



Local Government Finance Act 1988

1988 CHAPTER 41

PART VIII

FINANCIAL ADMINISTRATION

Modifications etc. (not altering text)

- C1** Pt. VIII (ss. 111-116) applied (*temp.* from 4.5.1995 to 31.3.1996) by S.I. 1995/1042, **art. 4(1)**
Pt. VIII (ss. 111-116) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, **Sch. 5 Pt. I para. 4(1)**
Power to make provision about matters of the kind dealt with by Pt. VIII (ss. 111-116) conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (i); S.I. 1997/1930, **art. 3(2)(m)** (with art. 3(3))
Pt. VIII: power to apply conferred (31.8.2000) by 1997 c. 25, s. 59D(4) (as inserted (31.8.2000) by 1999 c. 22, s. 83(2), (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(b)**

111 Interpretation.

- (1) This section applies for the purposes of this Part.
- (2) Each of the following is a relevant authority
- (a) a county council,
 - [^{F1}(aa) a county borough council,]
 - (b) a district council,
 - (c) a London borough council,
 - (d) . . . ^{F2}
 - [^{F3}(e) a police authority established under [^{F4}section 3 of the Police Act 1996]],
 - ^{F5}(f)
 - (g) a metropolitan county fire and civil defence authority,
 - (h) the London Fire and Civil Defence Authority,
 - (i) a metropolitan county passenger transport authority,
 - (j) a waste disposal authority,

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- (k) the Council of the Isles of Scilly,
^{F5}(l)
- (m) a combined fire authority.
- (3) The ^{M1}1972 Act is the Local Government Act 1972 and the ^{M2}1985 Act is the Local Government Act 1985.
- (4) The commencement day is the day on which this Part comes into force.
- (5) This Part shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

Textual Amendments

- F1** S. 111(2)(aa) inserted (3.4.1995) by 1994 c. 19, s. 38(110, Sch. 12 para. 3 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 6(1) (with art. 6(2)-(5))
- F2** S. 111(2)(d) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F3** S. 111(2)(e) substituted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 31; S.I. 1994/2025, art. 6(1); S.I. 1994/3262, art. 4, **Sch.** (with arts. 4(2)-(8), 5)
- F4** Words in s. 111(2)(e) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 1(2)(zb)**
- F5** S. 111(2)(f)(l) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (with arts. 4(2)-(8), 5)

Marginal Citations

- M1** 1972 c. 70.
M2 1985 c. 51.

112 Financial administration as to certain authorities.

- (1) On and after the commencement day each authority mentioned in subsection (2) below shall make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs.
- (2) The authorities are—
- ^{F6}(a) any police authority established under [^{F7}section 3 of the Police Act 1996]],
and
- (b) any combined fire authority.

Textual Amendments

- F6** S. 112(2)(a) substituted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 33**; S.I. 1994/2025, art. 6(1); S.I. 1994/3262, art. 4(1), **Sch.** (with arts. 4(2)-(8), 5)
- F7** Words in s. 112(2)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103(3), 104(1), **Sch. 7 Pt. I para. 1(2)(zb)**

113 Qualifications of responsible officer.

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the

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1972 Act, section 73 of the 1985 Act or section 112 above shall fulfil the requirement in one (or the requirements in each) of the paragraphs of subsection (2) below.

- (2) The requirements are that—
- (a) he is a member of one or more of the bodies mentioned in subsection (3) below;
 - (b) immediately before the commencement day he had responsibility for the administration of the financial affairs of any of the authorities mentioned in section 111(2)(a) to (k) above under section 151 of the 1972 Act or section 73 of the 1985 Act.
- (3) The bodies are—
- (a) the Institute of Chartered Accountants in England and Wales,
 - (b) the Institute of Chartered Accountants of Scotland,
 - (c) the Chartered Association of Certified Accountants,
 - (d) the Chartered Institute of Public Finance and Accountancy,
 - (e) the Institute of Chartered Accountants in Ireland,
 - (f) the Chartered Institute of Management Accountants, and
 - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (4) The authority mentioned in subsection (2)(b) above need not be the same as that under consideration for the purpose of applying subsection (1) above.

Modifications etc. (not altering text)

C2 S. 113(2)(b) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, Sch. 5 Pt. I para. 4(2)

114 Functions of responsible officer as regards reports.

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112 above shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.
- (2) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the authority, a committee [^{F8}of the authority, a person holding any office or employment under the authority, a member of a police force maintained by the authority,], or a joint committee on which the authority is represented—
- (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
 - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
 - (c) is about to enter an item of account the entry of which is unlawful.
- (3) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

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- [^{F9}(3A) It shall be the duty of the chief finance officer of a relevant authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—
- (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
 - (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 of that Act.]
- (4) Where a chief finance officer of a relevant authority has made a report under this section he shall send a copy of it to—
- (a) the person who at the time the report is made has the duty to audit the authority's accounts, and
 - (b) each person who at that time is a member of the authority.
- (5) Subject to subsection (6) below, the duties of a chief finance officer of a relevant authority under subsections (2) and (3) above shall be performed by him personally.
- (6) If the chief finance officer is unable to act owing to absence or illness his duties under subsections (2) and (3) above shall be performed—
- (a) by such member of his staff as is a member of one or more of the bodies mentioned in section 113(3) above and is for the time being nominated by the chief finance officer for the purposes of this section, or
 - (b) if no member of his staff is a member of one or more of those bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of this section.
- (7) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.
- (8) In this section—
- (a) references to a joint committee are to a committee on which two or more relevant authorities are represented, and
 - (b) references to a committee (joint or otherwise) include references to a sub-committee.

Textual Amendments

- F8** Words in s. 114(2) substituted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 34**; S.I. 1994/2025, **art. 6(1)**; S.I. 1994/3262, art. 4(1), **Sch.** (with arts. 4(2)-(8), 5)
- F9** S. 114(3A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 139, **Sch. 5 para. 66**

Modifications etc. (not altering text)

- C3** S. 114 amended (28.11.1994) by S.I. 1994/2825, **regs. 36, 37(1)**
S. 114 applied (with modifications) (28.11.1994) by S.I. 1994/2825, **reg. 37(1)**

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VALID FROM 07/11/2001

[^{F10}114A Functions of responsible officer as regards reports—local authorities operating executive arrangements

- (1) The person having responsibility under section 151 of the 1972 Act for the administration of the financial affairs of a relevant authority which is operating executive arrangements shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.
- (2) The chief finance officer of an authority that is referred to in subsection (1) shall make a report under this section to the executive of that authority if it appears to him that, in the course of the discharge of functions of the authority, the executive or a person on behalf of the executive—
 - (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful;
 - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority; or
 - (c) is about to enter an item of account the entry of which is unlawful.
- (3) It shall be the duty of the chief finance officer of an authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—
 - (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
 - (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 and 5A of that Act^{F11}.
- (4) Where a chief finance officer has made a report under this section he shall send a copy of it to—
 - (a) the person who at the time the report is made has the duty to audit the authority's accounts;
 - (b) each person who at that time is a member of the authority; and
 - (c) where the authority has a mayor and council manager executive, the person who at that time is the council manager.
- (5) Subsections (5) and (6) of section 114 shall apply in relation to duties under subsections (2) and (3) of this section as they apply in relation to duties under subsections (2) and (3) of that section.
- (6) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.]

Textual Amendments

F10 S. 114A inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [art. 20\(2\)](#) and inserted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 19\(2\)](#)

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F11 Section 5A is inserted by article 23(2) of this Order.

115 Authority’s duties as regards reports.

- (1) This section applies where copies of a report under section 114 above have been sent under section 114(4) above.
- (2) The authority shall consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- (3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.
- (4) Section 101 of the 1972 Act (delegation) shall not apply to the duty under subsection (2) above where the authority is one to which that section would apply apart from this subsection.
- (5) If the report was made under section 114(2) above, during the prohibition period the course of conduct which led to the report being made shall not be pursued.
- (6) If the report was made under section 114(3) above, during the prohibition period the authority shall not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority.
- (7) If subsection (5) above is not complied with, and the authority makes any payment in the prohibition period as a result of the course of conduct being pursued, it shall be taken not to have had power to make the payment (notwithstanding any obligation to make it under contract or otherwise).
- (8) If subsection (6) above is not complied with, the authority shall be taken not to have had power to enter into the agreement (notwithstanding any option to do so under contract or otherwise).
- (9) In this section “the prohibition period” means the period—
 - (a) beginning with the day on which copies of the report are sent, and
 - (b) ending with the first business day to fall after the day (if any) on which the authority’s consideration of the report under subsection (2) above is concluded.
- (10) If subsection (3) above is not complied with, it is immaterial for the purposes of subsection (9)(b) above.
- (11) The nature of the decisions made at the meeting is immaterial for the purposes of subsection (9)(b) above.
- (12) In subsection (9)(b) above “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales.

Modifications etc. (not altering text)

- C4** S. 115 applied (with modifications) (28.11.1994) by S.I. 1994/2825, reg. 37(1)
 S. 115 applied (conditionally) (28.11.1994) by S.I. 1994/2825, reg. 36(6)
 S. 115 amended (28.11.1994) by S.I. 1994/2825, reg. 36(7)

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VALID FROM 08/05/2000

[^{F12}115A Duties of Mayor of London and London Assembly as regards reports.

- (1) This section applies where copies of a report under section 114 above by the chief finance officer of the Greater London Authority have been sent under section 114(4) above.
- (2) The Mayor shall consider the report preparatory to making the decisions under subsection (6) below.
- (3) The Assembly shall consider the report at a meeting where it shall decide—
 - (a) whether it agrees or disagrees with the views contained in the report; and
 - (b) what action (if any) it recommends that the Mayor should take in consequence of it.
- (4) The meeting must be held not later than the end of the period of 21 days beginning with the day on which the copies of the report are sent.
- (5) The Mayor must attend the meeting.
- (6) After the meeting, the Mayor shall decide—
 - (a) whether he agrees or disagrees with the views contained in the report; and
 - (b) what action (if any) he proposes to take in consequence of it.
- (7) In making any decision under subsection (6) above, the Mayor shall take account of any views or recommendations of the Assembly at the meeting.
- (8) The Mayor must make the decisions under subsection (6) above before the end of the period of 14 days beginning with the day on which the meeting of the Assembly concludes.
- (9) Any functions of the Mayor under this section must be exercised by the Mayor personally.
- (10) Section 54 of the 1999 Act (discharge of Assembly functions by committees etc) shall not apply in relation to any function of the Assembly under this section.
- (11) In this section—

“the Assembly” means the London Assembly;
“the Mayor” means the Mayor of London.]

Textual Amendments

- F12** S. 115A inserted (8.5.1999 for certain purposes 3.7.2000 in so far as not already in force) by 1999 c. 29, s. 131(9) (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4

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VALID FROM 11/07/2001

[^{F13}115B Duties of executive as regards reports

- (1) This section applies where copies of a report under section 114A above have been sent under section 114A(4) above.
- (2) The executive of the authority (within the meaning of Part II of the Local Government Act 2000) shall consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- (3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.
- (4) During the prohibition period the course of conduct which led to the report being made shall not be pursued.
- (5) If subsection (4) above is not complied with, and the executive makes any payment in the prohibition period as a result of the course of conduct being pursued, the executive shall be taken not to have had power to make the payment (notwithstanding any obligation to make it under contract or otherwise).
- (6) As soon as practicable after the executive has concluded its consideration of the chief finance officer's report, the executive shall prepare a report which specifies—
 - (a) what action (if any) the executive has taken in response to the chief finance officer's report;
 - (b) what action (if any) the executive proposes to take in response to the chief finance officer's report and when the executive proposes to take that action; and
 - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
- (7) As soon as practicable after the executive has prepared a report under subsection (6), the executive shall arrange for a copy of it to be sent to—
 - (a) the person who at the time the report is made has the duty to audit the authority's accounts;
 - (b) each person who at that time is a member of the authority; and
 - (c) the chief finance officer of the authority.
- (8) In this section—
 - (a) “chief finance officer” has the same meaning as in section 114A; and
 - (b) “the prohibition period” means the period—
 - (i) beginning with the day on which copies of the chief finance officer's report are sent; and
 - (ii) ending with the first business day to fall after the day (if any) on which the executive's consideration of the report under subsection (2) above is concluded.
- (9) If subsection (3) above is not complied with, it is immaterial for the purposes of subsection (8)(b)(ii) above.

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(10) The nature of the decisions made at the meeting is immaterial for the purposes of subsection (8)(b)(ii) above.

(11) In subsection (8)(b)(ii) above “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England.]

Textual Amendments

F13 S. 115B inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [art. 21\(1\)](#)

^{F14}116 Information about meetings.

- (1) Where it is proposed to hold a meeting under section 115 above the authority’s proper officer shall as soon as is reasonably practicable notify its auditor of the date, time and place of the proposed meeting.
- (2) As soon as is reasonably practicable after a meeting is held under section 115 above the authority’s proper officer shall notify its auditor of any decision made at the meeting.
- (3) For the purposes of this section an authority’s proper officer is the person to whom the authority has for the time being assigned responsibility to notify its auditor under this section.
- (4) For the purposes of this section an authority’s auditor is the person who for the time being has the duty to audit its accounts.

Textual Amendments

F14 S. 116 applied (with modifications) (28.11.1994) by [S.I. 1994/2825](#), [reg. 37\(1\)](#)

Status:

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