AUDIT (AMENDMENT) BILL 2015

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mr R W Henderson, MLC. They do not form part of the Bill.

INTRODUCTION

The existing provisions within the Audit Act 2006 (‘the Act’) allow for Treasury to make directions for the exemption or partial exemption of the majority of relevant bodies subject to the provisions of the Act [section 1(2)(a) refers].

Following a public consultation undertaken by the Treasury into the audit and accounting framework applicable to the Local Government sector, these powers were utilised via the *Audit (Local Government) Direction Order 2014* to implement a more proportionate assurance framework for the majority of Local Government bodies (based upon an assessment of the financial risk):

Level	Independent Inspection requirement
1	Qualified independent examination by an examiner appointed by the relevant body and approved by the Treasury.
2	Assurance review by a regulated auditor appointed by the Treasury.
3	Full statutory audit in accordance with the Act.

However, these powers do not extend to those bodies that are brought into the scope of the Act as a consequence of their own statute [sections 1(1)(i) and 1(2)(a) of the Act refer].

Consequently, as Burial Ground Authorities are brought within the scope of the Act via their own statute [section 17(2) of the Burials Act 1986 refers], the Act does not provide Treasury with any powers to amend the audit/assurance framework applicable to them. Currently therefore the 17 Burial Authorities, which are amongst the smallest bodies within the sector, continue to require a full statutory audit.

A key intention of the Audit (Amendment) Bill 2015 is therefore to extend Treasury’s existing powers to enable them to be applied to such bodies [Clause 6(3)(a) of the Bill refers].

Also in relation to the Burial Ground Authorities it is proposed to amend the requirements of the Burials Act 1986 relating their accounting year end. They currently report to the 31st December however it proposed to amend this to the 31st March which would bring it into align with the rest of the Local Government sector.
It is anticipated this proposed change will make it easier for the Burial Authorities to prepare their accounts as it will better align their financial reporting period with the annual rates cycle which is a key source of their income [the Schedule of Consequential Amendments refers].

In addition, whilst the Treasury has utilised existing provisions under the Act to implement a more proportionate ‘inspection’ framework as outlined above, doing this via the current subordinate legislation mechanism risks ambiguity in relation to the continuing roles and responsibilities of the relevant bodies and the ‘inspectors’ appointed.

Accordingly another primary intention of this Bill is to more appropriately define the requirements for the proportionate assurance framework within the primary legislation. The majority of the clauses within the Bill relate to this and the consequential restructure of the Act.

The resulting Act is expected to reduce the expenditure of certain bodies presently liable to be audited.

The Bill contains 26 clauses.

OVERVIEW OF CLAUSES

Part 1

Clauses 1 to 3	Deal with the commencement, citation and expiry of the resulting Act.

Part 2

Part 2 contains the amendments to the 2006 Act (and in relation to that Part, a reference in the following paragraphs of this memorandum to a section is to a section of the 2006 Act).

In future there will be three forms of inspection of accounts: audit, assurance review and examination. Which of the three forms is to be used in a particular case will depend upon a risk-based analysis of the accounts and the body producing them. The intention is to reduce the regulatory burden particularly on statutory bodies with a small turnover.

Clause 4	Introduces the amendments to the 2006 Act.
Clause 5	Inserts section A1 at the beginning of the 2006 Act, introducing the three forms of inspection: Examination, Assurance Review or Audit. The default requirement is still for accounts to be audited unless Treasury directs. It clarifies that references to ‘inspection’ (etc.) refer to any of these forms of inspection.
Clause 6	Amends section 1 to reflect that although all the bodies to which the 2006 Act will be subject to some form of inspection that will not necessarily be an audit i.e. amends ‘audit’ to ‘inspected’ etc. Clause 6(3)(a) expands Treasury’s existing power of exemption to all bodies brought into the scope of the Act by section 1.
Clause 7	Makes a similar consequential amendment to section 2 changing reference from ‘audit’ to ‘inspected’.
Clause 8	Amends section 3 which deals with the appointment of auditors. In particular this clause restructures the Act by removing the restrictions that are required for the appointment persons to conduct inspections. These restrictions are relocated from section 3 to the new section 4B.
Clause 9	Introduces sections 3A and 3B which set out the qualifications of assurance reviewers and examiners in relation to accounts. Assurance Reviewers are required to be qualified auditors appointed by the Treasury (similar to existing provisions in relation to auditors). Examiners are appointed by the body and approved by Treasury. They must hold the same qualifications as those required by Independent Examiners for Charity accounts. These sections together with section 3 are subject to the new section 4B

	which, as highlighted above is the relocation of the existing 'independence' requirements, but for all inspectors.
Clause 10	Inserts section 4A which describes the general statutory duties of both assurance reviewers and examiners. These duties are the same for both types of inspection, however section A1 (above) also provides for the Treasury to make further directions as to the detail of each of those requirements. Inserts Section 4B which is the relocation of the existing section 3 which relates to the disqualifications for acting as an inspector of any sort. There is also a minor amendment to clarify the applicability in relation to relevant subsidiary companies.
Clauses 11 to 14	Generalise references to audit and auditors in sections 5 to 8, replacing them with references to inspection and inspectors. Clause 14 also clarifies that the Special Report obligations will also apply to assurance reviewers and examiners. However matters will only be made public following a full audit. Where concerns by been raised by assurance reviewers & examiners the provision permits the relevant authority to direct that a full audit be then undertaken.
Clause 15	Makes similar amendments to the majority of section 9. Similarly section 9(5)(c), which concerns requirements to give public notice of the issue of a warning notice, will still to be restricted to accounts which have been subject to audit.
Clause 16	Amends section 11 so as to extend the reserve power to order an extraordinary audit to any accounts which are liable to be inspected under the Act.
Clause 17	Extends the Treasury's power to make regulations under the Act to cover inspections and not merely audits.
Clause 18	Extends the Treasury's power to give directions under the 2006 Act to all classes of accounts to be inspected.
Clause 19	Makes consequential amendments to section 14 dealing with fees to be charged under the 2006 Act. The Treasury will itself fix the fees for an audit or an assurance review, but the body whose accounts are being examined will agree the fee with the examiner.
Clauses 20 to 22	Make consequential amendments to sections 15, 16 and 18.
Clause 23	Provides for directions by the Treasury under section 13 to be laid before Tynwald after they are made.
Clause 24	Amends section 21, to insert new definitions which flow from the introduction of the concept of inspection.

Part 3

Clauses 25 and 26	These make consequential adjustments to other legislation, notably the Burials Act 1986. Churchwardens' accounts produced in their capacity as burial authorities will, once the Act comes into operation be drawn to a 31st March year-end.