
Communities and Local Government

An informal commentary
on

The Accounts and Audit (England) (Amendment) Regulations 2009 [Statutory Instrument No. 473]

This is a purely informal commentary and not an authoritative interpretation of the law. If you need legal advice about the meaning of the Regulations, we suggest that you consult your own lawyers.

(1) INTRODUCTION

1.1. The following commentary summarises the intended effects of the new regulations. These are amendments to the **Accounts and Audit Regulations 2003** (“the 2003 Regulations”) made under section 27 of the Audit Commission Act 1998.

1.2 The online link to the new regulations is

http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090473_en.pdf

1.3 The **Explanatory Memorandum** provided to Parliament on the regulations is at

http://www.opsi.gov.uk/si/si2009/em/uksiem_20090473_en.pdf

(2) TIMING

2.1 The regulations are in force from 31 March 2009, except for regulation 5, and thus apply with effect from the financial year 2008-09.

2.2 Regulation 5 will come into force from 1 April 2009 and so apply with effect for the financial year 2009-10.

(3) POLICY BACKGROUND

3.1 True and Fair Certification

The form of words accepted in the UK as confirming that published accounts meet the highest standards of accounting practice is “true and fair”

The view was taken until recently that a true and fair Responsible Financial Officer (RFO) certification and audit opinion should not be given for local

government accounts because they departed in significant ways from financial reporting standards and other aspects of generally accepted accounting practice. The departures in question arose in large part from legislative requirements.

Over the last few years there have been significant changes to the form of local authority accounts, which have meant that the accounts now include a presentation of the financial results and position of an authority that conforms to generally accepted accounting practice, while also being consistent with the requirements of legislation.

This has been a significant achievement of the joint (CIPFA/LASAAC) ¹ SORP² Board. The chair of the Board wrote to the Department drawing attention to the progress made and conveying the Board's view that the "true and fair" wording should be adopted for local authorities. The Government agreed with this view, and amending regulation 5 implements the change.

3.2 Internal Drainage Boards (IDBs)

IDBs are responsible for the drainage of land in some parts of the country under the Land Drainage Act 1991. IDBs are moving to prepare their accounts on a Financial Reporting Standard 17 (Retirement Benefits) basis i.e. fully recognising the future pension liability that has accrued for that year in respect of their employees. For local authorities such charges are reversed out and replaced by the employer contribution they are required to make to the pension fund and other amounts due to be paid in the year. This prevents excessive charges to taxation. Amending regulation 4 achieves the same result for IDBs, inserting a new regulation 7B in the 2003 Regulations.

(4) GUIDANCE

4.1. The Statement of Recommended Practice (SORP) specifies the principles and practices of accounting required to prepare a Statement of Accounts and the basis for the Responsible Financial Officer's Certification. This will be updated to take account of the change to require the Statement of Accounts to give a "true and fair view" of the financial position and transactions of a local government body from the 2009-10 reporting year.

4.2. The implementation of International Financial Reporting Standards is a key accounting development for authorities, due for implementation in the 2010-11 accounts. CIPFA is writing to Finance Directors highlighting the key issues, and has also published LAAP Bulletin 80 which provides an outline project plan on which authorities can build. These documents can be downloaded from:

¹ Chartered Institute of Public Finance Accountancy and Local Authority (Scotland) Accountancy Advisory Committee (CIPFA/LASAAC)

² Statement of Recommended Practice (SORP)

http://www.cipfa.org.uk/pt/cipfalasaac/download/IFRS_letter_to_FDs_090309.doc (Letter)
<http://www.cipfa.org.uk/pt/download/laap80.pdf> (LAAP Bulletin)

4.3. As the other changes to the 2003 Regulations are relatively minor, the Department does not intend to issue any guidance. Guidance on the accounting practices of IDBs is set out in *Governance and Accountability in Internal Drainage Boards in England – a Practitioners’ Guide*, published by the Association of Drainage Authorities. This will be updated to take account of these Regulations.

4.4 The Department published guidance on the Accounts and Audit Regulations in DCLG Circular 03/2006, which is available at:

<http://www.local.odpm.gov.uk/audit2.pdf>

It is not intended to issue a new circular at this time but local government may find it useful to refer to the section on “proper practices”.

(5) APPLICATION

5.1. The new requirement for the RFO to certify that accounts give a true and fair view will apply only to bodies required by regulation 7 of the 2003 Regulations to prepare a statement of accounts, which are broadly those whose annual expenditure or income is £1million or more. Where the accounting obligations of a body are governed by regulation 9 of the 2003 Regulations (i.e. a smaller relevant body), the RFO will continue to be obliged to certify that the accounts present fairly or properly present the finances of the body.

5.2. The changes in respect of Internal Drainage Boards will apply to those local government bodies only.

5.3 The other changes apply to all the local government bodies covered by the Regulations.

(6) TRUE AND FAIR

6.1 Prior to the regulation amendment the Responsible Financial Officer was required by regulation 10(2) to sign and date:

- the statement of accounts;
- the income and expenditure account and statement of balances; or
- the record of receipts and payments

as appropriate, and certify:

- where a record of receipts and payments is prepared, that it properly presents the receipts and payments for the year;
- where an income and expenditure account and statement of balances is prepared, that the account and statement present fairly the financial position of the body at the end of year and its income and expenditure for the year;
- where a statement of accounts is prepared, that the statement presents fairly the authority's financial position at the end of the year and its income and expenditure for the year.

6.2 The effect of amending regulation 5 is to require the RFO to certify that a statement of accounts presents a true and fair view. The requirements for the first two categories above remain unchanged.

(7) INTERNAL DRAINAGE BOARDS

7.1 The Boards are moving to prepare their accounts on a Financial Reporting Standard 17 (Retirement Benefits) basis i.e. fully recognising the future pension liability that has accrued for that year in respect of their employees. For local authorities such liabilities are reversed out and replaced by the employer contribution to the pension fund and other amounts due to be paid in the year. This avoids excessive charges to taxation. Amending regulation 4 inserts a new regulation 7B into the 2003 Regulations, which extends the same facility to IDBs.

(8) OTHER CHANGES

8.1 Amending regulations 3, 6, 7 and 8 make minor changes to the 2003 Regulations including amendments required to align them with changes in audit legislation made by the Local Government and Public Involvement in Health Act 2007.