WELSH STATUTORY INSTRUMENTS

2005 No. 1911 (W.154) (C.83)

PUBLIC AUDIT, ENGLAND AND WALES

The Public Audit (Wales) Act 2004 (Commencement No. 3) Order 2005

Made - - - - 12 July 2005

The National Assembly for Wales, in exercise of the powers conferred upon it by section 73 of the Public Audit (Wales) Act 2004(**1**), hereby makes the following Order:

Title and interpretation

1.—(1) The title of this Order is the Public Audit (Wales) Act 2004 (Commencement No. 3) Order 2005.

(2) In this Order, "the Act" ("*y Ddeddf*") means the Public Audit (Wales) Act 2004.

(3) References to sections and Schedules are, unless otherwise stated, references to sections of, and Schedules to, the Act.

Provisions coming into force on 20 July 2005

2. The provisions of the Act specified in the Schedule to this Order come into force for all purposes on 20 July 2005.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**2**).

D. Elis-Thomas
12 July 2005 The Presiding Officer of the National Assembly

(**1**) 2004 c. 23.
(**2**) 1998 c. 38.

SCHEDULE Article 2

Provisions coming into force on 20 July 2005

Subsections (1) to (5) of section 54(**3**).

Section 54A(**4**).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 20 July 2005, in England and Wales, those provisions of the Public Audit (Wales) Act 2004 ("the Act") which are not already in force.

Those provisions are subsections (1) to (5) of section 54, and section 54A of the Act. Both sections 54 and 54A regulate the disclosure of information.

Section 54 of the Act applies to persons who are not, and are not acting on behalf of, public authorities for the purposes of the Freedom of Information Act 2000 ("the 2000 Act"). It places restrictions on the circumstances in which certain information obtained by the Auditor General for Wales, or an auditor appointed by him or her under 13 of the Act ("an auditor"), can be disclosed by such persons.

The information concerned is information obtained by the Auditor General for Wales, or an auditor, in the course of exercising his or her functions under:

— Part 2 of the Act;

— Part 1 of the Local Government Act 1999 (functions in relation to the best value regime for local government); or

— section 145C of the Government of Wales Act 1998 (inserted by section 5 of the Act) which deals with studies relating to registered social landlords in Wales.

The restrictions in section 54 operate by way of a general prohibition on disclosure, subject to very wide exceptions, which are set out in subsection (2). One of the exceptions is disclosure for the purposes of any of the functions of the Auditor General for Wales, or an auditor, under Part 2 of the Act or Part 1 of the Local Government Act 1999.

If information is disclosed other than under one of the exceptions in subsection (2), the person making the disclosure is potentially liable to imprisonment for two years and/or a fine.

Section 54A applies to persons who are, or are acting on behalf of, public authorities for the purposes of the 2000 Act. These persons are able to disclose information which section 54 would prohibit other persons from disclosing. The only circumstance in which it is unlawful for a public authority under the 2000 Act, or person acting on behalf of such a public authority, to disclose that information is where disclosure would be likely to prejudice the effective performance, by such a person, of a statutory function.

If information is disclosed in breach of section 54A, the person making the disclosure is liable to a fine, but not to imprisonment.

(**3**) Section 54 was amended by the Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure) Order 2005 (S.I. 2005/1018), which, under article 1(2) thereof, comes into force immediately before this Order comes into force.

(**4**) Section 54A was inserted into the Act by the Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure) Order 2005 (S.I. 2005/1018), which, under article 1(2) thereof, comes into force immediately before this Order comes into force.