



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART II

#### WATER AND SEWERAGE REORGANISATION

##### *Finances of new authorities*

#### **83 Duties and powers relating to finance**

- (1) It shall be the duty of a new water and sewerage authority so to discharge their functions as to secure that, taking one year with another, their revenue is not less than sufficient to meet their total outgoings.
- (2) The Secretary of State may, with the approval of the Treasury, by order direct that a new water and sewerage authority shall discharge their functions, during any period specified in the direction, with a view to securing that they achieve in respect of that period a rate of return on the value of their net assets (as for the time being defined for the purposes of this section by the Secretary of State) which is not less than such rate as the Secretary of State specifies in the direction as the rate of return which he considers it is reasonable for the authority in question to achieve; but a statutory instrument containing any order made under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) After consultation with a new water and sewerage authority, the Secretary of State may, with the approval of the Treasury, determine that the authority shall (in addition to or in place of a duty imposed by virtue of subsection (2) above but without prejudice to the duty imposed by subsection (1) above) be subject to a specified duty of a financial nature; and different determinations may be so made in relation to different authorities and to different functions and activities of an authority.
- (4) Where a duty specified in a determination under subsection (3) above is in place of a duty imposed by virtue of subsection (2) above, the determination shall be by order.

- (5) A determination under subsection (3) above may—
  - (a) relate to a period beginning before the date on which it is made;
  - (b) contain incidental or supplemental provisions;
  - (c) be varied (by order where the determination was by order) by a subsequent determination under that subsection.
- (6) An order made by virtue of subsection (4) above shall not be made unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.
- (7) It shall be the duty of a new water and sewerage authority to secure that their charges make a proper contribution to their duties, as respect financial matters, under this Part of this Act, taking into account—
  - (a) the authority's present circumstances and future prospects; and
  - (b) any duty imposed on them by virtue of subsection (2) or (3) above.

#### **84 Financing and borrowing**

- (1) The Secretary of State may—
  - (a) out of money provided by Parliament and subject to such conditions as he thinks fit to impose, make payment under this paragraph (except for the purpose mentioned in paragraph (b) below), by way of grant to a new water and sewerage authority—
    - (i) in respect of the exercise of their functions; and
    - (ii) in respect of their administrative expenses;
  - (b) out of money so provided, make payment under this paragraph by way of grant to such an authority for the purpose of meeting, or alleviating, any loss they may sustain—
    - (i) by reason of their complying with a direction given under section 117 of this Act; or
    - (ii) by virtue of regulations made under section 81 of this Act,
 of such sums as he may, with the consent of the Treasury, determine.
- (2) Subject to subsection (7) below, for the purpose of the exercise of any of their functions, a new water and sewerage authority—
  - (a) may, subject to such conditions as, with the consent of the Treasury, the Secretary of State thinks fit to impose, borrow from him, and he may lend to them, sums of such amounts as he may, with such consent, determine; and
  - (b) may, with the consent of the Secretary of State given with the approval of the Treasury, borrow money, whether in sterling or otherwise, from any other person or body, whether in the United Kingdom or elsewhere.
- (3) Where a body (whether the Board or a local authority) whose property, rights and liabilities are to be transferred to a new water and sewerage authority under a transfer scheme, is liable to repay an amount borrowed, sums lent to the new water and sewerage authority under paragraph (a) of subsection (2) above may, without prejudice to the generality of that paragraph, include sums to be paid by them to the body for the purpose of enabling the body, before the transfer date, to make such repayment; and a body who receive an amount from a new water and sewerage authority by virtue of this subsection shall, in accordance with any direction to them under this subsection by the Secretary of State, use the amount for that purpose.

- (4) Any loans made in pursuance of subsection (2)(a) 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, with the consent of the Treasury, direct.
- (5) The Treasury may issue, out of the National Loans Fund, to the Secretary of State such sums as are necessary to enable him to make loans in pursuance of subsection (2)(a) above; and any sums received by him in pursuance of subsection (4) above shall be paid into that fund.
- (6) It shall be the duty of the Secretary of State, as respects each financial year—
- (a) to prepare, in such form and manner as the Treasury may direct, an account of sums issued to the Secretary of State in pursuance of subsection (5) above, of any sums required to be paid into the National Loans Fund in pursuance of that subsection and of the disposal by him of the respective sums; and
  - (b) to send a copy of the account to the Comptroller and Auditor General not later than the end of the month of November next following that financial year;
- and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it, and of his report on it, before each House of Parliament.
- (7) The aggregate amount outstanding, otherwise than by way of interest, in respect of—
- (a) all lending to the new water and sewerage authorities under subsection (2) above; and
  - (b) all amounts borrowed which those authorities are liable to repay by virtue of section 91(1) of this Act,
- shall not exceed £3,000 million, or such greater sum not exceeding £4,500 million as the Secretary of State may, with the consent of the Treasury, by order specify.
- (8) An order made under subsection (7) above shall not be made unless a draft of the order has been laid before, and approved by resolution of, the Commons House of Parliament.

## **85 Guarantees**

- (1) The Secretary of State may, with the consent of the Treasury, guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums which a new water and sewerage authority borrow from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given, he 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 of the sum and in respect of interest on it is finally discharged.
- (3) Any sums required by the Secretary of State for fulfilling a guarantee under this section shall be charged on and issued out of the Consolidated Fund.

- (4) If any sums are issued by the Secretary of State in fulfilment of a guarantee given by him under this section the authority in question shall make to him, at such times and in such manner as, with the consent of the Treasury, he may from time to time direct, payments of such amounts as, with such consent, he may so direct in or towards repayment of the sums so issued and payments of interest, at such rate as, with such consent, he may so direct, on the amount outstanding for the time being in respect of sums so issued.

## **86 Directions as to payment and investment**

The Secretary of State may from time to time, after consultation with a new water and sewerage authority, direct them—

- (a) to pay to him, on a date specified in the direction, such sum as may be so specified, being a sum not required; or
- (b) to invest, in such manner as may be so specified, such sum as may be so specified, being a sum not immediately required,

for the exercise of their functions nor apart from this section payable under or by virtue of any provision of this Act.

## **87 Accounts**

- (1) It shall be the duty of a new water and sewerage authority—
- (a) to keep proper accounts and proper records in relation to the accounts; and
  - (b) to prepare in respect of each financial year a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the authority in question.
- (2) Every statement of accounts prepared by an authority in accordance with this section shall comply with any requirement which the Secretary of State has, with the consent of the Treasury, notified in writing to the authority and which relates to—
- (a) the information to be contained in the statement;
  - (b) the manner in which that information is to be presented; or
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) In this Part of this Act “financial year” means any period of twelve months ending with, and including, the last day of March.

## **88 Audit of accounts**

- (1) The accounts of a new water and sewerage authority shall be audited by auditors appointed for each financial year by the Secretary of State.
- (2) A person shall not be eligible for appointment for the purposes of subsection (1) above unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.
- (3) A copy of any accounts of an authority which are audited under subsection (1) above and of the report made on those accounts by the auditors shall be sent to the Secretary of State as soon as reasonably practicable after the report is received by the authority; and the Secretary of State shall lay a copy of any accounts or report sent to him under this subsection before Parliament.

- (4) In this section “accounts”, in relation to an authority, includes any statement under section 87 of this Act.