



# Audit Commission Act 1998 (repealed)

## 1998 CHAPTER 18

### PART II

#### ACCOUNTS AND AUDIT OF PUBLIC BODIES

##### *Audit of accounts*

#### **2 Required audit of accounts.**

- (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.**

- (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.

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- (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Local Government Finance Act 1982, and the approval has not been withdrawn.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 [<sup>F1</sup>the appointment provides that the audit may be conducted only by a member or employee of the firm who] 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;
  - (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).

#### **Textual Amendments**

**F1** Words in s. 3(6) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 159, 245(5)**; S.I. 2008/172, art. 4(g)

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

**C1** 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**

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**C2** 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.

- (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 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>F2</sup>... 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>F3</sup>... such associations of local authorities as appear to the Commission to be concerned; and
  - (c) in any case, [<sup>F4</sup>the National Assembly for Wales [<sup>F5</sup>, the Care Quality Commission] and] such bodies of accountants as appear to the Commission to be appropriate.
- <sup>F6</sup>(8) The Commission must obtain the agreement of [<sup>F7</sup>the Care Quality Commission] 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

**F2** Words in s. 4(7)(a) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 64(2)(a), **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(x)36

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- F3** Words in s. 4(7)(b) repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 64(2)(b), **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(x)36
- F4** 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
- F5** Words in s. 4(7)(c) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 64(2)(c)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F6** 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
- F7** Words in s. 4(8) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 64(3)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)

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

- C3** 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.**

- (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>F8</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>F9</sup>(f) .....
- (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**

- F8** 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)
- F9** 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.**

- (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>F10</sup>(1A) The right conferred by subsection (1) includes power to inspect, copy or take away the document.]

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- (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>F11</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>F12</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.]
- (5) Without prejudice to subsections (1) to <sup>F13</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>F14</sup>obstructs the exercise of any power conferred by this section or] fails to comply with any requirement of an auditor under <sup>F15</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

**F10** 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)

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- F11** 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.**
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)**

- C4** 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.**

- (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>[F16]</sup>[<sup>F17</sup>such] 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, <sup>[F18]</sup>the Care Quality Commission and] such bodies of accountants as appear to the Commission to be appropriate.
- (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

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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>F19</sup>(aa) the Care Quality 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.

#### Textual Amendments

- F16** 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
- F17** Word in s. 7(2)(a) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 65(2)(a)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F18** Words in s. 7(2)(c) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 65(2)(b)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F19** S. 7(9)(aa) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 65(3)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)

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

- C5** 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**
- C6** 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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