
SCOTTISH STATUTORY INSTRUMENTS

2013 No.

LOCAL GOVERNMENT

The Local Authority Accounts (Scotland) Regulations 2013

Made - - - -

Laid before the Scottish Parliament

Coming into force - -

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 105(1) of the Local Government (Scotland) Act 1973(a) and all other powers enabling them to do so.

In accordance with section 105(2) of that Act, they have consulted with such associations of local authorities as appear to them to be concerned.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Local Authority Accounts (Scotland) Regulations 2013 and come into force on [31st March 2014].

Saving Provision

2. Nothing in these Regulations applies to any accounts, or any statement of accounts, that relate to a financial year that began prior to 1st April 2013.

Interpretation

3. In these Regulations—

“the 1973 Act” means the Local Government (Scotland) Act 1973;

“appointed auditor” means the person appointed to audit a local authority’s accounts as required by section 96(4) (accounts and audit)(b) of the 1973 Act;

(a) 1973 c.65, which is amended by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31), section 10(2). The functions of the Secretary of State in section 105 transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) Section 96(4) is amended by paragraph 3 of schedule 4 to the Public Finance and Accountability (Scotland) Act 2000 (asp 1).

“Chief Executive”, in relation to a local authority, means the person designated by it as the head of its paid service by virtue of section 4 (designation and reports of head of paid service)(a) of the Local Government and Housing Act 1989;

“Leader of the Council” means the convener of a local authority elected in terms of section 4(1) (election of convener)(b) of the Local Government etc. (Scotland) Act 1994 or such other councillor as that local authority decides has the title of Leader of the Council for the purposes of payment of remuneration;

“local authority subsidiary body” means any entity, including an unincorporated entity, that is controlled by a local authority;

“proper accounting practices” are those practices set out in section 12 (proper accounting practices)(c) of the Local Government in Scotland Act 2003;

“proper officer” means—

- (a) the proper officer having responsibility for the administration of the financial affairs of the local authority by virtue of section 95 (financial administration) of the 1973 Act; or
- (b) where that officer is unable to act owing to absence or illness, such member of that person’s staff as is nominated by that local authority for the purposes of these Regulations;

“statement of accounts” means the abstract of accounts which is required to be produced under section 96(3) of the 1973 Act; and

“working day” means any day other than a Saturday, Sunday, Christmas Eve or a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(d).

Revocations

4. The following instruments are revoked—

- (a) the Local Authority Accounts (Scotland) Regulations 1985(e);
- (b) the Local Authority Accounts (Scotland) Amendment Regulations 1997(f); and
- (c) the Local Authority Accounts (Scotland) Amendment Regulations 2011(g).

PART 2

Financial management and internal control

Responsibility for financial management

5.—(1) A local authority is responsible for ensuring that the financial management of the local authority is adequate and effective and that the local authority has a sound system of internal control which—

- (a) facilitates the effective exercise of the local authority’s functions; and
- (b) includes arrangements for the management of risk.

(2) The local authority must conduct a review at least once in each financial year of the effectiveness of its system of internal control.

(a) 1989 c.42. There are amendments to section 4 that are not relevant for the purposes of these Regulations.
(b) 1994 c.39.
(c) 2003 asp 1.
(d) 1971 c.80.
(e) S.I. 1985/267.
(f) S.I. 1997/1980.
(g) S.S.I. 2011/64.

(3) The findings of the review referred to in paragraph (2) must be considered at a meeting either of the local authority or of a committee of the local authority whose remit includes audit or governance functions.

(4) Following consideration of the findings of the review referred to in paragraph (3) that authority or committee must approve an annual governance statement, prepared in accordance with proper practices in relation to internal control.

(5) The annual governance statement must be signed by the Chief Executive and the Leader of the Council.

Accounting records and control systems

6.—(1) A local authority must keep adequate accounting records.

(2) Adequate accounting records means records that are sufficient—

- (a) to show and explain the local authority's transactions;
- (b) to disclose with reasonable accuracy, at any time, the financial position of the local authority; and
- (c) to enable members of the local authority to ensure that any accounts that require to be prepared comply with the requirements of these Regulations.

(3) The accounting records must in particular contain—

- (a) entries from day to day of all sums of money received and expended by the local authority and the matters in respect of which the receipt and expenditure takes place; and
- (b) a record of the assets and liabilities of the local authority.

(4) If the local authority deals in goods, the accounting records must contain—

- (a) statements of stock held by the authority at the end of each financial year;
- (b) all statements of stocktakings from which any statement of stock as is mentioned in paragraph (a) has been or is to be prepared; and
- (c) except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased, showing the goods and the buyers and sellers in sufficient detail to enable all these to be identified.

(5) Where a local authority has a local authority subsidiary body that is not subject to the requirements of this regulation, the local authority must ensure that the body takes such reasonable steps as are necessary to secure that the body's accounting records enable the local authority to fulfil its duties under the 1973 Act and these Regulations.

(6) The proper officer is responsible, on behalf of the local authority, and subject to any instructions given to that officer by that authority, for determining the form of, and maintaining, the local authority's—

- (a) accounting control systems; and
- (b) accounting records and supporting accounting records.

(7) The proper officer must ensure that the accounting control systems are observed and that the accounting records of the local authority are kept up to date.

Internal audit

7.—(1) A local authority must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with recognised practices in relation to internal control.

(2) Any officer or member of a local authority must, if that authority requires—

- (a) make available such documents of that authority which relate to its accounting and other records as appear to that authority to be necessary for the purpose of the audit; and

- (b) supply that authority with such information and explanation as that authority considers necessary for that purpose.
- (3) A local authority must, at least once in each financial year, conduct a review of the effectiveness of its internal audit.
- (4) The findings of the review referred to in paragraph (3) must be considered, as part of the consideration of the system of internal control referred to in regulation 5(2), at the meeting referred to in regulation 5(3).

PART 3

Published accounts and audit

Statement of accounts

8.—(1) A local authority must ensure that its statement of accounts is prepared in accordance with these Regulations and, so far as compatible with these Regulations, in accordance with proper accounting practices.

(2) The statement of accounts must include, in addition to those statements required by proper accounting practices, the following statements, which are to be prepared in accordance with proper accounting practices and recognised guidance—

- (a) a management commentary;
- (b) a statement of responsibilities;
- (c) an annual governance statement;
- (d) a remuneration report in the style set out in the Schedule to these Regulations.

(3) The statement of accounts must also include such of the following statements and disclosures as are relevant to the functions of the local authority—

- (a) a housing revenue account;
- (b) a non-domestic rate account;
- (c) a council tax account;
- (d) any other statement relating to statutory funds which is required by any statutory provision;
- (e) a note containing details of the disposal of any land at less than best consideration in terms of section 74 (disposal of land)(a) of the 1973 Act, including the date of the meeting at which the disposal was approved or, in the case of a disposal undertaken using delegated authority, the date of the meeting at which the completed disposal was reported to the authority.

(4) The remuneration report referred to in paragraph (2)(d) must contain the information set out in the Schedule to these Regulations.

(5) The proper officer must ensure that—

- (a) the statement of responsibilities required by paragraph (2)(b) accurately reflects the proper officer's responsibilities; and
- (b) the statement of accounts gives a true and fair view of the local authority's financial position and transactions of the local authority and its group.

(6) Once the proper officer is satisfied as to the matters set out in paragraph (5), and no later than 30 June immediately following the financial year to which the accounts relate, the proper officer must certify these matters by signing and dating the statement of responsibilities and the

(a) Section 74 was relevantly amended by section 11(1) of the Local Government in Scotland Act 2003 (asp 1).

balance sheets contained within the statement of accounts and then forward the statement of accounts to the appointed auditor.

(7) The local authority must publish a copy of the statement of accounts forwarded to the appointed auditor, clearly identified as an unaudited version, on a website of the authority from the date it is so forwarded until the date on which the audited statement of accounts is published in accordance with regulation 11.

Notice of public right to inspect and object to accounts

9.—(1) A local authority must give public notice of the right of interested persons to inspect and object to its accounts, as provided for by section 101 (rights of interested persons to inspect and copy documents and to object to accounts)(a) of the 1973 Act.

(2) In this regulation, where any date referred to is not a working day, it is to be read as referring instead to the date of the next working day.

(3) The notice referred to in paragraph (1) must—

- (a) be given in accordance with section 195 (public notices) of the 1973 Act no later than 11 July immediately following the end of the financial year to which the accounts relate, and
- (b) be published for a period of at least 14 days on a website of the authority, commencing on the day the notice is first given as required by sub-paragraph (a).

(4) The notice referred to in paragraph (1) must set out the provisions of section 101(1) and (2) of the 1973 Act and state—

- (a) that the accounts and other documents referred to in section 101(1) of the 1973 Act will be available for inspection during the ordinary business hours of the local authority for 15 working days from 25 July in the year the notice is published;
- (b) the place or places at which those accounts and other documents will be available and the hours during which they will be available there;
- (c) the name and address of the appointed auditor; and
- (d) that objections to the accounts may be sent to the appointed auditor at that address until the following 22 August.

Signing and consideration of audited accounts

10.—(1) A local authority, or a committee of that authority whose remit includes audit or governance functions must, no later than 30 September immediately following the end of the financial year to which the accounts relate, meet to consider approval of the statement of accounts.

(2) Before a local authority or a committee of that authority considers the accounts for approval, the statements which form part of the statement of accounts are to be signed and dated as follows—

- (a) the management commentary by the proper officer, the Chief Executive and the Leader of the Council;
- (b) the annual governance statement by the Chief Executive and the Leader of the Council; and
- (c) the remuneration report by the Chief Executive and the Leader of the Council.

(3) Before the accounts are considered as described in paragraph (2) the proper officer must re-certify the statement of responsibilities and the balance sheets of the local authority as giving a true and fair view of the financial position of the authority at the reporting date.

(4) Where a local authority does not have a Chief Executive, the statements referred to in paragraph (2)(a) to (c) are to be signed by such person as it nominates for that purpose, and where

(a) Section 101 is amended by section 10(1) of the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31) and paragraph 3(8) of schedule 4 to the Public Finance and Accountability (Scotland) Act 2000 (asp 1).

it does not have a Leader of the Council, those statements are to be signed by such person, being a member of a local authority, as it nominates for that purpose.

(5) Following approval of the statement of accounts by the authority or committee, and before publication as required by regulation 11, the statement of responsibilities must be signed and dated by a member of a local authority nominated for that purpose as having been approved.

Publication of the audited statement of accounts

11.—(1) No later than 31 October immediately following the end of a financial year the local authority must publish—

- (a) the statement of accounts for that financial year as approved under regulation 10;
- (b) the certificate placed on that statement under section 101(4) of the 1973 Act by the appointed auditor; and
- (c) a copy of any related report provided by that auditor to the authority.

(2) A local authority is to publish the documents mentioned in paragraph (1) by making a copy of them available on a website of the local authority for a period of at least five years and by making copies available for purchase throughout that period on payment of such amount as the authority considers reasonable.

(3) Paragraph (4) applies where a local authority receives a report sent in terms of section 102(2) or (4) (reports to Accounts Commission for Scotland by Controller of Audit)(a) of the 1973 Act, or is required to give effect to a direction made in an order under section 103F(7) (order of the Scottish Ministers following Accounts Commission recommendations)(b) of the 1973 Act.

(4) The authority must publish a report or order referred to in paragraph (3) in the same manner as, and together with, the documents referred to in paragraph (1) for every financial year to which the report or order relates.

St Andrew's House,
Edinburgh

2013

(a) Section 102(2) was substituted by section 56 of the Local Government in Scotland Act 2003. There are other amendments to section 102 that are not relevant to these Regulations.

(b) Section 103F was added by section 33(3) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).

SCHEDULE

Content of Remuneration Report

Definitions

1. In this Schedule—

“annual remuneration” is to be calculated—

- (a) in respect of a person who is employed or serves on a part time basis, with the salary element of remuneration increased to what it would have been had the person been paid for usual full time hours at the same hourly rate;
- (b) in respect of a person who is employed or serves for less than the full relevant financial year, with the salary element of remuneration increased to what it would have been had the person been employed for the whole year, at the same rate as applied to their period of employment or service; or
- (c) in respect of a person who falls within both of sub-paragraphs (i) and (ii), with the salary element of remuneration increased as required by sub-paragraph (i) and then further increased as required by sub-paragraph (ii);

“local authority subsidiary body” means any entity, including an unincorporated entity, that is controlled by a local authority;

(a) “relevant person”, in relation to a Remuneration Report for a financial year, means—

- (b) a senior councillor or senior employee employed by the local authority or holding office with that authority, whether on a permanent or temporary basis, in the financial year to which that Remuneration Report relates; and
- (c) a person whose name is shown in a Remuneration Report for that financial year by virtue of paragraph 5 (persons employed by local authority subsidiary bodies);

“remuneration” means salary, fees and bonuses, whether paid to or receivable by a person, by or from a local authority or local authority subsidiary body, and includes sums paid or due by way of expenses allowance (so far as those sums are chargeable to United Kingdom income tax) and the estimated monetary value of any other benefits received by a person otherwise than in cash, and—

- (a) includes any sum paid as compensation for loss of employment or termination of a contract for provision of services; but
- (b) excludes any sum that has been paid by the local authority or local authority subsidiary body as a contribution to the person’s pension;

“senior councillor” means a Leader of the Council, a Civic Head or a Senior Councillor, all as defined by regulation 2 of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007^(a);

“senior employee” means any local authority employee—

- (a) who has responsibility for management of the local authority to the extent that the person has power to direct or control the major activities of the authority (including activities involving the expenditure of money), during the financial year to which the Report relates, whether solely or collectively with other persons;
- (b) who holds a post that is politically restricted by reason of section 2(1)(a), (b) or (c) of the Local Government and Housing Act 1989^(b); or
- (c) whose annual remuneration, including any annual remuneration from a local authority subsidiary body, is £150,000 or more.

^(a) S.S.I. 2007/183.

^(b) 1989 c.42.

Remuneration arrangements

2. A Remuneration Report is to provide details of the local authority's remuneration policy for senior employees and senior councillors, and details of any role the local authority has in determining the remuneration policy for any local authority subsidiary body.

3. A Remuneration Report is to describe the role, and state the membership of, the local authority's committee that deals with remuneration arrangements or, where the authority does not have such a committee, state how remuneration arrangements are managed within the authority.

General disclosure by pay band.

4. A Remuneration Report is to give the number of employees of the local authority in the financial year to which it relates whose remuneration from that authority fell into each bracket of a scale in multiples of £5,000, starting with £50,000, along with the number of employees in each band in the preceding financial year.

Disclosure - local authority subsidiary bodies

5. A Remuneration Report is to give, for any local authority subsidiary body, the name of that body, together with—

- (a) the full post title and name of the chief executive of that body (or, if there is no chief executive, the post held and name of the most senior manager in that body); and
- (b) the full post title and name of each director or employee of the body whose annual remuneration in that year, including any annual remuneration from a local authority, was £150,000 or more.

Disclosure of remuneration for relevant persons

6. The Remuneration Report for each financial year is to show, in tabular form, against the post held and name of each relevant person the total amounts (before tax and other deductions), whether received or receivable, by each relevant person from the local authority or, as the case may be, local authority subsidiary body—

- (a) listed individually and rounded to the nearest whole pound;
- (b) under each of the categories listed in paragraph 8; and
- (c) for the financial year to which the Report relates, except for the total amount required by paragraph 8(h).

7. The Remuneration Report must show in separate tables—

- (a) remuneration from the local authority to relevant persons who are senior employees;
- (b) remuneration from the local authority to relevant persons who are senior councillors; and
- (c) remuneration from the local authority subsidiary body to relevant persons who are included in a Remuneration Report for that financial year by virtue of paragraph 5.

8. The categories are—

- (a) the total amount of salary, fees or allowances due to the person, whether paid or not;
- (b) the total amount of bonuses so paid or receivable;
- (c) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax and were paid to or receivable by the person;
- (d) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the termination of their employment, or, in the case of a councillor, the total of any

payment made to that person in connection with their ceasing to hold office before the end of a fixed term appointment;

- (e) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within sub-paragraphs (a) to (d), are emoluments of the person, and are received by the person in respect of their employment or in their capacity as a councillor, with a footnote describing the nature of any such benefits;
- (f) the total amount of any payments made by the local authority and local authority subsidiary body by way of remuneration to or in respect of the person that do not otherwise fall within this paragraph, other than payments relating to pensions;
- (g) the amount that is the total of the sums shown in categories (a) to (f); and
- (h) the amount that is the total of the payments that were made by way of remuneration to or in respect of the person under categories (a) to (f) in the financial year preceding that to which the Remuneration Report relates.

Pension rights - disclosure of information and calculation of value

9. The Remuneration Report must show, in tabular form, against the post held and name of each relevant person the value of pension rights held and acquired by that person, as required by paragraphs 11 and 12.

10. The Remuneration Report must group in separate tables—

- (a) relevant persons who are senior employees;
- (b) relevant persons who are senior councillors; and
- (c) relevant persons who do not fall within sub-paragraphs (a) or (b) and who are included in a Remuneration Report for that financial year by virtue of paragraph 5.

11.—(1) Where a relevant person included in a Remuneration Report under paragraph 9 has rights under a pension scheme which will provide defined benefits (within the meaning of section 99 of the Pensions Act 2008 (a)), the information to be provided in respect of the person is—

- (a) the value of the person's accrued pension benefits under the scheme as at 31st March in the financial year to which the Remuneration Report relates, rounded to the nearest £1,000;
- (b) the difference between that value and the equivalent value (so rounded) as at the previous 31st March; and
- (c) the amount, rounded to the nearest whole pound, of any pension contributions made to that scheme by the local authority producing the Remuneration Report, or a local authority subsidiary body named in that Report, during the financial year to which that Report relates, including any contributions which that local authority, or a local authority subsidiary body named in that Report, has agreed to pay in respect of the relevant person at a later date.

(2) In sub-paragraph (1)(a) and (b) the value of accrued pension benefits is to be calculated—

- (a) on the basis of the age at which the person will first become entitled to receive a full pension on retirement without reduction on account of its payment at that age, disregarding any entitlement to payment upon retirement on the grounds of illness, incapacity or redundancy;
- (b) assuming that the person left the related employment or service as at 31st March in the year to which the value relates without exercising any option to commute pension entitlement into a lump sum;

(a) 2008 c.30.

- (c) including any contributions that the relevant person is required to make in terms of the scheme rules, but disregarding any voluntary contributions made by the relevant person; and
- (d) without any adjustment for the effects of future inflation.

12.—(1) Where a relevant person included in a Remuneration Report under paragraph 9 has rights under a pension scheme which is a money purchase scheme (within the meaning of subparagraph (2)), the information to be provided in respect of the person is the amount, rounded to the nearest whole pound, of any pension contributions made to that scheme by the local authority producing that Report, or a local authority subsidiary body named in that Report, during the financial year to which that Report relates, including any contributions which that local authority, or a local authority subsidiary body named in that Report, has agreed to pay in respect of the relevant person at a later date.

(2) A “money purchase scheme” means a scheme under which all the benefits that may become payable to or in respect of a person are retirement benefits, the rate or amount of which is calculated by reference to payments made, or treated as made, by the person (or by any other person in respect of that person) and which are not average salary benefits.

EXPLANATORY NOTE

(This note is not part of the Regulations)

[Explanatory Notes will be added once the drafting of the SSI has been finalised.]

Consultation copy