



# Local Government Finance Act 1982

## 1982 CHAPTER 32

### PART III

#### ACCOUNTS AND AUDIT

##### *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;
  - [<sup>F1</sup>(aa) joint authority;
  - (ab) .....<sup>F2</sup>]
  - (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 Scilly;
  - (e) any charter trustees constituted under section 246 of the <sup>M1</sup>Local Government Act 1972;
  - [<sup>F3</sup>(ea) a body specified in section 98(1) of the National Health Service Act 1977]
  - (f) a port health authority;
  - [<sup>F4</sup>(ff) the Broads 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;

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- (k) a children’s regional planning committee; and
- (l) a probation and after-care committee [<sup>F5</sup>, except the committee for the inner London area.].

[<sup>F6</sup>(3) This section also applies to—

- (a) the accounts of the collection fund of the Common Council and the accounts of the City fund; 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 mentioned in paragraphs (a) and (b) above.]

[<sup>F7</sup>(3A) This section also applies to the accounts of the members of a recognised fund-holding practice so far as they relate to allotted sums paid to them, and subject to subsection (3B) and section 16(1A) below, any reference in this Part of this Act to the accounts of a body shall be construed, in relation to the members of a fund-holding practice, as a reference to such of their accounts as relate to allotted sums so paid.

(3B) In such circumstances and to such extent as regulations made by the Secretary of State so provide, this Part of this Act shall not apply to the accounts for any year of the members of a recognised fund-holding practice if those accounts are submitted to a Family Health Services Authority and summarised in that Authority’s accounts.

(3C) In subsection (3A) above “allotted sums” has the same meaning as in section 15 of the National Health Service and Community Care Act 1990.]

(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 <sup>M2</sup>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.

[<sup>F8</sup>(5) Any reference in this Part of this Act to a health service body is a reference to a body specified in section 98(1) of the National Health Service Act 1977 or to the members of a recognised fund-holding practice as mentioned in subsection (3A) above.]

#### Textual Amendments

- F1** S. 12(2)(aa)(ab) inserted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 72(3), 106
- F2** S. 12(2)(ab) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F3** S. 12(2)(ea) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 2(1)**
- F4** S. 12(2)(ff) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 17(10), 23(2), 27(2)
- F5** Words inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 132, **Sch. 11 para. 8**
- F6** S. 12(3) substituted by Local Government Finance Act 1988 (c. 41, SIF 81:1), s. 137, **Sch. 12 Pt. I para. 3(2)(5)**
- F7** S. 12(3A)–(3C) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 2(2)**
- F8** S. 12(5) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 2(3)**

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

- C1** S. 12(2)(aa) amended by S.I. 1985/1884, art. 9(2)  
**C2** S. 12(2)(aa) modified by S.I. 1987/2110, art. 2(2), Sch. 1 para. 6

**Marginal Citations**

- M1** 1972 c. 70.  
**M2** 1972 c. 70.

**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 [<sup>F9</sup>other than a health service 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 [<sup>F9</sup>other than a health service 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 [<sup>F10</sup>or is a person for the time being approved by the Secretary of State, acting on the recommendation of the Commission]; and a firm shall not be so appointed unless each of its members is a member of one or more of those bodies.

[<sup>F11</sup>(5A) The Secretary of State shall not approve any person for the purposes of subsection (5) above after 31st March 1996 but, subject to the withdrawal of his approval after that date, any person who is so approved immediately before that date shall continue to be so approved after that date.]

- (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.

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- (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.

#### Textual Amendments

- F9** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 3(1)**
- F10** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 3(2)**
- F11** S. 13(5A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 3(3)**

## 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 [<sup>F12</sup>and a different code may be prepared with respect to the audit of the accounts of health service bodies as compared with the code applicable to the accounts of other bodies].
- (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.
- [<sup>F13</sup>(7) In the application of subsection (6) above to a code which relates to the accounts of health services bodies,—
- (a) if the code relates only to those accounts, the reference to associations of local authorities shall be construed as a reference to organisations connected with the health service, within the meaning of the National Health Service Act 1977; and

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- (b) if the code relates also to the accounts of other bodies, that reference shall be construed as including a reference to such organisations.]

#### Textual Amendments

- F12** Words added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 4\(1\)](#)
- F13** [S. 14\(7\)](#) added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 4\(2\)](#)

### 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 [<sup>F14</sup>or, in the case of a health service body, directions under subsection (2) or subsection (2B) of section 98 of the National Health Service Act 1977] 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.

#### Textual Amendments

- F14** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 5](#)

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

- C3** [S. 15\(1\)\(a\)](#) excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 79\(2\)\(8\)](#)

### 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 [<sup>F15</sup>for the purposes of his functions under this Act] 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.

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- [<sup>F16</sup>(1A) In the case of a recognised fund-holding practice the reference in subsection (1) above to documents includes a reference to documents relating to all the accounts and records of the members of the practice, whether or not relating to the allotted sum, within the meaning of that section.]
- (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 [<sup>F15</sup>for the purposes of his functions under this Act] 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 subsection (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 [<sup>F15</sup>for the purposes of his functions under this Act].
- (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 [<sup>F17</sup>level 3 on the standard scale] 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.

#### Textual Amendments

**F15** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 30\(2\)](#)

**F16** [S. 16\(1A\)](#) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 20\(1\), Sch. 4 para. 6](#)

**F17** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)

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

**C4** [S. 16](#) applied (with modifications) (8.1.1996) by 1995 c. X, ss. 1(3), 44, Sch. Pt. I

**C5** [S. 16\(2\)](#) amended (28.11.1994) by [S.I. 1994/2825, reg. 20\(2\)](#)

## 17 Public inspection of accounts and right of challenge.

- (1) At each audit by an auditor under this Part of this Act [<sup>F18</sup>other than the audit of the accounts of a health service body] 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—

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- (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.

#### Textual Amendments

**F18** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 7](#)

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

- C6** S. 17 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 79(2)(8) and by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 11(1)(4)
- C7** S. 17 restricted (1.4.1995) by S.I. 1995/401, [art. 12\(2\)](#)
- C8** S. 17 excluded (5.7.1994) by 1994 c. 19, s. 39, 66(2)(b), [Sch. 13 para. 16\(2\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#))

## 18 Auditor's reports.

- (1) When an auditor has concluded his audit of the accounts of any body under this Part of this Act—
- (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 [<sup>F19</sup>and, in the case of a health service body, to the Secretary of State] forthwith, if the report is an immediate report, and otherwise not later than fourteen days after the conclusion of the audit.

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- (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
- [<sup>F20</sup>(a)] from the matter supplied for the benefit of any newspaper under section 1(4)(b) of the <sup>M3</sup>Public Bodies (Admission to Meetings) Act 1960 (supply of agenda of meetings and related documents to newspapers) [<sup>F21</sup>or under section 100B(7) of the 1972 Act (which makes similar provision); or
- (b) from the documents open to inspection by members of the public under section 100B(1) of the 1972 Act (agenda and reports open to the public before a meeting);
- and Part VA of the 1972 Act shall have effect in relation to the report as if in section 100C(1)(d) of that Act (by virtue of which only so much of a report as relates to proceedings open to the public is open to public inspection after the meeting) the words “so much of” and from “as relates” onwards were omitted.
- (6) In subsection (5) above, “the 1972 Act” means the <sup>M4</sup>Local Government Act 1972,].

#### Textual Amendments

- F19** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 8](#)
- F20** “(a)” inserted by [Local Government \(Access to Information\) Act 1985 \(c. 43, SIF 81:1, 2\)](#), s. 3, [Sch. 2 para. 7](#)
- F21** Words and s. 18(5)(b) and (6) added by [Local Government \(Access to Information\) Act 1985 \(c. 43, SIF 81:1, 2\)](#), s. 3, [Sch. 2 para. 7](#)

#### Marginal Citations

- M3** 1960 c. 67.
- M4** 1972 c.70 (81:1).

VALID FROM 27/08/1991

#### [<sup>F22</sup>18A Additional publicity for auditors’ immediate reports.

- (1) As from the time when, by virtue of section 18(3) above, an immediate report made under section 15(3) above is received by a body or by the chairman of a parish meeting, any member of the public shall be entitled—
- (a) to inspect the report at all reasonable times and without payment and to make a copy of it, or of any part of it, and
- (b) to require the body or chairman to supply to him a copy of the report, or of any part of it, on payment of a reasonable sum.
- (2) When such a report is so received by a body or by the chairman of a parish meeting, the body or chairman shall forthwith publish in one or more local newspapers circulating in the area of the body or meeting a notice which—
- (a) identifies the subject-matter of the report, and
- (b) states that any member of the public—
- (i) may inspect the report, and
- (ii) may make a copy of it, or of any part of it,



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between such times and at such place or places as are specified in the notice; and, where the report is so received by a body, the body shall in addition forthwith supply a copy of the report to every member of the body.

- (3) Any person having the custody of an immediate report who—
- (a) obstructs a person in the exercise of any right conferred by subsection (1) (a) above, or
  - (b) refuses to supply a copy of the report, or (as the case may be) of any part of it, to a person entitled to such a copy by virtue of subsection (1)(b) above,
- shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Any person who fails to comply with any requirement of subsection (2) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) An auditor who has sent an immediate report to a body or to the chairman of a parish meeting under section 18(3) above—
- (a) may notify any person he thinks fit of the fact that he has made such a report, and
  - (b) may supply a copy of the report, or of any part of it, to any person he thinks fit.
- (6) Nothing in this section applies in relation to a health service body.
- (7) Nothing in this section is to be construed as affecting the operation of section 18(5) above.]

#### Textual Amendments

- F22** S. 18A inserted by by [Local Government Finance \(Publicity for Auditors' Reports\) Act 1991 \(c. 15, SIF 81:1\)](#), s. 1(2) (with s. 1(5))

## 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 [<sup>F23</sup>other than the audit of the accounts of a health service body] 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.

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- (3) The court shall not make an order under subsection (2)(a) 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 . . . <sup>F24</sup> the Common Council and the Council of the Isles of Scilly.

#### Textual Amendments

**F23** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 9](#)

**F24** Words inserted by [S.I. 1986/2293, art. 2](#) and repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. 1](#)

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

**C9** Ss. 19, 20, 22, 23 and 24 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 79(2)(8)

## 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 [<sup>F25</sup>other than the audit of the accounts of a health service body]—
- (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

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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;
  - (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.

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- (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 . . . <sup>F26</sup> the Common Council and the Council of the Isles of Scilly.

#### Textual Amendments

**F25** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 10](#)

**F26** Words inserted by [S.I. 1986/2293, art. 2](#) and repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. I](#)

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

**C10** [Ss. 19, 20, 22, 23](#) and 24 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 79(2)(8)

## 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.
- [<sup>F27</sup>(2A) In the application of subsection (2) above to the audit of the accounts of a health service body, the reference to associations of local authorities shall be construed as a reference to organisations connected with the health service.]
- (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

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appropriate scale shall, as respects that period, be construed as references to the appropriate scale prescribed by the Secretary of State.

#### Textual Amendments

**F27** S. 21(2A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 11**

## 22 Extraordinary audit.

- (1) [<sup>F28</sup>Subject to subsection (4A) below] 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) [<sup>F28</sup>Subject to subsection (4A) below] 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.
- [<sup>F29</sup>(4A) Subsection (1)(a) above does not apply in relation to the accounts of a health service body; and in the application of subsection (3) above to an extraordinary audit of any such accounts for the words “15 to 20 above, except subsections (1) and (2) of section 17” there shall be substituted “15, 16, and 18 above”.]
- (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.

#### Textual Amendments

**F28** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 12(1)**

**F29** S. 22(4A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 12(2)**

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

**C11** Ss. 19, 20, 22, 23 and 24 excluded by Local Government Act 1985 (c. 51, SIF 81:1), s. 79(2)(8)

**C12** S. 22 applied (with modifications) (1.4.1995) by 1995/401, art. 12(2)

**C13** S. 22 excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 16(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

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**C14** S. 22(2) extended by S.I. 1989/1815, art. 2, **Sch. 1 para. 7(4)**

## 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 [<sup>F30</sup>other than health service bodies] 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 [<sup>F31</sup>level 3 on the standard scale].
- (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.

### Textual Amendments

**F30** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), **Sch. 4 para. 13**

**F31** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

### Modifications etc. (not altering text)

**C15** Ss. 19, 20, 22, 23 and 24 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 79(2)(8)

**C16** S. 23 restricted (1.4.1995) by S.I. 1995/401, **art. 12(2)**

**C17** S. 23 excluded (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 16(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

**C18** S. 23(1)(e) extended by [Local Government Act 1986 \(c. 10, SIF 81:1\)](#), ss. 5(4), 6, 12

## 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 [<sup>F32</sup>other than a health service body] shall be entitled—

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- (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 [<sup>F33</sup>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.

#### Textual Amendments

**F32** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 14](#)

**F33** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

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

**C19** Ss. 19, 20, 22, 23 and 24 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 79(2)(8)

**C20** S. 24 extended by [Airports Act 1986 \(c. 31, SIF 9\)](#), ss. 24(3)(a), 85(4)

## 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.

[<sup>F34</sup>(2) In the application of subsection (1) above to an officer of a health service body for the words “15 to 24” there shall be substituted “15, 16, 18, 21 and 22”.]

#### Textual Amendments

**F34** S. 25(2) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 15](#)

## [<sup>F35</sup>25A Power of auditor to issue prohibition order.

- (1) The person who is for the time being the auditor in relation to the accounts of any body whose accounts are required to be audited in accordance with this Part of this

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Act [<sup>F36</sup>other than a health service body] may issue an order under this section (in this Part referred to as a “prohibition order”) if he has reason to believe that the body or any officer of the body—

- (a) is about to make or has made a decision which involves or would involve the body incurring expenditure which is unlawful; or
- (b) is about to take or has taken a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency; or
- (c) is about to enter an item of account, the entry of which is unlawful;

and for the purposes of this section and section 25B below, the actions of a committee or sub-committee of the body or of any other person (not being an officer) authorised to act on behalf of the body shall be treated as the actions of the body itself.

- (2) A prohibition order is one—
  - (a) which is addressed to the body or officer concerned;
  - (b) which specifies the paragraph of subsection (1) above which is relevant and the decision, course of action or item of account to which the order relates;
  - (c) which specifies the date on which (subject to subsection (5) below) the order is to take effect, being a date not earlier than the date of service of a copy of the order in accordance with paragraph (a) or, as the case may be, paragraphs (a) and (b) of subsection (4) below; and
  - (d) which requires the body or officer concerned to desist from making or implementing the decision, taking or continuing to take the course of action or, as the case may be, entering the item of account in question.
- (3) Where two or more auditors are appointed in relation to the accounts of any body, the power to issue a prohibition order may be exercised by the auditors acting jointly or by such one of them as they may determine; and, in relation to such an order, any reference in subsections (4) and (5) below to the auditor is a reference to the auditor or auditors by whom the order is issued.
- (4) A copy of a prohibition order—
  - (a) shall be served on the body to which, or to an officer of which, it is addressed; and
  - (b) in the case of an order addressed to an officer, shall also be served on him; and
  - (c) may be served on such other person or persons as appears to the auditor to be appropriate.
- (5) A prohibition order shall not have effect unless, not later than the end of the period of seven days beginning on the date of service referred to in subsection (2)(c) above, the auditor serves on the body concerned and on any officer on whom a copy of the order was served under subsection (4)(b) above, a statement of the auditor’s reasons for the belief referred to in subsection (1) above.
- (6) Any copy of an order or statement which under this section is to be served on an officer of a body shall be served on him by addressing it to him and by delivering it to him or leaving it at, or sending it by post, to the office at which he is employed.
- (7) A prohibition order may at any time be revoked (but not varied) by the person who is for the time being the auditor in relation to the accounts of the body to which or to an officer of which the order was addressed.]



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#### Textual Amendments

- F35** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 30(1), [Sch. 4](#)
- F36** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 20(1), [Sch. 4 para. 16](#)

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

- C21** 25A restricted (30.12.1997) by [1997 c. 65, s. 8\(2\)](#) (with s. 12(3)); S.I. 1997/2843, 2(2)  
[S. 25A](#) amended (28.11.1994) by S.I. 1994/2825, [reg. 22](#)

### [<sup>F37</sup> 25AA Restriction of power to issue prohibition order.

- (1) In a case where—
  - (a) a report is made under section 114(2) of the Local Government Finance Act 1988 (the 1988 Act), and
  - (b) copies of the report are sent in accordance with section 114(4) of the 1988 Act, during the relevant period no prohibition order may be issued as regards any decision, course of action or item of account which led to the report being made.
- (2) For the purposes of subsection (1) above the relevant period is the period—
  - (a) beginning with the day on which copies of the report are sent, and
  - (b) ending with the day (if any) on which the body's consideration of the report under section 115(2) of the 1988 Act begins.
- (3) If section 115(3) of the 1988 Act is not complied with, it is immaterial for the purposes of subsection (2)(b) above.]

#### Textual Amendments

- F37** [S. 25AA](#) inserted by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), s. 137, [Sch. 12 Pt. I para. 3\(3\)](#)

### [<sup>F38</sup> 25B Effect of and appeals against prohibition orders.

- (1) So long as a prohibition order has effect, it shall not be lawful for the body concerned or any officer of that body to make or implement the decision, to take or continue to take the course of action or, as the case may be, to enter the item of account to which the order relates.
- (2) A prohibition order—
  - (a) takes effect, subject to subsection (5) of section 25A above, on the date specified in the order in accordance with subsection (2)(c) of that section; and
  - (b) continues to have effect, subject to any order or decision of the High Court on an appeal under subsection (3) below, until revoked under section 25A(7) above.
- (3) Not later than twenty-eight days after the service under section 25A(5) above of a statement of reasons relating to a prohibition order, the body concerned (but not any

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officer of that body) may appeal against the order to the High Court in accordance with rules of court.

- (4) On an appeal against a prohibition order under subsection (3) above, the High Court may make such order as it thinks fit for the payment by the body concerned of expenses incurred by the auditor in connection with the appeal.
- (5) Any expenses reasonably incurred by the auditor in or in connection with the issue of a prohibition order shall be recoverable by him from the body concerned.
- (6) In this section “the body concerned”, in relation to a prohibition order, means the body to which, or to an officer of which, the order is addressed.]

#### Textual Amendments

**F38** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 30\(1\), Sch. 4](#)

#### [<sup>F39</sup>25C Supplementary provisions as to prohibition orders.

- (1) In any case where—
  - (a) before a prohibition order is issued, a body enters into a contract to dispose of or acquire an interest in land, and
  - (b) before the disposal or acquisition is completed, a prohibition order takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition,
 the existence of the prohibition order shall not prejudice any remedy in damages which may be available to any person by reason of the body’s failure to complete the contract.
- (2) No action shall lie against an auditor in respect of any loss or damage alleged to have been caused by reason of the issue of a prohibition order which was issued in good faith; but nothing in this subsection affects the right of a court to award costs against an auditor on an appeal under section 25B(3) above.]

#### Textual Amendments

**F39** Ss. 25A, 25B, 25C and 25D inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 30\(1\), Sch. 4](#)

#### [<sup>F40</sup>25D Power of auditor to apply for judicial review.

- (1) Subject to section 31(3) of the <sup>M5</sup>Supreme Court Act 1981 (no application for judicial review without leave) the auditor appointed in relation to the accounts of a body [<sup>F41</sup>other than a health service body] may make an application for judicial review with respect to—
  - (a) any decision of that body, or
  - (b) any failure by that body to act,
 which (in either case) it is reasonable to believe would have an effect on the accounts of that body.

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- (2) The existence of the powers conferred on an auditor under this Part of this Act shall not be regarded as a ground for refusing an application falling within subsection (1) above (or an application for leave to make such an application).
- (3) On an application for judicial review made as mentioned in subsection (1) above, the court may make such order as it thinks fit for the payment by the body to whose decision the application relates of expenses incurred by the auditor in connection with the application.]

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**Textual Amendments**

**F40** Ss. 25A, 25B, 25C and 25D inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 30(1), **Sch. 4**

**F41** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 20(1), **Sch. 4 para. 17**

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**Marginal Citations**

**M5** 1981 c. 54 (37).

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