



National Assembly for **Wales**
Cynulliad Cenedlaethol **Cymru**

Part 5 of the Government of Wales Act: Finance

Abstract

This paper provides background briefing on part 5 of the Government of Wales Act, which makes provision for finance and audit matters.

It describes the key changes arising from the arrangements proposed in the Act for the administration of funding for Wales, and highlights the implications of the proposed changes for budget scrutiny in Wales.

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Part 5 of the Government of Wales Act: Finance

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Executive Summary

Part 5 of the Government of Wales Act makes provision for finance and audit matters. The arrangements set out in part 5 of the Act will provide for the setting of budgets, access to funds, financial accountability of the Welsh Ministers and other public bodies to the National Assembly for Wales, and for the preparation, audit and publication of accounts. In particular, they establish the principle that Members must give financial authority for the use of resources by Ministers.

The changes detailed in part 5 are consequential on, and an essential element of, the separation of the Assembly's executive and legislative arms. To facilitate the new arrangements, the Act creates a Welsh Consolidated Fund (WCF), and amounts may (with some minor exceptions) only be issued from the Fund if the Assembly has passed a budget motion to that effect. The Auditor General will be required to sanction all drawings from the fund by ensuring that they are in line with a properly authorised budget motion or other statutory cover. This brings arrangements in Wales into line with those in Scotland and Northern Ireland, and with the UK, and places control of resources firmly with the Assembly.

This paper identifies three main implications for budget scrutiny in Wales arising from the procedures prescribed in part 5:

- The provisions described by the Act will enhance the accountability process in Wales;
- The budget motion concept will bring about a change in Assembly Members' roles and responsibilities in relation to the budget; and
- The format of the budget documents will change to reflect the requirements of the Act.

These implications are discussed in greater detail at section 2 of this paper.

Annex A to this paper provides more detailed information on the provisions of the relevant, key clauses in part 5 of the Act.

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Part 5 of the Government of Wales Act: Finance

This paper explores part 5 of the Government of Wales Act 2006 (hereafter referred to as the Act), which makes provision for finance and audit matters. It describes the key changes arising from the provisions in the Act for setting budgets, access to funds, financial accountability of the Welsh Ministers and other public bodies to the National Assembly for Wales, and the arrangements for the preparation, audit and publication of accounts. The implications of the key changes in part 5 for budget scrutiny in Wales are discussed.

1 Key Changes Arising from Part 5 of the Act

The provisions detailed in part 5 are consequential on, and an essential element of, the separation of the Assembly's executive and legislative arms. The reconstituted Assembly will no longer have executive functions, as these will be conferred directly on Ministers. Ministers will be accountable to the Assembly for the exercise of these functions and will also be required to obtain Assembly approval for the use of resources. The Assembly will additionally be asked to approve the use of resources by bodies that are independent of Ministers – for example the Assembly Commission.

To facilitate the new arrangements, the Act creates a Welsh Consolidated Fund (WCF) - a bank account held with the Paymaster General¹, - into which the block grant from the Secretary of State will be paid. In general, amounts may only be issued from the Fund if the Assembly has passed a budget motion to that effect although there are three sets of exceptions to this norm:

- In a small number of cases, sums will be “charged on” the fund by legislation² and will be paid out of the fund automatically.
- When payment is deemed to have been authorised by a budget resolution under sections 127 or 128. Section 127 deals with a situation where no Budget resolution has been adopted by the Assembly by the beginning of the relevant financial year. Section 128 is aimed at emergency situations where it is not practicable to put down a budget motion for reasons of urgency.
- Sums paid in to the WCF by mistake

In all cases, the Auditor General will be required to sanction all drawings from the fund by ensuring that they are in line with a properly authorised budget motion or other statutory cover.

This brings arrangements in Wales into line with the UK, and with those in Scotland and Northern Ireland, and places control of resources firmly with the Assembly. The other changes and modifications in part 5 reflect the status and functions post separation of Ministers, the Assembly and the Assembly Commission.

¹ The Paymaster General is a government Minister who has statutory responsibility for the Government accounts held in his / her name at the Bank of England.

² [Section 20\(5\)](#) of the Government of Wales Act provides an example of this: sums required for the making of payments for the remuneration of a person who holds or has held the office of Presiding Officer or Deputy Presiding Officer are to be charged on the Welsh Consolidated Fund.

2 Implications for Budget Scrutiny in Wales

The main implications for budget scrutiny in Wales arising from part 5 of the Act are set out below.

2.1 *The administration of the Welsh Consolidated Fund*

The public expenditure framework in the United Kingdom provides that payments into and out of the UK Consolidated Fund require parliamentary or legislative authority. At Westminster, the supply procedure (culminating in the passing of annual Appropriation Acts) is the method by which this occurs. In Scotland and in Northern Ireland, local authorisation is achieved through the annual budget process and subsequent Budget Acts. At the end of the financial year, departments or bodies who received authority for the consumption of resources and / drawing of cash must account to the authorising body (Parliament or Assembly) through their annual report and audited resource accounts, thus closing the accountability loop.

2.1.1 *The Accountability Loop: Westminster*

Prior to the Government of Wales Act 2006, the House of Commons voted resources to the Secretary of State for Wales following a request for resources (RfR) from the Department for Constitutional Affairs Resource Estimates. This RfR consisted of funding for the Wales Office, and a grant payable to the National Assembly for Wales (NAW).

The Department of Constitutional Affairs (DCA) accounts to the House of Commons for these resources in its annual audited accounts. Detailed information on funding against departmental objectives is provided in the resource estimate for the activities of the Wales Office, and the DCA's annual report and its resource accounts report on performance and expenditure against these objectives. In this manner, the accountability loop is closed at the Westminster level.

However, as the funding for the NAW was in the form of a grant, the DCA's report and accounts only showed the amount of grant voted and paid to the NAW - they did not include detailed information on the use of that grant by the NAW. This is a natural consequence of devolution, as within the Treasury control totals, the devolved administrations have discretion over the use of the grant and are primarily accountable to their local electorates rather than Parliament.

2.1.2 *The Accountability Loop: Wales*

Decisions about how to spend the block grant for Wales are made by the National Assembly for Wales. Previous practice was for the Assembly to debate, agree and adopt the budget proposals prepared by the Ministers of the Welsh Assembly Government, through the process set out in Standing Order 21. Budget documents were presented as allocations across a series of Main Expenditure Groups (MEGs), delineated into Spending Programme Areas (SPAs) and Budget Expenditure Lines (BELs). These delineations did not strictly operate as control totals. Standing Orders 21.6 and 21.7 stipulated that only changes at the MEG level required the approval of the Assembly in plenary. The key control totals³ remained those voted by Parliament.

Under previous arrangements, the NAW accounted to its elected Members for the use of these resources through the publication of the [annual report of the Office of the First Minister](#), and the [NAW annual resource accounts](#) which were audited by the Auditor

³ The key control totals are the Departmental Expenditure Limit (including Capital DEL and Revenue DEL) and Annually Managed Expenditure (AME).

- The amount of resources which may be used in the financial year for the services and purposes set out in the motion;
- The amount of accruing resources (i.e. income) that may be retained to be used on the services and purposes specified (rather than being paid into the WCF);
- The amount which may be paid out of the WCF in the financial year for the services and purposes specified.

A supplementary budget motion is required to approve a variation in any one or more of the above or to authorise these measures with regards to any new services and purposes. Provisions in the Act do not specify at which level of the budget Assembly authorisation is required to approve variation in planned expenditure. This will depend on the scope of the ambits prepared by the Welsh Assembly Government, which has yet to be agreed. The exact implications of the Act in this respect cannot be identified until the arrangement of new Committees is decided, and new Standing Orders are agreed.

2.3 Changes in the format of the budget documents

At present, tables setting out allocations to MEGs, SPAs and BELs support the budget motion. The provisions of the Act stipulate that a budget resolution contains information on the amount of resources and income that can be used for specified services and purposes (the ambit), the amount of resources that may be retained (not paid back into the WCF) and how much cash can be issued from the WCF for the specified purposes and services. This format is similar in many ways to that of the resource estimates used in the Westminster parliamentary supply procedure.

2.3.1 The scope of the Ambit

The Act does not stipulate the scope of the ambit, and there are a number of options that may be adopted.

- All Welsh Assembly Government activities could be covered in a single ambit;
- The preparation of an ambit for each MEG and / or SPA;
- The preparation of ambits corresponding to the priorities identified in *Wales: a Better Country*; or
- The preparation of ambits on another, different basis, as agreed between WAG and the Assembly.

The importance of the scope of the ambit lies in the fact that once authorised, resources and cash can only be used for the purposes and services specified in the resolution. To use or retain cash and resources for purposes outwith the ambit will require a supplementary budget resolution or will be irregular. Material, irregular expenditure will result in a qualified audit opinion by the Auditor General on the accounts of the organisation concerned for which the accounting officer will be answerable to the Assembly's Audit Committee.

Any decision over the choices outlined above will represent a trade-off between the requirements of the Assembly for control and the desire of the Government to have operational level flexibility in its use of resources, and is a matter for debate.

Annex A: Key Clauses in Detail

This Annex does not give detailed clause by clause discussion of the provisions in part 5. Rather, it focuses on those areas where there are modifications to existing arrangements, or where an enhanced role for the Assembly will arise from the provisions in the Act.

A1 The Creation of the Welsh Consolidated Fund (clauses 117-120 and 124)

The UK Consolidated Fund (CF) is the government's "current account", kept by the Treasury at the Bank of England, through which pass most government payments and receipts⁶. The Act provides in clause 117 for the creation of a Welsh Consolidated Fund (WCF) which brings practice in Wales into line with that in Scotland and Northern Ireland. The WCF is to be held by the Paymaster General.

The clauses in the Bill providing for a WCF have the following effects:

- Monies voted to the Secretary of State by Parliament, through the Westminster supply procedure, must be paid into the WCF, except as mentioned above.
- The Secretary of State must lay before the Assembly, at least four months before the beginning of each financial year, a Statement of Estimated Payments (SEP), including:
 - estimates of the total payments by the Secretary of State into the WCF for that financial year;
 - how much will be paid that financial year to the Welsh Ministers, the First Minister or the Counsel General by Ministers of the Crown, government departments or other persons (clause 119 (1) (b) and (c)); and
 - the amount provided by Parliament that the Secretary of State proposes not to pay into the WCF for that financial year (clause 119 (3)).
- With the exception of sums "charged on" the WCF by legislation, which are paid out of the WCF automatically without any need for budget authorisation⁷, and the rectification of sums paid into the WCF by mistake, payments out of the WCF may only be made when:
 - payment is authorised or deemed to be authorised by a budget resolution of the Assembly;
 - payment is to meet expenditure of a relevant person (the Welsh Ministers, the First Minister or the Counsel General, the Assembly Commission, the Auditor General for Wales or the Public Services Ombudsman for Wales); and
 - approval to draw the payment of the sum is granted by the AGW. Approval of the AGW is also required for sums "charged on" the WCF and for rectification of sums paid into the WCF by mistake, as mentioned above.

The arrangements in clauses 124-129 mean that the Assembly, rather than the Welsh Ministers or others will control the use of resources by the Welsh Ministers and other bodies and officers funded by the WCF.

⁶ HMT Government Accounting 2000 (Amendment 4/05) <http://www.government-accounting.gov.uk/current/frames.htm>

⁷ E.g. under clause 20(5) of the Bill, the remuneration of current and former Presiding and Deputy Presiding Officers

Loans from and borrowing by the Secretary of State

Clauses 121 and 122 make provision for the Welsh Ministers to borrow from the Secretary of State to provide a working balance for the WCF, or to cover a temporary excess of payments out of the WCF over payments into the WCF.

The Treasury may issue, from the National Loans Fund to the Secretary of State, the sums necessary to make loans to the Welsh Ministers described above, up to an aggregate limit at any time of £500 million.

The method, timing and rates of repayments and payments of interest on loans from the Secretary of State must be in accordance with Treasury determinations. Repayments and payments of interest on loans from the Secretary of State are charged on the WCF. Such repayments and payments of interest received by the Secretary of State must be paid into the National Loans Fund.

A2 The Administration of Expenditures and the Budget (clauses 124 – 130)

In parliamentary terms, for expenditure to be regular, it must be authorised in some manner. Both Scotland and Northern Ireland have powers to make primary legislation. As a result, the budget in Scotland and Northern Ireland, following a process of consultation, is approved by the Scottish Parliament / Northern Ireland Assembly through a budget motion and given legal effect through a Budget Act made by the Scottish Parliament / Northern Ireland Assembly. In Westminster, the Chancellor's Budget is given effect through the preparation and voting of Estimates (Main and Supplementary), and the relevant Appropriation Acts and Consolidated Fund Acts.

For expenditure from the WCF to be regular, the Act dictates that it must be authorised by a budget resolution passed by the Assembly, and authority to draw given by the AGW. The Budget Motion in Wales carries the same statutory authority as the Budget Acts in Scotland and in Northern Ireland and the Appropriation Acts in Westminster.

Budget resolutions (clauses 125 & 126)

There must be at least one budget resolution for every financial year. The First Minister or another Welsh Minister must move a budget motion in the Assembly before each financial year, seeking Assembly approval for:

- how much resources (and income)⁸ are planned to be used;
- what services and purposes these resources and income can be used for; and
- how much cash can be paid out of the WCF in the relevant financial year for use on those specified services and purposes.

Supplementary budget motions may be moved by the First Minister or another Welsh Minister to approve variations in the amounts of resources authorised to be used or retained, or the amount of cash to be issued out of the WCF, for the services and purposes specified in the main budget resolution. A supplementary budget motion may also specify new services and purposes and authorise additional resources to be used or retained, or the payment of cash out of the WCF, for those. Supplementary budget motions may be moved before, during or after the financial year to which they relate.

⁸ The Bill defines the "use of resources" as the expenditure, consumption or reduction in value of resources. Income here refers to how much accruing resources, from for example the disposal of assets, can be retained for use rather than paid into the WCF.

Exceptions to the need for a Budget resolution (clauses 127 & 128)

Aside from sums “charged on” the WCF by legislation and amounts paid into the fund by mistake, there are two situations provided for in the Act where payments can be made from the WCF without a budget resolution. Such payments are treated as deemed authorisations.

The first arises if the Assembly does not adopt a main budget resolution before the beginning of the financial year. The Act provides in clause 127 for:

- the use of up to 75% of the resources approved for the previous financial year for services and purposes approved in the previous year;
- the retention of income up to 75% of the retained income approved for the previous financial year for services and purposes approved in the previous year; and
- the payment of cash out of the WCF up to 75% of the cash approved for the previous financial year for services and purposes approved in the previous year.

The percentage increases to 95% after the end of July, if no budget resolution has been approved for that financial year.

The Act also makes provision for limited payments out of the WCF in situations of emergency, where immediate expenditure is considered to be in the public interest but it is not reasonably practical to put a budget motion before the Assembly. Should the Welsh Ministers use this power, clause 128 stipulates that as soon as possible, a report must be laid before the Assembly setting out the amount of resources and cash authorised and the reasons for using the provisions in clause 128.

Approval to draw (clause 129)

Having been authorised (or deemed to be authorised under clauses 127 or 128) by a budget motion, payments out of the WCF cannot be made until the AGW has granted an approval to draw. To do this, the AGW needs to be satisfied that the conditions set out in clause 124 are met: that is, if they are:

- for the purposes of meeting the expenditure of a relevant person; and
- to meet expenditure payable pursuant to a relevant enactment.

These arrangements provide an additional assurance that issues from the WCF have appropriate statutory cover.

A3 The Preparation and Laying of Accounts (clauses 123, 131, 132, 137 and 141)

The Act makes provision that accounts for each year be prepared in accordance with directions given by the Treasury, for the following:

- The Welsh Ministers;
- The Welsh Consolidated Fund (clause 132);
- The Assembly Commission; and
- Whole of Government accounts for Wales

The Secretary of State must prepare accounts for loans made to the Welsh Ministers, and repayments and payments of interest to the Secretary of State. Legislation also provides for the preparation and audit of accounts for the Auditor General for Wales and the Public Services Ombudsman for Wales.

Accounts laid before the Assembly

The accounts of the Welsh Ministers, the Welsh Consolidated Fund, and the Assembly Commission must be submitted to the AGW no later than 30 November of the year following the financial year for which accounts are prepared.

The Act also provides that, not later than four months following the submission of accounts, the AGW shall lay before the Assembly a certified copy of the accounts together with his / her report. To certify the accounts, the AGW must be satisfied that the expenditure covered by the account has been incurred lawfully and in accordance with the authority which governs it, and expended only for the purposes for which it was provided. If he is not so satisfied in all material respects, a qualified opinion on the audited accounts will result.

Whole of Government Accounts⁹: Welsh Ministers

Provision is made in clauses 141 and 142 of the Act for the preparation and submission to the Assembly, via the AGW, of Whole of Government Accounts for Wales. These clauses broadly mirror current provisions in the Government of Wales Act 1998.

The Welsh Ministers are required to submit Whole of Government accounts to the AGW by 30 November in the year following the financial year for which accounts are prepared. The Welsh Ministers, following consultation with the Treasury and the AGW, may by order stipulate a date other than the date specified in clause 141(7) – 30 November.

The AGW is required to lay a certified copy of the accounts, together with the AGW's report on them, before the Assembly no later than four months after they are submitted to the AGW.

Loans by the Secretary of State

Clause 123 requires the Secretary of State to prepare accounts, in the form and manner laid down by the Treasury, for loans made (or under the transitional arrangements, treated as made) to the Welsh Ministers, and repayments and payments of interest to the Secretary of State.

Accounts relating to loans by the Secretary of State must be submitted to the UK Comptroller and Auditor General (C&AG) no later than 5 months (September) after the end of the financial year to which they relate. The C&AG must examine, audit and report on such accounts and lay copies of these accounts and any reports on such accounts before both Houses of Parliament.

A4 The Audit and Accountability Arrangements (clauses 133, 135, 136, 138, 140, and 142-145)

The Audit and Accountability arrangements in the Act centre on:

- the separation of accounting officer arrangements for the Assembly Commission from those of the Welsh Ministers,
- the role of the AGW in financial and value for money audit of the Assembly Commission and the Welsh Ministers and Subsidiaries of the Welsh Ministers;

⁹ "Whole of Government accounts" is a concept introduced by the [Government Resources and Accounts Act 2000](#) (c.20). It is a set of accounts for a group of bodies, each of which appears to HM Treasury to exercise functions of a public nature or to be entirely or substantially funded from public money. It can also include information about activities of other persons or bodies, which appear to the Treasury to be activities of a public nature. Such accounts can, therefore, be used to give a total picture of the financial transactions of the public sector, or a part of the public sector.

- the role of the Audit Committee; and
- the arrangements for the audit of the WCF.

Accounting Officers

The Act makes provision for the Permanent Secretary of the Welsh Assembly Government to be principal accounting officer for the Welsh Ministers, and the Clerk of the Assembly to be the principal accounting officer for the Assembly Commission. The responsibilities of the principal accounting officer are set down by HM Treasury, but may be summarised as responsibility for the propriety and regularity of the finances of, and the economy, efficiency and effectiveness of the resources used by, the body for which they hold that office. The separation of powers between the Assembly Commission and the Welsh Ministers gives rise to the creation of a principal accounting officer role in relation to the Assembly Commission. The accounting officer is always the most senior permanent official in an organisation, in this instance, the Clerk in his role as Chief Executive of the Assembly Commission.

The Auditor General for Wales (AGW)

The AGW will exercise a number of important roles in the audit and accountability arrangements provided for in the Act. These include:

- providing approval to draw expenditure from the WCF (see section 2 above);
- financial audit of the accounts of the Welsh Ministers and their subsidiaries, the Assembly Commission and the Counsel General; and
- examining the activities of the Assembly Commission, the Welsh Ministers and their subsidiaries and the production of value for money reports for examination by the Audit Committee.

The AGW's current role in respect of other public bodies in Wales remains unchanged.

Financial audit, value for money audit, and the Audit Committee

Reports on accounts audited by the AGW are to be laid before the Assembly, and published by the Assembly as soon as is reasonably practicable thereafter. Value for money (VFM) audit reports, examining the economy, efficiency and effectiveness with which the Welsh Ministers, Counsel General and Assembly Commission have used their resources¹⁰, may, but do not have to be, laid before the Assembly (clauses 135 & 140). The AGW must take the views of the Audit Committee on board when setting topics for VFM study.

The Audit Committee is the only committee specified in the Act, and cannot be chaired by an Assembly Member with an executive role. Clause 143 of the Act outlines the role of the Audit Committee in the treatment and publication of accounts.

The Audit Committee may consider and lay before the Assembly a report on any accounts, statement of accounts or report laid before the assembly by the AGW or the auditor of the AGW's accounts. The Audit Committee may, at the request of the Committee of Public Accounts of the House of Commons (PAC), take evidence from the principal accounting officer and additional accounting officers of the Welsh Ministers and of the Assembly Commission. The Audit Committee may also report to the PAC, and transmit to PAC evidence taken on its behalf.

¹⁰ In VFM studies, the AGW is not entitled to question the merits of the policy objectives pursued by the Welsh Ministers, only the extent to which the resources consumed in the pursuit of specific policy objectives were used with economy, efficiency and effectiveness. This is the case for all VFM studies in the United Kingdom.

The Comptroller and Auditor General (C&AG)

Clause 136 makes provision for the C&AG to carry out examinations into the payments into and out of the WCF. Before carrying out such examinations, the C&AG must consult with the AGW and take into account any relevant work being done by the AGW. The results of such investigations may be reported to the House of Commons, and at the same time, must be laid before the Assembly.

In carrying out investigations into the WCF, the C&AG has a right of access to documents in the custody and under the control of:

- the Welsh Assembly Ministers and the Counsel General;
- the Assembly Commission;
- the AGW; and
- any other person audited by the AGW (other than a Welsh NHS body).

Further, the C&AG is entitled to require from any person holding or accountable for such documents, any assistance, information or explanation as the C&AG thinks necessary for that purpose.

A5 Transitional Provisions

Schedule 11 contains the transitional arrangements for the transfer of functions exercised by the National Assembly for Wales as a corporate body, to the new National Assembly and the Welsh Ministers. In relation to the provisions in part 5 of the Act, paragraphs 53 to 63 provide for the application by the old Assembly of some of the new financial arrangements for the financial year beginning April 2007 (including provision for the old Assembly to draw down funds from the WCF to meet its authorised expenditure) until separation is complete.