



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART VII

#### FINANCE

##### *Accounts and audit*

#### **97 Establishment of Commission for Local Authority Accounts in Scotland.**

- (1) There shall be established a body, to be known as the [<sup>F1</sup>Commission for Local Authority Accounts in Scotland][<sup>F1</sup>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 [<sup>F2</sup>twelve][<sup>F2</sup>fifteen] or less than [<sup>F3</sup>nine][<sup>F3</sup>eleven], 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 [<sup>F4</sup>and such organisations connected with the health service] 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
    - [<sup>F5</sup>(i)] local authorities
    - [<sup>F6</sup>(ii)] the bodies mentioned in section 86(1)(a) to (c) of the National Health Service (Scotland) Act 1978;
    - (iii) the members of every recognised fund-holding practice;
    - (iv) the Mental Welfare Commission for Scotland; and
    - (v) any State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984,] 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;

*Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.*

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- (c) making recommendations to the Secretary of State and to local authorities [<sup>F7</sup>or, as the case may be, health service bodies] in accordance with the said provisions; . . . <sup>F8</sup>
  - (d) advising the Secretary of State on any matter relating to the accounting of local authorities [<sup>F9</sup>or health service bodies] which he may refer to them for advice [<sup>F10</sup>and
  - (e) functions conferred by sections 97A and 97B of this Act.]
- [<sup>F11</sup>(2A) Subject to section 100(1A) of this Act, in relation to the members of a recognised fund-holding practice, any reference in this Part of this Act to their accounts is a reference only to the accounts relating to allotted sums paid to them.
- (2B) In this Part of this Act—
- “health service body” means a body referred to in subsection (2)(a)(ii) to (v) above; and
  - “recognised fund-holding practice” and “allotted sum” have the same meanings as in section 87B of the National Health Service (Scotland) Act 1978.]
- (3) The Secretary of State may, after consultation with the Commission, with such associations of local authorities [<sup>F12</sup>and such organisations connected with the health service] 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, and the Commission may appoint such other officers, and may appoint such agents, as they may determine.
- [<sup>F13</sup>(4A) It shall be the duty of the Commission to make, by such date as the Secretary of State may determine, an offer of employment by the Commission to each person employed in the civil service of the State in connection with the audit of the accounts of any health service body whose name is notified to the Commission by the Secretary of State for the purposes of this subsection; and the terms of the offer must be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (4B) An offer made in pursuance of subsection (4A) above shall not be revocable during the period of three months beginning with the date on which it is made.
- (4C) Where a person becomes an officer of the Commission in consequence of subsection (4A) above, then, for the purposes of the Employment Protection (Consolidation) Act 1978, his period of employment in the civil service of the State shall count as a period of employment by the Commission and the change of employment shall not break the continuity of the period of employment.
- (4D) Where a person ceases to be employed as mentioned in subsection (4A) above—
- (a) on becoming an officer of the Commission in consequence of an offer made in pursuance of that subsection; or
  - (b) having unreasonably refused such an offer,
- he shall not, on ceasing to be so employed, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having been retired on redundancy.]

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- (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 <sup>[F14(a)]</sup> the Controller of Audit, <sup>[F14(b)]</sup> officers of the Commission, being professional accountants, and <sup>[F14(c)]</sup> approved 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, and “approved auditor” means an auditor who is qualified under subsection (7) below <sup>[F15]</sup> or a person who is, within the period of five years beginning with the relevant date, approved by the Secretary of State, acting on the recommendation of the Commission and whose approval is not (whether during that period or after its expiry) withdrawn by the Secretary of State acting on such recommendation.
- (6A) In subsection (6) above, “the relevant date” means the date appointed for the coming into force of paragraph 3(3) of Schedule 7 to the National Health Service and Community Care Act 1990.]
- (7) An auditor is qualified for the purposes of subsection (6)
- above if, and only if, he is a member, or a firm all the members of which are members, of one or more of the following bodies—that is to say—
- The Institute of Chartered Accountants of Scotland.
  - The Institute of Chartered Accountants in England and Wales.
  - The Association of Certified Accountants.
  - The Institute of Municipal Treasurers and Accountants.
  - The Institute of Chartered Accountants in Ireland.
  - Any other body of accountants established in the United Kingdom for the time being approved by the Secretary of State.

#### Textual Amendments

- F1** Words “Accounts Commission for Scotland” substituted (*prosp.*) for words “Commission for Local Authority Accounts in Scotland” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(2)(a)**
- F2** Word “fifteen” substituted (*prosp.*) for word “twelve” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(2)(b)**
- F3** Word “eleven” substituted (*prosp.*) for word “nine” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(2)(c)**
- F4** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(2)(d)**
- F5** “(i)” inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(3)(a)(i)**
- F6** S. 97(2)(a)(ii)–(v) inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(3)(a)(ii)**
- F7** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(3)(b)**
- F8** Word repealed by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 35(2)**
- F9** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(3)(c)**
- F10** Word “and” and s. 97(2)(e) added by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 35(2)**
- F11** S. 97(2A)(2B) inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(4)**

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- F12** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(5)**
- F13** S. 97(4A)–(4D) inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(6)**
- F14** Word inserted by Local Government (Scotland) Act 1975 (c. 30), **Sch. 6 Pt. II para. 48**
- F15** Words added (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 67(2), **Sch. 7 para. 3(7)**

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**Modifications etc. (not altering text)**

- C1** S. 97(3) applied by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s. 77(4)**

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