussed below) provides that NHS trusts and trustees of NHS trusts are relevant authorities for the purposes of the Act, until those bodies are abolished under the Health and Social Care Act 2012.

Section 3: General requirements for accounts

19. **Section 3** sets out the general duties of relevant authorities, other than health service bodies as defined in subsection (9), to keep adequate accounting records and to prepare annual statements of accounts for years ending 31 March. Equivalent provision for health service bodies is made under the National Health Service Act 2006 and these provisions are not amended by this Act.
20. The duties set out in section 3 follow the pattern of duties laid on companies and charities by the Companies Act 2006 and the Charities Act 2011, and draw a distinction between the records maintained during the year and the annual published statements. They replace the previous statutory duty on local public bodies to make up their accounts each year to 31 March, a duty which reflected the practice in earlier times of writing the year end accounting statements into the books in which the in-year records were kept. Subsection (8) highlights that section 32 gives a power to make regulations on accounting records and statements of accounts (but not in relation to health service bodies). Subsection (5), taken with subsections (6) and (7), gives a power to vary the period of the financial year for relevant authorities, which will be done by regulations rather than as formerly by direction. This power might be used, for example, if an authority was being wound up at a date other than 31 March. This subsection also allows regulations to exclude or modify the application of the section to specified relevant authorities.

Section 4: General requirements for audit

21. **Section 4** imposes the general requirement that the accounts of a relevant authority must be audited in accordance with the Act or a provision made under it by an auditor appointed by the authority, again in accordance with the Act or a provision made under

it. The section introduces the term “local auditor” to describe an auditor appointed in this way. Subsections (2) to (5) define “accounts” as the term applies to the various categories of relevant authorities.

Section 5: Modification of Act in relation to smaller authorities

22. **Section 5** gives the Secretary of State the power to make provision about the audit of the accounts of smaller authorities (bodies whose gross income and gross expenditure does not exceed £6.5m in a financial year). The regulations may disapply or vary any of the provisions in the Act in relation to smaller authorities (subsection (2)).
23. Regulations may provide for a body specified by the Secretary of State to appoint an auditor on behalf of a smaller authority, make provision about who may be specified, set out procedures for specifying, and de-specifying, such a body, and for arrangements in the event of de-specification for the transfer of the body’s rights and liabilities. Regulations may confer functions on the body specified by the Secretary of State and require consultation before functions are exercised (subsection (4)). Regulations may make provision for smaller authorities to either opt-in or to opt-out of the body specified by the Secretary of State and for the procedures required to opt-in or to opt-out. Regulations may make provision in relation to the payment of fees and provision of information by opted in authorities. In addition, regulations may make provision to enable smaller authorities to pay into a fund to cover auditors’ costs in certain circumstances (subsections (5) and (6)). The regulations may also make provision about the eligibility of an auditor of a smaller authority and about the nature of the audit itself (subsection (7)). Regulations may provide for specified types of smaller authorities (for example, this power may be used in relation to relevant authorities with a turnover under £25k in a financial year) to be exempt from the requirement for external audit and the circumstances under which such exemption would not apply or would cease to apply, for example, where a small authority is new or its auditor issued a public interest report (as to which, see Schedule 7) in the previous financial year (subsection (8)). All smaller authorities will still be required to have an internal audit.

Section 6: Meaning of “smaller authority”

24. Subsection (1) sets out how the definition of a “smaller authority” applies to a body. In order to avoid bodies flipping in and out of being a smaller authority on an annual basis, a body is not classified as a smaller authority if it has exceeded the £6.5m threshold in the year of audit and in the previous two years. If the body hasn’t existed for those three years then either two years or one year is used as appropriate. Subsection (3) allows estimates to be used when determining whether a body falls above or below the £6.5m threshold, as only estimated figures will be available for its gross expenditure and gross income by the 31st December deadline for appointing an auditor. Subsection (4) gives the Secretary of State the power to make regulations to provide for cases where an authority has been treated as a smaller authority for a financial year, but was in fact not a smaller authority for that year. Subsection (5) gives the Secretary of State the power to amend the section.