STATUTORY INSTRUMENTS

2015 No. 184

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Audit (Smaller Authorities) Regulations 2015

Made - - - - 9th February 2015

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5(1) to (3), (4)(a), (c) to (g), (5)(a) to (c), (6) to (9), 6(4), 43(2) and 46(1) of the Local Audit and Accountability Act 2014(**1**).

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

PART 1

Preliminary

Citation and commencement

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

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;

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

"audit work" means, in relation to an authority, the carrying out of the assurance engagement functions of a local auditor under the Act in relation to the accounts of that authority—

(a) in compliance with, or with the relevant part or parts of, the code of audit practice prepared under Schedule 6 to the Act applicable to that authority; and

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

(b) in accordance with any procedures specified in guidance issued by the Comptroller and Auditor General under paragraph 9 of that Schedule,

to enable the auditor to issue a report on the annual return prepared by the authority;

"compulsory appointing period" means the financial year or years for which a relevant specified 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 11, which—

(a) is specified in a invitation; and

(b) relates to—

(i) a specific financial year; or

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

"exempt authority" means a smaller authority that has certified itself as exempt in accordance with regulation 9(1);

"full audit authority" means a smaller authority which has decided to prepare accounts and be audited as if it was a relevant authority which is not a smaller authority, in accordance with regulation 8;

"invitation" has the meaning given in regulation 10(5);

"newly established smaller authority" means—

(a) a smaller authority which was not in existence at the time that the relevant specified person issued an invitation under regulation 10 on a class of smaller authorities within which the smaller authority now falls; or

(b) a smaller authority which was not a smaller authority at the time that the relevant specified person issued an invitation under regulation 10 on a class of smaller authorities within which the authority now falls;

"opted in authority" means a smaller authority for which the responsibility for the appointment of a local auditor has become that of a specified person instead of that of the authority by virtue of regulations 11, 14 or 15;

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

"smaller authority" does not include—

(a) a health service body;

(b) the Mayor's Office for Policing and Crime;

(c) a police and crime commissioner for a police area in England;

(d) a chief constable for an area in England;

(e) the Commissioner of Police of the Metropolis; or

(f) the Common Council;

"specified person" means a person specified by the Secretary of State under regulation 3 to appoint a local auditor; and

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

PART 2

Specified person

Specification of a person to appoint local auditors

3.—(1) The Secretary of State may, in accordance with regulation 4, specify a 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 smaller authorities.

Procedure for specifying a person to appoint local auditors

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 specified person—

(a) on a website;

(b) in the London Gazette.

(3) The relevant details are—

(a) the person's name;

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

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

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

Ending specification

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

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

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

(b) consult such associations of smaller 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 specified person of the ending of the specification, giving—

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

(ii) reasons for ending the specification;

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

(i) on a website, and

(ii) in the London Gazette;

(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 specified person to notify opted in authorities.

Consequences of end of specification

6.—(1) If the Secretary of State gives notice to a specified 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 specified person arising by virtue of these Regulations;

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

(i) the Secretary of State; or

(ii) another specified 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 specified person.

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

(a) disclose all its 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 specified person for the purpose of ensuring an audit of an opted in authority is not adversely affected.

Additional functions of specified person

7. A specified person must—

(a) keep a record of—

(i) authorities which are within the class of authorities to which an invitation under regulation 10 must be issued, and

(ii) newly established authorities to which it must give notice under regulation 16;

(b) publish and keep up to date, on a website—

(i) the records mentioned in sub-paragraph (a), and which of the authorities are opted in authorities;

(ii) the contact details for the auditor appointed to each opted in authority other than an exempt authority;

(c) design and implement appropriate systems to—

(i) oversee issues of independence of any auditor which it has appointed, arising both at the point 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 15.

PART 3

Types of authority

Full audit authorities

8.—(1) A smaller authority, other than one to whom paragraph (2) applies, may decide to prepare a statement of accounts and be audited as if it were a relevant authority which is not a smaller authority in accordance with this regulation ("a full audit authority").

(2) This paragraph applies to an authority if—

(a) the higher of the authority's gross income for the financial year and its gross expenditure for the year does not exceed £25,000; or

(b) the higher of the authority's gross receipts and gross payments for the financial year does not exceed £25,000.

(3) A full audit authority is, for the purposes of these Regulations, to be treated as if it were not a smaller authority other than for the purposes of—

(a) the definitions of "full audit authority" and "smaller authority" in regulation 2;

(b) paragraph (1) of this regulation;

(c) regulations 10(1) and 14(1)(b); and

(d) regulation 24(2)(a) and paragraph (1) of that regulation insofar as it relates to paragraph (2)(a).

(4) A full audit authority may decide to prepare a statement of accounts and be audited as a smaller authority, and so cease to be a full audit authority.

Exempt authorities

9.—(1) A smaller authority may certify itself as an exempt authority for a financial year if—

(a) the qualifying condition for that authority and that financial year in paragraph (2) is met;

(b) the financial year is not one of the first three years of the authority's existence; and

(c) none of the relevant circumstances in paragraph (3) apply in relation to the keeping of the accounts for the preceding financial year or to the audit of those accounts.

(2) The qualifying condition is met for an authority and a financial year if—

(a) the higher of the authority's gross income for the year and its gross expenditure for the year does not exceed £25,000, or

(b) the higher of the authority's gross receipts and gross payments for the year does not exceed £25,000.

(3) The relevant circumstances are—

(a) the local auditor has made a public interest report(**2**) in respect of the authority or any entity connected with it;

(b) the local auditor has made a recommendation to the authority, relating to the authority or any entity connected with it;

(c) the local auditor has issued an advisory notice under paragraph 1(1) of Schedule 8 to the Act, and has not withdrawn the notice;

(**2**) See section 44 of the Local Audit and Accountability Act 2014 for meaning of "public interest report" and "recommendation".