WELSH STATUTORY INSTRUMENTS

2010 No. 683 (W.66)

LOCAL GOVERNMENT, WALES

The Accounts and Audit (Wales) (Amendment) Regulations 2010

Made - - - - 4 March 2010
Laid before the National Assembly for Wales - - 10 March 2010

Coming into force in accordance with regulation 2

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the National Assembly for Wales by sections 39 and 58 of the Public Audit (Wales) Act 2004(**1**) and now vested in them(**2**) and after consulting, in accordance with section 39(2) of that Act, the Auditor General for Wales, such associations of local authorities as appear to the Welsh Ministers to be concerned and such bodies of accountants as appear to the Welsh Ministers to be appropriate:

Title

1. The title of these Regulations is The Accounts and Audit (Wales) (Amendment) Regulations 2010.

Commencement

2.—(1) Subject to paragraph (3), these Regulations come into force on 31 March 2010.

(2) Paragraph (3) applies where, by virtue of an agreement entered into before, and continuing in force until on or after the date on which these Regulations are made, between a local government body and–

(a) a senior employee; or

(b) a relevant police officer,

there is a duty of confidentiality owed by the body in relation to the remuneration paid to or received by the senior employee or relevant police officer.

(3) Where this paragraph applies, the amendments made by regulations 6 and 7 of these Regulations to regulation 7 of the Accounts and Audit (Wales) Regulations 2005(**3**) ("the 2005

(**1**) 2004 c. 23.
(**2**) These functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
(**3**) S.I. 2005/368 (W.34) as amended by S.I. 2007/388 (W.39) and 2008/912.

Regulations") do not come into force until 1 April 2010, in so far as those amendments would require a breach of the duty of confidentiality owed by the local government body, under the agreement by virtue of which this paragraph applies, in relation to remuneration to be included in the accounts of the local government body.

(4) In this regulation—

(a) "local government body" has the same meaning as in the 2005 Regulations; and

(b) "senior employee", "relevant police officer" and "remuneration" have the meaning given to those expressions by regulation 7A(4) which is inserted into the 2005 Regulations by regulation 7 of these Regulations.

Amendment of the Accounts and Audit (Wales) Regulations 2005

3. The Accounts and Audit (Wales) Regulations 2005 are amended in accordance with regulations 4 to 18.

Interpretation and application

4.—(1) In regulation 2(1) (interpretation and application), insert the following definitions in the appropriate places—

""joint committee" ("*cyd-bwyllgor*") means a joint committee of two or more local authorities;", and

""minor joint committee" ("*is-gydbwyllgor*") means a joint committee whose gross income or expenditure (whichever is the higher) for the year is, and each of the two immediately preceding years was, less than £1,000,000;".

(2) After regulation 2(2) insert—

"(2A) Any reference in these Regulations to a proper practice(**4**) in relation to an internal drainage board, means the accounting practices contained in the "Governance and Accountability in Internal Drainage Boards in England: A Practitioners Guide 2006" (as revised in November 2007) issued jointly by the Association of Drainage Authorities and the Department for Environment, Food and Rural Affairs (which document is, by these Regulations, to apply to an internal drainage board in Wales as it applies to an internal drainage board in England).".

Accounting records and control systems

5. In regulation 5(3)(c) (accounting records and control systems), for "National Assembly for Wales" in both cases substitute "Welsh Ministers".

Statement of accounts

6. For regulation 7 substitute—

"**7.**—(1) A body to which paragraphs (2) and (3) apply must prepare in accordance with proper practices in relation to accounts a statement of accounts for each year, prefaced by an explanatory foreword, which must include such of the following accounting statements as are relevant to the functions of the body—

(a) housing revenue account;

(b) firefighters' pension fund, if any;

(**4**) Proper practices in relation to certain bodies may be identified in regulations made under section 21 of the Local Government Act 2003 (c. 26). Section 21 does not apply to internal drainage boards.

(c) 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) This paragraph applies to the following bodies—

(a) a county council or a county borough council;

(b) a joint authority;

(c) a committee of a local authority (including a joint committee which is not a minor joint committee);

(d) a National Park authority for a National Park;

(e) a police authority for a police area;

(f) a fire and rescue authority.

(3) Where in relation to a community council, the gross income or expenditure (whichever is the higher) for the year is, and for each of the two immediately preceding years was, £1,000,000 or more, the requirements of paragraph (1) above and regulation 7A apply to that council in respect of that period.

(4) Where a county council or a county borough council is required by section 74 of the 1989 Act to maintain a Housing Revenue Account the statement of accounts required by paragraph (1) must include a note prepared in accordance with proper practices in relation to any Major Repairs Allowance grant paid to the county council or county borough council under section 31 of the 2003 Act detailing income and expenditure and any balance on any account used to record the grant.".

Declaration of remuneration

7. After regulation 7 insert—

"**Declaration of remuneration**

7A.—(1) The statement of accounts required by regulation 7(1) must be accompanied by a note of–

(a) except in relation to persons to whom paragraph (b) applies, the number of employees or 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 £60,000;

(b) the remuneration, set out according to the categories listed in paragraph (3), by the local government body during the relevant financial year of—

(i) senior employees, or

(ii) relevant police officers,

in respect of their employment by the local government body or in their capacity as a police officer, whether on a permanent or temporary basis.

(2) The persons whose remuneration is to be noted under paragraph (1)(b) must be identified by way of job title only, except that those persons whose salary is £150,000 or more per year must also be identified by name.

(3) The categories are:

(a) the total amount of salary, fees or allowances paid to or receivable by the person;

(b) the total amount of bonuses paid to or receivable by the person;

(c) 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;

(d) 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 local government 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;

(e) the relevant body's contribution to the person's pension;

(f) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within (a) to (d) above, are emoluments of the person, and are received by the person in respect of their employment by the local government body or in their capacity as a police officer; and

(g) in relation to relevant police officers, any payments, whether made under the Police Regulations 2003(**5**) or otherwise, which do not fall within (a) to (f) 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(**6**), 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(**7**), 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(**8**) (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(**9**), 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(**10**), 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(**11**), 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 (Wales) Order 2007(**12**), multiplied by the person's pensionable pay;

(**5**) S.I. 2003/527.
(**6**) 1972 c. 11.
(**7**) S.I. 2008/239.
(**8**) Regulation 40 was substituted by S.I. 2009/3150.
(**9**) 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.
(**10**) S.I. 1992/129. Paragraphs G2(3) and (4) were inserted by article 2 of, and paragraph 39(b) of Schedule 1 to, the Firefighters' Pension Scheme (Wales) (Amendment) Order 2007 (S.I. 2007/1074) (W.112). Article 4 of the Fire and Rescue Services Act 2004 (Firefighters' Pension Scheme (Wales) Order 2004 (S.I. 2004/2918) (W.257) changed the name of the scheme from "Firemen's Pension Scheme" to "Firefighters' Pension (Wales) Scheme".
(**11**) 2004 c. 21.
(**12**) S.I. 2007/1072 (W.110).

(d) in relation to contributions to police pension schemes established under the Police Pensions Regulations 1987(**13**) or the Police Pensions Regulations 2006(**14**), the percentage of pensionable pay specified in regulation 5(1) of the Police Pension Fund Regulations 2007(**15**), multiplied by the person's pensionable pay;

"employee" includes a holder of an office under the local government body, but does not include a person who is an elected councillor, and "employment" is to be construed accordingly;

"relevant police officer" means—

(a) in relation to a police force maintained under section 2 of the Police Act 1996(**16**), the chief constable, and

(b) 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 £60,000 or more per year (to be calculated pro rata for an employee employed for fewer than the usual full time hours for the local government body concerned) who falls within at least one of the following categories—

(a) a person employed by a local government body to which section 2 of the Local Government and Housing Act 1989(**17**) applies who—

(i) has been designated as head of paid service under section 4 of that Act;

(ii) is a statutory chief officer within the meaning of section 2(6)(**18**) of that Act; or

(iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;

(b) the person who is the head of staff for any local government body to which section 4 of the Local Government and Housing Act 1989 does not apply; or

(c) a person who has responsibility for the management of the local government 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.".

Internal drainage boards

8. After regulation 7A (declaration of remuneration), insert—

(**13**) S.I. 1987/257.
(**14**) S.I. 2006/3415.
(**15**) S.I. 2007/1932. Regulation 5(1) was amended by regulations 42 and 46 of the Police Pensions (Amendment) Regulations 2008 (S.I. 2008/1887).
(**16**) 1996 c. 16.
(**17**) 1989 c. 42.
(**18**) Section 2(6) was amended by section 18 of, and Schedule 2 to, the Children Act 2004 (c. 31); section 582 of, and Schedule 37 to, the Education Act 1996 (c. 56); and section 127 of the Greater London Authority Act 1999 (c. 29). It was also partially repealed by section 180 of, and Schedules 13 and 14 to, the Local Government etc (Scotland) Act 1994 (c. 39) and section 54 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).