POLICY NOTE

THE COMPANIES ACT 2006 (SCOTTISH PUBLIC SECTOR COMPANIES TO BE AUDITED BY THE AUDITOR GENERAL FOR SCOTLAND) ORDER 2024

SSI 2024/266

The above instrument was made in exercise of the powers conferred by section 483 of the Companies Act 2006. The instrument is subject to affirmative procedure.

Purpose of the instrument: To make provision that the accounts of Zero Waste Scotland are to be audited by the Auditor General for Scotland, which will enable an accountable officer to be appointed for Zero Waste Scotland.

Policy Objectives

Zero Waste Scotland Limited is a private limited company (company number SC436030) which was incorporated under the Companies Act 2006 in November 2012. In April 2023, the Office for National Statistics (ONS) classified Zero Waste Scotland as a public sector organisation. Work is underway to transition Zero Waste Scotland to an executive non-departmental public body.

This Order, made under section 483 of the Companies Act 2006, sets out that the accounts of Zero Waste Scotland are to be audited by the Auditor General for Scotland. This brings Zero Waste Scotland within the scope of the Public Finance and Accountability (Scotland) Act 2000 ("the 2000 Act"). The Order also sets out that the requirements of Part 16 of the 2006 Act relating to the audit of company accounts do not apply to Zero Waste Scotland for a financial year if its accounts in that year are to be audited by the Auditor General for Scotland ("AGS").

As a matter of policy, Zero Waste Scotland, as an executive non-departmental public body, will be expected to have an Accountable Officer. Zero Waste Scotland is not part of the Scottish Administration in terms of the Scotland Act 1998. This means that under the 2000 Act the Permanent Secretary of the Scottish Government, as the Principal Accountable Officer, is not able to appoint an Accountable Officer for Zero Waste Scotland. Once this Order is in force and the accounts of Zero Waste Scotland are auditable by the Auditor General for Scotland, the Principal Accountable Officer is able to designate a member of staff of Zero Waste Scotland as its Accountable Officer under section 15(3) of the 2000 Act. It is expected that the Chief Executive of Zero Waste Scotland will be designated.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General

for Scotland) Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Audit Scotland and Zero Waste Scotland were consulted during the preparation of the instrument. Responses have confirmed that the AGS is willing to assume the auditing role and both bodies have helped assist with best timings for introduction.

Impact Assessments

A Child Rights and Wellbeing Impact Assessment has been prepared, as required by the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, and published online at www.legislation.gov.uk.

Financial Effects

The *Cabinet Secretary for Net Zero and Energy* confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no financial effects on the Scottish Government, local government or on business. The current auditor contract for Zero Waste Scotland is due to end in 2024/25 so no financial or legal penalties will arise for ZWS, as the AGS is expected to formally commence its auditing role during 2025 following ZWS preparing its annual accounts to 31st March 2025. It is expected these annual accounts will be presented to AGS by July 2025.

Environment & Forestry Directorate
Scottish Government

September 2024