

SCHEDULES.

THIRD SCHEDULE

Sections 15, 26.

Audit of Accounts of County and Town Councils.

- 1 The Secretary of State shall from time to time and for such period as he may determine appoint one or more fit persons (hereinafter referred to as " the auditor ") to audit the accounts of each county council and of each town council and may remove any auditor. Intimation of the appointment of the auditor shall be given to the council concerned and to the auditor prior to the commencement of his term of office. The auditors of the accounts of the corporation of the city of Glasgow shall not be fewer than twenty without the consent of the corporation, and the tenure of office of such auditors shall not be less than five years from the date of appointment unless otherwise agreed with the corporation.
- 2 The county council or the town council, as the case may be, shall pay to the auditor such salary and allowances as shall from time to time be fixed by the council subject to the approval of the Secretary of State.
- 3 The Secretary of State may make regulations either generally or in the case of any particular council as to the manner in which the audit of the accounts of a council shall be conducted by the auditor and any such regulations may, in the case of a particular council where it appears to the Secretary of State expedient so to do, vary the procedure and the times and periods specified in paragraphs 5, 6, 7, and 11 of this Schedule.
- 4 Every county council and town council shall make available for inspection by the auditor all books, deeds, contracts, vouchers, receipts, and other documents and papers (in this Schedule referred to as books and documents) which he may deem necessary, and shall give the auditor every reasonable facility for carrying out the audit, and the auditor, on giving not less than seven days' previous notice in writing, may require any person holding any books or documents or accountable therefor to appear before him and to produce the same and to make and sign a declaration as to the correctness or identity of the same, and if such person neglects or refuses so to appear or to produce any such books, deeds, or documents, or to make or sign such declaration he shall incur for every neglect or refusal a penalty not exceeding forty shillings, and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of perjury.
- 5 Before each audit is completed the county clerk or town clerk, as the case may be, shall, after receiving from the auditor intimation of the time and place hereinafter mentioned, give at least fourteen days' public notice in such manner as the Secretary of State may prescribe (a) of the deposit of the abstract of accounts required by this Schedule, (b) of the time and place at which the auditor will attend for the purpose of receiving objections with respect to the accounts as hereinafter provided, and (c) of the name and address of the auditor.

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- 6 An abstract in duplicate of the accounts duly made up, balanced, and signed in such manner as the Secretary of State may prescribe shall be deposited in the office of the council and be open between the hours of eleven forenoon and three afternoon on any week day, other than Saturday, and between the hours of eleven forenoon and one afternoon on Saturday, to the inspection of all ratepayers within the county or within the burgh, as the case may be, for seven clear days before the date notified as aforesaid, and all such persons shall be at liberty to take copies of or extracts from the same without any fee, and any officer of the council duly appointed in that behalf refusing to allow inspection thereof shall be liable to a penalty not exceeding five pounds.
- 7 Any ratepayer may make any objection to such accounts or any part thereof and shall transmit the same and the grounds thereof in writing to the auditor and a copy thereof to the officer concerned and to the county clerk or town clerk, as the case may be, two clear days before the time notified as aforesaid, and any ratepayer may be present at the time and place notified as aforesaid, and may support any objection made by him as hereinbefore provided either by himself or by any other ratepayer, and the auditor, if so requested, shall at the same time hear any representation which may be made to him on behalf of the council or officer concerned in regard to such objection.
- 8 If it shall appear to any auditor acting in pursuance of this Schedule that any payment is in his opinion contrary to law and should be disallowed or that any sum which in his opinion ought to have been is not brought into account by any person, whether such payment or failure to account has been made matter of objection or not, he shall, by an interim report under his hand, report thereon to the Secretary of State setting forth the grounds of his opinion as aforesaid, and the Secretary of State shall cause such interim report to be intimated to the objector, if any, to the officer or other person affected thereby, and to the council concerned, and shall consider any statement in writing which may be made to him thereon by or on behalf of any party to whom such intimation was given within fourteen days of the date of such intimation, and after such further inquiry as he may think fit the Secretary of State shall decide all questions raised by such interim report and shall disallow all illegal payments and surcharge the amount of any illegal payment or of any loss or deficiency due to failure to bring a sum into account upon any person or persons by whose negligence or wrongful act that payment has been made or authorised or that loss or deficiency has been incurred:
- Provided that, before deciding any question raised by an interim report, the Secretary of State may, on the application of the auditor or of any party to whom the interim report requires to be intimated as aforesaid, and shall, if so directed by either division of the Court of Session state a case on any question of law arising on the interim report for the opinion of either division of the Court of Session, and the procedure in the stated case shall be such as may be prescribed by Act of Sederunt.
- 9 If the Secretary of State is satisfied that the person making the illegal payment or authorising it to be made, or failing to bring the sum into account, acted reasonably, or in the belief that his action was authorised by law, or that the payment was made, or the failure took place under such circumstances as to make it fair and equitable that a disallowance or surcharge should not be made, the Secretary of State shall abstain from making a disallowance or surcharge.
- 10 Every sum determined by the Secretary of State under this Schedule to be due from any person shall be paid by such person to the council within fourteen days after such determination has been intimated to him, and if such sum is not so paid it shall

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- be the duty of the auditor to recover the same, and the council shall reimburse him for his expenses (including a reasonable allowance for his time) in so far as not recovered from the person surcharged.
- 11 Within fourteen days after the completion of the audit or, as the case may be, after any question raised under an interim report by an auditor has been determined as aforesaid the auditor shall report on the accounts audited, and shall certify on each duplicate abstract thereof the amount in words at length of the expenditure so audited and allowed, and further that all the regulations with respect to the accounts have been complied with, and that he has ascertained by the audit the correctness of the accounts. He shall forthwith send one duplicate abstract of the accounts to the council and the other duplicate abstract to the Secretary of State, provided that, if the Secretary of State shall so determine, such abstract may come in place of and render unnecessary a return of the receipts and expenditure of the council in pursuance of the Local Taxation Returns (Scotland) Act, 1881. The auditor shall also send to the accountant of the Scottish Education Department (in this Schedule referred to as the Department) a copy of the abstract of the accounts relating to education of every county council and of the town council of every burgh being a county of a city with a report and certificate thereon as aforesaid.
- 12 The council shall cause the certified duplicate abstract of accounts sent to them as aforesaid to be deposited in their office for at least fourteen clear days and a notice to be published once weekly for at least two successive weeks in one or more of the newspapers published or circulating in the county or the burgh of the time and place during which the said abstract shall be open to the inspection of all ratepayers within the county or within the burgh, as the case may be.
- 13 Where any surcharge has been made as hereinbefore provided or the auditor has made any report (other than an interim report) respecting the accounts or the receipts and expenditure of the council, the Secretary of State may require the council to cause such public notice as he may direct to be given of the surcharge or report and in case of default in such publication the Secretary of State may cause such notice to be given, and the cost of such notice to the amount certified by the Secretary of State shall be a debt due from the council to His Majesty and the county clerk or town clerk, as the case may be, shall be liable in case of such default in such notice being given to a fine not exceeding twenty pounds.
- 14 In the application of this Schedule to the accounts relating to education of a county council or of a town council of a burgh being a county of a city the following modifications and provisions shall have effect:—
- (a) References in paragraphs 8, 9, and 10 to the Secretary of State shall be construed as references to the Scottish Education Department;
 - (b) Notwithstanding anything in this Schedule and for the purpose of securing compliance with the statutes relating to education and the orders, regulations and minutes thereunder—
 - (i) The accountant of the Department may also, by demand in writing, require the production before him of all the accounts of any such council relating to education and of all books and documents which he may deem necessary for the purpose of examining the said accounts, and shall have the same powers as the auditor with reference to requiring the appearance before him of any person, the production of any books or documents and declarations as to the same, and the provisions of paragraph 4 of this Schedule so far as relating to penalties for neglect or refusal or making an

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untrue declaration shall apply as in the case of a requirement by the auditor;

- (ii) If it shall appear to the accountant of the Department that any payment included in the said accounts is in his opinion contrary to law or that any sum which in his opinion ought to have been is not brought into account by any person he shall report thereon to the Department, setting forth the grounds of his opinion, and the Department shall cause such report to be intimated to the officer of the council or other person concerned with the payment or the failure to bring into account and also to the council, and shall give such officer, person, or council an opportunity of submitting representations thereon, and if the Department agree with the accountant they shall cause intimation to be given to the council and to the officer or other person concerned and also to the auditor that in the event of any expenditure of the same nature as any such payment as aforesaid being incurred by the council after the date of such intimation or of any similar failure by the council to bring any sum into account after such date it shall be the duty of the auditor to make an interim report with respect thereto;

In this paragraph the expression " accountant of the Department " has the meaning assigned to it in section twenty-three of the Education (Scotland) Act, 1908.

- 15 For the purposes of this Schedule, any ratepayer within a burgh shall as respects accounts of a county council relating to a function for the purposes of which that burgh is included within the county, be deemed to be a ratepayer within the county.