

## EXPLANATORY MEMORANDUM TO

### THE ACCOUNTS AND AUDIT (AMENDMENT) REGULATIONS 2021

2021 No. 263

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 This instrument amends the Accounts and Audit Regulations 2015 (S.I 2015/234) (“the 2015 Regulations”) by delaying the dates for certain public and local bodies to publish, and make available for inspection, their annual accounts and supporting documents. These regulations apply only in relation to annual accounts relating to the 2020/21 and 2021/22 financial years.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England and Wales.

#### 5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

#### 6. Legislative Context

- 6.1 The 2015 Regulations set out a procedure for the audit of accounts of relevant authorities (apart from health bodies), as defined in Schedule 2 to the Local Audit and Accountability Act 2014 (“the 2014 Act”).

##### *(i) Period for exercise of public rights*

- 6.2 One aspect of the process involves a period during which the rights of objection, inspection and questioning of the local auditor under sections 26 and 27 of the 2014 Act may be exercised. Under section 26 interested persons and journalists may inspect the accounting records and supporting documents for a relevant authority (other than a

health service body) for the financial year and make copies of those documents. Section 27 allows a local government elector to make an objection to a local auditor if the elector considers that there is a matter about which the auditor could make a public interest report or apply for a declaration that expenditure is unlawful.

- 6.3 For “Category 1 authorities” (defined in regulation 2(1) of the 2015 Regulations) the period for the exercise of public rights must include the first 10 working days of June in the financial year immediately following the financial year to which the statement of accounts relates. A financial year begins with 1 April. For Category 1 authorities, and their statement of accounts for the financial years 2020/21 and 2021/22, these Regulations remove the reference to the first 10 working days of June to require instead that the public inspection period must have started by the first working day of August.
- 6.4 For “Category 2 authorities” (also defined in regulation 2(1) of the 2015 Regulations) the period for the exercise of public rights must include the first 10 working days of July in the financial year immediately following the financial year to which the statement of accounts relates. A financial year begins with 1 April. For Category 2 authorities, and their statement of accounts for the financial years 2020/21 and 2021/22, these Regulations remove the reference to the first 10 working days of July to require instead that the public inspection period must have started by the first working day of August.

*(ii) Deadline for publishing audited accounts*

- 6.5 After the accounts of Category 1 authorities have been audited the authorities are required to publish the statement of accounts and other documents, in accordance with regulation 10 of the 2015 Regulations. The date by which the publication must take place is currently 31 July in the financial year immediately following the financial year to which the documents refer. For Category 1 authorities, and their documents relating to the financial years 2020/21 and 2021/22, these Regulations change that deadline to 30 September 2020.
- 6.6 After the accounts of Category 2 authorities have been audited the authorities are required to publish the statement of accounts and other documents, in accordance with regulation 13 of the 2015 Regulations. The date by which the publication must take place is currently 30 September in the financial year immediately following the financial year to which the documents refer. For Category 2 authorities that date has not changed.

## **7. Policy background**

*What is being done and why?*

- 7.1 These amending regulations are being made in response to a recommendation made by Sir Tony Redmond in his independent report into the effectiveness of external audit and transparency of financial reporting in local authorities<sup>1</sup> and are intended to reduce the pressure on authorities (and auditors) to comply with legal deadlines. As such, these Regulations provide authorities with additional time to complete the audit of their accounts for 2020/21 and 2021/22.

---

<sup>1</sup> <https://www.gov.uk/government/publications/local-authority-financial-reporting-and-external-audit-independent-review>

- 7.2 Our view is that providing all authorities with more flexibility to produce their draft accounts ready for public inspection and a further 2 months for Category 1 bodies to publish their finalised accounts will provide both the authorities and their auditors with more time to audit the accounts, following two years in which a significant number of accounts have failed to be published within the legal deadlines.
- 7.3 The reason that these amendments are temporary i.e. cover only two accounting years, rather than making the change permanent is because we are seeking to provide a reduction in the pressure on authorities and auditors to fulfil statutory audit deadlines in the short term, subject to review after two years. This is because we recognise the overall benefit of external audits being completed as soon as practicable after the year end and that the longer it takes to complete them the less useful they become in identifying concerns that need to be addressed.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 This instrument does not consolidate any legislation.

## **10. Consultation outcome**

- 10.1 Section 32(3) of the 2014 Act requires that any regulations be subject to consultation with certain named stakeholders. These are the Comptroller and Auditor General of the National Audit Office, appropriate representatives of relevant authorities and recognised supervisory bodies. Given the need for the Regulations to be in place as soon as possible in the new financial year, to provide affected bodies and audit firms with certainty of the approach, the consultation was carried out over a three-week period, from 9 February to 1 March.
- 10.2 All the named stakeholders were consulted in writing. In addition, letters were sent to all local authority chief executives as well as to all chief fire officers and chief constables/police and crime commissioners as well as representatives of smaller authorities and audit firms. 124 responses were received and of those responses, seventy one per cent agreed with the proposed deadline extension. Sixteen per cent of respondents would have preferred to retain the original deadline and thirteen per cent requested a longer deadline.
- 10.3 Fifteen per cent of respondents suggested that more time between the draft and final publication deadlines would be needed to enable auditors to finalise the accounts, however a number of bodies responding said they would submit draft accounts before 1 August to ensure that the 30 September deadline could be met. The new draft accounts deadline will provide authorities and auditors with more flexibility to finalise the accounts enabling them to be published for inspection at any time between the end of the accounting year and 31 July.
- 10.4 Finally, eighty six per cent of respondents agreed to the proposed new requirement for authorities to publish a note on their website giving their reasons should they fail to meet the 1 August deadline for the period of public inspection. 2 respondents disagreed, and the remainder did not comment.

- 10.5 A few consultees commented that the timing of the new August draft publication deadline might unduly affect finance staff with children; however our view is that the flexibility provided by removing the earlier common publication deadline should enable affected staff to ensure that the draft accounts can be published before 1 August if needed. Given the specific and time limited nature of the changes it is not intended to publish a further consultation response.
- 10.6 It is our intention to notify all affected Category 1 bodies that these changes are being made and indicate that they should publicise these changes on their website to make the public aware, especially in relation to the amendment of the public inspection period. For Category 2 bodies, we will ensure that they are made aware of the changes via their audit procurement body and auditors.
- 10.7 Although the territorial extent of the regulations includes Wales, there are separate regulations covering Welsh authorities made by the devolved administration. Officials have consulted with Welsh, Scottish and Northern Irish devolved administration officials to make them aware of the steps we have taken so that they may consider making similar arrangements.

## **11. Guidance**

- 11.1 We are not intending to produce guidance to accompany this statutory instrument.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies. Audit firms will have more time to complete the audit of local authority accounts over 2020/21 and 2021/22.
- 12.2 The impact on the public sector is that local authorities will have more flexibility as to how they can respond and deploy their resources in response to the pandemic.
- 12.3 An Impact Assessment has not been prepared for this instrument because the provisions in these amending regulations have application for 2 years only i.e. will apply until 31 March 2022. In addition, this instrument does not amend regulatory standards that applied to the existing 2015 Regulations.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is that the changes implemented will last for 2 years after which Ministers have committed to review the deadline and consider whether the change should be extended further or revert to the deadlines set out in the 2015 regulations.
- 14.2 The regulations do not include a statutory review clause as the changes being made are temporary.

## **15. Contact**

- 15.1 Alison Morris at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 2613 or email: [alison.morris@communities.gov.uk](mailto:alison.morris@communities.gov.uk) can be contacted with any queries regarding the instrument.

- 15.2 Max Soule Deputy Director for Local Government Stewardship, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Luke Hall at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.