

**2009 No. 3322**

**LOCAL GOVERNMENT, ENGLAND**

**The Accounts and Audit (Amendment No. 2) (England)  
Regulations 2009**

<i>Made</i> - - - -	<i>16th December 2009</i>
<i>Laid before Parliament</i>	<i>18th December 2009</i>
<i>Coming into force</i> - -	<i>31st March 2010</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 27 of the Audit Commission Act 1998(a) and section 134(6) of the Greater London Authority Act 1999(b).

In accordance with section 27(3) of the Audit Commission Act 1998, the Secretary of State has consulted with the Audit Commission, such local authorities as appeared to him to be concerned, and such bodies of accountants as appeared to him to be appropriate.

**Citation and application**

1.—(1) These Regulations may be cited as the Accounts and Audit (Amendment No. 2) (England) Regulations 2009.

(2) These Regulations apply to relevant bodies(c) in England only.

**Commencement**

2.—(1) Subject to paragraph (3), these Regulations come into force on 31<sup>st</sup> March 2010.

(2) Paragraph (3) applies where, by virtue of an agreement entered into before, and continuing in force until on or after the date on which these Regulations are made, between a relevant body and—

- (a) a senior employee, or
- (b) a relevant police officer,

there is a duty of confidentiality owed by the relevant body in relation to the remuneration paid to or received by the senior employee or relevant police officer.

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(a) 1998 c. 18. The Secretary of State's functions under section 27, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers immediately after the end of the initial period as defined by section 161(5) of that Act.

(b) 1999 c. 29. Section 134(6) provides that section 27 of the Audit Commission Act 1998 applies in relation to a summary statement of accounts required under section 134 of the 1999 Act as it applies in relation to accounts or statements of accounts.

(c) 'Relevant body' is defined in regulation 2 of the Accounts and Audit Regulations 2003 (S.I. 2003/533).

(3) Where this paragraph applies, the amendments made by regulation 4 of these Regulations to regulation 7 of the Accounts and Audit Regulations 2003<sup>(a)</sup> do not come into force until 1<sup>st</sup> April 2010, in so far as those amendments would require a breach of the duty of confidentiality owed by the relevant body, under the agreement by virtue of which this paragraph applies, in relation to remuneration to be included in the accounts of the relevant body.

(4) In this regulation, “senior employee”, “relevant police officer” and “remuneration” have the meaning given to those expressions by paragraph (2A) which is inserted into regulation 7 of the Accounts and Audit Regulations 2003 by regulation 3 of these Regulations.

### **Amendment of the Accounts and Audit Regulations 2003**

3. The Accounts and Audit Regulations 2003 are amended as set out in regulation 4.

### **Declaration of remuneration**

4.—(1) Regulation 7 (statement of accounts)<sup>(b)</sup> is amended as follows.

(2) At the end of paragraph (2)(a), remove “and”.

(3) In paragraph (2)(b)—

- (a) at the beginning insert “except in relation to persons to whom paragraph (c) applies, ”;
- (b) after “employees”, insert “or senior police officers”;
- (c) for “£10,000” substitute “£5,000”; and
- (d) omit the words occurring after “£50,000;”.

(4) After paragraph (2)(b), insert—

“(c) the remuneration, set out according to the categories listed in paragraph (d), by the relevant body during the relevant financial year of—

- (i) senior employees, or
- (ii) relevant police officers,

in respect of their employment by the relevant body or in their capacity as a police officer, whether on a permanent or temporary basis, to be listed individually in relation to such persons who must nevertheless be identified by way of job title only (except for persons whose salary is £150,000 or more per year, who must also be identified by name).

(d) the categories are:

- (i) the total amount of salary, fees or allowances paid to or receivable by the person in the current and previous financial year;
- (ii) the total amount of bonuses so paid or receivable in the current and previous financial year;
- (iii) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax, and were paid to or receivable by the person;
- (iv) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the termination of their employment by the relevant body, or, in the case of a relevant police officer, the total amount of any payment made to a relevant police officer who ceases to hold office before the end of a fixed term appointment;
- (v) the relevant body’s contribution to the person’s pension;

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(a) S.I. 2003/533, amended by S.I. 2004/566, 2004/3168, 2006/564, 2006/2914, 2008/912 and 2009/473.

(b) Regulation 7 was amended by S.I. 2004/556 and 2006/564.

- (vi) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within (i) to (iv) above, are emoluments of the person, and are received by the person in respect of their employment by the relevant body or in their capacity as a police officer; and
- (vii) in relation to relevant police officers, any payments, whether made under the Police Regulations 2003(a) or otherwise, which do not fall within (i) to (vi) above.

(2A) In this regulation—

“contribution to the person’s pension” means an amount to be calculated as follows—

- (a) in relation to contributions to the local government pension scheme established under section 7 of the Superannuation Act 1972(b), the sum of—
  - (i) the common rate of employer’s contribution specified in a rates and adjustments certificate prepared under regulation 36 (actuarial valuations and certificates) of the Local Government Pension Scheme (Administration) Regulations 2008(c), being the amount appropriate for that body calculated in accordance with the certificate and regulation 39(4) (employer’s contributions) of those Regulations, multiplied by the person’s pensionable pay; and
  - (ii) if applicable, the appropriate sum within the meaning of regulation 40(d) (employer’s payment following resolution to increase membership or award additional pension) of those Regulations;
- (b) in relation to contributions to the firefighters’ pension scheme established under the Fire Services Acts 1947 and 1959(e), the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraph G2(3) and (4) of Schedule 2 to the Firemen’s Pension Scheme Order 1992(f), multiplied by the person’s pensionable pay;
- (c) in relation to contributions to the firefighters’ pension scheme established under the Fire and Rescue Services Act 2004(g), the percentage of the aggregate of the pensionable pay calculated for the purposes of paragraphs (2) and (3) of Rule 2 of Part 13 of Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006(h), multiplied by the person’s pensionable pay;
- (d) in relation to contributions to police pension schemes established under the Police Pensions Regulations 1987(i) or the Police Pensions Regulations 2006(j), the percentage of pensionable pay specified in regulation 5(1) of the Police Pension Fund Regulations 2007(k), multiplied by the person’s pensionable pay;

“employee” includes a member of the relevant body, and a holder of an office under the relevant body, but does not include a person who is an elected councillor, and “employment” is to be construed accordingly;

“relevant police officer” means—

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(a) S.I. 2003/527.  
 (b) 1972 c. 11.  
 (c) S.I. 2008/239.  
 (d) Regulation 40 was substituted by S.I. 2009/3150.  
 (e) 1947 c.41 and 1959 c.44. Both these Acts have been repealed by the Fire and Rescue Services Act 2004 (c. 21) which contained savings in respect of pension schemes established under them.  
 (f) SI 1992/129. Paragraphs G2(3) and (4) were inserted by article 2 of, and paragraph 38(b) of Schedule 1 to, the Firefighters’ Pension Scheme (Amendment) (England) Order 2006 (SI 2006/1810). Article 4 of the Firefighters’ Pension Scheme (England and Scotland) Order 2004 (SI 2004/2306) changed the name of the scheme from “Firemen’s Pension Scheme” to “Firefighters’ Pension Scheme”.  
 (g) 2004 c. 21.  
 (h) S.I. 2006/3432.  
 (i) S.I. 1987/257.  
 (j) SI 2006/3415.  
 (k) SI 2007/1932. Regulation 5(1) was amended by regulations 42 and 46 of the Police Pensions (Amendment) Regulations 2008 (S.I. 2008/1887).

- (a) in relation to a police force maintained under section 2 of the Police Act 1996<sup>(a)</sup>, the chief constable,
- (b) in relation to the metropolitan police force, the Commissioner of Police of the Metropolis,
- (c) in relation to the City of London police force, the Commissioner of Police for the City of London, and
- (d) any other senior police officer whose salary is £150,000 per year or more;

“remuneration” means all amounts paid to or receivable by a person, and includes sums due by way of expenses allowance (so far as those sums are chargeable to United Kingdom income tax), and the estimated money value of any other benefits received by an employee otherwise than in cash;

“senior employee” means an employee whose salary is £150,000 or more per year, or an employee whose salary is £50,000 or more per year (to be calculated pro rata for an employee employed for fewer than the usual full time hours for the relevant body concerned) who falls within at least one of the following categories—

- (a) a person employed by a relevant body to which section 2 of the Local Government and Housing Act 1989<sup>(b)</sup> applies who—
  - (i) has been designated as head of paid service under section 4 of that Act;
  - (ii) is a statutory chief officer within the meaning of section 2(6)(c) of that Act; or
  - (iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;
- (b) the person who is the head of staff for any relevant body to which section 4 of the Local Government and Housing Act 1989 does not apply; or
- (c) a person who has responsibility for the management of the relevant body to the extent that the person has power to direct or control the major activities of the body (in particular activities involving the expenditure of money), whether solely or collectively with other persons; and

“senior police officer” means a member of a police force holding a rank above that of superintendent.”.

Signed by authority of the Secretary of State for Communities and Local Government

*Rosie Winterton*  
Minister of State

16th December 2009

Department for Communities and Local Government

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Accounts and Audit Regulations 2003 (“the 2003 Regulations”) in relation to disclosure of remuneration for senior employees and senior police officers in the statement of accounts of certain bodies to which the 2003 Regulations apply.

The 2003 Regulations apply to “relevant bodies” in England, which are bodies whose accounts are required to be audited in accordance with Part 2 of the Audit Commission Act 1998, other than health service bodies, local probation boards and probation trusts.

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(a) 1996 c. 16.

(b) 1989 c. 42.

(c) Section 2(6) was amended by section 18 of and Schedule 2 to the Children Act 2004 (c. 31), section 582 of and Schedule 37 to the Education Act 1996 (c. 56), and section 127 of the Greater London Authority Act 1999 (c. 29), and was partially repealed by section 180 of and Schedules 13 and 14 to the Local Government etc (Scotland) Act 1994 (c. 39) and section 54 of and Schedule 2 to the Fire and Rescue Services Act 2004 (c. 21).

Relevant bodies, other than “smaller relevant bodies” (whose gross income or expenditure (whichever is the higher) is less than £1 million per year), are required by the 2003 Regulations to produce a note accompanying their statement of accounts, specifying the number of employees whose total remuneration was more than £50,000 per year in that financial year, to be listed in brackets of a scale in multiples of £10,000. Regulation 4(3) of these Regulations extends this requirement to senior police officers (police officers above the rank of superintendent), and also changes the brackets in the scale to multiples of £5,000.

These Regulations also introduce a new requirement for the disclosure of the individual remuneration details of senior employees and relevant police officers for each financial year, under the following categories:

- (i) salary, fees and allowances;
- (ii) bonuses;
- (iii) expenses allowance;
- (iv) compensation for loss of employment;
- (v) pension contribution;
- (vi) any other emoluments; and
- (vii) in the case of relevant police officers, any other payments made to them.

‘Employee’ includes a member of, or an office holder under, a relevant body. A senior employee is a person whose salary is more than £150,000 per year, or whose salary is at least £50,000 per year (to be calculated pro rata for a part-time employee) and who is:

- (a) the designated head of paid service, a statutory chief officer or a non-statutory chief officer of a relevant body, those terms having the meaning given by the Local Government and Housing Act 1989;
- (b) the head of staff for a relevant body which does not have a designated head of paid service; or
- (c) any person having responsibility for the management of the relevant body.

A ‘relevant police officer’ is a chief constable, the Commissioners of the Metropolitan Police and the City of London Police, and any other police officer above the rank of superintendent whose salary is £150,000 or more per year.

The definition given to “contribution to the person’s pension” makes clear that the figure to be disclosed is the proportion of the relevant body’s contribution to the relevant contribution scheme which can be related to the senior employee or relevant police officer and does not include any contribution made by the senior employee or relevant police officer.

The obligation to disclose the remuneration of senior employees and relevant police officers does not apply for accounts prepared for the financial year 2009/10 in cases where the person concerned has the benefit of a confidentiality agreement in respect of the remuneration received.

An Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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£4.00