

# **PUBLIC AUDIT (WALES) ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 1 – Incorporation of Wales Audit Office***

##### ***Paragraph 1 – Membership***

54. This paragraph establishes that the WAO will have 9 members, comprising 5 who are not employees of the WAO (known as ‘non-executive members’), the AGW, and 3 employees of the WAO (known as ‘employee members’).

##### ***Paragraph 2 – Appointment of non-executive and employee members***

55. The appointments of the non-executive and employee members of the WAO are to be made on merit, and a person cannot be appointed (or remain appointed) if they are disqualified on the grounds set out in paragraph 26 of Schedule 1 – see below.

##### ***Paragraph 4 – Appointment of non-executive members***

56. It is for the Assembly to appoint the non-executive members of the WAO, on the basis of a fair and open competition.

##### ***Paragraph 5 – Appointment of chair of the WAO***

57. One of the 5 non-executive members of the WAO is to be appointed as the Chair of the WAO by the Assembly. Before making such an appointment, there must be consultation with the First Minister. There may be consultation with other persons as appropriate.
58. A person cannot be appointed as Chair more than twice.

##### ***Paragraph 6 – Period of appointment and re-appointment***

59. Appointment of the non-executive members and Chair of the WAO is for a maximum of 4 years, and a person cannot be appointed more than twice to these offices.

##### ***Paragraph 7 – Remuneration arrangements***

60. The Assembly may make remuneration arrangements for the Chair of the WAO and the other non-executive members, and such arrangements may include salary, allowances, gratuities, and other benefits (but not pension arrangements). In all cases these arrangements (or elements therein) must not be performance-based.
61. Before the arrangements for the Chair can be made, there must be consultation with the First Minister (paragraph 7(2)). There must also be consultation with an appropriate person with oversight of public appointments (paragraph 9). There may be consultation with other persons as appropriate.
62. The amounts payable for the Chair of the WAO will be charged on the WCF; the amounts payable for the other non-executive members will be met by the WAO.

***Paragraphs 8 and 9 – Other terms of appointment***

63. The Assembly may determine other terms and conditions applicable to the non-executive members of the WAO including the Chair. These agreements or arrangements may include restrictions on the offices and other positions a non-executive member may hold for a period of up to two years after these cease to hold office (paragraph 8)
64. Before making a determination on such terms and conditions there must be consultation with an appropriate person with oversight of public appointments the Assembly considers appropriate (paragraph 9).

***Paragraphs 10 to 12 – Termination of appointments***

65. The Chair and non-executive members of the WAO may resign their offices at any time by giving written notice to the Assembly (paragraph 10).
66. The Assembly may terminate the appointment of a non-executive member of the WAO on the grounds set out in paragraph 11(1). The Assembly may terminate the appointment of the Chair of the WAO (on the grounds set out in paragraph 12(3)), but only after there has been consultation with the First Minister. There may be consultation with other persons also. Termination of the appointment of Chair does not automatically remove him or her from being a non-executive member of the WAO. If the person who is the Chair is subject to termination as a non-executive member then he or she will also lose office as Chair.

***Paragraph 13 – Additional remuneration of the Auditor General***

67. In addition to the arrangements made by the Assembly for remuneration of the AGW (see section 7), the WAO may also make provision for additional payments to be made to the AGW to cover expenses incurred by that person as a member of and chief executive of the WAO. Such payments are to be made by the WAO.

***Paragraphs 14 to 16 – Appointment of employee members***

68. The employee members are to comprise:
  - one person who the AGW must recommend for appointment to the non-executive members of the WAO – the appointed member. The non-executive members must then appoint that person, or require the AGW to recommend another person and so on until someone is appointed; and
  - two persons elected through majority votes by a ballot of the staff of the WAO - the elected members.

***Paragraph 17 – Terms of appointment***

69. The terms of appointment of the employee members must be made by the non-executive members, and may include remuneration arrangements for allowances, gratuities, and other benefits to cover expenses. Such payments are to be made by the WAO. The employee members will continue to receive their salary as employees of the WAO. There is to be no provision for a pension as employee member but if the persons who are members have a pension as a result of being an employee of the WAO then their service as employee members will also count towards that pension entitlement.
70. An employee member's term of office will not be regarded as a break in service of employment by the new WAO.

***Paragraph 18 – Other terms of appointment***

71. The non-executive members may determine other terms of appointment applicable to the appointment of the employee members; such terms may include restrictions on the

offices and other positions the employee members may hold during their appointment and for a period of up to two years after they cease to hold that office.

***Paragraphs 19 to 21 – Termination of appointments***

72. An employee member may resign from that office (but remain an employee of the WAO) at any time by giving written notice to the non-executive members (paragraph 20). Their appointment would also cease at the end of any period of appointment set in their terms of appointment, or if they ceased to be an employee of the WAO.
73. [Paragraph 21](#) of Schedule 1 also provides the process and grounds for the termination of the appointment by the non-executive members.

***Paragraphs 22 to 25 – relating to appointment, status and remuneration***

74. The WAO has, by virtue of paragraph 22, powers to employ and remunerate staff on such terms as it considers appropriate.
75. The WAO will be required to make payments in respect of superannuation benefits and their associated administration costs (paragraph 25(2)).

***Paragraph 26 – Disqualification as member of, or employee of, the WAO***

76. This paragraph prescribes the grounds upon which a person cannot be appointed (or remain appointed) as a member or employee of the WAO.
77. [Paragraph 26\(4\)](#) is needed to ensure that the AGW is not disqualified from being a member of the WAO given that the AGW is appointed by Her Majesty on the nomination of the Assembly.

***Paragraphs 27 to 30 – relating to Procedural Rules***

78. The WAO must make internal rules to regulate its procedures (paragraph 27). The rules must provide for a quorum for any meetings of the WAO (paragraph 28), may provide for setting up of committees of the WAO, and any sub-committees, including provision for regulating the procedures of the committees and sub-committees (paragraph 29) and must include provisions about the conduct of ballots for the purpose of appointing the elected employee members (paragraph 30).
79. See also paragraph 3 of Schedule 3 to the Act which enables the Chair of the WAO to make temporary rules for the determination of the business of the WAO pending the making of the first set of formal rules.

***Paragraph 32 – Delegation of functions***

80. With certain exceptions (as set out in paragraph 32(5)) the WAO may delegate any of its functions to members, employees or committees (including sub-committees) of the WAO, or to persons providing services to the WAO. The delegation of a function does not affect the responsibility of the new WAO for the exercise of the function.

***Paragraph 33 – WAO accounts***

81. This paragraph establishes the AGW as the accounting officer for the WAO. The responsibilities of the accounting officer are set by virtue of paragraph 33(2) to (6).

***Paragraphs 34 and 35 – Audit etc of the WAO***

82. The National Assembly is required to appoint an auditor of the WAO's accounts, and to establish the terms of appointment for that auditor. The WAO may recommend a person for appointment and must pay the auditor the remuneration provided for in the appointment.

*These notes refer to the Public Audit (Wales) Act 2013  
(c.3) which received Royal Assent on 29 April 2013*

83. The auditor will examine and certify the statement of accounts (prepared by the AGW as accounting officer of the WAO), which are to be submitted to the auditor by the Chair of the WAO no later than 5 months after the end of the financial year. Once the statement of accounts has been audited and is certified, the auditor must lay the accounts (as certified) and his or her report on them before the Assembly.
84. Amongst other matters, paragraph 35 empowers the auditor to gather information (including documents) necessary for the purpose of auditing the accounts.
85. [Paragraph 35](#) also enables the auditor to carry out economy, efficiency and effectiveness examinations in relation to the use of resources by the AGW and the WAO in the discharge of their functions; confers power on the auditor to gather information (including documents) for that purpose and provides that in connection with these examinations the auditor may lay a report on the findings before the Assembly.