



Local Government Finance Act 1982

1982 CHAPTER 32

PART I

RATES, PRECEPTS AND BORROWING

1 Limitation of rating powers

A rating authority shall not have power—

- (a) to make a supplementary rate ; or
- (b) to make a rate for any period other than a financial year.

2 Limitation of precepting powers

A precepting authority shall not have power—

- (a) to issue a supplementary precept; or
- (b) to issue a precept in respect of any period other than a financial year.

3 Substituted rates and precepts

(1) Subject to subsection (2) below—

- (a) a rating authority may make a rate for a financial year in substitution for a rate previously made by it for that year; and
- (b) a precepting authority may issue a precept in respect of a financial year in substitution for a precept previously issued by it in respect of that year.

(2) The estimated product of a substituted rate or precept shall not exceed the estimated product of the rate or precept for which it is substituted (the "original" rate or precept); and for the purposes of this subsection the product of a substituted rate or precept shall be estimated by reference to the same gross rateable value as the product of the original rate or precept.

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- (3) Section 12(6) of the General Rate Act 1967 (which requires a precept to be issued or notified before the beginning of a financial year) shall not apply to a precept issued by virtue of subsection (1)(b) above.
- (4) Where a precept is substituted by virtue of this section any authority which has made a rate by reference to the original precept—
- (a) shall under subsection (1)(a) above make a substituted rate by reference to the substituted precept; and
 - (b) shall be entitled to recover from the precepting authority—
 - (i) its administrative expenses in making repayments and allowing credits under subsections (5) and (6) below in respect of the original rate ; and
 - (ii) any increase attributable to paragraph (a) above in its rate collection expenses for the financial year;
 and in relation to the substituted rate made pursuant to paragraph (a) above the estimated product of the original rate shall for the purposes of subsection (2) above be treated as reduced by the difference (if any) between the estimated products of the original and the substituted precepts.
- (5) Where a rate or precept is substituted by virtue of this section any sum paid to the rating or precepting authority in respect of the original rate or precept (including any sum paid by way of an instalment or other part payment) shall—
- (a) to the extent to which it would have been payable if the original rate or precept had corresponded to the substituted rate or precept, be treated as paid in respect of the substituted rate or precept; and
 - (b) as to any excess, be repaid if the ratepayer by whom that sum was paid or, as the case may be, the authority to which the precept was issued so requires.
- (6) Where repayment of any amount is not required under subsection (5)(b) above that amount shall, as the rating or precepting authority may determine, either be repaid or—
- (a) in the case of an amount paid in respect of a rate, be credited against any subsequent liability of the ratepayer for rates in respect of the hereditament in question ;
 - (b) in the case of an amount paid in respect of a precept, be credited against any subsequent liability of the authority to which the precept was issued in respect of precepts issued to it by the precepting authority.
- (7) Where a person as tenant or licensee of any premises—
- (a) is liable to make payments (whether as part of his rent or otherwise) which vary or may vary according to the rates chargeable in respect of those premises ; or
 - (b) is entitled to make deductions from his rent in respect of those rates,
- he shall, where a rate affecting those premises is substituted by virtue of this section, be entitled to recover or, as the case may be, liable to make good so much of any payment or deduction as he would not have been liable or entitled to make if the original rate had corresponded to the substituted rate ; and any sum which he is entitled to recover as aforesaid may, without prejudice to any other method of recovery, be deducted by him from any rent payable by him to the person by whom that sum was received.
- (8) This section applies whether or not the original rate or precept was validly made or issued but shall not be construed as authorising the substitution of a rate or precept

for one made or issued after the passing of this Act in contravention of section 1 or 2 above.

4 Proceedings in respect of rates and precepts

- (1) The validity of a precept shall not be questioned except by an application for judicial review; and the validity of a rate shall not be questioned except as aforesaid on any of the grounds mentioned in subsection (2) below.
- (2) The grounds referred to in subsection (1) above in the case of a rate are—
 - (a) that any part of it was made for financing expenditure which the rating authority could not lawfully incur ;
 - (b) that it was made by reference to a precept which was wholly or partly invalid ;
or
 - (c) any other ground not based on facts relating to a particular hereditament or to the inclusion or exclusion of any particular person in or from the rate.
- (3) If on an application for judicial review the court decides to grant relief in respect of a rate on any of the grounds mentioned in subsection (2) above or in respect of a precept it shall quash the rate or precept whether the ground of invalidity relates to the whole or only to a part of it.
- (4) Subsection (1) above is without prejudice to the making of an application for judicial review in any case in which it could be made apart from that subsection.
- (5) Section 7 of the General Rate Act 1967 (appeal against rate) shall have effect subject to the foregoing provisions of this section, and accordingly the court shall not under that section amend or quash a rate except in relation to a particular hereditament.

5 Borrowing powers

- (1) After paragraph 11(2) of Schedule 13 to the Local Government Act 1972 (security for money borrowed by local authority) there shall be inserted—

“(2A) The reference in sub-paragraph (1) above to money borrowed by a local authority includes a reference to the interest for the time being payable in respect of that money.”
- (2) The Greater London Council may, with the approval of the Secretary of State and in accordance with any conditions subject to which the approval is given, borrow money for any purpose other than the purposes mentioned in paragraph 29 of Schedule 2 to the London Government Act 1963 (capital expenditure and lending to other persons).
- (3) Subsection (2) above is without prejudice to any borrowing powers of the Greater London Council existing apart from that subsection.

6 Rate relief in enterprise zones

- (1) At the end of paragraph 27(1) of Schedule 32 to the Local Government, Planning and Land Act 1980 (exemption from rates of certain hereditaments situated in areas designated as enterprise zones) there shall be added the words " or in respect of any part of an exempt hereditament as regards any period during which the area in which that part is situated is so designated. "

- (2) In paragraph 28 of the said Schedule 32 (mixed hereditaments)—
- (a) in sub-paragraph (2) (mixed hereditament to be rated as a dwelling of the appropriate rateable value), for the word "dwelling" there shall be substituted the word " dwelling-house "; and
 - (b) for sub-paragraph (3) (b) (extension of power to make regulations about appeals) there shall be substituted—
 - “(b) the reference to the occupier or person treated as occupier of the hereditament being dissatisfied by the view taken by the rating authority included a reference to the occupier, the person aforesaid or the rating authority being dissatisfied by the view taken by the valuation officer ; and”.
- (3) After the said paragraph 28 there shall be inserted—

“Hereditaments partially within enterprise zones

- 28A (1) As regards any period during which part only of an exempt hereditament (within the meaning of paragraph 27 above) is situated in an area designated as an enterprise zone, the valuation officer shall determine the portion of the rateable value of the hereditament attributable to the part of the hereditament situated outside the enterprise zone.
- (2) Where a determination in respect of a hereditament has been made under sub-paragraph (1) above, the amount of any rates payable in respect of the hereditament shall (subject to sub-paragraph (3)(b) below) be the amount which would be payable in respect of it if its rateable value were equal to the portion of the rateable value which was determined under sub-paragraph (1) above.
- (3) Where the hereditament in respect of which a determination has been so made is a mixed hereditament—
- (a) the valuation officer shall also determine the portion of the rateable value of the hereditament attributable to any part of it which is used for the purposes of a private dwelling or private dwellings and is situated within the enterprise zone; and
 - (b) if such a determination is made, the amount of any rates payable in respect of the hereditament shall be the aggregate of the following amounts, namely—
 - (i) the amount payable under sub-paragraph (2) above, and
 - (ii) the amount which would be payable in respect of it if it were a dwelling-house of a rateable value equal to the portion of the rateable value determined under paragraph (a) above.
- (4) Section 48(6) of the 1967 Act shall, with modifications corresponding to those contained in paragraph 28(3) above, apply also in relation to questions as to the portions mentioned in sub-paragraphs (1) and (3)(a) above.”

7 Interpretation and commencement of Part I

- (1) In this Part of this Act—

- " financial year " means a period of twelve months beginning with 1st April;
- " gross rateable value ", in relation to a rating or precepting authority, means the aggregate of the rateable values of the hereditaments in the authority's area;
- " precepting authority " means an authority having power to issue a precept either to a rating authority or to a county council;
- " rate " means a general rate except that—
- (a) in the case of the City of London, it includes the poor rate; and
 - (b) in the case of the Inner Temple and the Middle Temple, it means any rate in the nature of a general rate levied in the Inner Temple or the Middle Temple, as the case may be ;
- " rating authority " means any authority having power to make a rate under section 1 of the General Rate Act 1967;
- " supplementary precept" means a precept which is issued by a precepting authority—
- (a) in respect of (or of part of) a financial year in respect of which it has already issued a precept; and
 - (b) by way of addition to and not in substitution for that previous precept.
- (2) Sections 1 to 3 and 6(1) and (3) above have effect in relation to any financial year beginning on or after 1st April 1982.
- (3) Schedule 1 to this Act shall have effect in connection with the coming into force of sections 1 and 2 above.

PART II

BLOCK GRANT

8 Adjustments of distribution of block grant

- (1) In subsection (6) of section 59 of the Local Government, Planning and Land Act 1980 (purposes for which the amount of block grant payable to a local authority may be adjusted under that section) after paragraph (c) there shall be inserted—
- “(cc) making, in the amount of block grant payable to an authority, adjustments by reference to guidance issued by the Secretary of State and designed to achieve any reduction in the level of local authority expenditure (or any restriction on increases in that level) which he thinks necessary having regard to general economic conditions; and”.
- (2) After subsection (11) of the said section 59 there shall be inserted—
- “(11A) Any guidance issued for the purposes of subsection (6)(cc) above shall be framed by reference to principles applicable to all local authorities; and before issuing any guidance for those purposes the Secretary of State shall consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.”
- (3) The powers conferred by the said section 59 and by paragraph 8 of Schedule 11 to the said Act of 1980 (which makes corresponding provision in relation to authorities wholly or partly within the Metropolitan Police District)—

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- (a) shall not be exercised for the purpose specified in paragraph (a) of subsection (6) of that section so as to decrease the amount of block grant payable to a local authority unless the Secretary of State is satisfied that there will be an unreasonable increase, unless he exercises the power, in the amount of block grant payable to that authority for a year compared with the amount payable to them for the previous year ;
 - (b) shall not be exercised for the purpose specified in paragraph (b) or (c) of that subsection so as to decrease the amount of block grant payable to a local authority ; and
 - (c) shall be exercisable for the purpose specified in paragraph (cc) of that subsection so as to increase or decrease the amount of block grant payable to a local authority according to whether or the extent to which they have or have not complied (or have or have not taken steps to comply) with the guidance referred to in that paragraph.
- (4) If representations in that behalf are made to him by any association of local authorities or by any local authority the Secretary of State may—
- (a) in the Rate Support Grant Report made for any year under section 60 of the said Act of 1980; or
 - (b) in a supplementary report made for any year under section 61 of that Act, provide that expenditure of any description or amount shall be disregarded for the purposes of paragraph (cc) of subsection (6) of the said section 59 and in determining under subsection (3)(c) above whether or the extent to which local authorities have or have not complied (or have or have not taken steps to comply) with the guidance referred to in that paragraph.
- (5) Subsections (2) and (3) of the said section 59 and sub-paragraphs (3) and (4) of the said paragraph 8 (which are superseded by subsection (3) above) shall be omitted; and the reference to the said subsection (3) in section 59(12) and to the said sub-paragraph (4) in paragraph 8(13) shall be construed as references to subsection (3)(a) above.
- (6) The powers conferred by the said section 59 and paragraph 8 shall not be exercised for the purpose specified in subsection (6)(cc) of that section except in accordance with principles to be applied to all local authorities; and accordingly subsections (5)(a)(ii) and (7) of that section and sub-paragraphs (9) to (11) of that paragraph shall not apply to any exercise of those powers for that purpose.
- (7) A supplementary report made for any year under section 61 of the said Act of 1980 may specify a determination under the said section 59 or paragraph 8 in relation to a local authority notwithstanding that no such determination was specified in relation to that authority in the Rate Support Grant Report made for that year under section 60 of that Act.
- (8) No determination made for the purpose specified in subsection (6)(cc) of the said section 59 and specified by virtue of subsection (7) above in a supplementary report shall be such as to decrease the amount of block grant payable to a local authority in any year to any greater extent than is permissible in accordance with principles specified in that behalf in the Rate Support Grant Report made for that year.
- (9) Where by virtue of subsection (7) above a determination is specified in a supplementary report—
- (a) the principles in accordance with which the power to make the determination are exercised ; and

- (b) the considerations leading the Secretary of State to make the determination, shall be specified in the supplementary report except that paragraph (a) above shall not apply to any determination which is subject to subsection (8) above.
- (10) This section has effect in relation to block grant for any year beginning on or after 1st April 1981 except that so much of subsection (2) above as relates to consultation and subsection (8) above do not apply to any year beginning before 1st April 1983.
- (11) In relation to the year beginning on 1st April 1981 or 1st April 1982 references in this section to guidance issued by the Secretary of State include references to guidance issued by him before the passing of this Act and, as respects any determination under the said section 59 or paragraph 8, the requirements of subsection (5) of section 60 of the said Act of 1980 and of that subsection as applied by section 61(2) of that Act may be satisfied by consultation before the passing of this Act.

9 Information for purposes of block grant

- (1) The Secretary of State shall have power to require any information submitted to him by a local authority under section 65(1) of the Local Government, Planning and Land Act 1980 (information for purposes of block grant) to be certified under arrangements made by the Audit Commission established under Part III of this Act.
- (2) The said section 65(1) shall have effect with the substitution for the words " the total expenditure to be incurred " of the words " the expenditure incurred or to be incurred " and as if section 8 above were included in the provisions there mentioned.
- (3) Subsection (2) above has effect in relation to any year beginning on or after 1st April 1981.

10 Block grant for Receiver for the Metropolitan Police District

- (1) Schedule 2 to this Act shall have effect for enabling block grant to be paid to the Receiver for the Metropolitan Police District.
- (2) This section has effect for any year beginning on or after 1st April 1983.

PART III

ACCOUNTS AND AUDIT

The Audit Commission

11 Establishment of Audit Commission

- (1) For the purposes of this Part of this Act there shall be a body to be known as the Audit Commission for Local Authorities in England and Wales.
- (2) The Commission shall consist of not less than thirteen nor more than seventeen members appointed by the Secretary of State after consultation with—
- (a) such associations of local authorities as appear to him to be concerned ; and

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- (b) such bodies of accountants, such bodies representing local authority employees, and such other organisations or persons as appear to him to be appropriate.
- (3) The Secretary of State shall, after the like consultation, appoint one of the members to be chairman and another to be deputy chairman.
- (4) Schedule 3 to this Act shall have effect with respect to the Commission.

Audit of accounts

12 Accounts subject to audit

- (1) All accounts to which this section applies shall be made up yearly to 31st March or such other date as the Secretary of State may generally or in any special case direct and shall be audited in accordance with this Part of this Act by an auditor or auditors appointed by the Commission.
- (2) This section applies to all accounts of—
 - (a) a local authority ;
 - (b) a parish meeting of a parish not having a separate parish council;
 - (c) a committee of a local authority, including a joint committee of two or more such authorities ;
 - (d) the Council of the Isles of Stilly ;
 - (e) any charter trustees constituted under section 246 of the Local Government Act 1972;
 - (f) a port health authority ;
 - (g) a combined police authority ;
 - (h) a fire authority constituted by a combination scheme ;
 - (i) a licensing planning committee ;
 - (j) an internal drainage board ;
 - (k) a children's regional planning committee ; and
 - (l) a probation and after-care committee.
- (3) This section also applies to the accounts of the rate fund and superannuation fund of the City, that is to say—
 - (a) the accounts relating to the levy and collection of the poor rate and general rate made by the Common Council and to the income and expenditure which falls to be credited in aid of, or to be met out of, the poor rate or the general rate ; and
 - (b) the accounts relating to the superannuation fund established and administered by the Common Council under the Local Government Superannuation Regulations 1974 as amended by the Local Government Superannuation (City of London) Regulations 1977;

and any reference in this Part of this Act to the accounts of a body shall be construed, in relation to the Common Council, as a reference to the accounts of the rate fund and superannuation fund of the City.

- (4) References in any statutory provision or document to district audit, to audit by a district auditor, to audit in accordance with Part VIII of the Local Government Act 1972 or to

professional audit shall be construed, in relation to the accounts of a local authority or other public body, as references to audit as mentioned in subsection (1) above.

13 Appointment of auditors

- (1) An auditor appointed by the Commission to audit the accounts of any body whose accounts are required to be audited in accordance with this Part of this Act may be an officer of the Commission, an individual who is not such an officer or a firm of such individuals.
- (2) Where two or more auditors are appointed in relation to the accounts of any body, some but not others may be officers of the Commission and they may be appointed to act jointly, to act separately in relation to different parts of the accounts or to discharge different functions in relation to the audit.
- (3) Before appointing any auditor or auditors to audit the accounts of any body the Commission shall consult that body.
- (4) For the purpose of assisting the Commission in deciding on the appointment of an auditor or auditors in relation to the accounts of any body the Commission may require that body to make available for inspection by or on behalf of the Commission such documents relating to any accounts of the body as the Commission may reasonably require for that purpose.
- (5) A person shall not be appointed by the Commission as an auditor unless he is a member of one or more of the bodies mentioned in subsection (6) below or has such other qualifications as may be approved for the purposes of this section by the Secretary of State; and a firm shall not be so appointed unless each of its members is a member of one or more of those bodies.
- (6) The bodies referred to in subsection (5) above are—
 - (a) the Institute of Chartered Accountants in England and Wales;
 - (b) the Institute of Chartered Accountants of Scotland;
 - (c) the Association of Certified Accountants;
 - (d) the Chartered Institute of Public Finance and Accountancy ;
 - (e) the Institute of Chartered Accountants in Ireland; and
 - (f) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (7) The appointment by the Commission of an auditor who is not an officer of the Commission shall be on such terms and for such period as the Commission may determine.
- (8) Arrangements may be approved by the Commission, either generally or in any particular case, for a person or persons to assist an auditor appointed by the Commission by carrying out such of his functions under this Part of this Act as may be specified in the arrangements; and references in the following provisions of this Part of this Act to an auditor include, in relation to any function of an auditor, a reference to any person carrying out that function under arrangements approved under this subsection.
- (9) Subsection (8) above applies whether or not the auditor is an officer of the Commission.

14 Code of audit practice

- (1) The Commission shall prepare, and keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions under this Part of this Act.
- (2) The code shall embody what appears to the Commission to be the best professional practice with respect to the standards, procedures and techniques to be adopted by auditors.
- (3) The code shall not come into force until approved by a resolution of each House of Parliament, and its continuation in force shall be subject to its being so approved at intervals of not more than five years.
- (4) Subsection (3) above shall not preclude alterations to the code being made by the Commission in the intervals between its being approved as aforesaid.
- (5) The Commission shall send copies of the code and of any alterations made to the code to the Secretary of State who shall lay them before Parliament; and the Commission shall from time to time publish the code as for the time being in force.
- (6) Before preparing the code or making any alteration in it the Commission shall consult such associations of local authorities as appear to it to be concerned and such bodies of accountants as appear to it to be appropriate.

15 General duties of auditors

- (1) In auditing any accounts required to be audited in accordance with this Part of this Act, an auditor shall by examination of the accounts and otherwise satisfy himself—
 - (a) that the accounts are prepared in accordance with regulations made under section 23 below and comply with the requirements of all other statutory provisions applicable to the accounts;
 - (b) that proper practices have been observed in the compilation of the accounts ;
and
 - (c) that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- (2) The auditor shall comply with the code of audit practice as for the time being in force.
- (3) The auditor shall consider whether, in the public interest, he should make a report on any matter coming to his notice in the course of the audit in order that it may be considered by the body concerned or brought to the attention of the public, and shall consider whether the public interest requires any such matter to be made the subject of an immediate report rather than of a report to be made at the conclusion of the audit.

16 Auditor's right to obtain documents and information

- (1) An auditor shall have a right of access at all reasonable times to all such documents relating to a body whose accounts are required to be audited in accordance with this Part of this Act as appear to him necessary for the purposes of the audit and shall be entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary for those purposes and, if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation or to produce any such document.

- (2) Without prejudice to subsection (1) above, the auditor shall be entitled to require any officer or member of a body whose accounts are required to be audited in accordance with this Part of this Act to give him such information or explanation as he thinks necessary for the purposes of the audit and, if he thinks it necessary, to require any such officer or member to attend before him in person to give the information or explanation.
- (3) Without prejudice to subsections (1) and (2) above, every body whose accounts are required to be audited in accordance with this Part of this Act shall provide the auditor with every facility and all information which he may reasonably require for the purposes of the audit.
- (4) Any person who without reasonable excuse fails to comply with any requirement of an auditor under subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding £200 and to an additional fine not exceeding £20 for each day on which the offence continues after conviction thereof.
- (5) Any expenses incurred by an auditor in connection with proceedings for an offence under subsection (4) above alleged to have been committed in relation to the audit of the accounts of any body shall, so far as not recovered from any other source, be recoverable from that body.

17 Public inspection of accounts and right of challenge

- (1) At each audit by an auditor under this Part of this Act any persons interested may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them and 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 those accounts relate, the auditor shall give the elector, or any representative of his, an opportunity to question the auditor about the accounts.
- (3) Subject to subsection (4) below, any local government elector for any area to which those accounts relate, or any representative of his, may attend before the auditor and make objections—
 - (a) as to any matter in respect of which the auditor could take action under section 19 or 20 below ; or
 - (b) as to any other matter in respect of which the auditor could make a report under section 15(3) above.
- (4) No objection may be made under subsection (3) above by or on behalf of a local government elector unless the auditor has previously received written notice of the proposed objection and of the grounds on which it is to be made.
- (5) Where an elector sends a notice to an auditor for the purposes of subsection (4) above he shall at the same time send a copy of the notice to the body whose accounts are the subject of the audit.

18 Auditor's reports

- (1) When an auditor has concluded his audit of the accounts of any body under this Part of this Act—

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- (a) a certificate that he has completed the audit in accordance with this Part of this Act; and
- (b) his opinion on the relevant statement of accounts prepared pursuant to regulations under section 23 below (or, where no such statement is required to be prepared, on the accounts),

shall, subject to subsection (2) below, be entered by him on the statement (or, as the case may be, on the accounts).

- (2) Where an auditor makes a report to the body concerned under section 15(3) above at the conclusion of the audit, the certificate and opinion referred to in subsection (1) above may be included by him in that report.
- (3) Any report under section 15(3) above shall be sent by the auditor to the body concerned or, in the case of a parish meeting, to the chairman, and (except in the case of an immediate report) shall be so sent not later than fourteen days after the conclusion of the audit, and that body shall take the report into consideration as soon as practicable after they have received it.
- (4) A copy of any such report shall be sent by the auditor to the Commission forthwith, if the report is an immediate report, and otherwise not later than fourteen days after the conclusion of the audit.
- (5) The agenda supplied to the members of a body for the meeting of the body at which they take into consideration a report of an auditor sent to them under subsection (3) above shall be accompanied by that report, and the report shall not be excluded from the matter supplied for the benefit of any newspaper under section 1(4) (b) of the Public Bodies (Admission to Meetings) Act 1960 (supply of agenda of meetings and related documents to newspapers).

19 Declaration that item of account is unlawful

- (1) Where it appears to the auditor carrying out the audit of any accounts under this Part of this Act that any item of account is contrary to law he may apply to the court for a declaration that the item is contrary to law except where it is sanctioned by the Secretary of State.
- (2) On an application under this section the court may make or refuse to make the declaration asked for, and where the court makes that declaration, then, subject to subsection (3) below, it may also—
 - (a) order that any person responsible for incurring or authorising any expenditure declared unlawful shall repay it in whole or in part to the body in question and, where two or more persons are found to be responsible, that they shall be jointly and severally liable to repay it as aforesaid ;
 - (b) if any such expenditure 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.
- (3) The court shall not make an order under subsection (2)(e) or (b) above if the court is satisfied that the person responsible for incurring or authorising any such 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 that expenditure or any part of it.

- (4) Any person who has made an objection under section 17(3)(a) above 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 he has been 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 any such appeal the court shall have the like powers in relation to the item of account to which the objection relates as if the auditor had applied for the declaration.
- (5) On an application or appeal under this section relating to the accounts of a body, the court may make such order as the court thinks fit for the payment by that body of expenses incurred in connection with the application or appeal by the auditor or the person to whom the application or appeal relates or by whom the appeal is brought, as the case may be.
- (6) The court having jurisdiction for the purposes of this section shall be the High Court except that, if the amount of the item of account alleged to be contrary to law does not exceed the amount over which county courts have jurisdiction in actions founded on contract, the county court shall have concurrent jurisdiction with the High Court.
- (7) In this section " local authority " includes the Common Council and the Council of the Isles of Stilly.

20 Recovery of amount not accounted for etc.

- (1) Where it appears to the auditor carrying out the audit of any accounts under this Part of this Act—
- (a) that any person has failed to bring into account any sum which should have been so included and that the failure has not been sanctioned by the Secretary of State; or
 - (b) that a loss has been incurred or deficiency caused by the wilful misconduct of any person,
- he shall certify that the sum or, as the case may be, the amount of the loss or the deficiency is due from that person and, subject to subsections (3) and (5) below, both he and the body in question (or, in the case of a parish meeting, the chairman of the meeting) may recover that sum or amount for the benefit of that body; and if the auditor certifies under this section that any sum or amount is due from two or more persons, they shall be jointly and severally liable for that sum or amount.
- (2) Any person who—
- (a) has made an objection under section 17(3)(a) above 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 ; or
 - (b) is 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 he has been notified of the decision require the auditor to state in writing the reasons for his decision.
- (3) Any such person who is aggrieved by such a decision may appeal against the decision to the court and—
- (a) in the case of a decision to certify that any sum or amount is due from any person, the court may confirm, vary or quash the decision and give any certificate which the auditor could have given ;

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- (b) in the case of a decision not to certify that any sum or amount is due from any person, the court may confirm the decision or quash it and give any certificate which the auditor could have given ;
- and any certificate given under this subsection shall be treated for the purposes of subsection (1) above and the following provisions of this section as if it had been given by the auditor under subsection (1) above.
- (4) 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 such 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 the period of five years beginning on the ordinary date on which the period allowed for bringing an appeal against a decision to give the certificate expires or, if such an appeal is brought, the date on which the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (5) A sum or other amount certified under this section to be due from any person shall be payable within fourteen days after the date of the issue of the certificate or, if an appeal is brought, within fourteen days after the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (6) In any proceedings for the recovery of any sum or amount due from any person under this section a certificate signed by an auditor appointed by the Commission stating that that sum or amount is due from a person specified in the certificate to a body so specified shall be conclusive evidence of that fact; and any certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
- (7) On an appeal under this section relating to the accounts of a body, the court may make such order as the court thinks fit for the payment by that body of expenses incurred in connection with the appeal by the auditor or the person to whom the appeal relates or by whom the appeal is brought, as the case may be.
- (8) Any expenses incurred by an auditor in recovering a sum or other amount certified under this section to be due in connection with the accounts of a body shall, so far as not recovered from any other source, be recoverable from that body unless the court otherwise directs.
- (9) The court having jurisdiction for the purposes of this section shall be the High Court except that, if the sum or amount alleged to be due does not exceed the amount over which county courts have jurisdiction in actions founded on contract, the county court shall have concurrent jurisdiction with the High Court.
- (10) In this section " local authority " includes the Common Council and the Council of the Isles of Stilly.

21 Fees for audit

- (1) The Commission shall prescribe a scale or scales of fees in respect of the audit of accounts which are required to be audited in accordance with this Part of this Act.
- (2) Before prescribing any scale of fees under subsection (1) above the Commission shall consult such associations of local authorities as appear to it to be concerned and such bodies of accountants as appear to it to be appropriate.

- (3) A body whose accounts are audited in accordance with this Part of this Act shall, subject to subsection (4) below, pay to the Commission the fee applicable to the audit in accordance with the appropriate scale.
- (4) If it appears to the Commission that the work involved in a particular audit was substantially more or less than that envisaged by the appropriate scale, the Commission may charge a fee which is larger or smaller than that referred to in subsection (3) above.
- (5) For the purpose of determining the fee payable for an audit, a body whose accounts are being audited (or, in the case of the accounts of a parish meeting, the chairman of the meeting) shall complete a statement containing such information as the Commission may require and submit it to the auditor who shall send it to the Commission on the conclusion of the audit with a certificate that the statement is correct to the best of his knowledge and belief; and, in addition, the body shall furnish the Commission with such further information as it may at any time require for the said purpose.
- (6) The fee payable for an audit shall be the same whether the audit is carried out by an auditor who is an officer of the Commission or by an auditor who is not such an officer.
- (7) If the Secretary of State considers it necessary or desirable to do so, he may by regulations prescribe a scale or scales of fees to have effect, for such period as is specified in the regulations, in place of any scale or scales prescribed by the Commission and, if he does so, references in subsections (3) and (4) above to the appropriate scale shall, as respects that period, be construed as references to the appropriate scale prescribed by the Secretary of State.

22 Extraordinary audit

- (1) The Commission may direct an auditor or auditors appointed by it to hold an extraordinary audit of the accounts of any body whose accounts are required to be audited in accordance with this Part of this Act if—
 - (a) an application in that behalf is made by a local government elector for the area of that body; or
 - (b) it appears to the Commission to be desirable to do so in consequence of a report made under this Part of this Act by an auditor or for any other reason.
- (2) If it appears to the Secretary of State that it is desirable in the public interest that there should be an extraordinary audit of the accounts of any such body as aforesaid he may require the Commission to direct such an audit by an auditor or auditors appointed by it.
- (3) The provisions of sections 13 and 15 to 20 above, except subsections (1) and (2) of section 17, shall apply to an extraordinary audit under this section as they apply to an ordinary audit under this Part of this Act.
- (4) An extraordinary audit under this section may be held after three clear days notice in writing given to the body whose accounts are to be audited or, in the case of the accounts of a parish meeting, to the chairman of the meeting.
- (5) The expenditure incurred in holding an extraordinary audit of the accounts of any body shall be defrayed in the first instance by the Commission but it may, if it thinks fit, recover the whole or any proportion of that expenditure from that body.

23 Regulations as to accounts

- (1) The Secretary of State may by regulations applying to bodies whose accounts are required to be audited in accordance with this Part of this Act make provision with respect to—
 - (a) the keeping of accounts ;
 - (b) the form, preparation and certification of accounts and of statements of accounts ;
 - (c) the deposit of the accounts of any body at the offices of the body or at any other place ;
 - (d) the publication of information relating to accounts and the publication of statements of accounts ;
 - (e) the exercise of any rights of inspection or objection conferred by section 17 above or section 24 below and the steps to be taken by any body for informing local government electors for the area of that body of those rights.
- (2) Regulations under this section may make different provision in relation to bodies of different descriptions.
- (3) Any person who without reasonable excuse contravenes any provision of regulations under this section, the contravention of which is declared by the regulations to be an offence, shall be liable on summary conviction to a fine not exceeding £200.
- (4) Any expenses incurred by an auditor in connection with proceedings in respect of an offence under subsection (3) above alleged to have been committed in relation to the accounts of any body shall, so far as not recovered from any other source, be recoverable from that body.

24 Right to inspect statements of accounts and auditor's reports

- (1) Any local government elector for the area of a body whose accounts are required to be audited in accordance with this Part of this Act shall be entitled—
 - (a) to inspect and make copies of any statement of accounts prepared by the body pursuant to regulations under section 23 above and any report made to the body by an auditor; and
 - (b) to require copies of any such statement or report to be delivered to him on payment of a reasonable sum for each copy.
- (2) Any document which a person is entitled to inspect under this section may be inspected by him at all reasonable times and without payment.
- (3) Any person having the custody of any such document who—
 - (a) obstructs a person in the exercise of any 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,shall be liable on summary conviction to a fine not exceeding £200.
- (4) References in this section to copies of a document include references to copies of any part of it.

25 Audit of accounts of officers

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 the officer shall be audited by the auditor of the accounts of that body and sections 12(1) and 15 to 24 above shall with the necessary modifications apply accordingly to the accounts and audit.

Miscellaneous and supplementary

26 Studies for improving economy etc. in services

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations for improving economy, efficiency and effectiveness in the provision of local authority services and of other services provided by bodies whose accounts are required to be audited in accordance with this Part of this Act, and for improving the financial or other management of such bodies.
- (2) The Commission may undertake or promote other studies relating to the provision by such bodies of their services besides the studies referred to in subsection (1) above and section 27 below.
- (3) The Commission shall publish or otherwise make available its recommendations and the results of any studies under this section.
- (4) Before undertaking or promoting any study under this section the Commission shall consult such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate.

27 Reports on impact of statutory provisions etc.

- (1) In addition to the studies referred to in section 26(1) above, the Commission shall undertake or promote studies designed to enable it to prepare reports as to the impact—
 - (a) of the operation of any particular statutory provision or provisions ; or
 - (b) of any directions or guidance given by a Minister of the Crown (whether pursuant to any such provision or otherwise),on economy, efficiency and effectiveness in the provision of local authority services and of other services provided by bodies whose accounts are required to be audited in accordance with this Part of this Act, or on the financial management of such bodies.
- (2) The Commission shall publish or otherwise make available its report of the results of any study under this section, and shall send a copy of any such report to the Comptroller and Auditor General.
- (3) Where the Comptroller and Auditor General has received a copy of any such report he may require the Commission to furnish him with any information obtained by it in connection with the preparation of the report, and for that purpose the Commission shall permit any person authorised by him to inspect and make copies of any documents containing any such information ; but no information shall be required by the Comptroller and Auditor General under this section in respect of any particular body.

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

- (4) The Comptroller and Auditor General shall from time to time lay before the House of Commons a report of any matters which, in his opinion, arise out of any studies of the Commission under this section and ought to be drawn to the attention of that House.
- (5) Before undertaking or promoting any study under this section the Commission shall consult—
 - (a) the Comptroller and Auditor General;
 - (b) any Minister of the Crown who appears to it to be concerned; and
 - (c) such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate.

28 Furnishing of information and documents to Commission

- (1) Without prejudice to any other provision of this Part of this Act, the Commission may require any body whose accounts are required to be audited in accordance with this Part of this Act, and any officer or member of any such body, to furnish the Commission or any person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Part of this Act of the Commission or of that person, including the carrying out of any study under section 26 or 27 above.
- (2) For the purpose of assisting the Commission to maintain proper standards in the auditing of the accounts of any such body the Commission may require that body to make available for inspection by or on behalf of the Commission the accounts concerned and such other documents relating to the body as might reasonably be required by an auditor for the purposes of the audit.
- (3) Subsections (4) and (5) of section 16 above shall apply in relation to a requirement imposed on any officer or member of a body under subsection (1) above as they apply in relation to a requirement imposed under that section.

29 Miscellaneous functions of Commission

- (1) The Commission shall, if so required by the body concerned, make arrangements—
 - (a) for certifying claims and returns in respect of grants or subsidies made or paid by any Minister of the Crown to any body whose accounts are required to be audited in accordance with this Part of this Act; or
 - (b) for certifying any account submitted by any such body to any such Minister with a view to obtaining payment under a contract between that body and the Minister.
- (2) The Commission may, at the request of the body concerned, promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operations of any body whose accounts are required to be audited in accordance with this Part of this Act, but before making a request under this subsection a body shall consult such associations of employees as appear to the body to be appropriate.
- (3) The Commission may, with the consent of the Secretary of State and by agreement with the body concerned, undertake the audit of the accounts of any body other than one whose accounts are required to be so audited, being a body which appears to the Secretary of State to be connected with local government.

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

- (4) Without prejudice to any applicable statutory provision, any audit carried out pursuant to subsection (3) above shall be carried out in such a manner as the Commission and the body in question may agree; and references in the foregoing provisions of this Part of this Act to an audit carried out thereunder accordingly do not include an audit carried out pursuant to that subsection.
- (5) The Commission shall charge the body concerned such fees for services provided under this section as will cover the full cost of providing them.

30 Restriction on disclosure of information

- (1) No information relating to a particular body or other person and obtained by the Commission or an auditor, or by a person acting on behalf of the Commission or an auditor, pursuant to any provision of this Part of this Act or in the course of any audit or study thereunder shall be disclosed except—
 - (a) with the consent of the body or person to whom the information relates; or
 - (b) for the purposes of any functions of the Commission or an auditor under this Part of this Act; or
 - (c) for the purposes of any criminal proceedings.
- (2) Any person who discloses any information in contravention of subsection (1) above shall be guilty of an offence and liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum (as defined in section 32(9) of the Magistrates' Courts Act 1980) or to both ; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

31 Passenger transport executives and their subsidiaries

- (1) The foregoing provisions of this Part of this Act shall apply in relation to a Passenger Transport Executive and the London Transport Executive as they apply in relation to a body to which section 12 above applies, but subject to the following modifications—
 - (a) the Commission shall under section 13(3) consult the relevant authority instead of the Executive ;
 - (b) the reference in sections 17(2) and (3), 22(1)(o), 23(1)(e) and 24(1) to a local government elector for any such area as is there mentioned shall be construed as a reference to a local government elector for the area of the relevant authority;
 - (c) the requirements of subsection (3) of section 18 shall apply in relation to the relevant authority as well as the Executive, but subsection (5) of that section shall apply only to the relevant authority ;
 - (d) the notice required to be given by section 22(4) shall be given to the relevant authority as well as the Executive.
- (2) In subsection (1) above " the relevant authority "—
 - (a) in relation to a Passenger Transport Executive, means the Passenger Transport Authority for the area for which the Executive is established ; and
 - (b) in relation to the London Transport Executive, means the Greater London Council.

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- (3) Section 14(1)(a) of the Transport Act 1968 and section 10(1)(a) of the Transport (London) Act 1969 (which provide for the keeping of proper accounts and other records) shall have effect subject to any regulations made under section 23 above.
- (4) The Secretary of State may, if it appears to him expedient to do so, by regulations provide—
 - (a) for the provisions of this Part of this Act to apply in relation to subsidiaries of the Executives mentioned in subsection (1) above with such modifications, additions and omissions as may be prescribed in the regulations ; and
 - (b) for any statutory provision which would otherwise apply in relation to the auditing of the accounts of those subsidiaries to cease to apply.
- (5) In this section " subsidiary " means, subject to subsection (6) below, a subsidiary within the meaning of section 154 of the Companies Act 1948.
- (6) Where a company would, if an Executive and any other body or bodies whose accounts are required to be audited in accordance with this Part of this Act were a single body corporate, be a subsidiary of that body corporate, the company shall be treated for the purposes of subsection (4) above as a subsidiary of the Executive.

32 Water authorities and National Water Council

Schedule 3 to the Water Act 1973 shall have effect with the substitution for paragraphs 38 and 39 of that Schedule (accounts and audit of water authorities and National Water Council) of the paragraphs set out in Schedule 4 to this Act.

33 Commencement of Part III and transitional provisions

- (1) The Commission shall come into existence on such day (" the first appointed day ") as may be appointed by an order made by the Secretary of State.
- (2) The provisions of this Part of this Act relating to the audit of accounts shall have effect in relation to accounts for any period beginning on or after such later date (" the second appointed day ") as may be appointed by an order made by the Secretary of State ; and the amendments made by section 32 and Schedule 4 to this Act shall have effect in relation to any such period.
- (3) The Secretary of State may by regulations provide for any statutory provision not contained in this Part of this Act to continue to apply on and after the second appointed day in relation to accounts for any period beginning before that day of bodies falling within subsection (4) below with such modifications, additions and omissions as may be prescribed in the regulations ; and different provision may be made by such regulations in relation to the accounts of bodies of different descriptions and in relation to their accounts for different periods.
- (4) The bodies referred to in subsection (3) above are—
 - (a) the bodies to which section 12 above applies ;
 - (b) Passenger Transport Executives and the London Transport Executive; and
 - (c) water authorities and the National Water Council.
- (5) The expenses incurred by the Commission between the first and second appointed days shall be paid by the Secretary of State ; and in the two years beginning with the

second appointed day the Secretary of State may, with the consent of the Treasury, make to the Commission grants for the purpose of providing it with working capital.

34 Consequential amendments

- (1) The enactments mentioned in Schedule 5 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Part of this Act.
- (2) The amendments made by that Schedule do not affect any enactment in its application—
 - (a) to accounts for any period beginning before the second appointed day; or
 - (b) to a person disqualified under any enactment in its application to any such accounts.

35 Orders and regulations

- (1) Any power conferred by this Part of this Act to make orders or regulations shall be exercisable by statutory instrument.
- (2) Any regulations made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Before making any regulations under section 21(7) or 23 above the Secretary of State shall consult the Commission, such associations of local authorities as appear to him to be concerned and such bodies of accountants as appear to him to be appropriate.

36 Interpretation of Part III

- (1) In this Part of this Act—
 - " the first appointed day " and " the second appointed day " have the meaning given by section 33 above ;
 - " auditor ", in relation to the accounts of any body, means the person or any of the persons appointed by the Commission to act as auditor in relation to those accounts and, to the extent provided by section 13(8) above, includes a person assisting an auditor under arrangements approved under that provision;
 - " the Commission " means the Audit Commission for Local Authorities in England and Wales ;
 - " statutory provision " means any provision contained in or having effect under any enactment.
- (2) Section 270 of the Local Government Act 1972 (general interpretation) shall apply for the interpretation of this Part of this Act.

PART IV

SUPPLEMENTARY

37 Expenses

There shall be paid out of moneys provided by Parliament—

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- (a) any expenses under this Act of the Secretary of State; and
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

38 Repeals

- (1) The enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The repeals in Part I of that Schedule have effect for financial years beginning on or after 1st April 1982.
- (3) The repeals in Part II of that Schedule have effect for financial years beginning on or after 1st April 1981.
- (4) The repeals in Part III of that Schedule have effect for financial years beginning on or after 1st April 1983.
- (5) The repeals in Part IV of that Schedule do not affect any enactment in its application to accounts for any period beginning before the second appointed day referred to in section 33 above or any disqualification to which a person is subject immediately before the coming into force of the repeals.
- (6) Any regulations in force under section 166 of the Local Government Act 1972 immediately before the repeal of that section shall have effect as if made under section 23 above.

39 Short title and extent

- (1) This Act may be cited as the Local Government Finance Act 1982.
- (2) This Act extends to England and Wales only.