



# Audit Commission Act 1998 (repealed)

## 1998 CHAPTER 18

### PART II

#### ACCOUNTS AND AUDIT OF PUBLIC BODIES

##### *Auditors' reports and recommendations*

#### **8 Immediate and other reports in public interest.**

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.**

- (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.

*Status: Point in time view as at 28/03/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Cross Heading: Auditors' reports and recommendations. (See end of Document for details)*

## 10 Transmission and consideration of section 8 reports.

- (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>F1</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>F2</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>F3</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>F4</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—
    - (a) from the matter supplied under section 1(4)(b) of the <sup>M1</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

- F1** 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**
- F2** 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**
- F3** 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**
- F4** 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

- M1** 1960 c. 67.

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## 11 Consideration of reports or recommendations.

- (1) A body to which this section applies shall consider in accordance with this section and section 12 [<sup>F5</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>F6</sup>(f) local probation boards established under section 4 of the Criminal Justice and Court Services Act 2000]
  - [<sup>F7</sup>(fa) probation trusts;]
  - (g) Passenger Transport Executives.
- [<sup>F8</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.]
- (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>F9</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>F10</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>F11</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>F12</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,

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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>F13</sup>(8A) In the case of the London Development Agency or Transport for London, neither—

- (a) paragraph 7 of Schedule 2 to the <sup>M2</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>M3</sup>Local Government Finance Act 1988 (functions and reports of finance officers), section 5 of the <sup>M4</sup>Local Government and Housing Act 1989 (functions of monitoring officers) or any other enactment.

#### Textual Amendments

- F5** 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**
- F6** 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)
- F7** S. 11(2)(fa) inserted (1.3.2008) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 1 para. 13(4)(a)**; S.I. 2008/504, **art. 2(a)**
- F8** 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**
- F9** 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**
- F10** 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.)
- F11** 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.)
- F12** 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**
- F13** 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

- M2** 1998 c. 45.
- M3** 1988 c. 41.
- M4** 1989 c. 42.

[<sup>F14</sup>**11A Greater London Authority: consideration of reports and recommendations.**

- (1) This section applies where—
  - (a) a report under section 8, or
  - (b) any written recommendation within subsection (3) of section 11,

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- 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>F15</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>F16</sup>one month] mentioned in subsection (8).
  - (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

- F14** 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**
- F15** 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.**)
- F16** 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.**)

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## 12 Publicity for meetings under section 11.

- (1) A meeting shall not be held for the purposes of section 11 [<sup>F17</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>F18</sup>(or, in the case of the Greater London Authority, the making of the making of decisions under section 11A(6))]<sup>—</sup>
- (a) the auditor of its accounts is notified of the decisions made in pursuance of section 11(5) [<sup>F19</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
    - (iii) in pursuance of a resolution under section 1(2) of the <sup>M5</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

- F17** 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**
- F18** 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**
- F19** 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

- M5** 1960 c. 67.

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### **13 Additional publicity for immediate reports.**

- (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—
  - (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>F20</sup>13A Additional publicity for non-immediate reports**

- (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)  
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- (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.]

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**Textual Amendments**

**F20** 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.](#))



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