



Local Government Act (Northern Ireland) 1972

1972 CHAPTER 9

PART V

FINANCIAL PROVISIONS

Modifications etc. (not altering text)

- C1** [Pt. V](#) (ss. 53 - 89A) applied (with modifications) by S.R. 2004/49, art. 3 (as substituted (28.1.2008) by [Local Government \(Constituting a Joint Committee a Body Corporate\) \(Amendment\) Order \(Northern Ireland\) 2007 \(S.R. 2007/505\)](#), [art. 2\(3\)](#))
- C2** [Pt. V](#) (ss. 53-89A) applied (with modifications) (20.8.2008) by [Local Government \(Constituting a Joint Committee a Body Corporate\) Order \(Northern Ireland\) 2008 \(S.R. 2008/310\)](#), [art. 3\(3\)](#)

ANNUAL BUDGET AND FINANCIAL ARRANGEMENTS

53 Annual budget.

- (1) In each financial year a council shall cause to be submitted to it estimates of the income and expenditure of the council during the next-following financial year.
- (2) A council, before the prescribed date in each year,—
 - (a) shall consider the estimates for the next-following financial year;
 - (b) may revise the estimates in such manner as the council thinks fit;
 - (c) shall approve the estimates, subject to any revision under paragraph (b);
 - (d) shall authorise the expenditure included in the estimates; and
 - (e) shall fix for the next-following financial year the amount estimated to be required to be raised by means of a rate made by the council.

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- (3) No expenditure shall be incurred by or on behalf of a council unless—
- (a) previously authorised in accordance with the estimates approved by the council; or
 - (b) otherwise previously authorised by the council; or
 - (c) if not so authorised, necessarily incurred in circumstances of emergency;
- but any expenditure under paragraph (c) shall, as soon as reasonably practicable, be reported to the council with a view to being approved by the council.
- (4) A council may make standing orders for the purpose of giving effect to this section so long as such orders are not inconsistent with any statutory provision.

54 Arrangements for handling receipts and payments.

A council shall make safe and efficient arrangements for the receipt of money paid to it and the issue of money payable by it, and those arrangements shall be carried out under the supervision of such officer of the council as the council designates as its chief financial officer.

FUNDS

55 The district fund.

Subject to sections 56 to 58, all income of a council shall be carried to a fund to be called the “district fund”, and all expenditure falling to be discharged by the council shall be discharged out of that fund.

56 Power to establish capital fund and renewal and repairs fund.

- (1) Subject to the provisions of this Act, a council may, in addition to the district fund, establish either or both of the following funds—
- (a) a capital fund, to be used either for defraying any expenditure of the council to which capital is properly applicable, or for providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans);
 - (b) a renewal and repairs fund, to be used for the purpose of defraying expenditure to be incurred in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the council.
- (2) A fund established by a council under this section shall not be used to meet, directly or indirectly, any expenditure incurred by the council for the purposes of a public utility undertaking.
- (3) Pending the application, for the purposes authorised by this section, of any fund established by a council under this section, the money in the fund shall (unless applied in any other manner authorised by section 73) be invested
- [^{F1}(a) if regulations so provide, in such manner as may be prescribed;
 - (b) in any other case, in any investments in which trustees may invest under—

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- (i) the general power of investment in section 3 of the Trustee Act (Northern Ireland) 2001 (as restricted by sections 4 and 5 of that Act); or
- (ii) section 8(1)(a) of that Act (land).]

[^{F1}(3A) Any money invested in accordance with subsection (3)(b) immediately before the coming into operation of regulations under subsection (3)(a) shall, for the period of 6 months from the coming into operation of those regulations, be taken to have been invested in accordance with those regulations.]

- (4) Any income arising from the investment of the money in any such fund, or otherwise from the application of the fund, shall be carried to the fund.

<p>F1 2001 c. 14 (NI)</p>

57 Capital fund.

- (1) Subject to the provisions of this section, a council by which a capital fund is established under section 56 may, with the approval of the Ministry, pay into that fund—
 - (a) any sums derived from the sale of any asset held by the council, not being an asset held by it for the purposes of a public utility undertaking;
 - (b) the whole or any part of the surplus of the income of the district fund over the expenditure of that fund at the end of each financial year, except so far as required by law to be applied to or carried forward for any other purpose; and
 - (c) such other sums from the district fund as the council directs.
- (2) The aggregate amount paid by a council into the capital fund under subsection (1)(*b*) and (*c*) shall not exceed such sum as the Ministry determines in relation to that council.
- (3) Except as permitted by section 73, no money shall be applied by a council out of the capital fund without the approval of the Ministry.

58 Renewal and repairs fund.

- (1) Subject to the provisions of this section, a council by which a renewal and repairs fund is established under section 56 may with the approval of the Ministry pay into that fund from the district fund such sums as the council thinks fit.
- (2) No payment shall be made by a council into the renewal and repairs fund so as to make the fund exceed such sum as the Ministry in relation to that council determines.

59 Proceeds of sale of capital assets.

Any capital money derived from the sale of any asset held by a council shall be applied towards the repayment of any money borrowed by the council for the purpose of acquiring that asset or, with the approval of the Ministry, be applied for any purpose to which capital is properly applicable.

60 Limitation on application of funds.

A council shall not directly or indirectly apply any part of the district fund, or any money under its control, for any purpose not authorised specifically or generally by

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some statutory provision, or, in the case of money derived from trust funds, for any purpose not authorised by the specific trusts affecting those funds.

BORROWING

61 Purposes for which money may be borrowed.

- (1) Without prejudice to subsections (2) and (4) and section 68(1), where the Ministry is satisfied that, by reason of the nature of the expenditure incurred or to be incurred by a council in the exercise of any of its functions, the expenditure should be met by borrowing and repayment spread over a term of years, then the council may borrow on such terms and conditions (including conditions as to time and manner of repayment) as the Ministry approves.
- (2) A council may borrow without the approval of the Ministry, by way of temporary loan or overdraft from a bank or otherwise, any sum which the council temporarily requires—
 - (a) for the purpose of defraying expenses (including the payment of sums due by the council to meet the expenses of other bodies) pending the receipt of revenues receivable by the council in respect of the financial year in which those expenses are chargeable;
 - (b) for the purpose of defraying, pending the raising of a loan which the council has been authorised under subsection (1) to raise, expenses intended to be defrayed by means of the loan.
- (3) Where money is borrowed in pursuance of paragraph (b) of subsection (2) and subsequently a loan such as is mentioned in that paragraph is raised, then for the purposes of any approval regulating the period of the repayment of that loan, the loan shall, to the extent of the sum borrowed under that paragraph, be deemed to have been raised at the time when the borrowing under that paragraph took place.
- (4) A council may also borrow without the approval of the Ministry such sums as are necessary in order to provide working capital or to meet any other expenditure (not being expenditure of a capital nature) required for the purposes of any public utility undertaking carried on by the council; but—
 - (a) the total sums borrowed under this subsection and for the time being outstanding shall not, except with the approval of the Ministry, exceed an amount representing one-half of the gross revenue of the undertaking for the immediately preceding financial year;
 - (b) any sum borrowed under this subsection to defray expenditure shall be repaid as soon as reasonably practicable and in any event not later than the expiration of two years from the date of borrowing, unless the approval of the Ministry is obtained to the repayment being spread over a longer period.

Para.(5) rep. by 1991 NI 6

62 Modes of borrowing.

Where, under section 61, a council has power to borrow money, it may, subject to the provisions of this Act, raise the money by any of the following methods—

- (a) by mortgage;

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- (b) by the issue of stock;
- (c) by the issue of bonds;
- (d) by overdraft from a bank;
- (e) by temporary loan or deposit receipt;
- (f) by the use, in accordance with section 73, of any money forming part of a capital fund or renewal and repairs fund established by the council under section 56;
- (g) by means of an agreement with the Ministry of Finance for the advance of money out of the Government Loans Fund;
- (h) by any other method prescribed with the approval of the Ministry of Finance.

63 Security for borrowing.

- (1) Without prejudice to subsection (2) and subject to subsection (4), all money borrowed by a council and all interest payable in respect of such money shall be charged on all the funds, rates and revenues of, or applicable for the purposes of, the council.
- (2) Subsection (1) shall not affect any duty of a council, where money is borrowed for any purpose expenditure for which would, apart from that subsection, be debited against a particular account, to take care that sums payable in respect of that borrowing are so debited.
- (3) References in this section and sections 64, 65 and 68 to money borrowed by a council, and references in sections 66 and 67 to a sum so borrowed, include a reference to any sum which was borrowed by some other body and which the council, in consequence of a transfer of functions or otherwise, has become liable to repay to the lenders, but does not include a reference to any sum borrowed by the council where the liability for repayment to the lenders has, in consequence of a transfer of functions or otherwise, been transferred to some other body; and references in sections 64, 70 and 71 to securities created by a council shall be construed accordingly.
- (4) The foregoing provisions of this section shall not apply in respect of money borrowed by a council for the purposes of any trust under a deed, will or other document, nor shall the security created by those provisions include the funds held under any such trust.

64 Priority of securities.

- (1) Subject to subsection (2), all securities created by a council shall rank equally without any priority.
- (2) Nothing in this section shall affect any priority existing at, or any right to priority conferred by a security created before, 13th December 1949.
- (3) For the purposes of this section a right in respect of money borrowed by a council by any of the methods mentioned in section 62 shall be deemed to be a security, notwithstanding that it is not evidenced in writing.

65 Repayment of money borrowed.

- (1) Subject to section 66, money borrowed by a council (other than money borrowed under section 61(2)(a) pending the receipt of revenues) shall be paid off either—

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- (a) by equal yearly or half-yearly instalments of principal, or of principal and interest combined; or
 - (b) by means of a sinking fund;
- or partly by one of those methods and partly by another or others of them.

- (2) Where the money is to be paid off as mentioned in subsection (1)(a), the payment of the first instalment shall be made within twelve months or, where the money is repayable by half-yearly instalments, within six months from the date of borrowing.
- (3) The provisions of Schedule 5 shall apply with respect to sinking funds.

66 Power to suspend annual provision for repayment of, and to borrow for payment of interest on, certain borrowed money.

- (1) Where a sum is borrowed by a council for any of the following purposes—
 - (a) meeting expenditure on the construction of new, or the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character;
 - (b) carrying out on any land any other operations, being operations of such kind as may be prescribed by the Ministry or operations specified in relation to that land by direction of the Ministry;
 - (c) acquiring land for the purpose of the construction thereon of new, or the extension or alteration of existing, works forming part of or to form part of an undertaking of a revenue-producing character, or for the purpose of the carrying out thereon of operations of a kind prescribed by virtue of paragraph (b), or operations specified in relation to that land by direction of the Ministry;
 the council may in respect of such one period as it determines, not being longer than five years nor beginning five years or less before the expiration of the fixed period relevant to the sum borrowed, do either or both of the following things with the approval of the Ministry—
 - (i) suspend, in whole or in part, any annual provision required to be made during the first-mentioned period for the repayment of the sum borrowed;
 - (ii) borrow money for the payment of all or any of the interest due in respect of the first-mentioned period on the sum borrowed.

- (2) Where—
 - (a) land is acquired by a council; and
 - (b) a sum is borrowed by the council for the purpose of the acquisition; and
 - (c) the acquisition is not for the purpose of the construction on the land of new, or for the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character, or for the purpose of carrying out on the land operations of a kind prescribed by virtue of subsection (1)(b) or operations specified in relation to that land by direction of the Ministry; and
 - (d) the land is subsequently appropriated for a purpose mentioned in paragraph (c);

the council may in respect of such one period as it determines, not being longer than five years nor beginning five years or less before the expiration of the fixed period relevant to the sum borrowed, do either or both of the following things with the approval of the Ministry—

- (i) suspend, in whole or in part, any annual provision required to be made during the first-mentioned period for the repayment of the sum borrowed;

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- (ii) borrow money for the payment of all or any of the interest due in respect of the first-mentioned period on the sum borrowed.
- (3) A sum borrowed by virtue of paragraph (ii) of subsection (1) or (2) for the payment of interest on a sum borrowed shall be repaid within the fixed period relevant to the last-mentioned sum.
- (4) In this section—
 - “the fixed period” means the period originally fixed as the period within which the money borrowed is to be repaid;
 - “undertaking” means an undertaking in the nature of a trading undertaking for the provision of any service which the council is authorised to undertake.

67 Application of unexpended portion of borrowed money.

The balance of any money borrowed by a council and not required for the purposes for which the money was borrowed may be applied—

- (a) in or towards the repayment of a sum borrowed by the council; or
- (b) with the approval of the Ministry, to any other purpose to which capital money may be applied.

68 Power to re-borrow.

- (1) Subject to subsection (2), a council may, without the approval of the Ministry, borrow for the purpose of—
 - (a) paying off any money previously borrowed by the council which is intended to be repaid forthwith; or
 - (b) replacing money which, during the immediately preceding year, has been temporarily applied from other money of the council in repaying money previously borrowed and which, at the time of such repayment, it was intended to replace by borrowed money.
- (2) A council shall not borrow under this section—
 - (a) for the purpose of making any payment to a sinking fund or of paying any instalment which has or may become due in respect of borrowed money; or
 - (b) for the purpose of replacing any money previously borrowed which has been repaid—
 - (i) by instalments; or
 - (ii) by means of a sinking fund; or
 - (iii) out of money derived from the sale of land; or
 - (iv) out of any capital money properly applicable to the purpose of the repayment, other than money borrowed for that purpose.
- (3) Any money borrowed under this section shall, for the purposes of repayment be deemed to form part of the original loan, and shall be repaid within that portion of the fixed period which remains unexpired, and the provisions which are applicable to the original loan shall apply to the money borrowed under this section, so however that the Ministry may, upon application made to it for that purpose, extend the period for repayment of the money borrowed under this section so as to expire on such date as the Ministry thinks fit.
- (4) In this section “the fixed period” has the same meaning as in section 66.

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69 Lenders relieved from certain inquiries.

Without prejudice to section 19(1)(a)(ii) of the Interpretation Act (Northern Ireland) 1954, a person lending money to a council shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

70 Securities regulations.

- (1) For the purposes of any borrowing by a council by means of securities created by the council, the securities shall be created, issued, transferred, dealt with and redeemed upon such terms and in accordance with such provisions as may be prescribed.
- (2) Without prejudice to the generality of subsection (1), regulations may contain provisions with respect to—
 - (a) the form and terms of securities;
 - (b) the keeping of registers of securities, the form of the registers and the matters which must or must not be entered therein, the evidence which must be produced by persons seeking to have entries made in the registers, the form of transfer of securities, the rectification of the registers, rights of inspection and fees;
 - (c) the determination of questions affecting title to securities;
 - (d) the discharge of loans raised by means of securities;
 - (e) the extension or variation, with the consent of the holders of securities, of the times within which such loans may be discharged;
 - (f) the consent of owners under disability;
 - (g) the disposal of unclaimed interest;
 - (h) the duties of officers of the council in connection with the issue or discharge of securities or any register of securities;
 - [^{F2}(hh) the custody and, where appropriate, eventual destruction of documents relating to securities;]
 - (i) the penalties, not exceeding a fine of [^{F3} level 3 on the standard scale] on summary conviction, which may be imposed for contraventions of the regulations.
- (3) In this section “security” means mortgage, stock or bond, or any prescribed security created in connection with the borrowing of money by a method prescribed under section 62(h).

F2 1985 NI 15

F3 1984 NI 3

71 Appointment of receiver.

- (1) If at any time any sums due by way of principal or interest or both on any security created by a council remain unpaid for not less than two months after demand made in writing in that behalf is served on the council, the person entitled to the security may, without prejudice to any other remedy, apply to the High Court for the appointment of a receiver, and the Court may appoint a receiver on such terms and with such functions as the Court thinks fit.

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- (2) The Court may confer upon the receiver any powers of the council or its officers of collecting, receiving and recovering the revenues of the council, and of making rates.
- (3) A receiver appointed under this section shall have such access to and use of the books and documents of the council or any of its committees as he requires.
- (4) In this section “security” means mortgage, stock or bond, or any prescribed security created in connection with the borrowing of money by a method prescribed under section 62(*h*).

72 Consolidated loans fund.

- (1) A council may, in accordance with a scheme made by the council and approved by the Ministry, establish and operate a consolidated loans fund for defraying any expenditure which may be met by borrowing under section 61 and for the repayment or redemption of debt.
- (2) A scheme under this section may make provision—
 - (a) as to the purposes for which payments are to be authorised or required to be made out of the fund;
 - (b) as to the assets and liabilities which are to be authorised or required to be transferred to or paid into the fund;
 - (c) without prejudice to the generality of paragraphs (*a*) and (*b*), applying section 73 with the necessary modifications and for securing that payments will be made to the fund of such amounts and at such times as are necessary for fulfilling the obligations of the council to repay loans and to pay interest on loans and for defraying the management expenses of the fund;
 - (d) for the keeping of separate accounts of receipts and outgoings of the fund determined by the scheme to be of a capital and of an income nature respectively, and of expenditure in connection with the management of the fund;
 - (e) as to the investment of assets of the fund which are for the time being not required for other purposes, or their application in the repayment or redemption of debt.

73 Use of money forming part of capital fund or renewal and repairs fund.

- (1) Subject to the conditions set out in subsection (2), a council may use, for any purpose for which the council has power to borrow, any money forming part of, but not for the time being required for the purposes of, any capital fund or renewal and repairs fund established by the council.
- (2) The conditions on which money may be used as mentioned in subsection (1) are as follows—
 - (a) where the power to borrow depends on the approval of the Ministry, the money shall be used only with that approval and subject to such conditions as are approved by the Ministry;
 - (b) where the money is used for a temporary purpose, it shall be used subject to any limitations which by virtue of paragraph (*a*) or (*b*) of section 61(2) affect temporary borrowing;
 - (c) the money shall be repaid to the fund as and when it is required for the purposes of the fund, if it is not required to be paid earlier by virtue of any

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conditions such as are mentioned in paragraph (a) or any limitations such as are mentioned in paragraph (b);

- (d) the money shall be repaid to the fund out of the district fund, or out of money which would have been applicable to the repayment of a loan raised under the power to borrow, and shall be made by the method by which a loan raised under the power would be repayable;
 - (e) in the accounts of the district fund, an amount equal to interest at the appropriate rate on so much of the money as has not been repaid to the capital fund or the renewal and repairs fund shall be credited to the capital fund or, as the case requires, the renewal and repairs fund and debited to the undertaking or purpose for which the money has been so used;
 - (f) the power to borrow shall be deemed to be exercised by the use of money under this section as fully in all respects as if a loan of the same amount had been raised in exercise of the power, and the provisions of section 68 as to the re-borrowing of sums raised under that power shall apply accordingly.
- (3) In this section “interest at the appropriate rate” means interest at such rate as may be determined by the council to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the power to borrow.

LOCAL GOVERNMENT AUDITORS

[^{F4}74 **Local government auditors.**

- (1) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate persons who are members of the staff of the Northern Ireland Audit Office as local government auditors.
- (2) Only persons so designated may—
 - (a) audit accounts which are by law subject to audit by local government auditors; or
 - (b) exercise any other function conferred by law on such auditors.
- (3) The Department may, after consultation with the Comptroller and Auditor General for Northern Ireland, assign to local government auditors their duties.
- (4) Any sums payable by a local government auditor in consequence of any liability for breach of duty (whether arising under a contract or otherwise) incurred by him in performing his functions shall be charged on and issued out of the Consolidated Fund.]

F4 2003 NI 5

[^{F5}75 **Audit Fees**

- (1) There shall be paid to the Department by every body whose accounts are audited by local government auditors such fees as the Department may determine.
- (2) Any sums received by the Department by virtue of subsection (1) shall be paid by it to the Comptroller and Auditor General for Northern Ireland.]

F5 2003 NI 5

AUDIT

F⁶76 Audit of accounts of councils.

The accounts of every council and of every committee of a council for which accounts are separately kept shall be audited once in each financial year by a local government auditor.

F6 prosp. rep. by 2005 NI 18

F⁷77 Duties of officers as to audit.

- (1) The chief financial officer of every council shall make up to the end of each financial year the accounts of the council and of every committee of the council for which accounts are separately kept.
- (2) The chief financial officer shall prepare statements of accounts in the prescribed form or, if no form is prescribed, in the form directed by the Ministry and, within such period after the expiration of the financial year to which the statements relate as the Ministry directs, shall deliver to the Ministry such number of copies of the statements as the Ministry directs.
- (3) The local government auditor, not less than twenty-eight days before the day that he has appointed for auditing the accounts, shall notify the council of that day and of the time and place so appointed, and the council, not less than fourteen days before that day, shall give public notice of that day, time and place and shall also publish such a notice in at least two newspapers circulating in the district.
- (4) The clerk shall, at least seven days before the time appointed for auditing the accounts,
 - (a) deposit the statements of accounts and all books and documents relating to the accounts in the offices of the council, and
 - (b) permit those statements, books and documents to be inspected and copied by all persons interested, at all reasonable hours.

F7 prosp. rep. by 2005 NI 18

[F⁸77A Confidentiality of officers' records.

- (1) Nothing in section 77(4)(b) (public inspection of statements, books and documents) shall entitle any person to inspect so much of any statement, book or document as contains personal information about an officer of the council.
- (2) Information shall be regarded as personal information about an officer of the council if it relates specifically to a particular individual and is available to that council for reasons connected with the fact—

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- (a) that the individual holds or has held any office or employment under that council; or
 - (b) that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that council.
- (3) References in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold office or employment.
- (4) This section shall have effect only in relation to the inspection of a statement, book or document relating to periods beginning on or after 1st April 1992.]

F8 1992 NI 6

^{F9}78 Production of, and declaration as to, documents.

- (1) A local government auditor may by writing under his hand—
- (a) require the production before him of all books and documents of the council or any of its committees which he thinks necessary for the purpose of the audit;
 - (b) require any person holding or accountable for any such book or document to appear before him at the audit or any adjournment thereof;
 - (c) require any such person to make and sign a declaration as to the correctness of the book or document.
- (2) If any person, without reasonable excuse, does not comply with a requirement under subsection (1) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F10} level 3 on the standard scale] and, in the case of a continuing offence, a further fine not exceeding £20 for each day on which the offence continues after conviction; and if any person knowingly and wilfully makes or signs any declaration such as is mentioned in paragraph (c) of that subsection which is untrue in any material particular, he shall be deemed to be guilty of an offence under ^{F11} Article 10 of the Perjury (Northern Ireland) Order 1979].

F9 prosp. rep. by 2005 NI 18

F10 1984 NI 3

F11 1979 NI 19

^{F12}79 Right to objection.

- (1) A local elector for the district to the accounts of which the audit relates^{F13} or a person liable for rates, payable in respect of any hereditament situated in that district which is used wholly or mainly for the purposes of a business whether or not carried on for profit] may be present or be represented at the audit and may make any objection to the accounts before the local government auditor, who may require the objection to be put in writing.

Subs.(2),(3) rep. by 1985 NI 15

F12 prosp. rep. by 2005 NI 18

F13 1992 NI 6

F¹⁴80 Auditor's report.

- (1) Within fourteen days after the completion of the audit of the accounts of a council or any of its committees the local government auditor shall report on the accounts audited and examined, and shall send the report, with the statement of accounts, to the Ministry, who shall send a copy of the report to the clerk of the council.
- (2) When the clerk receives the copy of the report he shall
 - [F¹⁵(a) forthwith send copies of the report to all of the members of the council;
 - (b) forthwith make copies of the report available for inspection by members of the public at such time and such place as may be specified in a notice to be published in at least one newspaper circulating in the district of the council; and
 - (c)] lay it before the council at the next meeting of the council.

F14 prosp. rep. by [2005 NI 18](#)

F15 [1992 NI 6](#)

SURCHARGE, ETC.**[F¹⁶81 Declaration that item of account is unlawful.**

- (1) Where it appears to a local government auditor at any audit held by him that any item of account is contrary to law he may apply to the court for a declaration that the item is contrary to law except where it is sanctioned by the Department.
- (2) On an application under this section the court may make or refuse to make the declaration asked for, and where the court makes that declaration, then, subject to subsection (3), it may also—
 - (a) order that any person responsible for incurring or authorising any expenditure declared unlawful shall repay it in whole or in part to the council concerned and, where two or more persons are found to be responsible, that they shall be jointly and severally liable to repay it as aforesaid;
 - (b) if any such expenditure exceeds £2,000 and the person responsible for incurring or authorising it is, or was at the time of his conduct in question, a member of the council concerned, order him to be disqualified for being elected or being a member of a council for a specified period; and
 - (c) order rectification of the accounts.
- (3) The court shall not make an order under subsection (2)(a) or (b) if the court is satisfied that the person responsible for incurring or authorising any such expenditure acted reasonably or in the belief that the expenditure was authorised by law, and in any other case shall have regard to all the circumstances, including that person's means and ability to repay that expenditure or any part of it.
- (4) Any person who has made an objection under section 79 and is aggrieved by a decision of an auditor not to apply for a declaration under this section may—
 - (a) not later than six weeks after he has been notified of the decision, require the auditor to state in writing the reasons for his decision; and
 - (b) appeal against the decision to the court,

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and on any such appeal the court shall have the like powers in relation to the item of account to which the objection relates as if the auditor had applied for the declaration.

- (5) On an application or appeal under this section relating to the accounts of a council, the court may make such order as the court thinks fit for the payment by that council of expenses incurred in connection with the application or appeal by the auditor or the person to whom the application or appeal relates or by whom the appeal is brought, as the case may be.
- (6) The court having jurisdiction for the purposes of this section shall be the High Court except that, if the amount of the item of account alleged to be contrary to law does not exceed the amount over which county courts have jurisdiction in actions founded on contract, the county court shall have concurrent jurisdiction with the High Court.]

F16 1985 NI 15

[^{F17}82 Recovery of amount not accounted for, etc.

- (1) Where it appears to a local government auditor at any audit held by him—
 - (a) that any person has failed to bring into account any sum which should have been so included and that the failure has not been sanctioned by the Department; or
 - (b) that a loss has been incurred or deficiency caused by the wilful misconduct of any person,

he shall certify that the sum or, as the case may be, the amount of the loss or the deficiency is due from that person and, subject to subsections (3) and (5), both he and the council concerned may recover that sum or amount for the benefit of that council; and if the auditor certifies under this section that any sum or amount is due from two or more persons, they shall be jointly and severally liable for that sum or amount.

- (2) Any person who—
 - (a) has made an objection under section 79 and is aggrieved by a decision of an auditor not to certify under this section that a sum or amount is due from another person; or
 - (b) is aggrieved by a decision of an auditor to certify under this section that a sum or amount is due from him,

may not later than 6 weeks after he has been notified of the decision require the auditor to state in writing the reasons for his decision.

- (3) Any such person who is aggrieved by such a decision may appeal against the decision to the court and—
 - (a) in the case of a decision to certify that any sum or amount is due from any person, the court may confirm, vary or quash the decision and give any certificate which the auditor could have given;
 - (b) in the case of a decision not to certify that any sum or amount is due from any person, the court may confirm the decision or quash it and give any certificate which the auditor could have given;

and any certificate given under this subsection shall be treated for the purposes of subsection (1) and the following provisions of this section as if it had been given by the auditor under subsection (1).

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- (4) If a certificate under this section relates to a loss or deficiency caused by the wilful misconduct of a person who is, or was at the time of such misconduct, a member of the council concerned and the amount certified to be due from him exceeds £2,000, that person shall be disqualified for being elected or being a member of a council for the period of five years beginning on the ordinary date on which the period allowed for bringing an appeal against a decision to give the certificate expires or, if such an appeal is brought, the date on which the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (5) A sum or other amount certified under this section to be due from any person shall be payable within fourteen days after the date of the issue of the certificate or, if an appeal is brought, within fourteen days after the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (6) In any proceedings for the recovery of any sum or amount due from any person under this section a certificate signed by a local government auditor stating that that sum or amount is due from a person specified in the certificate to a council so specified shall be conclusive evidence of that fact; and any certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
- (7) On an appeal under this section relating to the accounts of a council the court may make such order as the court thinks fit for the payment by that council of expenses incurred in connection with the appeal by the auditor or the person to whom the appeal relates or by whom the appeal is brought, as the case may be.
- (8) Any expenses incurred by an auditor in recovering a sum or other amount certified under this section to be due in connection with the accounts of a council shall, so far as not recovered from any other source, be recoverable from that council unless the court otherwise directs.
- (9) The court having jurisdiction for the purposes of this section shall be the High Court except that, if the sum or amount alleged to be due does not exceed the amount over which county courts have jurisdiction in actions founded on contract, the county court shall have concurrent jurisdiction with the High Court.]

F17 1985 NI 15

^{F18}82A Power of auditor to issue prohibition order.

- (1) The local government auditor may issue an order under this section (a “prohibition order”) if he has reason to believe that the council or any officer of the council—
 - (a) is about to make or has made a decision which involves or would involve the council incurring expenditure which is unlawful; or
 - (b) is about to take or has taken a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency; or
 - (c) is about to enter an item of account, the entry of which is unlawful;
 and for the purposes of this section and section 82B, the actions of a committee or sub-committee of the council or of any other person (not being an officer) authorised to act on behalf of the council shall be treated as the actions of the council itself.
- (2) A prohibition order is one—
 - (a) which is addressed to the council or officer concerned;

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- (b) which specifies the paragraph of subsection (1) which is relevant and the decision, course of action or item of account to which the order relates;
 - (c) which specifies the date on which (subject to subsection (5)) the order is to take effect, being a date not earlier than the date of service of a copy of the order in accordance with paragraph (a) or, as the case may be, paragraphs (a) and (b) of subsection (4); and
 - (d) which requires the council or officer concerned to desist from making or implementing the decision, taking or continuing to take the course of action or, as the case may be, entering the item of account in question.
- (3) Where 2 or more local government auditors are appointed in relation to the accounts of any council, a prohibition order may be issued by the auditors acting jointly or by such one of them as they may determine; and, in relation to such an order, any reference in subsections (4) and (5) to the auditor is a reference to the auditor or auditors by whom the order is issued.
- (4) A copy of a prohibition order—
- (a) shall be served on the council to which, or to an officer of which, it is addressed; and
 - (b) in the case of an order addressed to an officer, shall also be served on him; and
 - (c) may be served on such other person or persons as appears to the local government auditor to be appropriate.
- (5) A prohibition order shall not have effect unless, not later than the expiration of 7 days from the date of service referred to in subsection (2)(c), the local government auditor serves on the council concerned and on any officer on whom a copy of the order was served under subsection (4)(b), a statement of the auditor's reasons for the belief referred to in subsection (1).
- (6) A prohibition order may at any time be revoked (but not varied) by the local government auditor.

F18 prosp. rep. by [2005 NI 18](#)

^{F19}82B Effect of and appeals against prohibition orders.

- (1) So long as a prohibition order has effect, the council concerned or any officer of that council shall not make or implement the decision, take or continue to take the course of action or, as the case may be, enter the item of account to which the order relates.
- (2) A prohibition order—
 - (a) takes effect, subject to section 82A(5), on the date specified in the order in accordance with subsection (2)(c) of that section; and
 - (b) continues to have effect, subject to any order or decision of the High Court on an appeal under subsection (3), until revoked under section 82A(6).
- (3) Not later than 28 days from the service under section 82A(5) of a statement of reasons relating to a prohibition order, the council concerned (but not any officer of that council) may appeal against the order to the High Court in accordance with rules of court.

*Status: Point in time view as at 01/01/2006.**Changes to legislation: There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1972, PART V. (See end of Document for details)*

- (4) On an appeal against a prohibition order under subsection (3), the High Court may make such order as it thinks fit for the payment by the council concerned of expenses incurred by a local government auditor in connection with the appeal.
- (5) Any expenses reasonably incurred by a local government auditor in or in connection with the issue of a prohibition order shall be recoverable by him from the council concerned.
- (6) In this section “the council concerned”, in relation to a prohibition order, means the council to which, or to an officer of which, the order is addressed.

F19 prosp. rep. by [2005 NI 18](#)

^{F20}82C Supplementary provisions as to prohibition orders.

- (1) In any case where—
 - (a) before a prohibition order is issued, a council enters into a contract to dispose of or acquire an estate in land, and
 - (b) before the disposal or acquisition is completed, a prohibition order takes effect as a result of which it is unlawful for the council to complete the disposal or acquisition,
 the existence of the prohibition order shall not prejudice any remedy in damages which may be available to any person by reason of the council's failure to complete the contract.
- (2) No action shall lie against a local government auditor in respect of any loss or damage alleged to have been caused by reason of the issue of a prohibition order which was issued in good faith; but nothing in this subsection affects the right of a court to award costs against a local government auditor on an appeal under section 82B(3).

F20 prosp. rep. by [2005 NI 18](#)

^{F21}82D Power of auditor to apply for judicial review.

- (1) Subject to section 18(2)(a) of the Judicature (Northern Ireland) Act 1978 (no application for judicial review without leave) the local government auditor may make an application for judicial review with respect to—
 - (a) any decision of a council, or
 - (b) any failure by a council to act,
 which (in either case) it is reasonable to believe would have an effect on the accounts of that council.
- (2) The existence of the powers conferred on a local government auditor under sections 82A to 82C and this section shall not be regarded as a ground for refusing an application falling within subsection (1) (or an application for leave to make such an application).
- (3) On an application for judicial review made as mentioned in subsection (1), the High Court may make such order as it thinks fit for the payment by the council to whose decision the application relates of expenses incurred by the local government auditor in connection with the application.

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1972, PART V. (See end of Document for details)

F21 prosp. rep. by [2005 NI 18](#)

FUNCTIONS OF MINISTRY AS TO ACCOUNTS AND AUDIT

^{F22}**87 Regulations as to accounts and audit.**

- (1) Regulations may be made with respect to—
 - (a) the keeping of accounts,
 - (b) the preparation of statements of accounts,^{F23} . . .
 - (c) the audit of accounts,^{[F23} and
 - (d) the publication of information relating to accounts and the publication of statements of accounts,]
 which are subject to audit by a local government auditor.
- (2) Regulations under this section may provide for penalties, not exceeding a fine of^{[F24} level 3 on the standard scale] on summary conviction, for contraventions of the regulations.

F22 prosp. rep. by [2005 NI 18](#)

F23 [1985 NI 15](#)

F24 [1984 NI 3](#)

^{F25}**88 Extraordinary audits and inspections.**

- (1) The Ministry may at any time direct a local government auditor to hold an extraordinary audit of any accounts which are subject to audit by a local government auditor.
- (2) An extraordinary audit held under this section shall be deemed to be an audit for the purposes of this Act, and the provisions of this Act, so far as applicable, shall apply accordingly.
- (3) An extraordinary audit may be held after three days' notice in writing given to the council whose accounts are to be audited.
- (4) A local government auditor may, at any time when authorised or required to do so by the Ministry, inspect the accounts, books and documents of any council.

F25 prosp. rep. by [2005 NI 18](#)

S.89 rep. by 1992 NI 6

^{[F26}STUDIES FOR IMPROVING ECONOMY, ETC. OF SERVICES]

F26 [1985 NI 15](#)

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1972, PART V. (See end of Document for details)

[^{F27}**89A Studies for improving economy, etc. of services.**

- (1) A local government auditor shall, if required by the Department, undertake comparative and other studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the provision of services by councils.
- (2) Before requiring the undertaking of any study under subsection (1) the Department shall consult such associations or bodies representative of councils and of the officers of councils and such councils as appear to the Department to be appropriate.
- (3) A local government auditor shall report to the Department the results of any study under subsection (1) and any recommendations made by him as a result of such study and the Department shall publish or otherwise make available any such results and recommendations.
- (4) Section 78 shall apply for the purposes of a study undertaken under subsection (1) as it applies for the purposes of an audit.]

F27 1985 NI 15

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1972, PART V.