

*Status: Point in time view as at 18/09/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Audit Commission Act 1998 (repealed), SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1(5).

#### THE AUDIT COMMISSION

##### *Status*

- 1 The Commission shall be a body corporate.
- 2 The Commission shall not be regarded as acting on behalf of the Crown and neither the Commission nor its members, officers or servants shall be regarded as Crown servants.

##### *Functions of Secretary of State in relation to Commission*

- 3 (1) The Secretary of State may give the Commission directions as to the discharge of its functions and the Commission shall give effect to any such directions.  
(2) The Commission shall provide the Secretary of State with such information relating to the discharge of its functions as he may require and for that purpose shall permit any person authorised by him to inspect and make copies of any accounts or other documents of the Commission and shall afford such explanation of them as that person or the Secretary of State may require.  
(3) No direction shall be given by the Secretary of State and no information shall be required by him under this paragraph in respect of any particular body subject to audit.  
(4) Before giving any direction under this paragraph the Secretary of State shall consult—
  - (a) the Commission;
  - (b) such associations of local authorities as appear to him to be concerned or, as the case may require, such organisations connected with the health service as appear to him to be appropriate; and
  - (c) such bodies of accountants as appear to him to be appropriate.  
(5) The Secretary of State shall publish any direction given by him under this paragraph.

##### *Tenure of office of members*

- 4 (1) Subject to sub-paragraphs (2) to (5), every member of the Commission shall hold and vacate his office in accordance with the terms of his appointment.  
(2) Any member may resign by notice in writing to the Secretary of State.  
(3) The chairman or deputy chairman may resign his office as chairman or deputy chairman by notice in writing to the Secretary of State.  
(4) The Secretary of State may remove a member from office if that member—

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- (a) has become bankrupt or made an arrangement with his creditors;
  - (b) is incapacitated by physical or mental illness;
  - (c) has been absent from meetings of the Commission for a period of six months otherwise than for a reason approved by the Secretary of State; or
  - (d) is in the opinion of the Secretary of State otherwise unable or unfit to discharge the functions of a member.
- (5) If the chairman or deputy chairman ceases to be a member he shall also cease to be chairman or deputy chairman.

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

**C1** Sch. 1 para. 4(4) modified (1.7.1999) by [S.I. 1999/672](#), art. 5, **Sch. 2**

*Remuneration etc. of members*

- 5 (1) The Commission shall pay to each member such remuneration and allowances (if any) as the Secretary of State may determine.
- (2) As regards any member in whose case the Secretary of State may so determine, the Commission shall pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may determine.
- (3) Where a person ceases to be a member otherwise than on the expiration of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Commission shall pay as compensation to that person such amount as the Secretary of State may determine.

*House of Commons disqualification*

- 6 In Part III of Schedule 1 to the <sup>M1</sup>House of Commons Disqualification Act 1975 (disqualifying offices) there shall continue to be the following entry— “ Any member of the Audit Commission for Local Authorities and the National Health Service in England and Wales in receipt of remuneration ”.

**Marginal Citations**

**M1** 1975 c. 24.

*Staff*

- 7 (1) The Commission shall appoint a chief officer who shall be known as the Controller of Audit and his appointment shall require the approval of the Secretary of State.
- (2) The Commission shall appoint such other officers and servants as it considers necessary for the discharge of its functions.
- (3) The Commission’s officers and servants (in this paragraph referred to as employees) shall be appointed at such remuneration and on such other terms and conditions as the Commission may determine.

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- (4) The Commission may—
- (a) pay such pensions, allowances or gratuities as it may determine to or in respect of any of its employees;
  - (b) make such payments as it may determine towards the provision of pensions, allowances or gratuities to or in respect of any of its employees; or
  - (c) provide and maintain such schemes as it may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of its employees.
- (5) The references in sub-paragraph (4) to pensions, allowances or gratuities to or in respect of any employees include references to pensions, allowances or gratuities by way of compensation to or in respect of employees who suffer loss of office or employment.
- (6) If an employee becomes a member of the Commission and was by reference to his employment by the Commission a participant in a pension scheme maintained by the Commission for the benefit of any of its employees, the Commission may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Commission whether or not any benefits are payable to or in respect of him by virtue of paragraph 5.

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

C2 Sch. 1 para. 7(1) modified (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

*Financial provisions*

- 8 (1) Subject to sub-paragraph (2), it shall be the duty of the Commission so to manage its affairs that its income from fees and otherwise will, taking one year with another, be not less than its expenditure properly chargeable to its income and expenditure account.
- (2) Sub-paragraph (1) applies separately with respect to—
- (a) the functions of the Commission under section 37 in relation to the discharge of social services functions;
  - (b) its functions under section 38 in relation to the discharge of housing benefit administration functions and council tax administration functions;
  - (c) its functions under sections 40 and 41 relating to registered social landlords;
  - (d) its functions under section 42 relating to such landlords;
  - (e) its functions under section 41 of the <sup>M2</sup>Education Act 1997 (inspections of local education authorities);
  - (f) its functions in relation to health service bodies; and
  - (g) its other functions.

**Marginal Citations**

M2 1997 c. 44.

- 9 (1) The Commission may borrow—
- (a) from the Secretary of State, or

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- (b) temporarily (by way of overdraft or otherwise) and with his consent, from any other person,
- such sums as it may require for the purpose of meeting its obligations and discharging its functions.
- (2) The aggregate amount outstanding in respect of the principal of any sums borrowed by the Commission under sub-paragraph (1) shall not exceed £4 million or such greater sum, not exceeding £20 million, as the Secretary of State may from time to time by order specify.
- (3) The Secretary of State may lend to the Commission any sums which it has power to borrow under sub-paragraph (1)(a); and the Treasury may issue to the Secretary of State out of the National Loans Fund any sums necessary to enable him to make loans under this sub-paragraph.
- (4) Loans made under sub-paragraph (3) shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may from time to time determine.
- (5) All sums received by the Secretary of State under sub-paragraph (4) shall be paid into the National Loans Fund.
- (6) The Secretary of State shall prepare, in respect of each financial year and in such form as the Treasury may direct, an account—
- (a) of any sums issued to him under sub-paragraph (3) or received by him under sub-paragraph (4), and
- (b) of the disposal by him of any sums so received,
- and shall send the account to the Comptroller and Auditor General not later than the end of the month of March following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it and of his report before each House of Parliament.
- (7) Any consent, loan or determination by the Secretary of State under this paragraph shall require the approval of the Treasury.
- 10 (1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sums which the Commission borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph, the Treasury shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given, the Treasury shall lay before each House of Parliament a statement relating to that sum as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal sum and in respect of interest on it is finally discharged.
- (3) Any sums required by the Treasury for fulfilling a guarantee under this paragraph shall be charged on and issued out of the Consolidated Fund.
- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the Commission shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct—

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- (a) payments of such amounts as the Treasury so direct in or towards repayment of the sums so issued, and
  - (b) payments of interest, at such rates as the Treasury so direct, on what is outstanding for the time being in respect of sums so issued.
- (5) Any sums received by the Treasury in pursuance of sub-paragraph (4) shall be paid into the Consolidated Fund.
- 11 (1) The Commission shall keep proper accounts and other records in relation to its accounts and shall prepare in respect of each financial year a statement of account in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (2) The statement of account prepared by the Commission in respect of each financial year shall be submitted to the Secretary of State before such date as he may, with the approval of the Treasury, direct.
- (3) The Secretary of State shall, on or before 31st March in each year, transmit to the Comptroller and Auditor General the statement of account prepared by the Commission for the financial year last ended.
- (4) The Comptroller and Auditor General shall examine and certify the statement of account transmitted to him under sub-paragraph (3) and shall lay before Parliament copies of the statement together with his report on it.
- (5) In this Schedule, “financial year” means the 12 months ending with [<sup>F1</sup>31st March] in any year.

#### **Textual Amendments**

- F1** Words in Sch. 1 para. 11(5) substituted (18.9.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 110, 128(1)(a)** (with [s. 110\(2\)\(3\)](#))

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

- C3** Sch. 1 para. 11(1) modified (1.7.1999) by [S.I. 1999/672](#), **art. 5, Sch. 2**

#### *Proceedings*

- 12 (1) The Commission shall regulate its own proceedings.
- (2) The validity of any proceedings of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of its members.
- 13 (1) The application of the seal of the Commission shall be authenticated by the signature of the chairman or of some other member authorised either generally or specially by the Commission for that purpose.
- (2) Any document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

#### *Annual report*

- 14 (1) The Commission shall publish an annual report on the discharge of its functions.

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- (2) Copies of each annual report shall be sent by the Commission to the Secretary of State who shall lay copies of it before each House of Parliament.

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