



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART X

AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES.

Reports by Auditor and Surcharge, &c.

201 Power of Secretary of State to disallow illegal payments and surcharge on interim report of auditor.

- (1) If it shall appear to any auditor acting in pursuance of this Part of this Act—
- (a) that any payment is in his opinion contrary to law; or
 - (b) that any sum which in his opinion ought to have been brought into account by any person; or
 - (c) that any loss or deficiency has been incurred owing to the negligence or misconduct of any person,

whether such payment or failure to bring into account or loss or deficiency has been made matter of objection or not, he shall by an interim report under his hand report thereon to the Secretary of State setting forth the grounds of his opinion as aforesaid, and the Secretary of State shall cause such interim report to be intimated to the objector, if any, to the officer or other person affected thereby and to the local authority concerned, and shall consider any statement in writing which may be made to him thereon within fourteen days of the date of such intimation by or on behalf of any person to whom such intimation has been given, and after such further inquiry, if any as he may think fit the Secretary of State shall decide all questions raised by such interim report and shall—

- (i) disallow any illegal payment and surcharge the amount thereof upon any person making the payment or authorising the payment to be made; or
- (ii) surcharge the amount of any sum which has not been duly brought into account upon any person by whom or by whose authority that sum has not been brought into account; or

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (iii) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred:

Provided that—

- (a) before deciding any question raised by an interim report the Secretary of State may, on the application of the auditor or of any party to whom the interim report requires to be intimated as aforesaid, and shall, if so directed by the Court of Session, state a case on any question of law arising on the interim report for the opinion of the Court of Session;
 - (b) a surcharge shall not be made under this section upon an officer of a local authority by reason only of his signing a cheque or order in respect of any illegal payment, if he satisfies the Secretary of State that before signing the cheque or order he advised the authority in writing that in his opinion the payment was illegal;
 - (c) a surcharge shall not be made under this section upon a member of a county council or town council by reason only of his signing a cheque or order in respect of any illegal payment, if he satisfies the Secretary of State that the payment was made in pursuance of an order of the finance committee of the council in accordance with the provisions of Part IX of this Act, and that before he signed the cheque or order the council had not been advised by any officer of the council that in the opinion of the officer the payment was illegal;
 - (d) before making any surcharge in respect of a loss or deficiency due to negligence, the Secretary of State may, and shall, if requested by the auditor or by any of the parties to whom the interim report has been intimated, direct a local inquiry to be held and shall consider the report of the person holding the inquiry;
 - (e) if the Secretary of State is satisfied that any person against whom a surcharge might be made under this subsection acted reasonably or in the belief that his action was authorised by law, or that the act or omission which might have involved such a surcharge took place in such circumstances as to make it fair and equitable that a disallowance or surcharge should not be made, the Secretary of State shall abstain from making a disallowance or surcharge.
- (2) The Secretary of State shall cause intimation to be given to the auditor of his decision under this section and of the date on which the decision has been intimated to the persons concerned.
- (3) Every sum determined by the Secretary of State under this section to be due from any person shall be paid by such person to the local authority within fourteen days after the decision of the Secretary of State has been intimated to him, and if such sum is not so paid it shall be the duty of the auditor by whom the interim report was made or such other person as the Secretary of State may appoint for the purpose to recover such sum and if need be to institute proceedings for payment of the same to himself on behalf of the authority, and the authority shall reimburse the auditor or other person for his expenses (including a reasonable allowance for his trouble) in so far as not recovered from the person surcharged.

202 Power of Secretary of State to require rectification of accounts.

- (1) If it shall appear to any auditor acting in pursuance of this Part of this Act that any sum which in his opinion ought to have been credited or debited to one account of the local authority has been credited or, as the case may be, debited to another account of the authority, he shall, by an interim report under his hand, report thereon to the Secretary

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

of State setting forth the grounds of his opinion as aforesaid, and the Secretary of State shall cause such interim report to be intimated to the authority, and shall consider any statement in writing by the authority which may be made to him thereon within fourteen days of the date of such intimation, and after such further inquiry, if any, as he may think fit, the Secretary of State shall decide all questions raised by such interim report and shall give directions to the authority to make such rectification of their accounts as seems necessary, and the authority shall forthwith give effect to such directions.

- (2) The Secretary of State shall cause intimation to be given to the auditor of his decision under this section.

203 Auditor's report on accounts.

- (1) Within fourteen days after the completion of the audit the auditor shall, subject in a case where he has made an interim report to a reservation as to the question raised thereunder, report on the accounts audited and on the matters prescribed by the Secretary of State under section two hundred and seven of this Act, and shall certify on each duplicate abstract of the accounts the amount in words at length of the expenditure so audited and allowed and whether all the provisions under any enactment or statutory order with respect to the accounts have been complied with and whether he has ascertained by the audit the correctness of the accounts.
- (2) The auditor shall forthwith send one duplicate abstract of the accounts to the local authority and the other duplicate abstract to the Secretary of State.
- (3) In the case of a county council and of a town council of a county of a city, the auditor shall also forthwith send to the accountant within the meaning of the Education (Scotland) Act, 1946, a copy of the abstract of the accounts relating to education with a report and certificate thereon as aforesaid.

204 Abstract of audited accounts and auditor's report to be open to public inspection.

The local authority shall, within fourteen days of receiving from the auditor the certified duplicate abstract of accounts, cause the same together with the auditor's report on the accounts or a copy thereof to be deposited in their office for inspection free of charge by ratepayers within the area of the authority for at least fourteen days and a notice to be published once weekly for at least two successive weeks in a newspaper circulating in the area of the authority of the place at which and the time during which the said abstract and report shall be open to the inspection of all such ratepayers. The first notice shall be published before the commencement of the said period of at least fourteen days.

205 Notice of surcharge, of rectification of accounts or of auditor's report on accounts.

The Secretary of State may require a local authority to cause such public notice as he may direct to be given of any surcharge made by him or any rectification of accounts required by him or of any report by the auditor (other than an interim report) under this Act, and in case of default in such publication the Secretary of State may cause such notice to be given, and the cost of such notice to the amount certified by the Secretary of State shall be a debt due from the authority to the Crown, and the clerk

***Status:** This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

of the authority shall in case of such default in such publication be liable on summary conviction to a fine not exceeding twenty pounds.