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*Changes to legislation: National Health Service and Community Care Act 1990, Cross Heading: The Local Government (Scotland) Act 1973 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

#### AMENDMENTS RELATING TO AUDIT OF ACCOUNTS OF SCOTTISH HEALTH SERVICE BODIES

##### *The Local Government (Scotland) Act 1973*

- 1 Part VII of the <sup>M1</sup>Local Government (Scotland) Act 1973 (finance) shall be amended in accordance with paragraphs 2 to 13 below.

#### Commencement Information

- II** Sch. 7 para. 1 wholly in force; Sch. 7 para. 1 not in force at Royal Assent, see s. 67(2); Sch. 7 para. 1 in force for certain purposes at 24.10.1994 and 1.12.1994 and 1.4.1995 so far as not already in force by S.I. 1994/2658, arts. 2, 3, 4

#### Marginal Citations

- M1** 1973 c. 65.

- 2 In section 96 (accounts and audit of local authorities), in subsection (4), for the words “Commission for Local Authority Accounts” there shall be substituted “Accounts Commission for Scotland”.
- 3 (1) Section 97 (establishment of Commission for Local Authority Accounts in Scotland) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “Commission for Local Authority Accounts in Scotland” there shall be substituted “Accounts Commission for Scotland”;
  - (b) for the word “twelve” there shall be substituted “fifteen”;
  - (c) for the word “nine” there shall be substituted “eleven”; and
  - (d) after the word “authorities” there shall be inserted “and such organisations connected with the health service”.
- (3) In subsection (2)—
- (a) in paragraph (a)—
    - (i) after the words “accounts of” there shall be inserted “(i)”, and
    - (ii) after the word “authorities” there shall be inserted the following sub-paragraphs—
      - “(i) the bodies mentioned in section 86(1) (a) to (c) of the National Health Service (Scotland) Act 1978;

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- (iii) the members of every recognised fund-holding practice;
  - (iv) the Mental Welfare Commission for Scotland; and
  - (v) any State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984;”;
  - (b) in paragraph (c), after the word “authorities” there shall be inserted “or, as the case may be, health service bodies”; and
  - (c) in paragraph (d), after the word “authorities” there shall be inserted “or health service bodies”.
- (4) After subsection (2) there shall be inserted the following subsections—
- “(2A) Subject to section 100(1A) of this Act, in relation to the members of a recognised fund-holding practice, any reference in this Part of this Act to their accounts is a reference only to the accounts relating to allotted sums paid to them.
- (2B) In this Part of this Act—
- “health service body” means a body referred to in subsection (2) (a)(ii) to (v) above; and
- “recognised fund-holding practice” and “allotted sum” have the same meanings as in section 87B of the National Health Service (Scotland) Act 1978.”
- (5) In subsection (3), after the word “authorities” there shall be inserted “and such organisations connected with the health service”.
- (6) After subsection (4) there shall be inserted the following subsections—
- “(4A) It shall be the duty of the Commission to make, by such date as the Secretary of State may determine, an offer of employment by the Commission to each person employed in the civil service of the State in connection with the audit of the accounts of any health service body whose name is notified to the Commission by the Secretary of State for the purposes of this subsection; and the terms of the offer must be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (4B) An offer made in pursuance of subsection (4A) above shall not be revocable during the period of three months beginning with the date on which it is made.
- (4C) Where a person becomes an officer of the Commission in consequence of subsection (4A) above, then, for the purposes of the Employment Protection (Consolidation) Act 1978, his period of employment in the civil service of the State shall count as a period of employment by the Commission and the change of employment shall not break the continuity of the period of employment.
- (4D) Where a person ceases to be employed as mentioned in subsection (4A) above—

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- (a) on becoming an officer of the Commission in consequence of an offer made in pursuance of that subsection; or
- (b) having unreasonably refused such an offer,

he shall not, on ceasing to be so employed, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having been retired on redundancy.”

(7) At the end of subsection (6) there shall be added—

“or a person who is, within the period of five years beginning with the relevant date, approved by the Secretary of State, acting on the recommendation of the Commission and whose approval is not (whether during that period or after its expiry) withdrawn by the Secretary of State acting on such recommendation.

(6A) In subsection (6) above, “the relevant date” means the date appointed for the coming into force of paragraph 3(3) of Schedule 7 to the National Health Service and Community Care Act 1990.”

#### Commencement Information

- I2** Sch. 7 para. 3 wholly in force; Sch. 7 para. 3 not in force at Royal Assent see s.67(2); Sch. 7 para. 3 in force for certain purposes at 24.10.1994 and 1.12.1994 and and 1.4.1995 so far as not already in force by S.I. 1994/2658, arts. 2, 3, 4

VALID FROM 01/04/1995

- 4
- (1) Section 97A (studies for improving economy etc in services) shall be amended as follows.
  - (2) At the end of subsection (2) there shall be added “and, in the case of studies relating to a health service body, shall, on request, furnish to the Comptroller and Auditor General all material relevant to the studies.”
  - (3) At the end of subsection (3) there shall be added “and, in the case of a health service body, the Commission shall also consult the Secretary of State and the Comptroller and Auditor General.”

VALID FROM 01/04/1995

- 5
- (1) Section 98 (expenses and accounts of Commission) shall be amended as follows.
  - (2) In subsection (1)—
    - (a) in paragraph (b), after the word “Commission” where it first occurs there shall be inserted “relating to their functions with respect to local authorities”; and
    - (b) at the end of paragraph (b) there shall be inserted the following paragraph—

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“(c) such part of the expenses of the Commission relating to their functions with respect to health service bodies as is not met by grants under paragraph (a) above shall be met by health service bodies in accordance with regulations made by the Secretary of State after consultation with such organisations connected with the health service as appear to him to be concerned.”

(3) In subsection (2), after “(b)” there shall be inserted “or (c)”.

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- 6 In section 99 (general duties of auditors)—
- (a) after the word “authority” in both places where it occurs there shall be inserted “or health service body”; and
  - (b) in paragraph (a), after the word “Act” there shall be inserted “or, in the case of a health service body, directions under section 86(3) of the National Health Service (Scotland) Act 1978”.

VALID FROM 01/04/1995

- 7 (1) Section 100 (auditor’s right of access to documents) shall be amended as follows.
- (2) In subsection (1)—
- (a) after the word “authority” where it first occurs there shall be inserted “or health service body”; and
  - (b) after the word “authority” in the second place where it occurs there shall be inserted “or body”.
- (3) After subsection (1) there shall be inserted the following subsection—
- “(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 an allotted sum.”
- (4) In subsection (2), after the word “authority” there shall be inserted “and health service body”.

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- 8 In section 101 (completion of audit), after subsection (4) there shall be added the following subsection—
- “(5) Within 14 days of the completion of the audit of the accounts of a health service body the auditor shall place on any abstract of those

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accounts prepared by the health service body by virtue of section 86 of the National Health Service (Scotland) Act 1978 a certificate, in such form as the Commission may direct, to the effect that he has audited the accounts in accordance with the provisions of this Part of this Act; and the auditor shall, on so certifying, forthwith send copies of the abstract of the accounts to the Commission, the Secretary of State and the health service body.”

VALID FROM 01/04/1995

- 9 (1) Section 102 (reports to Commission by Controller of Audit) shall be amended as follows.
- (2) In subsection (1)—
- (a) after the word “authorities” there shall be inserted “and health service bodies”; and
  - (b) after the word “authority” there shall be inserted “or health service body”.
- (3) After subsection (4) there shall be added the following subsection—
- “(5) Without prejudice to subsection (1) above and section 104A(2) of this Act, the Controller of Audit may make a report to the Commission on any matters arising out of or in connection with the accounts of a health service body and shall send a copy of any report so made to any health service body which is named in that report and to the Secretary of State.”

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- 10 In section 103 (action by Commission on reports by Controller of Audit), after the word “Audit” there shall be inserted “with respect to the accounts of any local authority”.

VALID FROM 01/04/1995

- 11 After section 104 there shall be inserted the following section—
- “104A Audit of accounts of health service bodies: special provisions.**
- (1) Where the auditor of the accounts of a health service body has reason to believe that the body, or any officer of the body—
- (a) has made a decision which involves the incurring of expenditure which is unlawful; or
  - (b) has taken a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,
- he shall forthwith make a report to the Controller of Audit.

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- (2) On receipt of a report under subsection (1) above the Controller of Audit—
- (a) shall forthwith send a copy of the report to the Commission and to the Secretary of State; and
  - (b) may, if he thinks fit, send to the Commission and to the Secretary of State any observations which he may have on the report.
- (3) The Commission may make a report to the Secretary of State on any matters arising out of or in connection with the accounts of a health service body.”

VALID FROM 01/04/1995

- 12           After subsection (2) of section 106 (application of sections 93 to 105 to bodies other than local authorities and to officers) there shall be added the following subsection—
- “(3) In the application of subsection (2) above to an officer of a health service body, for the words from “96” to “section 105” there shall be substituted “97 to 104A.””

- 13           In Schedule 8 (provisions as to the Commission), for the words “Commission for Local Authority Accounts in Scotland” in both places where they occur there shall be substituted “Accounts Commission for Scotland”.

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