



Audit Commission Act 1998 (repealed)

1998 CHAPTER 18

PART IV

GENERAL

^{F1}Interaction with other authorities

Textual Amendments

- F1** 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

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

Information etc.

48 Provision of information and documents to Commission.

- (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.

Status: Point in time view as at 05/03/2008.

Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), Part IV.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

- (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.

- (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 [^{F2}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 [^{F3}or under Part I of the 1999 Act];
 - [^{F4}(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 [^{F5}the National Health Service Act 2006][^{F6} 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] ;
 - [^{F7}(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;
 - [^{F8}(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;]
 - [^{F9}(dd) to the Mayor of London, where the information relates to the Greater London Authority or a functional body;]

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- [^{F10}(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;]
- ^{F11}(e)
- (f) for the purposes of any criminal proceedings.
- ^{F12}(1A)
- (2) References in subsection (1) to studies and to functions of the Commission do not include studies or functions under section 36.
- [^{F13}(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 [^{F14}this section] is guilty of an offence and liable—
- (a) on summary conviction, ^{F15}... to a fine not exceeding the statutory maximum
^{F15}...
- ^{F16}(b)

Textual Amendments

- F2** 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**
- F3** 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**
- F4** 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
- F5** 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)
- F6** 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
- F7** 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)
- F8** 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**
- F9** 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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- F10** 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)
- F11** 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)**
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)

- C1** S. 49(1): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2), **Sch. 4 Pt. I para. 41**

[^{F17}49ZA Consent under section 49(2C)]

- (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

- F17** 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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^{F18}49A. Disclosure of information by or on behalf of public authorities

.....

Textual Amendments

F18 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.

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.

- (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.

[^{F19}51A Co-operation with the Auditor General for Wales

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

F19 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

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

F19 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.

- (1) Any power conferred on the Secretary of State ^{F20}... 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

F20 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.

- (1) In this Act—

“the 1972 Act” means the ^{M1}Local Government Act 1972;

^{F21} . . .

“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);

[^{F22}“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;

[^{F23}“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 [^{F24}the National Health Service Act 2006] ;

[^{F25}“health service body” means an [^{F26}NHS body (within the meaning of Schedule 15 to the National Health Service Act 2006)] , other than a Special Health Authority;]

[^{F27}“local government body” means a body mentioned in paragraph 1 of Schedule 2, other than one mentioned in paragraph (g) of that paragraph;]

[^{F27}“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.

[^{F27}“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; ^{F28} . . .

(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 ^{M2}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.

[^{F29}(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.

^{F29}(6) Subsection (5) does not apply in relation to any function expressly conferred on the London Assembly.]

Textual Amendments

F21 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**

F22 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**

F23 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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- F24** 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)
- F25** 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)
- F26** 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)
- F27** 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)
- F28** 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](#)
- F29** 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

- M1** 1972 c. 70.
M2 1988 c. 4.

54 Consequential amendments, transitionals and repeals.

- (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.

- (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 05/03/2008.

Changes to legislation:

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