



# Audit Commission Act 1998 (repealed)

## 1998 CHAPTER 18

### PART II

#### ACCOUNTS AND AUDIT OF PUBLIC BODIES

##### *Public inspection etc. and action by the auditor*

#### **14 Inspection of statements of accounts and auditors' reports.**

- (1) A local government elector for the area of a body subject to audit, other than a health service body, may—
  - (a) inspect and make copies of any statement of accounts prepared by the body pursuant to regulations under section 27;
  - (b) inspect and make copies of any report, other than an immediate report, made to the body by an auditor; and
  - (c) require copies of any such statement or report to be delivered to him on payment of a reasonable sum for each copy.
- (2) A document which a person is entitled to inspect under this section may be inspected by him at all reasonable times and without payment.
- (3) A person who has the custody of any such document and—
  - (a) obstructs a person in the exercise of a right under this section to inspect or make copies of the document, or
  - (b) refuses to give copies of the document to a person entitled under this section to obtain them,is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) References in this section to copies of a document include references to copies of any part of it.

*Status: Point in time view as at 30/03/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Cross Heading: Public inspection etc. and action by the auditor. (See end of Document for details)*

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

C1 S. 14 applied (8.5.2000) by 1999 c. 29, s. 134(4) (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4

**15 Inspection of documents and questions at audit.**

- (1) At each audit under this Act, other than an audit of accounts of a health service body, any persons interested may—
  - (a) inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them, and
  - (b) make copies of all or any part of the accounts and those other documents.
- (2) At the request of a local government elector for any area to which the accounts relate, the auditor shall give the elector, or any representative of his, an opportunity to question the auditor about the accounts.
- (3) Nothing in this section entitles a person—
  - (a) to inspect so much of any accounts or other document as contains personal information about a member of the staff of the body whose accounts are being audited; or
  - (b) to require any such information to be disclosed in answer to any question.
- (4) For the purposes of subsection (3), information is to be regarded as personal information about a member of a body's staff if it relates specifically to a particular individual and is available to the body for reasons connected with the fact—
  - (a) that that individual holds or has held an office or employment under that body; or
  - (b) that payments or other benefits in respect of an office or employment under any other person are or have been made or provided to that individual by that body.
- (5) For the purposes of subsection (4)(b), payments made or benefits provided to an individual in respect of an office or employment include any payment made or benefit provided to him in respect of his ceasing to hold the office or employment.

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

C2 S. 15 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

**16 Right to make objections at audit.**

- (1) At each audit of accounts under this Act, other than an audit of accounts of a health service body, a local government elector for an area to which the accounts relate, or any representative of his, may attend before the auditor and (in accordance with subsection (2)) make objections—
  - (a) as to any matter in respect of which the auditor could take action under section 17 <sup>F1</sup>or 18]; or
  - (b) as to any other matter in respect of which the auditor could make a report under section 8.

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- (2) No objection may be made under subsection (1) unless the auditor has received written notice of the proposed objection and of the grounds on which it is to be made.
- (3) An elector sending a notice to an auditor for the purposes of subsection (2) shall at the same time send a copy of the notice to the body whose accounts are being audited.

#### Textual Amendments

**F1** Words in s. 16(1)(a) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s. 107, Sch. 6; **S.I. 2002/1718, art. 2**

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

**C3** S. 16 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); **S.I. 1999/3434, art. 3**

## 17 Declaration that item of account is unlawful.

- (1) Where—
  - (a) it appears to the auditor carrying out an audit under this Act, other than an audit of accounts of a health service body, that an item of account is contrary to law, [<sup>F2</sup>and]
  - [<sup>F2</sup>(b) the item is not sanctioned by the Secretary of State,]  
the auditor may apply to the court for a declaration that the item is contrary to law.
- (2) On an application under this section the court may make or refuse to make the declaration asked for, and if it makes the declaration then, [<sup>F3</sup>subject to subsection (3)], it may also—
  - [<sup>F4</sup>(a) order that any person responsible for incurring or authorising expenditure declared unlawful shall repay it in whole or in part to the body in question and, where there are two or more such persons, that they shall be jointly and severally liable to do so;]
  - [<sup>F4</sup>(b) if the expenditure declared unlawful exceeds £2,000 and the person responsible for incurring or authorising it is, or was at the time of his conduct in question, a member of a local authority, order him to be disqualified for being a member of a local authority for a specified period; and]
  - (c) order rectification of the accounts.
- [<sup>F5</sup>(3) The court shall not make an order under subsection (2)(a) or (b) if satisfied that the person responsible for incurring or authorising the expenditure acted reasonably or in the belief that the expenditure was authorised by law, and in any other case shall have regard to all the circumstances, including that person's means and ability to repay the expenditure or any part of it.]
- (4) A person who has made an objection under section 16(1)(a) and is aggrieved by a decision of an auditor not to apply for a declaration under this section may—
  - (a) not later than six weeks after being notified of the decision, require the auditor to state in writing the reasons for his decision, and
  - (b) appeal against the decision to the court;and on such an appeal the court has the same powers in relation to the item of account to which the objection relates as if the auditor had applied for the declaration.

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- (5) On an application or appeal under this section relating to the accounts of a body, the court may make such order as it thinks fit for the payment by the body of expenses incurred, in connection with the application or appeal, by—
- (a) the auditor,
  - [<sup>F6</sup>(b) the person to whom the application or appeal relates, or]
  - (c) the person by whom the appeal is brought.
- (6) The High Court and the county courts have jurisdiction for the purposes of this section.
- [<sup>F7</sup>(7) In this section “local authority” includes—
- [ the Greater London Authority;]
  - <sup>F8</sup>(aa)
    - (a) the Common Council;
    - (b) the Council of the Isles of Scilly;
    - (c) the Broads Authority;
    - (d) the Navigation Committee of the Broads Authority;
    - (e) a National Park authority;
  - [ the Metropolitan Police Authority;]
  - <sup>F9</sup>(ee)
    - (f) a police authority established under section 3 of the <sup>M1</sup>Police Act 1996;<sup>F10</sup> . . .
    - (g) <sup>F10</sup> . . . . .]
- [<sup>F11</sup>(8) For the purposes of this section the members of the Greater London Authority are the Mayor of London and the members of the London Assembly.]

#### Textual Amendments

- F2** S. 17(1)(b) and preceding word repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s. 107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F3** Words in s. 17(2) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F4** S. 17(2)(a)(b) and word following para. (b) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F5** S. 17(3) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F6** S. 17(5)(b) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F7** S. 17(7) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F8** S. 17(7)(aa) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), [Sch. 8 para. 6\(2\)\(a\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3434, arts. 3, 4](#)
- F9** S. 17(7)(ee) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), [Sch. 8 para. 6\(2\)\(b\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3434, arts. 3, 4](#)
- F10** S. 17(7)(g) and word immediately preceding it repealed (1.4.2002) by 2001 c. 16, ss. 137, 138(2), [Sch. 7 Pt. 5\(1\)](#); [S.I. 2002/344, art. 3](#) (with transitional provisions in [art. 4](#))
- F11** S. 17(8) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6, [S.I. 2002/1718, art. 2](#)

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

- C4** S. 17 excluded (8.5.2000) by 1999 c. 29, [s. 134\(5\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3434, art. 3](#)

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- C5** S. 17(1)(b)(2)(3)(5)(b)(7)(8) excluded (temp. from 27.11.2001 to 27.11.2002) by S.I. 2001/3576, **art. 3(1)(d)**  
S. 17(1)(b)(2)(3)(5)(b)(7)(8) excluded (temp. from 27.11.2001 to 27.11.2002) by S.I. 2001/3577, **art. 3(1)(c)**  
S. 17(1)(b)(2)(3)(5)(b)(7)(8) excluded (temp. from 27.11.2001 to 27.11.2002) by S.I. 2001/3578, **art. 3(1)(c)**
- C6** S. 17(1)(b) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(3)(a)**
- C7** S. 17(1)(b) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(3)(a)**
- C8** S. 17(2) disappplied in part (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(3)(b)**
- C9** S. 17(2) disappplied in part (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(3)(b)**
- C10** S. 17(3) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(3)(a)**
- C11** S. 17(3) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(3)(a)**
- C12** S. 17(5)(b) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(3)(a)**
- C13** S. 17(5)(b) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(3)(a)**
- C14** S. 17(7)(8) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(3)(a)**
- C15** S. 17(7)(8) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(3)(a)**

#### Marginal Citations

- M1** 1996 c. 16.

### [<sup>F12</sup>18 Recovery of amount not accounted for etc.

- (1) Where it appears to the auditor carrying out an audit under this Act, other than an audit of accounts of a health service body—
- that any person has failed to bring into account a sum which should have been brought into account and that the failure has not been sanctioned by the Secretary of State, or
  - that a loss has been incurred or deficiency caused by the wilful misconduct of any person,
- the auditor shall certify that the sum, or the amount of the loss or deficiency, is due from that person.
- (2) Subject to subsections (4) and (8), both the auditor and the body concerned (or, if it is a parish meeting, its chairman) may recover for the benefit of the body a sum or amount certified under this section as due; and if the sum or amount is certified to be due from two or more persons, they shall be jointly and severally liable for it.
- (3) A person aggrieved by a decision of an auditor to certify under this section that a sum or amount is due from him may—
- not later than six weeks after being notified of the decision, require the auditor to state in writing the reasons for his decision, and
  - appeal against the decision to the court.

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- (4) On an appeal under subsection (3) the court may—
  - (a) confirm, vary or quash the decision, and
  - (b) give any certificate which the auditor could have given.
- (5) A person who has made an objection under section 16(1)(a) and is aggrieved by a decision of an auditor not to certify under this section that a sum or amount is due from another person may—
  - (a) not later than six weeks after being notified of the decision, require the auditor to state in writing the reasons for his decision, and
  - (b) appeal against the decision to the court.
- (6) On an appeal under subsection (5) the court may—
  - (a) confirm or quash the decision, and
  - (b) give any certificate which the auditor could have given.
- (7) If a certificate under this section relates to a loss or deficiency caused by the wilful misconduct of a person who is, or was at the time of the misconduct, a member of a local authority and the amount certified to be due from him exceeds £2,000, that person shall be disqualified for being a member of a local authority for five years beginning—
  - (a) on the ordinary date on which the period for bringing an appeal against a decision to give the certificate expires, or
  - (b) if such an appeal is brought, on the date on which the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (8) A sum or amount certified under this section to be due from any person is payable within 14 days after the date of issue of the certificate or, if an appeal is brought, within 14 days after the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (9) In proceedings for the recovery of a sum or amount due under this section—
  - (a) a certificate signed by an auditor appointed by the Commission stating that the sum or amount is due from a person specified in the certificate to a body specified there is conclusive evidence of that fact; and
  - (b) a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
- (10) On an appeal under this section relating to the accounts of a body, the court may make such order as it thinks fit for the payment by that body of expenses incurred in connection with the appeal by—
  - (a) the auditor,
  - (b) the person to whom the appeal relates, or
  - (c) the person by whom the appeal is brought.
- (11) Any expenses incurred by an auditor in recovering a sum or amount certified under this section to be due in connection with the accounts of a body, so far as not recovered from any other source, are recoverable from that body unless the court otherwise directs.
- (12) Subsections [<sup>F13</sup>(6) to (8)] of section 17 also apply for the purposes of this section.]

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### Textual Amendments

- F12** S. 18 repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s. 107, Sch. 6, S.I. 2002/1718, **art. 2**
- F13** Words in s. 18(12) substituted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 7** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

### Modifications etc. (not altering text)

- C16** S. 18 disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(3)(c)**
- C17** S. 18 disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(3)(c)**
- C18** S. 18 excluded (8.5.2000) by 1999 c. 29, **s. 134(5)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 3**  
S. 18 applied (temp from 27.11.2001 to 27.11.2002) by S.I. 2001/3576, **art. 3(1)(e)**  
S. 18 applied (temp from 27.11.2001 to 27.11.2002) by S.I. 2001/3577, **art. 3(1)(d)**  
S. 18 applied (temp from 27.11.2001 to 27.11.2002) by S.I. 2001/3578, **art. 3(1)(d)**

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