

Changes to legislation: Local Government (Scotland) Act 1975, SCHEDULE 3 is up to date with all changes known to be in force on or before 02 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 3

Section 16.

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

Borrowing

- 1
- F1(1)

F1(2)

F1(3)

F2(4)

F1(5)

Textual Amendments

F1

Sch. 3 para. 1(1)-(3)(5) repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F2

Sch. 3 para. 1(4) repealed (1.4.1996) by [1994 c. 39, s. 180\(2\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(d\), Sch. 2](#)

F32

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Textual Amendments

F3

Sch. 3 paras. 2-4 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F33

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Textual Amendments

F3

Sch. 3 paras. 2-4 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F34

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Textual Amendments

F3

Sch. 3 paras. 2-4 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

5

(1) The Secretary of State may by regulations made with the consent of the Treasury—

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- (a) prescribe the form of any mortgage to be entered into for the purpose of any borrowing by a local authority,
 - (b) regulate the issue of stocks and bonds or the creation of any other security for any such purpose, including the terms on which they are to be issued or created,
 - (c) regulate the manner of transfer, dealing with and redeeming any mortgage created, or stocks or bonds issued or any other security created for any such purpose,
 - (d) apply all or any of the provisions of sections 194 and 197 of the Act of 1973 (execution of deeds and inspection and deposit of documents) with or without modifications, to any such mortgage, stock, bonds or other security,
 - [^{F4}(dd) make provision for the custody and, where appropriate, eventual destruction of documents relating to any such stocks or bonds,]
 - (e) make such incidental, consequential and supplemental provision as appears to the Secretary of State to be necessary or proper for bringing the regulations into operation and giving them full effect.
- (2) Different provisions may be made under this paragraph for securities of different classes.
- (3) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F4 Sch. 3 para. 5(1)(dd) inserted by [Stock Transfer Act 1982 \(c. 41, SIF 69\)](#), **s. 5(2)**

^{F5}₆

Textual Amendments

F5 Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#), s. 184(2), [Sch. 14](#); [S.S.I. 2016/31](#), art. 2(a)

^{F5}₇

Textual Amendments

F5 Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#), s. 184(2), [Sch. 14](#); [S.S.I. 2016/31](#), art. 2(a)

^{F5}₈

Textual Amendments

F5 Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\)](#), s. 184(2), [Sch. 14](#); [S.S.I. 2016/31](#), art. 2(a)

^{F5}₉

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Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

Loans

F5¹⁰

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F5¹¹

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

Loans fund

F5¹²

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F5¹³

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F5¹⁴

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

F5¹⁵

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Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

^{F5}16

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

^{F5}17

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

^{F5}18

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

^{F5}19

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

^{F5}20

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

^{F5}21

Textual Amendments

- F5** Sch. 3 paras. 6-21 repealed (1.4.2016) by [Local Government etc. \(Scotland\) Act 1994 \(c. 39\), s. 184\(2\), Sch. 14; S.S.I. 2016/31, art. 2\(a\)](#)

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Capital, Renewal and Repair Funds

- 22 (1) Subject to the provisions of this Schedule, a local authority may establish [^{F6}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.
 - [^{F7}(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 ^{F8}
- [^{F9}(c)]
- a statutory undertaking of the authority, being a transport, district heating, harbour, dock, pier or ferry undertaking or a market or civic restaurant [^{F10}; and if the renewal and repair fund [^{F11}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 ^{M1}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 ^{M2}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 [^{F12}used for any purpose for which a local authority may borrow money] or invested in [^{F13}accordance 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

F6 Word substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32(1), **Sch. 6 para. 11(2)(a)**

F7 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)**

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- F8** 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**
- F9** 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))
- F10** Words inserted by Housing (Scotland) Act 1986 (c. 65, SIF 61), s. 17
- F11** 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)
- F12** 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)**
- F13** 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 [^{F14}, 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.

Textual Amendments

- F14** 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(c)(ix)

^{F15}24A

Textual Amendments

- F15** 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**

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- 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 ^{F16}... under paragraph (a) above, it shall be repaid ^{F17}... 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.

Textual Amendments

F16 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)**

F17 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)**

Miscellaneous

^{F18}26

Textual Amendments

F18 Sch. 3 para. 26 repealed (1.4.2016) by Local Government etc. (Scotland) Act 1994 (c. 39), s. 184(2), Sch. 14; S.S.I. 2016/31, art. 2(a)

27 ^{F19}

Textual Amendments

F19 Sch. 3 para. 27 repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2)(3), Sch. 23 para. 23(1)(a), Sch. 24

- 28 (1) Subject to ^{F20}. . . sub-paragraph (2) below, the provisions of this Schedule shall, subject to any necessary modifications, apply to a joint board having power to borrow money^{F21}, the Strathclyde Passenger Transport Authority and a Transport

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Partnership created by order under section 1 of the Transport (Scotland) Act 2005] as they apply to a local authority.

- (2) The Secretary of State may by regulations make such provisions as seem to him necessary or expedient with respect to the application of the provisions of this [F22Schedule to—]

[F23(a) a joint board; F24 ...]

[F25(b) the Strathclyde Passenger Transport Authority][F26, and

(c) a Transport Partnership.]

- (3) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F20 Words in Sch. 3 para. 28(1) 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**

F21 Words in Sch. 3 para. 28(1) substituted (19.3.2020) by Transport (Scotland) Act 2019 (asp 17), **ss. 122(2)(a), 130(2)** (with s. 126); S.S.I. 2020/68, reg. 2(a)

F22 Words in Sch. 3 para. 28(2) inserted (19.3.2020) by Transport (Scotland) Act 2019 (asp 17), **ss. 122(2)(b)(i), 130(2)** (with s. 126); S.S.I. 2020/68, reg. 2(a)

F23 Sch. 3 para. 28(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 32(3)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F24 Word in Sch. 3 para. 28(2) repealed (19.3.2020) by Transport (Scotland) Act 2019 (asp 17), **ss. 122(2)(b)(ii), 130(2)** (with s. 126); S.S.I. 2020/68, reg. 2(a)

F25 Words in Sch. 3 para. 28(2) inserted for the words “Schedule to” to the end (31.3.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(h)(ii)** (with s. 128(2)); S.I. 1996/323, **art. 3**

F26 Sch. 3 para. 28(2)(c) and word inserted (19.3.2020) by Transport (Scotland) Act 2019 (asp 17), **ss. 122(2)(b)(iii), 130(2)** (with s. 126); S.S.I. 2020/68, reg. 2(a)

F2729

Textual Amendments

F27 Sch. 3 para. 29 repealed (1.4.2016) by Local Government etc. (Scotland) Act 1994 (c. 39), s. 184(2), **Sch. 14**; S.S.I. 2016/31, art. 2(a)

F2830

Textual Amendments

F28 Sch. 3 para. 30 repealed (1.4.2016) by Local Government etc. (Scotland) Act 1994 (c. 39), s. 184(2), **Sch. 14**; S.S.I. 2016/31, art. 2(a)

31 In this Schedule, unless the context otherwise requires—

“advance”, in relation to the loans fund and a borrowing account of a local authority, means the transfer of money by way of loan from the loans fund to the appropriate borrowing account in exercise of a statutory borrowing power;

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“borrowing account”, in relation to a local authority, means an account of the authority relating to a purpose for which the authority have a statutory borrowing power;

[^{F29}“council tax” shall be construed in accordance with the provisions of section 70(1) of the Local Government Finance Act 1992;

^{F29}“council water charge” shall be construed in accordance with the provisions of paragraph 6 to Schedule 11 to the Local Government Finance Act 1992;]

[^{F30}“community charges” shall be construed in accordance with section 7 (creation and purpose of community charges) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

^{F30}“community water charges” shall be construed in accordance with paragraph 6 of Schedule 5 to the said Act of 1987;]

“fixed period”, in relation to any sum advanced to a borrowing account or to a relevant authority, means such period not exceeding 30 years from the date of the advance as the local authority determine or such other period as the Secretary of State may determine in any particular case or [^{F31}, from time to time, for any class of cases or] for the purpose of any enactment;

“loans fund” means the loans fund established under this Schedule;

“mortgage” means a deed containing an assignation by way of security of the funds, rates and revenues of a local authority;

“relevant authority” means any authority to whom a local authority may make a loan under paragraph 10 or 11 above;

“security”, in relation to a local authority, means a mortgage, a bond, a deposit receipt or other document of debt issued by the authority and the security created thereby (including stock created by the authority or a certificate in respect of such stock) by or under any enactment, but does not include . . . ^{F32} a heritable security or other deed of security or document of debt affecting the common good of an islands area or district;

“statutory borrowing power” means any power to borrow money conferred on a local authority by or under any enactment, but does not include the power of an islands or district council to borrow for the purposes of the common good;

“trustee securities” means any security in which trustees are for the time being authorised by law to invest trust money.

Textual Amendments

- F29** Definitions in Sch. 3 para. 31 of “council tax” and “council watercharge” inserted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para. 44\(d\)](#) (with s. 118(1)(2)(4)); [S.I. 1993/575](#), [art. 2\(c\)](#).
- F30** Definitions in Sch. 3 para. 31 of “community charges” and “community watercharges” (which were inserted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47\)](#), s. 6, [Sch. 1 para. 36](#)) repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), [Sch. 14](#) (with s. 118(1)(2)(4)); [S.I. 1993/575](#), [art. 2\(d\)](#).
- F31** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 36\(b\)](#).
- F32** Words repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2)(3), [Sch. 23 para. 23\(1\)\(b\)](#), [Sch. 24](#).

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Changes and effects yet to be applied to :

- Sch. 3 para. 5 repealed by [1994 c. 39 Sch. 14](#)
- Sch. 3 para. 31 substituted by [1994 c. 39 Sch. 13 para. 100\(9\)\(j\)](#)