

Draft Regulations laid before the Scottish Parliament under section 40(6) of the Local Government in Scotland Act 2003 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2010 No.

LOCAL GOVERNMENT

The Local Government Investments
(Scotland) Regulations 2010

Made - - - - 2010
Coming into force - - 1st April 2010

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 40 and 58(5) of the Local Government in Scotland Act 2003⁽¹⁾, and all other powers enabling them to do so.

In accordance with section 40(7) of that Act, they have consulted such associations of local authorities and such other persons as they have thought fit.

In accordance with section 40(6) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Local Government Investments (Scotland) Regulations 2010 and come into force on 1st April 2010.

Requirement for consent from Scottish Ministers in respect of local authority investments

2. A local authority may invest money only with the consent of the Scottish Ministers.

Documents relevant to investments

- 3.—(1) When making investments a local authority must—
- (a) comply with the requirements of any consent issued by the Scottish Ministers; and
 - (b) have regard to the documents specified in paragraph (2).
- (2) The documents referred to in paragraph (1)(b) are—

(1) 2003 asp 1.

- (a) ‘Treasury Management in the Public Services: Code of Practice and Cross-sectoral Guidance Notes’ published by the Chartered Institute of Public Finance and Accountancy in 2009⁽²⁾; and
- (b) ‘The Prudential Code for Capital Finance in Local Authorities’ published by the Chartered Institute of Public Finance and Accountancy in 2009⁽³⁾.

Disapplication of the Trustee Investments Act 1961

4. The Trustee Investments Act 1961⁽⁴⁾ ceases to have effect to the extent to which it applies to local authority investment of money, except in so far as that Act (or any provision of it) is applied by or under any other enactment.

Amendment of the Local Government (Scotland) Act 1973

5. In section 56(6) of the Local Government (Scotland) Act 1973⁽⁵⁾ (restriction of arrangements for discharge of functions by local authorities), after paragraph (d) insert—

- “(e) approval of any annual investment strategy or annual investment report required by any consent issued by the Scottish Ministers by virtue of section 40 of the [Local Government in Scotland Act 2003 \(asp 1\)](#),”.

Amendment of the Local Government (Scotland) Act 1975

6. In paragraph 22(3) of Schedule 3 to the Local Government (Scotland) Act 1975⁽⁶⁾ (borrowing and lending by local authorities and certain other bodies and certain of their funds), for “trustee securities” substitute “accordance with regulations made under section 40 of the Local Government in Scotland Act 2003 (asp 1)”.

Amendment of the Zetland County Council Act 1974

7. In section 67(2) of the Zetland County Council Act 1974⁽⁷⁾ (reserve fund), for the words from “any securities” to the end substitute “accordance with regulations made under section 40 of the Local Government in Scotland Act 2003 (asp 1)”.

Amendment of the Orkney County Council Act 1974

8. In section 69(2) of the Orkney County Council Act 1974⁽⁸⁾ (reserve fund), for the words from “any securities” to the end substitute “accordance with regulations made under section 40 of the Local Government in Scotland Act 2003 (asp 1)”.

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Date

A member of the Scottish Executive

(2) ISBN 9781-84508-205-5 Fully Revised Second Edition 2009.
(3) ISBN 9781-84508-207-9 Fully Revised Second Edition 2009.
(4) 1961 c.62.
(5) 1973 c.65; section 56(6) was substituted by the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 36 and by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 14.
(6) 1975 c.30.
(7) 1974 c.viii.
(8) 1974 c.xxx.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the investments which a local authority in Scotland may make. The Regulations are made under sections 40 and 58 of the Local Government in Scotland Act 2003.

Regulation 2 provides that a local authority may invest money only with the consent of the Scottish Ministers.

Regulation 3 refers to the documents which have effect for the purposes of regulating investments, in addition to the requirements of the consent. Local authorities must have regard to the two documents specified in regulation 3(2). Copies of those documents are available to local authorities through the Chartered Institute of Public Finance and Accountancy.

Regulation 4 disapplies the operation of the Trustee Investments Act 1961 so far as it relates to local authority investment of money. However, it does not affect the operation of that Act in the case of any other enactment which has applied or attracted it (see, for example, the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (S.I. 1998/2888)).

Regulation 5 amends section 56 of the Local Government (Scotland) Act 1973 to the effect that the approval by a local authority of any annual investment strategy or annual investment report, as required by any consent issued by Scottish Ministers, must be discharged by the authority itself and cannot, for example, be delegated to a committee or sub-committee of the authority or to any officer of the authority.

Regulation 6 amends the Local Government (Scotland) Act 1975 so that monies held in a local authority capital fund, repair and renewal fund or insurance fund may be invested in accordance with these Regulations.

Regulations 7 and 8 make similar amendment to the Zetland County Council Act 1974 and the Orkney County Council Act 1974 so that monies held in harbour reserve funds may be invested in accordance with these Regulations.