

Status: Point in time view as at 01/04/2002.

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SCHEDULE 1

(introduced by section 8)

CAPITAL EXPENDITURE OF, AND BORROWING BY, CERTAIN STATUTORY BODIES

Capital expenditure of local authorities etc.

1 In section 94 of the Local Government (Scotland) Act 1973 (c.65) (capital expenses of local authorities etc.) insert—

“(5) In exercising their functions under subsection (1) above the Scottish Ministers shall seek to ensure that the aggregate amount of relevant expenditure by virtue of this section in any financial year does not exceed the amount specified for that year for the purposes of this subsection in a Budget Act.

(6) In subsection (5) above, “relevant expenditure” means such expenditure as the Scottish Ministers may from time to time determine in writing, being expenditure resulting from the incurring of liabilities to which subsection (1) above applies.

(7) The Scottish Ministers shall lay before the Scottish Parliament every determination under subsection (6) above together with a statement of their reasons for making the determination in those terms.”

NHS trusts

2 (1) In Schedule 7B to the National Health Service (Scotland) Act 1978 (c.29) (financial provisions relating to NHS trusts), after paragraph 2 insert—

“Limits on borrowing

2A In any financial year the net aggregate amount of sums borrowed by NHS trusts shall not exceed the amount specified for that year for the purposes of this paragraph in a Budget Act.

2B In paragraph 2A above, “net aggregate amount” means the aggregate amount of sums borrowed in the financial year less any repayments made during that year (otherwise than by way of interest) in respect of sums borrowed in that or any other year.”

(2) Paragraphs 3 and 4 of that Schedule are repealed.

^{F13}

Textual Amendments

F1 Sch. 1 para. 3 repealed (1.11.2001) by 2001 asp 10, s. 112, Sch. 10 para. 28(1); S.S.I. 2001/397, art. 2, Sch. Table (subject to transitional provisions and savings in arts. 3-6)

Scottish Enterprise and Highlands and Islands Enterprise

4 (1) The Enterprise and New Towns (Scotland) Act 1990 (c.35) is amended as follows.

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(2) In section 25 (finances of Scottish Enterprise)—

(a) after subsection (1) insert—

“(1A) In any financial year the net aggregate amount of sums borrowed by Scottish Enterprise and its subsidiaries as general external borrowing shall not exceed the amount specified for that year for the purposes of this section in a Budget Act.

(1B) In subsection (1A) above—

“general external borrowing” means—

- (a) in relation to Scottish Enterprise, sums borrowed by it other than sums borrowed from a body corporate which is or was one of its subsidiaries at the time of the loan,
- (b) in relation to a subsidiary of Scottish Enterprise, sums borrowed by the subsidiary (whether or not a subsidiary of Scottish Enterprise at the time of the loan) other than sums borrowed from Scottish Enterprise, or another subsidiary of Scottish Enterprise,

“net aggregate amount” means the aggregate amount of sums borrowed in the financial year less any repayments made during that year (otherwise than by way of interest) in respect of sums borrowed in that or any other year.”

(b) subsections (2) to (4) are repealed.

(3) In section 26 (finances of Highlands and Islands Enterprise), after subsection (3) insert—

“(3A) In any financial year the net amount of sums borrowed shall not exceed the amount specified for that year for the purposes of this section in a Budget Act.

(3B) In subsection (3A) above, “net amount” means the amount of sums borrowed in the financial year less any repayments made during that year (otherwise than by way of interest) in respect of sums borrowed in that or any other year.”

5 The Scottish Enterprise Act 1999 (c.5) is repealed.

F26

Textual Amendments
F2 Sch. 1 para. 6 repealed (1.4.2002) by 2002 asp 3, s. 71(2), Sch. 7 para. 27(3)(a) (with s. 67); S.S.I. 2002/118, art. 2(3) (subject to art. 3)

Scottish Environment Protection Agency

7 (1) The Environment Act 1995 (c.25) is amended as follows.

(2) In section 48 (borrowing powers of Agencies)—

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- (a) in subsections (2) and (3), for “subsection (5)” substitute “ subsections (5) and (5A) ”,
 - (b) subsection (5)(b) and the preceding “or” are repealed,
 - (c) after subsection (5) insert—
 - “(5A) In any financial year the net amount of sums borrowed by SEPA under this section shall not exceed the amount specified for that year for the purposes of this section in a Budget Act.
 - (5B) In subsection (5A) above, “net amount” means the amount of sums borrowed in the financial year less any repayments made during that year (otherwise than by way of interest) in respect of sums borrowed in that or any other year.”
- (3) In section 49 (government loans to Agencies), subsections (3) to (5) cease to have effect so far as relating to the Scottish Environment Protection Agency.

SCHEDULE 2

(introduced by section 10)

AUDIT SCOTLAND: FURTHER PROVISIONS

Membership

- 1 The Auditor General and the Chairman of the Accounts Commission are not entitled to any remuneration in respect of their membership of Audit Scotland.
- 2 A person who is a member of the staff of Audit Scotland or a member of the Accounts Commission is eligible for appointment under section 10(2)(c) but, if so appointed, is not entitled to any remuneration in respect of the appointment.
- 3 A member of Audit Scotland appointed under section 10(2)(c)—
 - (a) is to be appointed on such terms and conditions as the Auditor General and the Chairman may determine,
 - (b) is to hold and vacate office in accordance with the terms of the appointment,
 - (c) may resign as a member by notice in writing given to the Auditor General and the Chairman.
- 4 The Auditor General and the Chairman, acting jointly, may remove from membership of Audit Scotland a member appointed under section 10(2)(c) if they consider that the member is for any reason unable or unfit to exercise the functions of a member.

Staff

- 5 (1) Audit Scotland may appoint staff.
- (2) It is for Audit Scotland to determine the terms and conditions of appointment of the staff, including arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a member of staff.
- (3) In particular, Audit Scotland may—

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- (a) make contributions or payments towards provision for such pensions, gratuities or allowances,
- (b) establish and administer one or more pension schemes.

Commencement Information

II Sch. 2 para. 5 wholly in force at 1.4.2000; Sch. 2 para. 5 not in force at Royal Assent see s. 30(1); Sch. 2 para. 5 in force for certain purposes at 1.2.2000 by [S.S.I. 2000/10, art. 2\(2\), sch.](#); sch. 2 para. 5 in force insofar as not already in force at 1.4.2000 by [S.S.I. 2000/10, art. 2\(3\)](#)

Powers

- 6 (1) Audit Scotland may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions.
- (2) That includes, in particular—
- (a) holding property,
 - (b) entering into contracts,
 - (c) charging for goods or services,
 - (d) borrowing sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.
- (3) Sub-paragraph (2)(c) is without prejudice to section 11.
- (4) Audit Scotland may borrow money only under sub-paragraph (2)(d).

Commencement Information

II Sch. 2 para. 6 wholly in force at 1.4.2000; Sch. 2 para. 6 not in force at Royal Assent see s. 30(1); Sch. 2 para. 6 in force for certain purposes at 1.2.2000 by [S.S.I. 2000/10, art. 2\(2\), sch.](#); sch. 2 para. 6 in force insofar as not already in force at 1.4.2000 by [S.S.I. 2000/10, art. 2\(3\)](#)

Proceedings

- 7 (1) The validity of any act of Audit Scotland is not affected by any vacancy among its members, or any defect in the appointment, or qualification for membership, of any member.
- (2) Audit Scotland may—
- (a) determine its own procedure,
 - (b) appoint one of its members to preside at its meetings.

Transfers from Accounts Commission

- 8 (1) With effect from 1st April 2000 each person who was, immediately before that date, employed as an officer of the Accounts Commission transfers to and becomes a member of the staff of Audit Scotland.
- (2) The terms and conditions of appointment of such a person are to be determined by Audit Scotland but, taken as a whole, must be not less favourable to the person

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transferred than the terms on which that person was employed immediately before the transfer.

- (3) Where a person becomes a member of the staff of Audit Scotland under sub-paragraph (1), then, for the purposes of the Employment Rights Act 1996 (c.18), that person's period of employment by the Accounts Commission counts as a period of employment by Audit Scotland and the change of employment does not break the continuity of the period of employment.
- (4) Where a person ceases to be employed as an officer of the Accounts Commission by virtue of sub-paragraph (1) that person is not, on ceasing to be so employed, to be treated—
- (a) for the purposes of any scheme or regulations by virtue of the Superannuation Act 1972 (c.11) as having been retired on redundancy,
 - (b) for the purposes of Part XI of the Employment Rights Act 1996 (c.18) as having been dismissed by reason of redundancy.

- 9 On 1st April 2000 all property, rights and liabilities to which the Accounts Commission was entitled or subject immediately before that date transfer to and vest in Audit Scotland.

SCHEDULE 3

(introduced by section 12)

SCOTTISH COMMISSION FOR PUBLIC AUDIT: FURTHER PROVISIONS

- 1 The member of the Scottish Commission for Public Audit holding office under section 12(2)(a) on a dissolution of the Parliament continues to hold office until a convener of the Audit Committee is appointed following a general election.
- 2 A member of the Commission appointed under section 12(2)(b) holds office until the Parliament is dissolved unless the member previously resigns, ceases to be a member of the Parliament otherwise than by virtue of a dissolution or is removed from office by resolution of the Parliament.

Modifications etc. (not altering text)

C1 Sch. 3 para. 2 applied (*temp.* from 1.2.2000) by [S.S.I. 2000/11](#), [art. 4\(2\)](#)

- 3 The validity of any act of the Commission is not affected by any vacancy in its membership or by any defect in the appointment, or qualification for membership, of any member.
- 4 The Commission may—
- (a) determine its own procedure,
 - (b) appoint one of its members to preside at its meetings.
- 5 The Parliamentary corporation is to provide the Commission, or ensure that the Commission is provided, with the property, staff and services required for its purposes.
- 6 The Commission may give directions to the corporation for the purpose of or in connection with the exercise of the corporation's functions in relation to the Commission.

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- 7 Any expenses incurred by the Commission in the exercise of its functions are to be paid by the corporation.

SCHEDULE 4

(introduced by section 26)

MODIFICATION OF ENACTMENTS RELATING TO PART 2

National Galleries of Scotland Act 1906 (c.50)

- 1 In paragraph 8 of the Schedule to the National Galleries of Scotland Act 1906 (accounts of the Board)—
- (a) in sub-paragraph (5), the words from “on or” to “any year” are repealed, and after “General” insert “ for auditing ”,
 - (b) sub-paragraph (6) is repealed.

National Library of Scotland Act 1925 (c.73)

- 2 In paragraph 8 of the Schedule to the National Library of Scotland Act 1925 (accounts of the Board)—
- (a) in sub-paragraph (5), the words from “on or” to “any year” are repealed, and after “General” insert “ for auditing ”,
 - (b) sub-paragraph (6) is repealed.

Local Government (Scotland) Act 1973 (c.65)

- 3 (1) The Local Government (Scotland) Act 1973 is amended as follows.
- (2) In section 96 (accounts and audit of local authorities), in subsection (4), for “an officer of the Accounts Commission for Scotland” substitute “ a member of the staff of Audit Scotland ”.
- (3) In section 97 (Accounts Commission for Scotland)—
- (a) in subsection (1)—
 - (i) for “fifteen” substitute “ twelve ”,
 - (ii) for “eleven” substitute “ six ”,
 - (iii) the words “and such organisations connected with the health service” are repealed,
 - (b) in subsection (2), the following provisions are repealed—
 - (i) paragraph (a)(ii), (iv) and (v),
 - (ii) in paragraph (c), the words “or, as the case may be, health service bodies”,
 - (iii) in paragraph (d), the words “or health service bodies”,
 - (c) after that subsection insert—

“(2AA) Any function of the Commission may be exercised on behalf of the Commission by any person (whether or not a member of the staff of Audit Scotland) authorised by the Commission to do so.

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(2AB) Subsection (2AA) above does not apply in relation to the following functions—

- (a) considering reports in pursuance of subsection (2)(b) above,
- (b) appointing an auditor under subsection (6) below,
- (c) deciding who is to audit any account, or class of account, in pursuance of this Part of this Act,
- (d) deciding whether to undertake or promote a study under section 97A or 105A of this Act.

(2AC) Subsections (2AA) and (2AB) above do not affect the responsibility of the Commission for the exercise of their functions.”,

- (d) subsection (2B) is repealed,
- (e) in subsection (3), the words “and such organisations connected with the health service” are repealed,
- (f) in subsection (4), the words from “and the Commission” to the end are repealed,
- (g) after that subsection insert—

“(4AA) The Controller of Audit shall, by virtue of appointment as such, be a member of the staff of Audit Scotland unless that person is also the Auditor General for Scotland.”,

- (h) subsections (4A) to (4D) are repealed,
- (i) in subsection (6), for “officers of the Commission” substitute “members of the staff of Audit Scotland”, and the words from “or a person” to the end are repealed,
- (j) subsection (6A) is repealed.

(4) In section 97A (studies for improving economy etc. in services), in each of subsections (2) and (3), the words from “and, in” to the end are repealed.

(5) In section 98 (expenses and accounts of the Accounts Commission)—

- (a) in subsection (1), for paragraphs (a) to (c) substitute “such expenses shall be met by Audit Scotland”,
- (b) subsections (2) to (7) are repealed.

(6) In section 99 (general duties of auditors)—

- (a) the words “or health service body”, in both places where they occur, are repealed,
- (b) in paragraph (a), the words from “or, in the case of a health service body” to “1978” are repealed.

(7) In section 100 (auditor’s right of access to documents)—

- (a) in subsection (1), the words “or health service body” and “or body” are repealed,
- (b) in subsection (1B), the words “or body” are repealed,
- (c) in subsection (2), the words “and health service body” are repealed.

(8) In section 101 (completion of audit), subsection (5) is repealed.

(9) In section 102 (reports to Commission by Controller of Audit)—

- (a) in subsection (1), the words “and health service bodies” and “or health service body” are repealed,

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- (b) subsection (5) is repealed.
- (10) In section 103 (action by Commission on reports by Controller of Audit), the words “with respect to the accounts of any local authority” are repealed.
- (11) Section 104A (special provisions as to audit of health service bodies) is repealed
- (12) In section 106 (application of sections 93 to 105 to bodies other than local authorities and to officers), subsection (3) is repealed.
- (13) In Schedule 8 (provisions as to the Accounts Commission for Scotland)—
 - (a) in paragraph 3A—
 - (i) the words “out of their funds” are repealed,
 - (ii) at the end insert “ ; and such salary, fees and allowances shall be paid by Audit Scotland ”,
 - (b) in paragraph 4(1), for “five” substitute “ four ”,
 - (c) paragraph 6 is repealed,
 - (d) in paragraph 7, the words from “and, without prejudice” to the end are repealed.

National Health Service (Scotland) Act 1978 (c.29)

- 4 (1) The National Health Service (Scotland) Act 1978 is amended as follows.
 - (2) In section 12 (Scottish Hospital Endowments Research Trust)—
 - (a) in subsection (6), for the words from “cause such” to the end substitute “ send the accounts to the Scottish Ministers by such time as they may direct ”,
 - (b) after that subsection insert—
 - “(6A) The Scottish Ministers shall send the accounts to the Auditor General for Scotland for auditing.”
 - (3) In section 86 (accounts of the Health Boards and the Agency)—
 - (a) in subsection (1), for the words from “those accounts” to the end substitute “ shall send those accounts to the Scottish Ministers by such time as they may direct ”,
 - (b) after that subsection insert—
 - “(1AA) The Scottish Ministers shall send the accounts to the Auditor General for Scotland for auditing.”,
 - (c) subsection (2) is repealed,
 - (d) for subsection (4), substitute—
 - “(4) The Scottish Ministers may if they think fit prepare, in respect of any financial year, summarised or consolidated accounts, in such form as they may determine, of such of the bodies mentioned in paragraphs (a) to (c) of subsection (1), or such groups of those bodies, as they may determine; and they shall transmit any such accounts to the Auditor General for Scotland for auditing”.

National Heritage (Scotland) Act 1985 (c.16)

- 5 (1) Schedule 1 to the National Heritage (Scotland) Act 1985 is amended as follows.

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- (2) In paragraph 9 (accounts of the Board of Trustees of the National Museums of Scotland)—
 - (a) in sub-paragraph (5), the words from “on or” to “any year” are repealed, and for “Comptroller and Auditor General” substitute “ Auditor General for Scotland for auditing ”,
 - (b) sub-paragraph (6) is repealed.
- (3) In paragraph 20 (accounts of the Board of Trustees of the Royal Botanic Garden, Edinburgh)—
 - (a) in sub-paragraph (5), the words from “on or” to “any year” are repealed, and for “Comptroller and Auditor General” substitute “ Auditor General for Scotland for auditing ”,
 - (b) sub-paragraph (6) is repealed.

Legal Aid (Scotland) Act 1986 (c.47)

- 6 (1) Section 5 of the Legal Aid (Scotland) Act 1986 (accounts and audit of the Scottish Legal Aid Board) is amended as follows.
 - (2) After subsection (2) insert—
 - “(2A) The Board shall send the accounts and the statement of accounts to the Scottish Ministers by such time as they may direct.
 - (2B) The Scottish Ministers shall send the accounts and the statement of accounts to the Auditor General for Scotland for auditing.”
 - (3) Subsections (3) to (6) and (7)(b) and (c) are repealed.

F37

Textual Amendments

F3 Sch. 4 para. 7 repealed (1.11.2001) by 2001 asp 10, s. 112, Sch. 10 para. 28(2); S.S.I. 2001/397, art. 2, Sch. Table (subject to transitional provisions and savings in arts. 3-6)

National Health Service and Community Care Act 1990 (c.19)

- 8 In Schedule 7 to the National Health Service and Community Care Act 1990 (audit of accounts of Scottish health service bodies), paragraphs 2, 3(2)(b) to (d) and (3) to (7), 4 to 6, 7(2) and (4) and 8 to 12 are repealed.

Enterprise and New Towns (Scotland) Act 1990 (c.35)

- 9 In section 30 of the Enterprise and New Towns (Scotland) Act 1990 (accounts and annual reports of Scottish Enterprise and Highlands and Islands Enterprise)—
 - (a) in subsection (3), the words from “on or” to “each year” are repealed, and for “Comptroller and Auditor General” substitute “ Auditor General for Scotland for auditing ”,
 - (b) subsection (4) is repealed,
 - (c) in subsection (5)(a), the words “or the Comptroller and Auditor General” are repealed.

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Natural Heritage (Scotland) Act 1991 (c.28)

- 10 In section 10 of the Natural Heritage (Scotland) Act 1991 (reports and accounts of Scottish Natural Heritage)—
- (a) in subsection (4), the words from “on or” to “any year” are repealed, and for “Comptroller and Auditor General” substitute “ Auditor General for Scotland for auditing ”,
 - (b) subsection (5) is repealed.

Further and Higher Education (Scotland) Act 1992 (c.37)

- 11 (1) The Further and Higher Education (Scotland) Act 1992 is amended as follows.
- (2) In paragraph 9 of Schedule 1 (reports and accounts of the Scottish Further Education Funding Council)—
- (a) in sub-paragraph (1)(c), the words “copies of” are repealed, and for the words from “Secretary” to the end substitute “ Scottish Ministers by such time as they may direct ”,
 - (b) after sub-paragraph (2) insert—

“(2A) The Scottish Ministers shall send the statement of accounts to the Auditor General for Scotland for auditing.”,
 - (c) sub-paragraph (3) is repealed.
- (3) In paragraph 18 of Schedule 2 (accounts of boards of management of colleges of further education)—
- (a) in sub-paragraph (2)—
 - (i) the words “and audited” are repealed,
 - (ii) for the words “Secretary of State”, in the first place where they appear, substitute “ Scottish Ministers ”,
 - (iii) for the words from “Secretary of State”, in the second place where they appear, to the end substitute “ Scottish Ministers by such time as they may direct ”,
 - (b) after that sub-paragraph insert—

“(2A) The Scottish Ministers shall send the accounts to the Auditor General for Scotland for auditing.”
- (4) In paragraph 14 of Schedule 7 (accounts of the Scottish Higher Education Funding Council)—
- (a) in sub-paragraph (1)(c), the words “copies of” are repealed, and for the words from “Secretary” to the end substitute “ Scottish Ministers by such time as they may direct ”,
 - (b) after sub-paragraph (2) insert—

“(2A) The Scottish Ministers shall send the statement of accounts to the Auditor General for Scotland for auditing.”
 - (c) sub-paragraph (3) is repealed.

Local Government etc. (Scotland) Act 1994 (c.39)

- 12 (1) The Local Government etc. (Scotland) Act 1994 is amended as follows.

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^{F4}(2)

(3) In section 136 (reports, accounts etc. of the Scottish Children’s Reporter Administration)—

(a) in subsection (4), the words from “on or” to “any year” are repealed, and for “Comptroller and Auditor General” substitute “ Auditor General for Scotland for auditing ”,

(b) subsection (5) is repealed.

^{F4}(4)

Textual Amendments

F4 Sch. 4 para. 12(2)(4) repealed (1.4.2002) by 2002 asp 3, s. 71(2), Sch. 7 para. 27(3)(b) (with s. 67); S.S.I. 2002/118, art. 2(3) (subject to art. 3)

Environment Act 1995 (c.25)

13 (1) The Environment Act 1995 is amended as follows.

(2) Section 46 (audit of new Agencies) ceases to have effect so far as relating to the Scottish Environment Protection Agency.

(3) After that section insert—

“46A Audit: SEPA

(1) SEPA shall send the statement of accounts for each accounting year to the Scottish Ministers by such time as they may direct.

(2) The Scottish Ministers shall send the statement of accounts to the Auditor General for Scotland for auditing.

(3) In this section, “accounting year” has the same meaning as in section 45 above.”

Criminal Procedure (Scotland) Act 1995 (c.46)

14 In paragraph 9 of Schedule 9A to the Criminal Procedure (Scotland) Act 1995 (accounts of the Scottish Criminal Cases Review Commission)—

(a) in sub-paragraph (3), the words “a copy of” and “and to the Comptroller and Auditor General” are repealed,

(b) after that sub-paragraph insert—

“(3A) The Scottish Ministers shall send the statement of accounts to the Auditor General for Scotland for auditing.”,

(c) sub-paragraph (4) is repealed.

Education (Scotland) Act 1996 (c.43)

15 In section 16 of the Education (Scotland) Act 1996 (accounts, records and audit of the Scottish Qualifications Authority)—

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- (a) in subsection (3), the words “copies of” and “and the Comptroller and Auditor General” are repealed,
- (b) after that subsection insert—
 - “(3A) The Scottish Ministers shall send the statement of accounts to the Auditor General for Scotland for auditing.”,
- (c) subsection (4) is repealed.

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