

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part III: Financial Provisions

SECTION 70: Financial control, accounts and audit

Purpose and Effect

This section provides that provision shall be made by or under an Act of the Scottish Parliament (“Scottish legislation”) in relation to financial control, accounts and audit. The Scottish legislation must provide for:

preparation of accounts by the Scottish Ministers, the Lord Advocate and others to whom sums are paid out of the Scottish Consolidated Fund of their expenditure and receipts;

preparation by the Scottish Ministers of an account of the Scottish Consolidated Fund;

arrangements for audit and value for money studies by, or under the supervision of the Auditor General for Scotland;

access by auditors to such documents as may reasonably be required for the purposes of audit;

designated members of the staff of the Scottish Administration to be answerable to the Parliament (Accounting Officers);

the publication of accounts and reports on them in pursuance of the rules and for the laying of such accounts and reports before the Parliament.

General

Section 70 is one of three sections dealing with audit and accounting arrangements. Section 69 provides for the appointment of the Auditor General for Scotland. Section 72 deals with accounts of sums received by the Secretary of State from Scottish Ministers under sections 66, 67 and 71.

The matters for which section 70 requires Scottish legislation to make provision are contained in or under the [Public Finance and Accountability \(Scotland\) Act 2000 \(asp 1\)](#).

Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
CC	12-Feb-98	613
CR	19-May-98	764
LC	30-Jul-98	1712

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<i>Stage</i>	<i>Date</i>	<i>Column</i>
LC	30-Jul-98	1714
LC	30-Jul-98	1716
LC	30-Jul-98	1718
LC	30-Jul-98	1720
LC	30-Jul-98	1721
LC	6-Oct-98	262
LR	28-Oct-98	2049
LR	28-Oct-98	2053

Details of Provisions

Subsection (1) requires “Scottish legislation” (defined in subsection (9)) to provide for:

- (a) proper accounts to be prepared by the Scottish Ministers, by the Lord Advocate and by others to whom sums are paid out of the Scottish Consolidated Fund, of their expenditure and receipts;
- (b) the Scottish Ministers to prepare an account of payments into and out of the Fund;
- (c) the Auditor General for Scotland (established by section 69) to exercise, or to ensure the exercise by other persons of the functions described in subsection (2);
- (d) access by persons exercising those functions to such documents as they may reasonably require;
- (e) designated members of the staff of the Scottish Administration to be answerable to the Parliament in respect of the expenditure and receipts of each part of the Scottish Administration (“Accounting Officers”); and
- (f) the publication of Parliamentary accounts (defined in subsection (9)) and reports on such accounts and for the laying of such accounts and reports before the Parliament.

Subsection (2) defines the functions that the Auditor General or auditors are to exercise as follows:

- (a) issuing credits for the payment of sums out of the Scottish Consolidated Fund;
- (b) examining, certifying and reporting on parliamentary accounts;
- (c) carrying out examinations into the economy, efficiency and effectiveness with which the Scottish Ministers and the Lord Advocate have used their resources in discharging their functions; and
- (d) carrying out examinations into the economy, efficiency and effectiveness with which other persons determined under Scottish legislation to whom sums are paid out of the Fund have used those sums in discharging their functions.

These functions broadly mirror those of the UK Comptroller and Auditor General in relation to UK expenditure.

Subsection (3) states that standing orders shall provide for the consideration by the Parliament of accounts and reports laid before it in pursuance of subsection (1)(f). The Standing Orders of the Parliament make provision for the Audit Committee to consider and report upon such accounts and reports.

Subsection (4) allows “Scottish legislation” to make further provision to ensure that those who receive money from the Scottish Consolidated Fund are accountable for its

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use. In particular it allows for accountability for those who receive sums indirectly from the SCF, such as bodies who receive grants from the Scottish Ministers.

Subsection (5) provides that where functions specified in subsection (2) are exercised by persons other than the Auditor General, then those persons are not to be subject to the direction or control of any member of the Scottish Executive or of the Parliament.

Subsection (6) provides that Scottish legislation may not require any cross-border public authority to prepare accounts if separate legislation requires the preparation of accounts and the examination etc. of these accounts by the Auditor General for Scotland, the Comptroller and Auditor General or a person appointed by either of them. This will apply in the case of bodies such as the Forestry Commission, where existing accounting and audit arrangements have been adapted by orders under section 89 ([S.I. 1999/1747](#) and [2000/746](#)).

Subsection (7) provides that Scottish legislation need not require the Auditor General for Scotland to examine his own accounts. It is open to the Parliament to specify alternative arrangements.

Subsection (8) provides that this section does not require Scottish legislation to impose any requirement which is imposed by any other legislation. For example, if an enactment already provides for preparation of accounts or for access to documents, it is not necessary for Scottish legislation to duplicate it. This is intended to avoid unnecessary, and potentially confusing, double legislation.

Subsection (9) defines the terms “Parliamentary accounts” and “Scottish legislation” for the purposes of this section.