

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: The Wales Audit Office and its relationship with the Auditor General**

##### ***Section 13 - Incorporation of Wales Audit Office***

25. **Section 13** establishes a new corporate body called the Wales Audit Office (the WAO). This section also gives effect to Schedule 1 which contains provision about the incorporation of the WAO.

##### ***Section 14 and 15 – Powers and Efficiency***

26. **Section 14** provides that the WAO may do anything that facilitates or is incidental or conducive to the exercise of its functions, but the WAO (by virtue of section 15) must aim to carry out its functions efficiently and cost-effectively.

##### ***Section 16 – Relationship with the Auditor General***

27. **Section 16** provides that the AGW is the chief executive of the WAO, but not an employee of it. This section also gives effect to Schedule 2 (Relationship between the Auditor General and the WAO).

##### ***Section 17 – WAO to monitor and provide advice***

28. The WAO must monitor and may advise the AGW in respect of his or her functions; the AGW is under a duty (section 17(3)) to have regard to any such advice.

##### ***Section 18 – Delegation and joint exercise of functions of the Auditor General***

29. **Section 18** enables the functions of the AGW to be carried out by an employee of the WAO or a person providing services to the WAO (for example, those who are contracted to provide audit support services to the AGW), provided the employee or person is authorised to do so in a scheme of delegation and agrees to comply with the AGW's code of audit practice (see section 10(1)). A scheme of delegation will be prepared by the AGW and will describe the conditions of that scheme. Where functions are carried out under the scheme of delegation, the responsibility for them remains with the AGW.
30. The scheme of delegation must be prepared by the AGW (and none other) who must consult the WAO in preparing or revising that scheme.

##### ***Section 19 – Provision of services***

31. **Section 19** enables the WAO to make arrangements to receive administrative, professional or technical services that it or the AGW may need to carry out their respective functions, for example the provision of expert audit services relating to tax. It also enables the WAO to make arrangements with a 'relevant authority' (as defined

in section 19(9)) so that the WAO or AGW can provide those services to a relevant authority, or to exercise the functions of that authority.

32. 'Relevant authority' includes local authorities (in Wales and in England), other public authorities and government departments.
33. The WAO is able to make the arrangements on terms, including relating to payment. If the terms include fees payable to the WAO (for example, for the provision of services by the AGW to a relevant authority), these must be in accordance with the scheme of charges prepared under section 24 (see below).

### ***Section 20 – Expenditure***

34. The AGW and the WAO must jointly prepare an estimate for each financial year (to year ending 31 March) of all of the income and expenditure of the WAO, including in particular the resources needed for the exercise of the AGW's functions. The estimate must be laid before the Assembly for examination and possible modification. The estimate must be laid at least 5 months before the start of the financial year to which it relates.
35. Modifications by the Assembly to the estimate may only be made if the AGW and WAO have been consulted, and any views made by them taken into account.
36. The estimate (modified or otherwise) will be included in the Assembly's Budget Motion under the Standing Orders of the Assembly. The estimate must cover all income and expenditure elements including those relating to the audit of local government bodies and all estimated fees income. (Paragraph 75 of Schedule 4 to this Act repeals paragraph 9(4) of Schedule 8 to the Government of Wales Act 2006 – power for the AGW to retain certain fees income).

### ***Section 21 – Provision of resources for Auditor General's functions***

37. **Section 21** requires the WAO, as the budget-holder, to provide resources to the AGW as required by the AGW so he or she can carry out his or her functions. The resources are, in particular, -
  - staff to assist the AGW;
  - services from any person (for example, external audit or other audit services principally under section 19);
  - holding property, documents or other information; and
  - keeping records relating to the functions of the AGW.

### ***Section 22 – Borrowing***

38. This section enables the WAO to borrow money, by way of an overdraft or otherwise, to meet a temporary excess of expenditure. A power to borrow is not available to the AGW.

### ***Section 23 and 24 – relating to Fees***

39. **Section 23** enables the WAO to charge fees for audits and audit-related functions carried out by the AGW, and any services provided by the AGW, in accordance with a scheme for charging fees prepared by the WAO. The fees charged may not exceed the full cost of providing the services in question and are payable to the WAO.
40. Under section 24 the WAO's scheme must identify the enactments enabling it to charge a fee in accordance with any prescribed amount or any scale of fees as the case may be. But where an enactment makes no provision for a scale or an amount, the WAO must identify its basis for calculating the fee. This section also provides for the Welsh

Ministers to prescribe certain scales of fees and where that is so, the WAO must comply with the scales prescribed. The WAO must review its scheme at least once in every calendar year and lay its scheme (and any revision of it) before the Assembly for approval. The scheme takes effect when approved by the Assembly following which the WAO must publish it.

***Section 25 to 27 – relating to the Annual Plan***

41. The AGW and the WAO must jointly prepare an annual plan. The annual plan must set out the planned work for both the AGW and the WAO; the resources available, and which may become available to the WAO; and how those resources are to be used to achieve their planned work (section 25 (2)).
42. The annual plan must also include the maximum resources that it is anticipated will be allocated by the WAO to the AGW for the purpose of undertaking the AGW's programme of work (section 25(2)(f)).
43. Although neither the AGW nor WAO are bound by the annual plan, they must have regard to it (section 27). That means in exercising their functions (including the provision of resources required by the AGW) both the AGW and the WAO must give the annual plan the appropriate weight in all the circumstances. If other unforeseen work arises then the need for that work to be done (and its resource implications) must be properly balanced against the planned work (and resources allocated for that).
44. The annual plan must be jointly prepared by the AGW and the WAO before the start of the financial year in which that work is to be carried out (section 25(1)). Once prepared it must be laid before the Assembly (section 26) and the Assembly will be under a duty to publish it by virtue of section 144 of the Government of Wales Act 2006 (as amended by paragraph 73 of Schedule 4 to this Act).