STATUTORY INSTRUMENTS

2015 No. 192

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Audit (Appointing Person) Regulations 2015

Made - - - - 9th February 2015

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 17(1), (2)(b), (3) to (10), 43(2) and 46(1) of the Local Audit and Accountability Act 2014(**1**).

In accordance with section 43(3) and (4)(g) of that Act a draft of these Regulations was laid before Parliament and approved by a resolution of each House.

PART 1

Preliminary

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Audit (Appointing Person) Regulations 2015 and come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to principal authorities.

Interpretation

2. In these Regulations—

"the Act" means the Local Audit and Accountability Act 2014, and, unless otherwise provided references to the Act or to any provision of it are to the Act or that provision as it has effect by virtue of these Regulations;

"appointing person" means a person specified by the Secretary of State under regulation 3 to appoint a local auditor(**2**);

"audit contract" means a contract between an appointing person and a local auditor for the carrying out of audit work;

(**1**) 2014 c. 2.

(**2**) See section 44 of the Local Audit and Accountability Act 2014 (c. 2) for meaning of "local auditor", "code of audit practice" and "financial year".

"audit work" means, in relation to an authority, the carrying out of the functions of a local auditor under the Act in relation to the accounts of that authority, in compliance with, or with the relevant part or parts of, the code of audit practice applicable to that authority;

"compulsory appointing period" means the financial year or years for which a relevant appointing person is responsible for appointing a local auditor to conduct the audit of the accounts for any authority which becomes an opted in authority by virtue of regulation 9, which—

(a) is specified in an invitation published under regulation 8, and

(b) relates to—

(i) a specific financial year, or

(ii) a period of consecutive financial years, not exceeding five years;

"full audit authority" has the same meaning as in regulation 2 of the Local Audit (Smaller Authorities) Regulations 2015(**3**);

"invitation" has the meaning given in regulation 8(5);

"newly established principal authority" means either—

(a) a principal authority which was not in existence at the time that the relevant appointing person issued an invitation under regulation 8 to a class of principal authorities within which the principal authority now falls; or

(b) a principal authority which was not a principal authority at the time that the relevant appointing person issued an invitation under regulation 8 to a class of principal authorities, within which the principal authority now falls, but which has subsequently become a principal authority;

"opted in authority" means a principal authority for which the responsibility for the appointment of a local auditor has become that of an appointing person instead of that of the authority by virtue of regulation 9, 10 or 11;

"principal authority" means—

(a) a relevant authority that is not a smaller authority, or

(b) a full audit authority; and

"relevant appointing person", in relation to a principal authority, means the person specified under regulation 3(2) in relation to the class of authorities within which the principal authority falls;

and

"website" means a website which is publicly accessible free of charge.

PART 2

Specification of the appointing person

Specification of a person to appoint local auditors

3.—(1) The Secretary of State may, in accordance with regulation 4, specify a person (an "appointing person") to appoint a local auditor to audit the accounts of an opted in authority.

(2) The Secretary of State may specify different persons in relation to different classes of principal authorities.

(**3**) S.I. 2015/184.

Procedure for specifying an appointing person

4.—(1) The specification of a person must be in writing and may, but need not, specify a date when the specification ends.

(2) The Secretary of State must publish the relevant details of any appointing person—

(a) on a website;

(b) in the London Gazette.

(3) The relevant details are—

(a) the appointing person's name;

(b) the appointing person's registered address (if any);

(c) the appointing person's address for correspondence; and

(d) details of the class of principal authorities in relation to which that person is the appointing person, if the class is not all principal authorities.

Ending specification

5.—(1) The Secretary of State may end the specification of an appointing person in accordance with this regulation.

(2) Before ending the specification, the Secretary of State must—

(a) consult such principal authorities as the Secretary of State considers have an interest;

(b) consult such associations of principal authorities or relevant authorities as appear to the Secretary of State to have an interest.

(3) The Secretary of State must—

(a) give notice to the appointing person concerned of the ending of specification, giving—

(i) the date on which specification is to end,

(ii) the reason for ending the specification;

(b) publish notice of the ending of the specification—

(i) on a website, and

(ii) in the London Gazette; and

(c) make arrangements for notifying opted in authorities of the ending of the specification.

(4) The Secretary of State may make arrangements under paragraph (3)(c) by requiring the appointing person to notify opted in authorities.

Consequences of end of specification

6.—(1) If the Secretary of State gives notice to an appointing person under regulation 5(3)(a), the Secretary of State may, either before or after (or both before and after) the specification ends—

(a) exercise the functions of the appointing person arising by virtue of these Regulations;

(b) transfer rights and liabilities of the appointing person arising by virtue of these Regulations to—

(i) the Secretary of State; or

(ii) another appointing person.

(2) The Secretary of State may transfer some rights and liabilities under paragraph (1)(b) to the Secretary of State and some to another appointing person.

(3) The appointing person to whom notice is given under regulation 5(3)(a) must—

(a) disclose all of the appointing person's rights and liabilities arising by virtue of these Regulations to the Secretary of State;

(b) co-operate with the Secretary of State and any other appointing person for the purpose of ensuring an audit of an opted in authority is not adversely affected.

Additional functions of appointing person

7. A specified appointing person must—

(a) keep and maintain a record of which principal authorities are opted in authorities and publish that record on a website;

(b) design and implement appropriate systems to—

(i) oversee issues of independence of any auditor which it has appointed, arising both at the time of appointment and when undertaking audit work;

(ii) monitor compliance by a local auditor against the contractual obligations in an audit contract;

(iii) resolve disputes or complaints from—

(aa) local auditors, opted in authorities and local government electors relating to audit contracts and the carrying out of audit work by auditors it has appointed;

(bb) authorities regarding the refusal of a request to become an opted in authority under regulation 11.

PART 3

Invitation to become an opted in authority

Invitation to principal authorities

8.—(1) Before every compulsory appointing period begins, a relevant appointing person must issue an invitation in accordance with this regulation to all principal authorities which fall within the class of authorities in relation to which the person has been specified under regulation 3(2).

(2) The invitation must be published in such manner as the relevant appointing person thinks is likely to bring it to the attention of the principal authorities concerned.

(3) The invitation must contain the following information—

(a) the length of the compulsory appointing period, specifying the financial year or years to which it relates;

(b) the closing date for the giving of notice to the appointing person by an authority within the class to accept the invitation (and that date must allow at least 8 weeks for acceptance beginning on the date the invitation is published);

(c) an explanation of the procedures by which an authority may accept the invitation and become an opted in authority.

(4) An invitation may not relate to a financial year which commences before 1st April 2017.

(5) In these Regulations "invitation" means an invitation to become an opted in authority for the duration of the compulsory appointing period.

Acceptance of an invitation

9.—(1) A principal authority which is within the class of authorities to whom an invitation has been issued may accept an invitation made by a relevant appointing person under regulation 8 by giving notice of acceptance to the appointing person on or before the closing date mentioned in regulation 8(3)(b).

(2) An authority which gives a notice under paragraph (1) becomes an opted in authority on the date the notice is received by the appointing person.

(3) An authority which has become an opted in authority under this regulation is an opted in authority only for the duration of the compulsory appointing period specified in the invitation.

PART 4

Opted in authorities during compulsory appointing period

Right to become an opted in authority during a compulsory appointing period

10.—(1) During a compulsory appointing period, a newly established principal authority may become an opted in authority in accordance with this regulation.

(2) A newly established principal authority may become an opted in authority by giving notice to the relevant appointing person of its decision to become an opted in authority; and such notice must specify the authority's postal address.

(3) An authority which gives a notice under paragraph (2) becomes an opted in authority on the date the notice is received by the appointing person.

(4) The authority is an opted in authority for the remainder of the compulsory appointing period which is in existence on the date mentioned in paragraph (3).

Right to request to become an opted in authority during a compulsory appointing period

11.—(1) During a compulsory appointing period, any principal authority which could have accepted a relevant appointing person's invitation under regulation 8 but did not, may make a request to the relevant appointing person to become an opted in authority, in accordance with this regulation.

(2) The authority must give notice to the relevant appointing person of its request to become an opted in authority; and such notice must specify the authority's postal address.

(3) The relevant appointing person must—

(a) consider the authority's request to opt in,

(b) agree to the request unless the appointing person has reasonable grounds for refusing it;

(c) give notice to the authority, within four weeks beginning with the date that the request to become an opted in authority was received, giving the decision in relation to the request, and

(d) provide reasons if the request is refused.

(4) The authority becomes an opted in authority on the date on which the relevant appointing person gives notice to the authority agreeing to its request to become an opted in authority.

(5) The authority is an opted in authority for the remainder of the compulsory appointing period which is in existence on the date mentioned in paragraph (4).

(6) A relevant appointing person may recover its reasonable costs for making arrangements to appoint a local auditor to an authority which becomes an opted in authority under this regulation, from that authority.