



# Audit Commission Act 1998 (repealed)

## 1998 CHAPTER 18

### PART I **E+W**

#### THE AUDIT COMMISSION

#### 1 **The Audit Commission.** **E+W**

- (1) There shall continue to be a body known as the Audit Commission for Local Authorities and the National Health Service in England and Wales.
- (2) The Commission shall consist of not less than 15 nor more than 20 members appointed by the Secretary of State.
- (3) The Secretary of State shall appoint one of the members to be chairman and another to be deputy chairman.
- (4) An appointment under subsection (2) or (3) shall be made after consultation with such organisations and other bodies as appear to the Secretary of State to be appropriate.
- (5) Schedule 1 has effect with respect to the Commission.

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

C1 Art. 1(2)(3) modified (W.) (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 5, [Sch. 2](#)

### PART II **E+W**

#### ACCOUNTS AND AUDIT OF PUBLIC BODIES

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

C2 Pt. II: Power to apply conferred (31.8.2000) by [1997 c. 25, s. 59D\(4\)\(b\)](#) (as inserted (31.8.2000) by [1999 c. 22, s. 83\(2\)](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2000/1920](#), art. 3(b))

*Status: Point in time view as at 31/01/2008.*

*Changes to legislation: Audit Commission Act 1998 (repealed) is up to date with all changes known to be in force on or before 06 July 2024.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)*

Pt. II (ss. 2-32) applied (with modifications) (1.4.2001) by S.I. 2001/734, **art. 2**  
 Pt. II (ss. 2-32) modified (1.4.2001) by S.I. 2001/734, **art. 3**

### *Audit of accounts*

## **2 Required audit of accounts. E+W**

- (1) The accounts to which this section applies—
  - (a) shall be made up each year to 31st March or such other date as the Secretary of State may generally or in any special case direct, and
  - (b) shall be audited in accordance with this Act by an auditor or auditors appointed by the Commission.
- (2) This section applies to the accounts mentioned in Schedule 2.

## **3 Appointment of auditors. E+W**

- (1) An auditor appointed by the Commission to audit the accounts of a body whose accounts are required to be audited in accordance with this Act (“a body subject to audit”) may be—
  - (a) an officer of the Commission,
  - (b) an individual who is not an officer of the Commission, or
  - (c) a firm of individuals who are not officers of the Commission.
- (2) Where two or more auditors are appointed in relation to the accounts of a body, some but not others may be officers of the Commission and they may be appointed—
  - (a) to act jointly;
  - (b) to act separately in relation to different parts of the accounts; or
  - (c) to discharge different functions in relation to the audit.
- (3) Before appointing an auditor or auditors to audit the accounts of a body 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 a body other than a health service body, the Commission may require the 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—
  - (a) he is a member of one or more of the bodies mentioned in subsection (7);
  - (b) he has such other qualifications as may be approved for the purposes of this section by the Secretary of State; or
  - (c) he was approved before 1st April 1996 by the Secretary of State under section 13(5) of the <sup>M1</sup>Local Government Finance Act 1982, and the approval has not been withdrawn.
- (6) A firm shall not be appointed by the Commission as an auditor unless each of its members is a member of one or more of the bodies mentioned in subsection (7).
- (7) The bodies referred to in subsections (5) and (6) are—
  - (a) the Institute of Chartered Accountants in England and Wales;

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- (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.
- (8) 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.
- (9) Arrangements may be approved by the Commission, either generally or in a particular case, for a person or persons to assist an auditor appointed by the Commission (whether the auditor is an officer of the Commission or not) by carrying out such of the auditor's functions under this Act as may be specified in the arrangements.
- (10) Subsection (9) does not apply to functions under section 19.
- (11) References in the following provisions 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 subsection (9).

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

- C3** S. 3 extended (1.4.2000) by 1999 c. 27, **art. 7(9)**; S.I. 1999/2169, art. 4(2), **Sch. 3**; S.I. 1999/2815, **art. 3**
- C4** S. 3 applied by 1993 c. 10, s. 43A(4) (31.3.2005) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Regulatory Reform \(National Health Service Charitable and Non-Charitable Trust Accounts and Audit\) Order 2005](#) (S.I. 2005/1074), arts. 1(2), **3(3)**)

**Marginal Citations**

- M1** 1982 c. 32.

**4 Code of audit practice. E+W**

- (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 Act.
- (2) 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.
- (3) A code prepared under this section 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.
- (4) A code does not come into force until approved by a resolution of each House of Parliament, and its continuation in force is subject to its being so approved at intervals of not more than five years.
- (5) Subsection (4) does not preclude alterations to a code being made by the Commission in the intervals between its being approved in accordance with that subsection.
- (6) The Commission shall send copies of any code prepared under this section, and of any alterations made to such a code, to the Secretary of State who shall lay them before

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Parliament; and the Commission shall from time to time publish any such code as for the time being in force.

(7) Before preparing or altering a code applicable to any accounts, the Commission shall consult—

- (a) if the accounts are or include those of health service bodies, [<sup>F1</sup> the Commission for Healthcare Audit and Inspection and] such organisations connected with the health service as appear to the Commission to be concerned;
- (b) if the accounts are or include those of other bodies, [<sup>F2</sup> the Commission for Social Care Inspection and] such associations of local authorities as appear to the Commission to be concerned; and
- (c) in any case, [<sup>F3</sup> the National Assembly for Wales and] such bodies of accountants as appear to the Commission to be appropriate.

[<sup>F4</sup>(8) The Commission must obtain the agreement of the Commission for Healthcare Audit and Inspection before preparing or altering provisions of a code which—

- (a) are applicable to accounts which are or include accounts of health service bodies; and
- (b) concern the function under section 5(1)(e).]

#### Textual Amendments

- F1** Words in s. 4(7)(a) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), s. 199\(1\)\(4\), Sch. 9 para. 12\(2\)\(a\)](#); S.I. 2004/759, art. 9
- F2** Words in s. 4(7)(b) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), s. 199\(1\)\(4\), Sch. 9 para. 12\(2\)\(b\)](#); S.I. 2004/759, art. 9
- F3** Words in s. 4(7)(c) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), s. 199\(1\)\(4\), Sch. 9 para. 12\(2\)\(c\)](#); S.I. 2004/759, art. 9
- F4** S. 4(8) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), s. 199\(1\)\(4\), Sch. 9 para. 12\(3\)](#); S.I. 2004/759, art. 9

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

- C5** S. 4(3)-(6) extended (27.9.1999 subject to art. 3(2)(b) of [S.I. 1999/2169](#) and otherwise 1.10.1999) by [1999 c. 27, s. 8\(3\)](#); [S.I. 1999/2169, art. 3\(2\), Sch. 2](#); [S.I. 1999/2815, art. 2](#)

## 5 General duties of auditors. E+W

(1) In auditing accounts required to be audited in accordance with this Act, an auditor shall by examination of the accounts and otherwise satisfy himself—

- (a) if they are accounts of a health service body, that they are prepared in accordance with directions under [<sup>F5</sup>paragraph 3(1) of Schedule 15 to the National Health Service Act 2006];
- (b) in any other case, that they are prepared in accordance with regulations under section 27;
- (c) that they comply with the requirements of all other statutory provisions applicable to the accounts;
- (d) that proper practices have been observed in the compilation of the accounts;
- (e) that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources; and
- <sup>F6</sup>(f) .....

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- (2) The auditor shall comply with the code of audit practice applicable to the accounts being audited as that code is for the time being in force.

#### Textual Amendments

- F5** S. 5(1)(a) amendment to earlier affecting provision 2006 c. 28 Sch. 8 para. 40 (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 295** (with Sch. 3 Pt. 1)
- F6** S. 5(1)(f) repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(u)(i)

## 6 Auditors' right to documents and information. **E+W**

- (1) An auditor has a right of access at all reasonable times to every document relating to a body subject to audit which appears to him necessary for the purposes of his functions under this Act.

[<sup>F7</sup>(1A) The right conferred by subsection (1) includes power to inspect, copy or take away the document.]

- (2) An auditor may—

- (a) require a person holding or accountable for any such document to give him such information and explanation as he thinks necessary for the purposes of his functions under this Act; and
- (b) if he thinks it necessary, require the person to attend before him in person to give the information or explanation or to produce the document.

<sup>F8</sup>(3) .....

- (4) Without prejudice to subsection (2), the auditor may—

- (a) require any officer or member of a body subject to audit to give him such information or explanation as he thinks necessary for the purposes of his functions under this Act; and
- (b) if he thinks it necessary, require the officer or member to attend before him in person to give the information or explanation.

[<sup>F9</sup>(4A) In relation to a document kept in electronic form, the power in subsection (2)(b) to require a person to produce a document includes power to require it to be produced in a form in which it is legible and can be taken away.

- (4B) In connection with inspecting such a document, an auditor—

- (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he considers is or has been used in connection with the document;
- (b) may require a person within subsection (4C) to afford him such reasonable assistance as he may require for that purpose.

- (4C) A person is within this subsection if he is—

- (a) the person by whom or on whose behalf the computer is or has been used; or
- (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.]

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- (5) Without prejudice to subsections (1) to <sup>F10</sup>(4C)], every body subject to audit shall provide the auditor with every facility and all information which he may reasonably require for the purposes of his functions under this Act.
- (6) A person who without reasonable excuse <sup>F11</sup>obstructs the exercise of any power conferred by this section or] fails to comply with any requirement of an auditor under <sup>F12</sup>this section] is guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale, and
  - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.
- (7) Any expenses incurred by an auditor in connection with proceedings for an offence under subsection (6) alleged to have been committed in relation to the audit of the accounts of any body, so far as not recovered from any other source, are recoverable from that body.

#### Textual Amendments

- F7** S. 6(1A) inserted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 151\(1\)\(a\)](#), 245(5); S.I. 2008/172, art. 2(1)(b)
- F8** S. 6(3) repealed (1.10.1999 (E.) and 1.4.2000 (W.)) by [1999 c. 8, s. 65\(2\)](#), [Sch. 5](#); S.I. 1999/2540, [art. 2\(1\)\(a\)](#) [Sch. 1](#) (with saving in [S.I.1999/2541](#), art. 10); S.I. 2000/1041, art. 2(d), [Sch.](#)
- F9** S. 6(4A)-(4C) inserted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 151\(1\)\(b\)](#), 245(5); S.I. 2008/172, art. 2(1)(b)
- F10** Word in s. 6(5) substituted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 151\(1\)\(c\)](#), 245(5); S.I. 2008/172, art. 2(1)(b)
- F11** Words in s. 6(6) inserted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 151\(1\)\(d\)\(i\)](#), 245(5); S.I. 2008/172, art. 2(1)(b)
- F12** Words in s. 6(6) substituted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 151\(1\)\(d\)\(ii\)](#), 245(5); S.I. 2008/172, art. 2(1)(b)

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

- C6** S. 6(1)(2)(4)-(7) extended (1.4.2000) by [1999 c. 27, s. 7\(3\)](#); S.I. 1999/2169, art. 4(2), [Sch. 3](#); S.I. 1999/2815, [art. 3](#)

## 7 Fees for audit. **E+W**

- (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 Act.
- (2) Before prescribing any scale of fees under subsection (1) the Commission shall consult—
- (a) if the scale relates to the audit of accounts of a health service body, <sup>F13</sup>the Commission for Healthcare Audit and Inspection and such other organisations] connected with the health service as appear to the Commission to be concerned;
  - (b) if the scale relates to the audit of accounts of any other body, such associations of local authorities as appear to the Commission to be concerned; and
  - (c) in any case, such bodies of accountants as appear to the Commission to be appropriate.

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- (3) A body subject to audit shall, subject to subsection (4), 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).
- (5) For the purpose of determining the fee payable for an audit, a body whose accounts are being audited or (if it is a parish meeting) its chairman shall—
  - (a) complete a statement containing such information as the Commission may require and submit it to the auditor, and
  - (b) provide the Commission with such further information as it may at any time require.
- (6) The auditor shall send the statement mentioned in subsection (5)(a) 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.
- (7) The fee payable for an audit shall be the same whether the auditor who carries it out is an officer of the Commission or not.
- (8) 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) to the appropriate scale are to be read as respects that period as references to the appropriate scale prescribed by the Secretary of State.
- (9) Before making any regulations under subsection (8) the Secretary of State shall consult—
  - (a) the Commission,
  - [<sup>F14</sup>(aa) the Commission for Healthcare Audit and Inspection;]
  - (b) such associations of local authorities as appear to him to be concerned, and
  - (c) such bodies of accountants as appear to him to be appropriate.

#### Textual Amendments

- F13** Words in s. 7(2)(a) substituted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 9 para. 12(4)(a)**; S.I. 2004/759, art. 9
- F14** S. 7(9)(aa) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 9 para. 12(4)(b)**; S.I. 2004/759, art. 9

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

- C7** S. 7(3)-(8) extended (27.9.1999 subject to art. 3(2)(b) of S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, s. 8(5); S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- C8** S. 7(8) restricted (27.9.1999 subject to art. 3(2)(b) of S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, s. 8(5); S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**

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### *Auditors' reports and recommendations*

#### **8 Immediate and other reports in public interest. E+W**

In auditing accounts required to be audited in accordance with this Act, the auditor shall consider—

- (a) 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 for it to be considered by the body concerned or brought to the attention of the public, and
- (b) 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.

#### **9 General report. E+W**

(1) When an auditor has concluded his audit of the accounts of any body under this Act he shall, subject to subsection (2), enter on the relevant statement of accounts prepared pursuant to regulations under section 27 (or, where no such statement is required to be prepared, on the accounts)—

- (a) a certificate that he has completed the audit in accordance with this Act, and
- (b) his opinion 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 8 at the conclusion of the audit, he may include the certificate and opinion referred to in subsection (1) in that report instead of making an entry on the statement or accounts.

#### **10 Transmission and consideration of section 8 reports. E+W**

(1) Any report under section 8 shall be sent by the auditor to the body concerned or (if it is a parish meeting) to its chairman—

- (a) forthwith if it is an immediate report;
- (b) otherwise not later than 14 days after conclusion of the audit.

(2) A copy of the report shall be sent by the auditor to the Commission and (in the case of a health service body) to the Secretary of State <sup>[F15]</sup> and (in the case of a functional body or the London Pensions Fund Authority) to the Mayor of London—

- (a) forthwith if it is an immediate report;
- (b) otherwise not later than 14 days after conclusion of the audit.

(3) The body concerned <sup>[F16]</sup> (and, in the case of the Greater London Authority, the London Assembly) shall take the report into consideration—

- (a) in accordance with sections 11 <sup>[F17]</sup>, 11A and 12, or
- (b) if section 11 does not apply to the body, as soon as practicable after receiving it.

(4) The agenda supplied to the members for the meeting of the body at which the report is considered shall be accompanied by the report.

<sup>[F18]</sup>(4A) In the case of a report relating to the Greater London Authority, subsection (4) shall apply in relation to the meeting of the London Assembly under section 11A(3) (taking the reference to the body as a reference to that Assembly).]

(5) The report shall not be excluded—



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- (a) from the matter supplied under section 1(4)(b) of the <sup>M2</sup>Public Bodies (Admission to Meetings) Act 1960 or section 100B(7) of the 1972 Act (supply of agenda etc. to newspapers); or
  - (b) from the documents open to inspection under section 100B(1) of the 1972 Act (public access to agenda and reports before meetings).
- (6) Part VA of the 1972 Act has effect in relation to the report as if section 100C(1)(d) of that Act (public access to copies of reports for six years after meeting) were not limited to so much of the report as relates to an item during which the meeting was open to the public.

#### Textual Amendments

- F15** Words in s. 10(2) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 2(3)(a)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F16** Words in s. 10(3) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 2(3)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F17** Words in s. 10(3)(a) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 2(3)(b)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F18** S. 10(4A) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 2(4)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

#### Marginal Citations

- M2** 1960 c. 67.

## 11 Consideration of reports or recommendations. **E+W**

- (1) A body to which this section applies shall consider in accordance with this section and section 12 [<sup>F19</sup>(and, in the case of a report or recommendations sent to the Greater London Authority, section 11A)]—
- (a) any report under section 8, and
  - (b) any written recommendation within subsection (3),
- sent to the body or (if a parish meeting) its chairman in connection with the audit of its accounts.
- (2) This section applies to every body subject to audit except—
- (a) charter trustees constituted under section 246 of the 1972 Act;
  - (b) health service bodies;
  - (c) port health authorities;
  - (d) licensing planning committees;
  - (e) internal drainage boards;
  - [<sup>F20</sup>(f) local probation boards established under section 4 of the Criminal Justice and Court Services Act 2000]
  - (g) Passenger Transport Executives.
- [<sup>F21</sup>(2A) Where a written recommendation within subsection (3) is sent to a functional body or the London Pensions Fund Authority, a copy shall be sent at the same time to the Mayor of London.]

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- (3) A written recommendation is within this subsection if it is made to the body concerned by an auditor and is stated in the document containing it to be one which in the auditor's opinion should be considered under this section.
- [<sup>F22</sup>(3A) In relation to the Greater London Authority, subsections (4) to (7) shall not apply (but section 11A has effect in place of them).]
- (4) The body concerned shall consider the report or recommendation at a meeting held before the end of [<sup>F23</sup>one month] beginning with the day on which the report or recommendation was sent to the body or its chairman (as the case may be).
- (5) At that meeting the body shall decide—
- (a) whether the report requires the body to take any action or whether the recommendation is to be accepted; and
  - (b) what, if any, action to take in response to the report or recommendation.
- (6) If an auditor is satisfied that it is reasonable to allow more time for the body to comply with its duties under subsections (4) and (5) in relation to a report or recommendation, the auditor may, in relation to that report or recommendation, extend the period of [<sup>F24</sup>one month] mentioned in subsection (4).
- (7) A period may be extended under subsection (6) whether or not it has already been extended under that subsection once or more than once.
- [<sup>F25</sup>(7A) In the case of each of the following bodies, namely—
- (a) Transport for London,
  - (b) the London Development Agency,
  - (c) the London Pensions Fund Authority,
- Part VA of the 1972 Act (access to meetings etc) shall have effect in relation to the meeting as if that body were a principal council, but subject to the provisions of sections 10(5) and (6) and 12(3).]
- (8) Nothing in section 101 of the 1972 Act (delegation of functions) applies to a duty imposed on a body by this section.
- [<sup>F26</sup>(8A) In the case of the London Development Agency or Transport for London, neither—
- (a) paragraph 7 of Schedule 2 to the <sup>M3</sup>Regional Development Agencies Act 1998 (delegation by London Development Agency etc), nor
  - (b) paragraph 7 of Schedule 10 to the Greater London Authority Act 1999 (delegation by Transport for London),
- shall apply to a duty imposed on either of those bodies by this section.]
- (9) This section is without prejudice to any duties (so far as they relate to the subject-matter of a report or recommendation sent to a body to which this section applies) which are imposed by or under this Act, sections 114 to 116 of the <sup>M4</sup>Local Government Finance Act 1988 (functions and reports of finance officers), section 5 of the <sup>M5</sup>Local Government and Housing Act 1989 (functions of monitoring officers) or any other enactment.

#### Textual Amendments

- F19** Words in s. 11(1) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 3(2)** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**

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- F20** S. 11(2)(f) substituted (1.4.2001) by 2000 c. 43, s. 4, **Sch. 1 para. 17(3)(a)**; S.I. 2001/919, **art. 2(e)** (with **art. 3**)
- F21** S. 11(2A) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 3(3)** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**
- F22** S. 11(3A) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 3(4)**(with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**
- F23** Words in s. 11(4) substituted (18.11.2003) by **Local Government Act 2003 (c. 26), ss. 107(2), 128(3)** (a); S.I. 2003/2938, **art. 2(a)** (with **art. 8, Sch.**)
- F24** Words in s. 11(6) substituted (18.11.2003) by **Local Government Act 2003 (c. 26), ss. 107(3), 128(3)** (a); S.I. 2003/2938, **art. 2(a)** (with **art. 8, Sch.**)
- F25** S. 11(7A) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 3(5)**(with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**
- F26** S. 11(8A) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 3(6)** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**

#### Marginal Citations

- M3** 1998 c. 45.  
**M4** 1988 c. 41.  
**M5** 1989 c. 42.

### [<sup>F27</sup>11A **Greater London Authority: consideration of reports and recommendations.** **E** **+W**

- (1) This section applies where—
  - (a) a report under section 8, or
  - (b) any written recommendation within subsection (3) of section 11,is sent to the Greater London Authority in connection with the audit of its accounts.
- (2) The Mayor shall consider the report or recommendation preparatory to making the decisions under subsection (6).
- (3) The Assembly shall consider the report or recommendation at a meeting.
- (4) At that meeting the Assembly shall decide what recommendations to make to the Mayor as to the decisions to be made under subsection (6).
- (5) The Mayor must attend the meeting.
- (6) After the meeting, the Mayor shall decide—
  - (a) whether the report requires the Authority to take any action or whether the recommendation is to be accepted; and
  - (b) what (if any) action to take in response to the report or recommendation.
- (7) In making any decision under subsection (6), the Mayor shall take account of any recommendations made by the Assembly pursuant to subsection (4).
- (8) The duties imposed on the Mayor and Assembly by subsections (2) to (6) must be performed before the end of the period of [<sup>F28</sup>one month] beginning with the day on which the report or recommendation was sent to the Authority.
- (9) If an auditor is satisfied that it is reasonable to allow more time for the performance of those duties in relation to a report or recommendation, he may, in relation to that report or recommendation, extend the period of [<sup>F29</sup>one month] mentioned in subsection (8).

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- (10) A period may be extended under subsection (9) whether or not it has already been extended under that subsection once or more than once.
- (11) Any functions of the Mayor under this section must be exercised by the Mayor personally.
- (12) Section 54 of the Greater London Authority Act 1999 (discharge of Assembly functions by committees etc) shall not apply in relation to any function of the Assembly under this section.
- (13) Subsection (9) of section 11 applies in relation to this section as it applies in relation to that section.
- (14) In this section—  
     “the Assembly” means the London Assembly;  
     “the Authority” means the Greater London Authority;  
     “the Mayor” means the Mayor of London.]

#### Textual Amendments

- F27** S. 11A inserted (8.5.2000 for specified purposes, 3.7.2000 in so far as not already in force) by 1999 c. 29, s. 133(2), **Sch. 8 para. 4** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F28** Words in s. 11A(8) substituted (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 107(4), 128(3)** (a); S.I. 2003/2938, **art. 2(a)** (with art. 8, Sch.)
- F29** Words in s. 11A(9) substituted (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 107(5), 128(3)** (a); S.I. 2003/2938, **art. 2(a)** (with art. 8, Sch.)

## 12 Publicity for meetings under section 11. **E+W**

- (1) A meeting shall not be held for the purposes of section 11 [<sup>F30</sup>or 11A] unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the body concerned, a notice which—
- (a) states the time and place of the meeting,
  - (b) indicates that the meeting is to be held to consider an auditor’s report or recommendation (as the case may be), and
  - (c) describes the subject-matter of the report or recommendation.
- (2) The body concerned shall ensure that, as soon as practicable after the meeting [<sup>F31</sup>(or, in the case of the Greater London Authority, the making of the making of decisions under section 11A(6))]—
- (a) the auditor of its accounts is notified of the decisions made in pursuance of section 11(5) [<sup>F32</sup>or 11A(6)]; and
  - (b) a notice containing a summary of those decisions which has been approved by the auditor is published in a newspaper circulating in that body’s area.
- (3) The notice required by subsection (2)(b) in relation to a meeting—
- (a) need not summarise any decision made while the public were excluded from the meeting—
    - (i) under section 100A(2) of the 1972 Act (confidential matters);
    - (ii) in pursuance of a resolution under section 100A(4) of that Act (exempt information); or

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- (iii) in pursuance of a resolution under section 1(2) of the <sup>M6</sup>Public Bodies (Admission to Meetings) Act 1960 (protection of public interest);
- but
- (b) if sections 100C and 100D of the 1972 Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents in relation to the meeting which are open for inspection in accordance with those sections.
- (4) This section is without prejudice to, and in addition to, any provision made in relation to meetings of the body in question by section 10(4) to (6) or by or under the 1972 Act, the Public Bodies (Admission to Meetings) Act 1960 or any other enactment.

#### Textual Amendments

- F30** Words in s. 12(1) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 5(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F31** Words in s. 12(2) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 5(3)(a)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F32** Words in s. 12(2)(a) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 5(3)(b)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

#### Marginal Citations

- M6** 1960 c. 67.

### 13 Additional publicity for immediate reports. **E+W**

- (1) This section applies where under section 10(1) an auditor has sent an immediate report to a body or its chairman, except where the body is a health service body.
- (2) From the time when the report is received by virtue of section 10(1), any member of the public may—
- (a) inspect the report at all reasonable times without payment,
- (b) make a copy of it, or of any part of it, and
- (c) require the body or chairman to supply him with a copy of it, or of any part of it, on payment of a reasonable sum.
- (3) On receiving the report by virtue of section 10(1), the body or (if a parish meeting) its chairman shall forthwith publish in one or more local newspapers circulating in the area of the body a notice which—
- (a) identifies the subject-matter of the report, and
- (b) states that any member of the public may inspect the report and make a copy of it or any part of it between such times and at such place or places as are specified in the notice;
- and the body, if not a parish meeting, shall in addition forthwith supply a copy of the report to every member of the body.
- (4) The auditor may—
- (a) notify any person he thinks fit of the fact that he has made the report, and
- (b) supply a copy of it or of any part of it to any person he thinks fit.
- (5) A person who has the custody of an immediate report and—

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- (a) obstructs a person in the exercise of a right conferred by subsection (2)(a) or (b), or
  - (b) refuses to supply a copy of the report or of part of it (as the case may be) to a person entitled to the copy by virtue of subsection (2)(c),
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) A person who fails to comply with a requirement of subsection (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Nothing in this section affects the operation of section 10(4) to (6).

**[<sup>F33</sup>13A Additional publicity for non-immediate reports E+W**

- (1) This section applies where under section 10(1) an auditor has sent a report that is not an immediate report to a body or its chairman, except where the body is a health service body.
- (2) The auditor may—
- (a) notify any person he thinks fit of the fact that he has made the report,
  - (b) publish the report in any way he thinks fit, and
  - (c) supply a copy of the report, or of any part of it, to any person he thinks fit.
- (3) From the time when the report is sent under section 10(1), but subject to subsection (4) —
- (a) the auditor shall ensure that any member of the public may—
    - (i) inspect the report at all reasonable times without payment, and
    - (ii) make a copy of the report or of any part of it;
  - (b) any member of the public may require the auditor to supply him with a copy of the report, or of any part of it, on payment of a reasonable sum.
- (4) From the end of the period of one year beginning with the day when the report is sent under section 10(1), the obligations of the auditor under subsection (3)—
- (a) cease to be his obligations, but
  - (b) become obligations of the Commission instead.]

**Textual Amendments**

**F33** S. 13A inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 108, 128(3)(a)**; [S.I. 2003/2938, art. 2\(a\)](#) (with [art. 8, Sch.](#))

*Public inspection etc. and action by the auditor*

**14 Inspection of statements of accounts and auditors' reports. E+W**

- (1) A local government elector for the area of a body subject to audit, other than a health service body, may—
- (a) inspect and make copies of any statement of accounts prepared by the body pursuant to regulations under section 27;

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

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

C9 S. 14 applied (8.5.2000) by 1999 c. 29, s. 134(4) (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4

**15 Inspection of documents and questions at audit. E+W**

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

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- (5) For the purposes of subsection (4)(b), payments made or benefits provided to an individual in respect of an office or employment include any payment made or benefit provided to him in respect of his ceasing to hold the office or employment.

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

**C10** S. 15 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

**16 Right to make objections at audit. E+W**

- (1) At each audit of accounts under this Act, other than an audit of accounts of a health service body, a local government elector for an area to which the accounts relate, or any representative of his, may attend before the auditor and (in accordance with subsection (2)) make objections—
- (a) as to any matter in respect of which the auditor could take action under section 17 [<sup>F34</sup>or 18]; or
  - (b) as to any other matter in respect of which the auditor could make a report under section 8.
- (2) No objection may be made under subsection (1) unless the auditor has received written notice of the proposed objection and of the grounds on which it is to be made.
- (3) An elector sending a notice to an auditor for the purposes of subsection (2) shall at the same time send a copy of the notice to the body whose accounts are being audited.

**Textual Amendments**

**F34** Words in s. 16(1)(a) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s. 107, Sch. 6; S.I. 2002/1718, art. 2

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

**C11** S. 16 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

**17 Declaration that item of account is unlawful. E+W**

- (1) Where—
- (a) it appears to the auditor carrying out an audit under this Act, other than an audit of accounts of a health service body, that an item of account is contrary to law, [<sup>F35</sup>and]
  - [<sup>F35</sup>(b) the item is not sanctioned by the Secretary of State,]  
the auditor may apply to the court for a declaration that the item is contrary to law.
- (2) On an application under this section the court may make or refuse to make the declaration asked for, and if it makes the declaration then, [<sup>F36</sup>subject to subsection (3)], it may also—
- [<sup>F37</sup>(a) order that any person responsible for incurring or authorising expenditure declared unlawful shall repay it in whole or in part to the body in question and, where there are two or more such persons, that they shall be jointly and severally liable to do so;]



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- [<sup>F37</sup>(b) if the expenditure declared unlawful exceeds £2,000 and the person responsible for incurring or authorising it is, or was at the time of his conduct in question, a member of a local authority, order him to be disqualified for being a member of a local authority for a specified period; and]
- (c) order rectification of the accounts.
- [<sup>F38</sup>(3) The court shall not make an order under subsection (2)(a) or (b) if satisfied that the person responsible for incurring or authorising the expenditure acted reasonably or in the belief that the expenditure was authorised by law, and in any other case shall have regard to all the circumstances, including that person’s means and ability to repay the expenditure or any part of it.]
- (4) A person who has made an objection under section 16(1)(a) and is aggrieved by a decision of an auditor not to apply for a declaration under this section may—
- (a) not later than six weeks after being notified of the decision, require the auditor to state in writing the reasons for his decision, and
- (b) appeal against the decision to the court;
- and on such an appeal the court has the same powers in relation to the item of account to which the objection relates as if the auditor had applied for the declaration.
- (5) On an application or appeal under this section relating to the accounts of a body, the court may make such order as it thinks fit for the payment by the body of expenses incurred, in connection with the application or appeal, by—
- (a) the auditor,
- [<sup>F39</sup>(b) the person to whom the application or appeal relates, or]
- (c) the person by whom the appeal is brought.
- (6) The High Court and the county courts have jurisdiction for the purposes of this section.
- [<sup>F40</sup>(7) In this section “local authority” includes—
- [ the Greater London Authority;]
- <sup>F41</sup>(aa)
- (a) the Common Council;
- (b) the Council of the Isles of Scilly;
- (c) the Broads Authority;
- (d) the Navigation Committee of the Broads Authority;
- (e) a National Park authority;
- [ the Metropolitan Police Authority;]
- <sup>F42</sup>(ee)
- (f) a police authority established under section 3 of the <sup>M7</sup>Police Act 1996,<sup>F43</sup> . . .
- (g) <sup>F43</sup> . . . . . ]
- [<sup>F44</sup>(8) For the purposes of this section the <sup>F44</sup>members of the Greater London Authority are the Mayor of London and the members of the London Assembly.]

#### Textual Amendments

**F35** S. 17(1)(b) and preceding word repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s. 107, Sch. 6; [S.I. 2002/1718](#), [art. 2](#)

**F36** Words in s. 17(2) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718](#), [art. 2](#)

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- F37** S. 17(2)(a)(b) and word following para. (b) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F38** S. 17(3) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F39** S. 17(5)(b) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F40** S. 17(7) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6; [S.I. 2002/1718, art. 2](#)
- F41** S. 17(7)(aa) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), [Sch. 8 para. 6\(2\)\(a\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3434, arts. 3, 4](#)
- F42** S. 17(7)(ee) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), [Sch. 8 para. 6\(2\)\(b\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3434, arts. 3, 4](#)
- F43** S. 17(7)(g) and word immediately preceding it repealed (1.4.2002) by 2001 c. 16, ss. 137, 138(2), Sch. 7 Pt. 5(1); [S.I. 2002/344, art. 3](#) (with transitional provisions in [art. 4](#))
- F44** S. 17(8) repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s.107, Sch. 6, [S.I. 2002/1718, art. 2](#)

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

- C12** S. 17 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3434, art. 3](#)
- C13** S. 17(1)(b)(2)(3)(5)(b)(7)(8) excluded (temp. from 27.11.2001 to 27.11.2002) by [S.I. 2001/3576, art. 3\(1\)\(d\)](#)  
 S. 17(1)(b)(2)(3)(5)(b)(7)(8) excluded (temp. from 27.11.2001 to 27.11.2002) by [S.I. 2001/3577, art. 3\(1\)\(c\)](#)  
 S. 17(1)(b)(2)(3)(5)(b)(7)(8) excluded (temp. from 27.11.2001 to 27.11.2002) by [S.I. 2001/3578, art. 3\(1\)\(c\)](#)
- C14** S. 17(1)(b) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1777](#)), arts. 1, [14\(3\)\(a\)](#)
- C15** S. 17(1)(b) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1778](#)), arts. 1, [14\(3\)\(a\)](#)
- C16** S. 17(2) disappplied in part (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1777](#)), arts. 1, [14\(3\)\(b\)](#)
- C17** S. 17(2) disappplied in part (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1778](#)), arts. 1, [14\(3\)\(b\)](#)
- C18** S. 17(3) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1778](#)), arts. 1, [14\(3\)\(a\)](#)
- C19** S. 17(3) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1777](#)), arts. 1, [14\(3\)\(a\)](#)
- C20** S. 17(5)(b) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1777](#)), arts. 1, [14\(3\)\(a\)](#)
- C21** S. 17(5)(b) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1778](#)), arts. 1, [14\(3\)\(a\)](#)
- C22** S. 17(7)(8) disappplied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1778](#)), arts. 1, [14\(3\)\(a\)](#)
- C23** S. 17(7)(8) disappplied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 ([S.I. 2004/1777](#)), arts. 1, [14\(3\)\(a\)](#)

#### Marginal Citations

- M7** 1996 c. 16.

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**[<sup>F45</sup>18 Recovery of amount not accounted for etc. E+W**

- (1) Where it appears to the auditor carrying out an audit under this Act, other than an audit of accounts of a health service body—
  - (a) that any person has failed to bring into account a sum which should have been brought into account and that the failure has not been sanctioned by the Secretary of State, or
  - (b) that a loss has been incurred or deficiency caused by the wilful misconduct of any person,the auditor shall certify that the sum, or the amount of the loss or deficiency, is due from that person.
- (2) Subject to subsections (4) and (8), both the auditor and the body concerned (or, if it is a parish meeting, its chairman) may recover for the benefit of the body a sum or amount certified under this section as due; and if the sum or amount is certified to be due from two or more persons, they shall be jointly and severally liable for it.
- (3) A person aggrieved by a decision of an auditor to certify under this section that a sum or amount is due from him may—
  - (a) not later than six weeks after being notified of the decision, require the auditor to state in writing the reasons for his decision, and
  - (b) appeal against the decision to the court.
- (4) On an appeal under subsection (3) the court may—
  - (a) confirm, vary or quash the decision, and
  - (b) give any certificate which the auditor could have given.
- (5) A person who has made an objection under section 16(1)(a) and is aggrieved by a decision of an auditor not to certify under this section that a sum or amount is due from another person may—
  - (a) not later than six weeks after being notified of the decision, require the auditor to state in writing the reasons for his decision, and
  - (b) appeal against the decision to the court.
- (6) On an appeal under subsection (5) the court may—
  - (a) confirm or quash the decision, and
  - (b) give any certificate which the auditor could have given.
- (7) If a certificate under this section relates to a loss or deficiency caused by the wilful misconduct of a person who is, or was at the time of the misconduct, a member of a local authority and the amount certified to be due from him exceeds £2,000, that person shall be disqualified for being a member of a local authority for five years beginning—
  - (a) on the ordinary date on which the period for bringing an appeal against a decision to give the certificate expires, or
  - (b) if such an appeal is brought, on the date on which the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (8) A sum or amount certified under this section to be due from any person is payable within 14 days after the date of issue of the certificate or, if an appeal is brought, within 14 days after the appeal is finally disposed of or abandoned or fails for non-prosecution.
- (9) In proceedings for the recovery of a sum or amount due under this section—

*Status: Point in time view as at 31/01/2008.*

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- (a) a certificate signed by an auditor appointed by the Commission stating that the sum or amount is due from a person specified in the certificate to a body specified there is conclusive evidence of that fact; and
  - (b) a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
- (10) On an appeal under this section relating to the accounts of a body, the court may make such order as it thinks fit for the payment by that body of expenses incurred in connection with the appeal by—
- (a) the auditor,
  - (b) the person to whom the appeal relates, or
  - (c) the person by whom the appeal is brought.
- (11) Any expenses incurred by an auditor in recovering a sum or amount certified under this section to be due in connection with the accounts of a body, so far as not recovered from any other source, are recoverable from that body unless the court otherwise directs.
- (12) Subsections [F<sup>46</sup>(6) to (8)] of section 17 also apply for the purposes of this section.]

#### Textual Amendments

- F45** S. 18 repealed (27.7.2002 in relation to E. and to police authorities in W.) by 2000 (c. 22), s. 107, Sch. 6, S.I. 2002/1718, **art. 2**
- F46** Words in s. 18(12) substituted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 7** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**

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

- C24** S. 18 disappplied (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1778), arts. 1, **14(3)(c)**
- C25** S. 18 disappplied (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1777), arts. 1, **14(3)(c)**
- C26** S. 18 excluded (8.5.2000) by 1999 c. 29, s. **134(5)** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **art. 3**  
 S. 18 applied (temp from 27.11.2001 to 27.11.2002) by S.I. 2001/3576, **art. 3(1)(e)**  
 S. 18 applied (temp from 27.11.2001 to 27.11.2002) by S.I. 2001/3577, **art. 3(1)(d)**  
 S. 18 applied (temp from 27.11.2001 to 27.11.2002) by S.I. 2001/3578, **art. 3(1)(d)**

### *Prevention of unlawful expenditure etc.*

## 19 **Health service bodies: referral to Secretary of State.** E+W

If the auditor for the time being of the accounts of a health service body has reason to believe that the body or an officer of the body—

- (a) is about to make, or has made, a decision which involves or would involve the incurring of 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,

he shall refer the matter forthwith to the Secretary of State.

*Status: Point in time view as at 31/01/2008.*

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

C27 S. 19 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

[<sup>F47</sup>19A **Other bodies: advisory notices.** **E+W**

- (1) The auditor for the time being of the accounts of a body subject to audit other than a health service body may issue a notice under this section (“an advisory notice”) if he has reason to believe that the body or an 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,
  - (b) is about to take or has begun to take 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.
- (2) For the purposes of this section and section 19B the actions of—
  - (a) a committee or sub-committee of a body, or
  - (b) any other person (other than an officer) authorised to act on behalf of the body,are to be treated as the actions of the body itself.
- (3) An advisory notice is a notice which—
  - (a) is addressed to the body or officer concerned,
  - (b) specifies the paragraph of subsection (1) which is relevant and the decision, course of action or item of account to which the notice relates,
  - (c) specifies that the notice will take effect on the day a copy of the notice is served on the person to whom it is addressed, and
  - (d) requires the body or officer before—
    - (i) making or implementing the decision,
    - (ii) taking or continuing to take the course of action, or
    - (iii) entering the item of account,(as the case may be) to give the person who is for the time being the auditor of the accounts of the body not less than the specified number of days’ notice in writing of the intention of the body or officer to do that thing,  
and in paragraph (d) the reference to the specified number is to such number not exceeding 21 as is specified in the notice.
- (4) Where two or more auditors are appointed in relation to the accounts of any body—
  - (a) the power to issue an advisory notice may be exercised by the auditors acting jointly or by such one of them as they may determine, and
  - (b) in relation to such a notice, references in subsections (5) and (6) to the auditor are references to the auditor or auditors by whom the notice is issued.
- (5) A copy of an advisory notice—
  - (a) shall be served on the body to which, or to an officer of which, it is addressed,
  - (b) in the case of a notice addressed to an officer, shall also be served on him, and
  - (c) may be served on such other person or persons as the auditor considers appropriate.

*Status: Point in time view as at 31/01/2008.*

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- (6) The auditor shall serve a statement of his reasons for the belief referred to in subsection (1) on the body concerned, and on any officer on whom a copy of the notice was served under subsection (5)(b), before the end of the period of 7 days beginning on the day on which a copy of the notice was served on the person to whom it is addressed.
- (7) Where this section requires any document to be served on an officer of a body, it shall be served on him by addressing it to him and delivering it to him or leaving it at, or sending it by post to, the office at which he is employed.
- (8) An advisory notice may at any time be withdrawn 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 notice was addressed, and the auditor shall give notice in writing of the withdrawal to any body or person on whom a copy of the advisory notice was served under subsection (5).]

#### Textual Amendments

**F47** S. 19A inserted (19.12.2000 (E.) and for specified purposes (W.) and otherwise *prosp.*) by [2000 c. 22, ss. 91\(1\), 108\(3\); S.I. 2000/3335, art. 2](#)

#### [<sup>F48</sup>19B Effect of an advisory notice. **E+W**

- (1) While an advisory notice has effect, it is not lawful for the body concerned or any officer of that body—
  - (a) where the notice relates to a decision, to make or implement the decision,
  - (b) where the notice relates to a course of action, to take or continue to take the course of action, or
  - (c) where the notice relates to an item of account, to enter the item of account, unless and until the conditions set out in subsection (2) are satisfied.
- (2) The conditions are—
  - (a) that the body has considered, in the light of the advisory notice and the statement under section 19A(6), the consequences of doing the thing mentioned in the paragraph of subsection (1) which is relevant,
  - (b) that the body or officer has given the person who is for the time being the auditor of the accounts of the body the period of notice in writing required by the advisory notice under section 19A(3)(d), and
  - (c) that that period has expired.
- (3) An advisory notice takes effect on the day on which a copy of the notice is served on the person to whom it is addressed, and ceases to have effect—
  - (a) where a statement of reasons is not served in accordance with subsection (6) of section 19A, at the end of the period specified in that subsection, or
  - (b) when it is withdrawn under section 19A(8).
- (4) Any expenses reasonably incurred by an auditor in or in connection with the issue of an advisory notice are recoverable by him from the body concerned.
- (5) In this section “the body concerned”, in relation to an advisory notice, means the body to which, or to any officer of which, the notice is addressed.

19C.—(1) Where—

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- (a) before an advisory notice is served, a body enters into a contract to dispose of or acquire an interest in land, and
  - (b) before the disposal or acquisition is completed, an advisory notice takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition,
- the existence of the advisory notice does 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 lies against an auditor in respect of loss or damage alleged to have been caused by reason of the issue of an advisory notice which was issued in good faith.]

#### Textual Amendments

**F48** S. 19B inserted (19.12.2000 (E.) and for specified purposes (W.) and otherwise *prosp.*) by 2000 c. 22, ss. 91(1), 108(3); S.I. 2000/3335, art. 2

#### [<sup>F49</sup>20 Other bodies: prohibition orders. **E+W**

- (1) The auditor for the time being of the accounts of a body subject to audit other than a health service body may issue an order under this section (a “prohibition order”) if he has reason to believe that the body or an 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;
  - (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.
- (2) For the purposes of this section and section 22, the actions of—
  - (a) a committee or sub-committee of a body, or
  - (b) any other person (other than an officer) authorised to act on behalf of the body,are to be treated as the actions of the body itself.
- (3) A prohibition order is an order which—
  - (a) is addressed to the body or officer concerned;
  - (b) specifies the paragraph of subsection (1) which is relevant and the decision, course of action or item of account to which the order relates;
  - (c) specifies the date on which (subject to subsection (6)) the order is to take effect, which must not be 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 (5); and
  - (d) requires the body or officer concerned to desist from making or implementing the decision, taking or continuing to take the course of action or entering the item of account in question (as the case may be).
- (4) Where two or more auditors are appointed in relation to the accounts of any body—
  - (a) 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
  - (b) in relation to such an order, references in subsections (5) and (6) to the auditor are references to the auditor or auditors by whom the order is issued.
- (5) A copy of a prohibition order—

*Status: Point in time view as at 31/01/2008.*

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- (a) shall be served on the body to which, or to an officer of which, it is addressed;
  - (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 the auditor considers appropriate.
- (6) A prohibition order does 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 (3)(c), the auditor serves on the body concerned and on any officer on whom a copy of the order was served under subsection (5)(b), a statement of the auditor’s reasons for the belief referred to in subsection (1).
- (7) Where this section requires a copy of an order or statement to be served on an officer of a body, it shall be served on him by addressing it to him and delivering it to him or leaving it at, or sending it by post to, the office at which he is employed.
- (8) 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.]

#### Textual Amendments

**F49** S. 20 ceases to have effect (19.12.2000 (E.) and for specified purposes (W.) and otherwise *prosp.*) by virtue of 2000 c. 22, **ss. 91(2), 108(3)(a)**; S.I. 2000/3335, **art. 2**

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

**C28** S. 20 excluded (8.5.2000) by 1999 c. 29, **s. 134(5)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 3**

### [<sup>F50</sup>21 **Restriction on power to issue prohibition orders.** **E+W**]

- (1) Where—
- (a) a report is made under section 114(2) of the <sup>M8</sup>Local Government Finance Act 1988 (“the 1988 Act”) (chief finance officer’s report on unlawful expenditure etc.), and
  - (b) copies of the report are sent in accordance with section 114(4) of the 1988 Act,
- no prohibition order may be issued during the relevant period 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) 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 the body fails to hold the meeting to consider the report within the time limit specified in section 115(3) of the 1988 Act that failure is immaterial for the purposes of subsection (2)(b) above.]

#### Textual Amendments

**F50** S. 21 ceases to have effect (19.12.2000 (E.) and for specified purposes (W.) and otherwise *prosp.*) by virtue of 2000 c. 22, **ss. 91(2), 108(3)(a)**; S.I. 2000/3335, **art. 2**



*Status: Point in time view as at 31/01/2008.*

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

**C29** S. 21 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

**Marginal Citations**

**M8** 1988 c. 41.

[<sup>F51</sup>**22** **Effect of and appeals against prohibition orders.** **E+W**]

- (1) While a prohibition order has effect, it is not 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 to enter the item of account to which the order relates (as the case may be).
- (2) A prohibition order—
  - (a) takes effect, subject to subsection (6) of section 20, on the date specified in the order in accordance with subsection (3)(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 20(8).
- (3) Not later than 28 days after service under section 20(6) of a statement of reasons relating to a prohibition order, the body concerned (but not an 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), 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 are 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 any officer of which, the order is addressed.]

**Textual Amendments**

**F51** S. 22 ceases to have effect (19.12.2000 (E.) and for specified purposes (W.) and otherwise *prosp.*) by 2000 c. 22, ss. 91(2), 108(3)(a); S.I. 2000/3335, art. 2

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

**C30** S. 22 excluded (8.5.2000) by 1999 c. 29, s. 134(5) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

[<sup>F52</sup>**23** **Loss etc. caused by prohibition orders.** **E+W**]

- (1) 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 does not prejudice any remedy in damages which may be available to any person by reason of the body’s failure to complete the contract.

*Status: Point in time view as at 31/01/2008.*

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- (2) No action lies against an auditor in respect of loss or damage alleged to have been caused by reason of the issue of a prohibition order which was issued in good faith; but that does not affect the right of a court to award costs against an auditor on an appeal under section 22(3).]

#### Textual Amendments

**F52** S. 23 ceases to have effect (19.12.2000 (E.)) and for specified purposes (W.) and otherwise *prosp.*) by virtue of 2000 c. 22, **ss. 91(2), 108(3)(a)**; S.I. 2000/3335, **art. 2**

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

**C31** S. 23 excluded (8.5.2000) by 1999 c. 29, **s. 134(5)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 3**

## 24 Power of auditor to apply for judicial review. **E+W**

- (1) Subject to section 31(3) of the <sup>M9</sup>Supreme Court Act 1981 (no application for judicial review without leave) the auditor appointed in relation to the accounts of a body other than a health service body may make an application for judicial review with respect to—
- any decision of that body, or
  - any failure by that body to act,
- which it is reasonable to believe would have an effect on the accounts of that body.
- (2) The existence of the powers conferred on an auditor under this Act is not a ground for refusing an application falling within subsection (1) (or an application for leave to make such an application).
- (3) On an application for judicial review made as mentioned in subsection (1), 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.

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

**C32** S. 24 excluded (8.5.2000) by 1999 c. 29, **s. 134(5)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 3**

#### Marginal Citations

**M9** 1981 c. 54.

### Miscellaneous

## 25 Extraordinary audit. **E+W**

- (1) The Commission may direct an auditor or auditors appointed by it to hold an extraordinary audit of the accounts of a body subject to audit—
- if it appears to the Commission to be desirable to do so in consequence of a report made under this Act by an auditor or for any other reason; or

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- (b) where the accounts are not those of a health service body, if an application for such an audit is made by a local government elector for the area of the body in question.
- (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 a body subject to audit he may require the Commission to direct such an audit by an auditor or auditors appointed by it.
- (3) The following provisions apply to an extraordinary audit under this section as they apply to an ordinary audit under this Act—
  - (a) in relation to the accounts of a body other than a health service body, sections 3, 5, 6, 8 to 13 and 16 to 18; and
  - (b) in relation to the accounts of a health service body, sections 3, 5, 6 and 8 to 10.
- (4) An extraordinary audit under this section may be held after three clear days' notice in writing to be given to the body whose accounts are to be audited or (if it is a parish meeting) to be given to its chairman.
- (5) The expenditure incurred in holding an extraordinary audit of the accounts of any body—
  - (a) shall be defrayed in the first instance by the Commission, but
  - (b) may be recovered by the Commission, if it thinks fit, in whole or part from the body concerned.

## **26 Audit of accounts of officers. E+W**

- (1) Where an officer of a body subject to audit receives money or other property—
  - (a) on behalf of that body, or
  - (b) 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 the provisions mentioned in subsection (2) apply with the necessary modifications to the accounts and audit.
- (2) Those provisions are—
  - (a) in the case of an officer of a health service body, sections 2(1), 5 to 10 and 25;
  - (b) in any other case, sections 2(1), 5 to 10, 13 to 18, 25 and 27.

## **27 Accounts and audit regulations. E+W**

- (1) The Secretary of State may by regulations applying to bodies subject to audit 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 objection or inspection conferred by section 14, 15 or 16 and the steps to be taken by any body for informing local government electors for the area of that body of those rights.

*Status: Point in time view as at 31/01/2008.*

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- (2) Regulations under this section may make different provision in relation to bodies of different descriptions.
- (3) Before making any regulations under this section the Secretary of State shall consult—
  - (a) the Commission,
  - (b) such associations of local authorities as appear to him to be concerned, and
  - (c) such bodies of accountants as appear to him to be appropriate.
- (4) If a person without reasonable excuse contravenes a provision of regulations under this section and the regulations declare that contravention of the provision is an offence, that person is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Any expenses incurred by an auditor in connection with proceedings in respect of an offence under subsection (4) alleged to have been committed in relation to the accounts of any body, so far as not recovered from any other source, are recoverable from that body.

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

**C33** S. 27 applied (8.5.2000) by 1999 c. 29, s. 134(6) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 3

**28 Certification of claims, returns etc. E+W**

- (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 or public authority to any body subject to audit;
  - (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;
  - (c) for certifying the body’s calculation under paragraph 5(6)(a) of Schedule 8 to the <sup>M10</sup>Local Government Finance Act 1988 of the amount of its non-domestic rating contribution for a financial year, and for certifying the amount calculated; or
  - (d) for certifying any return by the body which, by or under any enactment, is required or authorised to be certified by the body’s auditor or under arrangements made by the Commission;

and in paragraph (a) “public authority” means a body established by or under the Treaties or by or under any enactment.
- (2) The Commission shall charge the body concerned such fees for services provided under this section as will cover the full cost of providing them.

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

**C34** S. 28(1)(d) modified (1.4.1999) by 1998 c. 31, s. 53(1) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(4), Sch. 1 Pt. IV

**Marginal Citations**

**M10** 1988 c. 41.

*Status: Point in time view as at 31/01/2008.*

*Changes to legislation: Audit Commission Act 1998 (repealed) is up to date with all changes known to be in force on or before 06 July 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)*

## 29 Agreed audit of accounts. **E+W**

- (1) 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 which—
  - (a) appears to the Secretary of State to be connected with local government or the National Health Service; and
  - (b) is not a body subject to audit <sup>F53</sup>, a local government body in Wales or a Welsh NHS body].
- (2) An audit carried out under this section shall be carried out in such manner as the Commission and the body concerned may agree and references in this Part or Part III to an audit carried out under this Act do not include an audit carried out under this section.
- (3) Subsection (2) is without prejudice to any other statutory provisions which apply to an audit under this section.
- (4) The Commission shall charge the body such fees for services provided under this section as will cover the full cost of providing them.

### Textual Amendments

**F53** Words in s. 29(1)(b) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 22](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

## 30 Passenger Transport Executives. **E+W**

- (1) In relation to a Passenger Transport Executive this Act applies with the following modifications—
  - (a) under section 3(3) the Commission shall consult the relevant authority instead of the Executive;
  - (b) in sections 14(1), 15(2), 16(1), 25(1)(b) and 27(1)(e) references to a local government elector for an area such as is mentioned there are to be read as references to a local government elector for the area of the relevant authority;
  - (c) in section 10, subsections (1) and (3) apply in relation to the relevant authority as well as the Executive, and subsections (4) to (6) apply only to the relevant authority;
  - (d) in section 13, subsections (2) and (3) apply in relation to the relevant authority as well as the Executive, but the reference in subsection (3) to one or more local newspapers circulating in the area of the body is to be read as a reference to one or more such newspapers circulating in the area of the relevant authority;
  - (e) the notice required to be given by section 25(4) shall be given to the relevant authority as well as the Executive.
- (2) Section 14(1)(a) of the <sup>M11</sup>Transport Act 1968 (accounts and other records of Passenger Transport Executives) is subject to any regulations under section 27.
- (3) In subsection (1) “the relevant authority”, in relation to a Passenger Transport Executive, means the Passenger Transport Authority for the area for which the Executive is established.

*Status: Point in time view as at 31/01/2008.*

*Changes to legislation: Audit Commission Act 1998 (repealed) is up to date with all changes known to be in force on or before 06 July 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)*

#### Marginal Citations

M11 1968 c. 73.

### 31 Companies related to Passenger Transport Executives. **E+W**

- (1) Subject to subsection (2), where a Passenger Transport Executive have a subsidiary they shall exercise their control over it so as to ensure that it appoints only auditors who—
  - (a) are approved by the Commission for appointment as the subsidiary’s auditors, and
  - (b) are qualified for the appointment in accordance with section 25 of the <sup>M12</sup>Companies Act 1989.
- (2) Where a company would, if an Executive and any other body or bodies subject to audit were a single body corporate, be a subsidiary of that body corporate—
  - (a) subsection (1) does not apply, but
  - (b) it is the joint duty of the Executive and the other body or bodies concerned to exercise such control over the company as the Executive are required by subsection (1) to exercise over a subsidiary of theirs.
- (3) In this section “subsidiary” means a subsidiary within the meaning of section 736 of the <sup>M13</sup>Companies Act 1985.

#### Marginal Citations

M12 1989 c. 40.

M13 1985 c.6

### 32 Documents relating to police authorities etc. **E+W**

- (1) The Commission shall send to the Secretary of State a copy of any report of which a copy is sent to the Commission under section 10(2) and which [<sup>F54</sup>relates to a police authority established under section 3 of the Police Act 1996.]
- (2) If it appears to the Commission appropriate to do so, it may send to the Secretary of State a copy of any document which—
  - (a) relates to one or more police authorities established under section 3 of the Police Act 1996 and has been sent (or a copy of which has been sent) by the Commission to such an authority, <sup>F55</sup> . . .
  - (b) <sup>F55</sup> . . . . .
- [<sup>F56</sup>(3) Any reference in this section to a police authority established under section 3 of the <sup>M14</sup>Police Act 1996 includes a reference to the Metropolitan Police Authority.]

#### Textual Amendments

**F54** Words in s. 32(1) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 111](#); S.I. 2006/378, art. 4(1), [Sch. para. 10](#)

*Status: Point in time view as at 31/01/2008.*

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- F55** S. 32(2)(b) and word "or" immediately preceding it repealed ( 1.4.2002) by 2001 c. 16, ss. 137, 138(2), **Sch. 7 Pt. 5(1)**; S.I. 2002/344, {art. 3(m)} (with transitional provisions in art. 4)
- F56** S. 32(3) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 8** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**

**Marginal Citations**

- M14** 1996 c. 16.

**PART III E+W**

STUDIES, PERFORMANCE STANDARDS AND OTHER FUNCTIONS

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

- C35** Pt. III continued (1.4.2005) by **Public Audit (Wales) Act 2004 (c. 23)**, ss. **69(6)**, 73; S.I. 2005/558, art. 2, **Sch. 1**

*Studies and related functions*

**33 Studies for improving economy etc. in services. E+W**

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations—
- (a) for improving economy, efficiency and effectiveness in [<sup>F57</sup>the exercise of the functions of best value authorities [<sup>F58</sup>which are bodies subject to audit] and the provision of services provided by other bodies subject to audit][<sup>F59</sup>and by local government bodies in Wales]; and
  - (b) for improving the financial or other management of bodies subject to audit [<sup>F60</sup>and local government bodies in Wales].

<sup>F61</sup>(2) .....

- (3) In undertaking or promoting studies under subsection (1) relating to a health service body (services of which are excluded from studies under section 34) the Commission may take into account the implementation by the body of—
- (a) any particular statutory provision or provisions, and
  - (b) any directions or guidance given by the Secretary of State (whether pursuant to any such provision or otherwise);

but this subsection does not entitle the Commission to question the merits of the policy objectives of the Secretary of State.

- (4) The Commission may undertake or promote other studies relating to the provision by bodies subject to audit [<sup>F62</sup>and by local government bodies in Wales] of their services besides the studies referred to in subsection (1) and section 34.
- (5) The Commission shall publish or otherwise make available its recommendations and the result of any studies under this section and, in the case of studies relating to a health service body, shall, on request, provide the Comptroller and Auditor General with all material relevant to the studies.

*Status: Point in time view as at 31/01/2008.*

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- (6) Before undertaking or promoting any study under this section <sup>F63</sup>... the Commission shall—
- <sup>F64</sup>(za) consult the Secretary of State;]
  - (a) consult such associations of <sup>F65</sup>best value authorities which are bodies subject to audit, other bodies subject to audit and local government bodies in Wales] as appear to it to be concerned;
  - (b) consult such associations of employees as appear to it to be appropriate; <sup>F66</sup>...
  - (c) in the case of any health service bodies, also consult <sup>F67</sup>... [<sup>F68</sup>the [<sup>F69</sup>Commission for Healthcare Audit and Inspection]] and the Comptroller and Auditor General.
  - <sup>F70</sup>(ca) in the case of a study relating to a local government body in Wales, also consult [<sup>F71</sup>the Welsh Ministers and] the Auditor General for Wales and take into account any relevant work done or being done by the Auditor General for Wales.]
  - <sup>F72</sup>(cb) in the case of a study which has a connection with anything which may be inspected under Chapter 4 of Part 8 of the Education and Inspections Act 2006, also consult Her Majesty's Chief Inspector of Education, Children's Services and Skills;]
  - <sup>F73</sup>(d) in the case of a study which has a connection with English local authority social services (within the meaning of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003), also consult the Commission for Social Care Inspection; <sup>F74</sup>...
  - (e) in the case of a study which has a connection with Welsh local authority social services (within the meaning of that Part of that Act), also consult the National Assembly for Wales][<sup>F75</sup>; and
  - (f) in the case of any other study relating to a body in respect of which the Welsh Ministers may exercise functions, consult the Welsh Ministers.]
- <sup>F76</sup>(6A) The Commission may undertake or promote studies under this section relating to a local government body in Wales only if the Commission considers it necessary or desirable to do so for the purposes of any of these—
- (a) a study into the exercise throughout England and Wales of particular functions of all local government bodies or a description of local government body;
  - (b) a study into the provision throughout England and Wales of particular services provided by all local government bodies or a description of local government body;
  - (c) a study into the financial or other management throughout England and Wales of all local government bodies or a description of local government body.]
- <sup>F77</sup>(7) The following provisions of this section do not apply in relation to the bodies specified in subsection (8)—
- (a) subsection (1)(a);
  - (b) subsection (1)(b), so far as relating to management other than financial management;
  - (c) subsection (4).
- (8) Those bodies are—
- (a) any Primary Care Trust;
  - (b) any Strategic Health Authority;



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- (c) any NHS trust (within the meaning of <sup>F78</sup>the National Health Service Act 2006] ) all or most of whose hospitals, establishments and facilities are situated in England.]

#### Textual Amendments

- F57** Words in s. 33(1)(a) substituted (27.9.1999 subject to art. 3(2)(b) of S.I. and otherwise 1.10.1999) by 1999 c. 27, s. 22(4)(a); S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- F58** Words in s. 33(1)(a) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 23(2)(a), s. 73, **Sch. 2 para. 23(1)**; S.I. 2005/558, art. 2, Sch. 1
- F59** Words in s. 33(1)(a) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 23(2)(b), s. 73, **Sch. 2 para. 23(1)**; S.I. 2005/558, art. 2, Sch. 1
- F60** Words in s. 33(1)(b) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 23(1)(3); S.I. 2005/558, art. 2, Sch. 1
- F61** S. 33(2) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(u)(i)
- F62** Words in s. 33(4) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 23(1)(4); S.I. 2005/558, art. 2, Sch. 1
- F63** Words in s. 33(6) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(u)(i)
- F64** S. 33(6)(za) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 153(2)(a)**, 245(5); S.I. 2008/172, art. 2(1)(c)
- F65** Words in s. 33(6)(a) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 23(1)(5); S.I. 2005/558, art. 2, Sch. 1
- F66** Word in s. 33(6) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 23(1)(6), **Sch. 4**; S.I. 2005/558, art. 2, Sch. 1
- F67** Words in s. 33(6)(c) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 153(2)(b)**, 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(c)(u)(i)
- F68** Words in s. 33(6)(c) inserted (11.7.2003) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), **ss. 12(5)**, 42(3); S.I. 2003/1580, art. 2(2)(a)
- F69** Words in s. 33(6)(c) substituted (11.11.2004) by The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004 (S.I. 2004/2987), arts. 1(1), **2(1)(a)**
- F70** S. 33(6)(ca) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, **Sch. 2 para. 23(6)**; S.I. 2005/558, art. 2, Sch. 1
- F71** Words in s. 33(6)(ca) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 153(2)(c)**, 245(5); S.I. 2008/172, art. 2(1)(c)
- F72** S. 33(6)(cb) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 27**; S.I. 2007/935, art. 5(gg)
- F73** S. 33(6)(d)(e) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(5)**; S.I. 2004/759, art. 9
- F74** Word in s. 33(6)(e) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(u)(i)
- F75** S. 33(6)(f) and word inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 153(2)(d)**, 245(5); S.I. 2008/172, art. 2(1)(c)
- F76** S. 33(6A) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 23(1)(7); S.I. 2005/558, art. 2, Sch. 1
- F77** S. 33(7)(8) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(6)**; S.I. 2004/759, art. 9
- F78** Words in s. 33(8)(c) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 187** (with Sch. 3 Pt. 1)

*Status: Point in time view as at 31/01/2008.*

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

**C36** S. 33(1) modified (4.1.2000 (E.) and 1.4.2000 (W.)) by 1999 c. 8, s. 21(2); S.I. 1999/2793, art. 2(2); S.I. 2000/1041, art. 2(b)

**34 Reports on impact of statutory provisions etc. E+W**

- (1) In addition to the studies referred to in section 33(1), 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 [<sup>F79</sup>by bodies subject to audit and local government bodies in Wales] and of other services provided by bodies subject to audit other than health service bodies [<sup>F80</sup>and by local government bodies in Wales], or on the financial management of [<sup>F81</sup>bodies subject to audit and local government bodies in Wales].
- (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, subject to subsection (4), require the Commission to provide 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 such information.
- (4) No information shall be required by the Comptroller and Auditor General under this section in respect of any particular body.
- (5) 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 studies of the Commission under this section and ought to be drawn to the attention of that House.
- (6) Before undertaking or promoting any study under this section the Commission shall consult—
- (a) the Comptroller and Auditor General;
  - [<sup>F82</sup>(b) the Secretary of State;]
  - [<sup>F83</sup>(bza) in the case of a study which has a connection with anything which may be inspected under Chapter 4 of Part 8 of the Education and Inspections Act 2006, Her Majesty's Chief Inspector of Education, Children's Services and Skills;]
  - [<sup>F84</sup>(ba) in the case of a study which has a connection with any English local authority social service (within the meaning of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003), the Commission for Social Care Inspection;
  - (bb) in the case of a study which has a connection with any Welsh local authority social service (within the meaning of that Part of that Act), the National Assembly for Wales;]
  - (c) such associations of local authorities or other bodies subject to audit as appear to it to be concerned; [<sup>F85</sup> ...
  - (d) such associations of employees as appear to it to be appropriate.

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[<sup>F86</sup>(da) in the case of a study relating to a local government body in Wales, also consult [<sup>F87</sup>the Welsh Ministers and] the Auditor General for Wales and take account of any relevant work done or being done by the Auditor General for Wales.]

[<sup>F88</sup>(6A) The Commission may undertake or promote studies under this section relating to a local government body in Wales only if the Commission considers it necessary or desirable to do so for the purposes of any of these—

- (a) a study into the impact of anything mentioned in paragraph (a) or (b) of subsection (1) on economy, efficiency and effectiveness in the provision of local authority services throughout England and Wales by all local government bodies or a description of local government body;
- (b) a study into the impact of anything mentioned in paragraph (a) or (b) of subsection (1) on economy, efficiency and effectiveness in the provision of other services throughout England and Wales by all local government bodies or a description of local government body;
- (c) a study into the impact of anything mentioned in paragraph (a) or (b) of subsection (1) on the financial management throughout England and Wales of all local government bodies or a description of local government body.]

#### Textual Amendments

- F79** Words in s. 34(1) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 24(2)(a), s. 73, **Sch. 2 para. 24(1)**; S.I. 2005/558, art. 2, Sch. 1
- F80** Words in s. 34(1) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 24(2)(b), s. 73, **Sch. 2 para. 24(1)**; S.I. 2005/558, art. 2, Sch. 1
- F81** Words in s. 34(1) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 24(2)(c), s. 73, **Sch. 2 para. 24(1)**; S.I. 2005/558, art. 2, Sch. 1
- F82** S. 34(6)(b) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 153(3)(a)**, 245(5); S.I. 2008/172, art. 2(1)(c)
- F83** S. 34(6)(bza) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 28**; S.I. 2007/935, art. 5(gg)
- F84** S. 34(6)(ba)(bb) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(7)**; S.I. 2004/759, art. 9
- F85** Word in s. 34(6) repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 24(1)(3), **Sch. 4**; S.I. 2005/558, art. 2, Sch. 1
- F86** S. 34(6)(da) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 24(1)(3); S.I. 2005/558, art. 2, Sch. 1
- F87** Words in s. 34(6)(da) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 153(3)(b)**, 245(5); S.I. 2008/172, art. 2(1)(c)
- F88** S. 34(6A) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 24(1)(4); S.I. 2005/558, art. 2, Sch. 1

<sup>F89</sup>**35 Studies at request of bodies subject to audit.** **E+W**

#### Textual Amendments

- F89** S. 35 repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 154(a), 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(d)(u)(i)

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**F90 35A Studies for functional bodies at request of Greater London Authority. E+W**

**Textual Amendments**

**F90** S. 35A repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 154(b), 245(5), [Sch. 18 Pt. 11](#); S.I. 2008/172, art. 2(1)(d)(u)(i)

**36 Studies at request of educational bodies. E+W**

(1) The Commission may promote or undertake studies designed to improve economy, efficiency and effectiveness in the management or operations of a body in the first column in the Table below if requested to do so by the body (or one of the bodies) specified in relation to it in the second column—

<i>Subject of study</i>	<i>Requesting body</i>
[ <sup>F91</sup> The Higher Education Funding Council for England].	The council.
The governing body of an institution [ <sup>F92</sup> in England] within the higher education sector.	The governing body or the [ <sup>F93</sup> Higher Education Funding Council for England].
[ <sup>F94</sup> The Training and Development Agency for Schools.	The agency.]
[ <sup>F94</sup> A training provider (within the meaning of Part 3 of the Education Act 2005) receiving financial support under section 78 of that Act from the Training and Development Agency for Schools, except where that financial support is wholly derived from grants made to the agency by the National Assembly for Wales.	The training provider or the agency.]
[ <sup>F95</sup> The Learning and Skills Council for England.	<sup>F95</sup> The council.]
<sup>F96</sup>	<sup>F96</sup>
...	...
<sup>F97</sup>	<sup>F97</sup>
...	...
The governing body of an institution [ <sup>F98</sup> in England] within the further education sector.	The governing body [ <sup>F99</sup> , ][ <sup>F100</sup> or the Learning and Skills Council for England]
<sup>F101</sup>	...
...	...
<sup>F101</sup>	...
...	...

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F101

...

...

- (2) The Commission may, at the request of [<sup>F102</sup>the Higher Education Funding Council for England]<sup>F103</sup> . . . , give the council advice in connection with the discharge of the council's functions under section 124B(2)(b) of the <sup>M15</sup>Education Reform Act 1988 or paragraph 18(2)(b) of Schedule 7 to that Act.
- (3) The Commission may, at the request of a higher education [<sup>F104</sup>corporation or further education corporation [<sup>F105</sup>in England]] —
- (a) advise them in connection with the appointment of persons to audit their accounts; and
  - (b) arrange for their accounts for any financial year to be audited by such of the Commission's officers as the corporation <sup>F106</sup>. . . may appoint.
- (4) In subsection (3)—
- (a) “higher education corporation” and “further education corporation” have the same meaning as in the <sup>M16</sup>Further and Higher Education Act 1992, and
  - (b) references to the accounts of a higher education corporation include references to any statement of accounts prepared by the corporation under paragraph 18 of Schedule 7 to the Education Reform Act 1988.
- (5) The Commission shall charge the body at whose request any services are provided under this section such fees as will cover the full cost of providing them.
- (6) This section shall be construed as one with the <sup>M17</sup>Education Act 1996; and references in any enactment to the Education Acts include a reference to this section.

#### Textual Amendments

- F91** Words in s. 36(1) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 25(2)(a), s. 73, **Sch. 2 para. 25(1)**; S.I. 2005/558, art. 2, Sch. 1
- F92** Words in s. 36(1) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 25(2)(b)(i), s. 73, **Sch. 2 para. 25(1)**; S.I. 2005/558, art. 2, Sch. 1
- F93** Words in s. 36(1) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 25(2)(b)(ii), s. 73, **Sch. 2 para. 25(1)**; S.I. 2005/558, art. 2, Sch. 1
- F94** Words in s. 36(1) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), **Sch. 14 para. 18**
- F95** Entries in s. 36(1) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 73(2)**; S.I. 2001/654, **art. 2 Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**
- F96** S. 36(1) entry repealed (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 25(2)(e), s. 73, Sch. 2 para. 25(1), **Sch. 4**; S.I. 2005/558, art. 2, Sch. 1
- F97** Entry in s. 36(1) repealed (1.4.2001) by 2000 c. 21, ss. 153, 154, **Sch. 11**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. 1 Pt. I** (with art. 3)
- F98** Words in s. 36(1) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 25(2)(f)(i), s. 73, **Sch. 2 para. 25(1)**; S.I. 2005/558, art. 2, Sch. 1
- F99** Words in entry in s. 36(1) substituted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 73(3)**; S.I. 2001/654, **art. 2 Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I**
- F100** Words in s. 36(1) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), para. 25(2)(f)(ii), s. 73, **Sch. 2 para. 25(1)**; S.I. 2005/558, art. 2, Sch. 1
- F101** Words in s. 36(1) repealed (1.4.1999) by 1998 c. 31, s. 140(3), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**
- F102** Words in s. 36(2) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 25(1)(3); S.I. 2005/558, art. 2, Sch. 1

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- F103** Words in s. 36(2) repealed (1.4.2001) by 2000 c. 21, ss. 149, 153, 154, Sch. 9 para. 73(4), **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3); S.I. 2001/1274, art. 2(1), **Sch. Pt. I** (with art. 3)
- F104** Words in s. 36(3) substituted (1.4.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 225** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**
- F105** Words in s. 36(3) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 25(1)(4); S.I. 2005/558, art. 2, Sch. 1
- F106** Words in s. 36(3)(b) repealed by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 225(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, art. 2(1), **Sch. 1**

**Marginal Citations**

- M15** 1988 c. 40.
- M16** 1992 c. 13.
- M17** 1996 c. 56.

**<sup>F108</sup>37 Assistance to [<sup>F107</sup>other bodies and persons] **E+W****

.....

**Textual Amendments**

- F107** Words in s. 37 heading substituted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 14 para. 35(2)**; S.I. 2007/709, art. 3(p) (with art. 6)
- F108** S. 37 repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 149(2), 245(5), **Sch. 18 Pt. 10**; S.I. 2008/172, art. 2(1)(a)(u)(i)

**38 Benefit administration studies for Secretary of State. **E+W****

(1) The Secretary of State may request the Commission to conduct or assist the Secretary of State in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by local authorities of functions relating to the administration of housing benefit and council tax benefit.

[<sup>F109</sup>(1A) The Secretary of State may not exercise the power conferred by subsection (1) in relation to a county council, county borough council or community council in Wales.]

(2) In the following provisions of this section “study” means a study which the Commission is requested to conduct, or assist the Secretary of State in conducting, under subsection (1).

(3) If the Commission requires—  
(a) a local authority included in a study, or  
(b) an officer or member of such an authority,  
to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.

(4) If the Commission requires a local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.

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- (5) Any information obtained under a requirement under subsection (3) or (4) may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with housing benefit or council tax benefit.
- (6) In subsections (3) and (4) “authorised person” means a person authorised by the Commission for the purposes of this section.
- (7) The Commission shall send to the Secretary of State a copy of any report of a study; and the Secretary of State or the Commission may send a copy of a report of a study to any local authority to which the study relates.
- (8) Any report of a study may be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not conduct, or assist the Secretary of State in conducting, a study unless before it does so the Secretary of State has made arrangements for the payment of such reasonable amount as may be agreed between him and the Commission in respect of the study.

#### Textual Amendments

**F109** S. 38(1A) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 26](#); [S.I. 2005/558, art. 2, Sch. 1](#)

### 39 Social security references and reports to Secretary of State. **E+W**

- (1) The Commission or an auditor may refer to the Secretary of State any matter arising from an audit or study under this Act if it appears that it may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.
- (2) The Commission may send to the Secretary of State a copy of any report of which a copy is sent to the Commission under section 10(2) and which contains observations on the administration by a local authority of housing benefit or council tax benefit.

### 40 Studies relating to registered social landlords. **E+W**

- (1) The [<sup>F110</sup>Housing Corporation] and the Commission may agree one or more programmes of comparative studies designed to enable the Commission to make recommendations for improving economy, efficiency and effectiveness of registered social landlords <sup>F111</sup>...
- (2) Where the [<sup>F112</sup>Housing Corporation] and the Commission fail to agree a programme proposed by either of them, either of them may refer the matter to the Secretary of State who may direct that the programme be carried out either without modifications or with modifications specified in the direction.

<sup>F113</sup>(2A) .....

- (3) Where a programme is agreed or is directed to be carried out, the Commission shall ensure that studies giving effect to the programme are carried out by it or on its behalf.
- (4) It shall be a term of every such programme that the [<sup>F114</sup>Housing Corporation] make good to the Commission the full costs incurred by the Commission in carrying out the programme.

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- (5) The Commission shall publish reports on the studies carried out under this section.
- (6) Before publishing any such report the Commission shall show a draft of it to the [F115Housing Corporation] and shall consider whether to revise the draft in the light of the comments made by the [F115Housing Corporation] .

#### Textual Amendments

- F110** Words in s. 40(1) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), para. 27\(2\)\(a\), s. 73, Sch. 2 para. 27\(1\)](#); S.I. 2005/558, art. 2, Sch. 1
- F111** Words in s. 40(1) repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 155\(1\), 245\(5\), Sch. 18 Pt. 11](#); S.I. 2008/172, art. 2(1)(e)(u)(i)
- F112** Words in s. 40(2) substituted (1.11.1998) by 1998 c. 38, s. 140, [Sch. 16 para. 99\(3\)](#) (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 5
- F113** S. 40(2A) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 27\(1\)\(3\), Sch. 4](#); S.I. 2005/558, art. 2, Sch. 1
- F114** Words in s. 40(4) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 27\(1\)\(4\)](#); S.I. 2005/558, art. 2, Sch. 1
- F115** Words in s. 40(6) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 27\(1\)\(5\)](#); S.I. 2005/558, art. 2, Sch. 1

#### 41 Provisions supplementary to section 40. **E+W**

- (1) The Commission may, if authorised to do so by the [F116Housing Corporation]—
- (a) require a registered social landlord, or any officer or member of a registered social landlord, to supply such information as the Commission may require for the purposes of any study under section 40; and
  - (b) require a registered social landlord included in any such study to make available for inspection such documents as are reasonably required for the purposes of the study.
- (2) The Commission may require the information to be supplied, or the documents to be made available, to the Commission or to a person authorised by the Commission for the purposes of this section.
- (3) A person who without reasonable excuse fails to comply with a requirement under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Information obtained by the Commission, or by a person acting on behalf of the Commission, in the course of a study under section 40 may be disclosed by the Commission to the [F117Housing Corporation].

#### Textual Amendments

- F116** Words in s. 41(1) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 28\(1\)\(2\)](#); S.I. 2005/558, art. 2, Sch. 1
- F117** Words in s. 41(4) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 28\(1\)\(3\)](#); S.I. 2005/558, art. 2, Sch. 1



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**[<sup>F118</sup>41A Inspections of registered social landlords E+W**

- (1) The Commission may carry out an inspection of—
- (a) the quality of services provided by a registered social landlord;
  - (b) a registered social landlord's arrangements for securing continuous improvement in the efficiency, effectiveness and economy with which it provides services.

<sup>F119</sup>(1A) . . . . .

- (2) Where the Commission has carried out an inspection under subsection (1) it shall issue a report.
- (3) A report under subsection (2) shall mention any matter that, as a result of the inspection, the Commission considers should be drawn specifically to the attention of the [<sup>F120</sup>Housing Corporation] .
- (4) The Commission—
- (a) shall send a copy of a report under subsection (2) to the registered social landlord concerned and to the [<sup>F121</sup>Housing Corporation] ;
  - (b) may publish a report under subsection (2) and any information in respect of a report.
- (5) Section 11 of the Local Government Act 1999 (best value inspections under section 10: inspectors' powers and duties, and offences) shall apply for the purposes of an inspection of a registered social landlord under subsection (1) of this section as it applies for the purposes of an inspection of a best value authority under section 10 of that Act.
- (6) The Commission shall, when drawing up any programme of inspections under subsection (1), consult the [<sup>F122</sup>Housing Corporation] .

**Textual Amendments**

- F118** Ss. 41A, 41B inserted (18.11.2003 for specified purposes, 27.11.2003 for specified purposes, 1.4.2004 in so far as not already in force) by [Local Government Act 2003 \(c. 26\)](#), **ss. 109(1), 128(3)(c)(4)(d)**; [S.I. 2003/2938](#), **arts. 2(d), 6(a)** (with art. 8, Sch.); [S.I. 2003/3034](#), Sch. 1 Pt. 1
- F119** S. 41A(1A) repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 155(2), 245(5), Sch. 18 Pt. 11**; [S.I. 2008/172](#), art. 2(1)(e)(u)(i)
- F120** Words in s. 41A(3) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 29(1)(3); [S.I. 2005/558](#), art. 2, Sch. 1
- F121** Words in s. 41A(4)(a) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 29(1)(4); [S.I. 2005/558](#), art. 2, Sch. 1
- F122** Words in s. 41A(6) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 29(1)(5); [S.I. 2005/558](#), art. 2, Sch. 1

**41B Fees for inspections under section 41A E+W**

- (1) The [<sup>F123</sup>Secretary of State] may by order make provision of any of the following kinds in relation to the charging of fees by the Commission in respect of inspections under section 41A(1)—
- (a) provision authorising the Commission to prescribe a scale or scales of fees in respect of inspections;

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- (b) provision governing the prescribing of scales;
- (c) provision requiring a registered social landlord inspected under section 41A(1) to pay to the Commission any fee applicable to the inspection in accordance with a scale prescribed under provision of the kind mentioned in paragraph (a);
- (d) such incidental, consequential or supplementary provision as the <sup>F123</sup>Secretary of State] thinks necessary or expedient.

<sup>F124</sup>(2) .....

- (3) The Secretary of State shall, before making an order under subsection (1), consult—
  - (a) the Commission and the Housing Corporation, and
  - (b) persons appearing to the Secretary of State to represent registered social landlords affected by his proposals.

<sup>F125</sup>(4) .....

- (5) The Commission shall, before prescribing a scale of fees that it is authorised to prescribe by an order under subsection (1) <sup>F126</sup>..., consult—
  - (a) the Secretary of State and the Housing Corporation, and
  - (b) persons appearing to the Commission to represent registered social landlords affected by its proposals.

<sup>F127</sup>(6)] .....

**Textual Amendments**

**F118** Ss. 41A, 41B inserted (18.11.2003 for specified purposes, 27.11.2003 for specified purposes, 1.4.2004 in so far as not already in force) by [Local Government Act 2003 \(c. 26\)](#), **ss. 109(1), 128(3)(c)(4)(d)**; [S.I. 2003/2938](#), [arts. 2\(d\), 6\(a\)](#) (with [art. 8](#), [Sch.](#)); [S.I. 2003/3034](#), [Sch. 1 Pt. 1](#)

**F123** Words in s. 41B(1) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), [s. 73](#), [Sch. 2 para. 30\(1\)\(2\)](#); [S.I. 2005/558](#), [art. 2](#), [Sch. 1](#)

**F124** S. 41B(2) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), [s. 73](#), [Sch. 2 para. 30\(1\)\(3\)](#), [Sch. 4](#); [S.I. 2005/558](#), [art. 2](#), [Sch. 1](#)

**F125** S. 41B(4) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), [s. 73](#), [Sch. 2 para. 30\(1\)\(3\)](#), [Sch. 4](#); [S.I. 2005/558](#), [art. 2](#), [Sch. 1](#)

**F126** Words in s. 41B(5) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), [s. 73](#), [Sch. 2 para. 30\(1\)\(4\)](#), [Sch. 4](#); [S.I. 2005/558](#), [art. 2](#), [Sch. 1](#)

**F127** S. 41B(6) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), [s. 73](#), [Sch. 2 para. 30\(1\)\(3\)](#), [Sch. 4](#); [S.I. 2005/558](#), [art. 2](#), [Sch. 1](#)

<sup>F128</sup>**41C Advice and assistance for registered social landlords** **E+W**

- (1) The Commission may, if it thinks it appropriate to do so, provide advice or assistance to a registered social landlord for the purpose of the exercise by the registered social landlord of its functions.
- (2) Advice or assistance under this section may be provided on such terms, including terms as to payment, as the Commission thinks fit.]

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**Textual Amendments**

**F128** S. 41C inserted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 155(3), 245(5); S.I. 2008/172, art. 2(1)(e)

<sup>F129</sup>**42** **Consultancy services relating to audit of accounts of registered social landlords.** **E+W**

.....

**Textual Amendments**

**F129** S. 42 repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 155(4), 245(5), [Sch. 18 Pt. 11](#); S.I. 2008/172, art. 2(1)(e)(u)(i)

[<sup>F130</sup>**43** **Meaning of “registered social landlord”** **E+W**

In sections 40 to 41C, “registered social landlord” means a body registered as a social landlord under Part 1 of the Housing Act 1996, other than a body mentioned in any of paragraphs (a) to (c) of section 56(2) of that Act (bodies registered in Wales).]

**Textual Amendments**

**F130** S. 43 substituted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 155(5), 245(5); S.I. 2008/172, art. 2(1)(e)

*Performance standards of local authorities etc.*

<sup>F131</sup>**44** **Publication of information as to standards of performance.** **E+W**

.....

**Textual Amendments**

**F131** Ss. 44-47 repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 156, 245(5), [Sch. 18 Pt. 11](#); S.I. 2008/172, art. 2(1)(u)(i)

<sup>F131</sup>**45** **Permitted methods of publishing information under section 44.** **E+W**

.....

**Textual Amendments**

**F131** Ss. 44-47 repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 156, 245(5), [Sch. 18 Pt. 11](#); S.I. 2008/172, art. 2(1)(u)(i)

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<sup>F131</sup>**46 Directions under section 44.** **E+W**

.....

**Textual Amendments**

**F131** Ss. 44-47 repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), ss. 156, 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(u)(i)

<sup>F131</sup>**47** [<sup>F132</sup>**Application to parish councils and charter trustees.**] **E+W**

.....

**Textual Amendments**

**F131** Ss. 44-47 repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), ss. 156, 245(5), **Sch. 18 Pt. 11**; S.I. 2008/172, art. 2(1)(u)(i)

**F132** S. 47 Heading substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004](#) (c. 23), s. 73, **Sch. 2 para. 32(a)**; S.I. 2005/558, art. 2, Sch. 1

**PART IV** **E+W**

GENERAL

<sup>F133</sup>*Interaction with other authorities*

**Textual Amendments**

**F133** S. 47B and cross-heading inserted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 149(3)**, 245(5); S.I. 2008/172, art. 2(1)(a)

**47B Interaction with other authorities** **E+W**

Schedule 2A (interaction with other authorities) has effect.]

*Information etc.*

**48 Provision of information and documents to Commission.** **E+W**

- (1) Without prejudice to any other provision of this Act, the Commission may require—
  - (a) any body subject to audit, and
  - (b) any officer or member of such a body,
 to provide the Commission or a 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 Act of the Commission or of that person, including the carrying out of any study under section 33 or 34.
- (2) Subsection (1) does not apply to functions under section 36.

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- (3) For the purpose of assisting the Commission to maintain proper standards in the auditing of the accounts of a body subject to audit the Commission may require that body to make available for inspection by or on behalf of the Commission—
  - (a) the accounts concerned; and
  - (b) such other documents relating to the body as might reasonably be required by an auditor for the purposes of the audit.
- (4) A person who without reasonable excuse fails to comply with a requirement of the Commission under subsection (1)(b) is guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale, and
  - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.
- (5) Any expenses incurred by the Commission in connection with proceedings for an offence under subsection (4) alleged to have been committed by an officer or member of a body, so far as not recovered from any other source, are recoverable from that body.

#### 49 **Restriction on disclosure of information.** E+W

- (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 Act [<sup>F134</sup>or of Part I of the Local Government Act 1999] or in the course of any audit or study under any such provision shall be disclosed except—
  - (a) with the consent of the body or person to whom the information relates;
  - (b) for the purposes of any functions of the Commission or an auditor under this Act [<sup>F135</sup>or under Part I of the 1999 Act];
  - <sup>F136</sup>(ba) to the Commission for Social Care Inspection for the purposes of its functions under Chapter 5 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003;
  - (bb) to the National Assembly for Wales for the purposes of its functions under Chapter 4 of that Part of that Act;
  - (c) in the case of a health service body, for those purposes or for the purposes of the functions of the Secretary of State and the Comptroller and Auditor General under [<sup>F137</sup>the National Health Service Act 2006][<sup>F138</sup> or for the purposes of the functions of the Commission for Healthcare Audit and Inspection under Chapter 3 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003] ;
  - <sup>F139</sup>(ca) to Her Majesty's Chief Inspector of Education, Children's Services and Skills for the purposes of his functions under Chapter 4 of Part 8 of the Education and Inspections Act 2006;
  - (d) for the purposes of the functions of the Secretary of State relating to social security;
  - <sup>F140</sup>(da) for the purposes of any function of the Auditor General for Wales under the Public Audit (Wales) Act 2004 or (in relation to a health service body) under the Government of Wales Act 1998;
  - <sup>F141</sup>(dd) to the Mayor of London, where the information relates to the Greater London Authority or a functional body;

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- [<sup>F142</sup>(de) for the purposes of the functions of an ethical standards officer or the Public Services Ombudsman for Wales under Part 3 of the Local Government Act 2000;]
- <sup>F143</sup>(e) .....
- (f) for the purposes of any criminal proceedings.
- <sup>F144</sup>(1A) .....
- (2) References in subsection (1) to studies and to functions of the Commission do not include studies or functions under section 36.
- [<sup>F145</sup>(2A) A person who is, or acts on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, may also disclose such information—
- (a) in accordance with section 41(4); or
- (b) in any other circumstances, except where the disclosure would, or would be likely to, prejudice the effective performance of a function imposed or conferred on the person by or under an enactment.
- (2B) An auditor who does not fall within subsection (2A), or a person acting on his behalf, may also disclose such information except where the disclosure would, or would be likely to, prejudice the effective performance of a function imposed or conferred on the auditor by or under an enactment.
- (2C) A person who does not fall within subsection (2A) or (2B) may also disclose such information in accordance with consent given by the Commission or an auditor.
- (2D) Section 49ZA makes further provision about consent for the purposes of subsection (2C).]
- (3) A person who discloses information in contravention of [<sup>F146</sup>this section] is guilty of an offence and liable—
- (a) on summary conviction, <sup>F147</sup>... to a fine not exceeding the statutory maximum
- <sup>F147</sup>...
- <sup>F148</sup>(b) .....

### Textual Amendments

- F134** Words in s. 49(1) inserted (27.9.1999 subject to art. 3(2)(b) of S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, **art. 22(5)(a)**; S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- F135** Words in s. 49(1)(b) inserted (27.9.1999 subject to art. 3(2)(b) S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, **art. 22(5)(b)**; S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- F136** S. 49(1)(ba)(bb) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(10)(a)**; S.I. 2004/759, art. 9
- F137** Words in s. 49(1)(c) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 188** (with Sch. 3 Pt. 1)
- F138** Words in s. 49(1)(c) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 12(10)(b)**; S.I. 2004/759, art. 9
- F139** S. 49(1)(ca) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 14 para. 30**; S.I. 2007/935, art. 5(gg)
- F140** S. 49(1)(da) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, **Sch. 2 para. 33**; S.I. 2005/558, art. 2, **Sch. 1**
- F141** S. 49(1)(dd) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s. 133(2), **Sch. 8 para. 11** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

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- F142** S. 49(1)(de) substituted for (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 59**; S.I. 2005/2800, art. 5(1)(3)
- F143** S. 49(1)(e) omitted (1.1.2005) by virtue of The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), arts. 1, **8(2)(a)**
- F144** S. 49(1A) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(2), 245(5), **Sch. 18 Pt. 12** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)
- F145** S. 49(2A)-(2D) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 164(3), 245(5)** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)
- F146** Words in s. 49(3) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 164(4)(a), 245(5)** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)
- F147** Words in s. 49(3)(a) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(4)(b), 245(5), **Sch. 18 Pt. 12** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)
- F148** S. 49(3)(b) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 164(4)(c), 245(5), **Sch. 18 Pt. 12** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)

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

- C37** S. 49(1): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2), **Sch. 4 Pt. I para. 41**

[<sup>F149</sup>**49ZA Consent under section 49(2C)** **E+W**]

- (1) Consent for the purposes of section 49(2C) must be obtained in accordance with this section.
- (2) A person requesting consent (“the applicant”) must make a request for consent which—
  - (a) is in writing,
  - (b) states the name of the applicant and an address for correspondence,
  - (c) describes the information in relation to which consent is requested, and
  - (d) identifies the person to whom the information will be disclosed.
- (3) Consent must be given except where the disclosure would, or would be likely to, prejudice the effective performance of a function imposed or conferred on the Commission or an auditor by or under an enactment.
- (4) Consent may be given or refused orally or in writing; but where it is given or refused orally the consent or refusal must be confirmed in writing.
- (5) A refusal (or, where the refusal is oral, the confirmation of the refusal) must contain the reasons for the refusal.
- (6) A person to whom a request for consent is made must give or refuse consent not later than the twentieth working day following the day on which the request is received.
- (7) “Working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.]

**Textual Amendments**

- F149** S. 49ZA inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 164(5), 245(5)** (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)

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<sup>F150</sup>**49A. Disclosure of information by or on behalf of public authorities** **E+W**

.....

**Textual Amendments**

**F150** S. 49A repealed (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 164(6), 245(5), [Sch. 18 Pt. 12](#) (with s. 164(7)); S.I. 2008/172, art. 2(1)(f)(u)(i)

**50 Supply of benefit information to Commission.** **E+W**

The Secretary of State may supply to the Commission any information held by him which relates to housing benefit or council tax benefit and which appears to him to be relevant to the exercise of any function of the Commission.

**51 Publication of information by the Commission.** **E+W**

- (1) Subject to subsections (2) to (4), the Commission may publish such information as it thinks fit with respect to any of the following—
- (a) a contravention by a body subject to audit of any obligation imposed on that body by virtue of section 44(2);
  - (b) the making by an auditor of a report under section 8 to any such body, the subject-matter of any such report and the decision made and other action taken by any such body in response to the receipt of any such report or to anything contained in it;
  - (c) a contravention by any such body of regulations made under section 27.
- (2) The information that may be published by virtue of subsection (1)(b) does not include—
- (a) information with respect to a report made to a health service body or to any decision or other action by such a body; or
  - (b) information excluded under subsection (3)(a) of section 12 from any notice published for the purposes of subsection (2)(b) of that section.
- (3) Before publishing information under this section relating to—
- (a) the conduct or decisions of a body subject to audit, or
  - (b) a report made to such a body,
- the Commission shall notify the body of its proposal to publish the information.
- (4) Information published under this section shall be published in such manner as the Commission considers appropriate for bringing the information to the attention of those members of the public who may be interested.

<sup>F151</sup>**51A Co-operation with the Auditor General for Wales** **E+W**

The Commission must co-operate with the Auditor General for Wales where it seems to it appropriate to do so for the efficient and effective discharge of—

- (a) its functions under sections 33 and 34, or
- (b) its functions in relation to bodies mentioned in paragraph 1(g) of Schedule 2.



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#### Textual Amendments

**F151** S. 51A - S. 51B inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 34](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

### **51B** Provision of information to Auditor General for Wales **E+W**

The Commission must, on request, provide the Auditor General for Wales with any information he may reasonably require for the purpose of making comparisons, in the discharge of his functions under sections 41 and 42 of the Public Audit (Wales) Act 2004, between local government bodies in Wales and other local government bodies.]

#### Textual Amendments

**F151** S. 51A - S. 51B inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 34](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

### *Supplementary*

### **52** Orders and regulations. **E+W**

- (1) Any power conferred on the Secretary of State <sup>F152</sup>... by this Act to make orders or regulations is exercisable by statutory instrument.
- (2) No order shall be made under paragraph 9(2) of Schedule 1 unless a draft of the order has been approved by a resolution of the House of Commons.
- (3) In any other case, an order or regulations contained in a statutory instrument made by the Secretary of State under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F152** Words in s. 52(1) repealed (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 35](#), [Sch. 4](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#) (with [Sch. 2 para. 2](#))

### **53** Interpretation. **E+W**

- (1) In this Act—
  - “the 1972 Act” means the <sup>M18</sup>Local Government Act 1972;  
<sup>F153</sup> . . .
  - “auditor”, in relation to the accounts of any body, means (except in section 31(1)) 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 3(11), includes a person assisting an auditor under arrangements approved under section 3(9);
  - [<sup>F154</sup>“best value authority” means a best value authority for the purposes of Part I of the Local Government Act 1999;]

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“body subject to audit” means a body whose accounts are required to be audited in accordance with this Act;

“the Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales;

[<sup>F155</sup>“functional body” means a functional body within the meaning of the Greater London Authority Act 1999 (see section 424(1) of that Act);]

“the health service” has the same meaning as in [<sup>F156</sup>the National Health Service Act 2006] ;

[<sup>F157</sup>“health service body” means an [<sup>F158</sup>NHS body (within the meaning of Schedule 15 to the National Health Service Act 2006)] , other than a Special Health Authority;]

[<sup>F159</sup>“local government body” means a body mentioned in paragraph 1 of Schedule 2, other than one mentioned in paragraph (g) of that paragraph;]

[<sup>F159</sup>“local government body in Wales” has the meaning given in section 12(1) of the Public Audit (Wales) Act 2004;]

“statutory provision” means any provision contained in or having effect under any enactment.

[<sup>F159</sup>“Welsh NHS body” has the meaning given in section 60 of the Public Audit (Wales) Act 2004;]

- (2) Subject to paragraph 11(5) of Schedule 1, section 270 of the 1972 Act (general interpretation) applies for the interpretation of this Act.
- (3) A reference in this Act to the accounts of a body—
- (a) in relation to the Common Council is a reference to the accounts mentioned in paragraph 2(a) and (b) of Schedule 2; <sup>F160</sup> . . .
  - (b) . . . . .
- (4) A reference in this Act to a local government elector for any area—
- (a) in relation to the Broads Authority, is a reference to a local government elector for the area of any participating authority (as defined by section 25 of the <sup>M19</sup>Norfolk and Suffolk Broads Act 1988); and
  - (b) in relation to a National Park authority which is the local planning authority for a National Park, is a reference to a local government elector for any area the whole or any part of which is comprised in that Park.
- [<sup>F161</sup>(5) Any functions conferred or imposed on the Greater London Authority under or by virtue of this Act shall be functions which are exercisable by the Mayor of London acting on behalf of the Authority.
- <sup>F161</sup>(6) Subsection (5) does not apply in relation to any function expressly conferred on the London Assembly.]

#### Textual Amendments

**F153** Definitions of “alloted sum” and “recognised fund-holding practice” in s. 53(1) repealed (1.10.1999) by 1999 c. 8, s. 65, **Sch. 5**; S.I. 1999/2540, art. 1(2), **Sch. 1**

**F154** Definiton of “best value authority” inserted (27.9.1999 subject to art. 3(2)(b) of S.I. 1999/2169 and otherwise 1.10.1999) by 1999 c. 27, s. 22(6); S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**

**F155** Definition of “functional body” in s.53(1) inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 27, s. 133(2), **Sch. 8 para. 12(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

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- F156** Words in s. 53(1) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 189](#) (with Sch. 3 Pt. 1)
- F157** Words in s. 53(1) substituted (1.10.2006 except so far as relating to Welsh NHS bodies) by [Health Act 2006 \(c. 28\), s. 83\(7\), Sch. 8 para. 41](#); S.I. 2006/2603, art. 5(b) (with art. 6)
- F158** S. 53(1) amendment to earlier affecting provision 2006 c. 28 Sch. 8 para. 41 (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 296](#) (with Sch. 3 Pt. 1)
- F159** Words in s. 53(1) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 36](#); S.I. 2005/558, art. 2, Sch. 1 (with Sch. 2 para. 2)
- F160** S. 53(3)(b) and word “and” immediately preceding it repealed (1.10.1999) by [1999 c. 8 s. 65, Sch. 5](#); S.I. 1999/2540, art. 1(2)(a), [Sch. 1](#)
- F161** S. 53(5)(6) inserted (8.5.2000 for purposes as mentioned in art. 3 of the commencing S.I. and 3.7.2000 otherwise) by [1999 c. 27, s. 133\(2\), Sch. 8 para. 12\(1\)\(3\)](#) (with Sch. 12 para. 9(1)); S.I. 1999/3434, [arts. 3, 4](#)

#### Marginal Citations

- M18** [1972 c. 70.](#)
- M19** [1988 c. 4.](#)

#### 54 Consequential amendments, transitionals and repeals. **E+W**

- (1) Schedule 3 (consequential amendments) has effect.
- (2) Schedule 4 (transitional provisions, savings etc.) has effect.
- (3) The enactments mentioned in Schedule 5 are repealed or revoked to the extent specified in the third column of that Schedule.

#### 55 Short title, commencement and extent. **E+W**

- (1) This Act may be cited as the Audit Commission Act 1998.
- (2) This Act comes into force at the end of the period of three months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales only.

**Status:**

Point in time view as at 31/01/2008.

**Changes to legislation:**

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