

2011 No. 817

LOCAL GOVERNMENT, ENGLAND

The Accounts and Audit (England) Regulations 2011

Made - - - - *15th March 2011*

Laid before Parliament *21st March 2011*

Coming into force - - *31st March 2011*

These Regulations are made in exercise of the powers conferred by section 27 of the Audit Commission Act 1998^(a) and section 134(6) of the Greater London Authority Act 1999^(b).

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

The Secretary of State makes the following Regulations:

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Accounts and Audit (England) Regulations 2011 and come into force on 31st March 2011.

(2) These Regulations apply in relation to England only.

(3) These Regulations apply as follows—

- (a) Regulations 2, 4 to 6(2), and 21 to 28 apply to all relevant bodies;
- (b) Regulations 6(3) to 11 apply to larger relevant bodies;
- (c) Regulations 12 to 16 apply to smaller relevant bodies;
- (d) Regulations 17 to 20 apply to the particular relevant bodies mentioned in Part 5; and
- (e) Regulations 4 to 28 apply, with all necessary modifications, to the accounts of an officer whose accounts are required to be audited by section 26 (audit of accounts of officers) of the 1998 Act.

^(a) 1998 c. 18. The functions of the Secretary of State under section 27 are, so far as exercisable in relation to Wales, vested in the Welsh Ministers. Those functions were transferred to the National Assembly for Wales constituted by the Government of Wales Act 1998 (c. 38) by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; see the entry in Schedule 1 for the Audit Commission Act 1998. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers immediately after the end of the initial period as defined by section 161(5) of that Act

^(b) 1999 c. 29.

Interpretation

2.—(1) In these Regulations—

“the 1972 Act” means the Local Government Act 1972(a);

“the 1989 Act” means the Local Government and Housing Act 1989(b);

“the 1998 Act” means the Audit Commission Act 1998;

“notice by advertisement” means a notice published in one or more local newspapers circulating in the area of the relevant body;

“parish meeting” means a parish meeting of a parish not having a separate parish council;

“relevant body” means a body whose accounts are required to be audited in accordance with section 2 (required audit of accounts) of the 1998 Act other than a NHS body as defined in paragraph 1 of Schedule 15 to the National Health Service Act 2006(c), a local probation board or a probation trust;

“larger relevant body” means a relevant body which is not a smaller relevant body;

“smaller relevant body” means a relevant body which is not a local authority for the purposes of Part 1 (capital finance etc and accounts) of the Local Government Act 2003(d), which—

(a) for an established body, meets the qualifying condition for the year concerned, or for either of the two immediately preceding years,

(b) for a newly established body, meets the qualifying condition for its first or second year, the qualifying condition being that the body’s gross income or gross expenditure (whichever is higher) is not more than £6.5 million;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(e); and

“year” means the period of 12 months ending with 31st March.

(2) Any reference in these Regulations to the “responsible financial officer” means—

(a) the person who, by virtue of—

(i) section 151 (financial administration) of the 1972 Act;

(ii) section 17(1) (accounts) of the Norfolk and Suffolk Broads Act 1988(f);

(iii) section 112(1) (financial administration as to certain authorities) of the Local Government Finance Act 1988(g);

(iv) section 6(1) (officer responsible for financial administration of certain authorities) of the 1989 Act;

(v) paragraph 13(6) of Schedule 7 (National Park Authorities) to the Environment Act 1995(h); or

(vi) section 127(2) (proper financial administration and chief finance officer) of the Greater London Authority Act 1999(i);

as the case may be, is responsible for the administration of the financial affairs of a relevant body or, if no person is so responsible, the person who is responsible for keeping the accounts of such a body, or

(a) 1972 c. 70.

(b) 1989 c. 42.

(c) 2006 c. 41. Paragraph 1(3) of Schedule 15 was inserted by article 6 of S.I. 2008/817.

(d) 2003 c. 26. Bodies specified in, or in regulations made under, section 23 of the Local Government Act 2003 are local authorities for the purposes of Part 1 of that Act.

(e) 1971 c. 80.

(f) 1988 c. 4.

(g) 1988 c. 41.

(h) 1995 c. 25.

(i) 1999 c. 29.

- (b) if the person referred to in sub-paragraph (a) is unable to act owing to absence or illness, such member of that person's staff as is nominated by that person for the purposes of section 114 (functions of responsible officer as regards reports) of the Local Government Finance Act 1988^(a) or, if no nomination is made under that section, such member of staff nominated by the person referred to in sub-paragraph (a) for the purposes of these Regulations.

(3) Any reference in regulations 4 to 28 to a relevant body must, in the case of a parish meeting, be construed as a reference to the chairman of that meeting.

Revocations

3. The instruments listed in the Schedule to these Regulations are revoked.

PART 2

Financial management and internal control

Responsibility for financial management

4.—(1) The relevant body is responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes arrangements for the management of risk.

(2) The relevant body must conduct a review at least once in a year of the effectiveness of its system of internal control.

(3) The findings of the review referred to in paragraph (2) must be considered—

- (a) in the case of a larger relevant body, by the members of the body meeting as a whole or by a committee, and
- (b) in the case of a smaller relevant body, by the members of the body meeting as a whole, and

following the review, the body or committee must approve an annual governance statement, prepared in accordance with proper practices in relation to internal control.

(4) The relevant body must ensure that the statement referred to in paragraph (3) accompanies—

- (a) any statement of accounts it is obliged to prepare in accordance with regulation 7, or
- (b) any accounting statement it is obliged to prepare in accordance with regulation 12.

Accounting records and control systems

5.—(1) Subject to paragraphs (2) and (4), and, in so far as they are not in conflict with this paragraph, to any instructions given by a relevant body to its responsible financial officer, that officer must determine, on behalf of the body, its—

- (a) accounting records, including the form of accounts and supporting accounting records; and
- (b) accounting control systems,

and such an officer must ensure that the accounting control systems determined by that officer are observed and that the accounting records of the body are kept up to date.

(a) Section 114 was amended by section 130 of the Greater London Authority Act 1999 (c. 29), S.I. 2002/2237, paragraph 34 of Schedule 4 to the Police and Magistrates' Courts Act 1994 (c. 29), paragraph 66 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42), paragraph 28 of Schedule 6 to the Police Act 1997 (c. 50) and paragraph 48 of Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16).

(2) The accounting records determined in accordance with paragraph (1)(a) must be sufficient to show and explain a relevant body's transactions and to enable the responsible financial officer to ensure that any statement of accounts or accounting statement which are prepared under these Regulations, comply with these Regulations.

(3) The accounting records determined in accordance with paragraph (1)(a) must in particular contain—

- (a) entries from day to day of all sums of money received and expended by the body and the matters to which the income and expenditure or receipts and payments account relate;
- (b) a record of the assets and liabilities of the body;
- (c) a record of income and expenditure of the body in relation to claims made, or to be made, by them for contribution, grant or subsidy from any Minister of the Crown, a body to whom such a Minister may pay sums out of moneys provided by Parliament or an EU institution; and
- (d) a record of any approval given for the purposes of paragraph (4)(c).

(4) The accounting control systems determined in accordance with paragraph (1)(b) must include—

- (a) measures—
 - (i) to ensure that the financial transactions of the body are recorded as soon as, and as accurately as, reasonably practicable;
 - (ii) to enable the prevention and detection of inaccuracies and fraud, and the reconstitution of any lost records; and
 - (iii) to ensure that risk is appropriately managed;
- (b) identification of the duties of officers dealing with financial transactions and division of responsibilities of those officers in relation to significant transactions; and
- (c) procedures to ensure that uncollectable amounts, including bad debts, are not written off except with the approval of the responsible financial officer, or such member of that officer's staff as is nominated by that officer for this purpose.

Internal audit

6.—(1) A relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control.

(2) Any officer or member of a relevant body must, if the body requires—

- (a) make available such documents and records as appear to that body to be necessary for the purposes of the audit; and
- (b) supply the body with such information and explanation as that body considers necessary for that purpose.

(3) A larger relevant body must, at least once in each year, conduct a review of the effectiveness of its internal audit.

(4) The findings of the review referred to in paragraph (3) must be considered, as part of the consideration of the system of internal control referred to in regulation 4(3), by the committee or body referred to in that paragraph.

PART 3

Published accounts and audit – larger relevant bodies

Statement of accounts

7.—(1) A larger relevant body must prepare, in accordance with proper practices in relation to accounts, a statement of accounts for each year, which must include such of the following accounting statements as are relevant to the functions of the relevant body—

- (a) housing revenue account;
- (b) collection fund;
- (c) firefighters' pension fund;
- (d) any other statements relating to each and every other fund in relation to which the body is required by any statutory provision to keep a separate account.

(2) The statement required by paragraph (1) must include a note—

- (a) demonstrating whether the Dedicated Schools Grant (made under section 14 (power of Secretary of State to give financial assistance for purposes related to education or children etc) of the Education Act 2002(a)) has been deployed in accordance with regulations made under sections 45A (determination of specified budgets of local authority), 45AA (power to require local authorities to make initial determination of schools budget), 47 (determination of schools' budget share), 48(1) and (2) (local authorities' financial schemes) and 138(7) (orders and regulations) of, and paragraph 1(7)(b) of Schedule 14 to, the School Standards and Framework Act 1998(b);
- (b) except in relation to persons to whom paragraph (c) applies, of the number of employees or senior police officers in the year to which the accounts relate whose remuneration fell in each bracket of a scale in multiples of £5,000 starting with £50,000;
- (c) of the remuneration, set out according to the categories listed in paragraph (3), and the relevant body's contribution to the person's pension, by the relevant body during the relevant year of—

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

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

(3) The categories are:

- (i) the total amount of salary, fees or allowances paid to or receivable by the person in the current and previous year;
- (ii) the total amount of bonuses so paid or receivable in the current and previous year;
- (iii) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax, and were paid to or receivable by the person;

(a) 2002 c. 32. Section 14 has been amended by section 59 of the Children Act 2004 (c. 31) and paragraph 23 of Schedule 14 to the Education Act 2005 (c. 18).

(b) 1998 c. 31. Section 45A was inserted by section 41 of the Education Act 2002 (c. 32), and was amended by paragraph 3 of Schedule 16 and Part 4 of Schedule 19 to the Education Act 2005, section 202 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), and S.I. 2010/1158. Section 45AA was inserted by paragraph 4 of Schedule 16 to the Education Act 2005, and was amended by S.I. 2010/1158. Section 47 was amended by paragraph 6 of Schedule 16 to the Education Act 2005, and S.I. 2010/1158. Section 48 was amended by paragraph 3 of Schedule 5 and Part 6 of Schedule 18 to the Education and Inspections Act 2006 (c. 40), paragraph 2 of Schedule 3 to the Education Act 2002, paragraph 7 of Schedule 18 to the Education Act 2005, and S.I. 2010/1158. Section 138(7) was amended by paragraph 3 of Schedule 17 to the Education and Inspections Act 2006. Paragraph 1(7) of Schedule 14 was substituted by paragraph 5 of Schedule 5 to the Education and Inspections Act 2006.

- (iv) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the termination of their employment by the relevant body, or, in the case of a relevant police officer, the total amount of any payment made to a relevant police officer who ceases to hold office before the end of a fixed term appointment;
- (v) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within (i) to (iv) above, are emoluments of the person, and are received by the person in respect of their employment by the relevant body or in their capacity as a police officer; and
- (vi) in relation to relevant police officers, any payments, whether made under the Police Regulations 2003(a) or otherwise, which do not fall within (i) to (v) above.

(4) In this regulation—

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

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

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

(a) S.I. 2003/527. There are amendments not relevant to these Regulations.

(b) 1972 c. 11.

(c) S.I. 2008/239.

(d) Regulation 40 was substituted by S.I. 2009/3150.

(e) 1947 c. 41 and 1959 c. 44. Both these Acts have been repealed by the Fire and Rescue Services Act 2004 (c. 21) which contained savings in respect of pension schemes established under them.

(f) S.I. 1992/129. Paragraphs G2(3) and (4) were inserted by article 2 of, and paragraph 38(b) of Schedule 1 to, the Firefighters’ Pension Scheme (Amendment) (England) Order 2006 (S.I. 2006/1810). Article 4 of the Firefighters’ Pension Scheme (England and Scotland) Order 2004 (S.I. 2004/2306) changed the name of the scheme from ‘Firemen’s Pension Scheme’ to ‘Firefighters’ Pension Scheme’.

(g) 2004 c. 21.

(h) S.I. 2006/3432.

(i) S.I. 1987/257.

(j) S.I. 2006/3415.

(k) S.I. 2007/1932. Regulation 5(1) was amended by S.I. 2008/1887.

“relevant police officer” means—

- (e) in relation to a police force maintained under section 2 (maintenance of police forces) of the Police Act 1996^(a), the chief constable,
- (f) in relation to the metropolitan police force, the Commissioner of Police of the Metropolis,
- (g) in relation to the City of London police force, the Commissioner of Police for the City of London, and
- (h) any other senior police officer whose salary is £150,000 per year or more;

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

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

- (i) a person employed by a relevant body to which section 2 (politically restricted posts) of the 1989 Act applies who—
 - (i) has been designated as head of paid service under section 4(1)(a);
 - (ii) is a statutory chief officer within the meaning of section 2(6)(b) of that Act; or
 - (iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;
- (j) a person who is the head of staff for any relevant body to which section 4 of the 1989 Act does not apply; or
- (k) a person who has responsibility for the management of the relevant body to the extent that the person has power to direct or control the major activities of the body (in particular activities involving the expenditure of money), whether solely or collectively with other persons; and

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

(5) In the case of a local authority which is required by section 74(c) of the 1989 Act to keep a housing revenue account, the statement of accounts required by paragraph (1) must include also an account in respect of a reserve for major repairs to property of the authority to which section 74(1) of the 1989 Act for the time being applies (to be called a major repairs reserve), showing in particular—

- (a) a credit of an amount in respect of any charge for depreciation included in the housing revenue account for that year under item 8 of Part 2 of Schedule 4 to the 1989 Act;
- (b) a debit in respect of any capital expenditure, within the meaning of section 16 (“capital expenditure”) of the Local Government Act 2003^(d), which was—
 - (i) incurred in that year,
 - (ii) met by payments out of the major repairs reserve, and
 - (iii) in respect of any land, houses or other property to which section 74(1) of the 1989 Act for the time being applies, other than capital expenditure for the purpose of demolition of any such property;

(a) 1996 c. 16.

(b) Section 2(6) was amended by section 18 of and paragraph 3 of Schedule 2 to the Children Act 2004 (c. 31), paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56), and section 127 of the Greater London Authority Act 1999 (c. 29), and was partially repealed by section 180 of and Schedules 13 and 14 to the Local Government etc (Scotland) Act 1994 (c. 39) and Schedule 2 to the Fire and Rescue Services Act 2004 (c. 21).

(c) Section 74 was amended by paragraph 24 of Schedule 18 to the Housing Act 1996 (c. 52).

(d) 2003 c. 26.

- (c) a debit in respect of any repayment, made in that year, of the principal of any amount borrowed where the repayment was met by payments out of the major repairs reserve; and
- (d) a debit in respect of the meeting of any liability, in that year, in respect of credit arrangements, other than any liability which, in accordance with proper practices in relation to accounts, must be charged to a revenue account, where the meeting of that liability was met by payments out of the major repairs reserve.

(6) The Common Council of the City of London must in relation to the accounts referred to in paragraph 2 of Schedule 2 (accounts subject to audit) to the 1998 Act prepare for each year, in accordance with proper practices in relation to accounts, a statement of accounts including—

- (a) a summarised statement of capital expenditure in relation to each of the funds mentioned in that paragraph, differentiated in respect of different services and showing the sources of finance of the year's total capital expenditure incurred in the period;
- (b) a summarised statement of the income and expenditure of each of those funds; and
- (c) a balance sheet in respect of each of those funds,

and in relation to amounts shown in pursuance of sub-paragraphs (b) and (c) must show any corresponding amounts for the immediately preceding period.

Signing, approval and publication of statement of accounts

8.—(1) A larger relevant body must ensure that the statement of accounts required by paragraphs (1) or (6) of regulation 7, as the case may be, is prepared in accordance with these Regulations.

(2) Before the approval referred to in paragraph (3) is given, the responsible financial officer of a larger relevant body must, no later than 30th June immediately following the end of a year, sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body's income and expenditure for that year.

(3) Subject to paragraph (4), a larger relevant body must, no later than 30th September in the year immediately following the end of the year to which the statement relates—

- (a) consider either by way of a committee or by the members meeting as a whole the statement of accounts;
- (b) following that consideration, approve the statement of accounts by a resolution of that committee or meeting;
- (c) following approval, ensure that the statement of accounts is signed and dated by the person presiding at the committee or meeting at which that approval was given; and
- (d) publish (which must include publication on the body's website), the statement of accounts together with any certificate, opinion, or report issued, given or made by the auditor under section 9 (general report) of the 1998 Act.

(4) The responsible financial officer must re-certify the presentation of the statement of accounts before the relevant body approves it.

(5) A larger relevant body must keep copies of the documents mentioned in paragraph (3)(d) for purchase by any person on payment of a reasonable sum.

Procedure for public inspection of accounts

9. The procedure for public inspection of accounts for a larger relevant body, mentioned in regulation 22, is that it must make the documents mentioned in that regulation available for public inspection for 20 working days before the date appointed by the auditor under regulation 21.

Notice of public rights

10.—(1) The procedure for a larger relevant body to give notice of public rights, mentioned in regulation 24, is that, not later than 14 days before the commencement of the period during which the accounts and other documents are made available in pursuance of regulation 9, the body must give notice by advertisement and on its website of the matters set out in paragraph (2).

(2) The matters referred to in paragraph (1) are—

- (a) the period during which the accounts and other documents referred to in paragraph (1) will be available for inspection in accordance with regulation 9;
- (b) the place at which, and the hours during which, they will be so available;
- (c) the name and address of the auditor;
- (d) the provisions contained in section 15 (inspection of documents and questions at audit)(a) and section 16(b) (right to make objections at audit) of the 1998 Act; and
- (e) the date appointed under regulation 21 for the exercise of rights of electors.

Notice of conclusion of audit

11. As soon as reasonably possible after conclusion of an audit, a larger relevant body must give notice by advertisement and on its website stating that the audit has been concluded and that the statement of accounts is available for inspection by local government electors and including—

- (a) a statement of the rights conferred on local government electors by section 14 (inspection of statements of accounts and auditors' reports) of the 1998 Act;
- (b) the address at which and the hours during which those rights may be exercised; and
- (c) details of where the statement of accounts can be found on the body's website.

PART 4

Published accounts and audit - smaller relevant bodies

Accounting statements

12.—(1) Subject to paragraph (2), a smaller relevant body must prepare for each year either—

- (a) an income and expenditure account and a statement of balances in accordance with, and in the form specified in any Annual Return required by, proper practices in relation to accounts; or
- (b) a statement of accounts prepared in accordance with regulation 7, as if that regulation applied to smaller relevant bodies.

(2) Where in relation to a smaller relevant body, the gross income or expenditure (whichever is the higher) was not more than £200,000 for the year or for either of the two immediately preceding years, the body may, instead of complying with paragraph (1), prepare in accordance with, and in the form specified in any Annual Return required by, proper practices in relation to accounts, a record of receipts and payments of the body in relation to that year.

Signing, approval and publication of accounting statements

13.—(1) A smaller relevant body must ensure that the accounting statements required by regulation 12 are prepared in accordance with these Regulations.

(a) Section 15 was amended by section 161 of the Local Government and Public Involvement in Health Act 2007 (c. 28).

(b) Section 16 was amended by section 161 of the Local Government and Public Involvement in Health Act 2007, and Schedule 6 to the Local Government Act 2000 (c. 22).

(2) Before the approval referred to in paragraph (3) is given, the responsible financial officer of a relevant body must—

- (a) in a case where the body has prepared a statement of accounts, sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body's income and expenditure for that year;
- (b) in a case where the body has prepared a record of receipts and payments, sign and date that record, and certify that it properly presents that body's receipts and payments for the year to which the record relates; or
- (c) in any other case, sign and date the income and expenditure account and statement of balances, and certify that they present fairly the financial position of the body at the end of the year to which they relate and that body's income and expenditure for that year.

(3) A smaller relevant body must, no later than 30th June—

- (a) consider the accounting statements by the members meeting as a whole;
- (b) following that consideration, approve the accounting statements for submission to the auditor by a resolution of the body; and
- (c) following approval, ensure that the accounting statements are signed and dated by the person presiding at the meeting at which that approval was given.

(4) A smaller relevant body must, no later than 30th September in the year immediately following the end of the year to which the statement relates, either—

- (a) publish the accounting statements by means other than solely by reference in the minutes of meetings, together with any certificate, opinion, or report issued, given or made by the auditor under section 9 (general report) of the 1998 Act; or
- (b) display a notice containing the documents mentioned in sub-paragraph (a) in a conspicuous place or places in the area of the body for a period of at least 14 days.

(5) A smaller relevant body must keep copies of the documents mentioned in paragraph (4)(a) for purchase by any person on payment of a reasonable sum.

Procedure for public inspection of accounts

14. The procedure for public inspection of accounts for a smaller relevant body, mentioned in regulation 22, is that the body must make the documents mentioned in that regulation available for public inspection on reasonable notice, during a period of 20 working days before the date appointed by the auditor under regulation 21.

Notice of public rights

15.—(1) The procedure for a smaller relevant body to give notice of public rights, mentioned in regulation 24, is that it must display, in a conspicuous place or places in the area of the body for a period of at least 14 days immediately prior to the period during which the accounts and other documents are made available under regulation 14, a notice containing the matters set out in paragraph (2).

(2) The matters referred to in paragraph (1) are—

- (a) the period during which the accounts and other documents referred to in paragraph (1) will be available for inspection in accordance with regulation 14;
- (b) details of the manner in which notice should be given of an intention to inspect the accounts and other documents;
- (c) the name and address of the auditor;
- (d) the provisions contained in section 15 (inspection of documents and questions at audit) and section 16 (right to make objections at audit) of the 1998 Act; and
- (e) the date appointed under regulation 21 for the exercise of rights of electors.

Notice of conclusion of audit

16. As soon as reasonably possible after conclusion of an audit, a smaller relevant body must display a notice in a conspicuous place or places in the area of the body for a period of at least 14 days stating that the audit has been completed and that the relevant accounting statements required by these Regulations are available for inspection by local government electors on reasonable notice and including—

- (a) a statement of the rights conferred on local government electors by section 14 (inspection of statements of accounts and auditors' reports) of the 1998 Act; and
- (b) details of the manner in which notice should be given of an intention to exercise the right of inspection.

PART 5

Particular authorities

Passenger Transport Executives

17. A statement of accounts of a Passenger Transport Executive must be prepared as if the proper practices in relation to accounts applicable to a local authority were, so far as appropriate, applicable to an Executive.

Internal drainage boards

18. An internal drainage board must charge to a revenue account an amount equal to the payments and contributions statutorily payable for that year under an arrangement accounted for as a defined benefit pension plan or as other long-term employee benefits (as defined in accordance with proper practices in relation to accounts).

Summary statement of accounts – Greater London Authority

19. The summary statement of accounts which the Greater London Authority ("the Authority") is required to prepare by section 134 (summary of statement of accounts of Authority) of the Greater London Authority Act 1999(a) must be prepared in accordance with proper practices in relation to accounts and must include—

- (a) a summary of the income and expenditure of the Authority;
- (b) a summary of the income and expenditure of each of the functional bodies and the London Pensions Fund Authority;
- (c) a summary of the capital expenditure of the Authority;
- (d) a summary of the capital expenditure of each of the functional bodies and the London Pensions Fund Authority.

Joint committees etc

20.—(1) Any joint committee, joint board, combined authority or National Park authority to which these regulations apply must deposit with each constituent authority—

- (a) where the committee, board or authority is a smaller relevant body, within the period of fourteen days specified by regulation 16, a copy of the auditor's report and accounting statements, and
- (b) where the committee, board or authority is a larger relevant body, on giving notice under regulation 11, a copy of the auditor's report and statement of accounts.

(a) 1999 c. 29.

(2) In this regulation, “constituent authority” means any county, district, London borough or parish council for the time being entitled to appoint members of the committee, board or authority in question; and in relation to a National Park authority includes—

- (a) the Secretary of State; and
- (b) Natural England.

PART 6

Audit procedure

Appointment of date for the exercise of rights of electors

21. The auditor must, for the purpose of the exercise of rights under section 15 (right of local government elector to request an opportunity to question the auditor about the accounts) and 16 (right of local government elector to make objections to the auditor) of the 1998 Act, appoint a date on or after which those rights may be exercised, and must notify the relevant body concerned of that date.

Public inspection of accounts

22. A relevant body notified under regulation 21 must make the accounts and other documents mentioned in section 15 (inspection of documents and questions at audit) of the 1998 Act available in accordance with the procedure specified for larger relevant bodies in regulation 9, or for smaller relevant bodies in regulation 14, as appropriate.

Alteration of accounts

23. Except with the consent of the auditor, accounts and other documents must not be altered after the date on which they are first made available for inspection in pursuance of either regulations 9 or 14.

Notice of public rights

24. A relevant body must give notice of public rights in accordance with the procedure specified for larger relevant bodies in regulation 10, or for smaller relevant bodies in regulation 15.

Written notice of objection

25.—(1) Any written notice of an objection given in pursuance of section 16 of the 1998 Act must state the facts on which the local government elector relies, and contain, so far as possible—

- (a) particulars of any item of account which is alleged to be contrary to law, and
- (b) particulars of any matter in respect of which it is proposed that the auditor could make a report under section 8 (immediate and other reports in public interest) of that Act.

(2) In relation to relevant bodies to which Part 3 of the Local Government Act 2000(a) (conduct of local government members and employees) applies, paragraph (1) applies in respect of matters occurring before such a body first adopted a code of conduct under that Act or such a code was first applied to it, with the addition of particulars of any person from whom it is alleged that the auditor should certify under section 18(b) (recovery of amount not accounted for etc.) of the 1998 Act that a sum or amount of loss or deficiency is due and the sum of that amount.

(a) 2000 c. 22.

(b) Section 18 was repealed by section 90(3) of the Local Government Act 2000 (c. 22). Regulation 25(2) would apply in the event of an historical audit (to which section 18 applied), which has been completed and closed, being re-opened in the event of financial irregularities coming to light.

Notice of conclusion of audit

26. A relevant body must give notice of conclusion of audit in accordance with the procedure specified for larger relevant bodies in regulation 11, or for smaller relevant bodies in regulation 16, as appropriate.

Publication of annual audit letter

27. As soon as reasonably possible after receipt of the annual letter from the auditor, the members of the relevant body meeting as a whole or, in the case of a larger relevant body only, a committee of that body, must meet to consider it and following that consideration must—

- (a) publish the annual audit letter received from the auditor; and
- (b) make copies available for purchase by any person on payment of such sum as the relevant body may reasonably require.

Extraordinary audit

28. Where, under section 25 (extraordinary audit) of the 1998 Act, the Commission directs an auditor to hold an extraordinary audit of accounts of a relevant body, the body must—

- (a) in the case of a larger relevant body, give notice by advertisement, and
- (b) in the case of a smaller relevant body, display a notice in a conspicuous place or places in the area of the body,

concerning the right of any local government elector for the area to which the accounts relate to make objections to any of those accounts.

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

Bob Neill

Parliamentary Under Secretary of State

Department for Communities and Local Government

15th March 2011

SCHEDULE

Regulation 3

(1)	(2)	(3)
Instruments revoked	References	Extent of revocation
The Accounts and Audit Regulations 2003	S.I. 2003/533	The whole Regulations
The Accounts and Audit (Amendment) Regulations 2004	S.I. 2004/556	The whole Regulations
The Fire and Rescue Services Act 2004 (Consequential Amendments) (England) Order 2004	S.I. 2004/3168	Regulation 67
The Accounts and Audit (Amendment) (England) Regulations 2006	S.I. 2006/564	The whole Regulations
The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006	S.I. 2006/2914	Paragraph 4 of Schedule 1 to the Regulations
The Offender Management Act 2007 (Consequential	S.I. 2008/912	Paragraph 5 of Schedule 2 to the Regulations

Amendments) Order 2008 The Accounts and Audit (Amendment) (England) Regulations 2009	S.I. 2009/473	The whole Regulations
The Accounts and Audit (Amendment No. 2) (England) Regulations 2009	S.I. 2009/3322	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision with respect to the accounts and audit of bodies whose accounts are required to be audited in accordance with section 2 of the 1998 Act other than a NHS body as defined in paragraph 1 of Schedule 15 to the National Health Service Act 2006, a local probation board or a probation trust ('relevant bodies', see regulation 2). They also make provision in respect of the summary statement of accounts that the Greater London Authority is required to prepare under section 134 of the Greater London Authority Act 1999.

These Regulations replace the Accounts and Audit Regulations 2003 (as amended) which, together with amending Regulations, are revoked.

These Regulations differ in a number of respects from previous Accounts and Audit Regulations. Of particular note among the changes are the following: the increase in the threshold of gross income or gross expenditure for smaller relevant bodies from less than £1 million per year to not more than £6.5 million (regulation 2); changes to the procedures for approving and publishing accounts (regulations 8 and 13); changes to the requirements for the statement of accounts of a Passenger Transport Executive (regulation 17); the separation of procedures governing published accounts and audit for larger relevant bodies from that for smaller relevant bodies in the structure of the Regulations (see Parts 3 and 4); and it is no longer an offence to fail to comply with any aspect of the Regulations.

Part 1 is introductory. Regulation 1 sets out the citation, commencement date of 31st March 2011 and application of the Regulations to England only. Regulation 2 sets out the defined terms used in the Regulations.

Regulation 3 and the Schedule set out the instruments which are, and the extent to which they are, revoked.

Part 2 concerns financial management and internal control. Regulation 4 requires relevant bodies to be responsible for ensuring that the financial management of the body is adequate and effective and the body has a sound system of internal control which they regularly review. Regulation 5 makes provision in respect of the accounting records which are to be kept, and the control systems that must be maintained, by relevant bodies. Regulation 6 makes provision for relevant bodies to maintain an adequate and effective internal audit of their accounting records and system of internal control.

Part 3 concerns the published accounts and audit for larger relevant bodies. Regulation 7 contains the requirements for the preparation of the statement of accounts for a body, regulation 8 the requirements for signing, approval and publication of the statement of accounts by a body, regulation 9 the procedure for the public to inspect the accounts of a body, regulation 10 the procedure for a body to give notice of the public rights relating to the accounts and audit procedure, and regulation 11 the requirement for a body to give notice as to the conclusion of audit and the availability of its statement of accounts for inspection by local government electors.

Part 4 concerns the published accounts and audit for smaller relevant bodies. Regulation 12 contains the requirements for the preparation of accounting statements for a body, regulation 13 the requirements for signing, approval and publication of accounting statements by a body, regulation 14 the procedure for the public to inspect the accounts of a body, regulation 15 the procedure for a body to give notice of the public rights relating to the accounts and audit

procedure, and regulation 16 the requirement for a body to display a notice stating that the audit has concluded and that the relevant accounting statements are available for inspection by local government electors.

Part 5 concerns particular authorities. Regulation 17 contains the requirements for the preparation of the statement of accounts of a Passenger Transport Executive. Regulation 18 makes provision as to the accounting treatment of certain payments and contributions statutorily payable by an internal drainage board. Regulation 19 contains the requirements for the Greater London Authority in preparing its summary statement of accounts. Regulation 20 makes provision in respect of joint committees, joint boards, combined authorities and National Park Authorities regarding the deposit of certain documents relating to their accounts and audit with each constituent authority (being an authority entitled to appoint members to the body, and in relation to a National Park Authority includes the Secretary of State and Natural England).

Part 6 concerns audit procedure. Regulation 21 requires the auditor to appoint a date on or after which the rights of local government electors under sections 15 (right to request an opportunity to question the auditor about the accounts) and 16 (right to make objections to the auditor) of the Audit Commission Act 1998 ('the 1998 Act') may be exercised, and to notify the relevant body concerned. Regulation 22 requires a relevant body notified under regulation 21 to make the accounts and documents mentioned in section 15 of the 1998 Act available in accordance with the procedure specified for the type of relevant body (in either Part 2 or 3 of these Regulations). Regulation 23 provides that, except with the consent of the auditor, that accounts and other documents must not be altered after the first date on which they are first made available for inspection. Regulation 24 requires relevant bodies to give notice of public rights in accordance with the procedure specified in these Regulations. Regulation 25 contains the requirements for any written notice of an objection given in pursuance of section 16 of the 1998 Act by a local government elector. Regulation 26 requires a relevant body to give notice of conclusion of audit in accordance with the procedure specified in these Regulations. Regulation 27 requires a relevant body to consider the annual letter from the auditor, publish it and make copies available for purchase. Regulation 28 provides that, where an auditor has been directed by the Audit Commission to hold an extraordinary audit of a relevant body's accounts under section 25 of the 1998 Act, the body must advertise the right of any local government elector to make objections to any of those accounts.

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

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STATUTORY INSTRUMENTS

2011 No. 817

LOCAL GOVERNMENT, ENGLAND

The Accounts and Audit (England) Regulations 2011

£5.75