



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART VII

#### FINANCE

##### *Funds, revenue and expenses*

#### **93 General fund**

- (1) Every local authority shall have a general fund and, subject to subsection (2) below—
- (a) all sums received by or on behalf of the authority shall be paid into that fund ;
  - (b) all fees, commissions, discounts allowed on payment of accounts and expenses payable to or recovered by any officer of a local authority in respect of any business relating to the authority whether by reason of his office or otherwise shall be accounted for and paid into that fund;
- and all sums payable by the authority shall be paid out of that fund.
- (2) Subsection (1) above shall not apply to sums received or payable—
- (a) which relate to funds or property held by a local authority as trustees for any purpose under any deed of trust or other instrument;
  - (b) which, in the case of an islands or district council, relate to the common good of the islands area or district, as the case may be ;
  - (c) with respect to which it is otherwise provided in any other provision of this Act or in any other enactment.

#### **94 Capital expenses**

- (1) It shall not be lawful for a local authority to incur any liability to meet capital expenses except with the consent of the Secretary of State, and the Secretary of State may, if he thinks fit, give his consent for the purposes of this section—
- (a) subject to such conditions as may be specified in the consent;

- (b) in relation to such project, or to such programme of works, or to such class of works, or to such amount, as may be so specified;
  - (c) in relation to expenses to be met by the authority within such financial year as may be so specified.
- (2) In this section " capital expenses " means any expenses which are to be charged to a capital or borrowing account, or which, being of a capital nature, are to be met otherwise than out of current revenue.

## **95 Financial administration**

Without prejudice to section 69 of this Act, every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that the proper officer of the authority has responsibility for the administration of those affairs.

### *Accounts and audit*

## **96 Accounts and audit**

- (1) Every local authority shall keep accounts of all transactions relating to all funds of the authority and, subject to any provision contained in regulations made under section 105 of this Act, the accounts of the general fund of a local authority shall comprise such current, capital and borrowing accounts as may be necessary for the purpose of distinguishing transactions for different purposes.
- (2) All accounts of a local authority shall be made up in respect of each financial year.
- (3) Every local authority shall, in addition to preparing accounts in respect of any financial year, prepare in duplicate an abstract of the accounts for that year.
- (4) The accounts of every local authority in respect of any financial year shall be audited by a professional accountant, who is either an officer of the Commission for Local Authority Accounts or is an approved auditor appointed by the Commission in accordance with the provisions of this Part of this Act.
- (5) The financial year of a local authority shall be the period of twelve months beginning with 16th May, so however that—
- (a) the Secretary of State may direct, either in relation to local authorities generally or in relation to a particular local authority, that their financial year shall be such period as the Secretary of State may specify; and
  - (b) for the purposes of subsections (2) to (4) above, the first financial year of any local authority shall be the period beginning with the date on which the authority comes into existence in accordance with the provisions of this Act and ending with 15th May 1976 ;

and references in this Act and in any other enactment (whether passed or made before or after the passing of this Act) to the financial year of a local authority shall be construed in accordance with the provisions of this subsection.

## **97 Establishment of Commission for Local Authority Accounts in Scotland**

- (1) There shall be established a body, to be known as the Commission for Local Authority Accounts in Scotland (hereafter in this Part of this Act referred to as " the Commission

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- (2) The Commission shall have the following functions, that is to say—
  - (a) securing the audit of all accounts of local authorities in accordance with the provisions of this Part of this Act;
  - (b) considering all reports made in accordance with the said provisions and investigating all matters raised by any such report;
  - (c) making recommendations to the Secretary of State and to local authorities in accordance with the said provisions; and
  - (d) advising the Secretary of State on any matter relating to the accounting of local authorities which he may refer to them for advice.
- (3) The Secretary of State may, after consultation with the Commission, with such associations of local authorities as appear to him to be concerned and with such other organisations or persons as he may think appropriate, give to the Commission directions of a general character as to the discharge of their functions, and the Commission shall give effect to any direction so given.
- (4) There shall be a Controller of Audit who shall be appointed by the Commission after consultation with, and subject to the approval of, the Secretary of State, and the Commission may appoint such other officers, and may appoint such agents, as they may determine.
- (5) The provisions of Schedule 8 to this Act shall have effect in relation to the Commission.
- (6) In this Part of this Act " auditor " includes the Controller of Audit, officers of the Commission, being professional accountants, and approved auditors appointed by the Commission for the purpose of conducting audits or, as the case may be, a particular audit, under this Part of this Act, and " approved auditor " means an auditor who is qualified under subsection (7) below.
- (7) An auditor is qualified for the purposes of subsection (6) above if, and only if, he is a member, or a firm all the members of which are members, of one or more of the following bodies—that is to say—
  - The Institute of Chartered Accountants of Scotland.
  - The Institute of Chartered Accountants in England and Wales.
  - The Association of Certified Accountants.
  - The Institute of Municipal Treasurers and Accountants.
  - The Institute of Chartered Accountants in Ireland.
  - Any other body of accountants established in the United Kingdom for the time being approved by the Secretary of State.

## **98 Expenses and accounts of Commission**

- (1) The Commission shall have power to incur such expenses as appear to them to be necessary or expedient for the proper discharge of their functions, and—
  - (a) the Secretary of State may, with the consent of the Treasury, pay to the Commission grants of such amounts, at such times and subject to such

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conditions as he may determine in respect of expenses incurred by the Commission as aforesaid ;

- (b) such part of the expenses of the Commission as is not met by grants under paragraph (a) above shall be met by local authorities in accordance with regulations made by the Secretary of State after consultation with such associations of local authorities as appear to him to be concerned.
- (2) A statutory instrument containing regulations made by the Secretary of State under paragraph (b) of subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (3) The Commission shall keep proper accounts and other records in relation to their 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.
  - (4) 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.
  - (5) The Secretary of State shall, on or before 30th November in each year, transmit to the Comptroller and Auditor General the statement of account prepared by the Commission for the financial year last ended.
  - (6) The Comptroller and Auditor General shall examine and certify the statement of account transmitted to him under subsection (5) above and shall lay before Parliament copies of that statement together with his report thereon.

## **99 General duties of auditors**

In auditing the accounts of any local authority under this Part of this Act, an auditor shall, by examination of the accounts and otherwise, satisfy himself that—

- (a) the accounts have been prepared in accordance with regulations made under section 105 of this Act and comply with the requirements of all other enactments and instruments applicable to the accounts ;
- (b) proper accounting practices have been observed in the preparation of the accounts.

## **100 Auditor's right of access to documents**

- (1) An auditor shall have a right of access at all reasonable times to all such documents relating to the accounts of a local authority as it appears to him to be necessary to examine for the purpose of auditing those accounts under this Part of this Act and shall be entitled to require from any officer of that authority or any other person holding or accountable for any such document such information and explanation as he thinks necessary for the said purpose and, if he thinks it necessary for providing any such information or explanation, to require any such officer or other person to attend before him in person and produce any such documents.
- (2) Without prejudice to subsection (1) above, every local authority shall provide an auditor with every facility and all information which he may reasonably require for the purpose of auditing their accounts.
- (3) If any person wilfully or negligently fails to comply with any requirement of an auditor under subsection (1) above, he shall be guilty of an offence and shall be liable

on summary conviction to a fine not exceeding £100 and to an additional fine not exceeding £20 for each day on which the offence continues after conviction thereof.

### **101 Right of interested person to inspect and object to accounts: completion of audit**

- (1) Any person interested may inspect a copy of the abstract of the accounts of a local authority prepared by the authority under section 96(3) of this Act and may take copies or extracts from it without charge.
- (2) Any person interested may object to the accounts of a local authority or to any part of those accounts by—
  - (a) sending his objection in writing, together with a statement of the grounds thereof, to the auditor, and
  - (b) sending a copy of that objection and statement to the authority and to any officer of the authority who may be concerned.
- (3) Where any person objects under subsection (2) above to the accounts of a local authority, the auditor shall, if so requested by that person or authority or by any officer of the authority who may be concerned, afford to that person or authority or officer, as the case may be, an opportunity of appearing before and being heard by the auditor with respect to that objection; and any such person or officer may so appear and be heard either personally or by a representative.
- (4) Within fourteen days of the completion of the audit of the accounts of a local authority the auditor shall place on each duplicate abstract of those accounts prepared by the authority under section 96(3) of this Act a certificate, in such form as the Commission may direct, to the effect that he has audited the accounts in accordance with the provisions of this Part of this Act; and the auditor shall, on so certifying, forthwith send one duplicate abstract of the accounts to the Commission and the other duplicate abstract to the local authority.

### **102 Reports to Commission by Controller of Audit**

- (1) The Controller of Audit shall make to the Commission such reports as they may require with respect to the accounts of local authorities audited under this Part of this Act and shall send a copy of any report so made to any local authority which is named in that report.
- (2) Without prejudice to subsection (1) above, the Controller of Audit may make a report to the Commission on any matters arising out of or in connection with the accounts of a local authority in order that those matters may be considered by the local authority concerned or brought to the attention of the public, and shall send a copy of any report so made to any local authority which is named in that report.
- (3) Without prejudice to subsection (1) above, if the Controller of Audit, having considered the audit under this Part of this Act of the accounts of any local authority and having made such further inquiries (if any) as he may think fit—
  - (a) is of the opinion—
    - (i) that any item of account is contrary to law, or
    - (ii) that there has been a failure on the part of any person to bring into account any sum which ought to have been brought into account, or

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- (iii) that any loss has been incurred or deficiency caused by the negligence or misconduct of any person or by the failure of the authority to carry out any duty imposed on them by any enactment; or
  - (b) is of the opinion that any sum which ought to have been credited or debited to one account of the authority has been credited or, as the case may be, debited to another account of the authority; and
  - (c) is not satisfied that the authority has taken or is taking such steps as may be necessary to remedy the matter;
- he shall make to the Commission a special report with respect to the said accounts, setting forth his opinion as aforesaid and the grounds thereof.
- (4) The Controller of Audit shall, on making a special report under subsection (3) above with respect to the accounts of any local authority, forthwith send a copy of that special report—
- (a) to that authority;
  - (b) to any officer of the authority who may be concerned ;
  - (c) if the matter raised by the special report has been made the subject of objection under section 101 of this Act, to the person making that objection ;
  - (d) to any other person who in his opinion may be affected thereby.

### **103 Action by Commission on reports by Controller of Audit**

- (1) Subject to subsection (2) below, the Commission shall consider any report made to them by the Controller of Audit and may, if they think fit, hold a hearing into any matter raised by that report; and the Commission may thereafter make to the Secretary of State or to any local authority such recommendation as appears to the Commission to be appropriate in the light of the report.
- (2) Where a special report is made to them under section 102(3) of this Act with respect to the accounts of any local authority, the Commission—
- (a) shall consider that special report and any observations on it made in writing by the authority or by any person to whom a copy of it was sent under section 102(4) of this Act, being observations made within fourteen days of the date on which such copy was sent as aforesaid to the authority or, as the case may be, that person or such longer period as the Commission may in any particular case allow ;
  - (b) may if they think fit, and shall if so requested by the authority or by any person to whom a copy of the special report was sent as aforesaid, hold a hearing into any matter raised by the special report; and
  - (c) may if they think fit, and shall if so directed by the Court of Session, state a case on any question of law arising on the special report for the opinion of the Court of Session.
- (3) Subject to subsection (4) below, if after consideration of the matters referred to in subsection (2) above the Commission find that any item of expenditure is contrary to law, or that there has been a failure to bring into account any sum which ought to have been brought into account, or that any loss or deficiency has been incurred or caused as mentioned in section 102(3)(a) of this Act, or that a local authority have not taken steps to remedy such a matter as is referred to in section 102(3)(b) of this Act, the Commission shall send the special report together with their findings to the Secretary of State and may recommend him to make an order—

- (a) requiring any person whom they find responsible for incurring or authorising that expenditure, or for that failure, or for that loss or deficiency, as the case may be, to pay to the local authority concerned an amount not exceeding the amount of the said expenditure, or of the said sum, or of the said loss or deficiency; or, as the case may be,
  - (b) directing the authority to make such rectification of their accounts as appears to the Commission to be necessary.
- (4) The Commission shall not recommend that any officer or member of a local authority be ordered to pay any amount to the authority by reason only of his having signed a cheque or order in respect of any payment, if he satisfies the Commission—
  - (a) in the case of an officer of the authority, that before signing the cheque or order he advised the authority in writing that in his opinion the payment was contrary to law; or
  - (b) in the case of a member of the authority, that the payment was made in pursuance of an order of the authority or of an authorised committee thereof and that before he signed the cheque or order the authority had not been advised by any officer of the authority that in the opinion of that officer the payment was contrary to law.
- (5) The Commission shall, on making a recommendation under subsection (3) above in relation to a special report made to them with respect to the accounts of any local authority, forthwith send a copy of that recommendation to the authority and to any person to whom a copy of the special report was sent under section 102(4) of this Act.
- (6) At any hearing held by them under this section the Commission—
  - (a) shall afford an opportunity of appearing before and being heard by the Commission to the representative of any local authority which is likely to be affected by any recommendation of the Commission and to, or to the representative of, any other person who is likely to be so affected;
  - (b) may require the attendance of members or officers of any local authority to give oral evidence to the Commission.
- (7) If any person wilfully or negligently fails to comply with any requirement of the Commission under paragraph (b) of subsection (6) above, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

#### **104 Action by Secretary of State on recommendation by Commission under s. 103(3)**

- (1) Where recommendations are made to the Secretary of State under section 103(3) of this Act the Secretary of State may make an order giving effect to any recommendation, with or without modifications, or may decline to make such an order.
- (2) The Secretary of State shall not make an order under subsection (1) above requiring a person to pay an amount to a local authority if the Secretary of State is satisfied that that person acted reasonably or in the belief that his action was authorised by law, and the Secretary of State shall, in deciding whether or not to make such an order as aforesaid and, if he decides to make it, what amount to specify therein, have regard to all the circumstances of the case, including such information as may be available to him as to the means of any person concerned and his ability to pay any amount to the local authority.

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- (3) Where by virtue of an order made under subsection (1) above two or more persons are required to pay an amount to a local authority, those persons shall, if the order so specifies, be liable jointly and severally to pay that amount to the authority.
- (4) The Secretary of State shall, on making an order under subsection (1) above requiring a person to pay an amount to a local authority, forthwith cause a copy of that order to be sent—
  - (a) to that person ;
  - (b) to the Commission ; and
  - (c) to that authority.
- (5) Any amount which, by virtue of an order made under subsection (1) above, is due to be paid by any person to a local authority shall be paid by that person to the authority within fourteen days of the date on which a copy of that order was sent to him under subsection (4) above; and, if that amount is not so paid, it shall be the duty of the Commission to recover the amount on behalf of the authority and if need be to institute proceedings for that purpose; and the authority shall reimburse the Commission for any expenses incurred by the Commission so far as not recovered from the person liable to pay the amount.
- (6) A local authority shall give effect to any direction given to them in an order under subsection (1) above.

## **105 Regulations as to accounts**

- (1) The Secretary of State may by regulations under this section make such provision as appears to him to be necessary or expedient for the purpose of rendering sections 96 to 104 of this Act of full effect and, without prejudice to the foregoing generality, such regulations may contain provisions with respect to the following matters, that is to say—
  - (a) the form, preparation, keeping and authentication of the accounts of local authorities and of any abstract of such accounts;
  - (b) the date in each year before which such accounts and abstract are to be authenticated on behalf of a local authority;
  - (c) the deposit by a local authority, within such period as may be specified in the regulations, of copies of such abstract at the offices of the authority or at any other place, and the publication by the authority of information with respect to such accounts;
  - (d) the exercise, within such period as may be specified in the regulations, of the rights of inspection and objection conferred by section 101 of this Act in relation to any such abstract and accounts, and the steps to be taken by a local authority for informing persons of those rights;
  - (e) the giving of public notice by a local authority of any order made in relation to them by the Secretary of State under section 104(1) of this Act.
- (2) Before making regulations under this section, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned.
- (3) If any person wilfully or negligently contravenes any provision of any regulations made under this section, contravention of which is declared by the regulations to be an offence, he shall be guilty of an offence and shall be liable on summary conviction,



in the case of a first offence, to a fine not exceeding £20, and, in the case of a second or subsequent offence, to a fine not exceeding £50.

- (4) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **106 Application of ss. 93 to 105 to bodies other than local authorities and to officers**

- (1) The foregoing provisions of this Part of this Act and any regulations made by the Secretary of State under section 105 of this Act shall, subject to any necessary modifications, apply with respect to the following bodies, that is to say—
- (a) any committee, joint committee or joint board all the members of which, other than any ex officio members, are appointed by one or more local authorities ;
  - (b) the trustees for any charity, foundation, mortification, or other purpose, where a local authority, or some members of such an authority as such, are the sole trustees for such charity, foundation, mortification or other purpose;
  - (c) any water development board within the meaning of the Water (Scotland) Act 1967 ;

as they apply with respect to a local authority; and any provision contained in any enactment with respect to such a committee, joint committee or joint board, or in any trust deed or other instrument regulating any such charity, foundation, mortification or other purpose as aforesaid, shall, so far as inconsistent herewith, cease to have effect:

Provided that this subsection shall not have effect in relation to a water development board within the meaning of the said Act of 1967 until 16th May 1975.

- (2) 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 that officer shall be audited by the auditor of the accounts of the body, and sections 96 to 105 of this Act and any regulations made by the Secretary of State under section 105 of this Act shall, subject to any necessary modifications, apply accordingly to those accounts and that audit.

#### *Rating*

#### **107 Expenses of local authorities under public general Acts to be met out of rates**

The expenses of a local authority in discharging functions under any public general Act, so far as not met otherwise, or so far as not otherwise provided in any such Act, shall be met out of rates levied under this Part of this Act.

#### **108 Determination and levy of regional, district and general rates**

- (1) Every local authority shall, in respect of the financial year beginning with 16th May 1975 and of each subsequent financial year, determine before such date as may be prescribed a rate to be known—
- (a) in the case of a regional council, as the regional rate;
  - (b) in the case of an islands council, as the general rate; and
  - (c) in the case of a district council, as the district rate;

and each such rate shall be levied in respect of that financial year in accordance with the following provisions of this Part of this Act.

- (2) It shall be the duty of every local authority to determine such regional, general or district rate, as the case may be, as will provide sufficient moneys to meet such part of the total estimated expenses to be incurred by the authority during the financial year in respect of which the rate is to be levied (after taking account of any balance or estimated balance at the end of the financial year immediately preceding that year) as falls to be met out of moneys raised by rates, together with such additional amount as is, in the opinion of the authority, required—
- (a) to cover expenses previously incurred,
  - (b) to meet contingencies,
  - (c) to meet any expenses which may fall to be met before the moneys to be received in respect of the regional, general or district rate, as the case may be, for the financial year next following the first-mentioned year will become available.

#### **109 Rating authorities**

- (1) The local authority for the purpose of levying such rates as are mentioned in section 108 of this Act shall be—
- (a) in the case of the regional rate and the district rate, the regional council; and
  - (b) in the case of the general rate, the islands council;
- and in this Act, and in any other enactment (whether passed or made before or after the passing of this Act), the expression "rating authority" shall be construed in accordance with the provisions of this subsection.
- (2) In respect of each financial year every district council shall, before such date as may be prescribed, intimate to the regional council within whose region their district falls the district rate determined by them in respect of that year, together with such further information with respect to that rate as may reasonably be required for the preparation of demand notes for the purposes of levying the rate.

#### **110 Payments by regional council to district councils in respect of district rates**

- (1) Subject to the provisions of this section, a regional council shall be liable to pay to the council of each district which falls within their region, in respect of the district rate for any financial year, the amount produced by the district rate determined by that district council in respect of that year, and the regional council shall make payments, in accordance with regulations made by the Secretary of State under section 111 of this Act, to the district council on account of the district rate.
- (2) The amount due by a regional council to a district council in respect of the district rate for any financial year shall be ascertained in the prescribed manner after the end of that year, and—
- (a) if that amount exceeds the aggregate amount of the payments made on account of that rate under subsection (1) above, the balance shall be paid by the regional council to the district council;
  - (b) if that amount is less than the aggregate amount of the said payments, the balance shall be set off against the payments on account of the district rate in respect of the financial year next following the said year.

- (3) The cost of, and any losses on, the collection of all rates levied by a regional council, and the cost of any rebates, discounts, reductions or remissions given by that council, shall be treated as deductions in estimating and ascertaining the amounts produced by each of the rates levied by the council in such manner and to such extent as may be prescribed.

### **111 Secretary of State may make regulations with respect to rates**

- (1) The Secretary of State may, after consultation with such associations of local authorities as appear to him to be concerned, make regulations—
- (a) prescribing any matter which is required or authorised to be prescribed by any provision contained in sections 107 to 110 of this Act or in this section;
  - (b) making such provision with respect to any other matter as appears to him to be necessary or expedient for the purpose of rendering the said sections 107 to 110 of full effect;
  - (c) making provision for any matter with respect to which he is empowered or obliged by this Act, or by any other enactment, to make provision in regulations under this section;
  - (d) providing for the payment of interest, at such rate as may be prescribed, by a regional council to a district council in a case where any amount due in respect of the district rate is not paid on or before such date as may be prescribed;
  - (e) providing for the payment of interest, at such rate as may be prescribed, by a local authority to another local authority, to a committee, joint committee or joint board all the members of which, other than any ex officio members, are appointed by one or more local authorities, or to a water development board within the meaning of the Water (Scotland) Act 1967, in a case where any amount due in respect of a requisition made under any enactment is not paid on or before such date as may be prescribed.
- (2) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Rate rebates*

### **112 Duty of Secretary of State to make standard scheme for rate rebates**

- (1) Subject to the provisions of this section, the Secretary of State shall, with the consent of the Treasury, prescribe by regulations a scheme (hereafter in this Part of this Act referred to as "the standard scheme") for the grant by rating authorities to persons to whom this section applies of rebates from rates calculated in accordance with the provisions of the standard scheme by reference to the needs and the resources of such persons.
- (2) Regulations under subsection (1) above shall be so made as to secure that the standard scheme shall have effect in respect of rebate periods beginning on or after 16th May 1974.
- (3) In preparing the standard scheme the Secretary of State shall have regard to the provisions of the schemes for the time being in force under sections 15 and 16 of the Housing (Financial Provisions) (Scotland) Act 1972 (rent rebates and rent allowances)

and, without prejudice to the generality of the power conferred by subsection (1) above, the standard scheme may contain provisions corresponding, so far as the Secretary of State considers appropriate, to provisions of Part I of Schedule 2, or of Part I of Schedule 3, to the said Act of 1972 (model schemes of rent rebates and rent allowances).

- (4) No person shall be entitled in respect of a rebate period beginning on or after 16th May 1974 to a rebate under section 5 of the Rating Act 1966 (rate rebates) but, where any person is entitled to a rebate under that section in respect of any period beginning before that date, then, notwithstanding the repeal of sections 5 to 8 of the said Act of 1966 by this Act, a rating authority may grant that rebate under those sections on or after that date.
- (5) A statutory instrument containing regulations under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section and in sections 113 to 115 of this Act—

" application " means an application for a rate rebate under the standard scheme or, in the case of a rating authority which has varied the standard scheme under section 114 of this Act, under the standard scheme as so varied;

" prescribed " means prescribed by the standard scheme or, in the case of a rating authority which has varied the standard scheme as aforesaid, by the standard scheme as so varied;

" rate " does not include a domestic water rate within the meaning of the Water (Scotland) Act 1949;

" rating authority " means, in relation to a rebate period beginning before 16th May 1975, a rating authority within the meaning of section 209 of the 1947 Act;

" rebate period " means a period in respect of which a rate rebate may be granted under this Part of this Act, being such period as may be prescribed, and different periods may be prescribed in relation to different classes of person.

### **113 Persons to whom s. 112 applies**

- (1) Subject to subsection (2) below and to section 16(2) of the Ministry of Social Security Act 1966 (rate rebate to which persons in receipt of supplementary benefit might otherwise be entitled to be reduced if their requirements were determined without regard to any rate rebate), section 112 of this Act shall apply to any of the following persons who makes an application in such form as the rating authority may require, that is to say—
- (a) a person who is the occupier of, and resides or is usually resident in, lands and heritages which are a dwelling-house and which at the relevant date have a rateable value which does not exceed any limit prescribed;
  - (b) a person who is the occupier of, and resides or is usually resident in, lands and heritages which at the relevant date have a rateable value which does not exceed any limit prescribed and which, though not a dwelling-house, are used mainly for the purposes of a private dwelling or private dwellings ;
  - (c) a person who, not being the occupier of such lands and heritages as are mentioned in paragraph (a) or paragraph (b) above, is the tenant of, and resides or is usually resident in, a part of any such lands and heritages, being a part which at the relevant date has a rateable value which does not exceed any

limit prescribed, and in respect of which he makes payments to the occupier by way of rent.

For the purposes of this subsection " relevant date " means the date of the beginning of the rebate period in respect of which an application is made.

- (2) Regulations under section 112 above may make provision as respects rate rebates where two or more persons are joint occupiers of such lands and heritages as are mentioned in paragraph (a) or paragraph (b) of subsection (1) above, or joint tenants of such a part thereof as is mentioned in paragraph (c) of that subsection.
- (3) For the purposes of paragraph (b) of subsection (1) above lands and heritages which are not a dwelling-house shall be deemed to be used mainly for the purposes of a private dwelling or private dwellings—
  - (a) if it appears to the rating authority that, having regard to all the circumstances at the date of the making of an application, the proportion of the rateable value of the lands and heritages as shown in the valuation roll in force at that date which is attributable to the part of the lands and heritages used for the purposes of a private dwelling or private dwellings is greater than the proportion thereof which is attributable to the part used for other purposes; or
  - (b) if at the said date a rate rebate in respect of the rebate period in question has already been granted to some other person in respect of those lands and heritages or any part thereof.
- (4) For the purposes of paragraph (c) of subsection (1) above, the rateable value of any part of lands and heritages shall be taken to be such value as is found by proper apportionment of the rateable value shown in the valuation roll in respect of those lands and heritages, and any question arising under this subsection as to the proper apportionment of any rateable value shall be determined by the sheriff and the decision of the sheriff on any such question shall be final.
- (5) Where in pursuance of section 244 of the 1947 Act (remission of rates on account of poverty) a rating authority is for the time being giving to any person to whom section 112 of this Act applies any relief from the rates chargeable for any rebate period in respect of the lands and heritages or part of the lands and heritages to which an application relates, that authority shall grant a rebate in respect of those rates only if, and to the extent that, the amount of such rebate exceeds the aggregate amount given to that person by way of such relief in that rebate period.

#### **114 Variation of standard scheme by rating authority**

- (1) Subject to the provisions of this section, a rating authority may, in respect of a rebate period beginning on or after 16th May 1975, with the consent of the Secretary of State, vary for their area the provisions of the standard scheme; and, where a rating authority have varied the standard scheme under this section, the standard scheme as so varied shall have effect, subject to subsection (6) below, for the purpose of the grant of rate rebates under this Part of this Act by that authority.
- (2) Any variation of the standard scheme by a rating authority under subsection (1) above shall be so made as to secure that, on the best estimate which the rating authority can make—
  - (a) no person shall be granted less rate rebate in respect of any rebate period than he would have been granted under the standard scheme ; and

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- (b) the total of the rate rebates which will be granted under the standard scheme as so varied for any financial year will not exceed 110 per cent. of the total of the rate rebates which would have been granted for that year under the standard scheme.
- (3) Without prejudice to the generality of the powers conferred by subsection (1) above, a variation under that subsection of the standard scheme may provide that, in ascertaining for the purposes of a rate rebate the income of a person to whom section 112 of this Act applies and his spouse (if any), there is a total disregard of war disablement pension and special widow's pension and of payments accepted by the Secretary of State as being analogous to such pensions.
- (4) The Secretary of State may accept a payment as being analogous to such a pension as is mentioned in subsection (3) above—
  - (a) by directing rating authorities in general to regard payments of that description as analogous for the purposes of that subsection, or
  - (b) by notifying a rating authority that he accepts such a payment as analogous for those purposes.
- (5) The Secretary of State's consent under subsection (1) above may be given generally or in a particular case and shall be subject to such conditions (if any) as may be specified in the consent.
- (6) Where a rating authority has varied the provisions of the standard scheme under subsection (1) above and any person shows to the satisfaction of that authority that the standard scheme as so varied does not in his case fulfil the condition mentioned in paragraph (a) of subsection (2) above, that person may apply for a rate rebate under the standard scheme, and in relation to that application the standard scheme shall have effect in place of the standard scheme as so varied, and the authority may grant a rate rebate under the standard scheme to that person.
- (7) In this section—
  - " war disablement pension " means war disablement pension within the meaning of any regulations for the time being in force under the Family Income Supplements Act 1970;
  - " special widow's pension " means—
    - (a) any widow's pension or allowance granted in respect of a death due to service or war injury under powers conferred by or under the Ministry of Pensions Act 1916, the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, the Home Guard Act 1951 or the Ulster Defence Regiment Act 1969;
    - (b) a pension or allowance for a widow granted under any scheme under the Injuries in War (Compensation) Act 1914, the Injuries in War Compensation Act 1914 (Session 2), or the Injuries in War (Compensation) Act 1915 or under any War Risk Compensation Scheme for the Mercantile Marine.

## **115 Grants towards rate rebates**

- (1) The Secretary of State shall pay to any rating authority granting rate rebates in respect of any rebate period beginning on or after 16th May 1974 under the standard scheme

or under the standard scheme as varied under section 114 of this Act a grant equal to nine tenths of the aggregate net standard amount of rate rebates for the financial year in which that rebate period, or part thereof, falls.

- (2) In subsection (1) above the reference to the aggregate net standard amount of rate rebates for a financial year shall be construed, in relation to any rating authority—
  - (a) except in such a case as is mentioned in paragraph (b) below, as a reference to the aggregate net amount granted by that authority by way of rate rebates for that year;
  - (b) in a case where that authority have varied the standard scheme under section 114 of this Act, as a reference to the aggregate net amount which would have been granted by that authority by way of rate rebates for that year if they had not so varied the standard scheme ;calculated or estimated by following such methods and principles as the Secretary of State may direct, either generally or in any particular case.
- (3) Any grant payable under this section to a rating authority shall be paid at such times as the Secretary of State may with the consent of the Treasury determine.

### *Valuation*

## **116 Valuation areas and authorities and appointment of assessors, etc.**

- (1) Each region and each islands area shall be a valuation area, and the council of each region and the council of each islands area shall be the valuation authority for that region or, as the case may be, that area; and on and after 16th May 1975 the valuation authorities constituted under this section shall have and exercise in relation to valuation the powers conferred by the Valuation Acts on the councils of burghs, being counties of cities, and counties.
- (2) Every valuation authority shall appoint, in accordance with the provisions of section 1 of the Valuation and Rating (Scotland) Act 1956, an assessor and such number of depute assessors as the authority may consider necessary for the purposes of the Valuation Acts; and any assessor or depute assessor appointed under the said Acts or under the 1947 Act and holding office immediately before 16th May 1975 (other than an assessor or depute assessor appointed under this section) shall cease to hold office on that date.
- (3) A depute assessor appointed under this section shall have and may exercise all the functions of an assessor so appointed.
- (4) An assessor or depute assessor appointed under this section shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the authority appointing him think fit.
- (5) It shall be lawful for the Secretary of State, if it appears to him that to do so would be of public or local advantage, to make an order combining the council of the Highland Region and the councils of the three islands areas, or any two or more of those councils, for such of their functions under the Valuation Acts as may be specified in that order; and an order under this subsection may include such incidental, consequential and supplemental provisions as appear to the Secretary of State to be necessary or expedient for bringing the order into operation and giving full effect thereto.

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*Status: This is the original version (as it was originally enacted).*

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- (6) The assessor of a region in making up the valuation roll of the region shall distinguish in the roll lands and heritages situated within the boundaries of each district of that region.
- (7) A statutory instrument containing an order made by the Secretary of State under subsection (5) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section the expression " the Valuation Acts " means the Lands Valuation (Scotland) Act 1854 and the Acts amending that Act, and includes this Act.

### **117 Postponement of revaluation until 1978-79**

The revaluation of lands and heritages which, by virtue of sections 9(1) and 10(1) of the Valuation and Rating (Scotland) Act 1956, falls to be carried out in the year 1976-77 shall be postponed until the year 1978-79, and accordingly—

- (a) in paragraph (a) of the said section 9(1), for the words " 1961-62" there shall be substituted the words " 1978-79 ";
- (b) in paragraph (a) of the said section 10(1), for the words " 1961-62" there shall be substituted the words " 1978-79 ", and in paragraph (b) of that subsection, for the words " in respect of each of the four years following the year 1961-62 " there shall be substituted the words " in respect of each year after the year 1971-72 and before the year 1978-79, and in respect of each of the four years following the year 1978-79 ".

### *Miscellaneous*

### **118 Local financial returns**

- (1) Subject to subsection (3) below, every authority to which this section applies shall make a return to the Secretary of State in respect of each financial year—
  - (a) of their revenue and expenses;
  - (b) in the case of a rating authority, of the revenue received from each rate levied in their area and, where the rating authority is a regional council, of the amount paid to any district council in respect of the district rate and to any other local authority in respect of a requisition made under any enactment.
- (2) Returns under this section shall be in such form, shall contain such particulars, shall be authenticated in such manner, and shall be submitted to the Secretary of State by such date, as the Secretary of State may direct, and a direction under this subsection may impose different requirements in relation to returns of different classes.
- (3) If it appears to the Secretary of State that sufficient information about any of the matters mentioned in subsection (1) above has been supplied to him by an authority under any other enactment, he may exempt that authority from all or any of the requirements of this section so far as they relate to that matter.
- (4) The Secretary of State shall, in respect of each year, cause a summary to be made of the returns sent to him under this section and of any information supplied to him under any other enactment in consequence of which he has granted an exemption under subsection (3) above and shall lay that summary before both Houses of Parliament.



- (5) In this section references to an authority to which this section applies are references to a local authority, any committee, joint committee or joint board the members of which, other than ex officio members, are appointed by one or more local authorities or any water development board within the meaning of the Water (Scotland) Act 1967 or any river purification board within the meaning of section 135 of this Act.

## **119 Initial expenses of new local authorities**

- (1) As soon as may be after the first election of councillors for a new local authority, each existing rating authority whose area, or part of whose area, for rating purposes falls within the area of that new local authority shall, in accordance with the provisions of this section, cause the appropriate contribution to be paid into the general fund of the new local authority.
- (2) In subsection (1) above " the appropriate contribution " means—
- (a) in the case of a contribution to a regional council, three quarters,
  - (b) in the case of a contribution to an islands council, the whole,
  - (c) in the case of a contribution to a district council, one quarter,
- of an amount calculated in accordance with subsection (3) below.
- (3) The amount referred to in subsection (2) above shall be—
- (a) in a case where the whole of the area for rating purposes of the existing rating authority falls within the area of the new local authority, an amount equal to the product of a rate of 1p in the pound, or the standard penny rate product, whichever is the higher, for the first-mentioned area for the year 1973-74;
  - (b) in a case where a part only of the area for rating purposes of the existing rating authority falls within the area of the new local authority, an amount which bears the same proportion to the amount calculated in accordance with paragraph (a) above as the rateable valuation of that part of the first-mentioned area for the year 1973-74 bears to the rateable valuation of the whole of that area for that year.
- (4) A new local authority may before 16th May 1975 borrow for the purpose of meeting any expenses incurred by them before that date.
- (5) With a view to providing sums which may be transferred by an order under section 215 of this Act to one or more new local authorities, any existing rating authority may include in any rate levied by them in respect of the year 1974-75 provision to meet contingencies or to meet any expenses which, if this Act had not been passed, would have fallen to be met by the existing authority on or after 16th May 1975 and before the moneys to be received in respect of the rate for the year 1975-76 would have become available.
- (6) In this section—
- " product of a rate of 1p in the pound " and " standard penny rate product " have the same meanings respectively as they have in Part I of the Local Government (Financial Provisions) (Scotland) Act 1963 ;
  - " rateable valuation " has the meaning assigned to it by section 43(1) of the Valuation and Rating (Scotland) Act 1956;
  - " rating authority " means a rating authority within the meaning of section 209 of the 1947 Act;
  - " year " has the same meaning as in the said Act of 1963.

**120 Rate support grant**

- (1) Rate support grant orders under section 3 of the Local Government (Scotland) Act 1966 shall be made in advance for a period of one year, instead of for successive periods of two years, and accordingly—
  - (a) in section 3(3) of that Act, for the words from " successive periods " to the end of the subsection there shall be substituted the words " a period of one year ";
  - (b) a rate support grant order made before the passing of this Act shall, in so far as it was made in respect of the year 1974-75, cease to have effect.
- (2) If in the exercise of the power conferred on him by section 4 of the said Act of 1966 the Secretary of State at any time after 15th May 1975 redetermines for the year 1974-75 the amount and portion mentioned in paragraphs (a) and (b) of section 2(2) of the said Act of 1966, he may by an order made under the said section 4, instead of increasing to any extent the amount fixed by the rate support grant order made in respect of that year as the aggregate amount of the rate support grants and any element of those grants for that year, increase to that extent the amount fixed by the rate support grant order made in respect of the year 1975-76 as the aggregate of the rate support grants and any element of those grants for the last-mentioned year.
- (3) Expressions used in this section and in sections 2 to 4 of the said Act of 1966 have the same meanings in this section as in those sections.

**121 Rates of interest in relation to certain sums due to local authorities**

- (1) The rate of interest fixed by subsection (2) below shall be substituted for the rate or, as the case may be, the maximum rate of interest determined by or under the following enactments (which relate among other things to the interest payable to local authorities on certain sums due to them), that is to say—
  - section 56(3) of the Water (Scotland) Act 1946;
  - section 10(2) of the Coast Protection Act 1949 ;
  - sections 29(5) and 31(4) of the Housing (Financial Provisions) (Scotland) Act 1968;
  - section 23(5) of the Mines and Quarries (Tips) Act 1969 ;
  - section 25(3) of the Housing (Scotland) Act 1969.
- (2) The said rate shall be one-quarter per cent above the relevant rate determined by the Treasury in relation to loans made for a period of fifteen years under section 3 of the National Loans Act 1968 (local loans by the Loan Commissioners); and in this subsection " the relevant rate " means the rate applying on whichever of the following dates, namely 16th May or 16th November or such other date as may be prescribed by regulations under section 111 of this Act, most closely precedes the date from which interest first becomes payable in relation to the sum in question, or, where more than one rate has been so determined, such one of those rates as the Treasury may from time to time direct either generally or with respect to any particular enactment.
- (3) As soon as may be after giving a direction under subsection (2) above the Treasury shall cause it to be published in the Edinburgh Gazette.

## **122 Miscellaneous amendments of enactments relating to finance**

Schedule 9 to this Act shall have effect for making amendments and modifications of enactments relating to local government finance which are not replaced by the foregoing provisions of this Part of this Act.