
STATUTORY INSTRUMENTS

1998 No. 633

POLICE

The Police Act 1997 (Provisions in relation to the NCIS Service Authority) Order 1998

<i>Made</i>	- - - -	<i>9th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

In exercise of the powers conferred upon him by section 44 of the Police Act 1997⁽¹⁾, the Secretary of State hereby makes the following Order:

PART A

GENERAL PROVISIONS

Citation and commencement

A1. This Order may be cited as the Police Act 1997 (Provisions in relation to the NCIS Service Authority) Order 1998 and shall come into force on 1st April 1998.

Interpretation

A2.—(1) In this Order—

“the 1989 Act” means the Local Government and Housing Act 1989⁽²⁾; and

“the Authority” means the NCIS Service Authority.

(2) Any reference in this Order to a proper officer shall, in relation to any purpose, be construed as a reference to an officer appointed for that purpose by the Authority.

(3) In this Order, except where the context otherwise requires, any reference to a committee of the Authority is a reference to—

(a) a committee which is appointed under article D2, below;

(b) a joint committee constituted under article D2 below; or

(1) 1997 c. 50.

(2) 1989 c. 42.

- (c) a sub-committee appointed or established under this Order by a committee falling within sub-paragraph (a) or (b) above.
- (4) Any reference in this Order to a local authority is a reference to a body of one of the following descriptions—
 - (a) a local authority;
 - (b) a police authority;
 - (c) the NCIS Service Authority; and
 - (d) the NCS Service Authority.
- (5) Any reference in this Order to a business day means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday in England and Wales.

Revocations

A3. The Police Act 1997 (Provisions in relation to the NCIS Service Authority) (No. 1) Order 1997⁽³⁾ and the Police Act 1997 (Provisions in relation to the NCIS Service Authority) (No. 2) Order 1997⁽⁴⁾ are hereby revoked.

PART B

MEETINGS AND PROCEEDINGS OF THE AUTHORITY AND ITS COMMITTEES

Meetings and proceedings of the Authority and its committees

B1. The provisions of Schedule 1 to this Order shall have effect with respect to the meetings and proceedings of the Authority and its committees.

Duty to adopt certain procedural standing orders

B2.—(1) No later than the first meeting of the Authority falling after the day on which this Order comes into force, the Authority shall, in respect of the recording of votes, and signing of minutes, of the Authority—

- (a) make standing orders incorporating the provisions set out in paragraph (2) below, or provisions to the like effect, and
 - (b) modify any existing standing orders in so far as necessary to conform with those provisions.
- (2) The provisions referred to in paragraph (1) above are—
- (a) Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his vote for the question or against the question or whether he abstained from voting.
 - (b) Where in relation to any meeting of the Authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 1 to this Order, the next following meeting of Authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 9(1) and (2) (signing of minutes) of the Schedule.

⁽³⁾ S.I. 1997/1585.

⁽⁴⁾ S.I. 1997/2391.

(3) In paragraph (2)(a) above “relevant body” means the Authority or a committee of the Authority.

Evidence of resolutions and minutes of proceedings etc.

B3.—(1) A document which—

- (a) purports to be a copy of—
 - (i) a resolution, order or report of Authority, or
 - (ii) the minutes of the proceedings at a meeting of the Authority; and
- (b) bears a certificate purporting to be signed by the proper officer of the Authority or a person authorised in that behalf by him or the Authority and stating that the resolution was passed or the order or report was made by the Authority on a date specified in the certificate or, as the case may be, that the minutes were signed in accordance with paragraph 9 of Schedule 1 to this Order,

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution, order, report or minutes in question.

(2) In paragraph (1) above, references to the Authority, except the first and second references in sub-paragraph (b), include references to a committee or sub-committee of the Authority.

(3) A document which—

- (a) purports to be a copy of an instrument by which the proper officer of the Authority appointed a person to be an officer of the Authority or authorised a person to perform functions specified in the instrument; and
- (b) bears a certificate purporting to be signed as mentioned in paragraph (1)(b) of this article and stating that the document is a copy of the instrument in question,

shall be evidence in any proceedings of the fact that the instrument was made by the said proper officer in the terms of the instrument.

PART C

ACCESS TO MEETINGS AND DOCUMENTS OF THE AUTHORITY AND ITS COMMITTEES

Admission to meetings of the Authority

C1.—(1) A meeting of the Authority shall be open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under paragraph (2) below or by resolution under paragraph (4) below.

(2) The public shall be excluded from a meeting of the Authority during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence; and nothing in this Part shall be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

(3) For the purposes of paragraph (2) above, “confidential information” means—

- (a) information furnished to the Authority by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and

- (b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;

and, in either case, the reference to the obligation of confidence is to be construed accordingly.

(4) The Authority may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in article C9 below.

(5) A resolution under paragraph (4) above shall—

- (a) identify the proceedings, or the part of the proceedings, to which it applies, and
- (b) state the description, in terms of Schedule 2 to this Order, of the exempt information giving rise to the exclusion of the public,

and where such a resolution is passed this article does not require the meeting to be open to the public during proceedings to which the resolution applies.

(6) The following provisions shall apply in relation to a meeting of the Authority, that is to say—

- (a) public notice of the time and place of the meeting shall be given by posting it at the offices of the Authority (and, if the meeting is to be held at premises other than those offices, at those premises) seven clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;
- (b) while the meeting is open to the public, the Authority shall not have the power to exclude members of the public from the meeting; and
- (c) while the meeting is open to the public, duly accredited representatives of newspapers attending the meeting for the purpose of reporting the proceedings for those newspapers shall, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the Authority or not on the telephone, for telephoning the report at their own expense.

(7) Nothing in this article shall require the Authority to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.

(8) This article is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

Access to agenda and connected reports

C2.—(1) Copies of the agenda for a meeting of the Authority and, subject to paragraph (2) below, copies of any report for the meeting shall be open to inspection by members of the public at the offices of the Authority in accordance with paragraph (3) below.

(2) If the proper officer thinks fit, there may be excluded from the copies of reports provided in pursuance of paragraph (1) above the whole of any report which, or any part which, relates only to items during which, in his opinion, the meeting is likely not to be open to the public.

(3) Any document which is required by paragraph (1) above to be open to inspection shall be so open at least three clear days before the meeting, except that—

- (a) where the meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened, and
- (b) where an item is added to the agenda copies of which are open to inspection by the public, copies of the item (or of the revised agenda), and the copies of any report for the meeting relating to the item, shall be open to inspection from the time the item is added to the agenda;

but nothing in this paragraph requires copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the Authority.

- (4) An item of business may not be considered at a meeting of the Authority unless either—
 - (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public in pursuance of paragraph (1) above for at least three clear days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
 - (b) by reason of special circumstances, which shall be specified in the minutes, the chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- (5) Where by virtue of paragraph (2) above the whole or any part of a report for a meeting is not open to inspection by the public under paragraph (1) above—
 - (a) every copy of the report or of the part shall be marked “Not for publication”; and
 - (b) there shall be stated on every copy of the whole or any part of the report the description, in terms of Schedule 2 to this Order, of the exempt information by virtue of which the Authority is likely to exclude the public during the item to which the report relates.
- (6) Where a meeting of the Authority is required by article C1 above to be open to the public during the proceedings or any part of them, there shall be made available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and, subject to paragraph (8) below, of the reports for the meeting.
- (7) There shall, on request and on payment of postage or other necessary charge for transmission, be supplied for the benefit of any newspaper—
 - (a) a copy of the agenda for a meeting of the Authority and, subject to paragraph (8) below, a copy of each of the reports for the meeting;
 - (b) such further statements or particulars, if any, as are necessary to indicate the nature of the items included in the agenda; and
 - (c) if the proper officer thinks fit in the case of any item, copies of any other documents supplied to members of the Authority in connection with the item.
- (8) Paragraph (2) above applies in relation to copies of reports provided in pursuance of paragraph (6) or (7) above as it applies in relation to copies of reports provided in pursuance of paragraph (1) above.

Inspection of minutes and other documents after meetings

C3.—(1) After a meeting of the Authority the following documents shall be open to inspection by members of the public at the offices of the Authority until the expiration of the period of six years beginning with the date of the meeting, namely—

- (a) the minutes, or a copy of the minutes, of the meeting, excluding so much of the minutes of proceedings during which the meeting was not open to the public as discloses exempt information;
 - (b) where applicable, a summary under paragraph (2) below;
 - (c) a copy of the agenda for the meeting; and
 - (d) a copy of so much of any report for the meeting as relates to any item during which the meeting was open to the public.
- (2) Where, in consequence of the exclusion of parts of the minutes which disclose exempt information, the document open to inspection under paragraph (1)(a) above does not provide members of the public with a reasonably fair and coherent record of the whole or part of the

proceedings, the proper officer shall make a written summary of the proceedings or the part, as the case may be, which provides such a record without disclosing the exempt information.

Inspection of background papers

C4.—(1) Subject, in the case of article C3(1), to paragraph (2) below, if and so long as copies of the whole or part of a report for a meeting of the Authority are required by article C2(1) or C3(1) above to be open to inspection by members of the public—

- (a) copies of a list, compiled by the proper officer, of the background papers for the report of the part of the report, and
- (b) at least one copy of each of the documents included in that list,

shall also be open to their inspection at the offices of the Authority.

(2) Paragraph (1) above does not require a copy of the list, or of any document included in the list, to be open to inspection after the expiration of the period of four years beginning with the date of the meeting.

(3) Where a copy of any of the background papers for a report is required by paragraph (1) above to be open to inspection by members of the public, the copy shall be taken for the purposes of this Part to be so open if arrangements exist for its production to members of the public as soon as is reasonably practicable after the making of a request to inspect the copy.

(4) Nothing in this article—

- (a) requires any document which discloses exempt information to be included in the list referred to in paragraph (1) above; or
- (b) without prejudice to the generality of paragraph (2) of article C1 above, requires or authorises the inclusion in the list of any document which, if open to inspection by the public, would disclose confidential information in breach of the obligation of confidence, within the meaning of that paragraph.

(5) For the purposes of this article the background papers for a report are those documents relating to the subject matter of the report which—

- (a) disclose any facts or matters on which, in the opinion of the proper officer, the report or an important part of the report is based, and
- (b) have, in his opinion, been relied on to a material extent in preparing the report,

but do not include any published works.

Application to committees

C5.—(1) Articles C1 to C4 above shall apply in relation to a committee of the Authority as they apply in relation to the Authority.

(2) In the application by virtue of this article of articles C1 to C4 above in relation to a committee—

- (a) article C1(6)(a) shall be taken to have been complied with if the notice is given by posting it at the time there mentioned at the offices of the Authority and, in the case of a joint committee the offices of each appointing authority and, if the meeting of the committee to which that article so applies is to be held at premises other than the offices of the Authority or an appointing authority, at those premises;
- (b) for the purposes of article C1(6)(c), premises belonging to the Authority, and in the case of a joint committee the premises of each appointing authority, shall be treated as belonging to the committee; and

- (c) for the purposes of articles C2(1), C3(1) and C4(1), offices of the Authority, and in the case of a joint committee the offices of each appointing authority, shall be treated as offices of the committee.

Additional rights of access to documents for members of the Authority

C6.—(1) Any document which is in the possession or under the control of the Authority and contains material relating to any business to be transacted at a meeting of the Authority or a committee of the Authority shall, subject to paragraph (2) below, be open to inspection by any member of the Authority.

(2) Where it appears to the proper officer that a document discloses exempt information of a description for the time being falling within any of paragraphs 1 to 4, 7, 9, 10, 12 and 13 of Part I of Schedule 2 to this Order, paragraph (1) above does not require the document to be open to inspection.

(3) The rights conferred by this article on a member of the Authority are in addition to any other rights he may have apart from this article.

Authority to publish additional information

C7.—(1) The Authority shall maintain a register stating—

- (a) the name and address of every member of the Authority and the name or description of the body or other person that appointed him; and
- (b) the name and address of every member of each committee of the Authority for the time being.

(2) The Authority shall maintain a list—

- (a) specifying those powers of the Authority which, for the time being, are exercisable from time to time by officers of the Authority in pursuance of arrangements made under this Order or any other enactment for their discharge by those officers; and
- (b) stating the title of the officer by whom each of the powers so specified is for the time being so exercisable;

but this paragraph does not require a power to be so specified in the list if the arrangements for its discharge by the officer are made for a specified period not exceeding six months.

(3) There shall be kept at the offices of the Authority a written summary of the rights—

- (a) to attend meetings of the Authority and of committees of the Authority; and
- (b) to inspect and copy documents and to be furnished with documents,

which are for the time being conferred by this Order.

(4) The register maintained under subsection (1) above, the list maintained under paragraph (2) above and the summary kept under paragraph (3) above shall be open to inspection by the public at the offices of the Authority.

Supplemental provisions and offences

C8.—(1) A document directed by any provision of this Part to be open to inspection shall be so open at all reasonable hours and—

- (a) in the case of a document open to inspection by virtue of article C4(1) above, upon payment of such reasonable fee as may be required for the facility; and
- (b) in any other case, without payment.

(2) Where a document is open to inspection by a person under any provision of this Part, the person may, subject to paragraph (3) below—

- (a) make copies of or extracts from the document, or
- (b) require the person having custody of the document to supply to him a photographic copy of or of extracts from the document,

upon payment of such reasonable fee as may be required for the facility.

(3) Paragraph (2) above does not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the Authority, nothing done in pursuance of that paragraph shall constitute an infringement of the copyright.

(4) If, without reasonable excuse, a person having the custody of a document which is required by article C2(1) or C3(1) above to be open to inspection by the public—

- (a) intentionally obstructs any person exercising a right conferred by this Part to inspect, or to make a copy of or extracts from, the document, or
- (b) refuses to furnish copies to any person entitled to obtain them under any provisions of this Part,

he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) Where any accessible document for a meeting to which this paragraph applies—

- (a) is supplied to, or open to inspection by, a member of the public, or
- (b) is supplied for the benefit of any newspaper, in pursuance of article C2(7) above.

the publication thereby of any defamatory matter contained in the document shall be privileged unless the publication is proved to be made with malice.

(6) Paragraph (5) above applies to any meeting of the Authority and any meeting of a committee of the Authority; and, for the purposes of that paragraph, the “accessible documents” for a meeting are the following—

- (a) any copy of the agenda or of any item included in the agenda for the meeting;
- (b) any such further statements or particulars for the purpose of indicating the nature of any item included in the agenda as are mentioned in article C2(7)(b) above;
- (c) any copy of a document relating to such an item which is supplied for the benefit of a newspaper in pursuance of article C2(7)(c) above;
- (d) any copy of the whole or part of a report for the meeting;
- (e) any copy of the whole or part of any background papers for a report for the meeting, within the meaning of article C4 above.

(7) The rights conferred by this Part to inspect, copy and be furnished with documents are in addition, and without prejudice, to any such rights conferred by or under any other enactment.

Exempt information

C9. The descriptions of information which are, for the purposes of this Part, exempt information are those for the time being specified in Part I of Schedule 2 to this Order, but subject to any qualifications contained in Part II of that Schedule; and Part III has effect for the interpretation of that Schedule.

Interpretation

C10.—(1) In this Part—

- “copy”, in relation to any document, includes a copy made from a copy;
- “exempt information” has the meaning given by article C9 above;

“information” includes an expression of opinion, any recommendations and any decisions taken;

“newspaper” includes—

- (a) a news agency which systematically carries on the business of selling and supplying reports or information to newspapers; and
- (b) any organisation which is systematically engaged in collecting news—
 - (i) for sound or television broadcasts; or
 - (ii) for inclusion in programmes to be included in any programme service (within the meaning of the Broadcasting Act 1996⁽⁵⁾ other than a sound or television broadcasting service.

(2) Any reference in this Part to a meeting is a reference to a meeting held after 1st April 1998.

PART D

DISCHARGE OF FUNCTIONS

Arrangements for discharge of functions by the Authority

D1.—(1) Subject to any express provision contained in this Order or any other enactment passed after this Order, the Authority may arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the Authority.

(2) Where by virtue of this article any functions of the Authority may be discharged by a committee of the Authority, then, unless the Authority otherwise directs, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the Authority and where by virtue of this article any function of the Authority may be discharged by a sub-committee of the Authority then, unless the Authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the Authority.

(3) Any arrangements made by the Authority or a committee under this article for the discharge of any functions by a committee, sub-committee or officer shall not prevent the Authority or committee by whom the arrangements were made from exercising those functions.

(4) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so,—

- (a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them and paragraph (2) above shall apply in relation to those functions as it applies in relation to the functions of individual authorities; and
- (b) any enactment relating to those functions or to the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in respect of its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(5) The Authority’s functions with respect to levying or borrowing money shall be discharged only by the Authority.

(6) References in this article and article D2 below to the discharge of any of the functions of the Authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.

(5) 1996 c. 55.

(7) The officers who may discharge the functions of the Authority in pursuance of arrangements under paragraphs (1), (2) and (4) above shall include the Director General of NCIS, his deputy while performing the duties of the Director General and any person employed by the Authority.

(8) Where pursuant to arrangements made by virtue of paragraph (7) above—

- (a) the Director General; or
- (b) the deputy of the Director General,

may discharge functions of the Authority, he may himself arrange for the discharge of any of those functions by a member, including a police member, of NCIS.

(9) Nothing in this article affects the operation of the Local Authority (Goods and Services) Act 1970(6).

Appointment of committees

D2.—(1) For the purpose of discharging any functions in pursuance of arrangements made under article D1 above—

- (a) the Authority may appoint a committee of the Authority; or
- (b) two or more local authorities (the appointing authorities) may appoint a joint committee of those authorities; or
- (c) any such committee may appoint one or more sub-committees.

(2) Subject to the provisions of this article, the number of members of a committee appointed under paragraph (1) above, their term of office, and the area (if restricted) within which the committee are to exercise their authority shall be fixed by the Authority, or, in the case of a joint committee the appointing authorities, or, in the case of a sub-committee, by the appointing committee.

(3) Any committee or sub-committee appointed under paragraph (1) above may consist only of members of the Authority or, in the case of a joint committee, members of the appointing authorities.

(4) The Authority may appoint a committee and two or more local authorities may appoint a joint committee to advise the Authority on any matter relating to the discharge of its functions, and any such committee—

- (a) may consist of such persons (whether members of the Authority or appointing authorities or not) appointed for such term as may be determined by the Authority or appointing authorities; and
- (b) may appoint one or more sub-committees to advise the committee with respect to any such matter.

(5) Every member of a committee appointed under this article who at the time of his appointment was a member of the Authority or another appointing authority shall upon ceasing to be a member of the Authority or appointing authority also cease to be a member of the committee; but for the purposes of this article a member of the Authority or appointing authority shall not be deemed to have ceased to be a member of the Authority or another appointing authority by reason of retirement if he has been re-appointed a member thereof not later than the day of his retirement.

Expenses of joint committees

D3. The expenses incurred by a joint committee of two or more local authorities whether established under this Order or any other enactment shall be defrayed by those authorities in such proportions as they may agree or in case of disagreement as may be determined by a single arbitrator agreed on by the appointing authorities or, in default of agreement, appointed by the Secretary of State.

(6) 1970 c. 39.

Disqualification for membership of committees

D4. A person who is employed by the Authority shall be disqualified for being a member of a committee (including a sub-committee) of the Authority, whether the committee is appointed under this Order or under any other enactment.

Standing orders of committees

D5. Standing orders may be made as respects any committee of the Authority, whether appointed or established under this Order or any other enactment, by the Authority or as respects a joint committee by the appointing authorities, with respect to the quorum, proceedings and place of meeting of the committee (including any sub-committee) but, subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee may determine.

PART E

RESTRICTIONS ON VOTING AND MEMBERS' INTERESTS

Disability of members of the Authority for voting on account of interest in contracts etc.

E1.—(1) Subject to the provisions of article E4 below, if a member of the Authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter, and is present at a meeting of the Authority at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

(2) If any person fails to comply with the provisions of paragraph (1) above he shall for each offence be liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that he did not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(3) A prosecution for an offence under this article shall not be instituted in England and Wales except by or on behalf of the Director of Public Prosecutions.

(4) The Authority may by standing orders provide for the exclusion of a member of the Authority from a meeting of the Authority while any contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect, is under consideration.

(5) The receipt by a member of the Authority of an allowance or other payment under paragraph 17 of Schedule 2 to the Police Act 1997 or his right to receive, or the possibility of his receiving, any such payment shall not be treated as a pecuniary interest for the purposes of this article.

Pecuniary interests for purposes of article E1

E2.—(1) For the purposes of article E1 above a person shall be treated, subject to the following provisions of this article and to article E4 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if—

- (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

(2) Paragraph (1) above does not apply to membership of or employment under any public body, and a member of a company or other body shall not by reason only of his membership be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of article E1 above, to be also an interest of the other.

General notices and recording of disclosures for purposes of article E1

E3.—(1) A general notice given in writing to the proper officer of the Authority by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person, which may be the subject of consideration after the date of the notice.

(2) The proper officer of the Authority shall record in a book to be kept for the purpose particulars of any disclosure made under article E1 above and of any notice given under this article, and the book shall be open at all reasonable hours to the inspection of any member of the Authority.

Removal or exclusion of disability etc.

E4.—(1) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by article E1 above in any case in which the number of members of the Authority disabled by that article at any one time would be so great a proportion of the whole as to impede the transaction of business.

(2) The power of the Secretary of State under paragraph (1) above includes power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member, or any class or description of member, by reason of such interests, and in respect of such matters, as may be specified by the Secretary of State.

(3) Nothing in article E1 above precludes any person from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the powers conferred by paragraphs (1) and (2) above.

(4) Article E1 above does not apply to an interest in a contract, proposed contract or other matter which a member of the Authority has as an inhabitant of any area, or to an interest in any matter relating to the terms in which a right to participate in any service, including the supply of goods, is offered to the public,

(5) For the purposes of article E1 above a member of the Authority shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only of an interest of his or of any company, body or person with which he is connected as mentioned in article E2(1) above which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

(6) Where a member of the Authority has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the total nominal value of those securities does not exceed £5000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class, article E1 above shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice, however, to his duty to disclose his interest.

Interpretation of articles E2 and E4

E5.—(1) In articles E2 and E4 above “securities” means—

- (a) investments falling within any of paragraphs 1 to 6 of Schedule 1 to the Financial Services Act 1986⁽⁷⁾ or, so far as relevant to any of those paragraphs, paragraph 11 of that Schedule; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any society registered under the Industrial and Provident Societies Act 1965⁽⁸⁾ or any building society within the meaning of the Building Societies Act 1986⁽⁹⁾.

(2) In article E2 above “public body” includes any body established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, the governing body of any university, university college or college, school or hall of a university, the National Trust for Places of Historic Interest or Natural Beauty and the National Trust for Scotland for Places of Historic Interest or Natural Beauty.

Application of articles E1 to E5 to committees

E6. Articles E1 to E5 above shall apply as respects members of a committee of the Authority, as they apply in respect of members of the Authority, subject to the following modifications—

- (a) references to meetings of any such committee shall be substituted for references to meetings of the Authority; and
- (b) in the case of members of a committee of the Authority the right of persons who are members of the committee but not members of the Authority to inspect the book kept under article E3(2) above shall be limited to an inspection of the entries in the book relating to the members of the committee.

Members' interests

E7.—(1) Subject to paragraph (2) below, any requirement in regulations made under section 19 of the 1989 Act as to the giving of notices shall apply to members of the Authority for the purposes of the application of this Order as they apply to members of a police authority appointed under paragraph 2 or 5 of Schedule 2 to the Police Act 1996⁽¹⁰⁾.

(2) A member of the Authority shall give the relevant notice not later than—

- (a) one month after the date of coming into force of this Order, or
- (b) one month after the date on which he first attends a relevant meeting, whichever is the later.

(3) Any member of the Authority who—

- (a) without reasonable excuse fails to comply with the requirements which apply by virtue of paragraph (1) above; or
- (b) in giving a notice in compliance with any such requirement, provides information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(4) Proceedings for an offence under paragraph (3) above shall not be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.

⁽⁷⁾ 1986 c. 60.

⁽⁸⁾ 1965 c. 12.

⁽⁹⁾ 1986 c. 53.

⁽¹⁰⁾ 1996 c. 16.

(5) Article E3 above shall not apply in relation to any notice given in pursuance of any regulations which apply to members of the Authority by virtue of paragraph (1) above, but—

- (a) where such regulations provide that the giving of a notice in pursuance of any such regulations shall be deemed to be sufficient disclosure for the purposes of section 94 of the Local Government Act 1972⁽¹¹⁾ (disability of members of authorities for voting on account of interest in contracts etc) or for the purposes of section 38 of the Local Government (Scotland) Act 1973⁽¹²⁾, then the giving of such a notice shall also be deemed to be sufficient disclosure for the purposes of article E1 above; and
- (b) where such regulations prescribe that the proper officer of the authority is to maintain such records of the information contained in notices given to him as may be prescribed by those regulations and is to keep those records open to inspection by the public, the proper officer of the Authority shall be under the same obligation in relation to the equivalent notices given under this Order.

(6) The Authority shall not be entitled (whether by means of making it a condition of any appointment or by any other means whatever) to impose any obligation on its members to disclose any interest other than those that they are required to disclose by virtue of article E1 above or any regulations applicable by virtue of paragraph (1) above.

(7) References in this article to the indirect pecuniary interests of a member of the Authority shall include references to any such interest as by virtue of any connection between that member or his spouse and any other person, would fall to be disclosed under article E1 above if the Authority were proposing to enter into a contract with that other person.

PART F

FINANCIAL ADMINISTRATION

Financial administration of the Authority

F1. The Authority shall make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs.

Qualifications of responsible officer

F2.—(1) The person having responsibility for the administration of the financial affairs of the Authority under paragraph (1) above shall fulfil the requirement in one (or the requirements in each) of the sub-paragraphs of paragraph (2) below.

- (2) The requirements are that—
 - (a) he is a member of one or more of the bodies mentioned in subsection (3) below;
 - (b) immediately before 29th September 1989 he had responsibility for the administration of the financial affairs of any of the authorities mentioned in section 111(2)(a) to (k) of the Local Government Finance Act 1988⁽¹³⁾ under section 73 of the Local Government Finance Act 1985⁽¹⁴⁾.
- (3) The bodies are—
 - (a) the Institute of Chartered Accountants in England and Wales,

⁽¹¹⁾ 1972 c. 70.

⁽¹²⁾ 1973 c. 65.

⁽¹³⁾ 1988 c. 41.

⁽¹⁴⁾ 1985 c. 32.

- (b) the Institute of Chartered Accountants of Scotland,
- (c) the Chartered Association of Certified Accountants,
- (d) the Chartered Institute of Public Finance and Accountancy,
- (e) the Institute of Chartered Accountants in Ireland,
- (f) the Chartered Institute of Management Accountants, and
- (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of section 113(3) of the Local Government Finance Act 1988.

Functions of responsible officer as regards reports

F3.—(1) The person having responsibility for the administration of the financial affairs of the Authority under article F1 above shall have the duties mentioned in this article, without prejudice to any other functions; and in this article he is referred to as the chief finance officer of the Authority.

(2) The chief finance officer of the Authority shall make a report under this article if it appears to him that the Authority, a committee of the Authority or a person holding any office or employment under the Authority—

- (a) has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful,
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority, or
- (c) is about to enter an item of account the entry of which is unlawful.

(3) The chief finance officer of the Authority shall make a report under this article if it appears to him that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

(4) It shall be the duty of the chief finance officer of the Authority, in preparing a report in pursuance of paragraph (2) above, to consult so far as practicable—

- (a) with the person who is for the time being designated as the head of the Authority's paid service under article 58 below; and
- (b) with the person who is for the time being responsible for performing the duties of the Authority's monitoring officer under article J9 below.

(5) Where the chief finance officer of the Authority has made a report under this Article he shall send a copy of it to—

- (a) the person who at the time the report is made has the duty to audit the Authority's accounts, and
- (b) each person who at that time is a member of the Authority.

(6) Subject to paragraph (7) below, the duties of the chief finance officer of the Authority under paragraphs (2) and (3) above shall be performed by him personally.

(7) If the chief finance officer of the Authority is unable to act owing to absence or illness his duties under paragraphs (2) and (3) above shall be performed—

- (a) by such member of his staff as is a member of one or more of the bodies mentioned in article F2(3) above and is for the time being nominated by the chief finance officer for the purposes of this article, or

(b) if no member of his staff is a member of one or more of those bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of this article.

(8) The Authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this article to be performed.

Authority's duties as regards reports

F4.—(1) This article applies where copies of a report under article F3 above have been sent under article F3(5).

(2) The Authority shall consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.

(3) The meeting must be held not later than the end of the period of 21 days beginning with the day on which copies of the report are sent.

(4) Article D1 above shall not apply to the duty under paragraph (2) above.

(5) If the report was made under article F3(2) above, during the prohibition period the course of conduct which led to the report being made shall not be pursued.

(6) If the report was made under article F3(3) above, during the prohibition period the Authority shall not enter into any new agreement which may involve the incurring of expenditure (at any time) by the Authority.

(7) If paragraph (5) above is not complied with, and the Authority makes any payment in the prohibition period as a result of the course of conduct being pursued, it shall be taken not to have had power to make the payment (notwithstanding any obligation to make it under contract or otherwise).

(8) If paragraph (6) above is not complied with, the Authority shall be taken not to have had power to enter into the agreement (notwithstanding any option to do so under contract or otherwise).

(9) In this article “the prohibition period” means the period—

(a) beginning with the day on which copies of the report are sent, and

(b) ending with the first business day to fall after the day (if any) on which the Authority's consideration of the report under paragraph (2) above is concluded.

(10) If paragraph (3) above is not complied with, it is immaterial for the purposes of paragraph (9) (b) above.

(11) The nature of the decisions made at the meeting is immaterial for the purposes of paragraph (9)(b) above.

Information about meetings

F5.—(1) Where it is proposed to hold a meeting under article F4 above the Authority's proper officer shall as soon as is reasonably practicable notify its auditor of the date, time and place of the proposed meeting.

(2) As soon as is reasonably practicable after a meeting is held under article F4 above the Authority's proper officer shall notify its auditor of any decision made at the meeting.

(3) For the purposes of this article the Authority's auditor is the person who for the time being has the duty to audit its accounts.

PART G

REVENUE ACCOUNTS AND CAPITAL FINANCE OF THE AUTHORITY

Application of Part G

G1.—(1) For financial years beginning on or after 1st April 1998, this Part has effect with respect of the finances of the Authority.

Capital purposes

G2.—(1) References in this Part to expenditure for capital purposes shall be construed in accordance with this article.

(2) Subject to paragraphs (5) and (6) below, the following expenditure (relating to tangible assets) is expenditure for capital purposes, namely, expenditure on—

- (a) the acquisition, reclamation, enhancement or laying out of land, exclusive of roads, buildings and other structures;
- (b) the acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures; and
- (c) the acquisition, installation or replacement of moveable or immoveable plant, machinery and apparatus and vehicles and vessels.

(3) For the purposes of paragraph (2) above, “enhancement”, in relation to any asset, means the carrying out of works which are intended—

- (a) to lengthen substantially the useful life of the asset; or
- (b) to increase substantially the open market value of the asset; or
- (c) to increase substantially the extent to which the asset can or will be used for the purposes of or in connection with the functions of the Authority;

but expenditure on the enhancement of an asset shall not be regarded as expenditure for capital purposes unless it should be so regarded in accordance with proper practices.

(4) Subject to paragraph (5) below, the following expenditure, in so far as it is not expenditure on approved investments, is expenditure for capital purposes, namely, expenditure on—

- (a) the making of advances, grants or other financial assistance to any person towards expenditure incurred or to be incurred by him on the matters mentioned in paragraphs (a) to (c) of paragraph (2) above or on the acquisition of investments; and
- (b) the acquisition of share capital or loan capital in any body corporate.

(5) Where the Secretary of State has provided, by regulations made under section 40 of the 1989 Act, that expenditure by a local authority which, apart from the provision made by the regulations would not be expenditure for capital purposes shall be such expenditure; or that expenditure which, apart from the provision made by the regulations, would be expenditure for capital purposes shall not be such expenditure, then, for the purposes of the application of this Part, any such expenditure by the Authority shall, or as the case may be, shall not be treated as expenditure for capital purposes.

(6) Notwithstanding anything in the preceding provisions of this article, if the Secretary of State so directs, expenditure which—

- (a) is of a description or for a purpose specified in the direction, and
- (b) has been or is to be incurred by the Authority, and
- (c) does not exceed such amount as is specified in the direction, and
- (d) was or will be incurred during a period specified in the direction,

may be treated by the Authority as expenditure for capital purposes.

Expenditure to be charged to revenue account

G3.—(1) All expenditure incurred by the Authority, other than expenditure excluded by article G4 below, must be charged to a revenue account of the Authority and unless, in accordance with proper practices (exclusive of this paragraph), it is appropriate to charge some or all of any particular item of expenditure to a revenue account for an earlier or a later financial year, the expenditure shall be charged to a revenue account of the Authority for the year in which it is incurred.

(2) Any reference to a revenue account is a reference to one of the following accounts for a financial year of the Authority, namely—

- (a) a revenue account which the Authority is required to keep by virtue of any enactment;
- (b) a revenue account which the Authority is required to keep in order to comply with proper practices; or
- (c) any other revenue account which the Authority decide to keep in accordance with proper practices.

(3) The reference in paragraph (1) above to expenditure incurred by the Authority in any financial year includes the following (whether or not giving rise to actual payments)—

- (a) any amount which does not form part of the Authority's capital receipts and which is set aside for the year by the Authority as provision to meet credit liabilities, otherwise than by virtue of paragraphs (1) and (2) of article G24 below; and
- (b) any other amount which is set aside for the year by the Authority as reasonably necessary for the purpose of providing for any liability or loss which is likely or certain to be incurred but is uncertain as to the amount or the date on which it will arise (or both);

and the reference in paragraph (4) below to expenditure incurred by the Authority shall be construed in accordance with this paragraph.

(4) Nothing in this article or the following provisions of this Part shall permit the Authority to charge to a revenue account which it is required to keep by virtue of any enactment any expenditure incurred by the Authority which could not otherwise be so charged.

Expenditure excluded from article G3(1)

G4.—(1) Expenditure falling within paragraph (2) below is excluded from the obligation in article G3(1) above but, if it is consistent with proper practices and the Authority so wish, any such expenditure may be charged to a revenue account of the Authority for the financial year in which it is incurred or an earlier or later financial year.

(2) Subject to paragraph (4) below, the expenditure referred to in paragraph (1) above is as follows—

- (a) expenditure arising from the discharge of any liability of the Authority under a credit arrangement, other than an arrangement excluded from paragraph 2(1) of Schedule 3 to this Order by virtue of the application of paragraph 2(2) of Schedule 3 to this Order;
- (b) expenditure arising from the discharge of any liability of the Authority in respect of money borrowed by the Authority, other than a liability in respect of interest;
- (c) expenditure which, in reliance on a credit approval, the Authority has determined under article G17(a) below is not to be chargeable to a revenue account of the Authority;
- (d) expenditure on making approved investments;
- (e) expenditure consisting of the application or payment of capital receipts as mentioned in paragraphs (6) and (7) of article G20 below;

- (f) expenditure which is met out of the usable part of capital receipts, in accordance with article G21(2) below;
- (g) expenditure for capital purposes which the Authority determines is, or is to be, reimbursed or met out of money provided, or to be provided, by any other person, excluding grants from a Community institution; and
- (h) expenditure in respect of payments out of a trust fund which is held for charitable purposes and of which the Authority is a trustee.

(3) A determination under paragraph (2)(g) above may not be made later than 30th September in the financial year following that in which the expenditure in question is incurred.

(4) Where regulations made under section 42(4) of the 1989 Act amend subsection (2) of that section, paragraph (2) above shall be deemed to have been amended to the like effect.

(5) Where, by virtue of paragraph (1) above, expenditure of any description is excluded from the obligation in article G3(1) above, it shall also be excluded from any requirement arising under this Order or any other enactment under which the expenditure is required to be charged to a revenue account or any particular account; but if—

- (a) the Authority decides that expenditure of that description should be charged to a revenue account as mentioned in paragraph (1) above, and
- (b) under any such requirement that expenditure (apart from this paragraph) would have to be charged to a particular revenue account,

that expenditure may be charged only to that revenue account.

Borrowing powers

G5.—(1) Subject to the following provisions of this Part, as part of the proper management of its affairs, the Authority may borrow money for any purpose relevant to its functions under any enactment.

(2) Except with the approval of the Secretary of State given with the consent of the Treasury, the Authority may not borrow money in any manner other than—

- (a) by overdraft or short term from the Bank of England or from a body or partnership which, at the time the borrowing is undertaken, is an authorised institution within the meaning of the Banking Act 1987(15); or
- (b) from the National Debt Commissioners or from the Public Works Loan Commissioners; or
- (c) by means of a loan instrument;

and in sub-paragraph (a) above borrowing “short term” shall be construed in accordance with article G7(5) below.

(3) In the exercise of the powers conferred by sub-paragraphs (a) to (c) of paragraph (2) above, the Authority may not, without the consent of the Treasury, borrow from a lender outside the United Kingdom or otherwise than in sterling.

(4) Subject to any provision which applies by virtue of paragraph (5) below, for the purposes of this Part, a loan instrument is any document which, directly or by reference to any other document—

- (a) contains an acknowledgement (by the borrower, the lender or both) that a loan has been made to the Authority or that, in connection with the provision of funds to the Authority, a payment or repayment is due from the Authority; and
- (b) states the dates on which the Authority is to make payments or repayments; and

- (c) states the amount of each of those payments or repayments or the method by which that amount is to be calculated;
- (d) specifies the means, if any, by which the rights or obligations under the instrument are transferable; and
- (e) except in the case of an instrument which is transferable by delivery, specifies the name or description of the person to whom payments or repayments are due; and
- (f) in the case of an instrument issued by two or more local authorities acting jointly, states what proportion of the payments or repayments due are the responsibility of each of the authorities concerned.

(5) Regulations made under section 43(5) of the 1989 Act shall apply to a loan instrument issued under this Part as they would apply if it was a loan instrument issued by the NCS Service Authority under Part IV of the 1989 Act and any document which, at the time it comes into being, does not comply with any provision which applies by virtue of this paragraph is not a loan instrument for the purposes of this Part; and in the application of those regulations references in those regulations to provisions in local government enactments shall be interpreted as references to the equivalent provisions of this Order.

(6) Any approval given by the Secretary of State under paragraph (2) above and any consent given by the Treasury under paragraph (3) above may be given generally or in a particular case or by reference to borrowing or securities of a particular description and may be given subject to conditions.

(7) Paragraphs (2) to (6) above apply to all borrowing powers for the time being available to the Authority under any enactment, whenever passed.

Borrowing limits etc.

G6.—(1) The Authority may not at any time borrow an amount which would cause the total of—

- (a) the amount outstanding at that time by way of principal of money borrowed by the Authority, and
- (b) the aggregate cost (as determined below) at that time of the credit arrangements entered into by the Authority, other than arrangements excluded by virtue of the application of paragraph 2(2) of Schedule 3 to this Order,

to exceed the aggregate credit limit for the time being applicable to the Authority by virtue of article G23 below.

(2) Where the Secretary of State makes provision by regulations under section 44(2) of the 1989 Act, regulating borrowing by local authorities, then borrowing by the Authority shall be regulated to like extent as borrowing by the NCS Service Authority is regulated by those regulations and in the application of those regulations under this paragraph references in those regulations to provisions in local government enactments shall be interpreted as references to be equivalent provisions of this Order; and the Authority may not borrow to any extent or in any manner which would contravene those regulations as applied by this paragraph.

(3) The Authority may not borrow any amount which would cause any limit for the time being determined by the Authority under article G7 below to be exceeded.

(4) References in this article and articles G7 to G9 below to borrowing by the Authority are references to borrowing not only under article G5 above but also under any other power for the time being available to the Authority under any enactment, whenever passed.

(5) For the purposes of paragraph (1) above the temporary use by the Authority for a purpose other than that of the fund in question of money forming part of a trust fund as is referred to in subparagraph (h) of paragraph (2) of article G4 above shall be treated as borrowing.

(6) A person lending money to the Authority shall not be bound to enquire whether the Authority has power to borrow the money and shall not be prejudiced by the absence of any such power.

The Authority's own limits

G7.—(1) For the purposes of this Part, for each financial year the Authority shall determine—

- (a) an amount of money (in this Part referred to as “the overall borrowing limit”) which is for the time being the maximum amount which the Authority may have outstanding by way of borrowing;
- (b) an amount of money (in this Part referred to as “the short-term borrowing limit”), being a part of the overall borrowing limit, which is for the time being the maximum amount which the Authority may have outstanding by way of short term borrowing; and
- (c) a limit on the proportion of the total amount of interest payable by the Authority which is at a rate or rates which can be varied by the person to whom it is payable or which vary by reference to any external factors.

(2) Subject to paragraph (3) below, the duty to determine the limits referred to in paragraph (1) above shall be performed before the beginning of the financial year to which the limits are to relate.

(3) Where the Authority has determined a limit for a financial year under paragraph (1) above, the Authority may at any time (whether before or after the beginning of that year) vary that limit by making a new determination thereof.

(4) Article D1 above (arrangements for discharge of functions of the Authority by committees, officers etc) shall not apply to the duty to make a determination under paragraph (1) above of any limit or to the power to vary a limit under paragraph (3) above.

(5) For the purposes of paragraph (1)(b) above, the Authority may borrow money short term if the sum borrowed is repayable—

- (a) without notice; or
- (b) at less than twelve months notice; or
- (c) within twelve months of the date of the borrowing.

Register of loan instruments and certain existing loans

G8.—(1) The Authority shall maintain a register giving particulars of all the loans in respect of which loan instruments are issued by or to the Authority on or after 1st April 1998 and, if it thinks it appropriate, the Authority may appoint as a registrar for some or all of the purposes of such a register a person who is neither an officer nor any other employee of the Authority.

(2) Subject to the following provisions of this article, a register required to be maintained under this article shall be in such form as the Authority considers appropriate; but that form must be such that the register is, or is capable of being reproduced, in legible form.

(3) A register maintained under this article shall contain, with respect to each loan of which particulars are required to be registered,

- (a) except in the case of a loan in respect of which there has been issued an instrument (whether or not being a loan instrument) transferable by delivery, the name or description, and the address, of the person to whom payments or repayments are due;
- (b) the dates on which the payments or repayments are to be made; and
- (c) the amount of each of those payments or repayments or the method by which that amount is to be calculated.

(4) The Authority may remove from a register maintained under this article particulars of any loan in respect of which no more payments or repayments fall to be made.

(5) Where provision is made in regulations under section 46(6) of the 1989 Act with respect to a register maintained by an authority under that section those provisions shall apply to a register maintained by the Authority under this article as they apply to a register maintained under that section; and in the application of those provisions under this paragraph references in those regulations to provisions in local government enactments shall be interpreted as references to the equivalent provisions in this Order.

(6) A copy of an entry in a register maintained under this article which is certified by a registrar of the register and purports to show particulars entered pursuant to paragraph (3) or paragraph (5) above shall be prima facie evidence of the matters specified in the entry.

(7) A certification by a registrar of a register maintained under this article of any instrument of transfer of a loan instrument is to be taken as a representation by him to any person acting on the faith of the certification that there have been produced to the registrar such documents as on their face show a prima facie title to the loan instrument in the transferor named in the instrument of transfer; but such a certification shall not be taken as a representation that the transferor has any title to the loan instrument.

(8) If—

- (a) the name of any person is, without sufficient cause, entered in or omitted from a register maintained under this article, or
- (b) default is made or unnecessary delay takes place in making any entry required to be made in such a register,

the person aggrieved may apply to the High Court or a county court for rectification of the register.

(9) Where an application is made under paragraph (8) above, the court—

- (a) may refuse the application or order rectification of the register;
- (b) may decide any question relating to the title of a person who is a party to the application to have his name entered in or omitted from the register; and
- (c) generally may decide any question necessary or expedient to be decided for rectification of the register.

Security for money borrowed etc.

G9.—(1) All money borrowed by the Authority together with any interest thereon, shall be charged indifferently on all the revenues of the Authority.

(2) All securities created by the Authority shall rank equally without any priority.

(3) If at any time any principal or interest due in respect of any borrowing by the Authority remains unpaid for a period of two months after demand in writing, then, subject to paragraph (4) below, the person entitled to the sum due may, without prejudice to any other remedy, apply to any court having jurisdiction in respect of a claim for that sum for the appointment of a receiver; and, if it thinks fit, the court may appoint a receiver on such terms and with such powers as the court thinks fit.

(4) No application may be made under paragraph (3) above unless the sum due in respect of the borrowing concerned amounts to not less than 25,000 or such other amount as may from time to time be prescribed by the Secretary of State for the purposes of subsection (5) of section 47 of the 1989 Act.

(5) The court to whom an application is made under paragraph (3) above may confer upon the receiver any such powers of collecting, receiving and recovering the revenues of the Authority and of issuing levies as are possessed by the Authority.

(6) Except as provided by paragraph (1) above, the Authority may not mortgage or charge any of its property as security for money borrowed or otherwise owing by it; and any security purporting to be given in contravention of this paragraph shall be unenforceable.

Credit arrangements

G10.—(1) Subject to the following provisions of this article the Authority shall be taken for the purposes of this Part to have entered into a credit arrangement—

- (a) in any case where it becomes the lessee of any property (whether land or goods); and
- (b) in any case (not falling within sub-paragraph (a) above) where, under a single contract or two or more contracts taken together, it is estimated by the Authority that the value of the consideration which the Authority has still to give at the end of a relevant financial year for or in connection with the provision to the Authority of any land, goods or services or any other kind of benefit is greater than the value of the consideration (if any) which the Authority were still to receive immediately before the beginning of that financial year; and
- (c) in any case where the Authority enters into a transaction of the same description as a transaction of a description for the time being prescribed for the purposes of section 48 of the 1989 Act by regulations made by the Secretary of State

and, in any such case, the “credit arrangement” is the lease, the single contract or, as the case may be, the two or more contracts taken together.

(2) The estimate required to be made under sub-paragraph (b) of paragraph (1) above shall be made at the time the contract or, as the case may be, the later or last of the contracts constituting the credit arrangement is entered into; and the reference in that sub-paragraph to a relevant financial year is a reference to a financial year which begins after the contract or, as the case may be, the first of the contracts constituting the arrangement was entered into.

(3) For the purpose of this Part a credit arrangement comes into being—

- (a) where paragraph (1)(a) above applies, at the time the Authority become the lessees;
- (b) where paragraph (1)(b) above applies, at the time the contract or, as the case may be, the later or latest of the contracts constituting the arrangement is entered into; and
- (c) where paragraph (1)(c) above applies, at the time the Authority enter into the transaction concerned or such other time as may be specified in the regulations concerned.

(4) Where a contract constitutes, or two or more contracts taken together constitute, a credit arrangement, no account shall be taken under this article of any later contract which has the effect of varying the effect of the contract or, as the case may be, of the two or more contracts taken together.

(5) A contract is not a credit arrangement to the extent that it is a contract under which the Authority borrows money; and a lease or contract of the Authority which is of the same description as a lease or contract of an authority which is excluded from section 48 of the 1989 Act by regulations made by the Secretary of State under that Act is not a credit arrangement for the purposes of this article.

(6) It is immaterial for the purposes of this article whether the consideration given or received by the Authority under any contract is given to or received from the person by whom the land, goods, services or other benefit are in fact provided to the Authority; and for the purposes of this article, and any of the following provisions of this Part relating to credit arrangements, in any case where the consideration under a contract consists, in whole or in part,—

- (a) of an undertaking to do or to refrain from doing something at a future time (whether specified or not), or
- (b) of a right to do or to refrain from doing something at such a future time,

that consideration shall be regarded as neither given nor received until the undertaking is performed or, as the case may be, the right is exercised.

(7) Where the consideration under a contract consists, in whole or in part, of an option, the estimate required to be made under paragraph (1)(b) above shall be made—

- (a) on the assumption that the option will be exercised or, if the option could be exercised in different ways, on the assumption that it will be exercised in each of those ways, and
- (b) on the assumption that the option will not be exercised, and if, on any of those assumptions, the contract would on those estimates constitute, alone or together with one or more other contracts, a credit arrangement, it shall be regarded as doing so regardless of whether the option is or is not in fact exercised; and in this paragraph “option” includes any right which is exercisable or not at the discretion of a party to the contract.

(8) If an existing contract is varied and the variation does not in law itself constitute a contract, it shall be regarded as such for the purposes of this article and, accordingly, subject to paragraph (4) above, the existing contract and the variation shall be regarded as two contracts to be taken together.

(9) A lease of any property is excluded from paragraph (1)(a) above if the Authority becomes the lessee by virtue of article 5 of the Police Act 1997 (Commencement No. 5 and Transitional Provisions) Order 1998(16).

Initial and subsequent cost of credit arrangements

G11.—(1) Subject to paragraph (3) below, for the purposes of this Part the initial cost of a credit arrangement is the amount which, at the time the arrangement comes into being, the Authority estimates will be the aggregate of—

- (a) any consideration which falls to be given by the Authority under the arrangement in the financial year in which it comes into being; and
- (b) the value of the consideration falling to be given by the Authority under the arrangement in any subsequent financial year, determined in accordance with paragraph (2) below.

(2) For each subsequent financial year referred to in paragraph (1)(b) above, the value of the consideration falling to be given in that year shall be determined by the formula—

$$\frac{x}{\{1 + \frac{r}{100}\}^n}$$

where—

“x” is the amount of the consideration which the Authority estimates will be given by it under the arrangement in that financial year;

“r” is the percentage rate of discount prescribed for the financial year in which the arrangement came into being by regulations made by the Secretary of State for the purposes of section 49(2) of the 1989 Act; and

“n” is the financial year in which the consideration falls to be given expressed as a year subsequent to the financial year in which the arrangement came into being (so that the first of the subsequent financial years is 1, the next financial year is 2, and so on).

(3) Paragraph (2) above does not apply to a credit arrangement of the Authority which is of the same description as a credit arrangement of an authority excluded from subsection (2) of section 49 of the 1989 Act by regulations made by the Secretary of State and, in relation to a credit arrangement which is so excluded, for the purposes of the application of this Part, the provision made in those regulations for the method of calculating the initial cost and the cost of the arrangement at any time shall apply.

(4) Subject to paragraph (3) above and articles G13 below, the cost of a credit arrangement at any time after it has come into being shall be determined in accordance with paragraphs (1) and (2) above (in like manner as the determination of the initial cost) but on the basis of an estimate made

at the time in question and leaving out of account any consideration which has been given by the Authority under the arrangement before that time.

(5) In the application of this article to a credit arrangement which consists, in whole or in part, of a contract, the consideration under which falls within paragraph (7) of article G10 above,

- (a) if the credit arrangement exists only on the basis of one of the assumptions in that paragraph, the Authority shall make that assumption for the purposes of this article; and
- (b) if the credit arrangement would exist on the basis of any two or more of those assumptions, the Authority shall for the purposes of this article make whichever of those assumptions seems to it most likely.

Limits on powers to enter into credit arrangements

G12.—(1) The Authority may not enter into a credit arrangement for any purpose unless, if it incurred expenditure for that purpose, it would be expenditure for capital purposes, and any reference in the following provisions of this Part to “capital purposes”, in relation to a credit arrangement, shall be construed accordingly.

(2) The Authority may not enter into a credit arrangement unless, at the time the arrangement comes into being, there is available to the Authority an amount of credit cover equal to the initial cost of the arrangement.

(3) For the purposes of this article, each of the following amounts constitutes, in relation to a credit arrangement, an amount of credit cover available to the Authority,

- (a) an amount for the time being authorised by a credit approval issued to the Authority;
- (b) an amount of the usable part of capital receipts which, in accordance with a determination under article G21(2) below referring to the arrangement, is applied by the Authority as provision to meet credit liabilities; and
- (c) an amount which, in accordance with a determination of the Authority referring to the arrangement, is set aside from a revenue account by the Authority as provision to meet credit liabilities (being an amount over and above what they are required so to set aside by virtue of any other provision of this Part).

(4) The Authority may not enter into a credit arrangement at any time if to do so would at that time cause the total referred to in article G6(1) above to exceed the aggregate credit limit for the time being applicable to the Authority by virtue of article G23 below.

(5) A determination under paragraph (3)(c) above may not be made later than 30th September in the financial year following that in which falls the time when there comes into being the credit arrangement for which the credit cover is made available.

Variation of credit arrangements

G13.—(1) This article (other than paragraph (10) below) applies where the terms of a credit arrangement entered into by the Authority are varied (whether by the making of a new contract or otherwise) in such a way that, if the effect of the variation had been part of the arrangement at the time it came into being, the initial cost would have been greater than it was.

- (2) If, in the case of a credit arrangement falling within paragraph (5) of article G11 above,
 - (a) the option in question is exercised in a way different from that which was assumed for the purposes of that article, or
 - (b) it was assumed for the purposes of that article that the option in question would not be exercised but it is in fact exercised,

the exercise of the option shall be regarded for the purposes of this article as a variation of the terms of the credit arrangement; and if, in such a case, it was assumed for the purposes of article G11 above that the option would be exercised (or would be exercised in a particular way) and it subsequently appears to the Authority that it will not in fact be exercised, the option shall be assumed to have been abandoned and that abandonment shall be regarded for the purposes of this article as a variation of the terms of the credit arrangement.

(3) The Authority may not at any time agree to such a variation as is mentioned in paragraph (1) above if to do so would mean that, immediately after the variation, the total referred to in article G6(1) above would exceed the aggregate credit limit for the time being applicable to the Authority by virtue of article G23 below.

(4) Where a credit arrangement is varied as mentioned in paragraph (1) above, the Authority shall secure that there is available to it an amount of credit cover equal to whichever is the less of—

- (a) the difference between the total amount of consideration paid and payable under the arrangement disregarding the variation and the total amount of the consideration paid and payable under the arrangement as varied; and
- (b) the difference between the adjusted cost of the arrangement and the credit cover already made available in connection with the arrangement in accordance with article G12 above; and paragraphs (3) and (5) of article G12 above apply for the purposes of this article as they apply for the purposes of that article, except that, in paragraph (5), the reference to the time when the arrangement comes into being shall be construed as a reference to the time when it is varied.

(5) Subject to paragraph (7) below, the adjusted cost of the arrangement referred to in paragraph (4)(b) above is the aggregate of—

- (a) the consideration which, in the financial year in which the arrangement is varied and in any earlier financial year, has been or falls to be given by the Authority; and
- (b) the amount which, at the time of the variation, the Authority estimates will be the cost of the arrangement, as varied, in each subsequent financial year determined as follows.

(6) Subject to paragraph (7) below, for any subsequent financial year the cost of the arrangement as varied shall be determined by the formula in article G11(2) above but, for this purpose,

“x” is the amount of the consideration which the Authority estimates will be given by it in that financial year under the arrangement as varied;

“r” is the percentage rate of discount for the financial year in which the arrangement is varied, as prescribed for the purposes of article G11 above;

“n” is the financial year in which the consideration falls to be given, expressed as a year subsequent to the financial year in which the arrangement is varied (so that the first of the subsequent financial years is 1, the next is 2, and so on).

(7) Paragraph (5) and (6) above do not apply in relation to a credit arrangement as to which the method of calculating the initial cost and the cost at any time is provided for by virtue of article G11(3) above; and any adjusted cost or cost which would otherwise fall to be determined in accordance with those paragraphs shall be determined in accordance with the provisions applied by virtue of article G11(3) above.

(8) Where a credit arrangement is varied as mentioned in paragraph (1) above, the cost of the arrangement at any time after the variation shall be determined in accordance with paragraphs (5) and (6) above (in like manner as the determination of the adjusted cost) but on the basis of an estimate made at the time in question and leaving out of account any consideration which has been given by the Authority under the arrangement before that time.

(9) If, at any time after the terms of a credit arrangement have been varied as mentioned in paragraph (1) above, the terms of the arrangement are again varied, the preceding provisions of this article shall have effect with any necessary modifications and, in particular, as if,

- (a) the reference in paragraph (1) above to the time the arrangement came into being were a reference to the time at which the arrangement was varied (or, as the case may be, last varied) as mentioned in that paragraph;
- (b) the reference in that paragraph to the initial cost were a reference to the adjusted cost of the arrangement as so varied (or last varied); and
- (c) the reference in sub-paragraph (b) of paragraph (4) above to the credit cover already made available in accordance with article G12 above included a reference to any additional credit cover made available under that paragraph at the time of an earlier variation.

(10) If at any time the terms of a credit arrangement are varied otherwise than as mentioned in paragraph (1) above, then, so far as the variation affects the consideration falling to be paid by the Authority in any year, account shall be taken of the variation in determining the cost of the arrangement at any subsequent time (under paragraph (8) above or paragraph (3) or paragraph (4) of article G11 above) but for other purposes the variation shall be disregarded.

Basic credit approvals

G14.—(1) Subject to paragraph (5) below, before the beginning of each financial year, the Secretary of State shall issue to the Authority, in the form of a notice in writing, a credit approval with respect to the Authority's credit arrangements and expenditure for capital purposes during that year.

(2) A credit approval issued under this article (in this Part referred to as a "basic credit approval") may be nil but, subject to that, shall be expressed as an amount of money.

(3) A basic credit approval shall have effect only for the financial year in respect of which it is issued and may be limited by excluding from the purposes for which the approval may be used capital purposes of a description specified in the approval.

(4) Where by regulations made under section 53 of the 1989 Act the Secretary of State requires a basic credit approval to specify, directly or by reference to tables or other documents specified in the regulations, a period (referred to as the "amortisation period") during which a local authority is required to set aside, from a revenue account, as provision to meet credit liabilities, amounts determined in accordance with the requirement then the like requirement shall apply to the Authority in relation to basic credit approvals issued under this article.

(5) In relation to the financial year beginning 1st April 1998 the Secretary of State shall issue a basic credit approval in respect of that year before 7th April 1998.

Supplementary credit approvals

G15.—(1) Any Minister of the Crown may at any time issue to the Authority, in the form of a notice in writing, a credit approval (in this Part referred to as a "supplementary credit approval").

(2) A supplementary credit approval shall be expressed as an amount of money and shall be limited to credit arrangements and expenditure for capital purposes of a description specified in the approval (but, if the Minister concerned considers appropriate, all capital purposes may be so specified).

(3) A supplementary credit approval shall have effect for such period as is specified in the approval; and where such an approval is issued not more than six months after the end of a financial year, it may specify a period which begins or begins and ends at any time during that financial year.

(4) Subject to paragraph (5) below, paragraph (4) of article G14 applies in relation to a supplementary credit approval as it applies in relation to a basic credit approval.

(5) In the case of a supplementary credit approval issued in respect of expenditure which is treated by the Authority as expenditure for capital purposes by virtue only of directions under article G2(6) above, the approval must specify an amortisation period and the maximum amortisation period which may be specified shall be seven years.

Criteria for issuing credit approvals

G16.—(1) In determining the amount of a basic credit approval or a supplementary credit approval to be issued by the Authority, the Secretary of State or other Minister may have regard, subject to the following provisions of this article, to such factors as appear to him to be appropriate.

(2) Without prejudice to the generality of paragraph (1) above, the Secretary of State or other Minister may, in particular, have regard—

- (a) to the amount of any grants or contribution which it appears to him that the Authority has received and is likely to receive from any person in respect of expenditure incurred by the Authority or to be incurred by it before the expiry of the period for which the credit approval is to have effect; and
- (b) subject to paragraph (3) below, to the amount of capital receipts which it appears to him that the Authority has received, might reasonably be expected to have received or to receive or is likely to receive before the expiry of the period for which the credit approval is to have effect.

(3) In determining the amount of credit approval, the Secretary of State or other Minister shall not take account of capital receipts—

- (a) to the extent that the Authority is required to set aside the receipts as provision for credit liabilities; or
- (b) to the extent that they are applied or paid as mentioned in paragraphs (6) and (7) of article G20 below.

(4) In determining the amount of the basic credit approval or of a supplementary credit approval to be issued to the Authority in any financial year, the Secretary of State or other Minister shall not take account of the extent to which it appears to him that the Authority is or is likely to be in a position to finance expenditure for capital purposes from a revenue account.

Use of credit approvals by the Authority

G17. Where the Authority has received a basic credit approval or a supplementary credit approval, then, if it so determines the approval may be treated wholly or partly—

- (a) as authority not to charge to a revenue account an amount of expenditure which is defrayed during the period for which the approval has effect and which is for capital purposes to which the approval applies; or
- (b) as authority, within the period for which the approval has effect, to enter into or agree to a variation of a credit arrangement for purposes to which the approval applies.

Effect of certain capital grants on credit approvals

G18.—(1) In this article “specified capital grants” means grants, contributions and subsidies—

- (a) which are paid to the Authority in aid of its expenditure for capital purposes;
- (b) which are payments of the same type as payments specified for the purposes of section 57 of the 1989 Act by regulations made by the Secretary of State under that Act, in which case such payments shall be specified, to the same extent, for the purposes of this article.

(2) If at any time the Authority receives a specified capital grant, such, if any, of the Authority's credit approvals as are relevant to that grant shall, in accordance with the following provisions of this article, be reduced or, as the case may be, extinguished by deducting therefrom an amount equal to the grant.

(3) For the purpose of this article, a credit approval is relevant to a specified capital grant if —

- (a) the approval has effect at the time the grant is received or at any time thereafter; and
- (b) the purposes for which the approval may be used are or include the purposes towards expenditure on which the grant is made.

(4) Subject to paragraph (5) below, where, by virtue of paragraph (2) above, a deduction is required in respect of a specified capital grant,—

- (a) the deduction shall be applied to the credit approvals which are relevant to the grant in the order in which those approvals were received;
- (b) subject to sub-paragraph (d) below, the reduction or extinguishment of any such approval shall be regarded as taking place when the grant is received;
- (c) if the amount of the deduction exceeds the total of the credit approvals which are relevant to the grant and were received before the grant, the excess shall be applied in reduction (or extinguishment) of credit approvals which are so relevant and are received later; and
- (d) any such reduction or extinguishment of a later credit approval as is referred to in sub-paragraph (c) above shall be regarded as taking place when the approval is received.

(5) In any case where before the time when a specified capital grant is received by the Authority, the Authority has made a determination under article G17 above with respect to a credit approval which is relevant to that grant the credit approval shall not, to that extent, be taken into account under paragraphs (2) and (4) above; but, subject to that, the making of determination under article G17 above with respect to a credit approval shall not affect the operation of those paragraphs in relation to it.

Capital receipts

G19.—(1) For the purposes of this Part, the capital receipts of the Authority are, subject to the following provisions of this article those sums received by the Authority in respect of—

- (a) the disposal of any interest in an asset if, at the time of disposal, expenditure on the acquisition of the asset would be expenditure for capital purposes;
- (b) the disposal of any investment other than an investment which, at the time of disposal, is an approved investment;
- (c) the repayment of, or a payment in respect of, any grants or other financial assistance of such a description that, if the expenditure on the grant or assistance had been incurred at the time of the repayment or payment, it would have constituted expenditure for capital purposes; or
- (d) the repayment of the principal of an advance (not being an approved investment) made by the Authority for such a purpose that, if the advance had been made at the time of the repayment, expenditure incurred on it would have constituted expenditure for capital purposes;

and those sums become capital receipts at the time they are in fact received.

(2) When an asset or investment falling within sub-paragraph (a) or sub-paragraph (b) of paragraph (1) above is disposed of and the whole or part of the purchase price is not received by the Authority at the time of the disposal, then, subject to paragraph (4) below, any interest payable to the Authority in respect of the whole or any part of the price shall not be regarded as a capital receipt.

(3) Subject to paragraph (4) below, in the case of a disposal of an asset which consists of the grant, assignment or surrender of a leasehold interest in any land or the lease of any other asset, only the following are capital receipts,

- (a) any premium paid on the grant or assignment;
- (b) any consideration received in respect of the surrender;
- (c) any sum paid by way of rent more than three months before the beginning of the rental period to which it relates;
- (d) any sum paid by way of rent in respect of a rental period which exceeds one year; and
- (e) so much of any other sum paid by way of rent as, in accordance with directions given by the Secretary of State, falls to be treated as a capital receipt.

(4) Where the Secretary of State has provided, by regulations made under section 58 of the 1989 Act, that the whole or such part as may be determined under the regulations of a sum received by a local authority and which apart from that section, would not be a capital receipt shall be such a receipt and the whole or such part as may be so determined of a sum which, apart from that section, would be a capital receipt shall not be such a receipt, then, for the purposes of the application of this Part, any such sum received by the Authority shall, or as the case may be, shall not be treated as a capital receipt; and references in those Regulations to local government enactments shall be interpreted as references to the equivalent provisions of, or as applied by, this Order.

The reserved part of capital receipts

G20.—(1) At the time when the Authority receives a capital receipt, a part of that receipt (in this Part referred to as “the reserved part”) shall be set aside by the Authority as provision to meet credit liabilities.

(2) Subject to the following provisions of this article, the reserved part of a capital receipt shall be 50 per cent.

(3) Where the Secretary of State by regulations under section 59 of the 1989 Act alters the percentage which is for the time being the reserved part of any capital receipt of an authority or provides that the amount which is the reserved part of any capital receipt of an authority shall be determined in accordance with the regulations for the purposes of that section then for the purposes of the application of this article the reserved part of a capital receipt shall be as provided by those regulations or determined in accordance with those regulations; and references in those regulations to local government enactments shall be interpreted as references to the equivalent provisions of, or as applied by, this Order.

(4) Where the Secretary of State by regulation provides that capital receipts of a description specified in the regulations shall be treated for the purposes of section 59 of the 1989 Act as reduced by an amount determined in accordance with the regulations then for the purposes of this article capital receipts of the specified description of the Authority shall be treated as reduced by such amount as they would be if they were capital receipts of an authority determined in accordance with the regulations; and references in those regulations to local government enactments shall be interpreted as references to the equivalent provisions of, or as applied by, this Order.

(5) Without prejudice to subsection (3) above, in any case where—

- (a) the consent of the Secretary of State is required for a disposal of a dwelling-house or any other property, and
- (b) the Secretary of State gives a direction under this sub-paragraph with respect to a capital receipt in respect of that disposal,

subsection (2) above shall have effect in relation to that capital receipt as if it provided that the reserved part of the receipt were a percentage thereof specified in the direction or, according as the direction provides, an amount determined in accordance with the direction.

(6) Paragraph (1) above does not apply to a capital receipt received by the Authority as trustee of a trust fund which is held for charitable purposes.

(7) Where the Authority receives a capital receipt in respect of an asset, investment, grant or other financial assistance which was originally acquired or made by the Authority wholly or partly out of moneys provided by Parliament on terms which require, or enable a Minister of the Crown to require, the payment of any sum to such a Minister on or by reference to the disposal of the asset or investment or the repayment of the grant or assistance, the amount of the capital receipt shall be treated for the purposes of the preceding provisions of this article as reduced by the sum which appears to the Authority to be so payable.

The usable balance of capital receipts

G21.—(1) This article applies to the balance of any capital receipts received by the Authority after deducting—

- (a) the reserved part of each such receipt; and
- (b) any sum which, by virtue of paragraph (7) of article G20 above falls to be deducted in determining the amount of any receipt for the purposes of the preceding provisions of that paragraph;

but nothing in this article applies to a capital receipt which falls within article G20(6) above.

(2) The balance referred to in paragraph (1) above (in this Part referred to as “the usable part” of the Authority’s capital receipts) shall be applied by the Authority, accordingly as it determines, in one of the following ways, or partly in one way and partly in the other,—

- (a) to meet expenditure incurred for capital purposes; or
- (b) as provision to meet credit liabilities;

and, subject to paragraph (3) below, may be so applied in the financial year in which the receipts are received or in any later financial year.

(3) A determination by the Authority under paragraph (2) above as to the manner in which the usable part of its capital receipts are to be applied may not be made later than 30th September in the financial year following that in which, in accordance with the determination, the receipts are to be applied.

(4) For the purposes of this Part, to the extent that the usable part of the Authority’s capital receipts are applied as mentioned in paragraph (2)(a) above, it shall be taken to be so applied at the time when the expenditure in question is defrayed.

(5) For the purposes of this Part, to the extent that the usable part of the Authority’s capital receipts are applied as mentioned in paragraph (2)(b) above, it shall be taken to be so applied—

- (a) if it is used as an amount of credit cover as mentioned in article G12(3)(b) above, when the credit arrangement in question is entered into or varied; and
- (b) in any other case, on the last day of the financial year in which (pursuant to the Authority’s determination) it is so applied.

Capital receipts not wholly in money paid to the Authority

G22.—(1) This paragraph applies where—

- (a) the whole or part of the consideration received by the Authority for a disposal falling within article G19(1) above either is not in money or consists of money which, at the request or with the agreement of the Authority concerned, is paid otherwise than to the Authority; or
- (b) the right of the Authority to receive such a repayment or payment as is referred to in article G19(1) above is assigned or waived for a consideration which, in whole or in part, is not

in money or which, at the request or with the agreement of the Authority, is paid otherwise than to the Authority; or

- (c) on a disposal falling within article G19(3) above, if it had been in money paid to the Authority, it would have been a capital receipt.

(2) Where this article applies in relation to any consideration, there shall be determined the amount which would have been the capital receipt if the consideration had been wholly in money paid to the Authority; and subject to paragraph (3) below, the amount so determined is in this article referred to as “the notional capital receipt”.

(3) From the amount which, apart from this paragraph, would be the notional capital receipt in relation to a disposal, repayment or payment there shall be deducted any amount of money that was paid or is payable to the Authority in respect of that disposal, repayment or payment and in respect of which article G20 above actually applies or will actually apply when the payment is received.

(4) Where consideration to which this article applies is received in respect of a disposal, repayment or payment, the Authority shall set aside, at the time of the disposal or the assignment or waiver of the repayment or payment, and as provision to meet credit liabilities, an amount which, except in so far as directions given by the Secretary of State otherwise provide, shall be equal to that which, under article G20 above, would be the reserved part of the notional capital receipt.

(5) The amount falling to be set aside by the Authority under paragraph (4) above shall be so set aside—

- (a) from the usable part of the Authority’s capital receipts; or
(b) from a revenue account of the Authority.

(6) Where the Secretary of State provides by regulations made under section 61 of the 1989 Act that—

- (a) consideration which is not in money, which is received by a local authority and which is of a description specified in the regulations, or
(b) consideration which is in money, which is paid otherwise than to a local authority and which is of a description specified in the regulations,

shall be treated for the purposes of subsections (2), (4) and (5) of that section as consideration to which that section applies, then consideration which is not in money which is received by the Authority and is of the description specified in the regulations and consideration which is not in money which is paid otherwise than to the Authority and is of the description specified in the regulations shall be treated for the purposes of paragraphs (2), (4) and (5) above as consideration to which this article applies and, in relation to any such consideration, paragraph (4) above shall apply with such modifications as are specified in the regulations, and references in those regulations to local government enactments shall be interpreted as references to the equivalent provision of, or as applied by, this Order.

Aggregate credit limit

G23.—(1) There shall be an aggregate credit limit for the Authority which, subject to paragraph (2) below, at any time shall be the total at that time of—

- (a) the Authority’s temporary revenue borrowing limit;
(b) the Authority’s temporary capital borrowing limit;
(c) the Authority’s credit ceiling, as determined under Schedule 3 to this Order; and
(d) the excess of the Authority’s approved investments and cash over its usable capital receipts;

but the reference in sub-paragraph (d) above to approved investments and cash does not include investments or cash held for the purposes of such a trust fund as is referred to in sub-paragraph (h) of paragraph (2) of article G4 above.

(2) On an application made by the Authority, the Secretary of State may direct that, for any period specified in the direction, the amount which, apart from the direction, would be the Authority's aggregate credit limit at any time during that period shall be increased by an amount specified in the direction with respect to that period; and any increase specified in a direction under this paragraph may be expressed to have effect subject to compliance with such terms and conditions as may be so specified.

(3) Subject to paragraph (4) below, the Authority's temporary revenue borrowing limit at any time is whichever is the less of—

- (a) the total sums which at that time remain to be received by the Authority and which, as income, fall or will fall to be credited to a revenue account of the Authority for the current financial year; and
- (b) the aggregate of—
 - (i) the total sums which, up to and including that time (whether in the current or a previous financial year), the Authority has disbursed in respect of expenditure which falls to be charged to a revenue account of the Authority for the current financial year; and
 - (ii) any relevant arrears in respect of which provision has been or is to be charged to such a revenue account or which have been or are to be written off and charged to such a revenue account;

and for the purposes of sub-paragraph (b) (ii) above "relevant arrears" are amounts in respect) b of income which remain to be received by the Authority and which, as income, fall to be credited to a revenue account of the Authority for the financial year beginning two years before the beginning of the current financial year.

(4) At any time in a financial year the amount which, apart from this paragraph, would be an Authority's temporary revenue borrowing limit shall be increased by the addition of any amount in respect of the immediately preceding financial year, being whichever is the less of—

- (a) the excess (if any) of the total sums which, up to and including that time, the Authority have disbursed in respect of expenditure falling to be charged to a revenue account of the Authority for that preceding year over the total sums which, up to and including that time, the Authority have received in respect of income falling to be credited to such a revenue account; and
- (b) the total sums which at that time remain to be received by the Authority and which, as income, fall or will fall to be credited to a revenue account of the Authority for that preceding year.

(5) The Authority's temporary capital borrowing limit at any time is so much of the expenditure defrayed by the Authority for capital purposes in the eighteen months ending at that time as is due to be, but at that time has not been, re-imbursed by any other person, excluding expenditure which is to be re-imbursed or met out of grants from a Community institution; and for the purpose it is immaterial whether the re-imburement is due as a result of an obligation arising by statute, contract or otherwise or is to take the form of a grant or other obligation voluntarily undertaken.

(6) If at any time the Authority's usable capital receipts exceed its approved investments and cash referred to in subparagraph (d) of paragraph (1) above, the amount taken into account under that sub-paragraph shall be a negative amount.

(7) Where an amount taken into account under sub-paragraph (c) or sub-paragraph (d) of paragraph (1) above is a negative amount, it shall be a deduction in determining the total referred to in the sub-paragraph.

(8) Any reference in this article to the Authority's usable capital receipts at any time is a reference to the usable part of the Authority's capital receipts so far as they have not been applied before that time.

Duty to set certain amounts aside as provision to meet credit liabilities

G24.—(1) Without prejudice to any other provision of this Part under which the Authority is required or authorised to set aside any amount as provision to meet credit liabilities, in each financial year the Authority shall, by virtue of this article, set aside, from such revenue account or accounts as the Authority thinks fit, as provision to meet credit liabilities, an amount determined by the Authority, being not less than the minimum revenue provision for that year referred to in Part II of Schedule 3 to this Order.

(2) Where the Authority receives any sum by way of grant from a Community institution towards the Authority's expenditure on capital purposes, it shall at the time the sum is received, set aside an amount equal to that sum as provision to meet credit liabilities.

(3) A determination under paragraph (1) above shall be made not later than 30th September in the financial year following that to which the determination relates.

Use of amounts set aside to meet credit liabilities

G25.—(1) Amounts for the time being set aside by the Authority (whether voluntarily or pursuant to a requirement under this Part) as provision to meet credit liabilities may, subject to paragraph (2) below, be applied only for one or more of the following purposes—

- (a) to meet any liability of the Authority in respect of money borrowed by the Authority, other than a liability in respect of interest;
- (b) to meet any liability of the Authority in respect of credit arrangements, other than those excluded under paragraph 2(2) of Schedule 3 to this Order; and
- (c) where a credit approval has been used as authority not to charge particular expenditure to a revenue account, to meet that expenditure.

(2) Subject to the following provisions of this article if, on the date which is the relevant date for any financial year, the Authority's credit ceiling as determined under Part I of Schedule 3 is a negative amount, any such amount as is referred to in paragraph (1) above in that financial year may be applied by the Authority for the same purposes as the purposes it may be applied by an authority by virtue of regulations made by the Secretary of State under section 64 of the 1989 Act, so long as any conditions specified in those regulations are complied with.

(3) The aggregate of the amounts which may be applied by the Authority in accordance with paragraph (2) above in any financial year shall not exceed the amount by which the Authority's credit ceiling on the relevant date is less than nil.

(4) References in paragraphs (2) and (3) above to the relevant date shall be construed as follows—

- (a) for the financial year beginning on 1st April 1998, the relevant date is that date; and
- (b) for any subsequent financial year, the relevant date is the last day of the preceding financial year.

Information

G26.—(1) The Secretary of State may serve on the Authority a notice requiring the Authority to supply to him such information as is specified in the notice and is required by him—

- (a) for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Part; or
- (b) for the purpose of ascertaining whether the Authority have acted, or are likely to act, in accordance with this Part; or
- (c) for the purpose of assisting the formulation of government economic policies;

but no information shall be required for the purpose specified in paragraph (c) above unless it relates to, or to plans or proposals about, the finances and expenditure of the Authority or of any company in which the Authority has an interest.

(2) If the information specified in a notice under this article is in the possession or under the control of the Authority, the Authority shall supply the information required in such form and manner, and at such time, as is specified in the notice and, if the notice so requires, the information shall be certified (according as is specified in the notice) in one or both of the following ways,

- (a) by the chief finance officer of the Authority, within the meaning of article F3 above, or by such other person as may be specified in the notice; and
- (b) under arrangements made by the Audit Commission for Local Authorities in England and Wales.

(3) If the Authority fails to comply with paragraph (2) above, the Secretary of State may decide—

- (a) whether to exercise his powers, and how to perform his functions, under this Part, or
- (b) whether the Authority have acted, or are likely to act, in accordance with this Part,

on the basis of such assumptions and estimates as he thinks fit.

(4) In deciding—

- (a) whether to exercise his powers, and how to perform his functions, under this Part, or
- (b) whether the Authority has acted, or is likely to act, in accordance with this Part,

the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other enactment.

Interpretation of Part G

G27.—(1) In this Part—

- (a) “approved investments” means investments approved for the purposes of Part IV of the 1989 Act by regulations made by the Secretary of State;
- (b) “local government enactment” means an enactment listed in Schedule 6 to the Police Act 1997 and regulations made under those enactments; and
- (c) “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975(17).

(2) For the purposes of this Part, the Authority—

- (a) incurs a liability in respect of a payment at the time when it becomes unconditionally liable to make the payment; and
- (b) discharges a liability in respect of a payment at the time when it makes the actual payment, whether or not it has at that time become unconditionally liable to do so.

(3) In relation to a credit arrangement,—

- (a) any reference in this Part to consideration given or to be given by the Authority under the arrangement does not include a reference to any consideration which is given before the time and arrangement comes into being (as defined in article G10(3) above); and
 - (b) any reference in this Part to a liability of the Authority under the arrangement does not include a reference to a liability which is met by the making of a payment before that time.
- (4) In relation to the Authority, references in this Part to proper practices are references to those accounting practices—
- (a) which the Authority is required to follow by virtue of any enactment; or
 - (b) which, whether by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of the accounts of the Authority;
- but, in the event of any conflict in any respect between the practices falling within sub-paragraph (a) above and those falling within sub-paragraph (b) above, only those falling within sub-paragraph (a) above are to be regarded as proper practices.
- (5) For the avoidance of doubt, any reference in this Part to borrowing by the Authority does not include a reference to the temporary use by the Authority of money forming part of a particular fund of the Authority for a purpose other than that of the fund.

PART H

ACCOUNTS AND AUDIT

- H.** Subject to article J13 below, Part III of the Local Government Finance Act 1982(18) shall apply to the accounts of the Authority as if the Authority were a body listed in section 12(2) of that Act and, for the purposes of the application of that Part—
- (a) references to any body whose accounts are required to be audited in accordance with that Part shall be construed as references to the Authority;
 - (b) references to section 100B of the Local Government Act 1972 shall be construed as references to article C2 of this Order;
 - (c) references to Part VA of that Act shall be construed as references to Part C of this Order;
 - (d) references to sections 114 and 115 of the Local Government Finance Act 1988 shall be construed as references to articles F3 and F4 respectively of this Order;
 - (e) section 28F shall apply to a report or document which relates to the Service Authority for the National Criminal Intelligence Service as it applies to a report or document which relates to the Service Authority for the National Crime Squad.

PART I

LAND

Acquisition of land by agreement by the Authority

- II.**—(1) For the purposes of any of its functions the Authority may acquire by agreement any land.

(2) The Authority may acquire by agreement any land for any purpose for which it is authorised by this Order or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this paragraph may be used for the purpose of any of the Authority's functions.

(3) References in the foregoing provisions of this article to acquisition by agreement are references to acquisition for money or money's worth, as purchaser or lessee.

Disposal of land by the Authority

12.—(1) Subject to the following provisions of this article, the Authority may dispose of land held by it in any manner it wishes.

(2) Except with the consent of the Secretary of State, the Authority shall not dispose of land under this article, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.

(3) For the purposes of this article a disposal of land is a disposal by way of a short tenancy if it consists—

- (a) of the grant of a term not exceeding seven years, or
- (b) of the assignment of a term which at the date of the assignment has not more than seven years to run.

Consents to land transactions by the Authority and protection of purchasers

13.—(1) Where the consent of the Secretary of State is required under article 12 above, that consent may be given—

- (a) in relation to any particular transaction or transactions or in relation to a particular class of transactions; and
- (b) either unconditionally or subject to such conditions as the Secretary of State may specify (either generally, or in relation to any particular transaction or transactions or class of transactions).

(2) Where under the foregoing provisions of this Part or under any other enactment the Authority purport to acquire, appropriate or dispose of land, then—

- (a) in favour of any person claiming under the Authority, the acquisition, appropriation or disposal so purporting to be made shall not be invalid by reason that any consent of the Secretary of State which is required thereto has not been given or that any requirement as to advertisement or consideration of objections has not been complied with, and
- (b) a person dealing with the Authority or a person claiming under the Authority shall not be concerned to see or enquire whether any such consent has been given or whether any such requirement has been complied with.

(3) A decision of the Secretary of State under this article shall be final.

Savings

14.—(1) Nothing in the foregoing provisions of this Part shall authorise the disposal of any land by the Authority in breach of any trust, covenant or agreement which is binding upon it.

(2) Nothing in the foregoing provisions of this Part shall affect the operation of section 36 of the Charities Act 1993(19) (restrictions on dispositions of charity land) and, in particular none of those provisions shall be treated as giving any such authority for a transaction as is referred to in

section 36(9)(a) of that Act (certain statutorily authorised transactions not to require the sanction of the Charity Commissioners).

Registration of land holdings

I5.—(1) The Secretary of State may compile and maintain a register, in such form as he may think fit, of land which satisfies the conditions specified in paragraph (2) below.

(2) The conditions mentioned in paragraph (1) above are—

- (a) that a freehold or leasehold interest in the land is owned by the Authority;
- (b) that in the opinion of the Secretary of State the land is not being used or not being sufficiently used for the purposes of the performance of the Authority's functions or of carrying on its undertaking.

(3) The Secretary of State may enter on the register any such land satisfying the conditions specified in paragraph (2) above as he may think fit.

Public access to information

I6.—(1) The Secretary of State shall send to the Authority—

- (a) a copy of the register maintained under article 15; and
- (b) such amendments to it as he may from time to time consider appropriate.

(2) It shall be the duty of the Authority when amendments to the register are sent under paragraph (1)(b) above to incorporate the amendments in its copy of the register.

(3) A copy of a register sent to the Authority under this article shall be available at the Authority's principal office for inspection by any member of the public at all reasonable hours.

(4) If any member of the public requires the Authority to supply him with a copy of any information contained in such a copy of a register, the Authority shall supply him with a copy of that information on payment of such reasonable charge for making it as the Authority may determine.

Information about entries

I7.—(1) Where land is entered on a register under article I5(3) above, the Secretary of State shall as soon as is reasonably practicable after entering the land send a copy of the information included in the register in relation to the land to the Authority.

(2) Where land is entered on a register under article I5(3) above and the Secretary of State amends the information included in the register in relation to the land, he shall as soon as is reasonably practicable after amending the information send a copy of the amended information to the Authority, if it appears from the register that the Authority owns a freehold or leasehold interest in the land.

(3) The fact that the Secretary of State must send anything to the Authority under article 16 above does not displace any duty of his to send anything to the Authority under paragraph (1) or (2) above.

(4) Paragraph (5) below applies where a copy sent under paragraph (1) or (2) above has been received by the Authority.

(5) If at any time the Authority becomes aware that any information in the only or latest copy received by it is or has become inaccurate, it shall as soon as is reasonably practicable after becoming so aware inform the Secretary of State that the information is inaccurate and give him (so far as it is able) the corrected information.

(6) Paragraph (5) above does not apply if, when the Authority becomes so aware, the land concerned is no longer entered on a register under article I5(3) above.

Secretary of State's power to require information

18. The Secretary of State may direct the Authority to inform him whether it holds a freehold or leasehold interest in land which is specified, or is of a description specified, in the direction.

Disposal of land at direction of Secretary of State

19.—(1) The Secretary of State may direct the Authority to take steps for the disposal of the interest held by it in any land which for the time being satisfies the conditions specified in article 15(2) above or any lesser interest in such land being, in either case, steps which it is necessary to take to dispose of the interest and which it is in its power to take.

(2) A direction under this article may specify the steps to be taken for the disposal of an interest in land and the terms and conditions on which an offer to dispose of it is to be made.

(3) A direction under this article may include provision that no disposal of an interest to which the direction relates shall, while the direction remains unrevoked, be made in favour of a person or body who—

- (a) is specified, or is of a description specified, in the direction, and
- (b) is at the date the disposal is proposed to be made associated with the body to whom the direction is given.

(4) A direction under this article may be varied or revoked by a further direction.

(5) The power to give directions conferred by this article is in addition to and not in derogation from any such power conferred by any other enactment.

(6) In this article and article 110 below references to the disposal of an interest in land include references to the grant of an interest in land.

(7) In paragraph (3) above references to a disposal of an interest include references to a contract to dispose of an interest, and references to making a disposal include references to entering into such a contract.

(8) For the purposes of paragraph (3) above a person is associated with a body if (but only if)—

- (a) he is a member of the body or of a subsidiary of the body, or
- (b) he is a nominee of the body or of a subsidiary of the body.

(9) For the purposes of paragraph (3) above a body is associated with another body if (but only if)—

- (a) the other body, or a subsidiary of the other body, is a member of it,
- (b) any of its members is also a member of the other body or a subsidiary of the other body, or
- (c) any of its members is a nominee of the other body or of a subsidiary of the other body.

(10) In paragraphs (7) and (8) above “subsidiary” has the same meaning as in section 736(1) of the Companies Act 1985(20).

Directions to dispose of land-supplementary

110.—(1) Before giving a direction to the Authority under article 19 above, the Secretary of State shall give it notice of his proposal to give the direction and of its proposed contents.

(2) The Authority, on receipt of a notice under paragraph (1) above may make representations to the Secretary of State as to why the proposed direction should not be given or as to its proposed contents.

(3) If the Authority does not make such representations within a period of 42 days from the date of the notice, or within such longer period as the Secretary of State may in any particular case allow, the Secretary of State may give the direction as proposed.

(4) If the Authority has made representations under paragraph (2) above, the Secretary of State may not give a direction unless he is satisfied that the interest to which the direction would relate can be disposed of in the manner in which and on the terms and conditions on which he proposes that it shall be disposed of without serious detriment to the performance of the Authority's functions or the carrying on of its undertaking.

(5) The Secretary of State need not give notice under paragraph (1) above as regards a further direction revoking a previous direction given under article 19 above.

(6) The Secretary of State need not give notice under paragraph (1) above as regards a further direction varying a previous direction given under article 19 above if—

- (a) the variation consists only of one which omits part of the land to which the previous direction relates, or
- (b) the variation is stated in the further direction to consist only of one which is made to take account of a representation of the Authority.

(7) The contents of a direction under article 19 above may differ from its proposed contents contained in a notice given under paragraph (1) above if—

- (a) the difference consists only of a variation which omits part of the land referred to in the proposed contents, or
- (b) the difference is stated in the direction to consist only of a variation which is made to take account of a representation of the Authority;

and the words “as proposed” in paragraph (3) above shall have effect accordingly.

(8) Where the Secretary of State by order substitutes a period specified in the order for the period of 42 days specified in subsection (3) of section 99 of the Local Government, Planning and Land Act 1980(21) that substituted period shall also be substituted for the period of 42 days (or such other period as may have been earlier substituted) under paragraph (3) above.

Power of entry

111.—(1) A person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of helping the Secretary of State to decide whether to give a direction under article 19 above in relation to the land.

(2) A person may not enter land under this article unless at least 21 clear days' notice in writing of the intended entry has been given to every person who is an owner or occupier.

(3) In this article “owner”, in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding, or entitled to the rents and profits of, the land under a lease or agreement.

PART J

STAFF, OFFICERS AND MEMBERS

Prohibition of political publicity

J1.—(1) The Authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

- (a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another:
- (b) whether the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

(3) The Authority shall not give financial or other assistance to a person for the publication of material which the Authority is prohibited by this article from publishing itself.

Codes of recommended practice as regards publicity

J2. Where the Secretary of State issues a code of recommended practice as regards the content, style, distribution and costs of a local authority's publicity, under section 4 of the Local Government Act 1986(22), the Authority shall have regard to the provisions of any such code in coming to any decision on publicity.

Separate account of expenditure on publicity

J3.—(1) The Authority shall keep a separate account of its expenditure on publicity.

(2) Any person interested may at any reasonable time and without payment inspect the account and make copies of it or any part of it.

(3) A person having custody of the account who intentionally obstructs a person in the exercise of the rights conferred by paragraph (2) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Where the Secretary of State by order provides that, sub-section (1) of section 5 of the Local Government Act 1986 does not apply to publicity or expenditure by a local authority of a prescribed description then paragraph (1) above shall not apply to expenditure of that description by the Authority.

Interpretation and application of articles J1 to 53

J4.—(1) References in articles J1 to 53 above to publicity or related expressions, shall be construed in accordance with the following provisions:

“the Authority” includes any committee, of the Authority;

“publicity”, “publish” and “publication” refer to any communication, in whatever form, addressed to the public at large or to a section of the public.

(2) Articles J1 to 53 above apply to any such publicity expressly or impliedly authorised by any statutory provision, including article K1 below (subsidiary powers of the Authority).

(3) Nothing in articles J1 to 53 above shall be construed as applying to anything done by the Authority in the discharge of its duties under Part C of this Order (access to meetings and documents of the Authority and its committees).

Disqualification and political restriction of certain officers and staff

J5. The terms of appointment or conditions of employment of every person holding a politically restricted post under the Authority (including persons appointed to such posts before the coming into force of this article) shall be deemed to incorporate such requirements for restricting his political activities as are prescribed for the purposes of subsection (5) of section 1(5) of the 1989 Act by regulations made by the Secretary of State.

Politically restricted posts

J6.—(1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under the Authority—

- (a) the person designated under article 58 below as the head of the Authority's paid service;
- (b) the statutory chief officer;
- (c) a non-statutory chief officer;
- (d) a deputy chief officer;
- (e) the monitoring officer designated under article J9 below; and
- (f) any person not falling within sub-paragraphs (a) to (e) above whose post is for the time being specified by the Authority in a list maintained in accordance with paragraph (2) below and any directions under article 57 below, or is within article C7 above (list of officers to whom powers are delegated).

(2) It shall be the duty of the Authority to prepare and maintain a list of such of the following posts under the Authority, namely—

- (a) the full time posts the annual rate of remuneration in respect of which is or exceeds £19,500 or such higher amount as may have been specified in or determined under regulations made by the Secretary of State under section 2(2) of the 1989 Act;
- (b) the part time posts the annual rate of remuneration in respect of which would be or exceed that amount if they were full time posts in respect of which remuneration were paid at the same rate as for the part time post; and
- (c) posts not falling within sub-paragraph (a) or (b) above the duties of which appear to the Authority to fall within paragraph (3) below,

as are not posts for the time being exempted under article 57 below, posts for the time being listed under article C7 above or posts of a description specified by the Secretary of State for the purposes of this article.

(3) The duties of a post under the Authority fall within this paragraph if they consist in or involve one or both of the following, that is to say—

- (a) giving advice on a regular basis to the Authority itself, to any committee or sub-committee of the Authority;
- (b) speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

(4) It shall be the duty of the Authority to deposit the first list prepared under paragraph (2) above with its proper officer before the expiry of the period of two months beginning with the coming into force of this Order; and it shall also be its duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.

(5) It shall be the duty of the Authority in performing its duties under this article to have regard to such general advice as may be given by virtue of paragraph (1)(b) of article 57 below by a person carrying out functions under that article.

(6) In this article “the statutory chief officer” means the officer having responsibility for the purposes of article F1 above, for the administration of the Authority’s financial affairs.

(7) In this article “non-statutory chief officer” means, subject to the following provisions of this article—

- (a) a person for whom the head of the Authority’s paid service is directly responsible;
- (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the Authority’s paid service; and
- (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the Authority itself or any committee or sub-committee of the Authority.

(8) In this article “deputy chief officer” means, subject to the following provisions of this article, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

(9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.

Grant and supervision of exemptions from political restriction

J7.—(1) The person appointed by the Secretary of State to carry out the functions in relation to political restriction under section 3 of the 1989 Act shall—

- (a) carry out those functions in relation to paragraphs (2) to (7) below; and
- (b) give such general advice with respect to the determination of questions arising by virtue of article J6(2) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.

(2) A person appointed under section 3 of the 1989 Act—

- (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under the Authority, by the holder for the time being of that post; and
- (b) may, on the application of any person or otherwise, give directions to the Authority requiring it to include a post in the list maintained by the Authority under article J6(2) above.

(3) An application shall not be made by virtue of paragraph (2)(a) above in respect of a post under the Authority except where—

- (a) the Authority has specified or is proposing to specify the post in the list maintained by the Authority under article J6(2) above; and
- (b) in the case of a post falling within sub-paragraph (a) or (b) of that paragraph, the Authority has certified whether or not, in its opinion, the duties of the post fall within paragraph (3) of that article;

and it shall be the duty of the Authority to give a certificate for the purposes of sub-paragraph (b) above in relation to any post if it is requested to do so by the holder of that post.

(4) If, on an application made by virtue of paragraph (2)(a) above in respect of any post under the Authority, the person to whom the application is made is satisfied that the duties of the post do not fall within article J6(3) above, that person shall direct—

- (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
- (b) that, accordingly, the post is not to be specified in the list maintained by the Authority under article J6(2) above or, as the case may be, is to be removed from that list.

(5) A person appointed under section 3 of the 1989 Act shall not give a direction under paragraph (2)(b) above in respect of any post under the Authority except where he is satisfied that the post—

- (a) is a post the duties of which fall within article J6(3) above; and
- (b) is neither included in any list maintained by the Authority in accordance with article C7 or article J6(2) above, nor of a description specified for the purposes of article J6(2)(a) above.

(6) It shall be the duty of the Authority—

- (a) to give a person appointed under section 3 of the 1989 Act all such information as that person may reasonably require for the purpose of carrying out his functions under this article;
- (b) to comply with any direction under this article with respect to the list maintained by the Authority; and
- (c) on being given a direction by virtue of paragraph (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.

(7) It shall be the duty of a person appointed under section 3 of the 1989 Act, in carrying out his functions under this article, to give priority, according to the time available before the election, to any application made by virtue of paragraph (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.

Designation and reports of head of paid service

J8.—(1) It shall be the duty of the Authority—

- (a) to designate one of its officers as the head of its paid service; and
- (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this article to be performed.

(2) It shall be the duty of the head of the Authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in paragraph (3) below, to prepare a report to the Authority setting out his proposals.

(3) Those matters are—

- (a) the manner in which the discharge by the Authority of its different functions is co-ordinated;
- (b) the number and grades of staff required by the Authority for the discharge of its functions;
- (c) the organisation of the Authority's staff; and
- (d) the appointment and proper management of the Authority's staff.

(4) It shall be the duty of the head of the Authority's paid service, as soon as practicable after he has prepared a report under this article, to arrange for a copy of it to be sent to each member of the Authority.

(5) It shall be the duty of the Authority to consider any report under this article by the head of its paid service at a meeting held not more than three months after copies of the report are first sent

to members of the Authority; and nothing in article D1 above shall apply to the duty imposed by virtue of this paragraph.

Designation and reports of monitoring officer

J9.—(1) It shall be the duty of the Authority—

- (a) to designate one of its officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this article, and
- (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties to be performed,

and the officer so designated may be the head of the Authority’s paid service or the clerk to the Authority but shall not be its chief finance officer.

(2) It shall be the duty of the Authority’s monitoring officer, if it at any time appears to him that any proposal, decision or omission by the Authority, by any committee of the Authority or by any person holding any office or employment under the Authority constitutes, has given rise to or is likely to or would give rise to—

- (a) a contravention by the Authority, by any committee of the Authority or by any person holding any office or employment under the Authority of any enactment or rule of law or of any code of practice made or approved by or under any enactment; or
- (b) any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974(23), as applied by Part L below,

to prepare a report to the Authority with respect to that proposal, decision or omission.

(3) It shall be the duty of the Authority’s monitoring officer—

- (a) in preparing a report under this article to consult so far as practicable with the person who is for the time being designated the head of the Authority’s paid service under article 58 above and with its chief finance officer; and
- (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the Authority.

(4) It shall be the duty of the Authority—

- (a) to consider any report under this article by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the Authority; and
- (b) without prejudice to any duty imposed by virtue of article F4 above (Authority’s duties as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report; and nothing in article D1 shall apply to the duty imposed by virtue of sub-paragraph (a) above.

(5) For the purposes of sub-paragraph (b) of paragraph (5) above the implementation of a proposal or decision to which a report under this article relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under sub-paragraph (a) of that paragraph is concluded.

(6) The duties of the Authority’s monitoring officer under this article shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this article.

(7) In this article “chief finance officer”, in relation to the Authority, means the officer having responsibility, for the purposes of article F1, for the administration of the Authority’s financial affairs.

All staff to be appointed on merit

J10.—(1) Every appointment of a person to a paid office or employment under the Authority shall be made on merit.

(2) Paragraph (1) above applies to all appointments made by, or by any committee or sub-committee of, the Authority but has effect subject to—

- (a) section 7 of the Sex Discrimination Act 1975⁽²⁴⁾ (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);
- (b) section 5 of the Race Relations Act 1976⁽²⁵⁾ (discrimination permitted in relation to employment where being of a particular racial group is a genuine occupational qualification);
- (c) sections 5 and 6 of the Disability Discrimination Act 1995⁽²⁶⁾ (meaning of discrimination and duty to make adjustments); and
- (d) article F2 above (qualifications of responsible officer).

Duty to adopt standing orders with respect to staff

J11.—(1) Where the Secretary of State by regulations made under section 8 of the 1989 Act requires the NCS Service Authority for the purposes of that Act—

- (a) to incorporate such provisions as may be prescribed by the regulations in standing orders relating to its staff; and
- (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed,

the Authority shall be under the same duties in relation to standing orders made by it under this Order.

(2) For the purposes of this article standing orders relate to the staff of the Authority if they make provision for regulating—

- (a) the appointment of persons to paid office or employment under the Authority; or
- (b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.

Limit on paid leave for local authority duties

J12.—(1) Notwithstanding anything in subsection (4) of section 50 of the Employment Rights Act 1996⁽²⁷⁾ (conditions of time off for public duties), where—

- (a) the Authority permits an employee of it to take time off for the purpose of performing the duties of a member of a relevant council; and
- (b) those duties do not include the duties of chairman of the council,

it shall be unlawful for the Authority to make any payment of remuneration or other payment to that employee in respect of so much (if any) of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time off to which the employee would not be entitled apart from his membership of that council.

(2) In this article—

“chairman” in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

(24) 1975 c. 65.

(25) 1976 c. 74.

(26) 1995 c. 50.

(27) 1996 c. 18.

“employee” has the same meaning as in the Employment Rights Act 1996;

“relevant council” means the council of any county, district or London borough, the Common Council of the City of London, a parish or community council or any council in Scotland which is a local authority for the purposes of section 50 of the Employment Rights Act 1996 (time off for public duties);

and paragraph (3) of section 50 of the Employment Rights Act 1996 (meaning of duties of a member of a body) shall apply for the purposes of this article as it applies for the purposes of that section.

Confidentiality of staff records

J13.—(1) Nothing in this Order shall entitle any person—

- (a) to inspect so much of any document as contains personal information about a member of the Authority’s staff; or
- (b) to require any such information to be disclosed in answer to any question.

(2) Information shall be regarded as personal information about a member of the Authority’s staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—

- (a) that that individual holds or has held any office or employment under the Authority; or
- (b) that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by the Authority.

(3) In this article “document” includes accounts, books, deeds, contracts, bills, vouchers and receipts; and references in this article to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.

Power to forgo repayment on advances of remuneration paid to deceased employees

J14.—(1) If a person in the employment of the Authority—

- (a) receives from the Authority remuneration in respect of a future period on the assumption that he will be employed in that employment throughout that period; and
- (b) dies before the expiration of that period,

the Authority may, subject to the following paragraph, forgo the repayment of so much of the remuneration as relates to the period after his death.

(2) The Authority shall not be entitled to forgo such a repayment in respect of a period after the relevant death if—

- (a) a pension is payable for that period in respect of the deceased out of money provided by Parliament or out of a fund which is maintained by the Authority or into which contributions have been paid by the Authority in respect of service of the deceased; and
- (b) the rate of the pension is not less than the rate of relevant remuneration which was received by the deceased for his last year of service in the employment in question or, if relevant remuneration at different rates was received by him for that year, is not less than the highest of those rates;

and in sub-paragraph (b) of this paragraph “relevant remuneration”, in relation to a deceased person and a year, mean remuneration which would have fallen to be taken into account in respect of that year in calculating a retirement pension payable to him in respect of the employment in question on his attaining pensionable age and being granted such a retirement pension.

(3) For the purposes of this article a member of NCIS within section 9(1)(a) or (b) of the Police Act 1997 shall be treated as employed by the Authority and references to employment shall be construed accordingly.

Security to be taken in relation to officers

J15.—(1) The Authority shall, in the case of an officer employed by it, whether under this Order or any other enactment, who by reason of his office or employment is likely to be entrusted with the custody or control of money, and may in the case of any other officer employed by it, take such security, for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him, as the Authority considers sufficient.

(2) The Authority may, in the case of a person not employed by it but who is likely to be entrusted with the custody or control of money or property belonging to the Authority, take such security as it thinks sufficient for the person duly accounting for all such money or property.

(3) The Authority shall defray the cost of any security taken under this article, and every such security shall be produced to the auditor at the audit of the accounts of the Authority.

Accountability of officers

J16.—(1) Every officer employed by the Authority shall at such times during the continuance of his office or within three months after ceasing to hold it, and in such manner as the Authority directs, make out and deliver to the Authority, or in accordance with its directions, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each.

(2) Every such officer shall pay all money due from him to the proper officer of the Authority or in accordance with its directions.

Members of the Authority not to be appointed as officers

J17. A person shall, so long as he is, and for twelve months after he ceases to be, a member of the Authority, be disqualified for being appointed by the Authority to any paid office.

Disclosure by officers of interest in contracts

J18.—(1) If it comes to the knowledge of an officer employed, by the Authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the Authority or any committee thereof, he shall as soon as practicable give notice in writing to the Authority of the fact that he is interested therein.

(2) For the purposes of this article an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of article E1 above had he been a member of the Authority.

(3) An officer of the Authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

(4) Any person who contravenes the provisions of paragraphs (1) to (3) above shall be liable on summary conviction to a fine not exceeding level 4 of the standard scale.

Payment of salary etc. due to mentally disordered person

J19.—(1) Subject to the provisions of this article, the power of the Authority to pay remuneration to its officers shall include power, where the Authority is satisfied after considering medical evidence

that the person to whom, apart from this article, any sum to which this article applies is payable (hereafter in this article referred to as “the patient”) is incapable, by reason of mental disorder within the meaning of the Mental Health Act 1983⁽²⁸⁾, of managing and administering his property and affairs, to pay that sum or such part thereof as the Authority think fit to the institution or person having the care of the patient to be applied for his benefit and to pay the remainder, if any, or such part thereof as the Authority think fit—

- (a) to or for the benefit of persons who appear to the Authority to be members of the patient’s family or other persons for whom the patient might be expected to provide if he were not mentally disordered; or
- (b) in reimbursement, with or without interests, of money applied by any person either in payment of the patient’s debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or such persons as are mentioned in the foregoing sub-paragraph.

(2) This article applies to any sum payable by the Authority to an officer or pensioner of the Authority, or to the widow or widower or a child of a deceased officer or pensioner thereof, by way of remuneration, pension, superannuation or other allowance, gratuity or annuity, or by way of repayment (with or without interest) of contribution made to any superannuation or other fund; and in this paragraph the expression “pensioner” includes a person entitled to any pecuniary benefit under any enactment or scheme for the establishment of a superannuation fund or a superannuation and provident fund administered by the Authority.

(3) The Authority shall not in exercise of the powers conferred by paragraph (1) above apply in any year in respect of any one person more than &1,500. i

(4) Before exercising its powers under this article in relation to any patient the Authority shall give to the authority having jurisdiction under Part VII of the said Act of 1983 notice in writing of their intention so to do, specifying the name and address of the patient and the amount and nature of the sums in respect of which the Authority intend to exercise those powers, and the Authority shall, at the same time, give notice in writing to the patient in a form approved by the authority having jurisdiction as aforesaid; and, except with the approval of the authority having jurisdiction as aforesaid, the Authority shall not make the first payment under this article in relation to that patient before the expiration of the period of fourteen days beginning with the date of the service of the notice.

(5) If at any time the authority having jurisdiction as aforesaid gives to the Authority notice in writing that the first-mentioned authority objects to the exercise by the Authority of its said powers in relation to any patient, those powers shall, as from the date of the receipt by the Authority of the notice, cease to be exercisable by the Authority in relation to the patient unless and until the first-mentioned authority withdraws the notice.

(6) The Authority shall be discharged from all liability in respect of any payment or application of money effected by the Authority in exercise of its powers under this article.

Payments due to deceased officers

J20.—(1) If, on the death of any person who is or has been an officer of the Authority, there is due to him or his legal personal representatives from the Authority a sum not exceeding £5,000 and not being a pension, allowance or gratuity payable by virtue of section 7 of the Superannuation Act 1972⁽²⁹⁾, the Authority may, without requiring the production of probate or letters of administration of the estate of the officer, pay the whole or any part of that sum to the officer’s personal representatives or to the person, or to or among any one or more of any persons, appearing to the Authority to be beneficially entitled to the estate of the officer, and any person to whom such a

(28) 1983 c. 20.

(29) 1972 c. 11.

payment is made, and not the Authority, shall be liable to account for the sum paid to him under this paragraph.

(2) The Authority may, if it thinks fit, pay out of the said sum the funeral expenses of the officer or so much thereof as it considers reasonable.

(3) Paragraph (1) above shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the Administration of Estates (Small Payments) Act 1965⁽³⁰⁾, substituting for the references to £500 references to such higher amount as may be specified in the order.

PART K

MISCELLANEOUS POWERS

Subsidiary powers of the Authority

K1.—(1) Without prejudice to any powers exercisable apart from this article but subject to the provisions of this Order and any other enactment passed before or after this Order, the Authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

(2) The Authority shall not by virtue of this article raise money, whether by means of levying or borrowing, or lend money except in accordance with the enactments relating to those matters respectively.

Placing of staff of a local authority at disposal of other local authorities

K2.—(1) Without prejudice to any powers exercisable apart from this article, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of its functions, on such terms as may be provided by the agreement, of the services of officers employed by the former, but shall not enter into any such agreement with respect to any officer without consulting him.

(2) For superannuation purposes service rendered by an officer of an authority whose services are placed at the disposal of another authority in pursuance of this article is service rendered to the authority by whom he is employed, but any such officer shall be treated for the purposes of any enactment relating to the discharge of a local authorities' functions as an officer of that authority.

Contracts of the Authority

K3.—(1) The Authority may make standing orders with respect to the making of contracts by it or on its behalf.

(2) The Authority shall make standing orders with respect to the making by it or on its behalf of contracts for the supply of goods or materials or for the execution of works.

(3) Standing orders made by the Authority with respect to contracts for the supply of goods or materials or for the execution of works shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited, but may exempt from any such provision contracts for a price below that specified in standing orders and may authorise the Authority to exempt any contract from any such provision when the Authority is satisfied that the exemption is justified by special circumstances.

(30) 1965 c. 32.

(4) A person entering into a contract with the Authority shall not be bound to inquire whether the standing orders of the Authority which apply to the contract have been complied with, and non-compliance with such orders shall not invalidate any contract entered into by or behalf of the Authority.

Insurance by the Authority against accidents to members

K4.—(1) The Authority may enter into a contract of insurance of Class 1 in Part 1 of Schedule 2 to the Insurance Companies Act 1982(31) against risks of any member of the Authority meeting with a personal accident, whether fatal or not, while engaged on the business of the Authority.

(2) Any sum received by the Authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by it to, or to the general representatives of, the member of the Authority in respect of an accident to whom that sum is received.

(3) The provisions of the Life Assurance Act 1774(32) shall not apply to any such contract.

(4) In this article the expression “member of the Authority” includes a member of a committee of the Authority who is not a member of that Authority.

Subscriptions to local government associations

K5. The Authority may pay reasonable subscriptions, whether annually or otherwise, to the funds—

- (a) of any association of local authorities or police authorities formed (whether inside or outside the United Kingdom) for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government, or
- (b) of any association of officers or members of local authorities or police authorities which was so formed.

Appearance of the Authority in legal proceedings

K6. Any member or officer of the Authority who is authorised by the Authority to prosecute or defend on its behalf, or to appear on its behalf in, proceedings before a magistrates' court shall be entitled to prosecute or defend or to appear in any such proceedings, and, notwithstanding anything contained in the Solicitors Act 1974(33), to conduct any such proceedings although he is not a solicitor holding a current practising certificate.

Inspection of documents

K7.—(1) Any member of the public may inspect and make a copy of or extract from an order for the payment of money made by the Authority.

(2) The accounts of the Authority and of any proper officer of the Authority shall be open to the inspection of any member of the Authority, and any such member may make a copy of or extract from the accounts.

(3) A document directed by this article to be open to inspection shall be so open at all reasonable hours and, except where otherwise expressly provided, without payment.

(4) If a person having the custody of any such document—

- (a) obstructs any person entitled to inspect the document or to make a copy thereof or extract therefrom in inspecting the document or making a copy or extract, or

(31) 1982 c. 50.

(32) 1774 c. 48.

(33) 1974 c. 47.

(b) refuses to give copies or extracts to any person entitled to obtain copies or extracts, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Photographic copies of documents

K8.—(1) Subject to paragraph (6) below, any requirement imposed by any enactment that the Authority shall keep a document of any description shall be satisfied by its keeping a photographic copy of the document.

(2) Subject to paragraph (6) below, any requirement imposed by an enactment that a document of any description in the custody or under the control of the Authority shall be made available for inspection shall be satisfied by it making available for inspection a photographic copy of the document.

(3) In legal proceedings a photographic copy of a document in the custody of the Authority, or of a document which has been destroyed while in the custody of the Authority, or of any part of any such document, shall, subject to paragraph (5) below, be admissible in evidence to the like extent as the original.

(4) A certificate purporting to be signed by the proper officer of the Authority that a document is such a photographic copy as is mentioned in paragraph (3) above, shall, subject to paragraph (6) below, be evidence to that effect.

(5) The court before which a photographic copy is tendered in evidence in pursuance of paragraph (3) above may, if the original is in existence, require its production and thereupon that paragraph shall not apply to the copy.

(6) A photographic copy of a document in colour where the colours are relevant to the interpretation of the document shall not suffice for the purpose of this article unless it so distinguishes between the colours as to enable the document to be interpreted.

(7) In this article “court” and “legal proceedings” have the same meanings as in the Civil Evidence Act 1968(34).

Service of notices on the Authority etc.

K9.—(1) Subject to paragraph (2) below, any notice, order or other document required or authorised by any enactment to be given to or served on the Authority or the chairman or an officer of the Authority shall be given or served by addressing it to the Authority and leaving it at, or sending it by post to, the principal office of the Authority or any other office of the Authority specified by it as one at which it will accept documents of the same description as that document.

(2) Paragraph (1) above does not apply to a document which is to be given or served in any proceedings in court, but except as aforesaid the methods of giving or serving documents provided for by that provision are in substitution for the methods provided for by any other enactment so far as it relates to the giving or service of documents to or on the Authority, the chairman or an officer of the Authority.

Public notices

K10. Save as otherwise expressly provided, a public notice required to be given by the Authority shall be given in such manner as appears to the Authority to be desirable for giving publicity to the notice.

Service of notices by the Authority

K11.—(1) Paragraphs (2) to (5) below shall have effect in relation to any notice, order or other document required or authorised by or under any enactment to be given to or served on any person by or on behalf of the Authority or by an officer of the Authority.

(2) Any such document may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(3) Any such document may—

- (a) in the case of a body corporate, be given to or served on the secretary or clerk of that body;
- (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.

(4) For the purpose of this article and of section 27 of the Interpretation Act 1978⁽³⁵⁾ (service of documents by post) in its application to this article, the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that—

- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
- (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership;

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.

(5) If the person to be given or served with any document mentioned in paragraph (1) above has specified an address within the United Kingdom other than his proper address within the meaning of paragraph (4) above as the one at which he or someone on his behalf will accept documents of the same description, as that document, that address shall also be treated for the purpose of this article and section 27 of the Interpretation Act 1978 as his proper address.

(6) If the name or address of any owner, lessee or occupier of land to or on whom any document mentioned in paragraph (1) above is to be given or served cannot after reasonable inquiry be ascertained, the document may be given or served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

(7) The foregoing provisions of this article do not apply to a document which is to be given or served in any proceedings in court.

(8) Except as aforesaid and subject to any provision of any enactment or instrument excluding the foregoing provisions of this article, the methods of giving or serving documents which are available under those provisions are in addition to the methods which are available under any other enactment or any instrument made under any enactment.

Authentication of documents

K12.—(1) Any notice, order or other document which the Authority is authorised or required by or under any enactment to give, make or issue may be signed on behalf of the Authority by the proper officer of the Authority.

(2) Any document purporting to bear the signature of the proper officer of the Authority shall be deemed, until the contrary is proved, to have been duly given, made or issued by the Authority.

(3) Where any enactment or instrument made under an enactment makes, in relation to any document or class of documents, provision with respect to the matters dealt with by one of the

(35) 1978 c. 30.

two foregoing paragraphs, that paragraph shall not apply in relation to that document or class of documents.

(4) In paragraph (2) the word “signature” includes a facsimile of a signature by whatever process reproduced.

Lost and uncollected property

K13.—(1) This article has effect where—

- (a) property comes into the possession of the Authority after being found on buildings or premises owned or managed by it; or
- (b) property which has been deposited with the Authority is not collected from it in accordance with the terms under which it was deposited.

(2) Where—

- (a) property is found on any building or premises owned or managed by the Authority;
- (b) it is subsequently handed over to the Authority,

any right of possession of the property which was vested in a person by virtue of its having been found is extinguished.

(3) If—

- (a) the Authority gives the owner or, as the case may be, the depositor of the property notice in writing—
 - (i) that it requires him to collect the property by a date specified in the notice; and
 - (ii) that if he does not do so the property will vest in the Authority on that date; and
- (b) if he fails to comply with the notice,

the property shall vest in the Authority on the specified date.

(4) The date to be specified in a notice under paragraph (3) above shall be not less than one month from the date of the notice.

(5) Where it appears to the Authority, on the date when property comes into its possession as mentioned in sub-paragraph (a) of paragraph (1) above, that it is impossible to serve a notice under paragraph (3) above, the property shall vest in the Authority one month from that date.

(6) Where the Authority is satisfied after reasonable inquiry that it is impossible to serve a notice under paragraph (3) above in relation to any property it shall vest in it six months from the relevant date.

(7) Where—

- (a) any property is of a perishable nature; or
- (b) to look after it adequately would involve the Authority in unreasonable expense or inconvenience,

the Authority may sell or otherwise dispose of it at such time and in such manner as it thinks fit.

(8) Where property is sold or otherwise disposed of under paragraph (7) above—

- (a) any person to whom the property is transferred shall have a good title to it; and
- (b) any proceeds of sale shall vest in the Authority on the day when the property would have vested in it under this article if it had not been sold.

(9) Where any property which came into the possession of the Authority as mentioned in paragraph (1)(a) above vests in the Authority under this article, the Authority may give the whole or any part of the property to the person through whom it came into its possession.

(10) Where the proceeds of sale of property which came into the possession of the Authority as mentioned in paragraph (1)(a) above vest in the Authority under this article, the Authority may make a payment not exceeding the value of the property to the person through whom it came into its possession.

(11) Where property is claimed by its owner or depositor before it vests in the Authority under this article, he may collect it on payment to the Authority of any sum which it requires him to pay in respect of costs incurred by it—

- (a) in making inquiries for the purposes of this article or serving any notice under paragraph (3) above; and
- (b) in looking after the property adequately.

(12) In this article “the relevant date” means—

- (a) in relation to property which came into the possession of the Authority as mentioned in paragraph (1)(a) above, the date when it came into its possession; and
- (b) in relation to uncollected property,—
 - (i) the date when the Authority accepted custody of it; or
 - (ii) the date when the period for which it was deposited with it expired, whichever is the later.

Emergency financial assistance to the Authority

K14.—(1) In any case where—

- (a) an emergency or disaster occurs involving destruction of or danger to life or property, and
- (b) as a result, the Authority incurs expenditure on, or in connection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience,

the Secretary of State may establish a scheme under this article for the giving of financial assistance to the Authority in respect of that expenditure.

(2) Financial assistance given pursuant to a scheme under this article shall take the form of grants paid by the Secretary of State with the consent of the Treasury and, subject to that, the terms and conditions of a scheme shall be such as the Secretary of State considers appropriate to the circumstances of the particular emergency or disaster concerned.

(3) Without prejudice to the generality of paragraph (2) above, a scheme under this article may —

- (a) make the payments of grants conditional upon the making of claims of a description specified in the scheme;
- (b) make provision with respect to the expenditure qualifying for grant and the rates and amounts of grants; and
- (c) make provision in certain specified circumstances for the repayment of any grant, in whole or in part.

Use of spare capacity of computers of the Authority

K15.—(1) If the Authority—

- (a) has provided a computer for the purpose of enabling the Authority to perform any of its functions other than functions under this article; and
- (b) considers that the computer can, without detriment to its use for that purpose, be used for the benefit of the Authority in pursuance of the following provisions of this article,

the Authority may enter into agreements with other persons for the provision by the Authority of facilities for using the computer or of services provided by means of the computer.

(2) An agreement in pursuance of this article may contain such terms as to payment or otherwise as the parties consider appropriate; and it shall be the duty of the Authority, in settling the terms of such an agreement, to ensure that they are terms on which the Authority considers that a person other than the Authority could reasonably be expected to provide the facilities or services in question.

(3) In this article “computer” means any device for storing and processing information.

PART L

COMMISSION FOR LOCAL ADMINISTRATION

L. Part III of the Local Government Act 1974 shall apply to the Authority as if it were a body listed in section 25 of that Act (authorities subject to investigation), and for the purposes of the application of that Part—

- (a) references in that Part to an authority shall be construed as references to the Authority; and
- (b) references to section 101 of the Local Government Act 1972 shall be construed as references to article D1 of this Order.

Home Office
9th March 1998

Alun Michael
Minister of State

SCHEDULE 1

Regulation B1

MEETINGS AND PROCEEDINGS OF THE AUTHORITY AND ITS COMMITTEES

1.—(1) The Authority shall in every year hold an annual meeting.

(2) The annual meeting of the Authority shall be held on such day in the month of March, April, May or June as the Authority may fix.

(3) An annual meeting of the Authority shall be held at such hour as the Authority may fix, or if no hour is so fixed at twelve noon.

2.—(1) The Authority may in every year hold, in addition to the annual meeting, such other meetings as the Authority may determine.

(2) Those other meetings shall be held at such hour and on such days as the Authority may determine.

3.—(1) An extraordinary meeting of the Authority may be called at any time by the chairman of the Authority.

(2) If the chairman of the Authority refuses to call an extraordinary meeting of the Authority after a requisition for that purpose, signed by three members of the Authority, has been presented to him, or if, without so refusing, the chairman does not call an extraordinary meeting within seven days after the requisition has been presented to him, then any three members of the Authority, on that refusal or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Authority.

4.—(1) Meetings of the Authority shall be held at such place as it may direct.

(2) Seven clear days at least before a meeting of the Authority—

(a) notice of the time and place of the intended meeting shall be published at the Authority's offices, and where the meeting is called by members of the Authority the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; and

(b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the proper officer of the Authority, shall, subject to sub-paragraph (3) below, be left at or sent by post to the usual place of residence of every member of the Authority.

(3) If a member of the Authority gives notice in writing to the proper officer of the Authority that he desires summonses to attend meetings of the Authority to be sent to him at some address specified in the notice other than this place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.

(4) Want of service of a summons on any member of the Authority shall not affect the validity of a meeting of the Authority.

(5) Except in the case of business required by or under this Order or any other enactment to be transacted at the annual meeting of the Authority and other business brought before that meeting as a matter of urgency in accordance with the Authority's standing orders, no business shall be transacted at a meeting of the Authority other than that specified in the summons relating thereto.

5.—(1) At a meeting of the Authority the chairman, if present, shall preside.

(2) If the chairman is absent from a meeting of the Authority, another member of the Authority chosen by the members of the Authority shall preside.

6. No business shall be transacted at a meeting of the Authority unless at least a quarter of the whole number of members of the Authority are present.

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7.—(1) Subject to the provisions of any enactment all questions coming or arising before the Authority shall be decided by a majority of the members of the Authority present and voting thereon at a meeting of the Authority.

(2) Subject to those provisions in the case of an equality of votes, the person presiding at the meeting shall have a second and casting vote.

8. The names of the members present at a meeting of the Authority shall be recorded.

9.—(1) Minutes of the proceedings of a meeting of the Authority shall, subject to sub-paragraph (2) below, be drawn up and entered in a book kept for that purpose and shall be signed at the same or next suitable meeting of the Authority by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) Notwithstanding anything in any enactment or rule of law to the contrary, the minutes of the proceedings of meetings of the Authority may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next suitable meeting of the Authority, by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of the Authority a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified.

(4) For the purposes of sub-paragraphs (1) and (2) above the next suitable meeting of the Authority is their next following meeting, or where standing orders made by the Authority provide for another meeting of the Authority to be regarded as suitable, either the next following meeting or that other meeting.

10. Subject to the provisions of this Order, the Authority may make standing orders for the regulation of its proceedings and business and may vary or revoke any such orders.

11. The proceedings of the Authority shall not be invalidated by any vacancy among its number or by any defect in the appointment or qualifications of any members thereof.

12.—(1) Paragraphs 7 to 11 above (except paragraph 9(3)) shall apply in relation to a committee of the Authority or sub-committee of any such committee as they apply in relation to the Authority.

(2) Until the contrary is proved, where a minute of any meeting of any such committee or sub-committee has been made and signed in accordance with paragraph 9 above as applied by this paragraph, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute, the meeting shall be deemed to have been duly convened and held and the members present at the meeting shall be deemed to have been duly qualified.

SCHEDULE 2

Article C9

ACCESS TO INFORMATION: EXEMPT INFORMATION

PART I

DESCRIPTIONS OF EXEMPT INFORMATION

1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the Authority.

2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the Authority.

3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the Authority.

4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the Authority.

5. Information relating to the financial or business affairs of any particular person (other than the Authority).

6. The amount of any expenditure proposed to be incurred by the Authority under any particular contract for the acquisition of property or the supply of goods or services.

7. Any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.

8. The identity of the Authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.

9. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office-holders under, the Authority.

10. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with—

- (a) any legal proceedings by or against the Authority, or
- (b) the determination of any matter affecting the Authority,

(whether, in either case, proceedings have been commenced or are in contemplation).

11. Information which, if disclosed to the public, would reveal that the Authority proposes—

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

12. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

13. The identity of a protected informant.

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PART II

QUALIFICATIONS

1. Information relating to a person of a description specified in paragraphs 1 to 4 of Part I above is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.

2. Information falling within paragraph 5 of Part I above is not exempt information by virtue of that paragraph if it is required to be registered under—

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Industrial and Provident Societies Acts 1965 to 1978;
- (d) the Building Societies Act 1986; or
- (e) the Charities Act 1993.

3. Information falling within paragraph 6 of Part I above is exempt information if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with the Authority in respect of the property, goods or services, whether the advantage would arise as against the Authority or as against other such persons.

4. Information falling within paragraph 7 of Part I above is exempt information if and so long as disclosure to the public of the terms would prejudice the Authority in those or any other negotiations concerning the property or goods or services.

5. Information falling within paragraph 9 of Part I above is exempt information if and so long as disclosure to the public of the information would prejudice the Authority in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph.

6. Information falling within paragraph 11 of Part I above is exempt information if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is given or made.

PART III

INTERPRETATION

1.—(1) In this Schedule—

“disposal”, in relation to property, includes the granting of an interest in or right over it;

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matter” means—

- (a) any of the matters specified in paragraphs (a) to (g) of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽³⁶⁾ (meaning of a trade dispute, within the meaning of that Act); or
- (b) any dispute about a matter falling within paragraph (a) above;

(36) 1992 c. 52.

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and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the Authority as they apply in relation to employees of the Authority;

“office-holder”, in relation to the Authority, means the holder of any paid office appointments to which are or may be made or confirmed by the Authority or by any person who holds any such office or is an employee of the Authority;

“protected informant” means a person giving the Authority information which tends to show that—

- (a) a criminal offence,
- (b) a breach of statutory duty, or
- (c) a nuisance,

has been, is being or is about to be committed;

“registered”, in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any Building Society (within the meaning of that Act).

(2) Any reference in this Schedule to “the Authority” includes a committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

- (a) in the case of a committee, to the Authority; and
- (b) in the case of a sub-committee, to the committee, or any of the committees, of which it is a sub-committee.

SCHEDULE 3

Articles G17, G19, G23 and G24

PROVISIONS SUPPLEMENTING PART G

PART I

CREDIT CEILING

1.—(1) On 1st April 1998 the Authority’s credit ceiling shall be nil and, thereafter should be determined, subject to any prescribed modifications, in accordance with the following provisions of this Part of this Schedule.

(2) In sub-paragraph (1) above “prescribed” means prescribed by the Secretary of State in regulations made under Part III of Schedule 3 to the 1989 Act, which shall apply to the Authority as they apply to the NCS Service Authority; and references in those regulations to local government enactments shall be interpreted as references to the equivalent provisions of, or as applied by, this Order.

2.—(1) If a credit approval is used by the Authority to any extent as mentioned in article G17 of this Order (use of credit approvals by the Authority), then, subject to sub-paragraph (2) below, the Authority’s credit ceiling shall at that time be increased by an amount equal to the extent to which the credit approval is so used.

(2) If, in reliance on a credit approval, the Authority enters into or agrees to the variation of a credit arrangement of the same description as a credit arrangement excluded by regulations made by

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the Secretary of State under paragraph 11(2) of Schedule 3 to the 1989 Act then no account shall be taken under sub-paragraph (1) above of that use by the Authority of the credit approval.

3.—(1) If the Authority sets aside an amount as provision to meet credit liabilities (whether or not pursuant to a requirement to do so) then, subject to sub-paragraph (2) below, the Authority's credit ceiling shall at that time be reduced by an amount equal to the amount so set aside (and, by virtue of this paragraph, that ceiling may, accordingly, be a negative amount).

(2) This paragraph does not apply with respect to—

- (a) an amount which, in relation to a credit arrangement, other than one excluded by virtue of the application of paragraph 2(2) above, is applied or charged (as an amount of credit cover) as mentioned in paragraph (b) or paragraph (c) of article G12(3) of this Order (limits on powers to enter into credit arrangements); or
- (b) so much of an amount set aside under article G24 of this order (duty to set certain amounts aside as provision to meet credit liabilities) as provision to meet credit liabilities as (in accordance with Part II of this Schedule) is referable to notional interest on credit arrangements.

(3) For the purpose of this paragraph, an amount set aside under article G24(1) of this Order (duty to set certain amounts aside as provision to meet credit liabilities) in respect of any financial year shall be treated as set aside on the last day of that year.

4. If, the Authority applies or transfers under sub-paragraph (2) of article G25 of this Order (use of amounts set aside to meet credit liabilities) an amount set aside as mentioned in sub-paragraph (1) of that article, the Authority's credit ceiling shall at that time be increased by an amount equal to the amount so applied or transferred.

PART II

MINIMUM REVENUE PROVISION

6.—(1) Subject to sub-paragraphs (2) and (3) below, for any financial year the Authority's minimum revenue provision shall be the aggregate of—

- (a) an amount in respect of principal which, except in so far as regulations applied by paragraph 1(2) above otherwise provide, shall be the prescribed percentage of the Authority's adjusted credit ceiling on the last day of the immediately preceding year; and
- (b) an amount in respect of notional interest on each credit arrangement entered into by the Authority which came into being before the beginning of that year, other than an arrangement excluded by regulations applied by virtue of paragraph 1(2) above.

(2) If the Authority's credit ceiling on the last day of a financial year is nil or negative amount, the Authority's minimum revenue provision for the immediately following financial year shall be nil.

(3) In the case of a credit arrangement falling within article G11 of this Order (initial and subsequent cost of credit arrangements), the Secretary of State may provide that the amount referred to in sub-paragraph (1)(b) above is nil.

7. In paragraph 6(1)(a) above the "prescribed percentage" means such percentage, as may be prescribed for the purposes of paragraphs 15(1)(a) and 16(1)(a) of Schedule 3 of the 1989 Act by regulations made by the Secretary of State under Part IV of that Schedule.

8.—(1) Any reference in this Part of this Schedule to the Authority's adjusted credit ceiling at any time or their adjusted initial credit ceiling is a reference to its credit ceiling or, as the case may be, initial credit ceiling, determined in accordance with Part I of this Schedule.

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(2) Without prejudice to the generality of sub-paragraph (1) above, for the purpose of determining the Authority's adjusted credit ceiling or adjusted initial credit ceiling at any time, where regulations under paragraph 18 of Schedule 3 to the 1989 Act require amounts which are taken into account in determining the Authority's credit ceiling or initial credit ceiling to be treated as having been repaid, in whole or in part, by reference to amounts set aside as provision for credit liabilities and also, in such cases as may be specified in the regulations, may require an authority to determine which of the amounts so taken into account are to be treated as so repaid, then the same requirements shall apply in relation to the determination of the Authority's credit ceiling.

9.—(1) Subject to paragraph 6(3) above, for any financial year, the amount referred to in paragraph 6(1)(b) above in respect of notional interest on a credit arrangement is that determined by the formula—

$$\frac{a \times b}{100}$$

where, subject to sub-paragraphs (2) and (3) below,—

“a” is the cost of that arrangement on 1st April in that financial year; and

“b” is the percentage rate of discount prescribed in article G11(2) of this Order (initial and subsequent cost of credit arrangements) for the financial year in which the arrangement came into being.

(2) In the case of a credit arrangement which has been varied as mentioned in article G13(3) of this Order (variation of credit arrangements), “b” in the formula in sub-paragraph (1) above is the percentage rate of discount prescribed under article G11(2) of this Order (initial and subsequent cost of credit arrangements) for the financial year in which the arrangement was so varied or, as the case may be, last varied.

(3) In the case of a credit arrangement falling within article G11(3) of this Order (initial and subsequent cost of credit arrangements) where the Secretary of State by regulations made under Part IV of Schedule 3 to the 1989 Act provides that “b” in the formula under sub-paragraph (1) of paragraph 19 of the Schedule above shall be such figure as may be specified in, or determined under, the regulations then “b” in the formula under sub-paragraph (1) above should also be the same figure as may be specified in, or determined under, those regulations.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the NCIS Service Authority about some of the matters of the kind dealt with in the local government enactments listed in Schedule 4 to the Police Act 1997. The effect of the Order is to put the NCIS Service Authority in an analogous position to police authorities established under section 3 of the Police Act 1996 under those provisions.

In particular, article B1 and Schedule 1 make provision equivalent to section 99 and Schedule 12 of the Local Government Act 1972 (“the 1972 Act”); article B2 makes provision equivalent to provisions in standing orders made under section 20 of the Local Government and Housing Act 1989 (“the 1989 Act”); article B3 makes provision equivalent to that made in section 41 of the Local Government (Miscellaneous Provisions) Act 1976 (“the 1976 Act”); Part C and Schedule 2 make

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provision equivalent to sections 100A to 100J and Schedule 12A of the 1972 Act; Part D makes provision equivalent to Part IV of the 1972 Act; Part E makes provision equivalent to sections 94 to 98 and section 105 of the 1972 Act and section 19 of the 1989 Act; Part F makes provision equivalent to Part VIII of the Local Government Finance Act 1988; Part H applies Part III of the Local Government Act 1982 to the Authority; Part I makes provision in relation to land, including provision similar to Part X of the Local Government, Planning and Land Act 1980; Part J Makes provision equivalent to sections 2, 4, 5 and 6 of the Local Government Act 1986, sections 1 to 5, 7, 8, 10 and 11 of the 1989 Act, section 30 of the 1976 Act and sections 114 to 119 of the 1972 Act; Part K makes provision similar to that in sections 111, 113, 135, 140, 143, 223, 228, 229 and 231 to 234 of the 1972 Act, section 41 of the Local Government (Miscellaneous Powers) Act 1982, section 155 of the 1989 Act and section 38 of the 1976 Act and Part L applies Part III Of the Local Government Act 1974 to the Authority.