



# Public Finance and Accountability (Scotland) Act 2000

2000 asp 1

## PART 2

### ACCOUNTABILITY AND AUDIT

#### *Audit and value for money examinations*

#### **21 Audit of accounts**

- (1) This section and section 22 apply in relation to any account which is, by virtue of any enactment or prerogative instrument, required (in whatever words) to be—
  - (a) audited by the Auditor General, or
  - (b) sent to the Auditor General for auditing.
- (2) The account must be sent to the Auditor General not later than 6 months after the end of the financial year to which the account relates.
- (3) The account is to be audited by—
  - (a) the Auditor General, or
  - (b) a qualified person appearing to the Auditor General to be suitable for appointment to audit the account by reason of, among other things, the person's professional qualifications and experience.
- (4) It is for the Auditor General personally to decide who is to audit the account.
- (5) For the purposes of subsection (3)(b) a person is qualified if that person is—
  - (a) [<sup>F1</sup>eligible for appointment as a statutory auditor under Chapter 2 of Part 42 of the Companies Act 2006]), or
  - (b) a member of a body of accountants established in the United Kingdom or another EEA State;

<sup>F2</sup> ...

[<sup>F3</sup>(6) In this section, "EEA State" means a member State, Norway, Iceland or Lichtenstein.]

*Changes to legislation: There are currently no known outstanding effects for the Public Finance and Accountability (Scotland) Act 2000, Cross Heading: Audit and value for money examinations. (See end of Document for details)*

#### Textual Amendments

- F1** Words in s. 21(5)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 27](#) (with arts. 6, 11, 12)
- F2** Words in s. 21(5) repealed (1.7.2013) by [The European Union \(Amendments in respect of the Accession of Croatia\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/177\)](#), reg. 1(1), [sch. para. 4\(a\)](#)
- F3** S. 21(6) inserted (1.7.2013) by [The European Union \(Amendments in respect of the Accession of Croatia\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/177\)](#), reg. 1(1), [sch. para. 4\(b\)](#)

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

- C1** S. 21(2) applied (with modifications) (1.4.2000 with application as mentioned in art. 6(1) of the amending S.S.I.) by [S.S.I. 2000/46](#), [art. 6\(3\)](#)

## 22 Audit of accounts: further provisions

- (1) The auditor's report on an account in relation to which this section applies (unless it is an account prepared in pursuance of section 19(2)) must set out the auditor's findings on the following matters—
- (a) whether the expenditure and receipts shown in the account were incurred or applied in accordance with—
    - (i) any enactment by virtue of which the expenditure was incurred or the income received,
    - (ii) the Budget Act or Acts for the financial year, or any part of the financial year, to which the account relates, and
    - (iii) sections 4 to 7,
  - (b) where sums have been paid out of the Fund for the purpose of meeting such expenditure, whether the sums were applied in accordance with section 65 of the 1998 Act,
  - (c) whether the expenditure and receipts shown in the account were incurred or applied in accordance with any applicable guidance (whether as to propriety or otherwise) issued by the Scottish Ministers,
  - (d) whether the account complies with any applicable direction by virtue of any enactment.
- (2) The auditor's report on an account prepared in pursuance of section 19(2) must set out the auditor's findings on the following matters—
- (a) whether sums paid out of the Fund were paid out in accordance with section 65 of the 1998 Act and sections 4 to 6 of this Act,
  - (b) whether the account complies with any applicable direction by virtue of any enactment
- (3) The auditor (unless the Auditor General) must send the account and the auditor's report to the Auditor General, who may prepare a report on the account.
- (4) The Auditor General must send to the Scottish Ministers the account, the auditor's report on the account and any report prepared by the Auditor General under subsection (3) in sufficient time to enable the Scottish Ministers to comply with subsection (5).
- (5) The Scottish Ministers must—

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- (a) lay before the Parliament a copy of every account and report sent to them under subsection (4), and
  - (b) [<sup>F4</sup>except where the account and the report are published by the body or office-holder in question, ] publish every such account and report, not later than 9 months after the end of the financial year to which the account relates.
- (6) In section 21 and this section “financial year”, in relation to an account, means the financial year of the body or office-holder in question.

#### Textual Amendments

**F4** Words in s. 22(5)(b) inserted (1.10.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. **118(5)**, 134(7); S.S.I. 2010/321, art. 3, Sch.

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

**C2** S. 22(5) applied (with modifications) (1.4.2000 with application as mentioned in art. 6(1) of the amending S.S.I.) by [S.S.I. 2000/46](#), art. 6(3)

## 23 Economy, efficiency and effectiveness examinations

- (1) The Auditor General may initiate examinations into the economy, efficiency and effectiveness with which bodies and office-holders mentioned in subsection (2) have used their resources in discharging their functions.
- (2) Those bodies and office-holders are—
- (a) any body or office-holder so far as an account of that body or office-holder is an account in relation to which sections 21 and 22 apply,
  - (b) any other body or office-holder, or a body or office-holder of any class, specified by the Scottish Ministers by order,
  - (c) any body or office-holder not falling within paragraph (a) or (b) which agrees to such an examination being carried out.
- (3) An order made under subsection (2)(b) may specify a body or office-holder, or a class of body or office-holder, only if the Scottish Ministers reasonably believe that—
- (a) in the case of a body or office-holder, in any of the financial years of the body or office-holder—
    - (i) more than a quarter of the income of the body or office-holder was received from public funds, or
    - (ii) the amount of the income of the body or office-holder received from public funds exceeded £500,000,
  - (b) in the case of a class of body or office-holder, paragraph (a) is satisfied in relation to at least half of those in the class.
- (4) An examination under this section in respect of a body or office-holder, or a body or office-holder of a class, specified in such an order may be carried out only—
- (a) in relation to any period as respects which the Auditor General reasonably believes that—
    - (i) more than a quarter of the income of the body or office-holder was derived from public funds, or
    - (ii) the amount of the income of the body or office-holder received from public funds exceeded £500,000,

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- (b) so far as is reasonably practicable, in relation to the use by the body or office-holder of the income derived from public funds and to resources used in discharging the functions for which such income was used.
- (5) For the purposes of subsections (3) and (4)—
- (a) income is received from public funds if it is paid by—
- (i) any body or office-holder mentioned in subsection (2)(a), or
  - (ii) any body or office-holder, or body or office-holder of a class, specified in an order made under subsection (2)(b), in a financial year of that body or office-holder in which more than half of the income of the body or office-holder was received from public funds,
- (b) in calculating income, capital receipts are to be disregarded,
- (c) money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office is to be disregarded.
- (6) In determining whether an examination under this section is to be carried out, the Auditor General must take into account any proposals made by the Parliament.
- (7) Before initiating an examination under this section in respect of [<sup>F5</sup>Scottish Water] the Auditor General must consult the Water Industry [<sup>F6</sup>Commission] for Scotland.
- (8) It is for the Auditor General personally to initiate an examination under this section and to decide who is to carry out the examination.
- (9) In carrying out the examination that person (“the examiner”)—
- (a) is not entitled to question the merits of the policy objectives of the body or office-holder in question, but
  - (b) may consider the appropriateness of any criteria used by the body or office-holder to assess use of resources.
- (10) The examiner (if not the Auditor General) must report the results to the Auditor General, who may report the results to the Parliament.
- [<sup>F7</sup>(11) The Auditor General may publish the results of any examination carried out under this section.]

#### Textual Amendments

- F5** Words in s. 23(7) substituted (1.4.2002) by 2002 asp 3, s. 71(2), **Sch. 7 para. 27(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** (subject to art. 3)
- F6** Word in s. 23(7) substituted (1.7.2005) by *Water Services etc. (Scotland) Act 2005* (asp 3), s. 37(2), **sch. 5 para. 5** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2 (with art. 3(3))
- F7** S. 23(11) added (1.10.2010) by *Public Services Reform (Scotland) Act 2010* (asp 8), **ss. 118(6), 134(7)**; S.S.I. 2010/321, art. 3, sch.

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

- C3** S. 23 modified by 2005 asp 5 s. 39C (as inserted (8.8.2012) by *Police and Fire Reform (Scotland) Act 2012* (asp 8), **ss. 113, 129(1)(b)**)
- C4** S. 23 modified (1.10.2012) by *Police and Fire Reform (Scotland) Act 2012* (asp 8), **ss. 43, 129(2)** (with s. 100); S.S.I. 2012/253, art. 2, sch.

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## [<sup>F8</sup>23A Defamation

For the purposes of the law of defamation, the following are absolutely privileged—

- (a) reports sent to the Scottish Ministers under section 22(4),
- (b) results of an examination carried out and reported to the Parliament under section 23.]

### Textual Amendments

**F8** S. 23A inserted (1.10.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. **118(7)**, 134(7); [S.S.I. 2010/321](#), art. 3, sch.

### Modifications etc. (not altering text)

**C5** S. 23A applied (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), ss. **42(7)**, 129(2) (with s. 100); [S.S.I. 2012/253](#), art. 2, sch.

## 24 Access to documents and information

- (1) For the purposes of the audit of an account under sections 21 and 22 the auditor is entitled to—
  - (a) have access at all reasonable times to any document in the possession, or under the control, of the body or office-holder who prepared the account which the auditor may reasonably require,
  - (b) require from any person holding, or accountable for, any such document any assistance, information or explanation which the auditor reasonably thinks necessary,
  - (c) require the body or office-holder who prepared the account to provide, at times specified by the auditor, accounts of such of the transactions of the body or office-holder as the auditor may specify.
- (2) For those purposes the auditor is also entitled to—
  - (a) have access at all reasonable times to any document in the possession, or under the control, of a relevant person which the auditor may reasonably require,
  - (b) require from a relevant person any assistance, information or explanation which the auditor reasonably thinks necessary for those purposes.
- (3) For the purposes of an examination under section 23 the examiner is entitled to—
  - (a) have access at all reasonable times to any document in the possession, or under the control, of the body or office-holder in question which the examiner may reasonably require,
  - (b) require from any person holding, or accountable for, any such document any assistance, information or explanation which the examiner reasonably thinks necessary,
  - (c) require the body or office-holder to provide, at times specified by the examiner, accounts of such of the transactions of the body or office-holder as the examiner may specify.
- (4) For those purposes the examiner is also entitled to—
  - (a) have access at all reasonable times to any document in the possession, or under the control, of a relevant person which the examiner may reasonably require,

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- (b) require from a relevant person any assistance, information or explanation which the examiner reasonably thinks necessary for those purposes.
- (5) In subsections (2) and (4) “relevant person” means a person specified, or of a class specified, by the Scottish Ministers by order.
- (6) An order under subsection (5) may—
  - (a) specify different persons, or classes of person, in relation to subsections (2) and (4),
  - (b) provide for those subsections, or either of them, to apply to any specified person or class of person with such modifications as the order may specify.
- (7) In this section “document” means anything in which information is recorded in any form.

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

**C6** S. 24 applied (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 42(7)**, 129(2) (with s. 100); [S.S.I. 2012/253](#), **art. 2**, sch.

**Commencement Information**

**II** S. 24 wholly in force at 1.4.2000; s. 24 not in force at Royal Assent see s. 30(1); s. 24(5)(6) in force for certain purposes at 1.2.2000 by [S.S.I. 2000/10](#), **art. 2(2)**, **Sch.**; s. 24 in force insofar as not already in force at 1.4.2000 by [S.S.I. 2000/10](#), **art. 2(3)**

**25 Audit and examination: Audit Scotland**

- (1) The Scottish Commission for Public Audit, when required to do so by the Auditor General, must appoint a qualified person to audit an account of Audit Scotland sent to the Commission for auditing under section 19(8).
- (2) In subsection (1) “qualified” has the same meaning as in section 21(5).
- (3) The auditor must examine and certify the account and report on the account to the Commission, including in the report the auditor’s findings on the matters set out in section 22(1)(a) and (b).
- (4) The Commission may initiate an examination into the economy, efficiency and effectiveness with which Audit Scotland has used its resources in discharging its functions and may appoint a person to carry out the examination and report the results to the Commission.
- (5) Subsection (9) of section 23 applies in relation to an examination under subsection (4) of this section as it applies in relation to an examination under that section.
- (6) The Commission must—
  - (a) lay before the Parliament a copy of the account and the auditor’s report under subsection (3) and of any report made to it under subsection (4), and
  - (b) publish the account and those reports.
- (7) Subsections (1) and (3) of section 24 apply respectively for the purposes of the audit of an account under subsection (3), and an examination under subsection (4), of this section as they apply for the purposes of the audit of an account under sections 21 and 22 and an examination under section 23.

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- (8) Appointments under subsections (1) and (4) of this section are to be on such terms and conditions as the Commission may determine and any remuneration payable to the person appointed is to be paid by Audit Scotland.

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