Local Government in Scotland Act 2003

2003 asp 1

VALID FROM 01/04/2003

PART 7

FINANCE

35 Capital expenditure limits

(1) It is the duty of a local authority to determine and keep under review the maximum amount which it can afford to allocate to capital expenditure.

(2) In discharging that duty, the local authority shall comply with regulations made by the Scottish Ministers for the purposes of this section.

(3) Those regulations may, in particular, make provision—

(a) prescribing when and in respect of what period determinations under subsection (1) above are to be made;

(b) prescribing how those determinations are to be arrived at and any considerations to which regard is to be had in arriving at them;

(c) prescribing how local authorities are to keep those determinations under review under subsection (1) above and any considerations to which they must have regard in doing so;

(d) requiring local authorities to make to the Scottish Ministers such reports containing such information as is prescribed by the regulations;

(e) requiring the amount determined under subsection (1) above and factors on which the determination was based to be subjected to such process of audit as is prescribed by the regulations;

(f) requiring information about that amount and those factors to be published,

and they may make different provision for different cases or different classes of case.

(4) The considerations referred to in paragraphs (b) and (c) above may include codes of practice referred to in the regulations.

Status: *Point in time view as at 11/02/2003. This version of this part contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Local Government in Scotland Act 2003, Part 7. (See end of Document for details)*

Commencement Information

I1 S. 35 wholly in force at 30.1.2004; s. 35 not in force at Royal Assent see s. 62(2); s. 35(1) in force at 1.4.2003 by S.S.I. 2003/134, **art. 2(1)**, Sch.; s. 35(2)-(4) in force at 30.1.2004 by S.S.I. 2004/28, **art. 2(1)**

VALID FROM 30/01/2004

36 Imposition of capital expenditure limits

(1) The Scottish Ministers may—

(a) by order, set the maximum amounts which local authorities may allocate to capital expenditure;

(b) by direction, set the maximum amounts which a particular local authority may allocate to capital expenditure.

(2) A maximum amount set under subsection (1) above supersedes any corresponding amount determined under section 35 above.

(3) Different amounts may be set under subsection (1) above in relation to different kinds of capital expenditure.

(4) As soon as practicable after the making of an order or direction under subsection (1) above, the Scottish Ministers shall lay before the Scottish Parliament a report containing information about the effect of the order or, as the case may be, direction and the reasons for making it.

37 Capital grants

(1) The Scottish Ministers may make grants to local authorities in respect of their capital expenditure.

(2) Grants made under this section shall be of such amount and may be made subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.

38 Scottish Ministers' power to pay off loans made to local authorities

(1) The Scottish Ministers may make to the Public Works Loan Commissioners or to any other person payment reducing or extinguishing a local authority's liability to the Commissioners or, as the case may be, that other person in respect of a loan made by the Commissioners or that other person to the authority for the purposes of capital expenditure.

(2) If the Scottish Ministers make a payment in pursuance of subsection (1) above they shall—

(a) prepare a report on their reasons for making that payment; and

(b) lay that report before the Scottish Parliament.

39 Provisions supplementary to sections 35 to 38

(1) In sections 35 to 38 above, references to capital expenditure are, in relation to a local authority, references to that expenditure of the authority which, in accordance with proper accounting practices, falls to be capitalised.

(2) In subsection (1) above, "proper accounting practices" is to be construed in accordance with section 12 above.

(3) Sections 35 to 38 above apply to the bodies to which Part VII (finance) of the 1973 Act applies by virtue of section 106(1)(b) of that Act (application of Part VII of that Act to trustees of charities etc. where those trustees are local authorities or members of local authorities) as they apply to local authorities.

(4) The Scottish Ministers may, by order, apply sections 35 to 38 to such other persons, being persons having functions appearing to those Ministers to be similar to those of local authorities, as they think fit.

(5) Before making regulations under section 35 or an order under this section, the Scottish Ministers shall consult such associations of local authorities and such other persons as they think fit.

(6) Regulations made under section 35 above and orders made under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

VALID FROM 08/09/2009

40 Power of local authorities to invest money

(1) A local authority may, in accordance with regulations made under this section, invest money.

(2) The Scottish Ministers may make regulations—
- (a) specifying (by reference or otherwise) the investments or kinds of investments which a local authority may, or may not, make;
- (b) providing that any code or other document containing guidance or advice specified or referred to in the regulations is to have effect for the purpose of regulating the investments or kinds of investments which a local authority may, or may not, make;
- (c) providing for the amendment, disapplication or repeal of any enactment relating to the subject matter of the regulations.

(3) Those regulations may make different provision—
- (a) for investments for different purposes;
- (b) for different local authorities or classes of local authority.

(4) Those regulations may impose requirements as to the obtaining by a local authority of consent to its doing of anything in pursuance of the power conferred on it by virtue of this section.

(5) Those regulations shall be made by statutory instrument which shall, subject to subsection (6) below, be subject to annulment in pursuance of a resolution of the Scottish Parliament.

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Changes to legislation: *There are currently no known outstanding effects for the Local Government in Scotland Act 2003, Part 7. (See end of Document for details)*

(6) No such regulations containing provisions which amend, disapply or repeal any part of the text of an Act are to be made unless a draft of the instrument containing them has been approved by resolution of the Scottish Parliament.

(7) Before making any such regulations, the Scottish Ministers shall consult such associations of local authorities and such other persons as they think fit.

41 Establishment of local authority funds other than general fund: setting of council tax

(1) In section 93 of the 1973 Act—

(a) in subsection (2) (sums which need not be paid into or out of a local authority's general fund) there is inserted at the end—

"(d) with respect to which regulations made by the Scottish Ministers provide that they be paid into or out of a fund (other than the general fund) established by the local authority for the purposes of this paragraph."; and

(b) after that subsection there is inserted—

"(3) A statutory instrument containing regulations under subsection (2)(d) above shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.".

(2) In section 93 of the Local Government Finance Act 1992 (c. 14)—

(a) in subsection (4) (calculation of the part of a local authority's expenses falling to be met out of council tax) there is inserted at the end " but not of any amounts in such fund (other than the local authority's general fund) as is established by the authority under regulations made for the purposes of this subsection. "; and

(b) after that subsection there is inserted—

"(5) Regulations made under subsection (4) above shall specify what kind of sums are to be paid into or out of the fund established under the regulations.".

Status:
Point in time view as at 11/02/2003. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Local Government in Scotland Act 2003, Part 7.