



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART IV

#### MISCELLANEOUS

##### *Finance*

#### **164 Calculation of limits on spending**

(1) Section 83 of the 1973 Act (power of local authorities to incur expenditure not otherwise authorised) shall be amended in accordance with this section.

(2) In subsection (1)—

- (a) after the words “in the interests of” there shall be inserted the words “and will bring direct benefit to”;
- (b) after the words “incur any expenditure” there shall be inserted “(a)”; and
- (c) at the end there shall be added the words—

“nor

- (b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred.”

(3) Subsection (3A) shall cease to have effect.

(4) For subsection (4) substitute—

“(4) The expenditure of a local authority under this section in any financial year shall not exceed the amount produced by multiplying—

- (a) £3.80, or such other sum as may from time to time be specified in an order made by the Secretary of State; by

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(b) the relevant population of the authority's area.

(4AA) For the purposes of subsection (4)(b) above the relevant population of a local authority's area shall be determined in accordance with regulations made by the Secretary of State.”.

(5) For subsections (5) and (6) substitute—

“(5) A statutory instrument containing an order or regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

## **165 Powers of authorities to borrow and lend money**

(1) The Secretary of State may by regulations made with the consent of the Treasury make provision with respect to the powers of authorities—

- (a) to borrow and lend money; and
- (b) to establish and operate loans funds.

(2) Regulations under this section may make different provision in respect of different authorities and may include such incidental, supplemental and consequential provision as the Secretary of State considers appropriate.

(3) Without prejudice to the generality of the powers conferred by subsections (1) and (2) above, regulations under this section may—

- (a) specify the purposes for which an authority may borrow money;
- (b) place limits on amounts which an authority may borrow;
- (c) specify the means by which an authority may borrow;
- (d) make provision for—
  - (i) the means by which money borrowed by an authority may be secured; and
  - (ii) the protection of persons borrowing from an authority;
- (e) specify from whom an authority may borrow or to whom they may lend;
- (f) specify the terms on which an authority may lend;
- (g) make provision as to what assets and liabilities may be paid or transferred into or out of a loans fund and on what terms;
- (h) provide for investigations to be carried out at the instance of the Secretary of State into the administration of a loans fund;
- (i) place requirements on an authority to obtain such consent as may be prescribed before taking prescribed actions; and
- (j) where an authority have failed to comply with the regulations, provide for the Secretary of State to apply to the Court of Session for an order ordaining compliance, and for the court to grant such an application if they think fit.

(4) Where it appears to the Secretary of State to be necessary or expedient, in the light of any regulations made under this section, to amend any reference in any enactment, whether passed before or after the coming into force of this section—

- (a) to a loans fund; or
  - (b) to any provision in Schedule 3 to the 1975 Act,
- he may by regulations make such amendment.

- (5) Regulations under this section shall be made by statutory instrument, but shall not be made unless a draft of any such statutory instrument has been laid before and approved by resolution of each House of Parliament.
- (6) For the purposes of this section “authority” means a local authority, a joint board, a river purification board or the Strathclyde Passenger Transport Authority.

## **166 Grants in relation to ethnic minorities**

For section 11 of the Local Government (Scotland) Act 1966 substitute—

### **“11 Grants for certain expenditure in relation to ethnic minorities**

- (1) Subject to the provisions of this section, the Secretary of State may pay to local authorities which in his opinion are required to make special provision in the exercise of any of their functions in consequence of the presence within their area of persons belonging to ethnic minorities whose language or customs differ from those of the rest of the community, grants of such amounts as he may, with the consent of the Treasury, determine on account of expenditure in respect of the employment of staff.
- (2) No grant shall be paid under this section in respect of expenditure incurred before 1st April 1993.”.

## **167 Special grants**

After section 108 of the Local Government Finance Act 1992 insert—

### **“108A Special grants**

- (1) The Secretary of State may, with the consent of the Treasury, pay a grant (in this section referred to as a “special grant”) in accordance with this section to a local authority.
- (2) Where the Secretary of State proposes to make a special grant to one authority he shall, before making the grant, make a determination stating—
  - (a) the authority to which the grant is to be paid;
  - (b) the purpose for which the grant is to be paid; and
  - (c) the amount of the grant which is to be paid or the manner in which that amount is to be calculated.
- (3) Where the Secretary of State proposes to make special grants to more than one authority he shall, before making the grants, make a determination stating—
  - (a) to which authorities they are to be paid;
  - (b) the purpose for which they are to be paid; and
  - (c) either—
    - (i) the amount which he proposes to pay to each authority or the manner in which the amount is to be calculated; or
    - (ii) the total amount which he proposes to distribute among the authorities and the basis upon which he proposes to distribute that amount.

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- (4) A determination under subsection (2) or (3) above shall be made with the consent of the Treasury and shall be specified in a report (to be called a special grant report) which shall contain such explanation of the main features of the determination as the Secretary of State considers to be desirable.
- (5) A special grant report shall be laid before the House of Commons and, as soon as is reasonably practicable thereafter, the Secretary of State shall send a copy of it to any authority to which he proposes to make a special grant in accordance with the determination.
- (6) No special grant shall be paid unless the special grant report containing the determination relating to the grant has been approved by a resolution of the House of Commons.
- (7) A special grant report may specify conditions which the Secretary of State may with the consent of the Treasury impose on the payment of, or of any instalment of, any special grant to which the report relates; and the conditions may—
  - (a) require the provision of returns or other information before a payment is made to the authority concerned; or
  - (b) relate to the use of the amount paid, or to the repayment in specified circumstances of all or part of the amount paid.
- (8) Without prejudice to compliance with any conditions imposed as mentioned in subsection (7) above, a special grant shall be paid at such time or in instalments of such amounts and at such times as the Secretary of State may, with the consent of the Treasury, determine.”.

## **168 Direct Labour Organisation/ Direct Services Organisation Accounts**

- (1) After section 15 of the 1975 Act there shall be inserted the following section—

### **“15A Direct Labour Organisation/ Direct Services Organisation Accounts**

- (1) A local authority may establish, in accordance with the provisions of this section, Direct Labour Organisation/Direct Services Organisation Funds (to be known as “DLO/DSO funds”) for the purpose of dealing with surpluses and deficits which may occur in respect of—
  - (a) any revenue account kept by the authority under section 10(1) (accounts relating to construction or maintenance work) of the Local Government, Planning and Land Act 1980; or
  - (b) any account kept by the authority under section 9(2) (accounts) of the Local Government Act 1988.
- (2) Any interest earned on money transferred to a reserve fund established under subsection (1) above may be credited to that fund.
- (3) Any surplus credited to a fund established under subsection (1) above and which is, in the opinion of the authority, not required for the purpose of dealing with deficits in any such fund, may be transferred by them to the general fund maintained by them under section 93 of the Act of 1973 (general fund).

(4) This section is without prejudice to any specific limitation imposed by or under any enactment as to the manner in which money may be paid into or out of any specific account.”.

(2) Paragraphs 22(1)(c) and 24A of Schedule 3 to the 1975 Act shall cease to have effect.

## **169 Statements of support services costs**

(1) The Secretary of State may by regulations require any authority defined for the purposes of section 1(1) of the Local Government Act 1988 (“the 1988 Act”) to publish a statement, to be known as a statement of support services costs (hereinafter referred to as a “statement”), of the cost to the authority of each of the activities to which this section applies.

(2) This section applies to—

- (a) any activity which is a defined activity within the meaning of section 2(2) of the 1988 Act;
- (b) any other prescribed activity.

(3) A statement shall—

- (a) show the cost to the authority of the activity to which it applies, whether or not that activity, or any part of it, is carried out by employees of the authority; and
- (b) show how that cost is allocated amongst the public services provided by the authority.

(4) A statement shall—

- (a) be in such form;
- (b) be published on or by reference to such date;
- (c) contain such information;
- (d) be made available for inspection by the public in such manner; and
- (e) be supplied to the public on such terms as to payment,

as may be prescribed, and different provision may be made in relation to the matters mentioned above in relation to different authorities.

(5) Such of the information contained in the statement as may be prescribed shall be included within the annual abstract of accounts (or any equivalent to such an abstract) produced by an authority.

(6) For the purposes of this section the cost of any activity shall be calculated in such manner and by reference to such factors as may be prescribed.

(7) In this section—

“activity”, where it is an activity such as is mentioned in—

- (a) subsection (2)(a) above, has the meaning given to it by or under the 1988 Act; and
- (b) subsection (2)(b) above, has such meaning as may be prescribed; “prescribed” means prescribed in regulations under this section; and “public services” means such services provided by the authority as may be prescribed.

(8) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.