



# Crown Agents Act 1979

## 1979 CHAPTER 43

### *Financial provisions*

#### **13 General financial duties of Crown Agents**

- (1) Without prejudice to the following provisions of this section, it shall be the duty of the Crown Agents so to perform their functions, and so to exercise their control over their subsidiaries, as to secure that, taking one year with another, the combined revenues of the Crown Agents and their subsidiaries are not less than sufficient—
  - (a) to meet the total outgoings of the Crown Agents and their subsidiaries properly chargeable to revenue account; and
  - (b) to enable the Crown Agents and their subsidiaries to make such allocations to reserve as the Crown Agents consider adequate, and as may be necessary to comply with any directions given by the Minister under section 14.
- (2) The Minister may determine, for any period specified in the determination, the overall rate of return which he considers it appropriate for the Crown Agents and their subsidiaries, taken as a whole, to achieve in that period; and the Minister shall give the Crown Agents notice of any determination under this subsection.
- (3) In determining an overall rate of return for any period under subsection (2) the Minister shall among other things have regard to the overall rate of return which, in the absence of any determination under that subsection, he would expect the Crown Agents and their subsidiaries, taken as a whole, to achieve in that period with a view to satisfying the requirements of subsection (1).
- (4) A determination under subsection (2)—
  - (a) shall be made only with the approval of the Treasury and after consultation with the Crown Agents;
  - (b) may relate to a period beginning before the date on which it is made ; and
  - (c) may be varied by a further determination under that subsection relating to the same period.
- (5) During any period as respects which a determination has been made under subsection (2) the Crown Agents shall perform their functions and exercise their

control over their subsidiaries with a view to achieving in that period an overall rate of return not less than that specified by the determination as for the time being in force.

#### **14 Directions by Minister as to reserves of Crown Agents and their wholly owned subsidiaries**

- (1) The Minister may from time to time, with the approval of the Treasury and after consultation with the Crown Agents, give the Crown Agents directions—
- (a) requiring them to allocate to reserve generally or to reserve for a particular purpose, or to cause any wholly owned subsidiary of the Crown Agents so to allocate, either a specified amount or such amount as the Crown Agents consider adequate ; or
  - (b) requiring them to re-allocate for a specified purpose, or to cause any such wholly owned subsidiary so to reallocate, the whole or part of any amount previously allocated by the Crown Agents or the subsidiary to reserve for some other purpose ; or
  - (c) with respect to the application by the Crown Agents or any such wholly owned subsidiary of amounts allocated to reserve;

but no such directions shall require any amount to be allocated, re-allocated or (subject to section 16(3)) applied otherwise than for the purposes of the Crown Agents and their wholly owned subsidiaries.

- (2) Directions under subsection (1) requiring the allocation of any amount to reserve may provide for it to be so allocated either at a specified time or during the course of a specified period.

#### **15 Management of liquid assets of Crown Agents and their wholly owned subsidiaries**

Any money for the time being standing to the credit of the Crown Agents, other than money held by them as agents, shall be held or invested by them in accordance with regulations; and the Crown Agents shall ensure that any money for the time being standing to the credit of any wholly owned subsidiary of the Crown Agents, other than money held by the subsidiary as agent, is held or invested by it in accordance with regulations.

#### **16 Payments to Minister**

- (1) If for any accounting year there is an excess of revenue of the Crown Agents over the total sum required by them—
- (a) to meet the total outgoings of the Crown Agents properly chargeable to revenue account; and
  - (b) to enable the Crown Agents to make such allocations to reserve as they consider adequate, and as may be necessary to comply with any directions under section 14 requiring them to make allocations to reserve,
- the Minister may, with the approval of the Treasury and after consultation with the Crown Agents, give the Crown Agents directions requiring them to pay the whole or part of the excess to the Minister.
- (2) Subject to any directions given to them under subsection (1), the Crown Agents may deal with any such excess as is mentioned in that subsection either—

- (a) by applying it for such of the purposes of the Crown Agents as they may determine ; or
  - (b) by allocating it to reserve, whether generally or for a particular purpose, or partly in one of those ways and partly in the other.
- (3) The Minister may, with the approval of the Treasury and after consultation with the Crown Agents, direct the Crown Agents to pay to the Minister the whole or part of the sum for the time being standing to the credit of any reserve of the Crown Agents.
- (4) Any sums received by the Minister in pursuance of this section shall be paid into the Consolidated Fund.

## **17 Crown Agents' commencing capital debt**

- (1) The Crown Agents shall on the appointed day assume a debt due to the Minister (in this Act referred to as their "commencing capital debt") in respect of the property and rights transferred to them by virtue of section 2.
- (2) The amount of the Crown Agents' commencing capital debt shall be such as the Minister may, with the approval of the Treasury, specify by notice in writing given to the Crown Agents ; and the Treasury shall be deemed to have issued to the Minister out of the National Loans Fund on the appointed day a sum equal to that amount.
- (3) The arrangements for repaying the Crown Agents' commencing capital debt, and, subject to the following provisions of this section, the other terms of that debt shall be such as the Minister may from time to time, after consultation with the Crown Agents, determine.
- (4) For any part of the initial period interest shall be payable on the Crown Agents' commencing capital debt or any portion of that debt only if the Minister so determines; and for any part of that period for which interest on the debt or any portion thereof is payable, the rate of interest shall be such as the Minister may from time to time determine.
- (5) As from the end of the initial period interest on the amount outstanding in respect of the principal of the Crown Agents' commencing capital debt shall be payable at such rate as the Minister may from time to time determine.
- (6) Different rates may be determined under subsection (4) or (5) with respect to different portions of the debt.
- (7) Any sums received by the Minister by way of interest on or repayment of the Crown Agents' commencing capital debt shall be paid into the National Loans Fund.
- (8) The approval of the Treasury shall be required for any determination by the Minister under this section; but section 5(2) of the National Loans Act 1968 (criteria for fixing or approving rates of interest) shall not apply to approval by the Treasury of a rate of interest on the Crown Agents' commencing capital debt or any portion thereof for any part of the initial period.
- (9) For the purposes of this section "the initial period" means the period of five years or, if the Minister by order so provides, seven years beginning with the appointed day.
- (10) No order shall be made under subsection (9) unless a draft thereof has been laid before and approved by a resolution of the House of Commons.

## **18 Borrowing powers of Crown Agents and their wholly owned subsidiaries**

- (1) Subject to section 19, the Crown Agents may borrow money in accordance with the provisions of subsections (2) to (5), and not otherwise.
- (2) The Crown Agents may borrow temporarily, by way of overdraft or otherwise—
  - (a) in sterling from the Minister; or
  - (b) with the consent of the Minister or in accordance with any general authority given by him, in sterling or a currency other than sterling from a person other than the Minister,such sums as the Crown Agents may require for meeting their obligations and performing their functions or for enabling any of their wholly owned subsidiaries to meet the obligations and perform the functions of that subsidiary.
- (3) The Crown Agents may borrow, otherwise than by way of temporary loan—
  - (a) in sterling from the Minister ; or
  - (b) with the consent of the Minister, in sterling from the Commission of the European Communities or the European Investment Bank or in a currency other than sterling from a person other than the Minister,such sums as the Crown Agents may require for any of the purposes mentioned in subsection (2).
- (4) The Minister shall not give any consent or authority under subsection (2) or (3) except with the approval of the Treasury.
- (5) The Crown Agents may borrow from any of their wholly owned subsidiaries without any consent, approval or other authority.
- (6) It shall be the duty of the Crown Agents to secure that no wholly owned subsidiary of theirs borrows money otherwise than from the Crown Agents or another wholly owned subsidiary of the Crown Agents.
- (7) References in this and the following section to borrowing by the Crown Agents or by a subsidiary of theirs do not include—
  - (a) receiving money in the capacity of an agent or in the capacity of the provider of any goods or services ; or
  - (b) in the case of any sum received by the Crown Agents as agents, making use of it for the Crown Agents own benefit as mentioned in section 5(4).

## **19 Limit on certain liabilities of Crown Agents and their subsidiaries**

- (1) The aggregate of the following amounts, namely—
  - (a) the amounts outstanding in respect of the principal of money borrowed by the Crown Agents under section 18 otherwise than from a wholly owned subsidiary of theirs;
  - (b) the amount outstanding in respect of the principal of the Crown Agents' commencing capital debt; and
  - (c) all liabilities which for the time being are to be taken into account for the purposes of this subsection by virtue of subsection (2),shall not at any time exceed £50 million or such greater sum. not exceeding £80 million, as the Minister may from time to time, with the consent of the Treasury, by order specify.

- (2) Where any asset is being leased or hired by the Crown Agents or any of their subsidiaries at any time in circumstances such that, in the relevant accounts, if made up to that time—
- (a) that asset would be capitalised ; and
  - (b) the present and future liabilities of the Crown Agents or the subsidiary, as the case may be, under the lease or hiring agreement would be shown,
- the aggregate of those liabilities, as they would be shown in those accounts, shall be taken into account for the purposes of subsection (1) in its application to that time.
- (3) For the purposes of subsection (2) " the relevant accounts " means—
- (a) in the case of an asset leased or hired by the Crown Agents, a statement of accounts dealing with the Crown Agents and complying with any requirements duly notified to the Crown Agents under section 22(4);
  - (b) in the case of an asset leased or hired by a subsidiary of the Crown Agents, a statement of consolidated accounts dealing with the Crown Agents and that subsidiary and complying with any such requirements.
- (4) No order shall be made under subsection (1) unless a draft thereof has been laid before and approved by a resolution of the House of Commons.
- (5) Section 18(7) applies for the purposes of this section.

## **20 Grants and loans by Minister**

- (1) The Minister may, with the approval of the Treasury—
- (a) make to the Crown Agents out of money provided by Parliament grants of such amounts as the Minister thinks fit;
  - (b) give the Crown Agents directions providing that the whole or part of a grant made under paragraph (a) is not to be used by them otherwise than—
    - (i) for the purposes of such of their functions as are specified in the directions or as the Minister may, with the approval of the Treasury, from time to time determine; and
    - (ii) in accordance with such conditions as are so specified or as the Minister may, with the like approval, from time to time determine.
- (2) The Minister may, with the approval of the Treasury, lend to the Crown Agents any sums which they have power to borrow from him under section 18 ; and the Treasury may issue to the Minister out of the National Loans Fund any sums necessary to enable him to make loans under this subsection.
- (3) Any loans made under subsection (2) shall be repaid to the Minister at such times and by such methods, and, subject to subsection (4), interest thereon shall be paid to him at such rates and at such times, as he may from time to time determine.
- (4) In the case of any loan made to the Crown Agents under subsection (2) in the initial period, being a loan obtained by them for the purpose of repaying the whole or part of their commencing capital debt—
- (a) interest on that loan or any portion thereof shall be payable for any part of the initial period only if the Minister so determines ; and
  - (b) for any part of that period for which interest on that loan or any portion thereof is payable, the rate of interest shall be such as the Minister may from time to time determine.

- (5) The approval of the Treasury shall be required for any determination by the Minister under subsection (3) or (4); but, in the case of a loan to which subsection (4) applies, section 5(2) of the National Loans Act 1968 (criteria for fixing or approving rates of interest) shall not apply to approval by the Treasury of a rate of interest on that loan or any portion thereof for any part of the initial period.
- (6) All sums received by the Minister under subsection (3) or (4) shall be paid into the National Loans Fund.
- (7) In respect of each financial year the Minister shall prepare, in such form as the Treasury may direct, an account of—
- (a) any sums issued to him under subsection (2) or received by him under subsection (3) or (4); and
  - (b) any sums received by him by way of interest on, or repayment of, the Crown Agents' commencing capital debt,
- and the disposal by him of any sums so received, and shall send the account to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (8) For the purposes of this section " the initial period " has the same meaning as it has for the purposes of section 17.

## 21 Treasury guarantees

- (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums borrowed by the Crown Agents from a person other than the Minister.
- (2) Immediately after a guarantee is given under this section the Treasury shall lay a statement of the guarantee before each House of Parliament.
- (3) Any sum required for fulfilling a guarantee given under this section shall be charged on and issued out of the Consolidated Fund.
- (4) Where any sum is so issued for fulfilling any such guarantee—
- (a) the Crown Agents shall make to the Treasury, at such time and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury may so direct in or towards repayment of that sum and payments of interest on the amount outstanding for the time being in respect of that sum at such rate as the Treasury may so direct; and
  - (b) the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to the sum.
- (5) Any sums received by the Treasury in pursuance of subsection (4)(a) shall be paid into the Consolidated Fund.

## 22 Accounts and audit

- (1) Subject to the following provisions of this section, it shall be the duty of the Crown Agents—
  - (a) to keep proper accounts and proper records in relation thereto; and
  - (b) to prepare in respect of each accounting year a statement of accounts dealing with, and giving a true and fair view of the state of affairs, profit or loss, and source and application of funds of, the Crown Agents.
- (2) If the Minister with the approval of the Treasury so directs, it shall be the duty of the Crown Agents to prepare, in respect of each accounting year during which the direction is in force, such of the following statements of accounts as are specified in the direction, namely a statement or statements of consolidated accounts dealing with, and giving a true and fair view of the state of affairs, profit or loss, and source and application of funds of—
  - (a) the Crown Agents and all of their subsidiaries; or
  - (b) the Crown Agents and one or more of their subsidiaries specified in the direction; or
  - (c) two or more subsidiaries of the Crown Agents so specified.
- (3) A direction under subsection (2) requiring the preparation of a statement or statements of consolidated accounts dealing with the Crown Agents and all or one or more of their subsidiaries—
  - (a) may provide that where, in respect of any accounting year, the statement or statements prepared in accordance with the direction show the profit or loss of the Crown Agents for that year, the statement prepared in respect of that year under subsection (1)(b) need not contain a profit and loss account; and
  - (b) may provide that the statement prepared under subsection (1)(b) in respect of any accounting year during which the direction is in force need not contain a statement of the source and application of funds.
- (4) Every statement of accounts prepared by the Crown Agents under this section shall conform to the best commercial standards and, subject to that, shall comply with any requirement which the Minister has, with the approval of the Treasury, notified in writing to the Crown Agents relating to—
  - (a) the information to be contained in the statement;
  - (b) the manner in which the information is to be presented; and
  - (c) the methods and principles according to which the statement is to be prepared.
- (5) The accounts kept, and all statements prepared, by the Crown Agents in pursuance of the preceding provisions of this section shall be audited by auditors appointed for each accounting year by the Minister after consultation with the Crown Agents.
- (6) A person shall not be qualified for appointment under subsection (5) unless he is a member of one or more bodies of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State.
- (7) As soon as the accounts kept, and the statement or statements prepared, by the Crown Agents in pursuance of the preceding provisions of this section have been audited, the Crown Agents shall send to the Minister a copy of the statement or statements, together with a copy of any report made by the auditors on the statement or statements or on the accounts of the Crown Agents; and the Minister shall lay a copy of every

statement and report of which a copy is received by him in pursuance of this subsection before each House of Parliament

- (8) It shall be the duty of the Crown Agents to secure that the requirements of subsections (5) and (7) with respect to the accounts and statements relating to any particular accounting year are complied with within seven months after the end of that year or within such longer period as the Minister may for any special reason allow in relation to that year.

### **23 Power of Minister to give directions with respect to financial matters**

- (1) Without prejudice to any other power conferred on the Minister by this Act, the Minister may, with the approval of the Treasury and after consultation with the Crown Agents, give the Crown Agents directions with respect to any financial matter connected with any of the functions which they are performing or propose to perform in their own right (including the exercise of rights conferred by the holding of interests in bodies corporate).
- (2) A direction under this section may be general or specific in character, but shall not confer on the Crown Agents power to do anything which they would not have power to do apart from the direction.

### **24 Duty to insure against insurable financial risks**

It shall be the duty of the Crown Agents to secure, so far as is reasonably practicable, that they and their subsidiaries are appropriately insured against financial risks arising from the activities in which they engage, whether as agents or in their own right.