



# Local Government Finance Act 1988

## 1988 CHAPTER 41

### PART VIII

#### FINANCIAL ADMINISTRATION

#### 111 Interpretation

- (1) This section applies for the purposes of this Part.
- (2) Each of the following is a relevant authority
  - (a) a county council,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Inner London Education Authority,
  - (e) a metropolitan county police authority,
  - (f) the Northumbria Police Authority,
  - (g) a metropolitan county fire and civil defence authority,
  - (h) the London Fire and Civil Defence Authority,
  - (i) a metropolitan county passenger transport authority,
  - (j) a waste disposal authority,
  - (k) the Council of the Isles of Scilly,
  - (l) a combined police authority, and
  - (m) a combined fire authority.
- (3) The 1972 Act is the Local Government Act 1972 and the 1985 Act is the Local Government Act 1985.
- (4) The commencement day is the day on which this Part comes into force.
- (5) This Part shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed.

## **112 Financial administration as to certain authorities**

- (1) On and after the commencement day each authority mentioned in subsection (2) below 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.
- (2) The authorities are—
  - (a) any combined police authority, and
  - (b) any combined fire authority.

## **113 Qualifications of responsible officer**

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112 above shall fulfil the requirement in one (or the requirements in each) of the paragraphs of subsection (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 the commencement day he had responsibility for the administration of the financial affairs of any of the authorities mentioned in section 111(2)(a) to (k) above under section 151 of the 1972 Act or section 73 of the 1985 Act.
- (3) The bodies are—
  - (a) the Institute of Chartered Accountants in England and Wales,
  - (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 this section.
- (4) The authority mentioned in subsection (2)(b) above need not be the same as that under consideration for the purpose of applying subsection (1) above.

## **114 Functions of responsible officer as regards reports**

- (1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act or section 112 above shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.
- (2) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the authority, a committee or officer of the authority, or a joint committee on which the authority is represented—
  - (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 a relevant authority shall make a report under this section 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) Where a chief finance officer of a relevant authority has made a report under this section 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.
- (5) Subject to subsection (6) below, the duties of a chief finance officer of a relevant authority under subsections (2) and (3) above shall be performed by him personally.
- (6) If the chief finance officer is unable to act owing to absence or illness his duties under subsections (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 section 113(3) above and is for the time being nominated by the chief finance officer for the purposes of this section, 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 section.
- (7) A relevant 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 section to be performed.
- (8) In this section—
  - (a) references to a joint committee are to a committee on which two or more relevant authorities are represented, and
  - (b) references to a committee (joint or otherwise) include references to a sub-committee.

## **115 Authority's duties as regards reports**

- (1) This section applies where copies of a report under section 114 above have been sent under section 114(4) above.
- (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) Section 101 of the 1972 Act (delegation) shall not apply to the duty under subsection (2) above where the authority is one to which that section would apply apart from this subsection.

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*Status: This is the original version (as it was originally enacted).*

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- (5) If the report was made under section 114(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 section 114(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 subsection (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 subsection (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 section “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 subsection (2) above is concluded.
- (10) If subsection (3) above is not complied with, it is immaterial for the purposes of subsection (9)(b) above.
- (11) The nature of the decisions made at the meeting is immaterial for the purposes of subsection (9)(b) above.
- (12) In subsection (9)(b) above “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales.

## **116 Information about meetings**

- (1) Where it is proposed to hold a meeting under section 115 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 section 115 above the authority’s proper officer shall notify its auditor of any decision made at the meeting.
- (3) For the purposes of this section an authority’s proper officer is the person to whom the authority has for the time being assigned responsibility to notify its auditor under this section.
- (4) For the purposes of this section an authority’s auditor is the person who for the time being has the duty to audit its accounts.