

## **REGULATORY APPRAISAL**

### **PUBLIC AUDIT, ENGLAND AND WALES**

#### **THE PUBLIC AUDIT (WALES) ACT 2004 (CONSEQUENTIAL AMENDMENTS) ORDER 2005**

##### **Introduction**

1. The Public Audit (Wales) Act 2004 confers additional functions on the Auditor General for Wales: primarily those currently exercised by the Audit Commission in Wales. The effect of the Act is that there will be, subject to commencement of the Act's provisions, a single public audit body for Wales to be headed by the Auditor General and to be known as the Wales Audit Office/Y Swyddfa Archwilio Cymru.

##### **Background**

2. The Act was the subject of pre-legislative scrutiny and public consultation at Bill stage, before its introduction to Parliament in November 2003. The provisions of the draft Bill were scrutinised by an ad hoc Committee of the Assembly (headed by the Chair of the Audit Committee) and debated by the Assembly in Plenary on 24 September 2003.
3. The Public Audit (Wales) Act 2004 (Commencement No.1) Order 2005 was approved by the Assembly on 18 January and came into force on 31 January 2005. The Public Audit (Wales) Act 2004 (Commencement No. 2) Order 2005 is scheduled to be considered by the Assembly on 8 March 2005.

##### **Purpose and intended effect of the measure**

4. This Order, together with the Public Audit (Wales) Act 2004 (Consequential Amendments) Regulations 2005, will enable all amendments to existing secondary legislation resulting directly from the implementation of the provisions of the Public Audit (Wales) Act 2004 to come into force from 1 April 2005. The Public Audit (Wales) Act 2004 extends to England and Wales. It is for this reason that this Order extends to England and Wales, although in most cases the practical effect of the Act will be felt only in Wales.

##### **Options**

###### Option 1 – Do Nothing

5. The objective of implementing the new unitary public audit arrangements for Wales, for which the Act provides and to which end the National Assembly; the National Audit Office and the Audit Commission have been working since the Act received Royal Assent in September 2004, will not be met.

###### Option 2 – Make this Legislation

6. It is the only way of ensuring that the relevant provisions in secondary legislation covered by the Order are consistent in the application of the provisions of the Public Audit (Wales) Act 2004.

## **Benefits**

### Option 1 – Do Nothing

7. There are no benefits from not implementing this Order. It would frustrate the purpose of the Act.

### Option 2 – Make this Legislation

8. All the provisions relating to the Auditor General's additional functions after 1 April 2005 will be applied on a consistent basis and in a way that is consistent with the bringing into effect of minor and consequential amendments to other primary legislation arising from the Act through the Public Audit (Wales) Act 2004 (Commencement No.2) Order 2005.

9. The Regulatory Impact Assessment, prepared for the Public Audit (Wales) Bill's introduction to Parliament, identified the following potential benefits: -

- a single public audit body would be consistent with and complement the National Assembly's emphasis on cross-cutting themes in the development of policy and a cross-sector partnership approach to delivery, that can produce complex accountability arrangements;
- a reduction in organisational bodies that would also foster a more holistic approach to value for money work in the Welsh public sector;
- an end to the confusion and duality in respect of the respective audit responsibilities of the Audit Commission and the Auditor General for Wales in respect of the health sector; and
- potential over the longer term for the new arrangements to provide opportunities for cost savings: through the potential to rationalise accommodation needs and efficiency savings from a more integrated approach to the conduct of Value for Money programmes.

## **Costs**

10. There are no financial implications to the Assembly, local authorities or others resulting from the implementation of this Order.

## **Consultation**

### With Stakeholders

11. The draft Public Audit (Wales) Bill was published for public consultation and pre-legislative scrutiny on 3 April 2003. Public consultation extended for a 12 week period, ending on 27 June 2003. Over 200 organisations were consulted and 15 responses were received. Respondents included: the Auditor General for Wales; the Welsh Local Government Association; the Audit Commission; the Comptroller and Auditor General; and a number of local authorities and accountancy bodies. The Bill was also subject to pre-legislative scrutiny by the Welsh Affairs Select

Committee whose report was debated by the Welsh Grand Committee on 15 July 2003. In all, 41 recommendations for change or clarification were made. Of these 19 were accepted. They improve consistency of practice between non-local government and local government audit arrangements; strengthen the ability of audit and regulatory bodies to co-operate; and enhance and align auditors powers of access to documents and information across the public sector in Wales.

#### With Subject Committee

12. The Bill was also subject to pre-legislative scrutiny by an ad hoc Assembly Scrutiny Committee (comprised primarily of Assembly Audit Committee members). I presented the draft Bill to the Public Audit (Wales) Bill Committee on 8 July 2003. The Committee also heard oral submissions on 8 and 10 July 2003 from the Welsh Local Government Association; the Auditor General for Wales; the Audit Commission in Wales; the Director of NHS Wales and representatives of the trade unions. The Committee made 12 recommendations. Its report and recommendations were noted by the Assembly in a Plenary debate on 24 September 2003.
13. A further ad hoc Assembly Scrutiny Committee was convened to consider the published Bill introduced to Parliament in November 2003. The Public Audit (Wales) Bill Committee 2004 met on 22 January 2004 and its report and recommendations were considered by the Assembly in Plenary on 4 February 2004.
14. This Order is required to ensure consistency with the Public Audit (Wales) Act 2004 (Commencement No.2) Order that will bring into force minor and consequential amendments to other primary legislation arising from the Public Audit (Wales) Act 2004. The Order ensures that relevant audit related functions currently undertaken by the Audit Commissions in Wales will instead be undertaken by the Auditor General for Wales. Since the Act has been subject to thorough scrutiny by the ad hoc Committee the Order has not been scrutinised by the Local Government and Public Services Committee.

#### **Review**

15. The Order is required on a one-off basis to bring into force, from 1 April 2005, amendments to existing secondary legislation that result directly from the commencement of the provisions of the Public Audit (Wales) Act 2004 from 1 April 2005. From that date the Auditor General for Wales will take on functions previously undertaken by the Audit Commission.

#### **Summary**

16. The making of this Order imposes no additional cost. The Order is consistent with the Public Audit (Wales) Act 2004 (Commencement No.2) Order 2005 which, if approved by the Assembly, will bring into force minor and consequential amendments to other primary legislation arising from the Public Audit (Wales) Act

2004. It is the only way to ensure that the new unitary audit arrangements are introduced from 1 April 2005 on a consistent basis.