

SCHEDULES

SCHEDULE 1

Section 50

BEST VALUE AUDIT AND INSPECTIONS

- 1 The Local Government Act 1999 (c. 27) is amended as follows.
- 2 In section 1 (best value authorities) after subsection (5) insert—
 - “(6) For the purposes of this Part each of these is a best value authority in Wales—
 - (a) a local authority in Wales;
 - (b) a National Park authority for a National Park in Wales;
 - (c) a police authority for a police area in Wales;
 - (d) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies.
 - (7) In subsection (6) “local authority in Wales” means a county council, county borough council or community council in Wales.”
- 3 After section 2 insert—

“2A Power to extend or disapply: best value authorities in Wales

 - (1) The National Assembly for Wales may by order provide that any of the bodies mentioned in subsection (2) is a best value authority in Wales for the purposes of this Part.
 - (2) The bodies are—
 - (a) a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988;
 - (b) a body to which section 75 of that Act applies (special levies).
 - (3) An order under subsection (1) providing for a body to be a best value authority in Wales may provide for section 7 to have effect in relation to that body with specified modifications.
 - (4) The National Assembly for Wales may by order provide that a best value authority in Wales specified, or of a description specified, in the order is not to be subject, in relation to such functions as may be specified, to a duty—
 - (a) which is specified in the order, and
 - (b) to which the authority would otherwise be subject under this Part.”
- 4 (1) Section 4 (performance indicators and standards) is amended as follows.
 - (2) In subsection (4)(b) for “Audit Commission” substitute “relevant audit authority”.
 - (3) After subsection (5) insert—
 - “(6) The relevant audit authority is—

Status: This is the original version (as it was originally enacted).

- (a) in relation to best value authorities in Wales, the Auditor General for Wales;
 - (b) in relation to other best value authorities, the Audit Commission.”
- 5 (1) Section 7 (audit) is amended as follows.
- (2) In subsection (3) at the beginning insert “If an authority’s auditor is appointed by the Audit Commission,” and for “an auditor's” substitute “the auditor's”.
- (3) After subsection (3) insert—
- “(3A) If an authority’s auditor is appointed by the Auditor General for Wales, sections 18 and 19 of the Public Audit (Wales) Act 2004 (auditor’s rights to documents and information) shall have effect in relation to the auditor’s functions under this Part as those sections have effect in relation to his functions under Chapter 1 of Part 2 of that Act.”
- (4) In subsection (4)(e) at the beginning insert “if the auditor is appointed by the Audit Commission,”.
- (5) In subsection (4) after “section 10,” insert—
- “(ea) if the auditor is appointed by the Auditor General for Wales, recommending whether the Auditor General for Wales should carry out a best value inspection of the authority under section 10A,”.
- (6) In subsection (5)(b) at the beginning insert “if the auditor is appointed by the Audit Commission,”.
- (7) In subsection (5) after “Audit Commission,” insert—
- “(ba) if the auditor is appointed by the Auditor General for Wales, to the Auditor General for Wales,”.
- (8) In subsection (7)—
- (a) for “reference in subsection (1)” substitute “references in subsections (1), (3) and (3A)”;
 - (b) for “is” substitute “are”;
 - (c) for “a reference” substitute “references”.
- (9) In subsection (8)(a) at the beginning insert “if he was appointed by the Audit Commission,”.
- (10) In subsection (8) after “Audit Commission Act 1998,” insert—
- “(aa) if he was appointed by the Auditor General for Wales, is no longer eligible for appointment under section 14 of the Public Audit (Wales) Act 2004,”.
- (11) In subsection (8) for the words after paragraph (b) substitute “the references in subsections (1), (3) and (3A) to the authority’s auditor are, in respect of that financial year, references to the auditor or auditors appointed in accordance with subsection (8A).”
- (12) After subsection (8) insert—
- “(8A) The auditor or auditors shall be appointed—
- (a) by the Auditor General for Wales, if the authority is a best value authority in Wales;

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(b) by the Audit Commission, in any other case.

(8B) Section 14 of the Public Audit (Wales) Act 2004 shall apply to an appointment under subsection (8A)(a) as if it were an appointment of a person to audit the authority's accounts under section 13 of that Act."

(13) In subsection (9) for "subsection (8)" substitute "subsection (8A)(b)".

6 Omit section 8(1) (auditor to have regard to code of practice under section 8).

7 After section 8 insert—

"8A Code of practice and fees: Auditor General for Wales

- (1) The Auditor General for Wales may prepare, and keep under review, a code of practice prescribing the way in which auditors appointed by him are to carry out their functions under section 7.
- (2) Section 16(2) to (9) of the Public Audit (Wales) Act 2004 (code of audit practice) shall have effect in relation to a code of practice under this section.
- (3) The Auditor General for Wales shall prescribe a scale or scales of fees in respect of the audit of performance plans which are required to be audited in accordance with this Part by auditors appointed by him.
- (4) Sections 20(4) to (6) and 21(1) to (4) of the Public Audit (Wales) Act 2004 (fees for audit) shall have effect in relation to fees under subsection (3).
- (5) Before prescribing a scale of fees under subsection (3) the Auditor General for Wales shall consult—
 - (a) the Assembly, and
 - (b) persons appearing to the Auditor General for Wales to represent best value authorities in Wales.

8B Auditor's duty in relation to codes

- (1) An auditor appointed by the Audit Commission who is carrying out an audit of an authority's performance plan under section 7 shall have regard to any provisions of a code of practice under section 8 which—
 - (a) are applicable to the audit, and
 - (b) are in force.
- (2) An auditor appointed by the Auditor General for Wales who is carrying out an audit of an authority's performance plan under section 7 shall have regard to any provisions of a code of practice under section 8A which—
 - (a) are applicable to the audit, and
 - (b) are in force.
- (3) Subsection (4) applies at any time before there are provisions of a code of practice under section 8A to which an auditor appointed by the Auditor General for Wales is required under subsection (2) to have regard in carrying out an audit of an authority's performance plan under section 7.
- (4) The auditor shall have regard to any provisions of a code of practice under section 8 which—

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(a) are applicable to an audit of a performance plan published by an authority of a corresponding description to the authority, and

(b) are in force.”

8 In section 10 (inspections by Audit Commission) after subsection (4) insert—

“(5) The preceding provisions of this section do not apply in relation to a best value authority in Wales.”

9 After section 10 insert—

“10A Inspections: Auditor General for Wales

(1) The Auditor General for Wales may carry out an inspection of the compliance with the requirements of this Part by a best value authority in Wales.

(2) If the Secretary of State directs the Auditor General for Wales to carry out an inspection of the compliance with the requirements of this Part by a specified best value authority in Wales in relation to specified functions, the Auditor General for Wales shall comply with the direction.

(3) Before giving a direction under subsection (2) the Secretary of State shall consult the Auditor General for Wales.

(4) In carrying out an inspection, and in deciding whether to do so, the Auditor General for Wales shall have regard to—

(a) any relevant recommendation under section 7(4)(ea), and

(b) any guidance issued by the Secretary of State.”

10 In section 11 (inspectors' powers and duties) for subsection (7) substitute—

“(7) In this section “inspector” means—

(a) an officer, servant or agent of the Audit Commission carrying out an inspection under section 10;

(b) the Auditor General for Wales, a member of his staff or a person providing services to him who is carrying out an inspection under section 10A.”

11 In section 12 (fees in respect of inspections under section 10), in subsection (4)(b) after “authorities” insert “which may be inspected under section 10”.

12 After section 12 insert—

“12A Fees: inspections under section 10A

(1) The Auditor General for Wales shall prescribe a scale or scales of fees in respect of inspections carried out under section 10A.

(2) An authority inspected under section 10A shall, subject to subsection (3), pay to the Auditor General for Wales the fee applicable to the inspection in accordance with the appropriate scale.

(3) If it appears to the Auditor General for Wales that the work involved in a particular inspection was substantially more or less than that envisaged by the appropriate scale, the Auditor General for Wales may charge a fee which is larger or smaller than that referred to in subsection (2).

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- (4) Before prescribing a scale of fees under this section the Auditor General for Wales shall consult—
- (a) the Secretary of State, and
 - (b) persons appearing to the Auditor General for Wales to represent best value authorities in Wales.”

13 After section 13 insert—

“13A Reports of inspections under section 10A

- (1) Where the Auditor General for Wales has carried out an inspection of an authority under section 10A he shall issue a report.
- (2) A report—
- (a) shall mention any matter in respect of which the Auditor General for Wales believes as a result of an inspection that the authority is failing to comply with the requirements of this Part, and
 - (b) may, if it mentions a matter under paragraph (a), recommend that the Secretary of State give a direction under section 15.
- (3) The Auditor General for Wales—
- (a) shall send a copy of a report to the authority concerned, and
 - (b) may publish a report and any information in respect of a report.
- (4) If a report recommends that the Secretary of State give a direction under section 15, the Auditor General for Wales shall as soon as reasonably practicable—
- (a) arrange for the recommendation to be published, and
 - (b) send a copy of the report to the Secretary of State.
- (5) If a report states that the Auditor General for Wales believes as a result of an inspection that an authority is failing to comply with the requirements of this Part, the next performance plan prepared by the authority under section 6 must record—
- (a) that fact, and
 - (b) any action taken by the authority as a result of the report.”

14 (1) Section 23 (regulations about accounts) is amended as follows.

(2) In subsection (4) before paragraph (a) insert—

“(za) if the regulations make provision in relation to best value authorities in Wales, the Auditor General for Wales,”.

(3) In subsection (4)(a), at the beginning insert “if the regulations make provision in relation to other best value authorities,”.

15 In section 25 (coordination of inspections etc.), in subsection (2) after paragraph (a) insert—

“(aa) the Auditor General for Wales;”.

16 In section 26 (guidance issued by Secretary of State), after subsection (3) insert—

Status: This is the original version (as it was originally enacted).

“(3A) Before issuing guidance under section 10A the Secretary of State shall, in addition to the consultation required by subsection (2)(c) above, consult the Auditor General for Wales.”

- 17 In section 33(3) (grants by National Assembly for Wales) after “make grants to” insert “(a)” and after “this Act” insert “;
- (b) the Auditor General for Wales in respect of expenditure incurred or to be incurred by him under this Act”.