



# Local Government Act 1974

## 1974 CHAPTER 7

### PART IV

#### MISCELLANEOUS AND GENERAL

#### **35 Removal or relaxation of controls affecting certain local authority functions.**

- (1) For the purpose of removing or relaxing controls which affect the exercise by local authorities of certain functions, including limits imposed on the amount of the fees which may be charged by local authorities in connection with the issue of licences and the exercise of other functions, the enactments specified in the first column of Schedule 6 to this Act shall have effect subject to the amendments specified in the second column of that Schedule.
- (2) Without prejudice to section 43(4) below, any reference in Schedule 6 to this Act to any enactment includes a reference to that enactment as applied by any other enactment, including a local Act.
- (3) Without prejudice to subsection (1) above, the Secretary of State may by order made by statutory instrument make provision for the removal or relaxation of any control, including any such limit as is referred to in subsection (1) above, which affects the exercise of any function by a local authority and which is conferred by or under any enactment on a Minister of the Crown or a body constituted by or under any enactment.
- (4) An order made under this section—
  - (a) may be revoked or varied by a further order so made, and
  - (b) may contain such incidental or consequential provisions as appear to the Secretary of State to be appropriate, including provisions amending or repealing or revoking, with or without savings, any enactment passed before this Act and any instrument made under any such enactment.
- (5) A statutory instrument containing an order under this section shall be of no effect unless approved by a resolution of each House of Parliament.

*Status: Point in time view as at 01/04/1997.*

*Changes to legislation: Local Government Act 1974, Part IV is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) In this section “local authority” means any local authority within the meaning of the <sup>M1</sup>Local Government Act 1972, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple, the Council of the Isles of Scilly, a port health authority, the London Transport Executive and a Passenger Transport Executive.

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

**C1** S. 35(3): application continued by [Weights and Measures Act 1985 \(c. 72, SIF 131\)](#), s. 196(1), [Sch. 11 para. 19](#)

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**Marginal Citations**

**M1** 1972 c. 70.

**36 Recovery by local authorities of establishment charges.**

- (1) In any case where a local authority—
- (a) are empowered under any enactment to carry out any works or do any other thing on or in relation to any land or building, and
  - (b) by virtue of that or any other enactment are entitled to recover from any person expenses incurred by them in exercising that power,
- the local authority shall be entitled to recover, together with and in like manner as the expenses which are recoverable as mentioned in paragraph (b) above, such sum as appears to them to be reasonable in respect of their establishment charges.
- (2) The provisions of subsection (1) above shall have effect in substitution for any provision contained in any enactment, including an enactment in a local Act, under which a local authority who have exercised any such power as is referred to in subsection (1)(a) above have power to recover any sum in respect of their establishment charges or any element or elements of those charges.
- (3) In this section “local authority” has the same meaning as in section 35 above.

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

**C2** S. 36 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), [ss. 65\(5\), 68\(4\)](#)

37 ..... F1

**Textual Amendments**

**F1** S. 37 repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), [ss. 3, 6](#), [Sch. 1 Pt. I](#)

38 ..... F2

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**Textual Amendments**

**F2** S. 38 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 para. 3(1)(2)(3), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

**39 Compensation for loss of office : extension of cases for which regulations may provide.**

For subsection (3) of section 259 of the <sup>M2</sup>Local Government Act 1972 (regulations providing for compensation for loss of office attributable to that Act may extend to persons whose loss is attributable to any such transfer or relinquishment of functions as is referred to in paragraph (c) of the new subsection set out below) there shall be substituted the following subsection :—

“(3) Without prejudice to subsection (1) above, regulations under this section may make provision in relation to persons who suffer loss of employment or loss or diminution of emoluments which is attributable to—

- (a) the provisions of any such order as is referred to in section 326(1) of the Public Health Act 1936 ;
- (b) an existing local authority ceasing, as respects the whole or part of their area, to be a food and drugs authority, within the meaning of the Food and Drugs Act 1955 ;
- (c) any transfer or relinquishment of functions under any of the provisions of the Public Health Act 1936 which are incorporated in the Food and Drugs Act 1955 or in the Slaughterhouses Act 1974 ; or
- (d) the provisions of an order under section 46 of the Children and Young Persons Act 1969 ;

and, without prejudice to the repeal of any enactment by this Act, regulations making provision for any of the cases specified in paragraphs (a) to (d) above may provide that the provisions as to compensation made for that case by section 326 of the Public Health Act 1936, section 129(1) of the Food and Drugs Act 1955 or, as the case may be, paragraph 2 of Schedule 3 to the Children and Young Persons Act 1969 shall not apply in relation to persons to whom the provisions of theregulations apply.”

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

**C3** The text of s. 39 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M2** [1972 c. 70.](#)

**40** ..... **F3**

**Textual Amendments**

**F3** S. 40 repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)

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**41 Expenses.**

There shall be defrayed out of money provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of a Minister under this Act;
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

**42 Minor and consequential amendments and repeals.**

- (1) Schedule 7 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Schedule 8 to this Act are here by repealed to the extent specified in the third column of that Schedule.

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

**C4** The text of s. 42 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**43 Short title, commencement, construction, application and extent.**

- (1) This Act may be cited as the Local Government Act 1974.
- (2) Part II, other than sections 16 and 22, and sections 35, 37 and 42 of this Act and Schedules 6 to 8 to this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.
- (3) An order under subsection (2) above appointing a day for the coming into operation of any provision of Schedules 6 to 8 to this Act may contain such savings with respect to the operation of that provision as appear to the Secretary of State to be appropriate.
- (4) Any reference in this Act to any other enactment shall be construed as referring to that enactment as amended by or under any other enactment, including this Act.
- (5) In their application to the Isles of Scilly, the provisions of Parts I and IV of this Act shall have effect subject to such modifications as the Secretary of State may by order made by statutory instrument direct.
- (6) . . . . .<sup>F4</sup>, this Act shall not extend to Scotland or to Northern Ireland.

**Textual Amendments**

**F4** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), [Sch. 3](#) and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), [Sch. 3 Pt. I](#)

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

**C5** Power of appointment conferred by s. 43(2) fully exercised: [S.I. 1974/335](#), 1977/943 and 1978/1583

**Status:**

Point in time view as at 01/04/1997.

**Changes to legislation:**

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