
Status: Point in time view as at 08/09/2000.

Changes to legislation: Local Government (Scotland) Act 1975, SCHEDULE 3 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 16.

BORROWING AND LENDING BY LOCAL AUTHORITIES AND CERTAIN OTHER BODIES AND CERTAIN OF THEIR FUNDS

Borrowing

- 1 (1) Without prejudice to section 69 of the Act of 1973 (subsidiary powers of local authorities), a local authority may borrow such sums as may be required for any of the following purposes—
- (a) for acquiring any land which the authority have power to acquire;
 - (b) for erecting any building which the authority have power to erect;
 - (c) for the execution of any permanent work or the provision of any plant or the doing of any other thing which the authority have power to execute, provide or do and which involves expenses of a capital nature or for the payment of any sum of a capital nature;
 - (d) for the purpose of lending to a relevant authority or to any community council established for the area of the local authority or any part thereof under Part IV of the Act of 1973;
 - (e) for any other purpose for which the authority are authorised under any enactment to borrow.

[^{F1}(2) With the consent of the Secretary of State, a local authority may borrow, on such terms and conditions as to repayment as the Secretary of State may in so consenting allow, such sums as are required to meet expenses, other than expenses to which sub-paragraph (1) above relates, which the authority have power to incur in the exercise of any of their functions (excluding functions relating to a public utility undertaking); but the Secretary of State shall give such consent only if satisfied that the expenses are of such a nature that they should be met by such borrowing.]

- (3) A local authority may borrow such sums as are necessary in order to provide working capital or to meet any other expenses, not being expenses of a capital nature, required for the purposes of any public utility undertaking carried on by the authority:

Provided that—

- (a) the total sums borrowed under this sub-paragraph and for the time being outstanding shall not, except with the consent of the Secretary of State, 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 sub-paragraph to defray expenses shall be repaid as soon as reasonably practicable and in any case before the expiration of the period within which money borrowed to meet such expenses is ordinarily repaid in the case of such an undertaking, so however that any sum borrowed under this sub-paragraph shall be repaid before the expiration of two years from the date of borrowing, unless the consent of the Secretary of State is obtained to repayment thereof being spread over a longer period,

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and such consent may be given subject to such conditions as the Secretary of State may determine.

^{F2}(4)

(5) In this paragraph “public utility undertaking” means a transport or other revenue-producing undertaking of a local authority.

Textual Amendments

- F1** Sch. 3 para. 1(2) substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 27](#)
- F2** Sch. 3 para. 1(4) repealed (1.4.1996) by [1994 c. 39, s. 180\(2\)](#), [Sch. 14](#); [S.I. 1996/323, art. 4\(1\)\(d\)](#), [Sch. 2](#)

- 2 (1) Where a local authority are authorised under a statutory borrowing power to borrow money, they may raise the money—
- (a) by mortgage,
 - (b) by overdraft from a bank,
 - (c) by the issue of stock,
 - (d) by the issue of bonds,
 - (e) by the issue of bills,
 - (f) by an agreement entered into with the Public Works Loan Commissioners under section 2 of the ^{M1}Public Works Loans Act 1965, or
 - (g) by any other means approved by the Secretary of State with the consent of the Treasury.

(2) The powers conferred by this paragraph shall be exercisable subject to and in accordance with the following provisions of this Schedule; and a local authority having power under a local enactment to borrow money by way of any method referred to in sub-paragraph (1) above shall not exercise that power in accordance with the provisions of that enactment.

Marginal Citations

- M1** [1965 c. 63.](#)

- 3 A local authority may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which they may temporarily require—
- (a) for the purpose of defraying expenses (including the payment of sums due by them to meet the expenses of other authorities) pending the receipt of revenues receivable by them in respect of the year in which those expenses are chargeable;
 - (b) for the purpose of the raising of a loan in the exercise of any statutory borrowing power.
- 4 The power of a local authority to borrow money by any means includes power to raise money by those means outside the United Kingdom or in a foreign currency, but only with the consent of, and in accordance with any conditions specified by, the Treasury.
- 5 (1) The Secretary of State may by regulations made with the consent of the Treasury—

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- (a) prescribe the form of any mortgage to be entered into for the purpose of any borrowing by a local authority,
 - (b) regulate the issue of stocks and bonds or the creation of any other security for any such purpose, including the terms on which they are to be issued or created,
 - (c) regulate the manner of transfer, dealing with and redeeming any mortgage created, or stocks or bonds issued or any other security created for any such purpose,
 - (d) apply all or any of the provisions of sections 194 and 197 of the Act of 1973 (execution of deeds and inspection and deposit of documents) with or without modifications, to any such mortgage, stock, bonds or other security,
 - [^{F3}(dd) make provision for the custody and, where appropriate, eventual destruction of documents relating to any such stocks or bonds,]
 - (e) make such incidental, consequential and supplemental provision as appears to the Secretary of State to be necessary or proper for bringing the regulations into operation and giving them full effect.
- (2) Different provisions may be made under this paragraph for securities of different classes.
- (3) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F3 Sch. 3 para. 5(1)(dd) inserted by Stock Transfer Act 1982 (c. 41, SIF 69), s. 5(2)

- 6 (1) A local authority may borrow by the issue of bills, payable within twelve months from the date of issue—
- (a) any sum which they are authorised to borrow under a statutory borrowing power; or
 - (b) such sums as may be required for the purpose of defraying expenses (including those payable by them to meet the expenses of other local authorities) pending the receipt of revenues receivable by them in respect of the year in which those expenses are chargeable.
- (2) The aggregate of the amount outstanding on bills issued by a local authority under sub-paragraph (1) above shall not exceed—
- (a) a sum equal to such proportion of the authority's estimated gross income from [^{F4}rates, [^{F5}the council tax and the council water charge]] during the current year as may be prescribed by an order made by the Treasury; or
 - (b) if no such proportion is so prescribed, a sum equal to one-fifth of the authority's estimated gross income as aforesaid.
- (3) A local authority shall not borrow by the issue of bills in any year during which the authority's estimated gross income as aforesaid does not exceed £3 million or such other sum as may be prescribed by an order made by the Treasury.
- (4) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Textual Amendments

- F4** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 6, Sch. 1 Pt. III para. 34](#)
- F5** Words in [Sch. 3 para. 6](#) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 117\(1\), Sch. 13 para. 44\(a\)](#) (with [s. 118\(1\)\(2\)\(4\)](#)); [S.I. 1993/575, art. 2\(c\)](#).

7 A local authority may issue bonds transferable by delivery (with or without endorsement) and other securities so transferable, but only with the consent of, and in accordance with any conditions specified by, the Treasury.

8 (1) Subject to the provisions of this paragraph and notwithstanding anything in any other enactment, all money borrowed under any statutory borrowing power by a local authority shall be secured upon the whole funds, rates and revenues of the authority and not otherwise; and all money borrowed by a local authority by whatever method shall be deemed to have the same charge and security and shall rank *pari passu*.

In this sub-paragraph references to sums borrowed by a local authority shall be deemed to include references to any sum which was borrowed by some other authority, and which the local authority in consequence of a transfer of functions or otherwise are liable to repay to the creditors.

- (2) The interest and dividends for the time being payable in respect of money so borrowed by a local authority shall be the first charge on the rates and revenues comprising the security for the said money.
- [^{F6}(3) Sub-paragraphs (1) and (2) above shall not apply in the case of money borrowed for the purpose of the common good, nor shall the security created by those sub-paragraphs include the common good or the revenues thereof.]
- (4) Sub-paragraphs (1) and (2) above shall not apply in the case of money borrowed by a local authority for the purposes of any trust under any deed of trust or other document, nor shall the security created by those sub-paragraphs include the funds held under any such trust.

Textual Amendments

- F6** [Sch. 3 para. 8\(3\)](#) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 100\(9\)\(a\)](#) (with [s. 128\(2\)](#)); [S.I. 1996/323, art. 4\(1\)\(c\)](#)

9 Two or more local authorities may combine to exercise their powers of borrowing under this Schedule jointly, and where they do so—

- (a) any limit on the amount which each authority may borrow shall apply to the amount which each authority receive from the joint loan;
- (b) paragraph 8 above shall apply to the money so borrowed as if references to a local authority were references to the local authority by whom the money is received.

Loans

10 (1) A local authority may lend to another authority mentioned in sub-paragraph (2) below, on such terms as may be agreed between them, such sums as that other authority may require for any purpose for which that other authority are authorised

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to borrow money by or under this Act or any other enactment; and they may also lend such sums as they consider appropriate to a community council established for their area or any part thereof, on such terms as may be agreed between them.

- (2) The authorities to whom sums may be lent under sub-paragraph (1) above are any authority to which section 118 of the Act of 1973 applies or any other public authority approved by the Secretary of State for the purposes of this paragraph.
- 11 (1) A local authority may make loans to a harbour authority for a harbour wholly or partly situated within the area of the local authority, on such terms as may be agreed between them, for any purpose for which the harbour authority are authorised to borrow money.
- (2) In this paragraph “harbour” and “harbour authority” have the same meanings as in the ^{M2}Harbours Act 1964.

Marginal Citations

M2 1964 c. 40.

Loans fund

- 12 (1) Subject to the following provisions of this Schedule, a local authority shall, as from [^{F7}1st April 1996], establish a fund (“the loans fund”) which shall be applicable to all money borrowed by the authority and the redemption or repayment thereof and the payment of interest or dividends thereon and shall be part of the general fund of the authority; and the loans fund shall be administered in accordance with paragraphs 13 to 21 below.
- [^{F8}(1A) Sub-paragraph (1) above, so far as it relates to the establishment of a loans fund, does not apply to the councils of Orkney Islands, Shetland Islands and Western Isles, whose loans funds will continue in existence.]
- [^{F9}(2) A loans fund shall not apply to money borrowed for the common good.]

Textual Amendments

- F7** Words in Sch. 3 para. 12(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 100(9)(b) (with s. 128(2)); S.I. 1996/323, art. 4(1)(c)
- F8** Sch. 3 para. 12(1A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 100(9)(c) (with s. 128(2)); S.I. 1996/323, art. 4(1)(c)
- F9** Sch. 3 para. 12(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 100(9)(d) (with s. 128(2)); S.I. 1996/323, art. 4(1)(c)

- 13 (1) All capital assets and liabilities which are transferred to a local authority from an authority which ceases to exist on [^{F10}1st April 1996], other than property which is subject to [^{F11}section 17 of the Local Government etc. (Scotland) Act 1994 or which is referred to in section 15(5) or 16 of that Act], shall be paid into or transferred to the loans fund of the local authority.
- (2) All investments transferred to the loans fund as from [^{F10}1st April 1996] shall be entered in the accounts of the loans fund at the value shown on the account from which they are transferred.

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Textual Amendments

- F10** Words in Sch. 3 para. 13(1)(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(b)** (with s. 128(2)); S.I. 1996/323, **art. 4(1)(c)**
- F11** Words in Sch. 3 para. 13(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(e)** (with s. 128(2)); S.I. 1996/323, **art. 4(1)(c)**

- 14 Any statutory borrowing power vested in a local authority on or after [^{F12}1st April 1996] shall be exercisable by them only in the following manner—
- (a) by borrowing in accordance with this Schedule and carrying to the loans fund such sums as are necessary to enable that fund to make to the appropriate borrowing account of the local authority or to a relevant authority the advances which are required for the purpose for which the statutory borrowing power is available; and
 - (b) by making from the loans fund such advances to the appropriate borrowing account of the local authority or to a relevant authority, as the case may be.

Textual Amendments

- F12** Words in Sch. 3 para. 14 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(b)** (with s. 128(2)); S.I. 1996/323, **art. 4(1)(c)**

- 15 (1) Subject to sub-paragraph (2) below [^{F13}and to sub-paragraph (2) of paragraph 1 above], all sums advanced to a borrowing account of a local authority or to a relevant authority shall be repaid within the fixed period by equal yearly or half-yearly instalments of principal, or, where repayment is on the annuity system, by equal yearly or half-yearly instalments of principal and interest combined; and the authority shall in each year debit the borrowing account or charge to the relevant authority the sums required in that year for the repayment of the advance.
- (2) In any case where—
- (a) a local authority make an advance to any person and the expenditure incurred in making the advance is defrayed by borrowing; and
 - (b) the terms of that advance are such that repayment is to be made otherwise than by equal yearly or half-yearly instalments of principal or of principal and interest combined; and
 - (c) apart from this sub-paragraph, the local authority would have no power, with respect to the expenditure referred to in paragraph (a) above, to vary the sums which would otherwise be debited or charged under sub-paragraph (1) above or to suspend their obligation under that sub-paragraph;
- the local authority may, under sub-paragraph (1) above, debit to the borrowing account from which, or charge to the relevant authority by whom, the expenditure referred to in paragraph (a) above would otherwise fall to be defrayed, sums of different amounts (whether or not including instalments of principal) in respect of different years in order to take account of the terms on which their advance falls to be repaid.
- (3) Subject to paragraph 16 below, the first payment to the loans fund shall be made within twelve months, or where the money is repayable by half-yearly instalments within six months, from the date of the advance.

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Textual Amendments

F13 Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 36\(a\)](#)

- 16 (1) Where a sum is advanced from the loans fund in accordance with paragraph 14 above 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 revenue-producing character;
 - (b) carrying out on land any other operations, being operations of a prescribed kind or operations specified in relation to that land by direction of the Secretary of State;
 - (c) acquiring land for the purpose of the construction thereon of new, or 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 the carrying out thereon of operations of a kind prescribed by virtue of paragraph (b) above, or operations specified in relation to that land by direction of the Secretary of State;
 - (d) acquiring land specified by direction of the Secretary of State;
- the authority may, subject to the consent of the Secretary of State, suspend in whole or in part any annual provision required under paragraph 15 above for the repayment from the borrowing account or by the relevant authority of the sum so advanced for such period (not being a period longer than the period during which the expenditure remains unremunerative or the period of five years from the commencement of the year next after that in which the expenditure commences to be incurred, whichever is the shorter) and subject to such conditions as the Secretary of State may determine.
- (2) Where any annual provision required to be made for the repayment of any sum has been suspended under sub-paragraph (1) above, a local authority may borrow for the purpose of payment, during the period of the suspension, of interest on that sum.
- (3) Where by virtue of paragraph 15 above a local authority are required to debit a sum to the borrowing account or charge a sum to a relevant authority and they suspend, in whole or in part, any annual provision for the repayment of the principal, they may refrain from debiting to that account or charging to the relevant authority an amount equal to the amount of the annual provision so suspended.
- (4) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State.
- 17 (1) The authority shall at the time an advance is made under paragraph 14 above determine—
- (a) the period within which the advance is to be repaid to the loans fund, being a period not exceeding the fixed period; and
 - (b) the amount of each of the periodical payments required to repay the advance within the period so determined, and the date on which the first of the said payments is to be made.
- (2) The periodical payments shall be either equal yearly or half-yearly instalments of principal or, where the advance is to be repaid on the annuity system, equal yearly or half-yearly instalments of principal and interest combined, the amount of principal included in each instalment being separately stated.

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- (3) The periodical payments shall so far as practicable be so adjusted as to be expressed in complete pounds.
- (4) This paragraph shall apply with the necessary modifications in the case of advances from the loans fund to a relevant authority.
- 18 In the event of it appearing at any time from a report by the Controller of Audit or otherwise that the authority specified therein have failed duly to make payment of interest or of the appropriate periodical sums required to be set aside for the repayment of advances made from the loans fund as aforesaid, or that the provisions of this Schedule or any regulations made thereunder have otherwise not been duly complied with, the Secretary of State may apply by petition to the Court of Session to have the authority ordained to make such payment and to comply in such other manner with the provisions of this Schedule or such regulations as may be necessary in the circumstances, and the Court are hereby authorised to do therein as shall appear to be just.
- 19 Without prejudice to paragraph 18 above, the Secretary of State may from time to time as he thinks fit cause an investigation to be made into the administration of the loans fund of the authority, who shall bear the expenses of such investigation.
- 20 (1) If at any time any sums due by way of principal or interest on any security created by a local authority remain unpaid for a period of two months after demand in writing, the person entitled thereto, being the holder of such a security to the amount of not less than £1,000, or the persons entitled thereto, being the holders of such securities amounting together to not less than £2,000, may present a petition to the Court of Session for the appointment of a judicial factor, and the Court may, if they think fit, appoint a judicial factor.
- (2) Subject to the directions of the Court, the judicial factor shall have all the powers of the local authority [^{F14}of levying rates, [^{F15}the council tax and the council water charge]], making requisitions on [^{F16}other local authorities] and collecting and recovering sums due to the authority in respect of rates or requisitions and any other sums whatsoever due to the authority and such other powers and duties as the Court think fit, and shall apply all money received by him, after payment of expenses including a proper remuneration for his trouble, as the Court direct for the purposes of this Schedule.
- (3) The judicial factor shall have such access to and use of the books and documents of the local authority as he may require.
- (4) The powers conferred by this paragraph shall be in addition to and not in derogation of any other powers competent to the holder of a security for enforcing payment of the sums due under the security.

Textual Amendments

- F14** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 6, Sch. 1 Pt. III para. 35\(a\)](#)
- F15** Words in Sch. 3 para. 20(2) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 117\(1\), Sch. 13 para. 44\(b\)](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(c\)](#).
- F16** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 6, Sch. 1 Pt. III para. 35\(b\)](#)

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- 21 (1) Notwithstanding anything in this Schedule, the Secretary of State may by regulations make such provision as appears to him necessary or expedient with respect to the operation of the loans fund of a local authority and such regulations may apply generally or in the case of any particular authority or class of authority.
- (2) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Capital, Renewal and Repair Funds

- 22 (1) Subject to the provisions of this Schedule, a local authority may establish [^{F17}any] of the following funds—
- (a) a capital fund, to be used for defraying any expenditure of the authority to which capital is properly applicable, or in providing money for repayment of the principal of loans (but not any payment of interest on loans);
 - (b) a renewal and repair fund, to be used for the purpose of defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the authority.
 - [^{F18}(ba)] an insurance fund, to be used for the following purposes, namely—
 - (i) where the authority could have insured against a risk but have not done so, defraying any loss or damage suffered, or expenses incurred, by the authority as a consequence of that risk;
 - (ii) paying premiums on a policy of insurance against a risk.]
 - (c)
- (2) A fund established by a local authority under this paragraph shall not be used to meet, directly or indirectly, any expenditure incurred by the authority for the purposes of [^{F19}...]
- [^{F20}(c)]
 a statutory undertaking of the authority, being a transport, district heating, harbour, dock, pier or ferry undertaking or a market or civic restaurant [^{F21}]; and if the renewal and repair fund [^{F22}or the insurance fund] is used so to meet expenditure incurred by the authority in relation to any house, or other property, to which their housing revenue account relates, the amount in question shall, subject to paragraph 1(7) of Schedule 4 to the [^{M3}Housing (Financial Provisions) (Scotland) Act 1972, first to be carried to the credit of that account].
- In this sub-paragraph, “pier” and “ferry” do not include a pier or ferry provided under section 2(2) of the [^{M4}Local Government (Development and Finance) (Scotland) Act 1964.
- (3) Notwithstanding anything in any enactment, pending the application of any such fund as aforesaid for the purposes authorised by this paragraph, the money in the fund shall (unless applied in any other manner authorised by any enactment) be advanced to the loans fund or invested in trustee securities.
- (4) The provisions of this paragraph shall be in addition to and not in substitution for any other enactment authorising a local authority to establish a fund for a purpose for which a fund may be established under this paragraph; and a local authority may amalgamate any fund established by them under any other enactment with any corresponding fund established by them under this paragraph.

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- F17** Word substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32(1), **Sch. 6 para. 11(2)(a)**
- F18** Sch. 3 para. 22(1)(ba) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(f)(i)** (with s. 128(2)); S.I. 1994/2850, **art. 3(c)(ix)**
- F19** Words in Sch. 3 para. 22(2) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(2)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**
- F20** Schedule 3 para. 23(2) subparagraph letter (c) inserted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para. 44(c)** (with s. 118(1)(2)(4))
- F21** Words inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 17
- F22** Words in Sch. 3 para. 22(2) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(f)(ii)** (with s. 128(2)); S.I. 1994/2850, **art. 3(c)(ix)**

Marginal Citations

- M3** 1972 c.46 (61).
- M4** 1964 c. 67.

- 23 (1) Subject to sub-paragraph (2) below, a local authority by whom a capital fund is established under paragraph 22 above may pay into that fund—
- (a) any sums derived from the sale of any property of the local authority, not being property held by them for any such purposes as are mentioned in paragraph 22(2) above; and
- (b) such sums as the local authority may from time to time by resolution direct; and shall pay into that fund a sum equal to the amount of any income arising from the fund.
- (2) Except with the consent of the Secretary of State, money received from the disposal of any property to which the local authority's housing revenue account relates shall not be paid into any such capital fund.
- (3) All money applied from any such capital fund may, if the local authority think fit, be repaid from the account to which that money is advanced by such annual instalments (with or without interest) and within such period as the local authority may determine.
- 24 (1) A local authority by whom a renewal and repair fund [^{F23}, or an insurance fund,] is established under paragraph 22 above may from time to time pay into that fund such sums as they may by resolution direct.
- (2) The purposes for which any such renewal and repair fund may be applied shall not include the defraying of expenditure of an undertaking of the local authority in respect of which the authority are authorised to provide a reserve fund.

Textual Amendments

- F23** Words in [Sch. 3 para. 24\(1\)](#) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(g)** (with s. 128(2)); S.I. 1994/2850, **art. 3(c)(ix)**

^{F24}24A

Status: Point in time view as at 08/09/2000.

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Textual Amendments

F24 Sch. 3 para. 24A repealed (1.4.1995) by 1994 c. 39, s. 180(2), Sch. 14 (with s. 128(2)); S.I. 1995/702, art. 3(e), Sch. 1

- 25 (1) Notwithstanding anything in any enactment, a local authority may use, for any purpose for which the authority has a statutory borrowing power, any money forming part of, but not for the time being required for the purposes of, any fund of theirs to which this paragraph applies; and where any such money is so used the following provisions of this paragraph shall have effect.
 - (2) The money so used shall be repaid to the said fund as follows:—
 - (a) it shall be repaid as and when it is required for the purposes of that fund;
 - (b) if not required to be repaid earlier under paragraph (a) above, it shall be repaid within the period within which a loan raised under the statutory borrowing power would be repayable, or at such time before the expiration of that period as the authority may resolve.
 - (3) The statutory borrowing power shall be deemed to be exercised by the use of money under this paragraph as fully in all respects as if a loan of the same amount had been raised in exercise of the power.
 - (4) This paragraph applies to any fund established for the repayment of debt, or as a reserve, or for the maintenance, renewal or repair of property, or for superannuation of staff, or for insurance, or otherwise for meeting future expenditure of a capital or non-recurring nature, or for any like purpose.
 - (5) In this paragraph “statutory borrowing power” does not include the power to borrow by way of temporary loan or overdraft conferred by paragraph 3 above.
 - (6) The powers conferred by this paragraph are in addition to, and not in derogation of, the powers conferred by or under any other enactment.

Miscellaneous

26 A person lending money to a local authority shall not be bound to inquire whether the borrowing of the money is legal or regular or whether the money raised was properly applied and shall not be prejudiced by any illegality or irregularity, or by the misapplication or non-application of any of that money.

27 F25

Textual Amendments

F25 Sch. 3 para. 27 repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2)(3), Sch. 23 para. 23(1)(a), Sch. 24

- 28 (1) Subject to ^{F26} . . . sub-paragraph (2) below, the provisions of this Schedule shall, subject to any necessary modifications, apply to a joint board having power to borrow money [^{F27}and], [^{F28}the Strathclyde Passenger Transport Authority]. . . ^{F29} . . . as they apply to a local authority.
 - (2) The Secretary of State may by regulations make such provisions as seem to him necessary or expedient with respect to the application of the provisions of this .

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- [^{F30}(a) a joint board; and]
 [^{F31}(b) the Strathclyde Passenger Transport Authority]

(3) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F26** Words in Sch. 3 para. 28(1) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(2)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**
- F27** Word in Sch. 3 para. 28(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 32(3)(a)(i)** (with ss. 7(6), 115, 117)); S.I. 1996/186, **art. 3**
- F28** Words in Sch. 3 para. 28(1) inserted (31.3.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(h)(i)** (with s. 128(2)); S.I. 1996/323, **art. 3(a)**
- F29** Words in Sch. 3 para. 28(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 32(3)(a)(ii), **Sch. 24** (with ss. 7(6), 115, 117)); S.I. 1996/186, **art. 3**
- F30** Sch. 3 para. 28(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 32(3)(b)** (with ss. 7(6), 115, 117)); S.I. 1996/186, **art. 3**
- F31** Words in Sch. 3 para. 28(2) inserted for the words “Schedule to” to the end (31.3.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(h)(ii)** (with s. 128(2)); S.I. 1996/323, **art. 3**

- 29 Save as otherwise expressly provided, the provisions of this Schedule in their application to money borrowed before the commencement of this Act by a local authority under a local enactment shall be subject to the provisions of such local enactment so far as inconsistent with the provisions hereof.
- [^{F32}30 Nothing in this Schedule shall affect the power of a council having a common good to borrow on the security of the common good or any loan secured thereon.]

Textual Amendments

- F32** Sch. 3 para. 30 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(i)** (with s. 128(2)); S.I. 1996/323, **art. 4(1)(c)**

- 31 In this Schedule, unless the context otherwise requires—
- “advance”, in relation to the loans fund and a borrowing account of a local authority, means the transfer of money by way of loan from the loans fund to the appropriate borrowing account in exercise of a statutory borrowing power;
- “borrowing account”, in relation to a local authority, means an account of the authority relating to a purpose for which the authority have a statutory borrowing power;
- [^{F33}“council tax” shall be construed in accordance with the provisions of section 70(1) of the Local Government Finance Act 1992;
- ^{F33}“council water charge” shall be construed in accordance with the provisions of paragraph 6 to Schedule 11 to the Local Government Finance Act 1992;]
- [^{F34}“community charges” shall be construed in accordance with section 7 (creation and purpose of community charges) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

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“^{F34}community water charges” shall be construed in accordance with paragraph 6 of Schedule 5 to the said Act of 1987;]

“fixed period”, in relation to any sum advanced to a borrowing account or to a relevant authority, means such period not exceeding 30 years from the date of the advance as the local authority determine or such other period as the Secretary of State may determine in any particular case or [^{F35}, from time to time, for any class of cases or] for the purpose of any enactment;

“loans fund” means the loans fund established under this Schedule;

“mortgage” means a deed containing an assignation by way of security of the funds, rates and revenues of a local authority;

“relevant authority” means any authority to whom a local authority may make a loan under paragraph 10 or 11 above;

“security”, in relation to a local authority, means a mortgage, a bond, a deposit receipt or other document of debt issued by the authority and the security created thereby (including stock created by the authority or a certificate in respect of such stock) by or under any enactment, but does not include . . . ^{F36} a heritable security or other deed of security or document of debt affecting the common good of an islands area or district;

“statutory borrowing power” means any power to borrow money conferred on a local authority by or under any enactment, but does not include the power of an islands or district council to borrow for the purposes of the common good;

“trustee securities” means any security in which trustees are for the time being authorised by law to invest trust money.

Textual Amendments

- F33** Definitions in Sch. 3 para. 31 of "council tax" and "council watercharge" inserted (1.4.1993) by *Local Government Finance Act 1992* (c. 14), s. 117(1), **Sch. 13 para. 44(d)** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(e)**.
- F34** Definitions in Sch. 3 para. 31 of "community charges" and "community watercharges" (which were inserted by *Abolition of Domestic Rates Etc. (Scotland) Act 1987* (c. 47), s. 6, **Sch. 1 para. 36**) repealed (1.4.1993) by *Local Government Finance Act 1992* (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(d)**.
- F35** Words inserted by *Local Government (Miscellaneous Provisions) (Scotland) Act 1981* (c. 23, SIF 81:2), **Sch. 3 para. 36(b)**.
- F36** Words repealed by *Housing (Scotland) Act 1987* (c. 26, SIF 61), ss. 335, 339(2)(3), Sch. 23 para. 23(1)(b), **Sch. 24**.

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