



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART X

#### AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES.

*Accounts subject to Audit, Appointment of Auditors and Production of Books and Documents.*

#### **196 Accounts of local authorities to be audited.**

- (1) The accounts of every local authority for the financial year commencing on the sixteenth day of May nineteen hundred and forty-seven or, in the case of a local authority whose financial year commences on some other day in the month of May or June, for the financial year commencing on that day in the year nineteen hundred and forty-seven and for every financial year thereafter, shall be subject to audit in accordance with the provisions of this Part of this Act.
- (2) References in this Part of this Act to the accounts of a local authority shall include references to the accounts of—
  - (a) any committee all the members of which, other than any ex officio members, are appointed by the authority; and
  - (b) the trustees for any charity, foundation, mortification or other purpose, where the authority or some members of the authority as such or, in the case of the town council of a burgh, the magistrates of the burgh or some of them are the sole trustees for the charity, foundation, mortification or other purpose, and any provision of the trust deed or other document regulating the charity, foundation, mortification or other purpose relating to audit of accounts shall cease to have effect.

#### **197 Appointment of auditors.**

- (1) The Secretary of State shall from time to time and for such period as he may determine appoint a fit person (in this Act referred to as " the auditor ") to audit the accounts of each local authority, and may remove any auditor, and shall cause intimation of

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the appointment of the auditor to be given to the local authority concerned and to the auditor as soon as may be after he is appointed:

Provided that the auditors of the accounts in the case of the city of Glasgow shall not be fewer than twenty except with the consent of the town council, and the tenure of office of such auditors shall be not less than five years from the date of appointment unless otherwise agreed with the council.

- (2) The local authority shall pay to the auditor for his services such salary and allowances as shall be agreed upon between the authority and the auditor and approved by the Secretary of State or, failing such agreement or approval, as shall be fixed by the Secretary of State.

### **198 Production of books and documents.**

- (1) Every local authority shall make available for inspection by the auditor all books and documents which he may deem necessary, and shall give the auditor every reasonable facility for carrying out the audit, and the auditor on giving not less than seven days previous notice in writing may require any person holding any such books or documents or accountable therefor to appear before him and to produce the same and to make and sign a statutory declaration as to the correctness or identity of such books and documents.
- (2) Any such person who neglects or refuses so to appear or to produce any such books or documents or to make or sign any such declaration shall be liable on summary conviction to a fine not exceeding two pounds in respect of each refusal or neglect.

*Intimation of Audit and Right of Inspection of Abstract of Accounts by Ratepayers.*

### **199 Intimation of audit.**

- (1) Before each audit is completed the clerk of the local authority shall, after receiving from the auditor intimation of the times and places in this section mentioned, give at least fourteen days notice in a newspaper circulating in the area of the authority or in such other manner as the Secretary of State may approve—
- (a) of the deposit of the abstract of accounts, required by the immediately succeeding section;
  - (b) of the name and address of the auditor;
  - (c) of the right of any ratepayer within the area of the authority to inspect the abstract of accounts during a period of seven days specified in the notice;
  - (d) of the time (being not less than two days after the expiration of the said period of seven days) by which objections may be lodged with the auditor; and
  - (e) of the time (being not less than two days after the time specified under paragraph (d) hereof) and the place (which shall be reasonably convenient to the ratepayers) at which the auditor will attend for the purpose of hearing Objections with respect to the accounts.
- (2) If the clerk of a local authority fails to give notice in accordance with the provisions of the preceding subsection, the auditor, after fixing other times for the purposes mentioned in the said subsection, may himself give the notice required by the said subsection, and the authority shall reimburse the auditor for the expenses incurred by him in giving such notice.

## **200 Deposit of abstract of accounts for inspection by ratepayers.**

- (1) An abstract in duplicate of the accounts of the local authority which shall be in such form and shall be made up, balanced and signed in such manner as the Secretary of State may prescribe shall be deposited in the office of the authority and be open between the hours of eleven forenoon and three afternoon on any week day other than Saturday and between the hours of eleven forenoon and one afternoon on Saturday to the inspection of all ratepayers within the area of the authority for the period of seven days specified in the notice mentioned in the immediately preceding section, and all such ratepayers shall be at liberty to take copies of or extracts from the same without payment of any fee, and any officer of the authority duly appointed in that behalf refusing to allow inspection thereof shall be liable on summary conviction to a fine not exceeding five pounds.
- (2) Any such ratepayer may make any Objection to such accounts or any part thereof and shall transmit the same and the grounds thereof in writing to the auditor and a copy thereof to the officer concerned and to the clerk of the local authority by the time specified for the purpose in the notice mentioned in the immediately preceding section, and any such ratepayer may be present at the time and place specified in the said notice as the time and place for the auditor hearing objections and may support any Objection made by him as hereinbefore provided either by himself or by any other ratepayer, and the auditor if so requested shall at the same time hear any representation which may be made to him on behalf of the authority or officer concerned in regard to such objection.

### *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 is not 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

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- (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

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

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

*General.*

**206 Audit of accounts of joint committees and joint boards.**

The provisions of this Part of this Act shall, subject to the necessary modifications, apply to the accounts of a joint committee and of a joint board in like manner as they apply to the accounts of a local authority, and any provisions relating to audit, (so far as inconsistent herewith) contained in any enactment or statutory order with respect to such joint committee or joint board passed, or made before the commencement of this Act shall cease to have effect.

**207 Regulations as to audit.**

The Secretary of State may make regulations prescribing the manner in which the audit of the accounts of a local authority shall be conducted by the auditor and the matters with respect to the accounts, the accounting arrangements of the authority and the repayment of moneys borrowed by the authority upon which the auditor shall report, and any such regulations may, in the case of a particular local authority or class of local authority where it appears to the Secretary of State expedient so to do, vary the procedure and the times and periods specified in this Part of this Act.

**208 Saving and interpretation.**

- (1) Nothing in this Part of this Act shall affect the provisions of section seventy-four of the Education (Scotland) Act, 1946 (which relates to the examination of accounts relating to education).
- (2) For the purposes of this Part of this Act a ratepayer within a burgh shall be deemed to be a ratepayer within the county, as respects the accounts of a county council relating to a function which the county council are entitled to exercise or a service which they provide within the burgh.
- (3) In this Part of this Act the expression "books and documents " shall include all books, deeds, contracts, vouchers, accounts, receipts and other documents and papers.