



# Local Government Finance Act 1982

## 1982 CHAPTER 32

An Act to abolish supplementary rates and supplementary precepts; to require rates and precepts to be made or issued for complete financial years; to provide for the making of substituted rates and the issue of substituted precepts; to regulate proceedings for challenging the validity of rates and precepts; to make further provision with respect to the borrowing powers of local authorities and with respect to relief from rates in enterprise zones; to amend the provisions relating to block grant; to make new provision for auditing the accounts of local authorities and other public bodies; and for connected purposes. [13th July 1982]

### Commencement Information

**II** Act wholly in force at Royal Assent.

## PART I

### RATES, PRECEPTS AND BORROWING

**1** ..... <sup>F1</sup>

### Textual Amendments

**F1** S. 1 repealed by S.I. 1990/776, art. 3, Sch. 1

## **2** Limitation of precepting powers.

A precepting authority shall not have power—

- (a) to issue a supplementary precept; or
- (b) to issue a precept in respect of any period other than a financial year.

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

### 3 Substituted rates and precepts.

- (1) Subject to subsection (2) below—
  - (a) a rating authority may make a rate for a financial year in substitution for a rate previously made by it for that year; and
  - (b) a precepting authority may issue a precept in respect of a financial year in substitution for a precept previously issued by it in respect of that year.
- (2) The estimated product of a substituted rate or precept shall not exceed the estimated product of the rate or precept for which it is substituted (the “original” rate or precept); and for the purposes of this subsection the product of a substituted rate or precept shall be estimated by reference to the same gross rateable value as the product of the original rate or precept.
- (3) Section 12(6) of the <sup>M1</sup>General Rate Act 1967 (which requires a precept to be issued or notified before the beginning of a financial year) shall not apply to a precept issued by virtue of subsection (1)(b) above.
- (4) Where a precept is substituted by virtue of this section any authority which has made a rate by reference to the original precept—
  - (a) shall under subsection (1)(a) above make a substituted rate by reference to the substituted precept; and
  - (b) shall be entitled to recover from the precepting authority—
    - (i) its administrative expenses in making repayments and allowing credits under subsections (5) and (6) below in respect of the original rate; and
    - (ii) any increase attributable to paragraph (a) above in its rate collection expenses for the financial year;

and in relation to the substituted rate made pursuant to paragraph (a) above the estimated product of the original rate shall for the purposes of subsection (2) above be treated as reduced by the difference (if any) between the estimated products of the original and the substituted precepts.
- (5) Where a rate or precept is substituted by virtue of this section any sum paid to the rating or precepting authority in respect of the original rate or precept (including any sum paid by way of an instalment or other part payment) shall—
  - (a) to the extent to which it would have been payable if the original rate or precept had corresponded to the substituted rate or precept, be treated as paid in respect of the substituted rate or precept; and
  - (b) as to any excess, be repaid if the ratepayer by whom that sum was paid or, as the case may be, the authority to which the precept was issued so requires.
- (6) Where repayment of any amount is not required under subsection (5)(b) above that amount shall, as the rating or precepting authority may determine, either be repaid or—
  - (a) in the case of an amount paid in respect of a rate, be credited against any subsequent liability of the ratepayer for rates in respect of the hereditament in question;
  - (b) in the case of an amount paid in respect of a precept, be credited against any subsequent liability of the authority to which the precept was issued in respect of precepts issued to it by the precepting authority.
- (7) Where a person as tenant or licensee of any premises—

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- (a) is liable to make payments (whether as part of his rent or otherwise) which vary or may vary according to the rates chargeable in respect of those premises; or
- (b) is entitled to make deductions from his rent in respect of those rates,
- he shall, where a rate affecting those premises is substituted by virtue of this section, be entitled to recover or, as the case may be, liable to make good so much of any payment or deduction as he would not have been liable or entitled to make if the original rate had corresponded to the substituted rate; and any sum which he is entitled to recover as aforesaid may, without prejudice to any other method of recovery, be deducted by him from any rent payable by him to the person by whom that sum was received.
- (8) This section applies whether or not the original rate or precept was validly made or issued but shall not be construed as authorising the substitution of a rate or precept for one made or issued after the passing of this Act in contravention of section 1 or 2 above.
- [<sup>F2</sup>(9) Where the original rate or precept has been quashed because it is insufficient to meet the expenditure required to be taken into account under section 2 or 11 of the said Act of 1967, subsection (2) above shall not prevent a substituted rate or precept being made or issued which is sufficient to meet that expenditure.
- (10) Where, whether by virtue of this section or otherwise, a precept is issued to a rating authority after it has made a rate for the financial year to which the precept relates, subsection (2) above shall not prevent a substituted rate being made by the authority for giving effect to the precept; and a rating authority which makes a substituted rate by virtue of this subsection shall be entitled to recover from the precepting authority in question any increase in its administrative or rate collection expenses which is attributable to that rate.]

#### Textual Amendments

**F2** S. 3(9)(10) inserted by [Rates Act 1984 \(c. 33, SIF 103:1\)](#), s. 16(1), [Sch. 1 para. 24](#)

#### Modifications etc. (not altering text)

- C1** S. 3(4): For the words “any authority” there is substituted “or section 8 of the Local Government Finance Act 1987, any authority to which the duty in section 8(1) of that Act does not apply and” by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11, [Sch. 4 paras. 6\(1\)\(2\), 12\(1\)](#). By para. 12(1) it is provided that the amendment shall have effect only in relation to rates for, and precepts in respect of, the financial year beginning in 1987.
- C2** S. 3(4)–(6) applied by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), [ss. 14\(12\), 23\(2\), 27\(2\)](#)
- C3** S. 3(5): After the words “this section” there is inserted the words “or section 8 of the Local Government Finance Act 1987” by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(1), [Sch. 4 paras. 6\(1\)\(3\), 12\(1\)](#). By para. 12(1) it is provided that the amendment shall have effect only in relation to rates for, and precepts in respect of, the financial year beginning in 1987.
- C4** S. 3(7): After the words “this section” there is inserted the words “or section 8 of the Local Government Finance Act 1987” by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(1), [Sch. 4 paras. 6\(1\)\(3\), 12\(1\)](#). By para. 12(1) it is provided that the amendment shall have effect only in relation to rates for, and precepts in respect of, the financial year beginning in 1987.

#### Marginal Citations

**M1** 1967 c. 9.

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**4 Proceedings in respect of rates and precepts.**

- (1) The validity of a precept shall not be questioned except by an application for judicial review; and the validity of a rate shall not be questioned except as aforesaid on any of the grounds mentioned in subsection (2) below.
- (2) The grounds referred to in subsection (1) above in the case of a rate are—
  - (a) that any part of it was made for financing expenditure which the rating authority could not lawfully incur;
  - (b) that it was made by reference to a precept which was wholly or partly invalid; or
  - (c) any other ground not based on facts relating to a particular hereditament or to the inclusion or exclusion of any particular person in or from the rate.
- (3) If on an application for judicial review the court decides to grant relief in respect of a rate on any of the grounds mentioned in subsection (2) above or in respect of a precept it shall quash the rate or precept whether the ground of invalidity relates to the whole or only to a part of it.
- (4) Subsection (1) above is without prejudice to the making of an application for judicial review in any case in which it could be made apart from that subsection.
- (5) Section 7 of the <sup>M2</sup>General Rate Act 1967 (appeal against rate) shall have effect subject to the foregoing provisions of this section, and accordingly the court shall not under that section amend or quash a rate except in relation to a particular hereditament.

**Modifications etc. (not altering text)**

C5 S. 4 extended by [London Regional Transport Act 1984 \(c. 32, SIF 126\), s. 14\(7\)](#)

C6 S. 4 excluded by [Airports Act 1986 \(c. 31, SIF 9\), ss. 34\(2\), 85\(4\)](#)

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**Marginal Citations**

M2 [1967 c. 9.](#)

- 5 (1) ..... F3
- (2) ..... F4

**Textual Amendments**

F3 S. 5(1) repealed (with savings in S.I. 1990/431, [Sch. 1 para. 1\(a\)](#)) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), ss. 194\(2\), 195\(2\), Sch. 12 Pt. 1](#)

F4 S. 5(2)(3) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 102, Sch. 17](#)

- 6 ..... F5

**Textual Amendments**

F5 S. 6 repealed by [S.I. 1990/776, art. 3, Sch. 1](#)

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## **7 Interpretation and commencement of Part I.**

(1) In this Part of this Act—

“financial year” means a period of twelve months beginning with 1st April;

“gross rateable value”, in relation to a rating or precepting authority, means the aggregate of the rateable values of the hereditaments in the authority’s area;

“precepting authority” means an authority having power to issue a precept either to a rating authority or to a county council;

“rate” means a general rate except that—

(a) in the case of the City of London, it includes the poor rate; and

(b) in the case of the Inner Temple and the Middle Temple, it means any rate in the nature of a general rate levied in the Inner Temple or the Middle Temple, as the case may be;

“rating authority” means any authority having power to make a rate under section 1 of the <sup>M3</sup>General Rate Act 1967;

“supplementary precept” means a precept which is issued by a precepting authority—

(a) in respect of (or of part of) a financial year in respect of which it has already issued a precept; and

(b) by way of addition to and not in substitution for that previous precept.

(2) Sections 1 to 3 and 6(1) and (3) above have effect in relation to any financial year beginning on or after 1st April 1982.

(3) Schedule 1 to this Act shall have effect in connection with the coming into force of sections 1 and 2 above.

### **Marginal Citations**

**M3** 1967 c. 9.

## **PART II**

### **BLOCK GRANT**

## **8 Adjustments of distribution of block grant.**

(1) In subsection (6) of section 59 of the <sup>M4</sup>Local Government, Planning and Land Act 1980 (purposes for which the amount of block grant payable to a local authority may be adjusted under that section) after paragraph (c) there shall be inserted—

“(cc) making, in the amount of block grant payable to an authority, adjustments by reference to guidance issued by the Secretary of State and designed to achieve any reduction in the level of local authority expenditure (or any restriction on increase in that level) which he thinks necessary having regard to general economic conditions; and”.

(2) After subsection (11) of the said section 59 there shall be inserted—

“(11A) Any guidance issued for the purposes of subsection (6)(cc) above shall be framed by reference to principles applicable to all local authorities; and before

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issuing any guidance for those purposes the Secretary of State shall consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.”

- (3) The powers conferred by the said section 59 . . . <sup>F6</sup>—
  - (a) . . . . . <sup>F7</sup>
  - (b) shall not be exercised for the purpose specified in paragraph (b) or (c) of [<sup>F8</sup>subsection (6) of that section] so as to decrease the amount of block grant payable to a local authority; and
  - (c) shall be exercisable for the purpose specified in paragraph (cc) of that subsection so as to increase or decrease the amount of block grant payable to a local authority according to whether or the extent to which they have or have not complied (or have or have not taken steps to comply) with the guidance referred to in that paragraph.
  
- (4) If representations in that behalf are made to him by any association of local authorities or by any local authority the Secretary of State may—
  - (a) in the Rate Support Grant Report made for any year under section 60 of the said Act of 1980; or
  - (b) in a supplementary report made for any year under section 61 of that Act, provide that expenditure of any description or amount shall be disregarded for the purposes of paragraph (cc) of subsection (6) of the said section 59 and in determining under subsection (3)(c) above whether or the extent to which local authorities have or have not complied (or have or have not taken steps to comply) with the guidance referred to in that paragraph.
  
- [<sup>F9</sup>(4A) If guidance issued for the purposes of section 59(6)(cc) of the said Act of 1980 is guidance by reference to total expenditure, and if representations in the following behalf are made to the Secretary of State by any association of local authorities or by any local authority, he may—
  - (a) in the Rate Support Grant Report made for any year under section 60 of that Act, or
  - (b) in a supplementary report made for any year under section 61 of that Act, provide that items of any description or amount shall be disregarded in calculating total expenditure for the purposes of the said section 59(6)(cc) and of determining under subsection (3)(c) above whether or the extent to which local authorities have or have not complied (or have or have not taken steps to comply) with the guidance.]
  
- (5) Subsections (2) and (3) of the said section 59 . . . <sup>F10</sup> (which are superseded by subsection (3) above) shall be omitted; . . . <sup>F10</sup>
  
- (6) The powers conferred by the said section 59 . . . <sup>F10</sup> shall not be exercised for the purpose specified in sub-section (6)(cc) of that section except in accordance with principles to be applied to all local authorities; and accordingly subsections (5)(a)(ii) and (7) of that section . . . <sup>F10</sup> shall not apply to any exercise of those powers for that purpose.
  
- (7) A supplementary report made for any year under section 61 of the said Act of 1980 may specify a determination under the said section 59 . . . <sup>F10</sup> in relation to a local authority notwithstanding that no such determination was specified in relation to that authority in the Rate Support Grant Report made for that year under section 60 of that Act.

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- (8) No determination made for the purpose specified in subsection (6)(cc) of the said section 59 and specified by virtue of subsection (7) above in a supplementary report shall be such as to decrease the amount of block grant payable to a local authority in any year to any greater extent than is permissible in accordance with principles specified in that behalf in the Rate Support Grant Report made for that year.
- (9) Where by virtue of subsection (7) above a determination is specified in a supplementary report—
- (a) the principles in accordance with which the power to make the determination are exercised; and
  - (b) [<sup>F11</sup>such explanation as the Secretary of State thinks desirable of the main features of the determination.],
- shall be specified in the supplementary report except that paragraph (a) above shall not apply to any determination which is subject to subsection (8) above.
- (10) This section has effect in relation to block grant for any year beginning on or after 1st April 1981 except that so much of subsection (2) above as relates to consultation and subsection (8) above do not apply to any year beginning before 1st April 1983.
- (11) ..... <sup>F12</sup>

#### Textual Amendments

- F6** Words repealed by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 38, **Sch. 6 Pt. III**
- F7** [S. 8\(3\)\(a\)](#) repealed (and superseded in part) by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), ss. 2(1), 3, [Sch. 1 para. 5](#), **Sch. 2**
- F8** Words substituted by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, **Sch. 1 para. 5**
- F9** [S. 8\(4A\)](#) inserted by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(1), [Sch. 4 paras. 7, 12\(3\)](#)
- F10** Words repealed by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 38, **Sch. 6 Pt. III**
- F11** Words substituted (*retrospectively*) by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, **Sch. 1 para. 9**
- F12** [S. 8\(11\)](#) repealed by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 38, **Sch. 6 Pt. III**

#### Modifications etc. (not altering text)

- C7** The text of s. 8(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C8** [S. 8\(3\)\(c\)](#) amended by [Rate Support Grants Act 1988 \(c. 51, SIF 81:1\)](#), **s. 2(1)(b)(2)(3)**
- C9** [S. 8\(4A\)](#) excluded by [Rate Support Grants Act 1988 \(c. 51, SIF 81:1\)](#), **s. 2(6)**
- C10** [S. 8\(6\)](#) modified by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), **ss. 80(2), 106**

#### Marginal Citations

- M4** [1980 c. 65](#).

## 9 Information for purposes of block grant.

- (1) The Secretary of State shall have power to require any information submitted to him by a local authority under section 65(1) of the <sup>M5</sup>Local Government, Planning and Land Act 1980 (information for purposes of block grant) to be certified under arrangements made by the Audit Commission established under Part III of this Act.

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(2) ..... F13

#### Textual Amendments

**F13** S. 9(2)(3) repealed by Local Government Finance Act 1987 (c. 6, SIF 81:1), s. 11(2), **Sch. 5** (the repeal being subject to the provision at the end of that Sch.)

#### Marginal Citations

**M5** 1980 c. 65.

### 10 Block grant for Receiver for the Metropolitan Police District.

- (1) Schedule 2 to this Act shall have effect for enabling block grant to be paid to the Receiver for the Metropolitan Police District.
- (2) This section has effect for any year beginning on or after 1st April 1983.

## PART III

### ACCOUNTS AND AUDIT

#### Modifications etc. (not altering text)

- C11** Pt. III (ss. 11–36): certain functions transferred by S.I. 1989/814, **art. 11(b)**, by S.I. 1989/1359, **reg. 11(b)** and by S.I. 1989/2470, **art. 12(b)**  
Pt. III (ss. 11–36): certain functions transferred by S.I. 1991/517, **arts. 2(d)**, 3 (b).
- C12** Pt. III (ss. 11–36) extended by Local Government Act 1985 (c. 51, SIF 81:1), **ss. 63(1)(2)**, 79(1)(8)
- C13** Pt. III (ss. 11–36) amended by Local Government and Housing Act 1989 (c. 42, SIF 81:1), **s. 66(5)(b)**  
Pt. III (ss. 11–36) amended (29.4.1996) by 1996 c. 10, **s. 3(5)(a)**  
Pt. III amended (28.11.1994) by S.I. 1994/2825, **regs. 19, 23**
- C14** Pt. III (ss. 11–36) modified (16.1.1990 to the extent mentioned in S.I. 1989/2445, **art. 4**, otherwise 7.10.1993) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), **s. 70(2)(4)**; S.I. 1993/2410, **art.3**  
Pt. III (ss. 11–36) modified (3.4.1995) by 1994 c. 19, S. 66(7), **Sch. 17 Pt. II para. 12(4)**; S.I. 1995/852, **art. 9(1)**, **Sch. 5**
- C15** Pt. III (ss. 11–36) extended (6.3.1992) by Local Government Act 1992 (c. 19), **s. 29(1)**.  
Pt. III (ss. 11–36) extended (5.7.1994) by 1994 c. 19, s. 39, **Sch. 13 para. 16(1)**  
Pt. III (ss. 11–36) extended (1.4.1995) by S.I. 1995/401, **art. 12(1)**
- C16** Pt. III (ss. 11–36) applied (4.5.1995 until 1.4.1996) by S.I. 1995/1042, **arts. 2,4(1)**
- C17** Power to apply Pt. III (ss. 11–36) conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (f); S.I. 1997/1930, **art. 2(2)(m)**

#### *The Audit Commission*

### 11 Establishment of Audit Commission.

- (1) For the purposes of this Part of this Act there shall be a body to be known as the Audit Commission for Local Authorities [<sup>F14</sup>and the National Health Service] in England and Wales.



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- (2) The Commission shall consist of not less than [<sup>F15</sup>fifteen] nor more than [<sup>F16</sup>twenty] members appointed by the Secretary of State after consultation with [<sup>F17</sup>such organisations and other bodies as appear to him to be appropriate].
- (3) The Secretary of State shall, after the like consultation, appoint one of the members to be chairman and another to be deputy chairman.
- (4) Schedule 3 to this Act shall have effect with respect to the Commission.

#### Textual Amendments

- F14** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 1(1)**
- F15** Word substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 1(2)(a)**
- F16** Word substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 1(2)(b)**
- F17** Words substituted for s. 11(2)(a)(b) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 1(2)(c)**

### *Audit of accounts*

## 12 Accounts subject to audit.

- (1) All accounts to which this section applies shall be made up yearly to 31st March or such other date as the Secretary of State may generally or in any special case direct and shall be audited in accordance with this Part of this Act by an auditor or auditors appointed by the Commission.
- (2) This section applies to all accounts of—
  - (a) a local authority;
  - [<sup>F18</sup>(aa) joint authority;
  - (ab) .....<sup>F19</sup>]
  - (b) a parish meeting of a parish not having a separate parish council;
  - (c) a committee of a local authority, including a joint committee of two or more such authorities;
  - (d) the Council of the Isles of Scilly;
  - (e) any charter trustees constituted under section 246 of the <sup>M6</sup>Local Government Act 1972;
  - [<sup>F20</sup>(ea) a body specified in section 98(1) of the National Health Service Act 1977]
  - (f) a port health authority;
  - [<sup>F21</sup>(ff) the Broads Authority;]
  - [<sup>F22</sup>(fg) a National Park authority;]
  - [<sup>F23</sup>(g) a police authority established under [<sup>F24</sup>section 3 of the Police Act 1996];]
  - (h) a fire authority constituted by a combination scheme;
  - (i) a licensing planning committee;
  - (j) an internal drainage board;
  - (k) a children's regional planning committee; and

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- (l) a probation and after-care committee [<sup>F25</sup>, except the committee for the [<sup>F26</sup>inner London probation area].]

[<sup>F27</sup>(3) This section also applies to—

- (a) the accounts of the collection fund of the Common Council and the accounts of the City fund; and
- (b) the accounts relating to the superannuation fund established and administered by the Common Council under the Local Government Superannuation Regulations 1974 as amended by the Local Government Superannuation (City of London) Regulations 1977;

and any reference in this Part of this Act to the accounts of a body shall be construed, in relation to the Common Council, as a reference to the accounts mentioned in paragraphs (a) and (b) above.]

[<sup>F28</sup>(3A) This section also applies to the accounts of the members of a recognised fund-holding practice so far as they relate to allotted sums paid to them, and subject to subsection (3B) and section 16(1A) below, any reference in this Part of this Act to the accounts of a body shall be construed, in relation to the members of a fund-holding practice, as a reference to such of their accounts as relate to allotted sums so paid.

(3B) In such circumstances and to such extent as regulations made by the Secretary of State so provide, this Part of this Act shall not apply to the accounts for any year of the members of a recognised fund-holding practice if those accounts are submitted to a [<sup>F29</sup>Health Authority] and summarised in that [<sup>F29</sup>Health Authority’s] accounts.

(3C) In subsection (3A) above “allotted sums” has the same meaning as in section 15 of the National Health Service and Community Care Act 1990.]

(4) References in any statutory provision or document to district audit, to audit by a district auditor, to audit in accordance with Part VIII of the <sup>M7</sup>Local Government Act 1972 or to professional audit shall be construed, in relation to the accounts of a local authority or other public body, as references to audit as mentioned in subsection (1) above.

[<sup>F30</sup>(5) Any reference in this Part of this Act to a health service body is a reference to a body specified in section 98(1) of the National Health Service Act 1977 or to the members of a recognised fund-holding practice as mentioned in subsection (3A) above.]

#### Textual Amendments

- F18** S. 12(2)(aa)(ab) inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), **ss. 72(3)**, 106
- F19** S. 12(2)(ab) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F20** S. 12(2)(ea) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), **Sch. 4 para. 2(1)**
- F21** S. 12(2)(ff) inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), **ss. 17(10)**, 23(2), 27(2)
- F22** S. 12(2)(fg) inserted (19.9.1995) after para. (ff) by 1995 c. 25, ss. 65(3), 125(2), **Sch. 7 para. 19(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- F23** S. 12(2)(g) substituted (1.10.1994 and 15.1.1995 for certain purposes but otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 para. 25**; S.I. 1994/2025, **art. 6(1)(2)(g)**, 1994/3262, art. 4(1)(8), Sch.
- F24** Words in s. 12(2)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 1(2)(s)**
- F25** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 132, **Sch. 11 para. 8**
- F26** Words in s. 12(2)(l) substituted (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch. 3 para. 6**
- F27** S. 12(3) substituted by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), s. 137, **Sch. 12 Pt. I para. 3(2)(5)**

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- F28** S. 12(3A)–(3C) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 2(2)**
- F29** Words in s. 12(3B) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 17 Pt. III para. 106** (with Sch. 2 para. 6)
- F30** S. 12(5) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 2(3)**

**Modifications etc. (not altering text)**

- C18** S. 12. applied (4.3.1996) by S.I. 1996/263, **reg. 15(3)**
- C19** S. 12(2)(aa) amended by S.I. 1985/1884, **art. 9(2)**
- C20** S. 12(2)(aa) modified by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 6**

**Marginal Citations**

- M6** 1972 c. 70.
- M7** 1972 c. 70.

**13 Appointment of auditors.**

- (1) An auditor appointed by the Commission to audit the accounts of any body whose accounts are required to be audited in accordance with this Part of this Act may be an officer of the Commission, an individual who is not such an officer or a firm of such individuals.
  - (2) Where two or more auditors are appointed in relation to the accounts of any body, some but not others may be officers of the Commission and they may be appointed to act jointly, to act separately in relation to different parts of the accounts or to discharge different functions in relation to the audit.
  - (3) Before appointing any auditor or auditors to audit the accounts of any body [<sup>F31</sup>other than a health service body] the Commission shall consult that body.
  - (4) For the purpose of assisting the Commission in deciding on the appointment of an auditor or auditors in relation to the accounts of any body [<sup>F31</sup>other than a health service body] the Commission may require that body to make available for inspection by or on behalf of the Commission such documents relating to any accounts of the body as the Commission may reasonably require for that purpose.
  - (5) A person shall not be appointed by the Commission as an auditor unless he is a member of one or more of the bodies mentioned in subsection (6) below or has such other qualifications as may be approved for the purposes of this section by the Secretary of State [<sup>F32</sup>or is a person for the time being approved by the Secretary of State, acting on the recommendation of the Commission]; and a firm shall not be so appointed unless each of its members is a member of one or more of those bodies.
- [<sup>F33</sup>(5A) The Secretary of State shall not approve any person for the purposes of subsection (5) above after 31st March 1996 but, subject to the withdrawal of his approval after that date, any person who is so approved immediately before that date shall continue to be so approved after that date.]
- (6) The bodies referred to in subsection (5) above are—
    - (a) the Institute of Chartered Accountants in England and Wales;
    - (b) the Institute of Chartered Accountants of Scotland;
    - (c) the Association of Certified Accountants;

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- (d) the Chartered Institute of Public Finance and Accountancy;
  - (e) the Institute of Chartered Accountants in Ireland; and
  - (f) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (7) The appointment by the Commission of an auditor who is not an officer of the Commission shall be on such terms and for such period as the Commission may determine.
- (8) Arrangements may be approved by the Commission, either generally or in any particular case, for a person or persons to assist an auditor appointed by the Commission by carrying out such of his functions under this Part of this Act as may be specified in the arrangements; and references in the following provisions of this Part of this Act to an auditor include, in relation to any function of an auditor, a reference to any person carrying out that function under arrangements approved under this subsection.
- (9) Subsection (8) above applies whether or not the auditor is an officer of the Commission.

#### Textual Amendments

- F31** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 3\(1\)](#)
- F32** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 3\(2\)](#)
- F33** [S. 13\(5A\)](#) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 3\(3\)](#)

#### 14 Code of audit practice.

- (1) The Commission shall prepare, and keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions under this Part of this Act [<sup>F34</sup>and a different code may be prepared with respect to the audit of the accounts of health service bodies as compared with the code applicable to the accounts of other bodies].
- (2) The code shall embody what appears to the Commission to be the best professional practice with respect to the standards, procedures and techniques to be adopted by auditors.
- (3) The code shall not come into force until approved by a resolution of each House of Parliament, and its continuation in force shall be subject to its being so approved at intervals of not more than five years.
- (4) Subsection (3) above shall not preclude alterations to the code being made by the Commission in the intervals between its being approved as aforesaid.
- (5) The Commission shall send copies of the code and of any alterations made to the code to the Secretary of State who shall lay them before Parliament; and the Commission shall from time to time publish the code as for the time being in force.

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- (6) Before preparing the code or making any alteration in it the Commission shall consult such associations of local authorities as appear to it to be concerned and such bodies of accountants as appear to it to be appropriate.
- [<sup>F35</sup>(7) In the application of subsection (6) above to a code which relates to the accounts of health services bodies,—
- (a) if the code relates only to those accounts, the reference to associations of local authorities shall be construed as a reference to organisations connected with the health service, within the meaning of the National Health Service Act 1977; and
  - (b) if the code relates also to the accounts of other bodies, that reference shall be construed as including a reference to such organisations.]

#### Textual Amendments

**F34** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 4\(1\)](#)

**F35** S. 14(7) added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 4\(2\)](#)

## 15 General duties of auditors.

- (1) In auditing any accounts required to be audited in accordance with this Part of this Act, an auditor shall by examination of the accounts and otherwise satisfy himself—
- (a) that the accounts are prepared in accordance with regulations made under section 23 below [<sup>F36</sup>or, in the case of a health service body, directions under subsection (2) or subsection (2B) of section 98 of the National Health Service Act 1977] and comply with the requirements of all other statutory provisions applicable to the accounts;
  - (b) that proper practices have been observed in the compilation of the accounts;  
<sup>F37</sup> . . .
  - (c) that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources [<sup>F38</sup>and<sup>F38</sup>(d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that that body have made such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.]
- (2) The auditor shall comply with the code of audit practice as for the time being in force.
- (3) The auditor shall consider whether, in the public interest, he should make a report on any matter coming to his notice in the course of the audit in order that it may be considered by the body concerned or brought to the attention of the public, and shall consider whether the public interest requires any such matter to be made the subject of an immediate report rather than of a report to be made at the conclusion of the audit.

#### Textual Amendments

**F36** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 5](#)

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- F37** Word in s. 15(1)(b) repealed (6.5.1992) by Local Government Act 1992 (c. 19), s. 29, **Sch. 4**, PtI.  
**F38** S. 15(1)(d) and word "and" preceding inserted (6.5.1992) by Local Government Act 1992 (c. 19), s. 3(1).

**Modifications etc. (not altering text)**

- C21** S. 15(1)(a) excluded by Local Government Act 1985 (c. 51, SIF 81:1), s. 79(2)(8)  
**C22** S. 15(1)(a) excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 16(1)(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))  
**C23** S. 15(1)(a) restricted (1.4.1995) by S.I. 1995/401, **art. 12(2)**

**16 Auditor's right to obtain documents and information.**

- (1) An auditor shall have a right of access at all reasonable times to all such documents relating to a body whose accounts are required to be audited in accordance with this Part of this Act as appear to him necessary [<sup>F39</sup>for the purposes of his functions under this Act] and shall be entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary for those purposes and, if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation or to produce any such document.
- [<sup>F40</sup>(1A) In the case of a recognised fund-holding practice the reference in subsection (1) above to documents includes a reference to documents relating to all the accounts and records of the members of the practice, whether or not relating to the allotted sum, within the meaning of that section.]
- (2) Without prejudice to subsection (1) above, the auditor shall be entitled to require any officer or member of a body whose accounts are required to be audited in accordance with this Part of this Act to give him such information or explanation as he thinks necessary [<sup>F39</sup>for the purposes of his functions under this Act] and, if he thinks it necessary, to require any such officer or member to attend before him in person to give the information or explanation.
- (3) Without prejudice to subsection (1) and (2) above, every body whose accounts are required to be audited in accordance with this Part of this Act shall provide the auditor with every facility and all information which he may reasonably require [<sup>F39</sup>for the purposes of his functions under this Act].
- (4) Any person who without reasonable excuse fails to comply with any requirement of an auditor under subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding £200 and to an additional fine not exceeding [<sup>F41</sup>level 3 on the standard scale] and to an additional fine not exceeding £20 for each day on which the offence continues after conviction thereof.
- (5) Any expenses incurred by an auditor in connection with proceedings for an offence under subsection (4) above alleged to have been committed in relation to the audit of the accounts of any body shall, so far as not recovered from any other source, be recoverable from that body.

**Textual Amendments**

- F39** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 30(2)  
**F40** S. 16(1A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 6**



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**F41** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

**Modifications etc. (not altering text)**

**C24** [S. 16](#) applied (with modifications) (8.1.1996) by 1995 c. X, ss. 1(3), 44, Sch. Pt. I

**C25** [S. 16\(2\)](#) amended (28.11.1994) by [S.I. 1994/2825](#), **reg. 20(2)**

**17 Public inspection of accounts and right of challenge.**

- (1) At each audit by an auditor under this Part of this Act [<sup>F42</sup>other than the audit of the accounts of a health service body] any persons interested may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them and make copies of all or any part of the accounts and those other documents.
- (2) At the request of a local government elector for any area to which those accounts relate, the auditor shall give the elector, or any representative of his, an opportunity to question the auditor about the accounts.
- (3) Subject to subsection (4) below, any local government elector for any area to which those accounts relate, or any representative of his, may attend before the auditor and make objections—
  - (a) as to any matter in respect of which the auditor could take action under section 19 or 20 below; or
  - (b) as to any other matter in respect of which the auditor could make a report under section 15(3) above.
- (4) No objection may be made under subsection (3) above by or on behalf of a local government elector unless the auditor has previously received written notice of the proposed objection and of the grounds on which it is to be made.
- (5) Where an elector sends a notice to an auditor for the purposes of subsection (4) above he shall at the same time send a copy of the notice to the body whose accounts are the subject of the audit.

**Textual Amendments**

**F42** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 20(1)**, **Sch. 4 para. 7**

**Modifications etc. (not altering text)**

**C26** [S. 17](#) excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), **s. 79(2)(8)** and by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 11(1)(4)**

**C27** [S. 17](#) restricted (1.4.1995) by [S.I. 1995/401](#), **art. 12(2)**

**C28** [S. 17](#) excluded (5.7.1994) by 1994 c. 19, s. 39, 66(2)(b), **Sch. 13 para. 16(2)** (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))

**18 Auditor's reports.**

- (1) When an auditor has concluded his audit of the accounts of any body under this Part of this Act—
  - (a) a certificate that he has completed the audit in accordance with this Part of this Act; and

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- (b) his opinion on the relevant statement of accounts prepared pursuant to regulations under section 23 below (or, where no such statement is required to be prepared, on the accounts),
- shall, subject to subsection (2) below, be entered by him on the statement (or, as the case may be, on the accounts).
- (2) Where an auditor makes a report to the body concerned under section 15(3) above at the conclusion of the audit, the certificate and opinion referred to in subsection (1) above may be included by him in that report.
- (3) Any report under section 15(3) above shall be sent by the auditor to the body concerned or, in the case of a parish meeting, to the chairman, and (except in the case of an immediate report) shall be so sent not later than fourteen days after the conclusion of the audit, and that body shall take the report into consideration [<sup>F43</sup>in accordance with sections 5 and 6 of the Local Government Act 1992, or in the case of a body to which that section 5 does not apply, as soon as practicable after they receive the report.]
- (4) A copy of any such report shall be sent by the auditor to the Commission [<sup>F44</sup>and, in the case of a health service body, to the Secretary of State] forthwith, if the report is an immediate report, and otherwise not later than fourteen days after the conclusion of the audit.
- (5) The agenda supplied to the members of a body for the meeting of the body at which they take into consideration a report of an auditor sent to them under subsection (3) above shall be accompanied by that report, and the report shall not be excluded [<sup>F45</sup>(a)] from the matter supplied for the benefit of any newspaper under section 1(4)(b) of the <sup>M8</sup>Public Bodies (Admission to Meetings) Act 1960 (supply of agenda of meetings and related documents to newspapers) [<sup>F46</sup>or under section 100B(7) of the 1972 Act (which makes similar provision); or
- (b) from the documents open to inspection by members of the public under section 100B(1) of the 1972 Act (agenda and reports open to the public before a meeting);
- and Part VA of the 1972 Act shall have effect in relation to the report as if in section 100C(1)(d) of that Act (by virtue of which only so much of a report as relates to proceedings open to the public is open to public inspection after the meeting) the words “so much of” and from “as relates” onwards were omitted.
- (6) In subsection (5) above, “the 1972 Act” means the <sup>M9</sup>Local Government Act 1972,].

#### Textual Amendments

- F43** Words in s. 18(3) substituted (6.5.1992) by [Local Government Act 1992 \(c. 19\), s. 5\(4\)](#).
- F44** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 8](#)
- F45** “(a)” inserted by [Local Government \(Access to Information\) Act 1985 \(c. 43, SIF 81:1, 2\), s. 3, Sch. 2 para. 7](#)
- F46** Words and s. 18(5)(b) and (6) added by [Local Government \(Access to Information\) Act 1985 \(c. 43, SIF 81:1, 2\), s. 3, Sch. 2 para. 7](#)

#### Marginal Citations

- M8** [1960 c. 67.](#)
- M9** [1972 c.70 \(81:1\).](#)



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**[<sup>F47</sup>18A Additional publicity for auditors' immediate reports.**

- (1) As from the time when, by virtue of section 18(3) above, an immediate report made under section 15(3) above is received by a body or by the chairman of a parish meeting, any member of the public shall be entitled—
  - (a) to inspect the report at all reasonable times and without payment and to make a copy of it, or of any part of it, and
  - (b) to require the body or chairman to supply to him a copy of the report, or of any part of it, on payment of a reasonable sum.
- (2) When such a report is so received by a body or by the chairman of a parish meeting, the body or chairman shall forthwith publish in one or more local newspapers circulating in the area of the body or meeting a notice which—
  - (a) identifies the subject-matter of the report, and
  - (b) states that any member of the public—
    - (i) may inspect the report, and
    - (ii) may make a copy of it, or of any part of it,between such times and at such place or places as are specified in the notice; and, where the report is so received by a body, the body shall in addition forthwith supply a copy of the report to every member of the body.
- (3) Any person having the custody of an immediate report who—
  - (a) obstructs a person in the exercise of any right conferred by subsection (1)(a) above, or
  - (b) refuses to supply a copy of the report, or (as the case may be) of any part of it, to a person entitled to such a copy by virtue of subsection (1)(b) above,shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Any person who fails to comply with any requirement of subsection (2) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) An auditor who has sent an immediate report to a body or to the chairman of a parish meeting under section 18(3) above—
  - (a) may notify any person he thinks fit of the fact that he has made such a report, and
  - (b) may supply a copy of the report, or of any part of it, to any person he thinks fit.
- (6) Nothing in this section applies in relation to a health service body.
- (7) Nothing in this section is to be construed as affecting the operation of section 18(5) above.]

**Textual Amendments**

**F47** S. 18A inserted by by [Local Government Finance \(Publicity for Auditors' Reports\) Act 1991 \(c. 15, SIF 81:1\)](#), s. 1(2) (with s. 1(5))

**19 Declaration that item of account is unlawful.**

- (1) Where it appears to the auditor carrying out the audit of any accounts under this Part of this Act [<sup>F48</sup>other than the audit of the accounts of a health service body] that any

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- 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 Secretary of State.
- (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) below, 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 body in question 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 a local authority, order him to be disqualified for being a member of a local authority 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) above 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 17(3)(a) above 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,
- 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 body, the court may make such order as the court thinks fit for the payment by that body 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) <sup>F49</sup>The High Court and the county courts shall have jurisdiction for the purposes of this section.].
- (7) In this section “local authority” includes . . . <sup>F50</sup> the Common Council and the Council of the Isles of Scilly [<sup>F51</sup>and a police authority established under [<sup>F52</sup>section 3 of the Police Act 1996]].

#### Textual Amendments

- F48** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 9](#)
- F49** [S. 19\(6\)](#) substituted by [S.I. 1991/724, art. 2\(8\)](#), [Sch. Pt. I](#)
- F50** Words inserted by [S.I. 1986/2293, art. 2](#) and repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. I](#)
- F51** Words added (1.10.1994 for certain purposes but otherwise 1.4.1995) at the end of [s.19\(7\)](#) by [1994 c. 29, s. 43, Sch. 4 para. 26](#); [S.I. 1994/2025, art. 6\(1\)\(2\)\(g\)](#), [1994/3262, art. 4, Sch.](#)
- F52** Words in [s. 19\(7\)](#) substituted (22.8.1996) by [1996 c. 16, ss. 103, 104\(1\)](#), [Sch. 7 para. 1\(2\)\(s\)](#)

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**Modifications etc. (not altering text)**

- C29** Ss. 19, 20, 22, 23 and 24 excluded by Local Government Act 1985 (c. 51, SIF 81:1), s. 79(2)(8)
- C30** S. 19 excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), Sch. 13 para. 16(1)(2) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C31** S. 19 extended by S.I. 1991/724, art. 2(1)(k)
- S. 19 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 19(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- S. 19 restricted by S.I. 1991/724, art. 6
- S. 19 restricted (1.4.1995) by S.I. 1995/401, art. 12(2)

**20 Recovery of amount not accounted for etc.**

(1) Where it appears to the auditor carrying out the audit of any accounts under this Part of this Act [<sup>F53</sup>other than the audit of the accounts of a health service body]—

- (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 Secretary of State; 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) below, both he and the body in question (or, in the case of a parish meeting, the chairman of the meeting) may recover that sum or amount for the benefit of that body; 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 17(3)(a) above 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 six 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) above and the following provisions of this section as if it had been given by the auditor under subsection (1) above.

(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 a local authority and the amount certified to be due from him exceeds £2,000, that person shall be disqualified for being a member of a local authority for the period of

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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 an auditor appointed by the Commission stating that that sum or amount is due from a person specified in the certificate to a body 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 body, the court may make such order as the court thinks fit for the payment by that body 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 body shall, so far as not recovered from any other source, be recoverable from that body unless the court otherwise directs.
- (9) [<sup>F54</sup>The High Court and the county courts shall have jurisdiction for the purposes of this section.]
- (10) In this section “local authority” includes . . . <sup>F55</sup> the Common Council and the Council of the Isles of Scilly [<sup>F56</sup>and a police authority established under [<sup>F57</sup>section 3 of the <sup>M10</sup>Police Act 1996].]

#### Textual Amendments

- F53** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 10](#)
- F54** S. 20(9) substituted by S.I. 1991/724, art. 2(8), [Sch. Pt. I](#)
- F55** Words inserted by S.I. 1986/2293, [art. 2](#) and repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. I](#)
- F56** Words in s. 20(10) inserted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, [Sch. 4 para. 27](#); S.I. 1994/2025, [art. 6\(1\)\(2\)\(g\)](#), 1994/3263, art. 4, Sch.
- F57** Words in s. 20(10) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), [Sch. 7 Pt. I para. 1\(2\)\(s\)](#)

#### Modifications etc. (not altering text)

- C32** S. 20 excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), [Sch. 13 para. 16\(2\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C33** Ss. 19, 20, 22, 23 and 24 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. [79\(2\)\(8\)](#)
- C34** S. 20 restricted (1.4.1995) by S.I. 1995/401, [art. 12\(2\)](#)
- C35** S. 20 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), [Sch. 7 para. 19\(2\)](#) (with ss. 7(6), 115, [Sch. 8 para. 7](#))
- C36** S. 20 extended by S.I. 1991/724, [art. 2\(1\)\(k\)](#)  
S. 20 restricted by S.I. 1991/724, [art. 6](#)

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#### Marginal Citations

M10 1964 c. 48

## 21 Fees for audit.

- (1) The Commission shall prescribe a scale or scales of fees in respect of the audit of accounts which are required to be audited in accordance with this Part of this Act.
- (2) Before prescribing any scale of fees under subsection (1) above the Commission shall consult such associations of local authorities as appear to it to be concerned and such bodies of accountants as appear to it to be appropriate.
- [<sup>F58</sup>(2A) In the application of subsection (2) above to the audit of the accounts of a health service body, the reference to associations of local authorities shall be construed as a reference to organisations connected with the health service.]
- (3) A body whose accounts are audited in accordance with this Part of this Act shall, subject to subsection (4) below, pay to the Commission the fee applicable to the audit in accordance with the appropriate scale.
- (4) If it appears to the Commission that the work involved in a particular audit was substantially more or less than that envisaged by the appropriate scale, the Commission may charge a fee which is larger or smaller than that referred to in subsection (3) above.
- (5) For the purpose of determining the fee payable for an audit, a body whose accounts are being audited (or, in the case of the accounts of a parish meeting, the chairman of the meeting) shall complete a statement containing such information as the Commission may require and submit it to the auditor who shall send it to the Commission on the conclusion of the audit with a certificate that the statement is correct to the best of his knowledge and belief; and, in addition, the body shall furnish the Commission with such further information as it may at any time require for the said purpose.
- (6) The fee payable for an audit shall be the same whether the audit is carried out by an auditor who is an officer of the Commission or by an auditor who is not such an officer.
- (7) If the Secretary of State considers it necessary or desirable to do so, he may by regulations prescribe a scale or scales of fees to have effect, for such period as is specified in the regulations, in place of any scale or scales prescribed by the Commission and, if he does so, references in subsections (3) and (4) above to the appropriate scale shall, as respects that period, be construed as references to the appropriate scale prescribed by the Secretary of State.

#### Textual Amendments

**F58** S. 21(2A) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 11](#)

## 22 Extraordinary audit.

- (1) [<sup>F59</sup>Subject to subsection (4A) below] the Commission may direct an auditor or auditors appointed by it to hold an extraordinary audit of the accounts of any body whose accounts are required to be audited in accordance with this Part of this Act if—

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- (a) an application in that behalf is made by a local government elector for the area of that body; or
  - (b) it appears to the Commission to be desirable to do so in consequence of a report made under this Part of this Act by an auditor or for any other reason.
- (2) If it appears to the Secretary of State that it is desirable in the public interest that there should be an extraordinary audit of the accounts of any such body as aforesaid he may require the Commission to direct such an audit by an auditor or auditors appointed by it.
- (3) [<sup>F59</sup>Subject to subsection (4A) below] the provisions of sections 13 and 15 to 20 above, except subsections (1) and (2) of section 17, shall apply to an extraordinary audit under this section as they apply to an ordinary audit under this Part of this Act.
- (4) An extraordinary audit under this section may be held after three clear days notice in writing given to the body whose accounts are to be audited or, in the case of the accounts of a parish meeting, to the chairman of the meeting.
- [<sup>F60</sup>(4A) Subsection (1)(a) above does not apply in relation to the accounts of a health service body; and in the application of subsection (3) above to an extraordinary audit of any such accounts for the words “15 to 20 above, except subsections (1) and (2) of section 17” there shall be substituted “15, 16, and 18 above”.]
- (5) The expenditure incurred in holding an extraordinary audit of the accounts of any body shall be defrayed in the first instance by the Commission but it may, if it thinks fit, recover the whole or any proportion of that expenditure from that body.

#### Textual Amendments

**F59** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 12\(1\)](#)

**F60** [S. 22\(4A\)](#) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 12\(2\)](#)

#### Modifications etc. (not altering text)

**C37** [Ss. 19, 20, 22, 23 and 24](#) excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 79\(2\)\(8\)](#)

**C38** [S. 22](#) applied (with modifications) (1.4.1995) by 1995/401, art. 12(2)

**C39** [S. 22](#) excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), [Sch. 13 para. 16\(2\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))

**C40** [S. 22\(2\)](#) extended by [S.I. 1989/1815, art. 2, Sch. 1 para. 7\(4\)](#)

## 23 Regulations as to accounts.

- (1) The Secretary of State may by regulations applying to bodies whose accounts are required to be audited in accordance with this Part of this Act [<sup>F61</sup>other than health service bodies] make provision with respect to—
- (a) the keeping of accounts;
  - (b) the form, preparation and certification of accounts and of statements of accounts;
  - (c) the deposit of the accounts of any body at the offices of the body or at any other place;



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- (d) the publication of information relating to accounts and the publication of statements of accounts;
  - (e) the exercise of any rights of inspection or objection conferred by section 17 above or section 24 below and the steps to be taken by any body for informing local government electors for the area of that body of those rights.
- (2) Regulations under this section may make different provision in relation to bodies of different descriptions.
- (3) Any person who without reasonable excuse contravenes any provision of regulations under this section, the contravention of which is declared by the regulations to be an offence, shall be liable on summary conviction to a fine not exceeding [<sup>F62</sup>level 3 on the standard scale].
- (4) Any expenses incurred by an auditor in connection with proceedings in respect of an offence under subsection (3) above alleged to have been committed in relation to the accounts of any body shall, so far as not recovered from any other source, be recoverable from that body.

#### Textual Amendments

- F61** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 13](#)
- F62** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

#### Modifications etc. (not altering text)

- C41** Ss. 19, 20, 22, 23 and 24 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 79(2)(8)
- C42** S. 23 restricted (1.4.1995) by S.I. 1995/401, [art. 12\(2\)](#)
- C43** S. 23 excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), [Sch. 13 para. 16\(2\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))
- C44** S. 23(1)(e) extended by [Local Government Act 1986 \(c. 10, SIF 81:1\)](#), [ss. 5\(4\), 6, 12](#)

## 24 Right to inspect statements of accounts and auditor's reports.

- (1) Any local government elector for the area of a body whose accounts are required to be audited in accordance with this Part of this Act [<sup>F63</sup>other than a health service body] shall be entitled—
- (a) to inspect and make copies of any statement of accounts prepared by the body pursuant to regulations under section 23 above and any report made to the body by an auditor; [<sup>F64</sup>, other than an immediate report]and
  - (b) to require copies of any such statement or report to be delivered to him on payment of a reasonable sum for each copy.
- (2) Any document which a person is entitled to inspect under this section may be inspected by him at all reasonable times and without payment.
- (3) Any person having the custody of any such document who—
- (a) obstructs a person in the exercise of any right under this section to inspect or make copies of the document; or
  - (b) refuses to give copies of the document to a person entitled under this section to obtain them,

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shall be liable on summary conviction to a fine not exceeding [<sup>F65</sup>level 3 on the standard scale].

- (4) References in this section to copies of a document include references to copies of any part of it.

#### Textual Amendments

- F63** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 14**
- F64** Words in s. 24(1) inserted by Local Government Finance (Publicity for Auditors' Reports) Act 1991 (c. 15, SIF 81:1), **s. 1(3)** (with s. 1(5))
- F65** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

#### Modifications etc. (not altering text)

- C45** Ss. 19, 20, 22, 23 and 24 excluded by Local Government Act 1985 (c. 51, SIF 81:1), **s. 79(2)(8)**
- C46** S. 24 extended by Airports Act 1986 (c. 31, SIF 9), **ss. 24(3)(a)**, 85(4)
- C47** S. 24 restricted (1.4.1995) by S.I. 1995/401, **art. 12(2)**
- C48** S. 24 excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 16(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

## 25 Audit of accounts of officers.

Where an officer of a body whose accounts are required to be audited in accordance with this Part of this Act receives any money or other property on behalf of that body or receives any money or other property for which he ought to account to that body the accounts of the officer shall be audited by the auditor of the accounts of that body and sections 12(1) and 15 to 24 above shall with the necessary modifications apply accordingly to the accounts and audit.

[<sup>F66</sup>(2) In the application of subsection (1) above to an officer of a health service body for the words “15 to 24” there shall be substituted “15, 16, 18, 21 and 22”.]

#### Textual Amendments

- F66** S. 25(2) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 15**

## [<sup>F67</sup>25A Power of auditor to issue prohibition order.

- (1) The person who is for the time being the auditor in relation to the accounts of any body whose accounts are required to be audited in accordance with this Part of this Act [<sup>F68</sup>other than a health service body] may issue an order under this section (in this Part referred to as a “prohibition order”) if he has reason to believe that the body or any officer of the body—
- (a) is about to make or has made a decision which involves or would involve the body 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;



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and for the purposes of this section and section 25B below, the actions of a committee or sub-committee of the body or of any other person (not being an officer) authorised to act on behalf of the body shall be treated as the actions of the body itself.

- (2) A prohibition order is one—
- (a) which is addressed to the body or officer concerned;
  - (b) which specifies the paragraph of subsection (1) above 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) below) 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) below; and
  - (d) which requires the body 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 two or more auditors are appointed in relation to the accounts of any body, the power to issue a prohibition order may be exercised 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) below 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 body 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 auditor to be appropriate.
- (5) A prohibition order shall not have effect unless, not later than the end of the period of seven days beginning on the date of service referred to in subsection (2)(c) above, the auditor serves on the body concerned and on any officer on whom a copy of the order was served under subsection (4)(b) above, a statement of the auditor's reasons for the belief referred to in subsection (1) above.
- (6) Any copy of an order or statement which under this section is to be served on an officer of a body shall be served on him by addressing it to him and by delivering it to him or leaving it at, or sending it by post, to the office at which he is employed.
- (7) A prohibition order may at any time be revoked (but not varied) by the person who is for the time being the auditor in relation to the accounts of the body to which or to an officer of which the order was addressed.]

#### **Textual Amendments**

- F67** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 30\(1\), Sch. 4](#)
- F68** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 16](#)

#### **Modifications etc. (not altering text)**

- C49** 25A restricted (30.12.1997) by [1997 c. 65, s. 8\(2\)](#) (with [s. 12\(3\)](#)); [S.I. 1997/2843, 2\(2\)](#)

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S. 25A amended (28.11.1994) by S.I. 1994/2825, reg. 22

**[<sup>F69</sup>25AA Restriction of power to issue prohibition order.**

- (1) In a case where—
  - (a) a report is made under section 114(2) of the Local Government Finance Act 1988 (the 1988 Act), and
  - (b) copies of the report are sent in accordance with section 114(4) of the 1988 Act, during the relevant period no prohibition order may be issued as regards any decision, course of action or item of account which led to the report being made.
- (2) For the purposes of subsection (1) above the relevant period is the period—
  - (a) beginning with the day on which copies of the report are sent, and
  - (b) ending with the day (if any) on which the body's consideration of the report under section 115(2) of the 1988 Act begins.
- (3) If section 115(3) of the 1988 Act is not complied with, it is immaterial for the purposes of subsection (2)(b) above.]

**Textual Amendments**

**F69** S. 25AA inserted by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), s. 137, **Sch. 12 Pt. I para. 3(3)**

**[<sup>F70</sup>25B Effect of and appeals against prohibition orders.**

- (1) So long as a prohibition order has effect, it shall not be lawful for the body concerned or any officer of that body to make or implement the decision, to take or continue to take the course of action or, as the case may be, to enter the item of account to which the order relates.
- (2) A prohibition order—
  - (a) takes effect, subject to subsection (5) of section 25A above, 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) below, until revoked under section 25A(7) above.
- (3) Not later than twenty-eight days after the service under section 25A(5) above of a statement of reasons relating to a prohibition order, the body concerned (but not any officer of that body) may appeal against the order to the High Court in accordance with rules of court.
- (4) On an appeal against a prohibition order under subsection (3) above, the High Court may make such order as it thinks fit for the payment by the body concerned of expenses incurred by the auditor in connection with the appeal.
- (5) Any expenses reasonably incurred by the auditor in or in connection with the issue of a prohibition order shall be recoverable by him from the body concerned.
- (6) In this section “the body concerned”, in relation to a prohibition order, means the body to which, or to an officer of which, the order is addressed.]

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#### Textual Amendments

**F70** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 30(1), [Sch. 4](#)

### [<sup>F71</sup>25C Supplementary provisions as to prohibition orders.

- (1) In any case where—
- (a) before a prohibition order is issued, a body enters into a contract to dispose of or acquire an interest 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 body 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 body's failure to complete the contract.
- (2) No action shall lie against an 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 an auditor on an appeal under section 25B(3) above.]

#### Textual Amendments

**F71** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 30(1), [Sch. 4](#)

### [<sup>F72</sup>25D Power of auditor to apply for judicial review.

- (1) Subject to section 31(3) of the <sup>M11</sup>Supreme Court Act 1981 (no application for judicial review without leave) the auditor appointed in relation to the accounts of a body [<sup>F73</sup>other than a health service body] may make an application for judicial review with respect to—
- (a) any decision of that body, or
  - (b) any failure by that body to act,
- which (in either case) it is reasonable to believe would have an effect on the accounts of that body.
- (2) The existence of the powers conferred on an auditor under this Part of this Act shall not be regarded as a ground for refusing an application falling within subsection (1) above (or an application for leave to make such an application).
- (3) On an application for judicial review made as mentioned in subsection (1) above, the court may make such order as it thinks fit for the payment by the body to whose decision the application relates of expenses incurred by the auditor in connection with the application.]

#### Textual Amendments

**F72** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 30(1), [Sch. 4](#)

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**F73** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 17](#)

#### Marginal Citations

**M11** [1981 c. 54 \(37\)](#).

### Miscellaneous and supplementary

## 26 Studies for improving economy etc. in services.

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations for improving economy, efficiency and effectiveness in the provision of local authority services and of other services provided by bodies whose accounts are required to be audited in accordance with this Part of this Act, and for improving the financial or other management of such bodies.
- (2) The Commission may undertake or promote other studies relating to the provision by such bodies of their services besides the studies referred to in subsection (1) above and section 27 below.
- (3) The Commission shall publish or otherwise make available its recommendations and the results of any studies under this section [<sup>F74</sup>and, in the case of studies relating to a health service body, shall, on request, furnish to the Comptroller and Auditor General, all material relevant to the studies].
- (4) Before undertaking or promoting any study under this section the Commission shall consult such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate [<sup>F75</sup>and, in the case of any health service bodies, the Commission shall also consult the Secretary of State and the Comptroller and Auditor General].

#### Textual Amendments

**F74** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 18\(1\)](#)

**F75** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 18\(2\)](#)

#### Modifications etc. (not altering text)

**C50** [S. 26\(1\)](#) extended (6.5.1992) by [Local Government Act 1992 \(c. 19\)](#), s. 3(3).

**C51** [S. 26\(4\)](#) excluded (6.5.1992) by [Local Government Act 1992 \(c. 19\)](#), s. 3(3).

## 27 Reports on impact of statutory provisions etc.

- (1) In addition to the studies referred to in section 26(1) above, the Commission shall undertake or promote studies designed to enable it to prepare reports as to the impact—
  - (a) of the operation of any particular statutory provision or provisions; or
  - (b) of any directions or guidance given by a Minister of the Crown (whether pursuant to any such provision or otherwise),

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on economy, efficiency and effectiveness in the provision of local authority services and of other services provided by bodies whose accounts are required to be audited in accordance with this Part of this Act [<sup>F76</sup>other than health service bodies], or on the financial management of such bodies.

- (2) The Commission shall publish or otherwise make available its report of the results of any study under this section, and shall send a copy of any such report to the Comptroller and Auditor General.
- (3) Where the Comptroller and Auditor General has received a copy of any such report he may require the Commission to furnish him with any information obtained by it in connection with the preparation of the report, and for that purpose the Commission shall permit any person authorised by him to inspect and make copies of any documents containing any such information; but no information shall be required by the Comptroller and Auditor General under this section in respect of any particular body.
- (4) The Comptroller and Auditor General shall from time to time lay before the House of Commons a report of any matters which, in his opinion, arise out of any studies of the Commission under this section and ought to be drawn to the attention of that House.
- (5) Before undertaking or promoting any study under this section the Commission shall consult—
  - (a) the Comptroller and Auditor General;
  - (b) any Minister of the Crown who appears to it to be concerned; and
  - (c) such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate.
- [<sup>F77</sup>(6) Notwithstanding that the services provided by health service bodies are excluded from the scope of studies under this section, in undertaking or promoting studies under section 26(1) above relating to a health service body, the Commission may take into account the implementation by the body of—
  - (a) any particular statutory provision or provisions, and
  - (b) any directions or guidance given by the Secretary of State (whether pursuant to any such provision or otherwise),but the power conferred by this subsection shall not be construed as entitling the Commission to question the merits of the policy objectives of the Secretary of State.]

#### Textual Amendments

**F76** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 19\(1\)](#)

**F77** [S. 27\(6\)](#) added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 19\(2\)](#)

## 28 Furnishing of information and documents to Commission.

- (1) Without prejudice to any other provision of this Part of this Act, the Commission may require any body whose accounts are required to be audited in accordance with this Part of this Act, and any officer or member of any such body, to furnish

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the Commission or any person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Part of this Act of the Commission or of that person, including the carrying out of any study under section 26 or 27 above.

- (2) For the purpose of assisting the Commission to maintain proper standards in the auditing of the accounts of any such body the Commission may require that body to make available for inspection by or on behalf of the Commission the accounts concerned and such other documents relating to the body as might reasonably be required by an auditor for the purposes of the audit.
- (3) Subsections (4) and (5) of section 16 above shall apply in relation to a requirement imposed on any officer or member of a body under subsection (1) above as they apply in relation to a requirement imposed under that section.

**Modifications etc. (not altering text)**

**C52** S. 28(1) amended (28.11.1994) by S.I. 1994/2825, reg. 21

**[<sup>F78</sup>28AA Collaborative studies of social services.**

- (1) At the request of the Secretary of State, the Commission may assist the Secretary of State in any study designed to improve economy, efficiency, effectiveness and quality of performance in the discharge of social services functions by local authorities.
- (2) In this section “social services functions” means—
  - (a) any function under any enactment for the time being specified in Schedule 1 to the <sup>M12</sup>Local Authority Social Services Act 1970; and
  - (b) any function for the time being designated by an order made by the Secretary of State under section 2(2) of the 1970 Act as being appropriate for discharge through a local authority’s social services committee.
- (3) In the following provisions of this section “study” means a study of a description mentioned in subsection (1) above.
- (4) If the Commission require—
  - (a) any local authority included in a study, or
  - (b) any officer or member of such an authority,
 to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.
- (5) If the Commission require any local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.
- (6) Any information obtained under a requirement under subsection (4) or (5) above may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with the discharge of social services functions by local authorities.
- (7) In subsections (4) and (5) above “authorised person” means a person authorised by the Commission for the purposes of this section.

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- (8) Any report of a study in which the Commission assists the Secretary of State shall be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not provide assistance under subsection (1) above unless before it does so the Secretary of State has agreed to pay the Commission an amount equal to the full costs incurred by the Commission in providing the assistance.]

#### Textual Amendments

**F78** S. 28AA inserted (29.6.1996) by 1996 c. 10, s. 1(1)(2)

#### Marginal Citations

**M12** 1970 c. 42.

### [<sup>F79</sup>28AB] Studies of benefit administration at request of Secretary of State.

- (1) The Secretary of State may request the Commission to conduct or assist the Secretary of State in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by local authorities of functions relating to the administration of housing benefit and council tax benefit.
- (2) In the following provisions of this section “study” means a study which the Commission is requested to conduct, or assist the Secretary of State in conducting, under subsection (1) above.
- (3) If the Commission requires—
  - (a) any local authority included in a study; or
  - (b) any officer or member of such an authority,to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.
- (4) If the Commission requires any local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.
- (5) Any information obtained under a requirement under subsection (3) or (4) above may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with housing benefit or council tax benefit.
- (6) In subsections (3) and (4) above “authorised person” means a person authorised by the Commission for the purposes of this section.
- (7) The Commission shall send to the Secretary of State a copy of any report of a study; and the Secretary of State or the Commission may send a copy of a report of a study to any local authority to which the study relates.
- (8) Any report of a study may be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not conduct, or assist the Secretary of State in conducting, a study unless, before it does so, the Secretary of State has made arrangements for



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the payment of such reasonable amount as may be agreed between him and the Commission in respect of the study.]

**Textual Amendments**

**F79** S. 28AB inserted (1.7.1997) by 1997 c. 47, s. 6(2); S.I. 1997/1577, art. 2, Sch.

<sup>F80</sup> **28AC** .....

**Textual Amendments**

**F80** S. 28AC repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5

[<sup>F142</sup> **28A** ~~References and reports to Secretary of State.~~ **E+W**

- (1) The Commission or an auditor may refer to the Secretary of State any matter arising from an audit or study under this Part of this Act if it appears that it may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.
- (2) The Commission may send to the Secretary of State a copy of any report of which a copy is sent to the Commission under section 18(4) above and which contains observations on the administration by a local authority of housing benefit or council tax benefit.]

**Textual Amendments**

**F142** S. 28AC inserted (1.7.1997) by 1997 c. 47, s. 6(3); S.I. 1997/1577, art. 2, Sch.

**28A** ..... <sup>F81</sup>

**Textual Amendments**

**F81** S. 28A inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 184(1) and fell upon the repeal of the said s. 184(1) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10 and expressed to be repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1), Sch. 3 (with Sch. 2 para. 6) and expressed to be repealed (11.9.1998) by 1998 c. 18 ,ss. 54(3), 55(2), Sch. 5

[<sup>F82X1</sup> **28B** **General functions of Commission in relation to registered social landlords.**

- (1) The Corporation and the Commission may agree one or more programmes of comparative studies designed to enable the Commission to make recommendations for improving economy, efficiency and effectiveness of registered social landlords.
- (2) Where the Corporation and the Commission fail to agree a programme proposed by either of them, either of them may refer the matter to the Secretary of State who may direct that the programme be carried out either without modifications or with modifications specified in the direction.



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- (3) Where a programme is agreed or is directed to be carried out, the Commission shall ensure that studies giving effect to the programme are carried out by it or on its behalf.
- (4) It shall be a term of every such programme that the Corporation make good to the Commission the full costs incurred by the Commission in carrying out the programme.
- (5) The Commission shall publish reports on the studies carried out under this section.
- (6) Before publishing any such report the Commission shall show a draft of it to the Corporation and shall consider whether to revise the draft in the light of the comments made by the Corporation.]

#### Editorial Information

**X1** This is one of two versions of s. 28B running concurrently (1.10.1996 until 31.3.1998)

#### Textual Amendments

**F82** Ss. 28B -28E inserted (1.10.1996) by 1996 c. 52, s. 55, **Sch. 3 para.2(1)**; S.I. 1996/2402, **art.3** (with Sch. para. 1(1))

### **28C** <sup>F83</sup> **Provisions supplementary to s.28B.**

- (1) The Commission may, if authorised to do so by the Corporation—
  - (a) require a registered social landlord, or any officer or member of a registered social landlord, to supply such information as the Commission may require for the purposes of any study under section 28B above; and
  - (b) require a registered social landlord included in any such study to make available for inspection such documents as are reasonably required for the purposes of the study.
- (2) The Commission may require the information to be supplied, or the documents to be made available, to the Commission or to a person authorised by the Commission for the purposes of this section.
- (3) A person who without reasonable excuse fails to comply with a requirement under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Information obtained by the Commission, or by a person acting on behalf of the Commission, in the course of a study under section 28B above may be disclosed by the Commission to the Corporation notwithstanding anything in section 30 below (general restriction on disclosure of information relating to particular bodies or persons).

#### Textual Amendments

**F83** Ss. 28B -28E inserted (1.10.1996) by 1996 c. 52, s. 55, **Sch. 3 para.2(1)**; S.I. 1996/2402, **art.3** (with Sch. para. 1(1))

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**28D** <sup>F84</sup> **Functions of Commission in relation to audit of accounts of registered social landlords.**

- (1) The Commission may provide the Corporation with consultancy services relating to the audit of accounts of registered social landlords.
- (2) The Commission may recover from the Corporation such costs incurred in providing the services as may be agreed by the Corporation.

**Textual Amendments**

**F84** Ss. 28B -28E inserted (1.10.1996) by 1996 c. 52, s. 55, **Sch. 3 para.2(1)**; S.I. 1996/2402, **art.3** (with Sch. para. 1(1))

**28E** <sup>F85</sup> **Meaning of “the Corporation” and “registered social landlord”.**

In sections 28B to 28D above “the Corporation” and “registered social landlord” have the same meaning as in Part I of the Housing Act 1996.

**Textual Amendments**

**F85** Ss. 28B -28E inserted (1.10.1996) by 1996 c. 52, s. 55, **Sch. 3 para.2(1)**; S.I. 1996/2402, **art.3** (with Sch. para. 1(1))

<sup>F86X2</sup> **28B Delivery of documents relating to police authorities to Secretary of State.**

- (1) The Commission shall send to the Secretary of State a copy of any report of which a copy is sent to the Commission under section 18(4) above and which relates to a police authority established under [<sup>F87</sup>section 3 of the Police Act 1996].
- (2) If it appears to the Commission appropriate to do so, it may send to the Secretary of State a copy of any document—
  - (a) which relates to one or more police authorities established under [<sup>F87</sup>section 3 of the Police Act 1996], and
  - (b) which has been sent (or a copy of which has been sent) by the Commission to a police authority established under that section.]

**Editorial Information**

**X2** This is one of two versions of s. 28B running concurrently (1.10.1996 until 31.3.1998)

**Textual Amendments**

**F86** S. 28B inserted (1.10.1994 for certain purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 28**; S.I. 1994/2025, **art.6(1)(2)(g)**, 1994/3262, art. 4, Sch.

**F87** Words in s. 28B(1)(2)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para.1(2)(s)**

**29 Miscellaneous functions of Commission.**

- (1) The Commission shall, if so required by the body concerned, make arrangements—

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- (a) for certifying claims and returns in respect of grants or subsidies made or paid by any Minister of the Crown [<sup>F88</sup>or public authority] to any body whose accounts are required to be audited in accordance with this Part of this Act; or
  - (b) for certifying any account submitted by any such body to any such Minister with a view to obtaining payment under a contract between that body and the Minister [<sup>F89</sup>or
  - (c) for certifying the body's calculation under paragraph 5(6)(b) of Schedule 8 to the Local Government Finance Act 1988 of the amount of its non-domestic rating contribution for a financial year, and for certifying the amount calculated.][<sup>F90</sup>or
  - (d) for certifying any return by the body which, by or under any enactment, is required or authorised to be certified by the body's auditor or under arrangements made by the Commission]
- [<sup>F91</sup>and in paragraph (a) above "public authority" means a body established by or under the Treaties or by or under any enactment].
- (2) The Commission may, at the request of the body concerned, promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operations of any body whose accounts are required to be audited in accordance with this Part of this Act, but before making a request under this subsection a body shall consult such associations of employees as appear to the body to be appropriate [<sup>F92</sup>or, in the case of a health service body, such other organisations as appear to the body to be appropriate].
  - (3) The Commission may, with the consent of the Secretary of State and by agreement with the body concerned, undertake the audit of the accounts of any body other than one whose accounts are required to be so audited, being a body which appears to the Secretary of State to be connected with local government [<sup>F93</sup>or the National Health Service].
  - (4) Without prejudice to any applicable statutory provision, any audit carried out pursuant to subsection (3) above shall be carried out in such a manner as the Commission and the body in question may agree; and references in the foregoing provisions of this Part of this Act to an audit carried out thereunder accordingly do not include an audit carried out pursuant to that subsection.
  - (5) The Commission shall charge the body concerned such fees for services provided under this section as will cover the full cost of providing them.

#### Textual Amendments

- F88** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 184\(2\)](#)
- F89** [S. 29\(1\)\(c\)](#) and word "or" immediately preceding it inserted by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\), s. 137, Sch. 12 Pt. I para. 3\(4\)\(5\)](#)
- F90** [S. 29\(1\)\(d\)](#) and word "or" immediately preceding it inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 184\(2\)\(b\)](#)
- F91** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 184\(2\)\(c\)](#)
- F92** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 20\(1\)](#)
- F93** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 20\(2\)](#)

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#### Modifications etc. (not altering text)

- C53** S. 29(1) amended by [Local Government Act 1985](#) (c. 51, SIF 81:1), **ss. 57(6)**, 63(3)
- C54** S. 29(1) modified (3.4.1995) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 12(5)**; S.I. 1995/852, art. 9(1), **Sch. 5**
- C55** S. 29(1)(d) modified (1.11.1996) by 1996 c. 56, **s. 123(2)** (with s. 1(4), Sch. 39 paras. 30, 39)

### 30 Restriction on disclosure of information.

- (1) No information relating to a particular body or other person and obtained by the Commission or an auditor, or by a person acting on behalf of the Commission or an auditor, pursuant to any provision of this Part of this Act or in the course of any audit or study thereunder shall be disclosed except—
- (a) with the consent of the body or person to whom the information relates; or
  - (b) for the purposes of any functions of the Commission or an auditor under this Part of this Act [<sup>F94</sup>or, in the case of a health service body, for the purposes of the functions of the Secretary of State and the Comptroller and Auditor General under the National Health Service Act 1977]; or
  - [<sup>F95</sup>(ba) for the purposes of the functions of the Secretary of State relating to social security; or]
  - (c) for the purposes of any criminal proceedings.

[<sup>F96</sup>(1A) Subsection (1) above is subject to section 28AA(6).]

- (2) Any person who discloses any information in contravention of subsection (1) above shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum (as defined in section 32(9) of the <sup>M13</sup>Magistrates' Courts Act 1980) or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

#### Textual Amendments

- F94** Words inserted by [National Health Service and Community Care Act 1990](#) (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 21**
- F95** S. 30(1)(ba) inserted (1.7.1997) by 1997 c. 47, **s. 6(4)**; S.I. 1997/1577, art. 2, **Sch.**
- F96** S. 30(1A) inserted (29.4.1996) by 1996 c. 10, **s. 2(1)**

#### Modifications etc. (not altering text)

- C56** S. 30(1)(a) amended by [Local Government Act 1985](#) (c. 51, SIF 81:1), **s. 63(3)**
- C57** S. 30(1)(a) modified (3.4.1995) by 1994 c. 19, s. 66(7), **Sch. 17 Pt. II para. 12(5)**; S.I. 1995/852, art. 9(1), **Sch. 5**

#### Marginal Citations

- M13** 1980 c. 43.

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**[<sup>F97</sup>30A Supply of benefit information to Commission.**

The Secretary of State may supply to the Commission any information held by him which relates to housing benefit or council tax benefit and which appears to him to be relevant to the exercise of any function of the Commission.]

**Textual Amendments**

**F97** S. 30A inserted (1.7.1997) by 1997 c. 47, s. 6(5); S.I. 1997/1577, art. 2, Sch.

**31 Passenger transport executives and their subsidiaries.**

- (1) The foregoing provisions of this Part of this Act shall apply in relation to a Passenger Transport Executive . . . <sup>F98</sup> as they apply in relation to a body to which section 12 above applies, but subject to the following modifications—
  - (a) the Commission shall under section 13(3) consult the relevant authority instead of the Executive;
  - (b) the reference in sections 17(2) and (3), 22(1)(a), 23(1)(e) and 24(1) to a local government elector for any such area as is there mentioned shall be construed as a reference to a local government elector for the area of the relevant authority;
  - (c) the requirements of subsection (3) of section 18 shall apply in relation to the relevant authority as well as the Executive, but subsection (5) of that section shall apply only to the relevant authority;
  - [<sup>F99</sup>(ca) the requirements of section 18A(1) and (2) shall apply to the relevant authority as well as the Executive, but the reference in section 18A(2) to one or more local newspapers circulating in the area of the body or meeting shall be construed as a reference to one or more such newspapers circulating in the area of the relevant authority;]
  - (d) the notice required to be given by section 22(4) shall be given to the relevant authority as well as the Executive.
- (2) In subsection (1) above “the relevant authority”—
  - (a) in relation to a Passenger Transport Executive, means the Passenger Transport Authority for the area for which the Executive is established; . . . <sup>F100</sup>
  - (b) . . . . . <sup>F100</sup>
- (3) Section 14(1)(a) of the <sup>M14</sup>Transport Act 1968 . . . <sup>F101</sup> (which provide for the keeping of proper accounts and other records) shall have effect subject to any regulations made under section 23 above.
- [<sup>F102</sup>(4) Where a Passenger Transport Executive have a subsidiary, it shall be their duty to exercise their control over that subsidiary so as to ensure that the subsidiary appoints only auditors who, in addition to being qualified for appointment as such auditors in accordance with section 389 of the <sup>M15</sup>Companies Act 1985, are approved by the Commission for appointment as auditors of that subsidiary.]
- (5) In this section “subsidiary” means, subject to subsection (6) below, a subsidiary within the meaning of [<sup>F103</sup>section 736 of the Companies Act 1985].
- (6) Where a company would, if an Executive and any other body or bodies whose accounts are required to be audited in accordance with this Part of this Act were a single body corporate, be a subsidiary of that body corporate, [<sup>F104</sup>subsection (4) above shall not

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apply, but it shall be the joint duty of the Executive and the other body or bodies concerned to exercise such control over the company as the Executive are required by that subsection to exercise over a subsidiary of theirs.]

**Textual Amendments**

- F98** Words repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)(b)**, Sch. 6 para. 26(a), Sch. 7
- F99** [S. 31\(1\)\(ca\)](#) inserted by [Local Government Finance \(Publicity for Auditors' Reports\) Act 1991 \(c. 15, SIF 81:1\)](#), **s. 1(4)** (with [s. 1\(5\)](#))
- F100** [S. 31\(2\)\(b\)](#) and word “and” immediately preceding it repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)(b)**, Sch. 6 para. 26(b), Sch. 7
- F101** Words repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **s. 71(3)(a)(b)**, Sch. 6 para. 26(c), Sch. 7
- F102** [S. 31\(4\)](#) substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 139\(2\)](#), **Sch. 7 para. 22(1)**
- F103** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), [s. 30](#), **Sch. 2**
- F104** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 139\(2\)](#), **Sch. 7 para. 22(2)**

**Marginal Citations**

- M14** [1968 c. 73](#).
- M15** [1985 c. 6 \(27\)](#).

**32** ..... **F105**

**Textual Amendments**

- F105** [S. 32](#) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), [s. 190\(3\)](#), **Sch. 27 Pt. I** (with [ss. 58\(7\)](#), [101\(1\)](#), [141\(6\)](#), [160\(1\)\(2\)\(4\)](#), [163](#), [189\(4\)–\(10\)](#), [190](#), [193\(1\)](#), Sch. 26 paras. [3\(1\)\(2\)](#), [17](#), [40\(4\)](#), [41\(1\)](#), [57\(6\)](#), [58](#)) and expressed to be repealed (11.9.1998) by [1998 c. 18](#), [ss. 54\(3\)](#), [55\(2\)](#), **Sch. 5**

**33 Commencement of Part III and transitional provisions.**

- (1) The Commission shall come into existence on such day (“the first appointed day”) as may be appointed by an order made by the Secretary of State.
- (2) The provisions of this Part of this Act relating to the audit of accounts shall have effect in relation to accounts for any period beginning on or after such later date (“the second appointed day”) as may be appointed by an order made by the Secretary of State; and the amendments made by section 32 and Schedule 4 to this Act shall have effect in relation to any such period.
- (3) The Secretary of State may by regulations provide for any statutory provision not contained in this Part of this Act to continue to apply on and after the second appointed day in relation to accounts for any period beginning before that day of bodies falling within subsection (4) below with such modifications, additions and omissions as may be prescribed in the regulations; and different provision may be made by such regulations in relation to the accounts of bodies of different descriptions and in relation to their accounts for different periods.
- (4) The bodies referred to in subsection (3) above are—

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- (a) the bodies to which section 12 above applies;
- (b) Passenger Transport Executives . . . <sup>F106</sup> . . . <sup>F107</sup>
- (c) . . . . . <sup>F107</sup>

[<sup>F108</sup>(4A) The Secretary of State may by regulations provide for any statutory provision not contained in this Part of this Act to continue to apply on and after the day appointed for the coming into force of paragraph 22 of Schedule 4 to the National Health Service and Community Care Act 1990 in relation to accounts for any period beginning before that day of health service bodies, with such modifications, additions and omissions as may be prescribed by the regulations; and different provision may be made by such regulations in relation to the accounts of bodies of different descriptions and in relation to the accounts for different periods.]

(5) The expenses incurred by the Commission between the first and second appointed days shall be paid by the Secretary of State; and in the two years beginning with the [<sup>F109</sup>day appointed for the coming into force of paragraph 22 of Schedule 4 to the National Health Service and Community Care Act 1990] the Secretary of State may, with the consent of the Treasury, make to the Commission grants for the purpose of providing it with working capital [<sup>F110</sup>with respect to its functions in relation to health service bodies].

**Textual Amendments**

- F106** Words repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. **71(3)(b)**, Sch. 7
- F107** S. 33(1)(c) and the word “and” immediately preceding it repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F108** S. 33(4A) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), **Sch. 4 para. 22(1)**
- F109** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), **Sch. 4 para. 22(2)**
- F110** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), **Sch. 4 para. 22(2)**

**Modifications etc. (not altering text)**

- C58** 21.1.1983 appointed for the purposes of s. 33(1) by [S.I. 1982/1881](#), **art. 2**
- C59** 1.4.1983 appointed for the purposes of s. 33(2) by [S.I. 1983/165](#), **art. 2**

**34 Consequential amendments.**

- (1) The enactments mentioned in Schedule 5 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Part of this Act.
- (2) The amendments made by that Schedule do not affect any enactment in its application—
  - (a) to accounts for any period beginning before the second appointed day; or
  - (b) to a person disqualified under any enactment in its application to any such accounts.



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### 35 Orders and regulations.

- (1) Any power conferred by this Part of this Act to make orders or regulations shall be exercisable by statutory instrument.
- (2) Any regulations made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Before making any regulations under section 21(7) or 23 above the Secretary of State shall consult the Commission, such associations of local authorities as appear to him to be concerned and such bodies of accountants as appear to him to be appropriate.

### 36 Interpretation of Part III.

- (1) In this Part of this Act—

“the first appointed day” and “the second appointed day” have the meaning given by section 33 above;

“auditor”, in relation to the accounts of any body, means <sup>F111</sup>(except in section 31(4) above)] the person or any of the persons appointed by the Commission to act as auditor in relation to those accounts and, to the extent provided by section 13(8) above, includes a person assisting an auditor under arrangements approved under that provision;

“the Commission” means the Audit Commission for Local Authorities <sup>F112</sup>and the National Health Service] in England and Wales;

<sup>F113</sup>“health service body” has the meaning assigned by section 12(5) above;

“recognised fund-holding practice” shall be construed in accordance with section 14 of the National Health Service and Community Care Act 1990]

“statutory provision” means any provision contained in or having effect under any enactment.

<sup>F114</sup>(1A) In this Part of this Act “financial year” means the period of 12 months ending with 31st October in any year.]

- (2) <sup>F115</sup>Subject to subsection (1A) above]section 270 of the <sup>M16</sup>Local Government Act 1972 (general interpretation) shall apply for the interpretation of this Part of this Act.

<sup>F116</sup>(3) In the application of Part III of this Act in relation to the Broads Authority—

- (a) any reference to a local government elector shall be construed as a reference to a local government elector for the area of any participating authority (as defined by section 25 of the Norfolk and Suffolk Broads Act 1988); and
- (b) the Broads Authority and the Navigation Committee (as so defined) shall each be taken to be a local authority for the purposes of sections 19 and 20.]

<sup>F117</sup>(3A) In the application of Part III of this Act in relation to a National Park authority, any reference to a local government elector for the area of the authority shall be construed as a reference to a local government elector for any area the whole or any part of which is comprised in the Park for which that authority is the local planning authority.]

#### Textual Amendments

**F111** Words inserted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(2), [Sch. 7 para. 22\(3\)](#)

**F112** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 23\(a\)](#)



*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

- F113** Definitions inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 23(b)**
- F114** S. 36(1A) inserted (29.4.1996 with effect as mentioned in s. 3(4) of the amending Act) by 1996 c. 10, s. 3(1)(4)
- F115** Words in s. 36(2) inserted (29.4.1996 with effect as mentioned in s. 3(4) of the amending Act) by 1996 c. 10, s. 3(2)(4)
- F116** S. 36(3) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 17(12), 23(2), 27(2)
- F117** S. 36(3A) inserted (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 19(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**Marginal Citations**

**M16** 1972 c. 70.

**PART IV**

SUPPLEMENTARY

**37 Expenses.**

There shall be paid out of moneys provided by Parliament—

- (a) any expenses under this Act of the Secretary of State; and
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

**38 Repeals.**

- (1) The enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The repeals in Part I of that Schedule have effect for financial years beginning on or after 1st April 1982.
- (3) The repeals in Part II of that Schedule have effect for financial years beginning on or after 1st April 1981.
- (4) The repeals in Part III of that Schedule have effect for financial years beginning on or after 1st April 1983.
- (5) The repeals in Part IV of that Schedule do not affect any enactment in its application to accounts for any period beginning before the second appointed day referred to in section 33 above or any disqualification to which a person is subject immediately before the coming into force of the repeals.
- (6) Any regulations in force under section 166 of the <sup>M17</sup>Local Government Act 1972 immediately before the repeal of that section shall have effect as if made under section 23 above.

**Marginal Citations**

**M17** 1972 c. 70.

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*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

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**39 Short title and extent.**

- (1) This Act may be cited as the Local Government Finance Act 1982.
- (2) This Act extends to England and Wales only.

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 7(3).

#### RATES AND PRECEPTS: TRANSITIONAL PROVISIONS

- 1 The following provisions of this Schedule apply where before the passing of this Act and whether before or after 1st April 1982—
  - (a) a rating authority or precepting authority has made or issued—
    - (i) a supplementary rate or supplementary precept for or in respect of a period beginning on or after that date; or
    - (ii) a rate or precept for or in respect of any such period other than a financial year; or
  - (b) a rating authority has made a rate (other than a supplementary rate or rate falling within sub-paragraph (a) above) by reference to a supplementary precept or precept falling within that sub-paragraph.
- 2 No rate or precept shall by virtue of section 3 of this Act be substituted for a supplementary rate or precept falling within paragraph 1(a)(i) above.
- 3 Where a rating authority has made a supplementary rate falling within paragraph 1(a)(i) above any sum paid by a ratepayer to the rating authority in respect of the supplementary rate (or so much of any sum so paid in respect of rates generally as is attributable to the supplementary rate)—
  - (a) shall be repaid if the ratepayer so requires; or
  - (b) if repayment is not required shall, as the rating authority may determine, either be repaid to him or credited against any liability of his for rates in respect of the hereditament in question.
- 4 Where a person as tenant or licensee of any premises—
  - (a) is liable to make payments (whether as part of his rent or otherwise) which vary or may vary according to the rates chargeable in respect of those premises; or
  - (b) is entitled to make deductions from his rent in respect of those rates.he shall, where a rating authority has made a supplementary rate falling within paragraph 1(a)(i) above which affects those premises, be entitled to recover or, as the case may be, liable to make good any payment or deduction which he would not have been liable or entitled to make if that rate had not been made; and any sum which he is entitled to recover as aforesaid may, without prejudice to any other method of recovery, be deducted by him from any rent payable by him to the person by whom that sum was received.
- 5 Where a precepting authority has issued a supplementary precept falling within paragraph 1(a)(i) above any sum paid to that authority in respect of the precept shall be repaid if the authority to which the precept was issued so requires or, if repayment is not required, credited or otherwise dealt with as may be agreed between those authorities.

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

- 6 A rating or precepting authority which has made a rate or issued a precept falling within paragraph 1(a)(ii) above shall under section 3 of this Act make a rate or issue a precept in substitution for that rate or precept as if it were a rate or precept for a financial year but the estimated product of that rate or precept shall for the purposes of subsection (2) of that section be adjusted in such manner as the Secretary of State may direct.
- 7 (1) A rating authority which has made a rate falling within paragraph 1(b) above shall under section 3 of this Act make a rate in substitution for the rate falling within that paragraph.
- (2) Where the precept by reference to which the original rate was made fell within paragraph 1(a)(i) above, the estimated product of the original rate shall for the purposes of subsection (2) of that section be calculated without reference to the precept.
- (3) Where the precept by reference to which the original rate was made fell within paragraph 1(a)(ii) above—
- (a) the rate substituted under the said section 3 shall be made by reference to the precept substituted pursuant to paragraph 6 above; and
  - (b) the estimated product of the original rate shall for the purposes of subsection (2) of that section be adjusted in such manner as the Secretary of State may direct.
- (4) Where the precept by reference to which the original rate was made fell within paragraph 1(a)(ii) above and was issued under section 150(4) of the <sup>M18</sup>Local Government Act 1972 (expenses of parish and community councils) sub-paragraph (1) above shall not require the rating authority to make a substituted rate unless it considers that a substituted rate will be required for meeting the precept substituted pursuant to paragraph 6 above.

**Marginal Citations**

M18 1972 c. 70.

- 8 (1) Where a rating authority has made a supplementary rate falling within paragraph 1(a)(i) above by reference to a supplementary precept falling within that provision it shall be entitled to recover from the precepting authority—
- (a) its administrative expenses in making repayments or allowing credits under paragraph 3 above in respect of the supplementary rate; and
  - (b) its rate collection expenses in respect of that rate.
- (2) Where a rating authority has made a rate falling within sub-paragraph (a)(ii) or (b) of paragraph 1 above by reference to a supplementary precept or precept falling within sub-paragraph (1)(a) of that paragraph it shall be entitled to recover from the precepting authority—
- (a) its administrative expenses in making repayments or allowing credits under section 3(5) and (6) of this Act in respect of that rate; and
  - (b) any increase attributable to paragraph 6 or 7(1) above in its rate collection expenses for the financial year.
- 9 In this Schedule any expression which is also used in Part I of this Act has the same meaning as in that Part.

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

## SCHEDULE 2

Section 10.

### BLOCK GRANT: RECEIVER FOR THE METROPOLITAN POLICE DISTRICT

#### Modifications etc. (not altering text)

**C60** Sch. 2 amended by [Rate Support Grants Act 1988 \(c. 51, SIF 81:1\)](#), **ss. 1(10), 3(11)**

#### *Interpretation*

1 (1) In this Schedule—

“gross rateable value”, in relation to the Metropolitan Police District, means the aggregate of the rateable values of the hereditaments in that District;

“the principal Act” means the <sup>M19</sup>Local Government, Planning and Land Act 1980;

“rateable values”, in relation to hereditaments in that District, means, subject to sub-paragraphs (2) and (3) below, rateable values ascribed to them in the valuation lists on a date to be specified in each year in the Rate Support Grant Report;

“the Receiver” means the Receiver for the Metropolitan Police District;

“Receiver’s grant-related poundage” means a poundage [<sup>F118</sup>calculated] by the Secretary of State and related—

(a) to a given ratio between the Receiver’s total expenditure and the Receiver’s grant-related expenditure; or

(b) to a given difference between his total expenditure divided by the population of the Metropolitan Police District and his grant-related expenditure so divided;

“Receiver’s total expenditure” means that part of the Receiver’s expenditure for a year which falls to be defrayed out of the Metropolitan Police Fund and which is not met by any such grant as is mentioned in section 54(7)(a) or (b) of the principal Act but reduced by the amount of any payments of such descriptions as the Secretary of State may specify which fall to be paid for that year into the Metropolitan Police Fund;

“Receiver’s grant-related expenditure” means a sum determined by the Secretary of State as being the aggregate for the year of the Receiver’s notional expenditure having regard to his functions.

(2) The reference to hereditaments in the definition of “rateable values” in sub-paragraph (1) above includes a reference to a notional hereditament which a body is treated as occupying by virtue of any enactment.

(3) A Rate Support Grant Report may provide that for the year to which it relates the rateable values of hereditaments in the Metropolitan Police District falling within any class of hereditaments shall be ascertained for the purposes of this Schedule otherwise than by reference to the values ascribed to them in the valuation lists.

#### Textual Amendments

**F118** Word substituted (*retrospectively*) by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, **Sch. 1 para. 3**

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

### Marginal Citations

**M19** 1980 c. 65.

### *Payment of block grant*

2 In section 53(1) and (8) of the principal Act, so far as relating to block grant, references to local authorities or a local authority shall include references to the Receiver.

3 ..... **F119**

### Textual Amendments

**F119** Sch. 1 para. 3 repealed by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(2), [Sch. 5](#) (the repeal being subject to the provision at the end of that Sch.)

### *Calculation of block grant*

4 (1) The amount of block grant payable to the Receiver is to be calculated by deducting from the Receiver's total expenditure for the year the product arrived at by multiplying the Receiver's grant-related poundage by the gross rateable value of the Metropolitan Police District.

(2) Sub-paragraph (1) above has effect subject to subsection (7) of section 56 of the principal Act in which the reference to a local authority shall include a reference to the Receiver.

### *Adjustment of distribution of block grant*

5 (1) Subject to the following provisions of this paragraph, the Secretary of State may provide in a Rate Support Grant Report that the amount of block grant payable to the Receiver for a year shall be calculated by deducting from his total expenditure, instead of the product of his grant-related poundage and the gross rateable value of the Metropolitan Police District, the product of those sums multiplied by a multiplier determined by the Secretary of State.

(2) <sup>F120</sup>In paragraph (b) of subsection (6) of section 59 of the principal Act references to a local authority shall include references to the Receiver and the power conferred by this paragraph may only be exercised—

(a) for the purposes specified in paragraph (b), (c) or (d) of that subsection or in section 2(2) of the Rate Support Grants Act 1986;] or

(b) for the purpose of preventing or limiting any change in the amount of block grant payable to the Receiver that would otherwise result from <sup>F121</sup>any recalculation of his grant-related poundage on fresh principles specified] in a supplementary report made under section 61 of the principal Act.

<sup>F122</sup>(2A) A multiplier determined under this paragraph may be subject to a maximum determined by the Secretary of State.]

(3) In Section 8(3) and (7) of this Act references to section 59 of the principal Act and to a local authority shall include references to this paragraph and to the Receiver.

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

- (4) If the Secretary of State exercises the power conferred by this paragraph the principles on which he exercises it shall, subject to section 8(9) of this Act, be specified in the Rate Support Grant Report.

**Textual Amendments**

- F120** Words and para. (a) substituted by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, **Sch. 1 para. 6**  
**F121** Words substituted by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, **Sch. 1 para. 3(2)**  
**F122** [Sch. 2 para. 5\(2A\)](#) inserted by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, **Sch. 1 para. 7**

**Modifications etc. (not altering text)**

- C61** [Sch. 1 para. 5\(1\)](#) modified, superseded in part and amended by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), **ss. 1, 2, 4**  
**C62** [Sch. 1 para. 5\(1\)](#) modified by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), **s. 126(2)–(6)**

*Rate Support Grant Reports*

- 6 In subsection (6)(a) of section 60 of the principal Act the reference to Part VI of that Act shall include a reference to this Schedule and in subsection (9) of that section the reference to a local authority shall include a reference to the Receiver.

*Supplementary Reports*

- 7 In the application of section 61 of the principal Act to the Receiver's grant-related poundage and the Receiver's grant-related expenditure subsection (5) shall be omitted.

*Adjustment of block grant total*

- 8 (1) In subsections (1) and (2) of section 62 of the principal Act references to a local authority or local authorities shall include references to the Receiver.  
(2) ..... **F123**

**Textual Amendments**

- F123** [Sch. 2 para. 8\(2\)](#) repealed (*retrospectively*) by [Rate Support Grants Act 1986 \(c. 54, SIF 103:1\)](#), s. 3, [Sch. 1 para. 12](#), **Sch. 2**

- 9 ..... **F124**

**Textual Amendments**

- F124** [Sch. 2 para. 9](#) repealed by [Local Government Finance Act 1987 \(c. 6, SIF 81:1\)](#), s. 11(2), **Sch. 5** (the repeal being subject to the provision at the end of that Sch.)

*Estimates and calculations*

- 10 In section 66 of the principal Act, so far as relating to block grant, references to a local authority shall include references to the Receiver.



*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

## SCHEDULE 3

Section 11(4).

### THE AUDIT COMMISSION

#### *Status*

- 1 The Commission shall be a body corporate.
- 2 The Commission shall not be regarded as acting on behalf of the Crown and neither the Commission nor its members, officers or servants shall be regarded as Crown servants.

#### *Functions of Secretary of State in relation to Commission*

- 3 (1) The Secretary of State may give the Commission directions as to the discharge of its functions and the Commission shall give effect to any such directions.
- (2) The Commission shall furnish the Secretary of State with such information relating to the discharge of its functions as he may require and for that purpose shall permit any person authorised by him to inspect and make copies of any accounts or other documents of the Commission and shall afford such explanation of them as that person or the Secretary of State may require.
- (3) No direction shall be given by the Secretary of State and no information shall be required by him under this paragraph in respect of any particular body whose accounts are required to be audited in accordance with Part III of this Act; and before giving any direction under this paragraph the Secretary of State shall consult the Commission, such associations of local authorities as appear to him to be concerned [<sup>F125</sup>or, as the case may require, such organisations connected with the health service as appear to him to be appropriate and (in either case)] such bodies of accountants as appear to him to be appropriate.
- (4) The Secretary of State shall publish any direction given by him under this paragraph.

#### **Textual Amendments**

**F125** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 24\(1\)](#)

#### *Tenure of office of members*

- 4 (1) Subject to the provisions of this paragraph, every member of the Commission shall hold and vacate his office in accordance with the terms of his appointment.
- (2) Any member may resign by notice in writing to the Secretary of State, and the chairman or deputy chairman may by a like notice resign his office as such.
- (3) The Secretary of State may remove a member from office if that member—

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*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

- (a) has become bankrupt or made an arrangement with his creditors;
  - (b) is incapacitated by physical or mental illness;
  - (c) has been absent from meetings of the Commission for a period of six months otherwise than for a reason approved by the Secretary of State; or
  - (d) is in the opinion of the Secretary of State otherwise unable or unfit to discharge the functions of a member.
- (4) If the chairman or deputy chairman ceases to be a member he shall also cease to be chairman or deputy chairman.

*Remuneration etc. of members*

- 5 (1) The Commission shall pay to each member such remuneration and allowances (if any) as the Secretary of State may determine.
- (2) As regards any member in whose case the Secretary of State may so determine, the Commission shall pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (3) Where a person ceases to be a member otherwise than on the expiration of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Commission shall pay as compensation to that person such amount as the Secretary of State may determine.
- <sup>F126</sup>(4) .....

**Textual Amendments**

**F126** Sch. 3 para. 5(4) omitted (29.6.1996) by virtue of 1996 c. 10, s. 6(1)(2) and repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5

*House of Commons disqualification*

- 6 In Part III of Schedule 1 to the <sup>M20</sup>House of Commons Disqualification Act 1975 (disqualifying offices) there shall be inserted at the appropriate place in alphabetical order—
- “Any member of the Audit Commission for Local Authorities in England and Wales in receipt of remuneration”.

**Modifications etc. (not altering text)**

**C63** The text of Sch. 3 para. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M20** 1975 c. 24.

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*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

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### *Staff*

- 7
- (1) The Commission shall appoint a chief officer who shall be known as the Controller of Audit and his appointment shall require the approval of the Secretary of State.
  - (2) The Commission shall appoint such other officers and servants as it considers necessary for the discharge of its functions.
  - (3) The Commission's officers and servants (in this paragraph referred to as employees) shall be appointed at such remuneration and on such other terms and conditions as the Commission may determine.
  - (4) The Commission may pay such pensions, allowances or gratuities as it may determine to or in respect of any of its employees, make such payments as it may determine towards the provision of pensions, allowances or gratuities to or in respect of any of its employees or provide and maintain such schemes as it may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of its employees.
  - (5) The references in sub-paragraph (4) above to pensions, allowances or gratuities to or in respect of any employees include references to pensions, allowances or gratuities by way of compensation to or in respect of employees who suffer loss of office or employment.
  - (6) If an employee becomes a member of the Commission and was by reference to his employment by the Commission a participant in a pension scheme maintained by the Commission for the benefit of any of its employees, the Commission may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Commission whether or not any benefits are payable to or in respect of him by virtue of paragraph 5 above.
  - (7) Notwithstanding sub-paragraphs (1) and (3) above, the first Controller of Audit shall be appointed by the Secretary of State who shall determine the terms and conditions on which he is to be employed by the Commission.
- 8
- (1) It shall be the duty of the Commission to make, by such date as the Secretary of State may determine, an offer of employment by the Commission to each person employed in the civil service of the State as a district auditor, assistant to a district auditor or otherwise in the district audit service whose name is notified to the Commission by the Secretary of State for the purposes of this paragraph; and the terms of the offer must be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
  - (2) An offer made in pursuance of this paragraph shall not be revocable during the period of three months beginning with the date on which it is made.
  - (3) Where a person becomes an officer or servant of the Commission in consequence of this paragraph, then, for the purposes of [F127the Employment Rights Act 1996], his period of employment in the civil service of the State shall count as a period of employment by the Commission and the change of employment shall not break the continuity of the period of employment.
  - (4) Where a person ceases to be employed as mentioned in sub-paragraph (1) above—

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- (a) on becoming an officer or servant of the Commission in consequence of this paragraph; or
  - (b) having unreasonably refused an offer made to him in pursuance of this paragraph,
- he shall not, on ceasing to be so employed, be treated for the purposes of any scheme under section 1 of the <sup>M21</sup>Superannuation Act 1972 as having been retired on redundancy.

#### Textual Amendments

**F127** Words in [Sch. 3 para. 8\(3\)](#) substituted (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para. 19](#) (with [ss. 191-195, 202](#))

#### Marginal Citations

**M21** [1972 c. 11.](#)

### *Financial provisions*

- 9 <sup>F128</sup>Subject to sub-paragraph (2) below] it shall be the duty of the Commission so to manage its affairs that its income from fees and otherwise will, taking one year with another, be not less than its expenditure properly chargeable to its income and expenditure account.

<sup>F129</sup>(2) Sub-paragraph (1) above shall apply separately with respect to] <sup>F130</sup>—

- (a) the functions of the Commission under section 28AA of this Act in relation to the discharge of social services functions;
  - [ <sup>F131</sup>(aza) its functions under section 28AB of this Act in relation to the discharge of housing benefit administration functions and council tax administration functions;]
  - [ <sup>F132</sup>(aa) its functions under sections 28B and 28C relating to registered social landlords;
- (ab) its functions under section 28D relating to such landlords;]
- (b) its functions in relation to health service bodies; and
- (c) its other functions.]

#### Textual Amendments

**F128** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 24\(2\)](#)

**F129** [Sch. 3 para. 9\(2\)](#) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 24\(2\)](#)

**F130** [Sch. 3 para. 9\(2\)\(a\)-\(c\)](#) and “-” immediately preceding it substituted for words in [Sch. 3 para. 9\(2\)](#) (29.4.1996) by [1996 c. 10, s. 2\(2\)](#)

**F131** [Sch. 3 para. 9\(2\)\(aza\)](#) inserted (1.7.1997) by [1997 c.47, s. 32, Sch. 1 para. 1: S.I. 1997/1577, art. 2, Sch.](#)

**F132** [Sch. 3 paras. 9\(2\)\(aa\)\(ab\)](#) inserted (1.10.1996) after sub-para. (a) by [1996 c.52, s. 55\(1\), Sch. 3 para. 2\(2\)](#) (with [s. 51\(4\)](#)); [S.I. 1996/2402, art. 3](#) (with [Sch. para. 1](#))

*Status: Point in time view as at 01/07/1997.*

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- 10 (1) The Commission may borrow—
- (a) from the Secretary of State; or
  - (b) temporarily (by way of overdraft or otherwise) and with his consent, from any other person,
- such sums as it may require for the purpose of meeting its obligations and discharging its functions.
- (2) The aggregate amount outstanding in respect of the principal of any sums borrowed by the Commission under sub-paragraph (1) above shall not exceed £4 million or such greater sum, not exceeding £20 million, as the Secretary of State may from time to time by order specify; and no such order shall be made unless a draft of the order has been approved by a resolution of the House of Commons.
- (3) The Secretary of State may lend to the Commission any sums which it has power to borrow under sub-paragraph (1)(a) above; and the Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable him to make loans under this sub-paragraph.
- (4) Loans made under sub-paragraph (3) above shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may from time to time determine.
- (5) All sums received by the Secretary of State under sub-paragraph (4) above shall be paid into the National Loans Fund.
- (6) The Secretary of State shall prepare, in respect of each financial year and in such form as the Treasury may direct, an account—
- (a) of any sums issued to him under sub-paragraph (3) above or received by him under sub-paragraph (4) above; and
  - (b) of the disposal by him of any sums so received,
- and shall send the account to the Comptroller and Auditor General not later than the end of the month of <sup>F133</sup>March following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (7) Any consent, loan or determination by the Secretary of State under this paragraph shall require the approval of the Treasury.

#### Textual Amendments

**F133** Word in Sch. 3 para 10(6) substituted (29.4.1996 with effect as mentioned in s. 3(4) of the amending Act) by 1996 c. 10, s. 3(3)(a)(4)

#### Modifications etc. (not altering text)

**C64** Sch. 3 para. 10(6) amended (29.4.1996) by 1996 c. 10, s. 3(5)(b)

- 11 (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of <sup>F134</sup>the payment of interest on and the discharge of any other financial obligation in connection with] any sums which the Commission borrows from a person other than the Secretary of State.

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- (2) Immediately after a guarantee is given under this paragraph, the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal sum and in respect of interest on it is finally discharged.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this paragraph shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the Commission shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued and payments of interest, at such rates as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Any sums received by the Treasury in pursuance of sub-paragraph (4) above shall be paid into the Consolidated Fund.

#### Textual Amendments

**F134** Words substituted by [Miscellaneous Financial Provisions Act 1983 \(c. 29, SIF 99:1\)](#), s. 4(1), [Sch. 2](#)

- 12 (1) The Commission shall keep proper accounts and other records in relation to its accounts and shall prepare in respect of each financial year a statement of account in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (2) The statement of account prepared by the Commission in respect of each financial year shall be submitted to the Secretary of State before such date as he may, with the approval of the Treasury, direct.
- (3) The Secretary of State shall, on or before [<sup>F135</sup>1st March] in each year, transmit to the Comptroller and Auditor General the statement of account prepared by the Commission for the financial year last ended.
- (4) The Comptroller and Auditor General shall examine and certify the statement of account transmitted to him under sub-paragraph (3) above and shall lay before Parliament copies of that statement together with his report thereon.

#### Textual Amendments

**F135** Words in [Sch. 3 para. 12\(3\)](#) substituted (29.4.1996 with effect as mentioned in [s. 3\(4\)](#) of the amending Act) by [1996 c. 10, s. 3\(3\)\(b\)\(4\)](#)

#### Modifications etc. (not altering text)

**C65** [Sch. 3 para. 12\(3\)](#) amended (29.4.1996) by [1996 c. 10, s. 3\(5\)\(c\)](#)

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

### *Proceedings*

- 13 (1) The Commission shall regulate its own proceedings.
- (2) The validity of any proceedings of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of its members.
- 14 (1) The application of the seal of the Commission shall be authenticated by the signature of the chairman or of some other member authorised either generally or specially by the Commission for that purpose.
- (2) Any document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

### *Annual report*

- 15 (1) The Commission shall publish an annual report on the discharge of its functions.
- (2) Copies of each annual report shall be sent by the Commission to the Secretary of State who shall lay copies of it before each House of Parliament.

## SCHEDULE 4

. . . F136

### **Textual Amendments**

**F136** Sch. 4 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

## SCHEDULE 5

Section 34.

### CONSEQUENTIAL AMENDMENTS

### **Modifications etc. (not altering text)**

**C66** The text of Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.



*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

### *The Public Health Act 1875*

- 1 In section 265 of the <sup>M22</sup>Public Health Act 1875, for the words from “make any payment” onwards there shall be substituted the words “ make any payment in pursuance of section 19 or 20 of the Local Government Finance Act 1982 ”.

#### **Marginal Citations**

**M22** 1875 c. 55.

### *The Police Act 1964*

- F137<sup>2</sup> .....

#### **Textual Amendments**

**F137** Sch. 5 para. 2 repealed (1.4.1995) by 1994 c. 29, s. 93, Sch. 9 Pt. I; S.I. 1994/3262, art. 4, Sch.

### *The Transport Act 1968*

- 3 For section 14(3) of the <sup>M23</sup>Transport Act 1968 there shall be substituted—  
“(3) As soon as the accounts of the Executive for any accounting period have been audited in accordance with Part III of the Local Government Finance Act 1982 they shall send a copy of any statement of accounts prepared by them for that period pursuant to regulations under section 23 of that Act to the Minister, to the Authority for the designated area and to each of the councils of the constituent areas, together with a copy of the auditor’s opinion on that statement.”

#### **Marginal Citations**

**M23** 1968 c. 73.

- 4 ..... **F138**

#### **Textual Amendments**

**F138** Sch. 5 para. 4 repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(b), Sch. 7

### *The Local Government Act 1972*

- 5 (1) In section 80(1)(e) of the <sup>M24</sup>Local Government Act 1972, for the words “Part VIII below” there shall be substituted the words “ Part III of the Local Government Finance Act 1982 ”.  
(2) In section 86(b) of that Act, for the words “by virtue of an order under Part VIII below, a surcharge” there shall be substituted the words “ under Part III of the Local Government Finance Act 1982 or by virtue of ”.  
(3) In section 87(1)(d) of that Act—

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

- (a) for the words “by virtue of an order under Part VIII below or a surcharge or” there shall be substituted the words “ under Part III of the Local Government Finance Act 1982 or by virtue of a ”; and
  - (b) for the words “order, surcharge or” there shall be substituted the words “ relevant order or decision under that Part of that Act or (as the case may be) that ”.
- (4) In section 137(7) of that Act, for the words from “and section” onwards there shall be substituted the words “ and section 24 of the Local Government Finance Act 1982 (rights of inspection) shall apply in relation to any such separate account of a local authority as it applies in relation to any statement of accounts prepared by them pursuant to regulations under section 23 of that Act. ”
- (5) In section 246(15) of that Act, for the words “Sections 154 to 168 above” there shall be substituted the words “ Section 168 above ”.

**Marginal Citations**  
**M24** 1972 c. 70.

6 ..... **F139**

**Textual Amendments**  
**F139** Sch. 5 para. 6 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

*The Land Drainage Act 1976*

**F1407** .....

**Textual Amendments**  
**F140** Sch. 5 para. 7 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3, 4(2), **Sch. 3 Part I** (with Sch. 2 paras. 10, 14(1), 15)

*The Local Government, Planning and Land Act 1980*

- 8 (1) In section 2(7) of the <sup>M25</sup>Local Government, Planning and Land Act 1980, for paragraph (b) there shall be substituted—
- “(b) its inclusion in a statement of accounts prepared by an authority to which this section applies in accordance with regulations under section 23 of the Local Government Finance Act 1982 or in an abstract of accounts prepared by such an authority in accordance with regulations under section 105 of the Local Government (Scotland) Act 1973; or”.
- (2) In section 14(1) of that Act, for the words “section 166 of the Local Government Act 1972” there shall be substituted the words “ section 23 of the Local Government Finance Act 1982 ”.

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

(3) ..... F141

**Textual Amendments**

**F141** Sch. 5 para. 8(3) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Pt. I**

**Marginal Citations**

**M25** 1980 c. 65.

SCHEDULE 6

Section 38.

REPEALS

**Modifications etc. (not altering text)**

**C67** The text of Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART I

Chapter	Short title	Extent of repeal
1967 c. 9.	The General Rate Act 1967.	<p>In section 2(4)(b) the words “, or any part of the year”.</p> <p>In section 3, in subsection (3) the words “Subject to subsection (5) of this section” and the words from “and ending” onwards, in subsection (4) the words “Where a rate is made for a period exceeding three months” and subsection (5).</p> <p>In section 7, in subsection (5) the words from “but” onwards and subsection (6).</p> <p>in section 12, in subsections (6) and (9), the words “or half-year as the case may be,” wherever they occur and in subsection (9)(b) the words “or half-year” in the second place where they occur.</p> <p>Section 48(2).</p>

*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

		In section 115(1), in the definition of “rate period” the words “or part of a year, being a year or part”.
		In Schedule 6, in paragraph 10(b) the words “or comprising”.
		In Schedule 7, in paragraph 14(b) the words “or comprising”.
		In Schedule 10, in paragraph 5 the words from the beginning of sub-paragraph (a) to “in every case” in sub-paragraph (c).
1972 c. 70.	The Local Government Act 1972.	In section 149(1) the words from “and may at any time” onwards.
1976 c. 70.	The Land Drainage Act 1976.	Section 46(4). Section 49(4).
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 33(3).

## PART II

Chapter	Short title	Extent of repeal
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In section 59, subsections (2) and (3) and in subsection (6) (c) the word “and”.  In Schedule 11, paragraph 8(3) and (4).

## PART III

Chapter	Short title	Extent of repeal
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In section 56(8), in the definition of “grant-related poundage” the words “subject to paragraph 6 of Schedule 11 below”.  Section 64. Schedule 11.

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*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

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1982 c. 32.	The Local Government Finance Act 1982.	In section 8, in subsection (3) the words from “and by paragraph 8” to “District”, in subsection (5) the words “and sub-paragraphs (3) and (4) of the said paragraph 8” and the words following the semi-colon, in subsection (6) the words “and paragraph 8” and “and sub-paragraphs (9) to (11) of that paragraph”, in subsection (7) the words “or paragraph 8” and subsection (11).
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#### PART IV

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
10 & 11 Geo. 6. c. 41.	The Fire Services Act 1947.	Section 8(5).
1964 c. 48.	The Police Act 1964.	In section 8(3) the words from “and the accounts of every combined police authority” onwards.
1968 c. 73.	The Transport Act 1968.	In section 14, in subsection (1), paragraph (b) and the word “and” preceding it, and subsection (2).
1969 c. 35.	The Transport (London) Act 1969.	In section 10, in subsection (1), paragraph (b) and the word “and” preceding it, and subsection (2).
1972 c. 70.	The Local Government Act 1972.	In section 80, subsection (1) (c) and, in subsection (5), the words “(c) and”, “surcharge or” (in both places), and “as the case may be”. Sections 154 to 167. Section 197(4). Section 228(4). In Schedule 24, paragraph 3. In Schedule 29, paragraph 7.
1973 c. 37.	The Water Act 1973.	In Schedule 3, in paragraph 9, sub-paragraph (1)(c) and, in sub-paragraph (4), the words “(c) and”, “surcharge or” (in

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*Status: Point in time view as at 01/07/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Finance Act 1982. (See end of Document for details)*

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1976 c. 57.	The Local Government (Miscellaneous Provisions) Act 1976.	both places), and “as the case may be”. In Schedule 1, in paragraph 8, sub-paragraph (1)(c) and, in sub-paragraph (4), the words “(c) and”, “surcharge or” (in both places), and “as the case may be”.
1980 c. 5.	The Child Care Act 1980.	In Schedule 2, paragraph 19. In Schedule 1, in paragraph 6, the words following paragraph (b).

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**Status:**

Point in time view as at 01/07/1997.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government Finance Act 1982.