



# Local Government (Miscellaneous Provisions) Act 1976

## 1976 CHAPTER 57

### PART I **E+W**

#### GENERAL

#### *Supplemental*

#### 44 Interpretation etc. of Part I. **E+W**

(1) In this Part of this Act, except where the contrary intention appears—

“apparatus” includes any structure constructed in order that apparatus may be lodged in it;

“the Common Council” means the Common Council of the City of London; [F1“executive” and “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000;]

“functions” includes powers and duties;

“highway” has the same meaning as in [F2the M1Highways Act 1980];

“local Act” includes a provisional order confirmed by an Act;

[F3“local authority” means a county council, F4. . . a district council, a London borough council, the Common Council, the Council of the Isles of Scilly and—

(a) in sections 13 to 16, 29, 30, 38, 39 and 41 of this Act, [F5a [F6police and crime commissioner, the Mayor's Office for Policing and Crime], . . . F7. . . ]. . . a joint authority established by Part IV of the Local Government Act 1985 [F8an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act,][F9, an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in

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Health Act 2007 (joint waste authorities)]<sup>F10</sup> and the London Fire and Emergency Planning Authority];

(b) in sections 1, 16, 19, 30, 36, 39 and 41 of this Act, a parish council and a community council.

(c) [<sup>F11</sup>in section 40 of this Act, a joint authority established by Part IV of the Local Government Act 1985, an authority established under section 10 of that Act (waste regulation and disposal authorities), [<sup>F12</sup>an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities), [<sup>F13</sup>an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act,]]<sup>F10</sup> the London Fire and Emergency Planning Authority] and the South Yorkshire Pensions Authority.]

“notice” means notice in writing;

“owner”, in relation to any land, place or premises, means a person who, either on his own account or as agent or trustee for another person, is receiving the rackrent of the land, place or premises or would be entitled to receive it if the land, place or premises were let at a rackrent, and “owned” shall be construed accordingly;

“statutory undertakers” means any of the following bodies, namely, any statutory undertakers within the meaning of [<sup>F14</sup>the Highways Act 1980,]<sup>F15</sup>[<sup>F16</sup>..., <sup>F17</sup>... and, <sup>F17</sup>... [<sup>F18</sup>a universal service provider in connection with the provision of a universal postal service]]. . .; and

“traffic sign” has the same meaning as in the <sup>M2</sup>Road Traffic Regulation Act [<sup>F19</sup>1984].

[<sup>F20</sup>“universal service provider” has the same meaning as in [<sup>F21</sup>Part 3 of the Postal Services Act 2011] ; and references to the provision of a universal postal service shall be construed in accordance with [<sup>F22</sup>that Part] .]

[<sup>F23</sup>(1ZA) The undertaking of a universal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Part; and references in this Part to his undertaking shall be construed accordingly.]

[<sup>F24</sup>(1A) Sections 13, 15, 16, 29, 30, 32, 38, 39 and 41 of this Act shall have effect as if the Broads Authority were a local authority and the Broads (as defined in the Norfolk and Suffolk Broads Act 1988) were its local government area.]

[<sup>F25</sup>(1B) Section 16 of this Act shall have effect as if the Environment Agency were a local authority.]

(2) [<sup>F26</sup>Section 322 of the <sup>M3</sup>Highways Act 1980] (which relates to the service of documents) shall apply to the service of any document by or on the Secretary of State in pursuance of [<sup>F26</sup>section 7 of this Act as if that section were a provision of that Act].

(3) When an offence under this Part of this Act (including an offence under byelaws made by virtue of section 12 of this Act) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

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Where the affairs of a body corporate are managed by its members the preceding provisions of this subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

- (4) Except so far as this Part of this Act expressly provides otherwise and subject to the provisions of section 33 of the <sup>M4</sup>Interpretation Act 1889 (which relates to offences under two or more laws), nothing in this Part of this Act—
- (a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Part of this Act or an instrument made in pursuance of this Part of this Act;
  - (b) affects any restriction imposed by or under any other enactment, whether public, local or private; or
  - (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part of this Act.
- (5) Nothing in paragraph (a) of the preceding subsection applies to the failure of a person to perform a duty imposed on him by section 1(4), 2(5), 25(6) or 7(b) [<sup>F27</sup>of this Act or section 61(2)(c) of the Road Traffic Regulation Act 1984].
- (6) References in this Part of this Act to any enactment are references to it as amended by or under any other enactment.

#### Textual Amendments

- F1** Words in S. 44(1) inserted (E.W.) (11.7.2001 (E.), 1.4.2002 (W.)) by S.I. 2001/2237, arts. 2(c), 11(2); S.I. 2002/808, **art. 11(2)**
- F2** Words substituted by **Highways Act 1980** (c. 66, SIF 59), s. 343(2), **Sch. 24 para. 27(c)**
- F3** Definition of “local authority” substituted by **Local Government Act 1985** (c.51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 53(b)**
- F4** Words repealed by virtue of **Local Government Act 1985** (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**
- F5** S. 44(1): words in para. (a) of definition of “local authority” inserted (1.10.1994 for specified purposes, otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 para. 18**; S.I. 1994/2025, **art. 6(2) (g)**(subject to art. 6(3)-(6)); S.I. 1994/3262, art. 4, **Sch.**
- F6** Words in s. 44(1) substituted (16.1.2012) by **Police Reform and Social Responsibility Act 2011** (c. 13), s. 157(1), **Sch. 16 para. 127**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 40)
- F7** Word in para. (a) in definition in s. 44(1) repealed (3.7.2000) by 1999 c. 29, ss. 323, **Sch. 34 Pt. VIII**; S.I. 2000/1094, **art. 4(i)**
- F8** Words in s. 44(1) inserted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009** (c. 20), s. 148(6), **Sch. 6 para. 43(a)**; S.I. 2009/3318, art. 2(c)
- F9** S. 44(1): words in para. (a) of definition inserted (1.4.2008) by Local Government and Public Involvement in **Health Act 2007** (c. 28), ss. 209, 245, **Sch. 13 para. 33(a)**; S.I. 2008/917, **art. 2(1)(p)**
- F10** Words in paras. (a) and (c) in definition in s. 44(1) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 24** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**
- F11** Para. (c) inserted by S.I. 1990/1765, **art. 4(5)**
- F12** S. 44(1): words in para. (c) of definition inserted (1.4.2008) by Local Government and Public Involvement in **Health Act 2007** (c. 28), ss. 209, 245, **Sch. 13 para. 33(b)**; S.I. 2008/917, **art. 2(1)(p)**
- F13** Words in s. 44(1) inserted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009** (c. 20), s. 148(6), **Sch. 6 para. 43(b)**; S.I. 2009/3318, art. 2(c)
- F14** Words substituted by **Highways Act 1980** (c. 66, SIF 59), **Sch. 24 para. 27(c)**
- F15** Words repealed by **Water Act 1989** (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

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- F16** Words substituted by virtue of [British Telecommunications Act 1981 \(c. 38, SIF 96\)](#), **Sch. 3 para. 10(4)**
- F17** Words repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 4 para. 3(1)(d)**, Sch. 5 para. 45, Sch. 7 Pt. I
- F18** S. 44(1): words in the definition of “statutory undertakers” substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 42(2)(a)**
- F19** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, **Sch. 13 para. 35(a)**
- F20** S. 44(1): definition of “universal service provider” inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 42(2)(b)**
- F21** Words in s. 44(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 102(a)**; S.I. 2011/2329, art. 3
- F22** Words in s. 44(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 102(b)**; S.I. 2011/2329, art. 3
- F23** S. 44(1ZA) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 42(3)**
- F24** S. 44(1A) inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 21, 23(2), 27(2), **Sch. 6 para. 15**
- F25** S. 44(1B) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 33** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F26** Words substituted by [Highways Act 1980 \(c. 66, SIF 59\)](#), s. 343(2), **Sch. 24 para. 27**
- F27** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, **Sch. 13 para. 35(b)**

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

- C1** S. 44(1) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(m)**
- C2** S. 44(1) extended by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 8(j)**
- C3** S. 44(3)–(5) extended by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 61(7)

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**Marginal Citations**

- M1** 1980 c. 66.
- M2** 1984 c. 27.
- M3** 1980 c. 66.
- M4** 1889 c. 63.

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