

*Changes to legislation:* There are currently no known outstanding effects for the Budget Responsibility and National Audit Act 2011, SCHEDULE 3. (See end of Document for details)

## SCHEDULES

### SCHEDULE 3

Section 22

#### RELATIONSHIP BETWEEN NAO AND COMPTROLLER AND AUDITOR GENERAL

##### *Strategy*

- 1 (1) NAO and the Comptroller and Auditor General must jointly—
- (a) prepare a strategy for the national audit functions, and
  - (b) review the strategy (and revise it as appropriate) at least once every 12 months.
- “The national audit functions” means NAO's functions and the Comptroller and Auditor General's functions.
- (2) The strategy must—
- (a) for the period for the time being covered by it, include a plan for the use of resources for the national audit functions;
  - (b) for each financial year for the time being covered by it, specify the maximum amount of resources to be provided by NAO for the purposes of paragraph 2(1).
- (3) The strategy (including any revision) must be approved by the Public Accounts Commission.
- (4) For this purpose the person who chairs NAO and the Comptroller and Auditor General must jointly submit the strategy (or revision) to the Commission.
- (5) Before approving the strategy (or revision) the Commission must review it and may modify it.
- (6) In doing this the Commission must have regard to any advice given by the Treasury.
- (7) NAO and the Comptroller and Auditor General must each give effect to the strategy.

##### **Commencement Information**

**11** Sch. 3 para. 1 in force at 1.1.2012 by S.I. 2011/2576, art. 3(e)(i) (with art. 4)

##### *NAO to provide resources for the Comptroller and Auditor General's functions*

- 2 (1) NAO must provide resources for the Comptroller and Auditor General's functions as required by the Comptroller and Auditor General.
- (2) In particular, NAO is responsible for—
- (a) employing staff to assist in the carrying out of those functions,
  - (b) procuring services for the purposes of those functions,

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- (c) holding documents or information acquired or generated in the course of, or otherwise for the purposes of, those functions (see, further, paragraph 13), and
  - (d) keeping records in relation to those functions, as required by the Comptroller and Auditor General.
- (3) For any financial year the maximum amount of resources that the Comptroller and Auditor General may require for the purposes of sub-paragraph (1) is the maximum amount specified for that year under paragraph 1(2)(b).
- (4) Sub-paragraph (1) is also subject to paragraph 3.

**Commencement Information**

- I2** Sch. 3 para. 2(1)(3)(4) in force in so far as not already in force at 1.4.2012 by [S.I. 2011/2576, art. 5](#)
- I3** Sch. 3 para. 2(1)(3)(4) in force for specified purposes at 1.1.2012 by [S.I. 2011/2576, art. 3\(f\)](#) (with art. 4)
- I4** Sch. 3 para. 2(2) in force at 1.4.2012 by [S.I. 2011/2576, art. 5](#)

*Provision of certain services by Comptroller and Auditor General to require NAO's approval*

- 3 (1) The Comptroller and Auditor General may provide services that are not within sub-paragraph (2) only with NAO's approval.
- (2) The services within this sub-paragraph are services provided by the Comptroller and Auditor General—
- (a) to NAO by virtue of Schedule 2 to this Act,
  - (b) that are part of, or are incidental to, the Comptroller and Auditor General's functions under the following Acts—
    - (i) the Exchequer and Audit Departments Act 1866,
    - (ii) the Exchequer and Audit Departments Act 1921,
    - (iii) the National Loans Act 1968,
    - (iv) the National Audit Act 1983, and
    - (v) the Government Resources and Accounts Act 2000, or
  - (c) that consist of, or are incidental to, an audit, examination or inspection that the Comptroller and Auditor General is required or authorised to carry out by a statutory provision, other than section 1226 of the Companies Act 2006 (eligibility for appointment as a statutory auditor) and any provision of this Part of this Act.
- (3) If NAO approves the provision of any services under sub-paragraph (1), it is for NAO to determine the maximum amount of resources that the Comptroller and Auditor General may require for the services for the purposes of paragraph 2(1).
- (4) In this Schedule “NAO-approved services” means services provided with NAO's approval under sub-paragraph (1).

**Commencement Information**

- I5** Sch. 3 para. 3 in force in so far as not already in force at 1.4.2012 by [S.I. 2011/2576, art. 5](#)
- I6** Sch. 3 para. 3 in force for specified purposes at 1.1.2012 by [S.I. 2011/2576, art. 3\(f\)](#) (with art. 4)

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*Changes to legislation: There are currently no known outstanding effects for the Budget Responsibility and National Audit Act 2011, SCHEDULE 3. (See end of Document for details)*

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*NAO to monitor and provide advice*

- 4 NAO must, in such manner as it considers appropriate, monitor the carrying out of the Comptroller and Auditor General's functions.

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**Commencement Information**

**I7** Sch. 3 para. 4 in force at 1.4.2012 by S.I. 2011/2576, art. 5

- 5 (1) NAO may provide advice to the Comptroller and Auditor General about the Comptroller and Auditor General's functions.
- (2) The Comptroller and Auditor General must have regard to any advice given.

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**Commencement Information**

**I8** Sch. 3 para. 5 in force at 1.4.2012 by S.I. 2011/2576, art. 5

*Delegation of Comptroller and Auditor General's functions*

- 6 (1) The Comptroller and Auditor General may prepare a scheme for the delegation of functions of that office to employees of NAO.
- (2) The scheme (including any revision) must be approved by the Public Accounts Commission.
- (3) If the Commission approves the scheme (or any revision), the Comptroller and Auditor General may delegate functions in accordance with it.
- (4) A delegation does not prevent the Comptroller and Auditor General from doing anything personally.

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**Commencement Information**

**I9** Sch. 3 para. 6(1)(2) in force at 1.1.2012 by S.I. 2011/2576, art. 3(e)(ii) (with art. 4)

**I10** Sch. 3 para. 6(3)(4) in force at 1.4.2012 by S.I. 2011/2576, art. 5

*Comptroller and Auditor General: vacancy or incapacity*

- 7 (1) This paragraph applies if the office of Comptroller and Auditor General is vacant.
- (2) This paragraph also applies if—
- (a) the Speaker of the House of Commons certifies to that House that, in the view of the Speaker, the ability of the person who is Comptroller and Auditor General to carry out the functions of that office is seriously impaired because of ill health (whether mental or physical), and
- (b) this paragraph has not previously applied in relation to that person.
- (3) NAO may, with the agreement of the Public Accounts Commission, authorise an employee of NAO to carry out the Comptroller and Auditor General's functions during the vacancy or period of ill health.
- (4) The “period of ill health” means the period—

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- (a) starting when the Speaker of the House of Commons certifies to that House as mentioned in sub-paragraph (2)(a), and
  - (b) ending when the Speaker certifies to that House that, in the view of the Speaker, the person's ability to carry out the functions of the Comptroller and Auditor General is no longer seriously impaired because of ill health.
- (5) The functions to which sub-paragraph (3) applies include the function of delegating under paragraph 6.
- (6) In relation to a vacancy or period of ill health of more than 6 months, functions may not be carried out by virtue of sub-paragraph (3) after the end of the first 6 months.

**Commencement Information**

**I11** Sch. 3 para. 7 in force at 1.4.2012 by S.I. 2011/2576, art. 5

*Audit fees etc*

- 8 (1) NAO may charge fees for audits carried out by the Comptroller and Auditor General.
- (2) Any fees must be charged in accordance with a scheme prepared by NAO.
- (3) The scheme (including any revision) must be approved by the Public Accounts Commission.
- (4) The agreement of a Minister of the Crown is required for the charging of a fee if the accounts to be audited are the accounts of a body or other person who acts on behalf of the Crown.
- (5) Sub-paragraphs (1) to (4) do not apply in relation to an audit carried out as part of any NAO-approved services.
- (6) The Comptroller and Auditor General may charge fees and other amounts in relation to NAO-approved services, but only in accordance with the agreement or other arrangements under which the services are provided.
- (7) Fees and other amounts received by the Comptroller and Auditor General must be paid to NAO.
- (8) Fees and other amounts received by NAO under this paragraph must be paid into the Consolidated Fund.

**Commencement Information**

**I12** Sch. 3 paras. 8(1)-(3) in force in so far as not already in force at 1.4.2012 by S.I. 2011/2576, art. 5

**I13** Sch. 3 paras. 8(1)-(3) in force for specified purposes at 1.1.2012 by S.I. 2011/2576, art. 3(g) (with art. 4)

**I14** Sch. 3 paras. 8(4)-(8) in force at 1.4.2012 by S.I. 2011/2576, art. 5

*Reports*

- 9 (1) NAO and the Comptroller and Auditor General must, as soon as practicable after the end of each financial year, jointly prepare a report on the carrying out during the year of the national audit functions (see paragraph 1(1)).

*Changes to legislation:* There are currently no known outstanding effects for the Budget Responsibility and National Audit Act 2011, SCHEDULE 3. (See end of Document for details)

- (2) The person who chairs NAO and the Comptroller and Auditor General must jointly submit the report to the Public Accounts Commission.
- (3) The Commission must lay the report before Parliament.

**Commencement Information**

**I15** Sch. 3 para. 9 in force at 1.4.2012 by S.I. 2011/2576, art. 5

*Code of practice*

- 10 (1) NAO and the Comptroller and Auditor General must jointly prepare a code of practice dealing with the relationship between NAO and the Comptroller and Auditor General.
- (2) In doing this, they must (in particular) seek to reflect the principle set out in section 17(1) and (2), subject to any limitations on that principle that are agreed between the Public Accounts Commission, NAO and the Comptroller and Auditor General.
- (3) NAO and the Comptroller and Auditor General must jointly review the code regularly and revise it as appropriate.
- (4) In preparing or revising the code, they must consult the Treasury.
- (5) They must also consider any proposals for revisions of the code made by the Commission from time to time.
- (6) The code (including any revision) must be approved by the Commission.
- (7) For this purpose, the person who chairs NAO and the Comptroller and Auditor General must jointly submit the code (or revision) to the Commission.
- (8) If the Commission approves the code (or revision), the Commission must lay it before Parliament (stating the time from which it takes effect).
- (9) NAO and the Comptroller and Auditor General must each comply with the code.

**Commencement Information**

**I16** Sch. 3 para. 10 in force at 1.1.2012 by S.I. 2011/2576, art. 3(e)(iii) (with art. 4)

- 11 (1) For the purposes of preparing or revising the code, the NAO must agree to the code (including any revision) in accordance with this paragraph.
- (2) The agreement must be given at a meeting of NAO.
- (3) The agreement may be given only if at least one half of the non-executive members present and voting on the matter vote in favour of giving the agreement.
- (4) The requirements of this paragraph are in addition to any other requirements relating to NAO's procedure.

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**Commencement Information**

**I17** Sch. 3 para. 11 in force at 1.1.2012 by S.I. 2011/2576, art. 3(e)(iii) (with art. 4)

- 12 (1) The code must include—
- (a) provision as to how the strategy required by paragraph 1 is to be prepared, reviewed and revised;
  - (b) provision about the matters to be covered by the strategy and the periods to be covered by it from time to time;
  - (c) provision as to how resources are to be provided for the purposes of paragraph 2(1);
  - (d) provision about the preparation of estimates for the purposes of section 23;
  - (e) provision as to how NAO is to make decisions for the purposes of paragraph 3;
  - (f) provision as to how NAO is to monitor the Comptroller and Auditor General's functions for the purposes of paragraph 4;
  - (g) provision as to how advice is to be given by NAO for the purposes of paragraph 5, including the nature of the advice to be given;
  - (h) provision as to how the Comptroller and Auditor General is to charge fees and other amounts under paragraph 8;
  - (i) provision about the extent to which NAO's functions are to be delegated to the Comptroller and Auditor General (see paragraph 23 of Schedule 2);
  - (j) provision restricting the public comments that a non-executive member of NAO may make in relation to the carrying out of the Comptroller and Auditor General's functions.
- (2) The code may also make provision about—
- (a) the way in which reports required by paragraph 9 are to be prepared and the matters to be covered by those reports;
  - (b) matters about which NAO or the Comptroller and Auditor General (or both) are to consult the Public Accounts Commission from time to time;
  - (c) standards for corporate governance.
- (3) This paragraph is not exhaustive as regards the matters that may be covered by the code.

**Commencement Information**

**I18** Sch. 3 para. 12 in force at 1.1.2012 by S.I. 2011/2576, art. 3(e)(iii) (with art. 4)

*Documents and information*

- 13 (1) Any document or information which a person is required to provide, or may provide, to the Comptroller and Auditor General, may be provided to NAO (either by that person or the Comptroller and Auditor General).
- (2) For the purposes of section 3(2) of the Freedom of Information Act 2000 any document or information held by NAO as mentioned in paragraph 2(2)(c) is treated as held by NAO on its own behalf.

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- (3) The documents and information to be held by NAO as mentioned in paragraph 2(2) (c) include documents and information previously held by the National Audit Office established by section 3 of the National Audit Act 1983.

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**Commencement Information**

**I19** Sch. 3 para. 13 in force at 1.4.2012 by S.I. 2011/2576, art. 5

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