



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART VII

FINANCE

Modifications etc. (not altering text)

- C1** Pt. VII (ss. 93-122) modified by S.I. 1975/930, **regs. 2, 3** and Water (Scotland) Act 1980 (c. 45), **s. 48(1)**
Pt. VII (ss. 93-122) extended by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), **s. 25(2), Sch. 5 Pt. II para. 22(b)**
Pt. VII (ss. 93-122) applied and power to modify conferred (6.3.1992) by Local Government Finance Act 1992 (c. 14), **s. 107, Sch. 11 Pt. II para. 23(b)**.
Pt. VII (ss. 93-122) extended (6.3.1992) by Local Government Act 1992 (c. 19), **s. 29(1)**.
Pt. VII (ss. 93-122) applied (27.5.1997) by 1997 c. 8, **ss. 261(3)(4), 278(2)**

Funds, revenue and expenses

93 **General fund.**

- (1) Every local authority shall have a general fund and, subject to subsection (2) below—
- (a) all sums received by or on behalf of the authority shall be paid into that fund;
 - (b) all fees, commissions, discounts allowed on payment of accounts and expenses payable to or recovered by any officer of a local authority in respect of any business relating to the authority whether by reason of his office or otherwise shall be accounted for and paid into that fund;
- and all sums payable by the authority shall be paid out of that fund.

(2) Subsection (1)

above shall not apply to sums received or payable—

- (a) which relate to funds or property held by a local authority as trustees for any purpose under any deed of trust or other instrument;

Status: Point in time view as at 01/04/2003.

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- [^{F1}(b) which relate to the common good of the council;]
- (c) with respect to which it is otherwise provided in any other provision of this Act or in any other enactment.
- [^{F2}(d) with respect to which regulations made by the Scottish Ministers provide that they be paid into or out of a fund (other than the general fund) established by the local authority for the purposes of this paragraph.]

[^{F3}(3) A statutory instrument containing regulations under subsection (2)(d) above shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.]

Textual Amendments

- F1** S. 93(2)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(23)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** S. 93(2)(d) inserted (1.4.2003) by Local Government in **Scotland Act 2003 (asp 1), ss. 41(1)(a), 62(2); S.S.I. 2003/134, art. 2(1), Sch.**
- F3** S. 93(3) inserted (1.4.2003) by Local Government in **Scotland Act 2003 (asp 1), ss. 41(1)(b), 62(2); S.S.I. 2003/134, art. 2(1), Sch.**

94 Capital expenses.

- (1) It shall not be lawful for a local authority to incur any liability to meet capital expenses except with the consent of the Secretary of State, and the Secretary of State may, if he thinks fit, give his consent for the purposes of this section—
- (a) subject to such conditions as may be specified in the consent;
 - (b) in relation to such project, or to such programme of works, or to such class of works, or to such amount, as may be so specified;
 - (c) in relation to expenses to be met by the authority within such financial year as may be so specified.

[^{F4}(1A) The provisions of this section shall apply to the Strathclyde Passenger Transport Authority as they apply to a local authority; and the giving of approval by the Strathclyde Passenger Transport Authority to any proposal for expenditure referred to in section 15(1)(c) of the ^{MI}Transport Act 1968 shall be deemed for the purposes of this section to be an incurring of liability by the Authority to meet capital expenses.]

[^{F5}(1B) The Secretary of State may—

- (a) withdraw, or vary the terms of, a consent which he has, under subsection (1) above, given; or
- (b) withdraw or vary any condition to which the giving of such consent was subject,

[^{F6}: Provided that, where the local authority have, by binding contract, incurred any liability to which the consent relates, a withdrawal or variation which would, but for this proviso, have the effect of rendering performance of an obligation under such contract impossible shall apply only to the extent (if any) that it does not have that effect.]]

- (2) In this section [^{F7}“capital expenses” means any expenses which are to be charged to a capital account or which are otherwise of a capital nature irrespective of how they are financed.]

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- [^{F8}(3) The Secretary of State may by order (either or both)—
- (a) amend the definition of “capital expenses” in subsection (2) above;
 - [^{F9}(b) provide that subsection (1) above shall, in the same manner as it applies to liabilities incurred in relation to capital expenses, apply to such other liabilities incurred in relation to a lease (or other contract, or arrangement, of a like nature) as may be specified in the order and, for the purposes of such application, prescribe a method for assigning a capital value to those other liabilities and prescribe circumstances in which such other liabilities shall be taken to arise.]
- (4) An order made under subsection (3) above shall have no effect until approved by resolution of each House or Parliament.]
- [^{F10}(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.]

Textual Amendments

- F4** S. 94(1A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(24)**; S.I. 1996/323, **art. 4(1)(c)**
- F5** S. 94(1B) inserted by **Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23), s. 26(a)**
- F6** S. 94(1B) proviso substituted for words by **Local Government and Planning (Scotland) Act 1982 (c.43), Sch. 3 para. 17(a)**
- F7** Definition substituted by S.I. 1987/943, **reg. 2**
- F8** S. 94(3)(4) added by **Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), s. 26(b)**
- F9** S. 94(3)(b) substituted by **Local Government and Planning (Scotland) Act 1982 (c. 43), Sch. 3 para. 17(b)**
- F10** S. 94(5)-(7) inserted (1.4.2000) by 2000 asp 1, s. 8, **Sch. 1 para. 1**; S.S.I. 2000/10, **art. 2(2)**

Modifications etc. (not altering text)

- C2** S. 94 modified by **Transport Act 1985 (c. 67, SIF 126), ss. 77(1), 140**
- C3** S. 94 modified by **Airports Act 1986 (c. 31, SIF 9), ss. 23(1), 85(4)**

Marginal Citations

- M1** 1968 c. 73.

95 Financial administration.

Without prejudice to section 69 of this Act, every local authority shall make arrangements for the proper administration of their financial affairs and shall secure

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that the proper officer of the authority has responsibility for the administration of those affairs.

Modifications etc. (not altering text)

C4 S. 95 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

Accounts and audit

96 Accounts and audit.

- (1) Every local authority shall keep accounts of all transactions relating to all funds of the authority and, subject to any provision contained in regulations made under section 105 of this Act, the accounts of the general fund of a local authority shall comprise such current, capital and borrowing accounts as may be necessary for the purpose of distinguishing transactions for different purposes.
- (2) All accounts of a local authority shall be made up in respect of each financial year.
- (3) Every local authority shall, in addition to preparing accounts in respect of any financial year, prepare in duplicate an abstract of the accounts for that year.
- (4) The accounts of every local authority in respect of any financial year shall be audited by a professional accountant, who is either [^{F11}a member of the staff of Audit Scotland] or is an approved auditor appointed by the Commission in accordance with the provisions of this Part of this Act.
- [^{F12}(5) The financial year of a local authority shall be the period of twelve months ending with 31st March ^{F13}. . .; and references in this Act and in any other enactment (whether passed or made before or after the passing of this Act) to the financial year of a local authority shall be construed in accordance with the provisions of this subsection.
- (6) The Secretary of State may by order make provision amending, repealing or revoking, with or without savings, any enactment which is inconsistent with or superseded by subsection (5) above; but no order under this subsection shall have effect unless it is approved by a resolution of each House of Parliament.]

Textual Amendments

- F11 Words in s. 96(4) substituted (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 3(2); S.S.I. 2000/10, art. 2(3)
- F12 S. 96(5)(6) substituted for s. 96(5) by Local Government (Scotland) Act 1975 (c. 30), s. 18
- F13 Words in s. 96(5) repealed (1.4.1995) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1995/702, art. 3(e), Sch. 1

Modifications etc. (not altering text)

- C5 S. 96(1)(2)-(4) applied (6.3.1992) by Local Government Finance Act 1992 (c. 14), s. 107, Sch. 11 Pt. III para. 25.
- C6 S. 96(2)-(4) extended by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 25(2), Sch. 5 Pt. III para. 24

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97 Establishment of Commission for Local Authority Accounts in Scotland.

(1) There shall be established a body, to be known as the ^{F14}Accounts Commission for Scotland] (hereafter in this Part of this Act referred to as “the Commission”), which shall consist of such number of members, not being more than ^{F15}twelve] or less than ^{F15}six], as the Secretary of State may determine, and the members shall be appointed by the Secretary of State after consultation with such associations of local authorities ^{F16} . . . as appear to him to be concerned and with such other organisations or persons as he may think appropriate.

(2) The Commission shall have the following functions, that is to say—

(a) securing the audit of all accounts of

^{F17}(i) local authorities

^{F18F19}(ii)

^{F20}(iii)

^{F18}(iv)

^{F18}(v)

in accordance with the provisions of this Part of this Act;]

(b) considering all reports made in accordance with the said provisions and investigating all matters raised by any such report;

(c) making recommendations to the Secretary of State and to local authorities ^{F21} . . . in accordance with the said provisions; . . . ^{F22}

(d) advising the Secretary of State on any matter relating to the accounting of local authorities ^{F23} . . . which he may refer to them for advice ^{F24} and

(e) functions conferred by sections 97A and 97B of this Act.]

^{F25}(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.

(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.]

^{F26}(2A)

^{F27}(2B)

(3) The Secretary of State may, after consultation with the Commission, with such associations of local authorities ^{F28} . . . as appear to him to be concerned and with such other organisations or persons as he may think appropriate, give to the Commission directions of a general character as to the discharge of their functions and the Commission shall give effect to any direction so given.

(4) There shall be a Controller of Audit who shall be appointed by the Commission after consultation with, and subject to the approval of, the Secretary of State ^{F29} . . .

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[^{F30}(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.]

(4A)

[^{F31}(4B)

[^{F31}(4C)

[^{F31}(4D)

[^{F32}(4E) The Secretary of State may supply to the Commission any information held by him which relates to housing benefit or council tax benefit and which appears to him to be relevant to the exercise of any of the functions of the Commission.]

(5) The provisions of Schedule 8 to this Act shall have effect in relation to the Commission.

(6) In this Part of this Act “auditor” includes [^{F33}(a)] the Controller of Audit, [^{F33}(b)] [^{F34}members of the staff of Audit Scotland], being professional accountants, and [^{F33}(c)] . . . auditors appointed by the Commission for the purpose of conducting audits or, as the case may be, a particular audit, under this Part of this Act, ^{F35} . . . ^{F36} . . .

[^{F37}(6A)

[^{F38}(7) A person shall not be appointed as auditor by the Commission under subsection (6) above unless–

(a) he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989; or

[^{F39}(b) he is a member of a body of accountants established in the United Kingdom or another EEA State.]]

[^{F40}(7A) In subsection (7) above, “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.]

Textual Amendments

F14 Words in s. 97(1) substituted (1.12.1994) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 3\(2\)\(a\)](#); S.I. 1994/2658, [art. 3\(d\)](#)

F15 Words in s. 97(1) substituted (1.4.2000) by [2000 asp 1](#), s. 26, [Sch. 4 para. 3\(3\)\(a\)](#); S.S.I. 2000/10 (c.1), art. 2(3)

F16 Words in s. 97(1) repealed (1.4.2000) by [2000 asp 1](#), s. 26, [Sch. 4 para. 3\(3\)\(a\)](#); S.S.I. 2000/10 (c. 1), art. 2(3)

F17 "S. 97(2)(a)(i)" inserted (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 3\(3\)\(a\)\(i\)](#); S.I. 1994/2658, [art. 4\(a\)](#)

F18 S. 97(2)(a)(ii)(iv)(v) repealed (1.4.2000) by [2000 asp 1](#), s. 26, [Sch. 4 para. 3\(3\)\(b\)](#); S.S.I. 2000/10 (c. 1), art. 2(3)

F19 S. 97(2)(a)(ii)–(v) inserted (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 3\(3\)\(a\)\(ii\)](#); S.I. 1994/2658, [art. 4\(a\)](#)

F20 S. 97(2)(a)(iii) repealed (1.10.1999) by [1999 c. 8](#), ss. 65, [Sch. 5](#); S.S.I. 1999/90, [art. 2 Sch. 2](#)

F21 Words in s. 97(2)(c) repealed (1.4.2000) by [2000 asp 1](#), s. 26, [Sch. 4 para. 3\(3\)\(b\)](#); S.S.I. 2000/10 (c.1), art. 2(3)(b)

F22 Word repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 35(2)

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- F23** Words in s. 97(2)(d) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(b)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F24** Word “and” and s. 97(2)(e) added by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 35(2)
- F25** S. 97(2AA-2AC) inserted (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(c)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F26** S. 97(2A)(2B) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(4)**; S.I. 1994/2658, art. 4(a)
- F27** S. 97(2B) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(d)**; S.S.I. 2000/10 (c.1), art. 2(3) (d)
- F28** Words in s. 97(3) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(e)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F29** Words in s. 97(4) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(f)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F30** S. 97(4AA) inserted (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(g)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F31** S. 97(4A)-(4D) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(h)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F32** S. 97(4E) inserted (1.7.1997) by 1997 c. 47, s. 7(2); S.I. 1997/1577, art. 2, **Sch.**
- F33** Word inserted by Local Government (Scotland) Act 1975 (c. 30), **Sch. 6 Pt. II para. 48**
- F34** Words in 97(6) substituted (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(i)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F35** Words in s. 97(6) omitted (1.10.1991) by virtue of S.I. 1991/1997, reg. 2, **Sch. para. 23(a)** (with reg. 4).
- F36** Words in S. 97(6) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(i)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F37** S. 97(6A) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(3)(j)**; S.S.I. 2000/10 (c.1), art. 2(3)
- F38** S. 97(7) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, **Sch. para. 23(b)** (with reg. 4).
- F39** S. 97(7)(b) substituted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 53(1), 62(2)**; S.S.I. 2003/134, **art. 2(1)**, **Sch.**
- F40** S. 97(7A) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 53(2), 62(2)**; S.S.I. 2003/134, **art. 2(1)**, **Sch.**

Modifications etc. (not altering text)

- C7** S. 97(3) applied by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 77(4)

[^{F41}97A Studies for improving economy etc. in services.

(1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations for

[the securing by local authorities of best value;

(b)] improving economy, efficiency and effectiveness in the provision of services by local authorities or by other bodies whose accounts are required to be audited in accordance with this Part of this Act, and

[improving the financial or other management of such authorities or other bodies.

[In subsection (1)(a) above, the references to best value and the securing of it are ^{F44}(1A) references to best value within the meaning of section 1 of the Local Government in Scotland Act 2003 (asp 1) and the securing of it in accordance with that section.]

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- (2) The Commission shall publish or otherwise make available its recommendations and the results of any studies undertaken or promoted under this section ^{F45} . . .
- (3) Before undertaking or promoting any study under this section the Commission shall consult such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate ^{F46} . . .]

Textual Amendments

- F41** Ss. 97A, 97B inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 35(3)
- F42** S. 97A(1)(a) and "b" inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 6(1)(a), 62(2); S.S.I. 2003/134, art. 2(1), Sch.
- F43** S. 97A(1): "(c)" substituted (1.4.2003) for "for" by virtue of Local Government in Scotland Act 2003 (asp 1), ss. 6(1)(b), 62(2); S.S.I. 2003/134, art. 2(1), Sch.
- F44** S. 97A(1A) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 6(2), 62(2); S.S.I. 2003/134, art. 2(1), Sch.
- F45** Words in s. 97A(2) repealed (1.4.2000) by 2000 asp 1, s. 26, Sch 4 para. 3(4); S.S.I. 2000/10 art. 2(3)
- F46** Words in s. 97A(3) repealed (1.4.2000) by 2000 asp 1, s. 26, Sch 4 para. 3(4); S.S.I. 2000/10 art. 2(3)

Modifications etc. (not altering text)

- C8** S. 97A(1) extended (6.5.1992) by Local Government Act 1992 (c. 19), ss. 3(3), 30(2).
- C9** S. 97A(3) excluded (6.5.1992) by Local Government Act 1992 (c. 19), ss. 3(3), 30(2).

97B Furnishing of information and documents to Commission.

- (1) Without prejudice to any other provision of this Part of this Act, the Commission may require
- [^{F47}(a)] any body whose accounts are required to be audited in accordance with this Part of this Act, and any officer or member of any such body [^{F48};
- (b) any person who, by arrangement or agreement with any such body, is discharging any function of the body,]
- to furnish the Commission or any person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Part of this Act of the Commission or of that person, including the carrying out of any study under section 97A of this Act.
- (2) Any person who without reasonable excuse fails to comply with a requirement imposed by subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F47** S. 97B(1): "(a)" inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 54(1)(a), 62(2); S.S.I. 2003/134, art. 2(1), Sch.
- F48** In s. 97B(1)(b) and preceding word inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 54(1)(b), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

Modifications etc. (not altering text)

- C10** S. 97B applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

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98 Expenses and accounts of Commission.

(1) The Commission shall have power to incur such expenses as appear to them to be necessary or expedient for the proper discharge of their functions, and [^{F49}such expenses shall be met by Audit Scotland]—

- ^{F50}(2)
- ^{F50}(3)
- ^{F50}(4)
- ^{F50}(5)
- ^{F50}(6)
- ^{F50}(7)

Textual Amendments

F49 Words in s. 98(1) substituted for s. 98(1)(a)-(c) (1.4.2000) by 2000 asp 1, s. 26, **Sch 4 para. 3(5)**; S.S.I. 2000/10, **art. 2(3)**

F50 Ss. 98(2)-(7) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch 4 para. 3(5)**; S.S.I. 2000/10, **art. 2(3)**

Modifications etc. (not altering text)

C11 S. 98(1)(3)-(6) continued (for specified purposes) (1.4.2000) by S.S.I. 2000/46 art. 4

99 General duties of auditors.

[^{F51}(1)] In auditing the accounts of any local authority ^{F52}. . . under this Part of this Act, an auditor shall, by examination of the accounts and otherwise, satisfy himself that—

- (a) the accounts have been prepared in accordance with regulations made under section 105 of this Act ^{F53}. . . and comply with the requirements of all other enactments and instruments applicable to the accounts; and comply with the requirements of all other enactments and instruments applicable to the accounts;
- (b) proper accounting practices have been observed in the preparation of the accounts.
- [^{F54}(c) that the local authority ^{F52}. . . has made proper arrangements for securing [^{F55}best value and is complying with its duties under sections 15 to 17 (community planning) of the Local Government in Scotland Act 2003 (asp 1).]] [^{F56}and
- ^{F56}(d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that body have made such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.]

[^{F57}(2) In subsection (1) above, the references to best value and arrangements for securing it are references to best value within the meaning of section 1 of the Local Government in Scotland Act 2003 (asp 1) and the arrangements for securing it which are to be made under that section.]

Status: Point in time view as at 01/04/2003.

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Textual Amendments

- F51** S. 99 renumbered (1.4.2003) as s. 99(1) by Local Government in Scotland Act 2003 (asp 1), **ss. 55(1), 62(2)**; S.S.I. 2003/134, **art. 2(1)**, Sch.
- F52** Words in s. 99 repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(6)(a)**; S.S.I. 2000/10, **art. 2(3)**
- F53** Words in s. 99(a) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(6)(b)**; S.S.I. 2000/10, **art. 2(3)**
- F54** S. 99(c) added by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 35(4)**
- F55** Words in s. 99(1)(c) substituted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 55(1), 62(2)**; S.S.I. 2003/134, **art. 2(1)**, Sch.
- F56** S. 99(d) and word 'and' preceding it inserted (6.5.1992) by Local Government Act 1992 (c. 19), **ss. 3(2), 30(2)**.
- F57** S. 99(2) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 55(2), 62(2)**; S.S.I. 2003/134, **art. 2(1)**, Sch.

Modifications etc. (not altering text)

- C12** S. 99: "paragraph (b)" modified (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), {ss. 12}, 62(2); S.S.I. 2003/134, **art. 2(1)**, Sch.

100 Auditor's right of access to documents.

- (1) An auditor shall have a right of access at all reasonable times to all such documents relating to the accounts of a local authority ^{F58} . . . as it appears to him to be necessary to examine for the purpose of auditing those accounts under this Part of this Act and shall be entitled to require from any officer of that authority ^{F58} . . . or any other person holding or accountable for any such document such information and explanation as he thinks necessary for the said purpose and, if he thinks it necessary for providing any such information or explanation, to require any such officer or other person to attend before him in person and produce any such documents.

[^{F59}(1A) In the case of a recognised fund-holding practice, the reference in subsection (1) above to documents includes a reference to documents relating to all the accounts and records of the members of the practice, whether or not relating to an allotted sum.]

[^{F60}(1B) Without prejudice to subsection (1) above, the auditor shall be entitled to require any officer, former officer, member or former member of an authority ^{F61} . . . whose accounts are required to be audited in accordance with this Part of this Act [^{F62}and any person who, by arrangement or agreement with the authority or body, is discharging any function of the authority or body] to give him such information or explanation as he thinks necessary for the purposes of the audit and, if he thinks it necessary, to require any of the persons mentioned above to attend before him in person to give the information or explanation [^{F63}or, where that person is a body corporate, to require that person to appoint a representative to attend before the auditor for that purpose.]]

- (2) Without prejudice to [^{F64}subsections (1) and (1B)] above, every local authority ^{F65} . . . shall provide an auditor with every facility and all information which he may reasonably require for the purpose of auditing their accounts [^{F66}and every person who, by arrangement or agreement with a local authority, is discharging any function of the authority shall make that provision for the purpose of the auditing of the authority's accounts.]

- (3) If any person wilfully or negligently fails to comply with any requirement of an auditor under subsection (1) [^{F67}or (1B)] above, he shall be guilty of an offence and shall

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be liable on summary conviction to a fine not exceeding [^{F68}level 3 on the standard scale]. . .

Textual Amendments

- F58** Words in s. 100(1) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(7)(a)**; S.S.I. 2000/10, **art. 2(3)**
- F59** S. 100(1A) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 7(3)**; S.I. 1994/2658, **art. 4(a)**
- F60** S. 100(1B) inserted (1.4.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(25)(a)**; S.I. 1995/702, **art. 3(d)(ii)**
- F61** Words in s. 100(1B) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(7)(b)**; S.S.I. 2000/10, **art. 2(3)**
- F62** Words in s. 100(1B) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 54(2)(a)(i)**, 62(2); S.S.I. 2003/134, **art. 2(1)**, Sch.
- F63** Words in s. 100(1B) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 54(2)(a)(ii)**, 62(2); S.S.I. 2003/134, **art. 2(1)**, Sch.
- F64** Words in s. 100(2) substituted (1.4.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(25)(b)**; S.I. 1995/702, **art. 3(d)(ii)**
- F65** Words in s. 100(2) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 3(7)(c)**; S.S.I. 2000/10, **art. 2(3)**
- F66** Words in s. 100(2) inserted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 54(2)(b)**, 62(2); S.S.I. 2003/134, **art. 2(1)**, Sch.
- F67** Words in s. 100(3) inserted (1.4.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(25)(c)(i)**; S.I. 1995/702, **art. 3(d)(ii)**
- F68** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)

101 Right of interested person to inspect and object to accounts: completion of audit.

[^{F69}(1) At each audit under this Part of this Act of a local authority's accounts, any persons interested may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating thereto and make copies of all or any part of the accounts and those other documents.]

- (2) Any person interested may object to the accounts of a local authority or to any part of those accounts by—
- sending his objection in writing, together with a statement of the grounds thereof, to the auditor, and
 - sending a copy of that objection and statement to the authority and to any officer of the authority who may be concerned.

- (3) Where any person objects under subsection (2)

above to the accounts of a local authority, the auditor shall, if so requested by that person or authority or by any officer of the authority who may be concerned, afford to that person or authority or officer, as the case may be, an opportunity of appearing before and being heard by the auditor with respect to that objection; and any such person or officer may so appear and be heard either personally or by a representative.

- (4) Within fourteen days of the completion of the audit of the accounts of a local authority the auditor shall place on each duplicate abstract of those accounts prepared by the authority under section 96(3) of this Act a certificate, in such form as the Commission

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may direct, to the effect that he has audited the accounts in accordance with the provisions of this Part of this Act; and the auditor shall, on so certifying, forthwith send one duplicate abstract of the accounts to the Commission and the other duplicate abstract to the local authority.

^{F70}(5)

Textual Amendments

F69 S. 101(1) substituted by Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31, SIF 103:2), s. 10(1)

F70 S. 101(5) repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 3(8); S.S.I. 2000/10 art. 2(3)

Modifications etc. (not altering text)

C13 S. 101 extended by Airports Act 1986 (c. 31, SIF 9) ss. 24(3)(b), 85(4)

C14 S. 101 excluded by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 11(1)(4)

[^{F71}101A Reference of social security matters to Secretary of State.

The Commission or an auditor may refer to the Secretary of State any matter arising from an audit or study under this Part of this Act if it appears that it may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.]

Textual Amendments

F71 S. 101A inserted (1.7.1997) by 1997 c. 47, s. 7(3); S.I. 1997/1577, art. 2, Sch.

102 Reports to Commission by Controller of Audit.

[^{F72}(1) The Controller of Audit may and, if so required by the Commission, shall make reports to the Commission with respect to—

- (a) the accounts of local authorities audited under this Part of this Act;
- (b) any matters arising from the accounts of any of those authorities or from the auditing of those accounts being matters that the Controller considers should be considered by the local authority or brought to the attention of the public;
- (c) the performance by a local authority of their duties under Part 1 (best value and accountability) and Part 2 (community planning) of the Local Government in Scotland Act 2003 (asp 1).

(2) The Controller of Audit shall send a copy of a report made under subsection (1) above to—

- (a) any local authority named in the report; and
- (b) any other person the Controller thinks fit.]

[^{F73}(2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of that copy report to each member of the authority and make additional copies available for public inspection.]

(3) Without prejudice to subsection (1)

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above, if the Controller of Audit, having considered [^{F74}any matter arising out of the auditing] under this Part of this Act of the accounts of any local authority and having made such further inquiries (if any) as he may think fit—

- (a) is of the opinion—
 - (i) that any item of account is contrary to law, or
 - (ii) that there has been a failure on the part of any person to bring into account any sum which ought to have been brought into account, or
 - (iii) that any loss has been incurred or deficiency caused by the negligence or misconduct of any person or by the failure of the authority to carry out any duty imposed on them by any enactment; or
- (b) is of the opinion that any sum which ought to have been credited or debited to one account of the authority has been credited or, as the case may be, debited to another account of the authority; and
- (c) is not satisfied that the authority has taken or is taking such steps as may be necessary to remedy the matter;

he [^{F75}may] make to the Commission a special report with respect to the said accounts, setting forth his opinion as aforesaid and the grounds thereof.

[^{F76}(3A) No such special report shall, however, be so made unless—

- (a) the authority; and
- (b) any person named or referred to in the report—
 - (i) as being to blame in connection with an item of account being contrary to law; or
 - (ii) whose failure, negligence or misconduct is a subject of the report, has been given a copy of the proposed report and an opportunity to make representations to the Controller on the proposed report and on any of the matters dealt with in it.]

(4) The Controller of Audit shall, on making a special report under subsection (3) above with respect to the accounts of any local authority, forthwith send a copy of that special report—

- (a) to that authority;
- (b) to any officer of the authority who may be concerned;
- (c) if the matter raised by the special report has been made the subject of objection under section 101 of this Act, to the person making that objection;
- (d) to any other person who in his opinion may be affected thereby.

^{F77}(5)

Textual Amendments

- F72** S. 102(1)(2) substituted (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 56, 62(2)**; S.S.I. 2003/134, **art. 2(1)**, Sch
- F73** S. 102(2A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), **s. 185(b)**
- F74** Words in s. 102(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(26)**; S.I. 1994/2850, **art. 3(c)(Vii)**
- F75** Word in s. 102(3) substituted (1.1.2002) by 2000 asp 7, **s. 33(1)(a)**; S.S.I. 2001/474, **art. 3** (subject to transitional provision in art. 4)
- F76** S. 102(3A) inserted (1.1.2002) by 2000 asp 7, **s. 33(1)(b)**; S.S.I. 2001/474, **art. 3** (subject to transitional provision in art. 4)

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F77 S. 102(5) repealed (1.4.2000) by 2001 asp 1, s. 26, **Sch. 4 para. 3(9)(b)**; S.S.I. 2000/10, **art. 2(3)**

103 Action by Commission on reports by Controller of Audit.

- (1) ^{F78}
- ^{F79} (2)
- ^{F79} (3)
- ^{F79} (4)
- ^{F79} (5)
- (6) ^{F78}
- (7) ^{F78}

Textual Amendments

F78 S. 103(1)(6)(7) repealed (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 4(6), 62(2)**; S.S.I. 2003/134, **art. 2(1)**, Sch.

F79 Ss. 103(2)-(5) repealed (1.1.2002) by 2000 asp 7, **s. 33(2)(b)**; S.S.I. 2001/474, **art. 3** (subject to transitional provision in art. 4)

[^{F80} 103A Publication of special reports

The Commission may publish a special report made to it under section 102(3) of this Act, and may do so in whatever way and send it to whomever it thinks fit.]

Textual Amendments

F80 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, **s. 33(3)**; S.S.I. 2001/474 art. 3 (subject to transitional provisions in art. 4)

[^{F81} 103B Action by Commission on receipt of special reports

- (1) On receiving a special report under section 102(3) of this Act from the Controller of Audit, the Commission may—
- (a) direct the Controller to carry out further investigations;
 - (b) hold a hearing;
 - (c) state a case on any question of law arising on the special report for the opinion of the Court of Session;
 - (d) subject to subsections (2) and (3) below, do none of the above.
- (2) The Commission shall hold a hearing if requested to so in writing by—
- (a) the local authority which was sent a copy of the report under section 102(3A) of this Act;
 - (b) any person, named or referred to in the report—
 - (i) as being to blame in connection with an item of account being contrary to law;

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- (ii) whose failure, negligence or misconduct is a subject of the report; or
 - (iii) who was sent a copy of the report under section 102(3A) of this Act.
- (3) The Commission shall state a case under subsection (1)(c) above if directed to do so by the Court of Session.]

Textual Amendments

F81 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I. 2001/474 art. 3 (subject to transitional provisions in art. 4)

[^{F82}103C Hearings on special reports

- (1) Subject to subsections (2) to (12) below, the procedure at a hearing held under section 103B(1)(b) of this Act shall be such as the Commission determines.
- (2) The Commission may, at any one hearing, consider—
 - (a) allegations of blame, in connection with an item of account being contrary to law, against; and
 - (b) failures, negligence or misconduct by, more than one officer or member of a local authority.
- (3) A hearing shall be conducted by not fewer than three members of the Commission selected by the chairman of the Commission.
- (4) Notwithstanding paragraph 4(1) of Schedule 8 to this Act, for the purposes of this section, the quorum for a meeting of the Commission shall be three.
- (5) The following—
 - (a) an officer or member—
 - (i) as to whom the question of blame in connection with an item of account being contrary to law is; or
 - (ii) whose alleged failure, negligence or misconduct is being considered by a hearing, is; and
 - (b) the local authority are, entitled to be heard at the hearing.
- (6) An officer or member entitled to be heard at a hearing shall be entitled to be heard either in person or represented by counsel or a solicitor or any other person.
- (7) The members of the Commission conducting a hearing may—
 - (a) require any person, including officers or members or former officers or members of any local authority, to attend the hearing, give evidence and produce documents;
 - (b) administer oaths.
- (8) A person shall not, however, be compelled to give any evidence or produce any documents which that person could not be compelled to give or produce in civil proceedings in the Court of Session.
- (9) A person who, without reasonable excuse, fails to comply with a requirement imposed under subsection (7)(a) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (10) The Commission may pay persons appearing at a hearing or attending it for the purpose of giving evidence or producing documents such expenses or allowances as it thinks fit.
- (11) A hearing shall be held in public unless the members of the Commission conducting it determine that it is in the public interest that it, or such part of it as they specify for the purposes of this subsection, be not so held.
- (12) In this section, “documents” includes information held by means of a computer or in any other electronic form.]

Textual Amendments

F82 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

Modifications etc. (not altering text)

C15 S. 103C applied (with modifications) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 4(1), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

[^{F83}103D Findings of hearings

The members of the Commission conducting a hearing under section 103B(1)(b) of this Act shall state their findings in writing and give a copy to—

- (a) any officer or member of the local authority who is or was blamed in connection with an item of account being contrary to law or whose failure, negligence or misconduct, or alleged failure, negligence or misconduct, was a subject of the hearing;
- (b) the local authority;
- (c) any other person the Commission considers should, under this paragraph, receive such a copy; and
- (d) any other person seeking a copy of those findings who has paid the Commission’s reasonable charge for providing such a copy.]

Textual Amendments

F83 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

Modifications etc. (not altering text)

C16 S. 103D applied (with modifications) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 4(1), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

[^{F84}103E Action by local authorities on receipt of findings under section 103D

- (1) A local authority receiving a copy of findings under section 103D of this Act shall consider those findings at a meeting of the authority within three months of receiving them or within such longer period as the Commission may specify in writing.

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- (2) The duty imposed on a local authority by subsection (1) above shall be discharged only by that authority and not by a committee or sub-committee or an officer.
- (3) Where findings received by a local authority contain recommendations under section 103F(3)(b) of this Act, the authority shall decide—
 - (a) whether to accept any or all of those recommendations;
 - (b) what, if any, action to take in response to those recommendations.
- (4) A meeting under subsection (1) above shall not be held unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the local authority concerned, a notice which—
 - (a) states the time and place of the meeting;
 - (b) indicates that the meeting is to be held in order to consider the findings of the Commission and any recommendations in those findings; and
 - (c) describes the nature of those findings and of any such recommendations.
- (5) The local authority shall, as soon as practicable after that meeting—
 - (a) notify the Commission of any decisions made in pursuance of subsection (3) above; and
 - (b) publish, in a newspaper circulating in the area of the local authority, a notice containing a summary, approved by the Commission, of any such decisions.
- (6) A notice under subsection (5)(b) above shall not need to summarise any decision made while the public were excluded from the meeting—
 - (a) under section 50A(2) of this Act (confidential matters) or in pursuance of a resolution under section 50A(4) of this Act (exempt information); but
 - (b) in a case where sections 50C and 50D of this Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents which, in relation to that meeting, are open for inspection in accordance with those sections.
- (7) This section is without prejudice to any other duties (so far as they relate to the subject-matter of findings or recommendations sent to the authority) which are imposed by or under Part VII of this Act, section 5 of the Local Government and Housing Act 1989 (c.42) (functions of monitoring officers) or any other enactment.]

Textual Amendments

F84 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

Modifications etc. (not altering text)

C17 S. 103E applied (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 5(1), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

[^{F85} 103F Action on finding of failure, negligence or misconduct

- (1) Where the members of the Commission conducting a hearing under section 103B(1) of this Act find that—
 - (a) any item of account is contrary to law;

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- (b) there has been a failure on the part of any person to bring into account any sum which ought to have been brought into account;
 - (c) any loss has been incurred or deficiency caused by the negligence or misconduct of any person or by the failure of the local authority to carry out any duty imposed on them by any enactment;
 - (d) any sum which ought to have been credited or debited to one account of the local authority has been credited or, as the case may be, debited to another account of the authority and the Commission are not satisfied that the authority has taken or is taking such steps as may be necessary to remedy the matter,
- they may, as appropriate, impose one of the sanctions specified in subsection (2) or make any of the recommendations in subsection (3) below.
- (2) The sanctions which may be imposed under subsection (1) above are—
- (a) censuring, but otherwise taking no action against, an officer or member of the authority;
 - (b) suspending, for a period not exceeding one year, the entitlement of a member of a local authority to attend one or more but not all of the following—
 - (i) all meetings of the local authority;
 - (ii) all meetings of one or more committees or sub-committees of the local authority;
 - (iii) all meetings of any other body on which the member is a representative or nominee of the local authority;
 - (c) suspending, for a period not exceeding one year, the entitlement of a member of a local authority to attend meetings of the local authority and of any committee or sub-committee thereof and of any other body on which the member is a representative or nominee of the local authority;
 - (d) disqualifying a member of a local authority for a period not exceeding five years, from being, or from being nominated for election as, or from being elected, such a member.
- (3) In the case of a local authority, the Commission may—
- (a) make recommendations to the Scottish Ministers that they make an order directing the authority to make such rectification of their accounts as appears to the Commission necessary;
 - (b) include in its findings any recommendations arising from those findings which the Commission think fit.
- (4) A period of suspension imposed under subsection (2)(b) or (c) above which would continue until or after the day of the next following ordinary election of members shall end at the beginning of that day.
- (5) Disqualification imposed under subsection (2)(d) above—
- (a) has the effect of vacating the member's office; and
 - (b) extends to membership of committees and sub-committees of the local authority of which the member was a member and any joint committee, joint board or other body on which the member is a representative or nominee of the local authority.
- (6) The Commission shall, on making a recommendation under subsection (3)(a) above, forthwith send a copy of that recommendation to the local authority and to any person whom the Commission thinks fit.

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- (7) Where the Commission make recommendations to the Scottish Ministers under subsection (3)(a) above, Ministers may make an order giving effect to any recommendation, with or without modifications, or may decline to make such an order.
- (8) A local authority shall give effect to any direction to them made in an order under subsection (7) above.]

Textual Amendments

F85 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

[^{F86}103G Interim reports on investigations and action thereon

- (1) The Controller of Audit may submit an interim report on an investigation being conducted by that Controller under section 102(3) of this Act.
- (2) On receiving an interim report, the Commission, if it is satisfied—
 - (a) that the further conduct of the investigation is likely to be prejudiced if the sanction mentioned in subsection (3) below is not imposed; or
 - (b) that otherwise it would be in the public interest to impose that sanction, then it may impose that sanction.
- (3) That sanction is suspending the member of the local authority whose alleged blame in connection with an item of account being contrary to law or whose alleged failure, negligence or misconduct was the subject of the interim report from the entitlement set out in section 103F(2)(c) of this Act for a period not exceeding three months.
- (4) The Commission shall not require to hold a hearing before proceeding to impose that sanction, but shall give the member an opportunity to make representations on the allegations of blame, failure, negligence or misconduct and on the interim report.
- (5) The Commission shall put its decision under this section in writing and shall give a copy to—
 - (a) the member;
 - (b) the authority; and
 - (c) any other person seeking a copy of the decision who has paid the Commission's reasonable charges for providing such a copy.
- (6) A period of suspension imposed under this section ends upon—
 - (a) the issue of findings under section 103D of this Act that the member was not to blame or has not failed, been negligent or been guilty of misconduct;
 - (b) the imposition of a sanction under section 103F of this Act or a decision not to impose such a sanction; or, as the case may be,
 - (c) a decision by the Commission under section 103B of this Act not to hold a hearing.
- (7) A period of suspension imposed under subsection (2) above which would continue until or after the day of the next following ordinary election of members ends at the beginning of that day.

Status: Point in time view as at 01/04/2003.

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- (8) If, however, the member is re-elected at that election, the Commission may re-impose the suspension.
- (9) The period for which suspension may be re-imposed under subsection (8) above is that for which it would have continued to apply but for subsection (7) above.
- (10) On the expiry (otherwise than by operation of subsection (6) or (7) above) of a period of suspension, it may be renewed by the Commission for a period not exceeding three months and a renewed period may likewise be further renewed.
- (11) Where, but for the suspension under this section, a member would be entitled to receive basic allowance and special responsibility allowance from the authority, the suspension shall not affect that entitlement; but nothing in this subsection authorises the payment or reimbursement of travelling, subsistence or other allowances or expenses.
- (12) In subsection (11) above, “basic allowance” and “special responsibility allowance” are the respective allowances referred to in section 18(1)(a) and (c) of the Local Government and Housing Act 1989 (c.42).]

Textual Amendments

F86 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

[^{F87}103H] Protection from actions of defamation

- (1) For the purposes of the law of defamation, any statement made by the Commission or any of its agents or staff of Audit Scotland provided for the Commission under section 10(3) of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) or by the Controller of Audit shall be absolutely privileged.
- (2) In subsection (1) above “statement” has the same meaning as in the Defamation Act 1996 (c.31).]

Textual Amendments

F87 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

[^{F88}103J] Appeals from Commission

- (1) An officer or member of a local authority—
 - (a) who is the subject of a finding under section 103F(1) of this Act;
 - (b) on whom a sanction under section 103F(2)(a), (b) or (c) of this Act has been imposed;
 - (c) who has been suspended under section 103G(2) of this Act,
 may appeal to the sheriff principal of the sheriffdom in which the authority has its principal office.
- (2) An appeal—

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- (a) under subsection (1)(a) above may be made on one or more of the following grounds—
 - (i) that the Commission’s finding was based on an error of law;
 - (ii) that there has been procedural impropriety in the conduct of any hearing held under section 103B(1)(b) of this Act;
 - (iii) that the Commission has acted unreasonably in the exercise of its discretion;
 - (iv) that the Commission’s finding was not supported by the facts found to be proved by the Commission;
 - (b) under subsection (1)(b) above may be made on one or more of the following grounds—
 - (i) that the sanction imposed was excessive;
 - (ii) that the Commission has acted unreasonably in the exercise of its discretion;
 - (c) under subsection (1)(c) above may be made only on the ground that the Commission has acted unreasonably in the exercise of its discretion.
- (3) An appeal under subsection (1) above shall be lodged within 21 days of—
- (a) the sending of the finding under section 103F(1) of this Act to the officer or member;
 - (b) the imposition of the sanction under section 103F(2) of this Act; or, as the case may be,
 - (c) the imposition of suspension under section 103G(2) of this Act.
- (4) A finding made or sanction imposed by the Commission continues to have effect notwithstanding the lodging of an appeal under subsection (1) above.
- (5) The sheriff principal may—
- (a) in an appeal under subsection (1)(a) above—
 - (i) confirm the finding under section 103F(1) of this Act;
 - (ii) quash the finding;
 - (iii) quash the finding and remit the matter to the Commission to reconsider its decision;
 - (b) in an appeal under subsection (1)(b) above—
 - (i) confirm the sanction;
 - (ii) quash the sanction and either substitute a lesser sanction or remit the matter back to the Commission;
 - (c) in an appeal under subsection (1)(c) above, quash the suspension;
 - (d) award expenses.
- (6) The decision of the sheriff principal under subsection (1) above is a final judgment for the purposes of section 28 (appeals to the Court of Session) of the Sheriff Courts (Scotland) Act 1907 (c.51).
- (7) In an appeal from the sheriff principal by virtue of subsection (6) above, the Court of Session has the powers specified in subsection (5) above.
- (8) The Commission may be a party to an appeal under subsection (1) above and in any appeal from the decision of the sheriff principal.]

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Textual Amendments

F88 Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

^{F89} **104**

Textual Amendments

F89 S. 104 repealed (1.1.2002) by 2000 asp 7, s. 33(4); S.S.I. 2001/474, art. 3 (subject to transitional provisions in art. 4)

^{F90} **104A**.....

Textual Amendments

F90 S. 104A repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4, para. 3(11); S.S.I. 2000/10, art. 2(3)

105 Regulations as to accounts.

- (1) The Secretary of State may by regulations under this section make such provision as appears to him to be necessary or expedient for the purpose of rendering sections 96 to 104 of this Act of full effect and, without prejudice to the foregoing generality, such regulations may contain provisions with respect to the following matters, that is to say—
 - (a) the form, preparation, keeping and authentication of the accounts of local authorities and of any abstract of such accounts;
 - (b) the date in each year before which such accounts and abstract are to be authenticated on behalf of a local authority;
 - (c) the deposit by a local authority, within such period as may be specified in the regulations, of copies of such abstract at the offices of the authority or at any other place, and the publication by the authority of information with respect to such accounts;
 - (d) the exercise, within such period as may be specified in the regulations, of the rights of inspection and objection conferred by section 101 of this Act in relation to any such [^{F91}accounts and other documents], and the steps to be taken by a local authority for informing persons of those rights;
 - (e) the giving of public notice by a local authority of any order made in relation to them by the Secretary of State under section 104(1) of this Act.
- (2) Before making regulations under this section, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned.
- (3) If any person wilfully or negligently contravenes any provision of any regulations made under this section, contravention of which is declared by the regulations to be an offence, he shall be guilty of an offence and shall be liable on summary conviction, in the case of a first offence, to a fine not exceeding [^{F92}level 3 on the standard scale],

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and, in the case of a second or subsequent offence, to a fine not exceeding [^{F92}level 3 on the standard scale].

- (4) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F91** Words substituted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. **10(2)**
- F92** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), ss. **289E–289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. **54**)

Modifications etc. (not altering text)

- C18** S. 105 extended by [Airports Act 1986 \(c. 31, SIF 9\)](#), ss. **24(3)(b)**, 85(4)
- C19** S. 105 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, [Sch. para. 3](#)
- C20** S. 105(1) extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\)](#), s. 25(2), [Sch. 5 Pt. III para. 24](#)
S. 105(1) applied (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107, [Sch. 11 Pt. III para.25](#).
- C21** S. 105(1)(d) extended by [Local Government Act 1986 \(c. 10, SIF 81:1\)](#), ss. **5(4)**, 6, 12

[^{F93}105A] Studies of benefit administration at request of Secretary of State.

- (1) The Secretary of State may request the Commission to conduct or assist the Secretary of State in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by local authorities of functions relating to the administration of housing benefit and council tax benefit.
- (2) In the following provisions of this section “study” means a study which the Commission are requested to conduct, or assist the Secretary of State in conducting, under subsection (1) above.
- (3) If the Commission require—
- any local authority included in a study; or
 - any officer or member of such an authority,
- to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.
- (4) If the Commission require any local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.
- (5) Any information obtained under a requirement under subsection (3) or (4) above may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with housing benefit or council tax benefit.
- (6) In subsections (3) and (4) above “authorised person” means a person authorised by the Commission for the purposes of this section.

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- (7) The Commission shall send to the Secretary of State a copy of any report of a study; and the Secretary of State or the Commission may send a copy of a report of a study to any local authority to which the study relates.
- (8) Any report of a study may be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not conduct, or assist the Secretary of State in conducting, a study unless, before they do so, the Secretary of State has made arrangements for the payment of such reasonable amount as may be agreed between him and the Commission in respect of the study.]

Textual Amendments

F93 S. 105A inserted (1.7.1997) by 1997 c. 47, s. 7(4); S.I. 1997/1577, art. 2, Sch.

106 Application of ss. 93 to 105 to bodies other than local authorities and to officers.

- (1) The foregoing provisions of this Part of this Act and any regulations made by the Secretary of State under section 105 of this Act shall, subject to any necessary modifications, apply with respect to the following bodies, that is to say—
 - (a) any committee, joint committee or joint board all the members of which, other than any ex officio members, are appointed by one or more local authorities;
 - (b) the trustees for any charity, foundation, mortification, or other purpose, where a local authority, or some members of such an authority as such, are the sole trustees for such charity, foundation, mortification or other purpose;
 - ^{F94}(c)
as they apply with respect to a local authority; and any provision contained in any enactment with respect to such a committee, joint committee or joint board, or in any trust deed or other instrument regulating any such charity, foundation, mortification or other purpose as aforesaid, shall, so far as inconsistent herewith, cease to have effect:
^{F94}
- (2) Where an officer of a body whose accounts are required to be audited in accordance with this Part of this Act receives any money or other property on behalf of that body, or receives any money or other property for which he ought to account to that body, the accounts of that officer shall be audited by the auditor of the accounts of the body, and sections 96 to 105 of this Act and any regulations made by the Secretary of State under section 105 of this Act shall, subject to any necessary modifications, apply accordingly to those accounts and that audit.

^{F95}(3)

Textual Amendments

F94 S. 106(1)(c) and the proviso repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14 (with s. 90(2)); S.I. 1996/323, art. 4(1)(d), Sch. 2

F95 S. 106(3) repealed (1.4.2000) by 2000 asp 1, s. 26, Sch. 4 para. 3(12); S.S.I. 2000/10, art. 2(3)

Modifications etc. (not altering text)

C22 S. 106 excluded by Local Government and Housing Act 1989 (c.42, SIF 81:1, 2), s. 11(1)(4)

Status: Point in time view as at 01/04/2003.

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C23 The “said Act of 1967” means [Water \(Scotland\) Act 1967 \(c. 78\)](#)

Rating

107 ^{F96}

Textual Amendments

F96 S. 107 repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, **Sch. 6**

108– ^{F97}
108C

Textual Amendments

F97 Ss. 108(3)–(6) and 108B, 108C added by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), ss. 3, 4 and ss. 108–108C repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, **Sch. 6**

^{F98}**109**

Textual Amendments

F98 S. 109 repealed (1.4.1996) by [1994 c. 39, s. 180\(2\)](#), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

^{F99}**110**

Textual Amendments

F99 S. 110 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117, Sch. 13 para. 38, **Sch.14**; S.I. 1993/575, **art. 2**, Sch. (with savings in art. 5(a))

^{F100}**110A**

Textual Amendments

F100 S. 110A repealed (1.10.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117, Sch. 13 para. 38, **Sch.14**; S.I. 1992/2183, **art. 2**, Sch. (with art. 3).

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111 Secretary of State may make regulations with respect to rates.

(1) The Secretary of State may, after consultation with such associations of local authorities as appear to him to be concerned, make regulations—

- ^{F101}(a)
- ^{F101}(b)
- (c) making provision for any matter with respect to which he is empowered or obliged by this Act, or by any other enactment, to make provision in regulations under this section;
- ^{F101}(d)
- (e) providing for the payment of interest, at such rate as may be prescribed, by a local authority to another local authority, to a committee, joint committee or joint board all the members of which, other than any ex officio members, are appointed by one or more local authorities,^{F102} . . . in a case where any amount due in respect of a requisition made under any enactment is not paid on or before such date as may be prescribed.
- (f)^{F103}

(2) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F101** S. 111(1)(a)(b)(d) repealed (1.4.1996) by Local Government Finance Act 1992 (c. 14), ss. 117, 119(2), Sch. 13 para. 39, **Sch. 14**; S.I. 1996/918, **art. 2(a)(b)(i)**
- F102** Words in s. 111(1)(e) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**
- F103** S. 111(1)(f) which was added by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 23**, Sch. 3 para. 27 is repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), ss. 6, 34, Sch. 1 Pt. III para. 30(d), **Sch. 6**

112—^{F104}
114.

Textual Amendments

- F104** Ss. 112–114 repealed and superseded by Social Security and Housing Benefits Act 1982 (c. 24), s. **28(5)(b)**, Sch. 5

115^{F105}

Textual Amendments

- F105** S. 115 repealed and superseded by Social Security and Housing Benefits Act 1982 (c. 24), s. **32(7)(b)**, Sch. 5

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Valuation

- 116 ^{F106}(1)
- ^{F106}(2)
- ^{F106}(3)
- ^{F106}(4)
- ^{F106}(5)
- ^{F107}(6)
- ^{F106}(7)
- ^{F106}(8)

Textual Amendments
F106 S. 116(1)-(5)(7)(8) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**
F107 S. 116(6) repealed (4.1.1995) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1994/3150, art. 3(e)(i)

- 117 ^{F108}

Textual Amendments
F108 S. 117 repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. VII**

Miscellaneous

118 Local financial returns.

- (1) Subject to subsection (3) below, every authority to which this section applies shall make a return to the Secretary of State in respect of each financial year ^{F109} . . . of their revenue and expenses.
^{F110}(b)
- (2) Returns under this section shall be in such form, shall contain such particulars, shall be authenticated in such manner, and shall be submitted to the Secretary of State by such date, as the Secretary of State may direct, and a direction under this subsection may impose different requirements in relation to returns of different classes.
- (3) If it appears to the Secretary of State that sufficient information about any of the matters mentioned in subsection (1) above has been supplied to him by an authority under any other enactment, he may exempt that authority from all or any of the requirements of this section so far as they relate to that matter.
- (4) The Secretary of State shall, in respect of each year, cause a summary to be made of the returns sent to him under this section and of any information supplied to him under

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any other enactment in consequence of which he has granted an exemption under subsection (3) above and shall lay that summary before both Houses of Parliament.

- (5) In this section references to an authority to which this section applies are references to a local authority, any committee, joint committee or joint board the members of which, other than ex officio members, are appointed by one or more local authorities^{F111} . . . or any river purification board within the meaning of section 135 of this Act.

Textual Amendments

F109 S. 118(1): word "(a)" repealed (1.4.1996) by virtue of 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F110 S. 118(1)(b) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F111 Words in s. 118(5) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Modifications etc. (not altering text)

C24 S. 118 extended by Local Government (Scotland) Act 1975 (c. 30), ss. 10(4), 16, **Sch. 3 para. 10(2)**

119^{F112}

Textual Amendments

F112 S. 119 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 34, **Sch. 6**

[^{F113}120 Rate support grant.

- (1) Rate support grant orders under section 3 of the ^{M2}Local Government (Scotland) Act 1966 shall be made in advance for a period of one year, instead of for successive periods of two years, and accordingly—
- in section 3(3) of that Act, for the words from “successive periods” to the end of the subsection there shall be substituted the words “a period of one year”;
 - a rate support grant order made before the passing of this Act shall, in so far as it was made in respect of the year 1974-75, cease to have effect.
- (2) If in the exercise of the power conferred on him by section 4 of the said Act of 1966 the Secretary of State at any time after 15th May 1975 redetermines for the year 1974-75 the amount and portion mentioned in paragraphs (a) and (b) of section 2(2) of the said Act of 1966, he may by an order made under the said section 4, instead of increasing to any extent the amount fixed by the rate support grant order made in respect of that year as the aggregate amount of the rate support grants and any element of those grants for that year, increase to that extent the amount fixed by the rate support grant order made in respect of the year 1975-76 as the aggregate of the rate support grants and any element of those grants for the last-mentioned year.
- (3) Expressions used in this section and in sections 2 to 4 of the said Act of 1966 have the same meanings in this section as in those sections.]

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Textual Amendments

F113 S. 120 repealed (1.4.1994) by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

Marginal Citations

M2 1966 c. 51.

121 **F114**

Textual Amendments

F114 S. 121 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 4](#)

122 Miscellaneous amendments of enactments relating to finance.

Schedule 9 to this Act shall have effect for making amendments and modifications of enactments relating to local government finance which are not replaced by the foregoing provisions of this Part of this Act.

122A Duty of local authority to use resources efficiently.

F115

Textual Amendments

F115 S. 122A repealed (1.4.2003) by Local Government in [Scotland Act 2003 \(asp 1\)](#), [ss. 60\(1\)\(c\)](#), 62; [S.S.I. 2003/134](#), [art. 2\(1\)](#), [Sch.](#)

Status:

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