

Explanatory Memorandum to the Public Audit (Wales) Act 2013 (Consequential Amendments) Order 2014.

This Explanatory Memorandum has been prepared by the Local Government Finance and Performance Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Public Audit (Wales) Act 2013 (Consequential Amendments) Order 2014.

Jane Hutt AM
Minister for Finance
20 November 2013

1. Description

1.1 The Public Audit (Wales) Act 2013 (Consequential Amendments) Order 2014 (“the Order”) makes provision for the modification of two pieces of legislation as a result of the provisions in the Public Audit (Wales) Act 2013 (“the 2013 Act”). The 2013 Act makes provision reforming public audit arrangements in Wales including the continuation of the office of the Auditor General for Wales (“the AGW”) and the creation of a new corporate body, the Wales Audit Office (“the WAO”) with a range of functions. The 2013 Act also provides for the transfer of the AGW’s staff to the WAO with effect from 1 April 2014.

1.2 This Order does not introduce any new policy, but is required to make consequential amendments to the Government of Wales Act 1998 (“the 1998 Act”) and the Public Audit (Wales) Act 2004 (“the 2004 Act”) as a result of the 2013 Act.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 None.

3. Legislative background

3.1 Section 33(2) of Part 3 of the 2013 Act enables the Welsh Ministers to by order *“make such supplementary, transitional, transitory, consequential, saving, incidental and other provision as they think appropriate, in connection with, or to give full effect to, this Act.”*

3.2 Section 30(2) of Part 3 of the 2013 Act provides that *“A statutory instrument containing an order under section 33... that contains a provision amending, repealing or otherwise modifying an enactment (other than an enactment contained in subordinate legislation), or prerogative instrument may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly.”*

3.3 The Order makes modifications to enactments which are considered appropriate in connection with the 2013 Act .

3.4 The Order is made subject to approval of the National Assembly for Wales (the affirmative procedure).

4. Purpose and intended effect of the subordinate legislation

4.1 The Order makes amendments to enactments which are considered appropriate in connection with the 2013 Act.

4.2 Article 1 of the Order provides the Order’s introductory provisions including its title, commencement and application.

4.3 Article 2 of the Order (Amendment to the Government of Wales Act 1998) amends section 145B(5)(b) of the 1998 Act which currently enables the AGW, at the request of a further education corporation or a higher education corporation in

Wales, to arrange for their accounts to be audited by one or more members of the AGW's staff appointed by the corporation. From 1 April 2014 the AGW will not have any staff as on that date they will transfer to the employment of the corporate WAO. In consequence, from 1 April next year, section 145B(5)(b) will be redundant, so on that date the amendment would enable a further or higher education corporation, as they may wish, to appoint the AGW to audit their accounts.

4.3 Article 3 of the Order (Amendment to the Public Audit (Wales) Act 2004) amends section 68 of and Schedule 3 to the 2004 Act to substitute the references there to the AGW for references to the WAO. Those provisions in the 2004 Act currently enable a transfer of property, rights and liabilities which are the subject of a transfer scheme from the Audit Commission and the Comptroller and Auditor General to the AGW. The effect of the amendments in the Order would be to ensure that there is no doubt that, from 1 April 2014, any future transfers would be to the new corporate WAO, rather than the AGW.

5. Regulatory Impact Assessment (RIA)

5.1 An RIA has not been conducted as the Order does not create an additional regulatory burden nor does it introduce any new policy.

5.2 It is considered that the Order has no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006) or Statutory Partners (sections 72-75 of the Government of Wales Act 2006).

5.3 The cost and benefit impacts of the 2013 Act were stated in the explanatory memorandum which accompanied it.

6. Consultation

6.1 No public consultation was required for the Order as it does not introduce any new policy. A public consultation on the main policy objectives for the 2013 Act was conducted in 2012 prior to introduction of the Public Audit (Wales) Bill in July 2012.

7. Competition Assessment

7.1 There are no market implications associated with the making of this Order. It has no impact on business, charities or the voluntary sector.