



# Audit Commission Act 1998 (repealed)

## 1998 CHAPTER 18

### PART III

#### STUDIES, PERFORMANCE STANDARDS AND OTHER FUNCTIONS

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

**C1** 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.**

- (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>F1</sup>the exercise of the functions of best value authorities [<sup>F2</sup>which are bodies subject to audit] and the provision of services provided by other bodies subject to audit][<sup>F3</sup>and by local government bodies in Wales]; and
  - (b) for improving the financial or other management of bodies subject to audit [<sup>F4</sup>and local government bodies in Wales].

<sup>F5</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);

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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>F6</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.
- (6) <sup>F7</sup>Before undertaking or promoting any study under this section ... the Commission shall—
- [<sup>F8</sup>(za) consult the Secretary of State;]
  - (a) consult such associations of [<sup>F9</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>F10</sup> ...
  - (c) in the case of any health service bodies, also consult [<sup>F11</sup>the Care Quality Commission] and the Comptroller and Auditor General.
  - [<sup>F12</sup>(ca) in the case of a study relating to a local government body in Wales, also consult [<sup>F13</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>F14</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>F15</sup>(d) in the case of a study which has a connection with adult social services (within the meaning of Part 1 of the Health and Social Care Act 2008), also consult the Care Quality Commission; and]
  - (e) in the case of a study which has a connection with Welsh local authority social services (within the meaning of [<sup>F16</sup>Part 2 of the Health and Social Care (Community Health and Standards) Act 2003]), also consult the National Assembly for Wales [<sup>F17</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>F18</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>F19</sup>(7) The following provisions of this section do not apply in relation to the bodies specified in subsection (8)—

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- (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;
  - (c) any NHS trust (within the meaning of <sup>F20</sup>the National Health Service Act 2006) all or most of whose hospitals, establishments and facilities are situated in England.]

#### Textual Amendments

- F1** 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**
- F2** 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
- F3** 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
- F4** 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
- F5** 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)
- F6** 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
- F7** 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)
- F8** 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)
- F9** 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
- F10** 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
- F11** Words in s. 33(6)(c) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 66(2)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F12** 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
- F13** 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)
- F14** 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)
- F15** S. 33(6)(d) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 66(3)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F16** Words in s. 33(6)(e) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 66(4)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F17** 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)
- F18** 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
- F19** 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

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**F20** 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)

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

**C2** S. 33 modified (temp.) (1.10.2008) by [The Health and Social Care Act 2008 \(Consequential Amendments and Transitory Provisions\) Order 2008 \(S.I. 2008/2250\), arts. 1\(1\), 3\(5\)](#)

**C3** 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.

- (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>F21</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>F22</sup>and by local government bodies in Wales], or on the financial management of [<sup>F23</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>F24</sup>(b) the Secretary of State;]
  - [<sup>F25</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>F26</sup>(ba) in the case of a study which has a connection with adult social services (within the meaning of Part 1 of the Health and Social Care Act 2008), the Care Quality Commission;]
  - (bb) in the case of a study which has a connection with any Welsh local authority social service (within the meaning of [<sup>F27</sup>Part 2 of the Health and Social Care

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(Community Health and Standards) Act 2003]), 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>F28</sup> ...
- (d) such associations of employees as appear to it to be appropriate.
- [<sup>F29</sup>(da) in the case of a study relating to a local government body in Wales, also consult [<sup>F30</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>F31</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

- F21** 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
- F22** 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
- F23** 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
- F24** 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)
- F25** 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)
- F26** S. 34(6)(ba) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 67(2)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F27** Words in s. 34(6)(bb) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 67(3)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(x)
- F28** 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
- F29** 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
- F30** 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)
- F31** 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

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**F32 35 Studies at request of bodies subject to audit.**

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**Textual Amendments**

**F32** 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)

**F33 35A Studies for functional bodies at request of Greater London Authority.**

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**Textual Amendments**

**F33** 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.**

- (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>F34</sup> The Higher Education Funding Council for England].	The council.
The governing body of an institution [ <sup>F35</sup> in England] within the higher education sector.	The governing body or the [ <sup>F36</sup> Higher Education Funding Council for England].
[ <sup>F37</sup> The Training and Development Agency for Schools.	The agency.]
[ <sup>F37</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>F38</sup> The Learning and Skills Council for England.	<sup>F38</sup> The council.]
<sup>F39</sup>	<sup>F39</sup>
...	...
<sup>F40</sup>	<sup>F40</sup>

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...  
The governing body of an institution [<sup>F41</sup> The governing body [<sup>F42</sup>, ]<sup>F43</sup>or the  
in England] within the further education Learning and Skills Council for  
sector. England]  
<sup>F44</sup> ...  
...  
<sup>F44</sup> ...  
...  
<sup>F44</sup> ...  
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...

- (2) The Commission may, at the request of [<sup>F45</sup>the Higher Education Funding Council for England]<sup>F46</sup> . . . , give the council advice in connection with the discharge of the council's functions under section 124B(2)(b) of the <sup>M1</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>F47</sup>corporation or further education corporation [<sup>F48</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>F49</sup> . . . may appoint.
- (4) In subsection (3)—
- (a) “higher education corporation” and “further education corporation” have the same meaning as in the <sup>M2</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>M3</sup>Education Act 1996; and references in any enactment to the Education Acts include a reference to this section.

#### Textual Amendments

- F34** 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
- F35** 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
- F36** 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
- F37** Words in s. 36(1) substituted (1.9.2005) by Education Act 2005 (c. 18), s. 125(3)(a), **Sch. 14 para. 18**
- F38** 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**
- F39** 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
- F40** 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)



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- F41** 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**
- F42** 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**
- F43** 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**
- F44** 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**
- F45** 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**
- F46** 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)
- F47** 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**
- F48** 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**
- F49** 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**

- M1** 1988 c. 40.
- M2** 1992 c. 13.
- M3** 1996 c. 56.

**<sup>F51</sup>37 Assistance to [<sup>F50</sup>other bodies and persons]**

.....

**Textual Amendments**

- F50** 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)
- F51** 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.**

(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>F52</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,



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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.
- (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**

**F52** 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.**

- (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.**

- (1) The [<sup>F53</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>F54</sup> ... .
- (2) Where the [<sup>F55</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.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III. (See end of Document for details)*

<sup>F56</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>F57</sup>Housing Corporation] make good to the Commission the full costs incurred by the Commission in carrying out the programme.
- (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 [<sup>F58</sup>Housing Corporation] and shall consider whether to revise the draft in the light of the comments made by the [<sup>F58</sup>Housing Corporation] .

#### Textual Amendments

- F53** 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
- F54** 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)
- F55** 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**
- F56** 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
- F57** 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
- F58** 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

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

- C4** Ss. 40-41B modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 1** (with art. 6)

#### 41 Provisions supplementary to section 40.

- (1) The Commission may, if authorised to do so by the [<sup>F59</sup>Housing 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.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III. (See end of Document for details)*

- (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 [<sup>F60</sup>Housing Corporation].

#### Textual Amendments

- F59** 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
- F60** 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

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

- C4** Ss. 40-41B modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\), arts. 1\(1\), 3, Sch. para. 1](#) (with art. 6)

### [<sup>F61</sup>41A Inspections of registered social landlords

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

<sup>F62</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>F63</sup>Housing Corporation] .
- (4) The Commission—
- shall send a copy of a report under subsection (2) to the registered social landlord concerned and to the [<sup>F64</sup>Housing Corporation] ;
  - 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>F65</sup>Housing Corporation] .

#### Textual Amendments

- F61** 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

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III. (See end of Document for details)*

- F62** 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)
- F63** 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
- F64** 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
- F65** 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

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

- C4** Ss. 40-41B modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008](#) (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 1** (with art. 6)

**41B Fees for inspections under section 41A**

- (1) The [<sup>F66</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;
  - (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>F66</sup>Secretary of State] thinks necessary or expedient.

<sup>F67</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>F68</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>F69</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>F70</sup>(6)] .....

**Textual Amendments**

- F61** 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
- F66** 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

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III. (See end of Document for details)*

- F67** 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
- F68** 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
- F69** 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
- F70** 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

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

- C4** Ss. 40-41B modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, [Sch. para. 1](#) (with art. 6)

[<sup>F71</sup>**41C Advice and assistance for registered social landlords**

- (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.]

**Textual Amendments**

- F71** 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>F72</sup>**42 Consultancy services relating to audit of accounts of registered social landlords.**

.....

**Textual Amendments**

- F72** 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>F73</sup>**43 Meaning of “registered social landlord”**

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**

- F73** 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)

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III. (See end of Document for details)*

*Performance standards of local authorities etc.*

**F74 44 Publication of information as to standards of performance.**

.....

**Textual Amendments**

**F74** 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)

**F74 45 Permitted methods of publishing information under section 44.**

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**Textual Amendments**

**F74** 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)

**F74 46 Directions under section 44.**

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**Textual Amendments**

**F74** 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)

**F74 47 [<sup>F75</sup>Application to parish councils and charter trustees.]**

.....

**Textual Amendments**

**F74** 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)

**F75** 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

*[<sup>F76</sup>Reports on performance*

**Textual Amendments**

**F76** S. 47A and cross-heading inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 157(1)**, 245(5); S.I. 2008/172, art. 4(f)

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*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III. (See end of Document for details)*

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#### **“47A Reports relating to performance of English local authorities**

- (1) The Commission may produce comparative and other reports in relation to one or more of the following aspects of the performance of English local authorities in exercising their functions—
  - (a) the risk that authorities may fail to perform their functions or fail to perform their functions adequately;
  - (b) the rate at which authorities' performance is improving;
  - (c) the economy, efficiency and effectiveness of authorities' use of resources.
- (2) A report under subsection (1) may relate to—
  - (a) all English local authorities;
  - (b) any particular English local authority or authorities; or
  - (c) particular descriptions of English local authority.
- (3) A report under subsection (1) may relate to particular functions of authorities.
- (4) In this section, “English local authority” means—
  - (a) a county council in England;
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Council of the Isles of Scilly;
  - (e) the Common Council of the City of London in its capacity as a local authority;
  - (f) a metropolitan fire and civil defence authority;
  - (g) the London Fire and Emergency Planning Authority; or
  - (h) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- (5) The Secretary of State may by order amend the definition of “English local authority” in subsection (4) by adding any authority or body which is a best value authority, other than—
  - (a) an authority or body which is a Welsh best value authority for the purposes of Part 1 of the Local Government Act 1999;
  - (b) a police authority for a police area in Wales.
- (6) The Secretary of State may by order remove from that definition any authority or body for the time being mentioned in it.
- (7) The powers in subsections (5) and (6) may be exercised to add or remove an authority or body to the extent that it acts in a capacity, or exercises functions, specified in the order.
- (8) Before making an order under subsection (5) or (6) the Secretary of State must consult the best value authorities concerned or persons appearing to him to represent the best value authorities concerned.]



**Status:**

Point in time view as at 01/10/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part III.