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*Changes to legislation:* There are currently no known outstanding effects for the Local Government (Scotland) Act 1975, Cross Heading: Capital, Renewal and Repair Funds. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 3

#### BORROWING AND LENDING BY LOCAL AUTHORITIES AND CERTAIN OTHER BODIES AND CERTAIN OF THEIR FUNDS

##### *Capital, Renewal and Repair Funds*

- 22 (1) Subject to the provisions of this Schedule, a local authority may establish [<sup>F1</sup>any] of the following funds—
- (a) a capital fund, to be used for defraying any expenditure of the authority to which capital is properly applicable, or in providing money for repayment of the principal of loans (but not any payment of interest on loans);
  - (b) a renewal and repair fund, to be used for the purpose of defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the authority.
  - [<sup>F2</sup>(ba) an insurance fund, to be used for the following purposes, namely—
    - (i) where the authority could have insured against a risk but have not done so, defraying any loss or damage suffered, or expenses incurred, by the authority as a consequence of that risk;
    - (ii) paying premiums on a policy of insurance against a risk.]
  - (c) .....
- (2) A fund established by a local authority under this paragraph shall not be used to meet, directly or indirectly, any expenditure incurred by the authority for the purposes of <sup>F3</sup> . . .
- [<sup>F4</sup>(c)]  
a statutory undertaking of the authority, being a transport, district heating, harbour, dock, pier or ferry undertaking or a market or civic restaurant [<sup>F5</sup>; and if the renewal and repair fund [<sup>F6</sup>or the insurance fund] is used so to meet expenditure incurred by the authority in relation to any house, or other property, to which their housing revenue account relates, the amount in question shall, subject to paragraph 1(7) of Schedule 4 to the <sup>M1</sup>Housing (Financial Provisions) (Scotland) Act 1972, first to be carried to the credit of that account].
- In this sub-paragraph, “pier” and “ferry” do not include a pier or ferry provided under section 2(2) of the <sup>M2</sup>Local Government (Development and Finance) (Scotland) Act 1964.
- (3) Notwithstanding anything in any enactment, pending the application of any such fund as aforesaid for the purposes authorised by this paragraph, the money in the fund shall (unless applied in any other manner authorised by any enactment) be [<sup>F7</sup>used for any purpose for which a local authority may borrow money] or invested in [<sup>F8</sup>accordance

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with regulations made under section 40 of the Local Government in Scotland Act 2003 (asp 1)].

- (4) The provisions of this paragraph shall be in addition to and not in substitution for any other enactment authorising a local authority to establish a fund for a purpose for which a fund may be established under this paragraph; and a local authority may amalgamate any fund established by them under any other enactment with any corresponding fund established by them under this paragraph.

#### Textual Amendments

- F1** Word substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32(1), [Sch. 6 para. 11\(2\)\(a\)](#)
- F2** Sch. 3 para. 22(1)(ba) inserted (4.1.1995) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 100\(9\)\(f\)\(i\)](#) (with s. 128(2)); [S.I. 1994/2850, art. 3\(c\)\(ix\)](#)
- F3** Words in Sch. 3 para. 22(2) repealed (1.4.1996) by [1994 c. 39, s. 180\(2\)](#), [Sch. 14](#) (with s. 128(2)); [S.I. 1996/323, art. 4\(1\)\(d\)](#), [Sch. 2](#)
- F4** Schedule 3 para. 23(2) subparagraph letter (c) inserted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para. 44\(c\)](#) (with s. 118(1)(2)(4))
- F5** Words inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 17
- F6** Words in Sch. 3 para. 22(2) inserted (4.1.1995) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 100\(9\)\(f\)\(ii\)](#) (with s. 128(2)); [S.I. 1994/2850, art. 3\(c\)\(ix\)](#)
- F7** Words in Sch. 3 para. 22(3) substituted (1.4.2016) by [The Local Authority \(Capital Finance and Accounting\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/123\)](#), regs. 1(1), [15\(2\)\(a\)](#)
- F8** Words in Sch. 3 para. 22(3) substituted (1.4.2010) by [The Local Government Investments \(Scotland\) Regulations 2010 \(S.S.I. 2010/122\)](#), regs. 1, [6](#)

#### Marginal Citations

- M1** [1972 c.46 \(61\)](#).
- M2** [1964 c. 67](#).

- 23 (1) Subject to sub-paragraph (2) below, a local authority by whom a capital fund is established under paragraph 22 above may pay into that fund—
- (a) any sums derived from the sale of any property of the local authority, not being property held by them for any such purposes as are mentioned in paragraph 22(2) above; and
  - (b) such sums as the local authority may from time to time by resolution direct; and shall pay into that fund a sum equal to the amount of any income arising from the fund.
- (2) Except with the consent of the Secretary of State, money received from the disposal of any property to which the local authority's housing revenue account relates shall not be paid into any such capital fund.
- (3) All money applied from any such capital fund may, if the local authority think fit, be repaid from the account to which that money is advanced by such annual instalments (with or without interest) and within such period as the local authority may determine.
- 24 (1) A local authority by whom a renewal and repair fund [<sup>F9</sup>, or an insurance fund,] is established under paragraph 22 above may from time to time pay into that fund such sums as they may by resolution direct.
- (2) The purposes for which any such renewal and repair fund may be applied shall not include the defraying of expenditure of an undertaking of the local authority in respect of which the authority are authorised to provide a reserve fund.

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**Textual Amendments**

**F9** Words in Sch. 3 para. 24(1) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(g)** (with s. 128(2)); S.I. 1994/2850, **art. 3(e)(ix)**

<sup>F10</sup>24A .....

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**Textual Amendments**

**F10** Sch. 3 para. 24A repealed (1.4.1995) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(2)); S.I. 1995/702, **art. 3(e), Sch. 1**

- 25 (1) Notwithstanding anything in any enactment, a local authority may use, for any purpose for which the authority has a statutory borrowing power, any money forming part of, but not for the time being required for the purposes of, any fund of theirs to which this paragraph applies; and where any such money is so used the following provisions of this paragraph shall have effect.
- (2) The money so used shall be repaid to the said fund as follows:—
- (a) it shall be repaid as and when it is required for the purposes of that fund;
  - (b) if not required to be repaid <sup>F11</sup>... under paragraph (a) above, it shall be repaid <sup>F12</sup>... as the authority may resolve.
- (3) The statutory borrowing power shall be deemed to be exercised by the use of money under this paragraph as fully in all respects as if a loan of the same amount had been raised in exercise of the power.
- (4) This paragraph applies to any fund established for the repayment of debt, or as a reserve, or for the maintenance, renewal or repair of property, or for superannuation of staff, or for insurance, or otherwise for meeting future expenditure of a capital or non-recurring nature, or for any like purpose.
- (5) In this paragraph “statutory borrowing power” does not include the power to borrow by way of temporary loan or overdraft conferred by paragraph 3 above.
- (6) The powers conferred by this paragraph are in addition to, and not in derogation of, the powers conferred by or under any other enactment.

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**Textual Amendments**

**F11** Word in Sch. 3 para. 25(2)(b) repealed (1.4.2016) by The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 (S.S.I. 2016/123), regs. 1(1), **15(2)(b)(i)**

**F12** Words in Sch. 3 para. 25(2)(b) repealed (1.4.2016) by The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 (S.S.I. 2016/123), regs. 1(1), **15(2)(b)(ii)**

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