



Revision and consolidation of the Accounts and Audit
Regulations 2003 (SI 2003 No 533) as amended
Consultation



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Audit Regulations 2003 (SI 2003 No 533) as
amended

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Consultation on revision and consolidation of the Accounts and Audit Regulations 2003 (SI 2003 No 533) as amended

Scope of the consultation

Topic of this consultation:	Consolidation of the Accounts and Audit Regulations 2003 and four amending instruments, and incorporation of a series of technical amendments.
Scope of this consultation:	The consultation invites views on the draft consolidated regulations attached to the paper, including the amendments incorporated and the format of the consolidation.
Geographical scope:	England
Impact Assessment:	No impact assessment has been prepared because the regulations do not apply to businesses or the voluntary sector, and reduce administrative and reporting burdens on the public authorities to which they apply.

Basic Information

To:	This consultation is directed primarily to the statutory consultees listed in paragraph 10.1. But responses would also be welcome from any of the “relevant bodies” to which the regulations apply and from any other persons interested.
Body/bodies responsible for the consultation:	This consultation is being organised by the Local Government Finance Directorate in the Department for Communities and Local Government.
Duration:	This consultation is to run for six weeks, from 24 January 2011 to 4 March 2011.
Enquiries:	<p>If you have any enquiries about the consultation, please contact: graham.fletcher@communities.gsi.gov.uk (Telephone: 0303 44 41740)</p> <p>Any complaints about the way this consultation is being handled should be addressed to: consultationcoordinator@communities.gsi.gov.uk</p>

How to respond:	By email to: graham.fletcher@communities.gsi.gov.uk or by post to: Graham Fletcher Department for Communities and Local Government Zone 5/J4, Eland House Bressenden Place London SW1E 5DU
Additional ways to become involved:	As this is a consultation on the technical rules governing accounts and audit it is being conducted as a written exercise. However, we would be happy to agree to meet key interested parties, and in particular the statutory consultees, if that would help in preparing their responses.
After the consultation:	A summary of responses to the consultation will be published on the Department's website within three months of the end of the consultation period.
Compliance with the Code of Practice on Consultation:	The consultation complies with the Code of Practice, except that a consultation period of six weeks instead of 12 weeks is being specified. This is because it concerns only the technical rules of accounting and audit in local authorities and other local bodies.

Background

Getting to this stage:	This consultation is part of a regular series of updates to the Accounts and Audit Regulations designed to keep them in line with developments in financial governance, accounting and audit. Previous updates were made, most recently, in 2003, 2006 and 2009. Section 2 of the consultation paper explains why consolidation of the regulations is proposed at this stage.
Previous engagement:	The proposals contained in the consultation reflect recommendations, requests and issues raised by the Audit Commission, the Chartered Institute of Public Finance and Accountancy and some categories of the relevant bodies to which the regulations apply. Discussions with these organisations have been helpful in preparing the draft regulations, but responsibility for the current draft lies entirely with the Department.

Introduction

1.1 This consultation is issued to consult under section 27(3) of the Audit Commission Act 1998 on a proposal to revise and consolidate the Accounts and Audit Regulations 2003 and four amending instruments. Responses are invited from the statutory consultees identified in paragraph 10.1 and from others interested including the local authorities and other bodies to which the regulations apply.

1.2 A draft of the proposed consolidated regulations is attached, and the following paragraphs explain the changes incorporated in the consolidation. Comments are invited on the draft regulations, including the form of the consolidation and the changes proposed. **Responses should be submitted by 4 March 2011.** Details of the consultation procedure and how to respond are set out in sections 10 and 11 of this paper.

Why consolidate the regulations now?

2.1 The Accounts and Audit Regulations contain important provisions on financial management, annual accounts and audit procedures affecting all local authorities and a number of other local public bodies (“relevant bodies”). The 2003 Regulations have been substantially amended, in particular by an amending instrument made in 2006 and two made in 2009. The amendments proposed in this consultation would add further difficulties to working with the 2003 regulations. Consolidation is therefore highly desirable so that there is a clear statement of these important provisions for the benefit of those they affect.

2.2 The Government announced on 13 August 2010 that the Audit Commission would be disbanded and audit refocused on helping local people hold councils and local public bodies to account. The disbanding of the Commission will require primary legislation to be passed through Parliament, and in the meantime we consider that a clear restatement of the regulations will assist those who may be taking a new interest in relevant bodies’ financial management and accounts as part of the development of the new audit framework.

The form of the consolidation

3.1 The aim of the consolidation has been to make the regulations easier to understand. They have been restructured to separate out provisions on the annual accounts applying to smaller and larger relevant bodies. The intertwining of different requirements affecting the two categories added to the complexity of the regulations. The regulations are now divided into parts as follows:

Part 1 Introductory

Part 2 Financial management and internal control

Part 3 Published accounts and audit – larger relevant bodies

Part 4 Published accounts and audit – smaller relevant bodies

Part 5 Particular authorities

Part 6 Audit procedure

3.2 We have also taken the opportunity to simplify parts of the text of the regulations which the numerous amendments have made difficult to follow. Spent provisions have been removed, and references to statutory bodies updated.

Definition of smaller relevant body

4.1 Smaller relevant bodies are permitted by the regulations to prepare simpler published accounts than the larger bodies, and are also subject to less demanding procedural requirements. In addition, under arrangements made by the Audit Commission, such bodies are subject to a limited assurance audit regime. As part of the general move to reduce administrative burdens on public authorities, consideration has been given to raising the threshold for placing a body in the smaller category.

4.2 Currently, to be classed as a smaller relevant body, a body must have gross income or expenditure (whichever is higher) of less than £1m in the year of account or in either of the two preceding years. For the future it is proposed that the limit should be based on the thresholds laid down by companies legislation in the definition of small companies. Small companies are subject to less demanding requirements for accounting and audit than other companies. The Companies Act threshold provides a useful guide to where the highest level requirements for accounting and audit should take effect for relevant bodies.

4.3 The small companies definition depends on turnover, balance sheet totals and number of employees. For local public bodies financed through taxation we consider that only the first of these factors is relevant and that it should be measured as the higher of gross income and gross expenditure in the same way as the present limit. Based on the current requirements of section 382 the Companies Act 2006 (as amended by the Companies Act 2006 (Amendment) (Accounts and Reports) Regulations 2008, SI 2008 No 393) the limit would be £6.5m. We propose that a body would be classed as smaller if its gross income or expenditure (whichever was the higher) was no more than that figure in the year of account or either of the two preceding years. For newly established bodies the threshold would be applied to the year of account in its first year, and either the year of account or the preceding year in its second year.

4.4 We expect the above change to benefit the larger parish councils and many internal drainage boards, joint boards and joint committees. However, it may also bring some other categories of local body into the smaller category which, for compelling reasons, ought to be in the larger category, including some national park authorities. These are bodies that have the freedoms given by the prudential system of capital controls (set out in Part 1 of the Local Government Act 2003). They are also required to make returns for the purposes of HM Treasury's Whole of Government Accounts initiative. For both

reasons it is important that the highest levels of accounting and audit requirements continue to apply to them. We propose therefore that a body would not be a smaller relevant body if it is defined as a local authority for the purposes of Part 1 of the Local Government Act 2003. **(New regulation 2)**

4.5 We propose to give all smaller bodies the option of following the rules applying to larger bodies if they wish. This may in particular be of assistance to bodies close to the threshold. **(New regulation 12)**

Approval and publication of annual accounts

5.1 The current regulations require members to approve the annual accounts before they have been reviewed by the external auditor. This is out of step with requirements in the private sector and elsewhere in the public sector, where directors or board members will be aware of the findings of the audit before they approve the accounts. We consider that it would be more appropriate for bodies covered by the regulations to follow the general practice of other bodies, so that members give their approval in the knowledge of the audit findings.

5.2 To facilitate this we propose that, for the larger relevant bodies, the regulations should include the following provisions on the procedure for approval and publication of the annual accounts:

- no later than 30 June following the financial year end the responsible financial officer must certify the presentation of the annual accounts in accordance with the current requirements of regulation 10(2)
- the annual accounts must be published with the audit opinion and certificate, and before that must have been approved by members. The body must use its best endeavours to secure approval and publication by no later than 30 September
- the responsible financial officer must re-certify the presentation of the annual accounts before member approval is given. **(New regulation 8)**

Although this is not a matter for the regulations, it is understood that finalisation of the audit opinion and certificate would follow shortly after member approval.

5.3 One consequence of the removal of the need for member approval before 30 June is that the bodies will have additional time, perhaps one or two weeks, to prepare their accounts. As the larger bodies will be moving to accounts based on International Financial Reporting Standards for 2010-11 this additional time should assist them in planning and carrying through the preparation process.

5.4 For the smaller relevant bodies it will not be possible to apply the above arrangements, because they would not be compatible with the requirements of the Audit Commission's limited assurance regime. That regime achieves

significant savings in audit input (and so also in audit charges), which we would not wish to see lost. We propose therefore that the annual return for smaller bodies will continue to require member approval not later than 30 June. However the approval would be for the purposes of submission to the auditor. Some smaller bodies may wish, as a matter of good practice, to consider and approve the audited return, but this will not be a requirement of the regulations and so will not be time constrained. **(New regulation 13)**

5.5 The current regulations allow member approval to be given either by a committee of the body or by the body meeting as a whole. We propose to withdraw the former option for smaller relevant bodies. In view of their small size we consider that the approval of the accounts should be a responsibility of all their members. There would of course be nothing to stop preliminary consideration being given to the accounts by a committee in order to advise the full body. The same change is proposed for the other instance where member approval is required by the regulations, the consideration of the review of internal control and approval of the statement of internal control. **(New regulations 4 and 13)**

Passenger Transport Executives

6.1 The regulations apply to Passenger Transport Executives, and all six of them fall into the category of larger relevant bodies. Hence they are required to prepare a statement of accounts, and the statement must be prepared in accordance with proper practices. But the Executives are not covered by the statutory definition of “proper practices” for accounting purposes in section 21 of the Local Government Act 2003, nor does the power in that section to make regulations on accounting practices apply. Modifications to the accounting practices applicable to the Executives can only be made by the Accounts and Audit Regulations.

6.2 Regulation 7A of the current regulations requires the statement of accounts of a Passenger Transport Executive to be no less informative than if the disclosure requirements of the Companies Act 1985, so far as appropriate, applied to the Executive. The regulation also includes a safeguard against the effects of the accounting standard on pensions based on the original wording of Regulation 30 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

6.3 The Executives have now asked that the Code of Accounting Practice for Local Authorities should apply to them together with some of the modifications made by regulations under section 21 of the 2003 Act. This would be consistent with changes happening elsewhere in the public sector, and we are happy to support this request. We propose therefore that the change should take effect for the 2010-11 financial year, so that the executives can move to accounts based on International Financial Reporting Standards on the same timetable as local authorities.

6.4 It is proposed to achieve this by providing that Passenger Transport Executives must prepare their statements of accounts as if the proper practices relating to accounting in local authorities were, so far as appropriate, applicable to them. The general application to them of accounting regulations applying to local authorities would mean that specific provision was no longer needed in the Accounts and Audit Regulations for their pensions accounting. **(New regulation 17)**

Offences

7.1 Section 27(4) of the Audit Commission Act 1998 makes contravention without reasonable excuse of a regulation in the Accounts and Audit Regulations into a criminal offence if contravention of the regulation is declared an offence in the regulations. Regulation 22 of the current regulations declares contravention of all or part of 13 of the regulations to be a criminal offence.

7.2 For the future it is proposed that contravention of none of the regulations should be identified as attracting criminal penalties under section 27(4). Compliance with procedural requirements in local government and other local public bodies is generally achieved without recourse to the criminal law, and so far as is known there have been no prosecutions in recent years under section 27(4) or its equivalent in earlier legislation. Removal of the penalties is consistent with the Government's policy of abolishing obsolete or unnecessary criminal offences.

Remuneration reporting

8.1 The Accounts and Audit (Amendment No 2) (England) Regulations 2009 (SI 2009 No 3322) introduced into the regulations new requirements on the disclosure of the remuneration of senior employees. These requirements apply when a relevant body is required to prepare a statement of accounts, and have the effect of bringing the larger bodies in line with requirements elsewhere in the public sector.

8.2 Experience has shown that some clarification of these requirements is needed to remove doubts about their meaning. The regulations have been amended to achieve consistency between the definition of remuneration in current regulation 7(2)(b) and the categories of remuneration set out in current regulation 7(2)(d). **(New regulation 7)**

Other changes

9.1 A number of other more minor changes are proposed in the new regulations. These are set out in the following paragraphs.

9.2 Current regulation 4(4) requires the statement of internal control to be included with an authority's published accounts. This has been amended to require the statement to accompany the published accounts, to make clear that the statement is not part of the accounts. **(New regulation 4(4))**

9.3 Current regulation 6 refers to a “system of internal audit”. The words “system of” have been removed because it has been found that they cause confusion. The regulation applies to all aspects of the internal audit function and not just the systems used by internal audit. **(New regulation 6)**

9.4 Current regulation 6(3) requires all relevant bodies to conduct an annual review of internal audit. This requirement is considered too onerous for the smaller bodies and has been removed from them. Smaller bodies are, however, still required to review their overall system of internal control annually. **(New regulation 6)**

9.5 Current regulation 7(2) provides for the notes it specifies to accompany the statement of accounts. This has been changed to “include” to make clear that the notes are a part of the statement of accounts. **(New regulation 7)**

9.6 Current regulation 7B specifies how internal drainage boards are to account for retirement benefits, giving them the same protection from the financial consequences of the relevant accounting standards as applies to local authorities. The wording of this provision has been changed to follow the revised regulation on retirement benefits applicable to local authorities (introduced by the Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2010, SI 2010 No 454). This wording avoids the need to refer to specific pension scheme legislation. **(New regulation 18)**

9.7 Current regulations 10(5), 12(5) and 17(2), which contain transitional provisions, have been removed because they are spent.

9.8 Current regulation 19 requires a body to consider and publish the annual letter from the auditor or the Audit Commission. The reference to the Commission has been removed because the annual audit letters now come from the auditor. **(New regulation 27)**

9.9 All the changes listed in this section are subject to consultation in the same way as the major changes set out in the previous sections.

Consultation procedure

10.1 We are consulting the organisations we are required to consult by section 27(3) of the Audit Commission Act 1998:

- the Audit Commission
- such associations of local authorities as appear to the Secretary of State to be concerned – the Local Government Association, the National Association of Local Councils and the Association of Drainage Authorities. Representatives of the Passenger Transport Executives are also being consulted
- such bodies of accountants as appear to the Secretary of State to be appropriate – the Chartered Institute of Public Finance and

Accountancy and the Institute of Chartered Accountants in England and Wales

This document is also available on the Department's website (www.communities.gov.uk) and we will be drawing it to the attention of all principal councils in England and other interested parties. It is open to all to make representations on the proposed regulations, which will carefully be considered.

10.2 Your response must be received by 4 March 2011 and may be sent by email to: graham.fletcher@communities.gsi.gov.uk

Responses may also be returned to:
Graham Fletcher
Department for Communities and Local Government
Zone 5/J4, Eland House
Bressenden Place
London SW1E 5DU

10.3 Please title your response 'Response to Accounts and Audit Regulations consultation'.

10.4 It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

10.5 The Department will take account of the responses received to this consultation before decisions are taken on the proposed changes to the Accounts and Audit Regulations.

Publication of responses – confidentiality and data protection

11.1 Information provided in response to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes (These are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004.)

11.2 If you want any of the information that you provide to be treated as confidential you should be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.

11.3 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

11.4 The Department will process your personal data in accordance with the Data Protection Act and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

2011 No.

LOCAL GOVERNMENT, ENGLAND

The Accounts and Audit Regulations (England) 2011

Made - - - - - ***

Laid before Parliament ***

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 Regulations 2011 and come into force on 31st March 2011.

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

Interpretation and application

2.—(1) In these Regulations—

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

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

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

(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.

(c) 1972 c. 70.

(d) 1989 c. 42.

“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(a), 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(b), 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(c); 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(d);

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

(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(f); or

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

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

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

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

(b) 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.

(c) 1971 c. 80.

(d) 1988 c. 4.

(e) 1988 c. 41.

(f) 1995 c. 25.

(g) 1999 c. 29.

(h) Section 114 was amended by section 130 of the Greater London Authority Act 1999 (c. 29), S.I. 2002/2237, section 43 of and paragraph 34 of Schedule 4 to the Police and Magistrates’ Courts Act 1994 (c. 29), section 139 of and paragraph 66 of Schedule 5 to the Local Government and Housing Act 1989 (c. 42), section 88 and paragraph 28 of Schedule 6 to the Police Act 1997 (c. 50) and section 128 of and paragraph 48 of Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16).

(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.

(4) 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; and
- (d) Regulations 17 to 20 apply to the particular relevant bodies mentioned in that Part.

(5) 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.

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 by—

- (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 a statement on internal control, 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 (3) and (4), and, insofar 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 him are observed and that the accounting records of the body are kept up to date.

(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; and
- (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 a Community institution.

(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 reasonably practicable and accurately as reasonably possible;
 - (ii) to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute 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 uncollectible amounts, including bad debts, are not written off except with the approval of the responsible financial officer, or such member of his staff as is nominated by him for this purpose, and that the approval is shown in the accounting records.

Internal audit

6.—(1) A relevant body must maintain 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 of the body which relate to its accounting and other 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, 45AA, 47, 48(1) and (2) and 138(7) 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;
 - (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 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^(c), the sum of—

(a) 2002 c. 32.
 (b) 1998 c. 31.
 (c) 1972 c. 11.

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

“relevant police officer” means—

- (e) in relation to a police force maintained under section 2 of the Police Act 1996, 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 of the 1989 Act 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) of that Act; or
 - (iii) is a non-statutory chief officer within the meaning of section 2(7) of that Act;
- (j) the 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 of the 1989 Act (duty to keep Housing Revenue Account) 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 change for depreciation included in the Housing Revenue Account for that year under item 8 of Part II of Schedule 4 to the 1989 Act;
- (b) a debit in respect of any capital expenditure, within the meaning of section 16 of the Local Government Act 2003 (“capital expenditure”), 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;
- (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 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) summarised statements of the income and expenditure of each of those funds; and
- (c) balance sheets 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 etc

8.—(1) A larger relevant body must ensure that the statement of accounts required by regulation 7(1) or 7(6), 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—

- (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;

- (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 of the 1998 Act; and

must use its best endeavours to do these things no later than 30th September in the year immediately following the end of the year to which the statement relates.

(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 accounts and other documents mentioned in section 15 of the 1998 Act 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 is, 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 and section 16 of the 1998 Act; and
- (e) the date appointed under regulation 21.

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 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 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 relevant accounting statements required by regulation 12 are prepared in accordance with these Regulations.

(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—

- (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;
 - (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;
- and must use its best endeavours to do these things no later than 30th June.

(4) A smaller relevant body must 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 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;

and must use its best endeavours to do this no later than 30th September in the year immediately following the end of the year to which the statement relates.

(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.—(1) The procedure for public inspection of accounts for a smaller relevant body, mentioned in regulation 22, is that, subject to paragraph (2), the body must make the documents specified in that regulation available for public inspection for 20 working days before the date appointed by the auditor under regulation 21.

(2) In relation to a period where regulation 12(2) (gross income or expenditure not more than £200,000) applies, a smaller relevant body must make the accounts and other documents available for public inspection on reasonable notice.

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) Subject to paragraph (3), 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) 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 and section 16 of the 1998 Act; and
- (e) the date appointed under regulation 21.

(3) Instead of the information referred to in paragraph (2)(b), a smaller relevant body may give details of the manner in which notice should be given of an intention to inspect the accounts and other documents.

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 and including—

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

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 of the Greater London Authority Act 1999 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.

(2) In this regulation—

- (a) “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—
 - (i) the Secretary of State; and
 - (ii) 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(2) (right of local government elector to request an opportunity to question the auditor about the accounts) and 16(1) (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, as appropriate.

Written notice of objection

25.—(1) Any written notice of an objection given in pursuance of section 16(2) 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 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) must apply 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 (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.

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, a committee of the relevant body or the members of the relevant body meeting as a whole, 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.

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	S.I. 2004/3168	Regulation 67

(a) 2000 c. 22.

Amendments) (England) Order 2004		
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 Amendments) Order 2008	S.I. 2008/912	Paragraph 5 of Schedule 2 to the Regulations
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

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

	<i>Name</i>
Address	Parliamentary Under Secretary of State
Date	Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

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