

*These notes refer to the Local Government Act 2000
(c.22) which received Royal Assent on 28 July 2000*

LOCAL GOVERNMENT ACT 2000

EXPLANATORY NOTES

INTRODUCTION

Part V: Miscellaneous

Commentary on sections

Section 90: Surcharge etc.

228. *Section 90* has the effect of repealing the current surcharge provisions set out in the Audit Commission Act 1998 and also the Secretary of State's power to sanction an item of account. The changes will affect all bodies to which the surcharge provisions apply.
229. Although the term 'surcharge' is not used in the 1998 Act, it describes the existing powers of the auditor to recover financial losses from individuals on the basis that he or she is responsible for the authority incurring unlawful expenditure or has caused loss to the authority through misconduct.
230. Removal of the relevant surcharge provisions from section 17 of the 1998 Act does not affect the auditor's ability to apply to the courts for a declaration that an item of account is contrary to law. However, in future, the Standards Board and Adjudication Panel, rather than the auditor, will determine whether there has been misconduct and any issue would be pursued through them under the provisions in Part III of this Act.
231. This section also removes the Secretary of State's power to sanction an item of account. The granting of sanction protected individuals authorising unlawful expenditure from the possibility of surcharge by preventing the auditor from applying to the court for a declaration that an item of account is unlawful. Removing the surcharge provisions removes the need for the Secretary of State to grant sanction.