

Consultation Document

Draft Public Audit (Amendment) (Wales) Bill

Date of issue: 18 December 2019

Closing date: 7 February 2020

This consultation sets out the Finance Committee's draft legislative proposals to amend the Public Audit (Wales) Act 2013.

The draft Public Audit (Amendment) (Wales) Bill proposes to amend the **Public Audit (Wales) Act 2013** (PAWA 2013) in relation to:

- Fee charging
- Quorum arrangements of the Wales Audit Office (WAO) Board
- WAO reporting arrangements
- Issues with laying reports and accounts
- Certification deadlines
- Issues relating to the responsibilities of the National Assembly for Wales (the Assembly)

Background

The PAWA 2013, which became law in Wales on 29 April 2013, aimed to strengthen and improve the accountability and governance arrangements relating to the Auditor General for Wales (AGW) and the WAO whilst protecting the AGW's independence and objectivity.



The Finance Committee (the Committee) undertook post-legislative scrutiny of the PAWA 2013 in March 2019, focussing on **issues raised** by the AGW and WAO and other aspects of the PAWA 2013 that could benefit from revision.

The Committee concluded that revisions to the PAWA 2013 are required and agreed to consult on this draft Bill.

Supporting information

This document should be read in conjunction with the draft Bill and the **Committee's full report**.

Further details about the Committee's post-legislative scrutiny of the PAWA 2013 can be found on the **Assembly's website**.

How to respond

The Committee welcomes evidence from those with an interest in this subject.

If you are responding on behalf of an organisation, please provide a brief description of the role of your organisation.

The National Assembly for Wales has two official languages, Welsh and English. In line with the Assembly's Official Languages Scheme, the Committee requests that documents or written responses to consultations intended for publication or use in National Assembly proceedings are submitted bilingually. When documents or written responses are not submitted bilingually, we will publish in the language submitted, stating that it has been received in that language only.

We expect other organisations to implement their own standards or schemes and to comply with their statutory obligations.

If you wish to submit evidence, please send an electronic copy of your submission to: **seneddfinance@assembly.wales**

Alternatively, you can write to:

Committee Clerk
Finance Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Submissions should arrive by 7 February 2020. It may not be possible to take into account responses received after this date. **[Guidance](#)** for those providing evidence for committees is available.

Disclosure of Information

The Assembly's **[policy on disclosure of information](#)** is available, please ensure that you have considered these details carefully before submitting information to the Committee. Alternatively, a hard copy of this policy can be requested by contacting the Clerk (**seneddfinance@assembly.wales**).

1. Fee charging

Current provisions

1. Section 23 enables the WAO to charge fees for the audit and audit-related functions carried out by the AGW, and any services provided by the AGW. Fees may only be charged in accordance with a scheme for charging fees prepared by the WAO. The fees charged may not exceed the full cost of exercising the function to which the fee relates (the “no more than full cost” rule) and are payable to the WAO by the person to whom the function being exercised relates.
2. Section 24 requires the WAO’s fee scheme to set out any prescribed amounts or scales of fees under enactments enabling it to charge fees, or the basis for calculating the fee in the absence of such a scale or amount. It also enables Welsh Ministers to prescribe certain scales of fees. The WAO must review its scheme at least once a year and lay its scheme before the Assembly for approval.
3. These provisions are in addition to existing arrangements, such as the requirement to set and consult on fee scales for the charging of fees to local authorities (section 20 of the Public Audit (Wales) Act 2004).

Issue

4. The provisions contained in section 23 of the PAWA 2013 are the key element of the AGW and WAO’s calls to alter the legislation. Namely, the provision which states that fees charged by the WAO:

...may not exceed the full cost of exercising the function to which the fee relates¹

5. The AGW and WAO cited two issues caused by this provision:
 - “**may not exceed the full cost**” leads to issues where the WAO is required to refund overpayments if the cost of work it undertakes is lower than estimated; and
 - “**function**” is not defined in the legislation and the AGW and WAO have interpreted this as relating to each activity they undertake e.g. a

¹ Public Audit (Wales) Act 2013, section 23(5)(b)

performance audit is a different function to an audit of accounts. This means costs cannot be offset in order to mitigate a potential refund.²

6. The AGW and WAO suggested that this terminology leads to an inefficient system of refunds and necessitates an administratively burdensome process. They estimated that the additional administrative cost of operating the “no more than full cost” rule to be between £27,700 to £47,700 per annum. This relates to internal staffing costs to the WAO, including administering over/under payments, fee discussions with audited bodies and monitoring and managing time related to the “no more than full cost” rule.³

7. The AGW and WAO noted that the complexity of administration caused by the rule had led to more complaints about the amount of fees audited bodies are being charged and suggested that resolving these complaints takes a “considerable and often disproportionate” amount of time.⁴

8. They argued that the “no more than full cost” rule acts as a disincentive to undertake audit work more efficiently:

“In short, the rule means that auditors do not benefit from any savings that can be made in audit activity. Indeed, at the individual level such savings may lead to personal loss (e.g. through loss of work), which dampens enthusiasm for efficiency. And the casting of the rule in terms of individual functions (i.e. particular statutory elements of work) at individual bodies, means that there is very extensive record keeping and reconciliation work to be done to ensure that we comply with the rule. This activity is inevitably at the expense of work that adds value.”⁵

9. Whilst acknowledging that it is difficult to identify, the AGW and WAO estimated that this disincentive may mean efficiencies in the region of £12,000 per annum are forgone.⁶

² Auditor General for Wales and Wales Audit Office: Proposals for a bill to amend the Public Audit (Wales) Act 2013. June 2018. Chapter 3

³ Auditor General for Wales and Wales Audit Office: Proposals for a bill to amend the Public Audit (Wales) Act 2013. June 2018. Table 2

⁴ Written evidence: Auditor General for Wales and Wales Audit Office

⁵ Written evidence: Auditor General for Wales and Wales Audit Office

⁶ Auditor General for Wales and Wales Audit Office: Proposals for a bill to amend the Public Audit (Wales) Act 2013. June 2018. paragraph 5.6

10. They also argued that operating the “no more than full cost” rule in respect of individual functions increases the administrative complexity, as several functions are generally undertaken at each body, leading to multiple instances where a fee may need to be refunded or increased:

“...the PAWA 2013 does not provide for offsetting, and there is a risk that as soon as it is apparent that a body has been charged more than the full cost of the relevant function, the fee could be held to be unlawful.”⁷

11. In addition, the AGW and WAO proposed removing the requirements for fees to be paid by the person to whom the function being exercised relates, this would potentially enable fees to be pooled costs across sectors.⁸

Proposal

To amend the Public Audit (Wales) Act 2013 to:

- remove the requirement that fees must not exceed the full cost of the function to which they relate, and
- enable the Wales Audit Office to ensure that the sum of the fees charged for all of the work undertaken is broadly equivalent to all of its expenditure in connection with that work, taking one year with another.

To retain the requirement for fees to be paid by the body to which the function relates in order to ensure transparency for audited bodies, effective engagement in the audit and to maintain the relationship between the auditor and audited body.

CONSULTATION QUESTIONS

Question 1

Do you agree that the Wales Audit Office should be given flexibility in how it charges and administers its fees by allowing it to broadly breakeven, taking one year with another?

⁷ Auditor General for Wales and Wales Audit Office: Proposals for a bill to amend the Public Audit (Wales) Act 2013, June 2018, paragraph 3.6

⁸ Auditor General for Wales and Wales Audit Office: Proposals for a bill to amend the Public Audit (Wales) Act 2013, June 2018, Explanatory Notes, Section 3

Question 2

If so, do you agree with the approach taken in sections 3 and 4 of the Draft Bill?

2. Agreement work

Current provisions

12. Under section 19 of the PAWA 2013, the WAO may agree to arrange to provide professional, technical and administrative services to other public bodies, including bodies outside Wales (known as “agreement work”).

13. As outlined in the previous chapter, Section 23 of the PAWA 2013 enables the WAO to charge fees for the audits and audit-related functions carried out by the AGW, and any services provided by the AGW. Fees may only be charged in accordance with a scheme for charging fees prepared by the WAO. The fees charged may not exceed the full cost of exercising the function to which the fee relates (the “no more than full cost” rule) and are payable to the WAO by the person to whom the function being exercised relates.

Issue

14. Despite agreement work usually being obtained competitively, the “no more than full cost” rule requires that if the WAO makes a profit on this work it must refund that income to the client, which prevents Welsh public finances benefitting from any surpluses.

15. Examples of agreement work the WAO has been involved in include:

- Audit of the accounts for the Government of Anguilla
- Training support to the National Audit Office of Malta
- Capacity building and support to Montserrat

16. The AGW and WAO indicated that refunds given on agreement work had amounted to an annual average of £7,500 over the past four years.⁹

Proposal

To amend the Public Audit (Wales) Act 2013 to remove the link between agreement work and the fee scheme to allow the Wales Audit Office to set its own terms and conditions. This would enable the Wales Audit Office to earn

⁹ Auditor General for Wales and Wales Audit Office: Proposals for a bill to amend the Public Audit (Wales) Act 2013, June 2018, paragraph 5.7.

additional reasonable fees to reinvest in the organisation or surrender to the Welsh Consolidated Fund, subject to sufficient safeguards being in place to protect its statutory work and prevent conflicts of interests.

CONSULTATION QUESTIONS

Question 3

Do you agree that the Wales Audit Office should be allowed to set its own terms and conditions for agreement work?

Question 4

If so, do you agree with the approach taken in section 2 of the Draft Bill?

3. Quorum arrangements

Current provisions

17. Schedule 1 of the PAWA 2013 requires the Board of the WAO to be made up of nine members:

- five persons who are not employees of the WAO (“the non-executive members”)
- the AGW, and
- three employees of the WAO (“the employee members”)

18. Paragraph 28(3) of Schedule 1 sets out a statutory requirement in relation to the quorum rules of the WAO, which states:

...in all circumstances a quorum cannot be met unless a majority of the members present are non-executive members.

Issue

19. The AGW and WAO suggest that the quorum provision is “problematic” as non-executives have a majority of one on the Board. This means any non-executive absence can lead to the Board being inquorate.¹⁰

20. The notes accompanying the WAO’s proposed draft Bill outlined that six (21 per cent) of the 28 Board meetings held since the commencement of the PAWA 2013 had been inquorate. The paper also explained that when the Board is inquorate the elected employee members will “tend to recuse themselves, as they are not presenting matters for scrutiny or decision”¹¹. The WAO’s Head of Law and Ethics told the Committee that he did not believe the Board had held any votes and that decisions were “generally done by consensus”.¹²

21. In their consultation response to this inquiry, the AGW and WAO outlined that since that letter:

¹⁰ [Written evidence: Wales Audit Office and the Auditor General for Wales](#)

¹¹ [Letter from the AGW and WAO, 21 June 2018](#)

¹² [Finance Committee, Record of Proceedings, 5 July 2018, paragraph 219](#)

“...the problem has continued with one of the four WAO meetings being inquorate because of non-executive absence. In that case, one of the elected employee members left the meeting to enable a quorum to be reached. Given this unsatisfactory situation, we obtained independent legal advice, which confirmed that in the absence of amendment of the PAWA 2013, removal of employee members from meetings is required to prevent decisions being held to be invalid.”¹³

22. The AGW and WAO have suggested that the final quorum included in the PAWA 2013 as passed does not take into account the elected employee members that were added to the Bill at amending stages.¹⁴

Proposal

To retain the requirement for a non-executive member majority to ensure independent oversight and provide constructive challenge to the executive directors, but amend paragraph 28(3) of Schedule 1 of the Public Audit (Wales) Act 2013 to allow executive members to remain at the meeting in a non-voting capacity when there is not a majority of non-executive Members present.

CONSULTATION QUESTIONS

Question 5

Do you agree that the current Wales Audit Office Board quorum requirement for a majority of non-executive members should be retained in legislation?

Question 6

Do you agree that if the majority of members present at a meeting of the Wales Audit Office Board are not non-executive members, an executive member should be allowed to continue in a non-voting capacity in order to satisfy the quorum requirement?

¹³ [Written evidence: Wales Audit Office and the Auditor General for Wales](#)

¹⁴ [Letter from the AGW and WAO, 21 June 2018](#)

Question 7

If so, do you agree with the approach taken in section 13 of the Draft Bill?

4. Interim Reports

Current provisions

23. The PAWA 2013 requires the AGW and the Chair of the WAO to jointly prepare an interim report at least once a year (paragraph 3(3) of Schedule 2).

24. Paragraph 3(4) states:

An interim report must include (amongst other things) an assessment of the extent to which –

the exercise of the functions of the Auditor General and the WAO has been consistent with the annual plan prepared for the year under section 25;

progress has been made to achieve the priorities set out in the plan.

25. The Assembly may also require the AGW and Chair of the WAO to produce additional interim reports at any time during a financial year.

Issue

26. The previous AGW outlined in his letter to the Committee in June 2018¹⁵ that there is little Assembly or public interest in interim reports. In March 2018, WAO Board member, Alison Gerrard detailed issues around producing interim reports and their value, suggesting that the process was “disproportionately resource consuming”. She went on to say:

“...each report costs about £20,000 to produce, and we do feel that actually isn't a really good use of public money, because there doesn't actually seem to be a major amount of interest in them. Certainly, when we've prepared them for the Assembly, they've generally been noted but there has been no real in-depth discussion. When we put them on our website, in 2015-16, I think we had 12 page visits. It was slightly better the following year with 37, but actually that includes

¹⁵ [Letter from the AGW and WAO, 21 June 2018](#)

internal hits as well, so that probably isn't public interest. So, it is quite a lot of money for a low level of interest.”¹⁶

27. In its consultation response to the Committee’s inquiry, the AGW and WAO stated that a further interim report was published in October 2018, which received 66 page visits in the fortnight following publication, and that they “continue to consider the requirement disproportionate”.¹⁷

Proposal

To replace the requirement in paragraph 3(3) of Schedule 2 of the Public Audit (Wales) Act 2013, to produce an interim report at least once a year, with a provision requiring the production of an interim report (as currently defined) if requested by the Assembly.

CONSULTATION QUESTIONS

Question 8

Do you agree that the Auditor General for Wales and the Chair of the Wales Audit Office should no longer be required to produce an interim report at least once a year, but a requirement to produce an interim report upon the Assembly’s request should be included in legislation?

Question 9

If so, do you agree with the approach taken in section 16 of the Draft Bill?

¹⁶ Finance Committee, Record of Proceedings, 15 March 2018, paragraph 140

¹⁷ Written evidence: Auditor General for Wales and Wales Audit Office

5. Laying reports and accounts

Current provisions

28. Paragraph 33 of Schedule 1 to the PAWA 2013 requires the AGW to prepare the statements of accounts of the WAO and to include additional information as directed by the Treasury (and in accordance with the Treasury’s Financial Reporting Manual¹⁸ (the “FReM”)). The FReM also requires an annual report to accompany the accounts.

29. Paragraph 35(2)(b) of Schedule 1 requires the external auditors to lay a certified copy of the accounts (accompanied by the auditor’s report) before the Assembly.

30. Paragraph 3(1) of Schedule 2 to the PAWA 2013 requires the AGW and Chair of the WAO to prepare an annual report on the exercise during the year of the functions of the AGW and the WAO.

31. Paragraph 3(6) of Schedule 2 requires the AGW and Chair of the WAO to jointly lay the annual report before the Assembly as soon as practicable after the end of a financial year.

Issue

32. The previous AGW highlighted that overlapping requirements cause confusion and leads to a lack of clarity in terms of laying the documents before the Assembly.¹⁹

33. WAO Board Member, Alison Gerrard explained:

“The requirement at the moment is for the auditor general and the WAO to report on our performance, which has to be laid. We also have to produce a similar report as part of our accounts, as part of the Treasury requirements and the FReM—to actually produce an annual report. The way we get around that is actually to produce one report, but actually, we lay it twice. So, it’s laid once by the auditor general and the chair, and secondly, then, by our external auditors—both laying the

¹⁸ [HM Treasury, Financial Reporting Manual](#)

¹⁹ [Letter from the AGW and WAO, 21 June 2018](#)

same report. So, just in terms of bureaucracy, if we could just simplify that requirement, that would also be helpful.”²⁰

Proposal

To simplify the provisions in the Public Audit (Wales) Act 2013 to enable:

- the Auditor General for Wales and the Chair of the Wales Audit Office to provide the external auditor of the Wales Audit Office with their annual report no later than five months after the end of the financial year; and
- subsequently require the external auditor to lay the report as part of the laying of the annual accounts.

CONSULTATION QUESTIONS

Question 10

Do you agree that the requirement to lay the annual report (on the exercise of functions of the Auditor General for Wales and Wales Audit Office) in paragraph 3(1) of Schedule 2 of the Public Audit (Wales) Act 2013 should be amended to require the external auditor to lay the report as part of the laying of the annual report and accounts?

Question 11

If so, do you agree with the approach taken in section 15 of the Draft Bill?

²⁰ Finance Committee, Record of Proceedings, 15 March 2018, paragraph 142

6. Certification deadlines

Current provisions

34. Section 10 of the PAWA 2013 requires the AGW to issue a Code of Audit Practice prescribing the way in which specified functions of the AGW are to be carried out.

35. A number of enactments require the AGW to lay a copy of an audited body's certified accounts and report no later than four months after they are submitted.

Issue

36. The AGW's Code of Audit Practice requires the AGW to provide audited bodies and third parties with an opportunity to comment on audit findings (albeit the content and requirements of that Code is determined by the AGW).²¹

37. The statutory requirement to lay a copy of certain audited bodies' certified accounts and report no later than four months after they are submitted may conflict with the Code of Audit Practice, if the AGW needs to give relevant parties sufficient time to respond to audit findings.

Proposal

To amend enactments that specify a four month deadline for the Auditor General for Wales to certify and lay a copy of an audited body's accounts and report to:

- allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline;
- require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met; and
- require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable.

²¹ [Code of Audit Practice of the Auditor General for Wales, May 2018, page 23](#)

CONSULTATION QUESTIONS

Question 12

Do you agree that existing legislation requiring the Auditor General for Wales to certify and lay an audited body's accounts and report within four months should be amended to:

- allow the Auditor General for Wales to lay a copy of the certified accounts and report after the four month deadline,
- require the Auditor General for Wales to explain to the Assembly why the four month deadline cannot be met, and
- require the Auditor General for Wales to lay the certified accounts and report as soon as reasonably practicable?

Question 13

If so, do you agree with the approach taken in section 17 and Schedule 1 of the Draft Bill?

7. Appointment of the auditors of the WAO's accounts

Current provisions

38. Paragraph 34(1) of Schedule 1 to the PAWA 2013 requires the Assembly to appoint a person as auditor of the WAO's accounts, and to determine the person's terms of appointment.

39. Paragraph 34(2) permits the WAO to recommend a person for appointment.

40. The Assembly's Standing Orders delegate responsibility for the appointment of the auditors of the WAO's accounts to the Finance Committee.²²

Issue

41. The Committee has appointed auditors twice since the PAWA 2013 was enacted (in December 2014 and October 2018). On each occasion the Committee has authorised the WAO to undertake a procurement exercise and put forward the successful tenderer for approval and appointment by the Assembly, with oversight of the process being delegated to Assembly Commission officials.

42. However, the AGW and WAO have suggested that significant contractual complications arise because the appointing authority (the Assembly) and the client (the WAO) are different bodies. This necessitates the preparation of tripartite contractual arrangements, including a side agreement to cover, for example, the provision of indemnity should the WAO fail to pay the auditor's remuneration.²³

Proposal

To amend the Public Audit (Wales) Act 2013 to allow the Wales Audit Office to appoint its external auditors, subject to the Assembly's approval of:

- the appointment,
- the terms of appointment, and

²² [Standing Orders of the National Assembly for Wales, Standing Order 18.10\(vi\)](#)

²³ [Written evidence: Wales Audit Office and the Auditor General for Wales](#)

- the method of procurement.

CONSULTATION QUESTIONS

Question 14

Do you agree that engagement of the auditor of the Wales Audit Office should be a contractual matter between the Wales Audit Office and the auditor, with the appointment (and associated terms and conditions) being subject to the approval of the Assembly?

Question 15

If so, do you agree with the approach taken in section 14 of the Draft Bill?

8. Appointment of non-executive members of the WAO and the Chair of the WAO

Current provisions

43. Parts 1 and 2 of Schedule 1 to the PAWA 2013 requires the Assembly to appoint five non-executive members of the WAO, based on the conclusion of fair and open competition.

44. An appointment as non-executive member is for a maximum of four years and a person cannot be appointed more than twice (paragraph 6 of Schedule 1).

45. Paragraph 5 of Schedule 1 of the PAWA 2013 requires the Chair of the WAO to be appointed from amongst the non-executive members. The Assembly may extend an appointment, which counts as a separate appointment for the purposes of the permissible number of appointments stipulated in paragraph 6 of Schedule 1.

Issue

46. If non-executive members wish to be re-appointed for a second term of office (non-executives may serve two terms of up to four years), incumbents are required to submit to a full competition process alongside external candidates, whereas an incumbent Chair's appointment can be extended by the Assembly for a second term. However, the Chair (in the Chair's capacity as a non-executive member) is also subject to the general re-appointment provisions for non-executive members. The structuring of these provisions therefore creates scope for the requirements relating to the re-appointment of the Chair to be interpreted in alternative ways.

Proposal

To amend the Public Audit (Wales) Act 2013 to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance.

CONSULTATION QUESTIONS

Question 16

Do you agree that the Public Audit (Wales) Act 2013 should be amended to allow the appointment of a serving non-executive member to be extended for a second term of up to four years, subject to acceptable performance?

Question 17

If so, do you agree with the approach taken in sections 7, 8 and 9 of the Draft Bill?

9. Requirement to consult on certain aspects of the appointment process

Current provisions

- 47.** Section 7(2) of the PAWA 2013 requires the Assembly to consult the First Minister before setting remuneration arrangements for the AGW.
- 48.** Schedule 1 of the PAWA 2013 requires the Assembly to consult the First Minister on the appointment (paragraph 5(2)), proposed remuneration arrangements (paragraph 7(2)) and any proposed termination of appointment (paragraph 12(2), of the Chair.
- 49.** Paragraph 9(1) of Schedule 1 to the PAWA 2013 requires the Assembly to consult with “an appropriate person with oversight for public appointments” on the remuneration arrangements and other terms of appointment for non-executive members (including the Chair).
- 50.** Section 5(3) of the PAWA 2013 requires the Assembly to publish a list of restricted offices, positions or arrangements which a former AGW would need to consult with the Assembly before accepting or entering into after leaving office.

Issue

- 51.** The AGW and WAO, Assembly Commission and the Welsh Government have questioned the appropriateness of consulting the First Minister on matters of appointment of the Chair and remuneration of the Chair and AGW.
- 52.** The Assembly Commission also questioned whether the requirements to consult on remuneration arrangements and other terms of appointment for non-executive members were appropriate and noted practical issues relating to the identification of an appropriate person with oversight of public appointments:

“[Assembly] Commission officials have encountered difficulties in establishing a suitable consultee in order to comply with this statutory requirement. The Committee may therefore wish to consider whether the requirement should be revised, or removed altogether.”²⁴

²⁴ [Letter from the Assembly Commission, 27 June 2019](#)

53. The Committee considered the requirement to publish a list of restricted offices under section 5(3) of the PAWA 2013 in 2017, prior to the appointment of the current AGW, and resolved not to specify any requirements. However, to comply with the legislation, which states a list must be published, the Committee published a document confirming that there are no such restrictions. The Assembly Commission suggested:

“The Committee may therefore wish to consider the merits of making the publication requirement optional, to avoid needing to publish a similar document of limited value in the future.”²⁵

Proposals

To remove the requirements placed on the Assembly to consult the First Minister on:

- the appointment of the Chair of the Wales Audit Office,
- the remuneration arrangements for the Chair and the Auditor General for Wales, and
- the termination of the Chair’s appointment

in the interest of protecting the independence of those roles.

To remove the requirement to consult “an appropriate person with oversight for public appointments” on remuneration arrangements and other terms of appointment for WAO non-executive members and the Chair and replace it with a general provision permitting the Assembly to consult with any persons it deems appropriate.

To amend section 5(3) of the Public Audit (Wales) Act 2013 to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly

²⁵ Letter from the Assembly Commission, 27 June 2019

before accepting or entering into after leaving office, only if any such restrictions are identified.

CONSULTATION QUESTIONS

Question 18

Do you agree that the requirement for the Assembly to consult the First Minister on the following should be removed:

- the appointment of the Chair of the Wales Audit Office;
- the remuneration arrangements for the Chair and the Auditor General for Wales; and
- the termination of the Chair's appointment?

Question 19

Do you agree that the requirement for the Assembly to consult an appropriate person with oversight for public appointments on remuneration arrangements and other terms of appointment should be removed?

Question 20

Do you agree that a general provision should be included, permitting the Assembly to consult with any persons it deems appropriate before exercising any functions in relation to the Auditor General for Wales or the Wales Audit Office?

Question 21

If so, do you agree with the approach taken in sections 6, 10 and 11 of the Draft Bill?

Question 22

Do you agree that section 5(3) of the Public Audit (Wales) Act 2013 should be amended to require the Assembly to publish a list of restricted offices, positions or arrangements, which a former Auditor General for Wales would need to consult with the Assembly before accepting or entering into after leaving office, only if any such restrictions are identified?

Question 23

If so, do you agree with the approach taken in section 5 of the Draft Bill?

10. Issues with wider public audit legislation in Wales

The lack of a value for money conclusion duty on the AGW in central government bodies

Background

54. The Public Audit (Wales) Act 2004 requires the AGW to be satisfied that a local government (section 17(2)(d)) or health body (section 61(3)(b)) has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources (commonly referred to as a ‘value for money conclusion or opinion’). In contrast, there is no such requirement in relation to central government bodies (the Welsh Government, Welsh Government Sponsored Bodies and certain other bodies such as the Assembly Commission).

Issue

55. The previous AGW suggested that the absence of a requirement “means that scrutiny of central government bodies is generally somewhat less extensive than that of the NHS and local government” and that “discretionary consideration is more open to challenge than consideration done in the course of a statutory duty”.²⁶

Potential solution

56. The previous AGW outlined that for Welsh Ministers and the Assembly Commission, GOWA 2006 would need to be amended to insert provisions relating to a duty to be satisfied as to the arrangements for securing value for money. For Welsh Government sponsored bodies, similar amendments would be required to a range of legislation, including:

- The Care Standards Act 2000;
- The Commissioner for Older People (Wales) Act 2006 ;
- The Government of Wales Act 1998 (for Estyn);

²⁶ Letter from the Auditor General for Wales, 5 April 2017

- The Well-being of Future Generations (Wales) Act 2015;
- The Further & Higher Education Act 1992;
- The Local Government (Democracy) (Wales) Act 2013;
- The Museums and Galleries Act 1992;
- The Natural Resources Body for Wales (Establishment) Order 2012;
- The Qualifications Wales Act 2015;
- The Welsh Language (Wales) Measure 2011;
- The Royal Charters of the Arts Council and the Sports Council.²⁷

The absence of explicit provisions in statute for regularity opinions among many central government bodies

Background

57. A regularity opinion is an opinion as to whether public money is being or has been used for approved purposes and the financial transactions recorded in the financial statements conform to the authorities which govern them. This is undertaken as part of the audit of accounts.

58. The AGW's Code of Audit Practice outlines the basis of a regularity opinion:

Where bodies are subject to scrutiny by the National Assembly by virtue of their accounts (or their parent body's accounts) being laid before the Assembly, my auditors must design and undertake audit work on my behalf so as to address the concept of regularity and to allow me to provide an opinion on the regularity of the transactions to which the accounts relate. Regularity, as set out in 'Practice Note 10: Audit of financial statements of public sector bodies in the United Kingdom' issued by the Public Audit Forum and endorsed by the Financial Reporting Council, is the concept that transactions that are reflected in the financial statements of an audited entity must be in accordance with the relevant framework of authorities. Such frameworks include

- a authorising legislation;

²⁷ [Letter from the Auditor General for Wales, 5 April 2017](#)

- b parliamentary, including National Assembly, authorities, such as budget motions passed by the National Assembly; and
- c administrative authorities, such as delegations, and guidance, such as the Welsh Government's publication 'Managing Welsh Public Money'.²⁸

59. The Code of Audit Practice goes on to outline the importance of the regularity opinion to the “democratic control of public finances”.²⁹

Issue

60. There are a number of organisations within the Welsh public sector where there is no explicit provision for a regularity opinion.

61. The previous AGW suggested that the absence of explicit provisions in statute for regularity opinions among many central government bodies means that a fundamental element of Assembly control of central government expenditure is missing from statute in respect of such bodies. He highlighted that “one of the key functions of the National Assembly is the approval, following scrutiny, of budget motions to authorise government’s use of resources”.³⁰

62. He went on to say that to complete the cycle of control, it is necessary that the Assembly receives reports on whether the resources it has voted have been used in accordance with its intentions. He also confirmed that regularity opinions are provided in respect of all sponsored bodies, despite the omissions from the PAWA 2004.³¹

63. He noted that he has continued the Comptroller and Auditor General’s practice of providing regularity opinions in respect of all sponsored bodies despite the omissions because it is “clearly required” for reasons identified in his letter³² (and outlined above) and is required to comply with professional standards.

²⁸ [Code of Audit Practice of the Auditor General for Wales, May 2018, page 16](#)

²⁹ [Code of Audit Practice of the Auditor General for Wales, May 2018, page 16](#)

³⁰ [Letter from the Auditor General for Wales, 5 April 2017](#)

³¹ [Letter from the Auditor General for Wales, 5 April 2017](#)

³² [Letter from the Auditor General for Wales, 5 April 2017](#)

Potential solution

64. The previous AGW identified that the legislation relating to the bodies below would need to be amended with the relevant provisions inserted:

- the Care Council for Wales;
- the Education Workforce Council;
- the Higher Education Funding Council for Wales;
- the Local Democracy and Boundary Commission for Wales;
- the National Library for Wales;
- the National Museums and Galleries for Wales;
- Natural Resources Wales;
- Qualifications Wales.³³

65. The Arts Council and Sports Council are also affected as relevant provisions are not included in the Royal Charters that established them.³⁴

Overlapping laying requirements

66. The previous AGW also highlighted overlapping legislative requirements for bodies and the AGW to lay annual reports, which may lead to the need for the same document to be laid multiple times.³⁵ This is similar to the issues identified in Chapter 5 in relation to the AGW and WAO's own accounts and annual reports.

Limitations on Welsh data matching powers

Background

67. The WAO participates in the National Fraud Initiative (NFI), a biennial data-matching exercise that helps detect and prevent fraud and overpayments from the public purse across the UK. The AGW has outlined that the NFI estimated the

³³ Letter from the Auditor General for Wales, 5 April 2017.

³⁴ Letter from the Auditor General for Wales, 5 April 2017.

³⁵ Letter from the Auditor General for Wales, 5 April 2017.

annual loss to fraud against the public sector in the UK amounted to £662 million (excluding tax fraud).³⁶

68. Section 64A of the Public Audit (Wales) Act 2004 sets out the AGW's power to conduct data matching exercises.

Issue

69. The previous AGW indicated that his data matching powers were now lagging behind those of counterparts in Scotland, England and Northern Ireland.³⁷

70. The AGW and WAO outline three risks associated with the data-matching powers as they stand:

- it not being possible to run complete UK-wide data matching exercises in Wales;
- the potential financial benefits of data matching to identify errors and inaccuracies, and assist debt recovery will not be available to Wales;
- the potential to achieve additional savings through the inclusion of new mandatory participants not being realised.³⁸

Potential solution

71. The previous AGW suggested that the permitted purpose of data-matching (associated with the NFI) should be extended to match the powers of English bodies, which are able to assist in the prevention and detection of crime other than fraud; the apprehension and prosecution of offenders; the prevention and detection of errors and inaccuracies; and, the recovery of debt owing to public bodies. He also suggested that the provisions should be extended for potential mandatory participants, so that all bodies audited by the AGW are covered.³⁹

72. The Committee is not minded to take forward these proposals relating to wider public audit legislation in Wales in this Draft Bill, as this is a substantial piece of work, but it is willing to accept further evidence on these matters as part of its consultation on the Draft Bill.

³⁶ National Fraud Initiative in Wales Report - 1 April 2016 to 31 March 2018, page 6

³⁷ Letter from the Auditor General for Wales, 5 April 2017

³⁸ Written evidence: Wales Audit Office and the Auditor General for Wales

³⁹ Letter from the Auditor General for Wales, 5 April 2017

CONSULTATION QUESTIONS

Question 24

Do you feel the Draft Bill should include provisions relating to:

- the lack of a value for money conclusion duty on the Auditor General for Wales and central government bodies;
- the absence of explicit provisions in statute for regularity opinions among many central government bodies;
- the overlapping laying requirements;
- Welsh data matching powers?

OTHER MATTERS

Question 25

Will any of the proposals included in the Draft Public Audit (Amendment) (Wales) Bill lead to any financial implications (for example, costs or benefits) for you or your organisation?

If you have identified financial implications for you or your organisation can you describe what these could be and provide an estimated cost (if possible).

Question 26

Do you have any other observations or general comments on the Public Audit (Wales) Act 2013 or the Committee's Draft Public Audit (Amendment) (Wales) Bill?

Draft Public Audit (Amendment) (Wales) Bill

[FOR CONSULTATION]

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Draft Public Audit (Amendment) (Wales) Bill

[FOR CONSULTATION]

An Act of the National Assembly for Wales to amend the Public Audit (Wales) Act 2013 (anaw 3) in relation to the Auditor General for Wales and the Wales Audit Office and for connected purposes.

5 **Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

PART 1

INTRODUCTION

1 Overview

10 The main provisions of this Act amend the Public Audit (Wales) Act 2013 (anaw 3) (the “2013 Act”) to—

- 15 (a) remove the prohibition on the Wales Audit Office (the “WAO”) charging fees that exceed the full cost of exercising the function to which the fee relates (section 2);
- (b) require the WAO to include in a fees scheme a provision that seeks to ensure that the sum of the fees charged to each person for work undertaken under specified enactments, taken together and taking one year with another, is broadly equivalent to all of its expenditure relating to that person for that work (sections 3 and 4);
- 20 (c) require the National Assembly to publish a list of offices, positions, agreements and other arrangements that require consultation before they are taken up or entered into by a former Auditor General only where the National Assembly has specified any office, position, agreement or arrangement (section 5);
- 25 (d) remove or amend consultation requirements in relation to the appointment of the Auditor General and members of the WAO (including the chair) and add a discretion for the National Assembly to consult with persons it deems appropriate before exercising functions in relation to the Auditor General or the WAO (section 6);
- (e) make provision relating to the appointment, re-appointment and termination of appointment, as well as remuneration and terms of appointment, of members of the WAO (including the chair) (sections 7 to 12);
- 30 (f) amend the quorum requirements in relation to WAO meetings (section 13);

- (g) make provision relating to the appointment of auditors of the WAO so that the WAO is required to appoint its auditors instead of the National Assembly (section 14);
- 5 (h) co-ordinate the laying of the annual report on the exercise of functions of the Auditor General and the WAO with the laying of the audited accounts of the WAO (section 15);
- (i) remove the requirement for the Auditor General and the chair of the WAO to jointly prepare and lay interim reports before the National Assembly on the exercise of their functions (section 16);
- 10 (j) make provision for the extension of reporting deadlines (section 17 and Schedule 1).

PART 2

AMENDMENTS TO THE PUBLIC AUDIT (WALES) ACT 2013

2 Fees for provision of services

- 15 (1) Section 19 of the 2013 Act is amended as follows.
- (2) In subsection (5)(a), after “the Auditor General or the WAO” insert “(otherwise than by way of raising money by charging fees)”.
- (3) After subsection (6) insert –
- 20 “(6A) The WAO may charge a fee in relation to any services provided or functions exercised under this section.”
- (4) Omit subsection (8).

3 General provision relating to fees

- (1) Section 23 of the 2013 Act is amended as follows.
- (2) In subsection (3), omit paragraph (d).
- 25 (3) In subsection (5), for paragraph (b) substitute –
- “(b) may be aggregated and charged on the basis of broad equivalence (see subsection (6))”.
- (4) After subsection (5) insert –
- 30 “(6) In this Act, broad equivalence means that the WAO must seek to ensure that the sum of fees charged under this section for any functions exercised in relation to a person under the enactments mentioned in section 24(2)(a), taken together and taking one year with another, is broadly equivalent to all of its expenditure attributable to that person in connection with those functions.”

4 Scheme for charging of fees

- (1) Section 24 of the 2013 Act is amended as follows.
- (2) In subsection (2)(a), at the end insert “and which may only be charged in accordance with this scheme”.

5 Employment etc. of former Auditor General and remuneration

- (1) The 2013 Act is amended as follows.
- (2) In section 5(3) –
 - (a) in paragraph (a), at the end insert “(if any)”;
 - (b) in paragraph (b), at the end insert “(if any)”.
- (3) In section 7(3)(b) omit “from time to time”.

6 Consultation requirements

- (1) The 2013 Act is amended as follows.
- (2) In section 7, omit subsection (2).
- (3) In section 28, after subsection (3) insert –
 - “ (4) The National Assembly may consult with the persons (if any) it deems appropriate before exercising any functions in relation to the Auditor General or the WAO.”
- (4) In Schedule 1 –
 - (a) in paragraph 5, omit sub-paragraph (2);
 - (b) in paragraph 7, omit sub-paragraph (2);
 - (c) omit paragraph 9;
 - (d) in paragraph 12, omit sub-paragraph (2).

7 Appointment of non-executive members of the WAO

- (1) Paragraph 4 of Schedule 1 to the 2013 Act is amended as follows.
- (2) For sub-paragraph (2) substitute –
 - “ (2) Appointments made under sub-paragraph (1) must be for a period of no more than 4 years.
 - (3) A person must not be appointed under sub-paragraph (1) more than twice.
 - (4) The National Assembly may extend an appointment made under sub-paragraph (1) for a period of no more than 4 years.
 - (5) But the National Assembly must not extend an appointment under sub-paragraph (4) if that non-executive member –
 - (a) has been appointed under sub-paragraph (1) more than once,
 - or

(b) has previously received an extension of appointment under sub-paragraph (4).

(6) The National Assembly must not make or extend an appointment made under sub-paragraph (1) or (4) if that would result in a person serving longer than 8 years."

8 Appointment of the chair of the WAO

(1) Paragraph 5 of Schedule 1 to the 2013 Act is amended as follows.

(2) For sub-paragraphs (3) and (4) substitute –

"(3) The National Assembly may extend an appointment under this paragraph.

(4) The period of appointment under this paragraph (including any extension) must not exceed the person's remaining period of office as a non-executive member."

9 Period of appointment and re-appointment

In Schedule 1 to the 2013 Act, omit paragraph 6.

10 Remuneration arrangements for the WAO

(1) The 2013 Act is amended as follows.

(2) In paragraph 7 of Schedule 1 –

(a) in sub-paragraph (1), omit "(subject to sub-paragraph (2) and paragraph 9)";

(b) in sub-paragraph (6)(b), omit "from time to time";

(c) after sub-paragraph (7) insert –

"(8) The National Assembly may amend remuneration arrangements made under this paragraph."

(3) In paragraph 17(2)(b) of Schedule 1, omit "from time to time".

(4) In paragraph 11(b) of Schedule 2, omit "from time to time".

11 Terms of appointment

(1) Paragraph 8 of Schedule 1 to the 2013 Act is amended as follows.

(2) In sub-paragraph (1), omit "(subject to paragraph 9)".

(3) After sub-paragraph (3) insert –

"(4) The National Assembly may amend terms of appointment determined under this paragraph."

12 Termination of appointments

(1) Schedule 1 to the 2013 Act is amended as follows.

(2) In paragraph 10(3), for "accepted" substitute "received".

- (3) In paragraph 12(3)(b), after “otherwise” insert “unable, unfit or”.

13 Quorum for WAO meetings

- (1) Paragraph 28 of Schedule 1 to the 2013 Act is amended as follows.

- (2) After sub-paragraph (3), insert—

5 “(4) The rules may provide that in the event that the majority of members present are not non-executive members, the chair may request the employee members to nominate an employee member who will take on an observer role for the remainder of a meeting or until such time as the quorum is restored by the arrival of an additional non-
10 executive member.”

14 WAO accounts and auditors of the WAO

- (1) Schedule 1 to the 2013 Act is amended as follows.

- (2) In paragraph 33(6), omit “from time to time”.

- (3) In paragraph 34, for sub-paragraphs (1) and (2) substitute—

15 “(1) The WAO must appoint a person as auditor of the WAO’s accounts.

(2) The National Assembly’s approval is required for—

(a) the appointment of a person as auditor,

(b) the terms of the auditor’s appointment, and

(c) the method of procurement of an auditor by the WAO.”

20 15 Laying of reports etc. before the National Assembly

- (1) The 2013 Act is amended as follows.

- (2) In paragraph 35(2)(b) of Schedule 1, after “report on it” insert “and the annual report provided by the Auditor General and the chair of the WAO in accordance with paragraph 3 of Schedule 2”.

- 25 (3) In paragraph 3(6) of Schedule 2, for sub-paragraph (a) substitute—

“(a) provide the annual report as soon as practicable to the auditor appointed under paragraph 34 of Schedule 1 and in any event no later than 5 months after the end of the financial year to which the annual report relates;”

30 16 Interim reports

- (1) Paragraph 3 of Schedule 2 to the 2013 Act is amended as follows.

- (2) In sub-paragraph (3), for “At least once during each financial year” substitute “If requested by the National Assembly at any time during a financial year”.

- (3) Omit sub-paragraph (5).

- (4) In sub-paragraph (6)(b), after “lay” insert “any”.
- (5) In sub-paragraph (6)(b), omit “from time to time”.

PART 3

GENERAL

- 5 **17 Laying deadlines for certified accounts**
Schedule 1 makes amendments to existing legislation relating to laying of certified accounts and reports.
- 18 Consequential amendments**
Schedule 2 makes consequential amendments.
- 10 **19 Transitional arrangements**
- (1) Schedule 3 makes transitional arrangements.
 - (2) The Welsh Ministers may by order make such transitional, transitory or saving provision as they think appropriate in connection with the commencement of this Act.
 - (3) A power of the Welsh Ministers to make an order under this Act is exercisable by
15 statutory instrument.
 - (4) A statutory instrument containing an order under this Act is subject to annulment in pursuance of a resolution of the National Assembly.
 - (5) Nothing in Schedule 3 limits the power conferred by subsection (2); and such an order may, amongst other things, make modifications of that Schedule.
- 20 **20 Short title and coming into force**
- (1) This Act comes into force at the end of the period of [two months] beginning with the day on which this Act receives Royal Assent.
 - (2) The short title of this Act is the Public Audit (Amendment) (Wales) Act 20[].

SCHEDULE 1
(introduced by section 17)

ACCOUNTS REPORTING AND LAYING DEADLINES

Children's Commissioner for Wales

- 5 1 Paragraph 9 of Schedule 2 to the Care Standards Act 2000 (c. 14) is amended as follows.
- 2 At the beginning of sub-paragraph (2)(b), insert "(subject to sub-paragraph (2A))".
- 3 After sub-paragraph (2), insert—
- “(2A) The Auditor General for Wales may lay a copy of the certified
10 accounts and report before the Assembly after the four-month
deadline mentioned in sub-paragraph (2)(b) where it is not reasonably
practicable for the Auditor General for Wales to meet that deadline.
- (2B) Where sub-paragraph (2A) applies, the Auditor General for Wales
must—
- (a) before the four-month deadline mentioned in sub-paragraph
15 (2)(b), lay before the Assembly a statement explaining why it is
not reasonably practicable for the Auditor General for Wales to
lay a copy of the certified accounts and report before the
Assembly before that deadline, and
- (b) lay a copy of the certified accounts and report before the
20 Assembly as soon as reasonably practicable after that
deadline.”

Education Workforce Council

- 4 Paragraph 21 of Schedule 1 to the Education (Wales) Act 2014 (anaw 5) is amended as
follows.
- 25 5 At the beginning of sub-paragraph (4)(b), insert "(subject to sub-paragraph (4A))".
- 6 After sub-paragraph (4), insert—
- “(4A) The Auditor General for Wales may lay a copy of the certified
30 accounts and report before the Assembly after the four-month
deadline mentioned in sub-paragraph (4)(b) where it is not reasonably
practicable for the Auditor General for Wales to meet that deadline.
- (4B) Where sub-paragraph (4A) applies, the Auditor General for Wales
must—
- (a) before the four-month deadline mentioned in sub-paragraph
35 (4)(b), lay before the Assembly a statement explaining why it is
not reasonably practicable for the Auditor General for Wales to
lay a copy of the certified accounts and report before the
Assembly before that deadline, and

- (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline.”

Estyn

5 7 Paragraph 6 of Schedule 6 to the Government of Wales Act 1998 (c. 38) is amended as follows.

8 At the beginning of sub-paragraph (2)(b), insert “(subject to sub-paragraph (2A))”.

9 After sub-paragraph (2), insert—

10 “(2A) The Auditor General for Wales may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.

(2B) Where sub-paragraph (2A) applies, the Auditor General for Wales must—

15 (a) before the four-month deadline mentioned in sub-paragraph (2)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the Assembly before that deadline, and

20 (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline.”

Future Generations Commissioner

10 Paragraph 21 of Schedule 2 to the Well-being of Future Generations (Wales) Act 2015
25 (anaw 2) is amended as follows.

11 At the beginning of sub-paragraph (2)(b), insert “(subject to sub-paragraph (2A))”.

12 After sub-paragraph (2), insert—

30 “(2A) The Auditor General may lay a copy of the certified accounts and report before the National Assembly after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General to meet that deadline.

(2B) Where sub-paragraph (2A) applies, the Auditor General must—

35 (a) before the four-month deadline mentioned in sub-paragraph (2)(b), lay before the National Assembly a statement explaining why it is not reasonably practicable for the Auditor General to lay a copy of the certified accounts and report before the National Assembly before that deadline, and

- (b) lay a copy of the certified accounts and report before the National Assembly as soon as reasonably practicable after that deadline.”

Health Education & Improvement Wales, Local Health Boards and NHS trusts

- 5 13 Section 61 of the Public Audit (Wales) Act 2004 (c. 23) is amended as follows.
- 14 At the beginning of subsection (2)(b), insert “(subject to subsection (2A))”.
- 15 After subsection (2), insert—
- 10 “(2A) The Auditor General for Wales may lay a copy of the certified accounts and report before the National Assembly for Wales after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.
- (2B) Where subsection (2A) applies, the Auditor General for Wales must—
- 15 (a) before the four-month deadline mentioned in subsection (2)(b), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the National Assembly for Wales before that deadline, and
- 20 (b) lay a copy of the certified accounts and report before the National Assembly for Wales as soon as reasonably practicable after that deadline.”

Local Democracy and Boundary Commission for Wales

- 16 Section 19 of the Local Government (Democracy) (Wales) Act 2013 (anaw 4) is amended
- 25 as follows.
- 17 At the beginning of subsection (4)(b), insert “(subject to subsection (4A))”.
- 18 After subsection 4, insert—
- 30 “(4A) The Auditor General for Wales may lay a copy of the certified accounts and report before the National Assembly for Wales after the four-month deadline mentioned in sub-paragraph (4)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.
- (4B) Where subsection (4A) applies, the Auditor General for Wales must—

- 5
- (a) before the four-month deadline mentioned in subsection (4)(b), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the National Assembly for Wales before that deadline, and
 - (b) lay a copy of the certified accounts and report before the National Assembly for Wales as soon as reasonably practicable after that deadline."

10 *National Assembly for Wales Commission*

19 Section 137 of the Government of Wales Act 2006 (c. 32) is amended as follows.

20 At the beginning of subsection (5)(b), insert "(subject to subsection (5A))".

21 After subsection 5, insert—

15 "(5A) The Auditor General may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in subsection (5)(b) where it is not reasonably practicable for the Auditor General to meet that deadline.

(5B) Where subsection (5A) applies, the Auditor General must—

- 20
- (a) before the four-month deadline mentioned in subsection (5)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General to lay a copy of the certified accounts and report before the Assembly before that deadline, and
 - (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline."
- 25

Natural Resources Wales

22 Paragraph 23 of Schedule 1 to the Natural Resources Body for Wales (Establishment) Order 2012 (S.I. 2012/1903 (W. 230)) is amended as follows.

30 23 At the beginning of sub-paragraph (5)(c), insert "(subject to sub-paragraph (6))".

24 After sub-paragraph (5), insert—

35 "(6) The Auditor General for Wales may lay a copy of the certified accounts and report before the National Assembly for Wales after the four-month deadline mentioned in sub-paragraph (5)(c) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.

(7) Where sub-paragraph (6) applies, the Auditor General for Wales must—

- 5
- (a) before the four-month deadline mentioned in sub-paragraph (5)(c), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the National Assembly for Wales before that deadline, and
 - (b) lay a copy of the certified accounts and report before the National Assembly for Wales as soon as reasonably practicable after that deadline."

10 *Older People's Commissioner*

25 Paragraph 12 of Schedule 1 to the Commissioner for Older People (Wales) Act 2006 (c. 30) is amended as follows.

26 At the beginning of sub-paragraph (2)(b), insert "(subject to sub-paragraph (2A))".

27 After sub-paragraph (2), insert—

15 "(2A) The Auditor General for Wales may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.

20 (2B) Where sub-paragraph (2A) applies, the Auditor General for Wales must—

- 25
- (a) before the four-month deadline mentioned in sub-paragraph (2)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the Assembly before that deadline, and
 - (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline."

Qualifications Wales

30 28 Paragraph 33 of Schedule 1 to the Qualifications Wales Act 2015 (anaw 5) is amended as follows.

29 At the beginning of sub-paragraph (2)(b), insert "(subject to sub-paragraph (3))".

30 After sub-paragraph (2), insert—

35 "(3) The Auditor General may lay a copy of the certified accounts and report before the National Assembly for Wales after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General to meet that deadline.

(4) Where sub-paragraph (3) applies, the Auditor General must—

- 5
- (a) before the four-month deadline mentioned in sub-paragraph (2)(b), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General to lay a copy of the certified accounts and report before the National Assembly for Wales before that deadline, and
 - (b) lay a copy of the certified accounts and report before the National Assembly for Wales as soon as reasonably practicable after that deadline."

10 *Social Care Wales*

31 Paragraph 16 of Schedule 2 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) is amended as follows.

32 At the beginning of sub-paragraph (4)(b), insert "(subject to sub-paragraph (5))".

33 After sub-paragraph (4), insert—

15 "(5) The Auditor General for Wales may lay a copy of the certified accounts and report before the National Assembly for Wales after the four-month deadline mentioned in sub-paragraph (4)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.

20 (6) Where sub-paragraph (5) applies, the Auditor General for Wales must—

- 25
- (a) before the four-month deadline mentioned in sub-paragraph (4)(b), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the National Assembly for Wales before that deadline, and
 - (b) lay a copy of the certified accounts and report before the National Assembly for Wales as soon as reasonably practicable after that deadline."
- 30

Welsh Consolidated Fund

34 Section 132 of the Government of Wales Act 2006 is amended as follows.

35 At the beginning of subsection (5)(b), insert "(subject to subsection (5A))".

36 After subsection (5), insert—

35 "(5A) The Auditor General may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in subsection (5)(b) where it is not reasonably practicable for the Auditor General to meet that deadline.

(5B) Where subsection (5A) applies, the Auditor General must—

- 5
- (a) before the four-month deadline mentioned in subsection (5)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General to lay a copy of the certified accounts and report before the Assembly before that deadline, and
 - (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline."

Welsh Language Commissioner

10 37 Paragraph 19 of Schedule 1 to the Welsh Language (Wales) Measure 2011 (nawm 1) is amended as follows.

38 At the beginning of sub-paragraph (2)(b), insert "(subject to sub-paragraph (2A))".

39 After sub-paragraph (2), insert—

15 "(2A) The Auditor General for Wales may lay a copy of the certified accounts and report before the National Assembly for Wales after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.

20 (2B) Where sub-paragraph (2A) applies, the Auditor General for Wales must—

- 25
- (a) before the four-month deadline mentioned in sub-paragraph (2)(b), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the National Assembly for Wales before that deadline, and
 - (b) lay a copy of the certified accounts and report before the National Assembly for Wales as soon as reasonably practicable after that deadline."

30 *Welsh Ministers*

40 Section 131 of the Government of Wales Act 2006 is amended as follows.

41 At the beginning of subsection (6)(b), insert "(subject to subsection (6A))".

42 After subsection (6), insert—

35 "(6A) The Auditor General may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in subsection (6)(b) where it is not reasonably practicable for the Auditor General to meet that deadline.

(6B) Where subsection (6A) applies, the Auditor General must—

- 5
- (a) before the four-month deadline mentioned in subsection (6)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General to lay a copy of the certified accounts and report before the Assembly before that deadline, and
 - (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline."

Welsh Revenue Authority

10 43 Section 31 of the Tax Collection and Management (Wales) Act 2016 (anaw 6) is amended as follows.

44 At the beginning of subsection (2)(b), insert "(subject to subsection (2A))".

45 After subsection (2), insert –

15 "(2A) The Auditor General for Wales may lay a copy of the certified accounts and Tax Statement and reports on them before the National Assembly for Wales after the four-month deadline mentioned in subsection (2)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.

(2B) Where subsection (2A) applies, the Auditor General for Wales must –

- 20
- (a) before the four-month deadline mentioned in subsection (2)(b), lay before the National Assembly for Wales a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and Tax Statement and reports on them before the National Assembly for Wales before that deadline, and
 - (b) lay a copy of the certified accounts and Tax Statement and reports on them before the National Assembly for Wales as soon as reasonably practicable after that deadline."
- 25

Whole of Government of Wales account

30 46 Section 142 of the Government of Wales Act 2006 is amended as follows.

47 At the beginning of subsection (2)(b), insert "(subject to subsection (2A))".

48 After subsection (2), insert –

35 "(2A) The Auditor General may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in subsection (2)(b) where it is not reasonably practicable for the Auditor General to meet that deadline.

(2B) Where subsection (2A) applies, the Auditor General must –

5

- (a) before the four-month deadline mentioned in subsection (2)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General to lay a copy of the certified accounts and report before the Assembly before that deadline, and
- (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline.”

SCHEDULE 2
(introduced by section 18)

CONSEQUENTIAL AMENDMENTS

Education Act 1997 (c. 44)

- 5 1 In subsection (6) of section 41A of the Education Act 1997, omit the words from “(which”
to the end of that subsection.

Government of Wales Act 1998 (c. 38)

- 2 The Government of Wales Act 1998 is amended as follows.
3 In section 145C(3), omit the words “(which may not exceed the full cost incurred in
10 undertaking the programme),”.
4 In section 145D, omit subsection (2A).

Public Audit (Wales) Act 2004 (c.23)

- 5 The Public Audit (Wales) Act 2004 is amended as follows.
6 In section 20, omit subsection (5A).
15 7 In subsection 45(8), omit the words from “(but” to the end of that subsection.
8 In section 64F, omit subsection (10).
9 In section 67A, omit subsection (3).

Government of Wales Act 2006 (c. 32)

- 10 In section 144(2) of the Government of Wales Act 2006, omit paragraph (g).

20 *Local Government (Wales) Measure 2009 (nawm 2)*

- 11 In section 27 of the Local Government (Wales) Measure 2009, omit subsection (4A).

Local Democracy, Economic Development and Construction Act 2009 (c. 20)

- 12 In subsection (4A) of section 50 of the Local Democracy, Economic Development and
Construction Act 2009, omit the words from “But” to the end of that subsection.

SCHEDULE 3
(introduced by section 19)

TRANSITIONAL ARRANGEMENTS

Fees for provision of services

- 5 1 (1) This paragraph applies where arrangements are made between the WAO and a relevant authority under section 19 of the 2013 Act immediately before the coming into force of section 2 (fees for provision of services).
- (2) An arrangement made between the WAO and a relevant authority has effect until the arrangement comes to an end (subject to any earlier termination).
- 10 (3) The 2013 Act applies with the following modifications in relation to an arrangement continued by sub-paragraph (2) –
- (a) section 19 of the 2013 Act has effect as if it had not been amended by this Act, and
 - (b) sections 23 and 24 of the 2013 Act have effect as if they had not been amended by this Act.

15 *Scheme for charging of fees*

- 2 (1) This paragraph applies where a scheme for charging fees under section 24 of the 2013 Act has effect immediately before the coming into force of section 4 (scheme for charging of fees).
- (2) A scheme continues to have effect until a new scheme comes into effect.
- 20 (3) The 2013 Act applies with the following modifications in relation to a scheme continued by sub-paragraph (2) –
- (a) section 24 of the 2013 Act has effect as if it had not been amended by this Act, and
 - (b) sections 19 and 23 of the 2013 Act have effect as if they had not been amended by this Act.

25 *Auditors of the WAO*

- 3 (1) This paragraph applies where an appointment of a person as an auditor in relation to the accounts of the WAO has effect under paragraph 34 of Schedule 1 to the 2013 Act immediately before the coming into force of section 14 (WAO accounts and auditors of the WAO).
- 30 (2) The appointment of a person as an auditor of the WAO continues to have effect until the end of the period for which the appointment was made (subject to any earlier termination).

Draft Public Audit (Amendment) (Wales) Bill

Explanatory Notes

INTRODUCTION

These Explanatory Notes relate to the [Draft] Public Audit (Amendment) (Wales) Act 2020 which was passed by the National Assembly for Wales on [] and received Royal Assent on []. They have been prepared in order to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

The following terms and abbreviations are used in the Explanatory Notes –

2013 Act – the Public Audit (Wales) Act 2013

The National Assembly – the National Assembly for Wales

AGW – the Auditor General for Wales

WAO – the Wales Audit Office

PART 1 INTRODUCTION

Section 1 – Overview

The Act comprises 20 sections and 3 schedules. As set out in section 1 (which is not intended to have any legal effect), the provisions –

- remove the prohibition on the WAO charging fees that exceed the full cost of exercising the function to which the fee relates;
- require the WAO to include in a fees scheme a provision that seeks to ensure that the sum of the fees charged to each person for work undertaken under specified enactments, taken together and taking one year with another, is broadly equivalent to all of its expenditure relating to that person for that work (sections 3 and 4);
- require the National Assembly to publish a list of offices, positions, agreements and other arrangements that require consultation before they are taken up or entered into by a former Auditor General only where the National Assembly has specified any office, position, agreement or arrangement;
- remove or amend consultation requirements in relation to the appointment of the Auditor General and members of the WAO (including the chair) and add a discretion for the National Assembly to consult with persons it deems appropriate before exercising functions in relation to the Auditor General or the WAO;
- make provision relating to the appointment, re-appointment and termination of appointment, as well as remuneration and terms of appointment, of members of the WAO (including the chair);
- amend the quorum requirements in relation to WAO meetings;
- make provision relating to the appointment of auditors of the WAO so that the WAO is required to appoint its auditors instead of the National Assembly;

- co-ordinate the laying of the annual report on the exercise of functions of the Auditor General and the WAO with the laying of the audited accounts of the WAO;
- remove the requirement for the Auditor General and the chair of the WAO to jointly prepare and lay interim reports before the National Assembly on the exercise of their functions;
- make provision for the extension of reporting deadlines.

PART 2 AMENDMENTS TO THE PUBLIC AUDIT (WALES) ACT 2013

Section 2 - Fees for provision of services

This section amends section 19 of the 2013 Act.

Subsection (2) amends section 19(5)(a) of the 2013 Act to clarify that the potential to raise funds is not regarded in itself to facilitate, or be conducive to, the exercise of the functions of the AGW or the WAO.

Subsection (3) enables the WAO to continue to charge fees for the provision of services or functions exercised by agreement under section 19 of the 2013 Act. As section 3 (see below) removes the charging of fees for work under section 19 of the 2013 Act, subsection (3) is a necessary replacement provision for the charging of fees.

Subsection (4) releases the WAO from the obligation to set fees for such work in accordance with a fee scheme (prepared under section 24 of the 2013 Act).

Section 3 - General provision relating to fees

This section removes the prohibition on fees charged under those enactments listed in section 23(3) of the 2013 Act from exceeding the full cost of the function to which they relate and replaces it with the concept of “broad equivalence”.

Subsection (2) repeals the power to charge fees for work under section 19 of the 2013 Act from section 23 of the 2013 Act. As explained above, section 2 of the Act replaces this provision with an equivalent power in section 19 of the 2013 Act. The net effect of these changes relating to fees charged under section 19 of the 2013 Act is that they may be set at a level above the related expenditure.

Subsection (3) introduces the “broad equivalence” basis used for calculating fees and subsection (4) provides for a definition of “broad equivalence” to be inserted into the 2013 Act. Broad equivalence means that the WAO must seek to ensure that the sum of the fees charged to any person for all of the work undertaken under the enactments listed in section 24(1) of the 2013 Act, taken together and taking one year with another, is broadly equivalent to all of its expenditure in connection with that work attributable to that person.

Section 4 - Scheme for charging of fees

This section amends section 24 of the 2013 Act. The amendments are necessary to reflect the changes to fees made by sections 2 and 3.

Subsection (2) reflects that, following the amendments made by sections 2 and 3, fees for work under section 19 of the 2013 Act are not subject to the requirement that fees do not exceed cost and the requirements of the fee scheme prepared under section 24 of the 2013 Act.

Section 5 - Employment etc of former Auditor General and remuneration

This section amends section 5 of the 2013 Act in relation to the mandatory obligation to publish a list of offices, positions, agreements and arrangements specified by the National Assembly under section 5(2) of the 2013 Act, and to remove ambulatory wording.

Section 5(3) of the 2013 Act requires the National Assembly to publish a list of offices, positions, agreements and arrangements in respect of which a former Auditor General must consult any person specified by the National Assembly prior to taking up or entering into, as the case may be. The National Assembly has a discretion when considering whether to specify an office, position, agreement or arrangement and it can therefore be the case that there are no such specified offices, positions, agreements and arrangements. Subsection (2) inserts wording to section 5(3)(a) and (b) of the 2013 Act in order to clarify that a list must be published where an office, position, agreement or arrangement has been specified by the National Assembly. The effect is that the National Assembly is not required to publish a list if it has not specified an office, position, agreement or arrangement for the purposes of section 5(2) of the 2013 Act.

Subsection (3) removes an ambulatory reference that is not considered necessary.

Section 6 - Consultation requirements

This section makes various amendments in relation to consultation requirements under the 2013 Act.

Subsections (2), (4)(a), (4)(b) and (4)(d) remove obligations on the National Assembly to consult the First Minister before:

- making remuneration arrangements for the AGW;
- appointing a chair of the WAO;
- making remuneration arrangements for the chair of the WAO; and
- terminating appointment of a chair of the WAO.

These amendments seek to strengthen the independence of the AGW and the WAO.

Subsections (3) and (4)(c) replace a requirement for the National Assembly to consult with “an appropriate person with oversight of public appointments” before determining terms and conditions, including remuneration, of non-executive members of the WAO with provision confirming that the National Assembly may consult with any persons it deems appropriate when exercising any functions in relation to the AGW or the WAO.

Sections 7 to 12 - Appointments to the board of the WAO

These sections amend Part 2 of Schedule 1 to the 2013 Act relating to the appointment of non-executive members of the WAO.

Section 7 amends paragraph 4 of Schedule 1 to the 2013 Act. It provides that the National Assembly may extend the appointment of a serving non-executive member for up to one further term, subject to the existing restriction (formerly contained in paragraph 6 of Schedule 1 to the 2013 Act) that no person may serve more than a maximum of eight years as a non-executive member. The requirement that an appointment of a non-executive member must be based on a fair and open competition has been removed from paragraph 4. This allows an extension of the appointment without needing to undertake a fair and open competition before determining whether to extend a non-executive member’s appointment.

Section 8 clarifies that if the National Assembly extends an appointment of the chair, the period of extension must not exceed the chair’s remaining term of office as a non-executive member of the Board.

Section 9 omits paragraph 6 of Schedule 1 to the 2013 Act, the provisions of which have been substantively re-enacted in the amended paragraph 4 of Schedule 1 to the 2013 Act.

Sections 10 and 11 Act amend paragraphs 10 and 11 of Schedule 1 to the 2013 Act. Subsection (2)(a) removes reference to redundant provisions that have been deleted by the Act. Subsections (2)(b), (3) and (4) remove ambulatory references that are not considered necessary. Subsection 2(c) provides that the National Assembly may amend the remuneration arrangements for non-executive members (which includes the chair). This allows the National Assembly to revise such arrangements in circumstances where it may decide to extend those appointments in accordance with amended paragraphs 4 and 5 of Schedule 1 of the 2013 Act.

Section 12 makes amendments to the termination of appointments provisions contained in paragraphs 10 and 12 of Schedule 1 to the 2013 Act. Subsection (2) provides that a resignation is effective when received. Subsection (3) provides that the circumstances in which the National Assembly may terminate the appointment of the chair of the WAO include where the chair is unable or unfit to carry out the functions of that office, in addition to where the chair has failed to comply with terms of appointment or is otherwise unwilling to continue.

Section 13 – Quorum for WAO meetings

Section 13 modifies paragraph 28 of Schedule 1 to the 2013 Act in order to provide for the possibility of rules which permit the chair to request that the employee members nominate an employee member to take on an observer role if the majority of members present at a meeting of the WAO are not non-executive members. The effect of this provision is to provide for a mechanism which allows a meeting of the WAO to continue if that meeting is not otherwise quorate because there is not a majority of non-executive members, as required by paragraph 28(3) of Schedule 1 to the 2013 Act. The provision also has the effect of not requiring an employee member to leave a meeting of the WAO in order for the meeting to be quorate.

Section 14 – WAO accounts and auditors of the WAO

Section 14 amends paragraphs 33 and 34 of Schedule 1 to the 2013 Act. Subsection (2) removes an ambulatory reference that is not considered necessary. Subsections (3) and (4) require the WAO to appoint a person as auditor of its accounts in place of the National Assembly being required to do so, but retains oversight and scrutiny by the National Assembly in relation to the auditor by requiring the National Assembly's approval of the appointment, associated terms of appointment and the method of procurement of the auditor.

Section 15 – Laying of reports etc. before the National Assembly

Section 15 amends provisions of the 2013 Act in relation to the laying of reports before the National Assembly.

Subsection (2) amends paragraph 35 of Schedule 1 to the 2013 Act so that the auditor of the WAO must lay the annual report, which is provided by the AGW and the chair of the WAO in accordance with paragraph 3 of Schedule 2 to the 2013 Act, before the National Assembly at the same time as laying the statement of accounts and any report.

Subsection (3) amends paragraph 3(6) of Schedule 2 to the 2013 Act, to require the AGW and the chair of the WAO to provide the WAO annual report, as soon as practicable to the auditor appointed under paragraph 34 of Schedule 1 to the 2013 Act and in any event no later than 5 months after the end of the financial year to which the annual report relates. The effect of this provision is to avoid duplicated laying obligations.

Section 16 – Interim reports

Section 16 amends the requirements for the AGW and the chair of the WAO to jointly prepare interim reports on the exercise of functions at least once during each financial year to a requirement to prepare such reports only when requested to do so by the National Assembly.

PART 3 GENERAL

Section 17 - Laying deadlines for certified accounts

Section 17 gives effect to Schedule 1 (account reporting deadlines), which sets out amendments to existing legislation relating to laying of certified accounts and reports.

Section 18 - Consequential amendments

Section 18 gives effect to Schedule 2 (consequential amendments), which makes consequential amendments.

Section 19 - Transitional arrangements

Section 19(1) gives effect to Schedule 3 (transitional arrangements), which sets out the principal transitional provisions.

Section 33(2) enables the Welsh Ministers, by order, to make further transitional, transitory or saving provision as they think appropriate in connection with the commencement of the Act.

Section 20 - Short title and commencement

Section 20 provides for all the provisions of the Act to come into force [two months] after the day the Act receives Royal Assent. It also provides that the short title of the Act is the Public Audit (Amendment) Wales Act 20[].

SCHEDULE 1 - ACCOUNTS REPORTING AND LAYING DEADLINES

This Schedule sets out amendments to legislation containing deadlines for laying accounts before the National Assembly. In relation to the Welsh Revenue Authority, these provisions apply to the Tax Statement in addition to the certified accounts and reports. In each case, the AGW may lay a copy of the certified accounts and report before the National Assembly after the deadline specified under the relevant legislation where it is not reasonably practicable for the AGW to meet the specified deadline. Where the AGW seeks to rely on that provision and lay a copy of the certified accounts and report after the specified deadline, the AGW must lay before the National Assembly a statement explaining why it is not reasonably practicable for the AGW to lay a copy of the certified accounts and report before the specified deadline. The AGW must lay a copy of the certified accounts and report before the National Assembly as soon as reasonably practicable after that deadline.

The effect of these provisions is to provide flexibility in the event that the strict statutory requirements are breached in order for the AGW to comply with

auditing professional standards (i.e. in circumstances where the relevant audited body should be given an opportunity to comment on audit findings prior to publication).

Amendments are made in relation to the Welsh Consolidated Fund and the whole of Government of Wales account, as well as to the laying deadlines for the following audited bodies–

- Children’s Commissioner for Wales;
- Education Workforce Council;
- Estyn;
- Future Generations Commissioner;
- Health Education & Improvement Wales;
- Local Health Boards;
- NHS trusts;
- Local Democracy and Boundary Commission for Wales;
- National Assembly for Wales Commission;
- Natural Resources Wales;
- Older People’s Commissioner;
- Qualifications Wales;
- Social Care Wales;
- Welsh Language Commissioner;
- Welsh Ministers; and
- Welsh Revenue Authority.

SCHEDULE 2 - CONSEQUENTIAL AMENDMENTS

This Schedule sets out the consequential amendments to primary legislation to give effect to the Act. Those amendments relate to various fee charging powers to be found in enactments other than section 23(b) of the 2013 Act and related prohibitions on fees exceeding the full cost of the functions to which they relate. The amendments remove these prohibitions in line with the changes to sections 23 and 24 of the 2013 Act.

Consequential amendments are made to the–

- Education Act 1997;
- Government of Wales Act 1998;
- Public Audit (Wales) Act 2004;
- Government of Wales Act 2006;
- Local Government (Wales) Measure 2009;
- Local Democracy, Economic Development and Construction Act 2009.

SCHEDULE 3 - TRANSITIONAL ARRANGEMENTS

Paragraph 1 - Fees for provision of services

Paragraph 1 means that if arrangements are in place between the WAO and a relevant authority under section 19 of the 2013 Act on the date on which the amendments to the 2013 Act come into force, those arrangements will continue

to be governed by the provisions in force prior to the amendments coming into force.

Paragraph 2 - Scheme for charging of fees

Paragraph 2 means that if a scheme for charging fees under section 24 of the 2013 Act has effect on the date on which the amendments to the 2013 Act come into force, that scheme will continue until a new scheme comes into effect.

Paragraph 3 - Auditors of the WAO

Paragraph 3 means that where an appointment of a person as an auditor in relation to the accounts of the WAO has effect on the date on which the amendments to the 2013 Act come into force, that appointment will continue to be governed by the provisions in force prior to the amendments coming into force.