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## SCHEDULES

### SCHEDULE 1

Section 2.

#### COMPETITION

##### *Collection of refuse*

- 1 (1) <sup>F1</sup> . . . the following (and only the following) fall within section 2(2)(a) above—
- (a) the collection of household waste, and
  - (b) the collection of commercial waste.
- (2) In sub-paragraph (1) above—
- (a) household waste means anything (other than sewage) which is for the time being household waste for the purposes of [<sup>F2</sup>section 45 of the Environmental Protection Act 1990], and
  - (b) commercial waste means anything (other than sewage) which is for the time being commercial waste for those purposes.
- (3) In sub-paragraph (2) above “sewage” has the same meaning as in [<sup>F3</sup>section 75(8) of the Environmental Protection Act 1990].
- <sup>F4</sup>(4) . . . . .

#### Textual Amendments

- F1** Words in Sch. 1 para. 1(1) omitted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(1), 164(3), [Sch. 15 para. 27\(a\)](#); S.I. 1994/1096, [art. 2\(1\)](#) and expressed to be repealed (*prosp.*) by 1990 c. 43, s. 162(2), [Sch. 16 Pt. II](#)
- F2** Words in Sch. 1 para. 1(2)(a) substituted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 27\(b\)](#); S.I. 1994/1096, [art. 2\(1\)](#)
- F3** Words in Sch. 1 para. 1(3) substituted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 27\(c\)](#); S.I. 1994/1096, [art. 2\(1\)](#)
- F4** Sch. 1 para. 1(4) omitted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), 164(3), [Sch. 15 para. 27\(d\)](#); S.I. 1994/1096, [art. 2\(1\)](#) and expressed to be repealed (*prosp.*) by 1990 c. 43, s. 162(2), [Sch. 16 Pt. II](#)

##### *Cleaning of buildings*

- 2 (1) The cleaning of the windows of any building (whether inside or outside) and the cleaning of the interior of any building fall within section 2(2)(b) above.
- (2) But the following do not fall within section 2(2)(b) above—
- (a) the cleaning of the exterior (which here excludes windows) of any building;

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- (b) the cleaning of the windows or interior of a dwelling, residential establishment or police establishment.
- (3) In sub-paragraph (2) above “dwelling” means a building or part of a building occupied as a person’s home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied.
- (4) In sub-paragraph (2) above “residential establishment” means (except in relation to Scotland) a building or part of a building in which residential accommodation is provided under—
- (a) section 21 or 29 of the National Assistance Act 1948,
  - (b) <sup>F5</sup> . . . , or
  - [<sup>F6</sup>(c) section 53 of the Children Act 1989.]
- (5) In sub-paragraph (2) above “residential establishment”, in relation to Scotland, has the same meaning as in the <sup>M1</sup>Social Work (Scotland) Act 1968.
- (6) In sub-paragraph (2) above “police establishment” means a building or part of a building used by police for the performance of their functions (whether as a police station or police training establishment or otherwise).

#### Textual Amendments

- F5** Words in Sch. 1 para. 2(4)(b) repealed (1.4.1993) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10; S.I. 1992/2975, art. 2(2), Sch.
- F6** Sch. 1 para. 2(4)(c) substituted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), Sch. 13 para. 72; S.I. 1991/828, art. 3(2)

#### Marginal Citations

- M1** 1968 c. 49.

#### *Other cleaning*

- 3 (1) The following (and only the following) fall within section 2(2)(c) above—
- (a) the removal of litter from any land;
  - (b) the emptying of litter bins;
  - (c) the cleaning (by sweeping or otherwise) of any street;
  - (d) the emptying of gullies;
  - (e) the cleaning of traffic signs and street name plates.
- (2) In sub-paragraph (1) above—
- “gullies” includes catchpits and interceptors;
- “litter” includes leaves but not derelict vehicles, derelict vessels or scrap metal;
- “litter bin” (except in relation to Scotland) means a receptacle provided in a street or public place for refuse or litter, and (in relation to Scotland) has the same meaning as in section 7 of the Litter Act 1983;
- “street” (except in relation to Scotland) has the meaning given by section 329(1) of the <sup>M2</sup>Highways Act 1980, and (in relation to Scotland)

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means a road as defined in section 25(3) of the <sup>M3</sup>Local Government and Planning (Scotland) Act 1982;

“traffic sign” has the meaning given by section 64(1) of the <sup>M4</sup>Road Traffic Regulation Act 1984 except that it does not include a line or mark on a road.

#### Marginal Citations

**M2** 1980 c. 66.

**M3** 1982 c. 43.

**M4** 1984 c. 27.

#### *Catering: schools and welfare*

- 4 (1) The following (and only the following) fall within section 2(2)(d) above—
- (a) providing ingredients for, and preparing, delivering and serving, meals for consumption in schools other than excepted schools;
  - (b) providing refreshments for consumption in schools other than excepted schools;
  - (c) providing ingredients for, and preparing and delivering, meals for consumption in residential establishments or day centres other than excepted establishments or centres;
  - (d) providing refreshments for consumption in residential establishments or day centres other than excepted establishments or centres;
  - (e) providing ingredients for, and preparing, meals for provision to persons in their own homes under section 45 of the Health Services and Public Health Act 1968, section 2(1)(g) of the <sup>M5</sup>Chronically Sick and Disabled Persons Act 1970, Part II of Schedule 9 to the <sup>M6</sup>Health and Social Services and Social Security Adjudications Act 1983 or section 12 of the <sup>M7</sup>Social Work (Scotland) Act 1968.
- (2) For the purposes of sub-paragraph (1) above a school is an excepted one if—
- (a) it is a special school or a school on whose premises all or some of the pupils reside,
  - (b) it is maintained by a local education authority or, in Scotland, it is under the management of an education authority, and
  - (c) meals are prepared on its premises.
- (3) For the purposes of sub-paragraph (1) above an establishment or centre is an excepted one if it is maintained by a local authority and meals are prepared on its premises; and “local authority” here has the same meaning as in section 1(1) above.
- (4) In this paragraph “residential establishment” has the same meaning as in paragraph 2 above.
- (5) In this paragraph “day centre” means premises (other than residential premises) where facilities are provided under—
- (a) section 29 of the <sup>M8</sup>National Assistance Act 1948,
  - (b) section 45 of the <sup>M9</sup>Health Services and Public Health Act 1968,
  - (c) section 12 of the <sup>M10</sup>Social Work (Scotland) Act 1968,
  - (d) Schedule 8 to the <sup>M11</sup>National Health Service Act 1977, or

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- (e) Part II of Schedule 9 to the<sup>M12</sup>Health and Social Services and Social Security Adjudications Act 1983.

#### Marginal Citations

- M5** 1970 c. 44.  
**M6** 1983 c. 41.  
**M7** 1968 c. 49.  
**M8** 1948 c. 29.  
**M9** 1968 c. 46.  
**M10** 1968 c. 49.  
**M11** 1977 c. 49.  
**M12** 1983 c. 41.

#### *Other catering*

- 5 (1) The following (and only the following) fall within section 2(2)(e) above—
- (a) providing ingredients for, and preparing and serving, meals;
  - (b) providing refreshments.
- (2) But an activity does not fall within section 2(2)(e) above if—
- (a) the meals or refreshments are for consumption in schools, residential establishments, day centres, institutions of further education, or hostels in Scotland used mainly by pupils attending schools, or
  - (b) the activity falls within paragraph 4(1)(e) above.
- (3) In sub-paragraph (2) above “residential establishment” and “day centre” have the same meanings as in paragraph 4 above.
- (4) In sub-paragraph (2) above “institution of further education” means (except in relation to Scotland) an institution [<sup>F7</sup>which is maintained by a local education authority and provides higher education or further education (or both)].
- (5) In sub-paragraph (2) above “institution of further education” means, in relation to Scotland, an institution for the provision by an education authority of any form of further education within the meaning of section 135(1) of the<sup>M13</sup>Education (Scotland) Act 1980.

#### Textual Amendments

- F7** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 107](#)

#### Marginal Citations

- M13** 1980 c. 44.

#### *Maintenance of ground*

- 6 (1) Subject to sub-paragraph (2) below, the following (and only the following) fall within section 2(2)(f) above—

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- (a) cutting and tending grass (including re-turfing and re-seeding but not initial turfing or seeding);
  - (b) planting and tending trees, hedges, shrubs, flowers and other plants (but excluding landscaping any area);
  - (c) controlling weeds.
- (2) An activity does not fall within section 2(2)(f) above if its primary purpose is research or securing the survival of any kind of plant.

### *Supervision of parking*

- [<sup>F8</sup>6A (1) The following (and only the following) fall within section 2(2)(ff) above—
- (a) the fixing or giving of penalty charge notices under section 66 of the 1991 Act;
  - (b) the fixing or removal, or authorising the fixing or removal, of immobilisation devices under section 69 of the 1991 Act;
  - (c) the removal, or the making of arrangements for the removal, of vehicles in pursuance of regulations under section 99 of the 1984 Act, where the removal is effected or arranged by parking attendants; and
  - (d) the making of arrangements for the custody, release or disposal of vehicles whose removal is effected or arranged as mentioned in paragraph (c) above.
- (2) In this paragraph—
- “the 1984 Act” means the Road Traffic Regulation Act 1984 <sup>F9</sup>;
- “the 1991 Act” means the Road Traffic Act 1991 <sup>F10</sup>;
- “parking attendant” has the same meaning as in section 63A of the 1984 Act <sup>F11</sup>.]

#### **Textual Amendments**

- F8** Sch. 1 para. 6A inserted (10.11.1994) by S.I. 1994/2884, art. 2(2)
- F9** 1984 c.27.
- F10** 1991 c.40.
- F11** Section 63A is inserted by section 44(1) of the Road Traffic Act 1991.

### *Repair and maintenance of vehicles*

- 7 (1) Subject to the following provisions of this paragraph, the repair and the maintenance of any motor vehicle or trailer fall within section 2(2)(g) above.
- (2) The repair of damage caused by an accident does not fall within section 2(2)(g).
- (3) Neither the repair nor the maintenance of a police vehicle falls within section 2(2)(g).
- (4) In this paragraph “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads or otherwise on land.
- (5) In this paragraph “police vehicle” means (except in relation to Scotland) a vehicle used only in connection with the discharge of the police functions of an authority falling within section 1(1)(e) above or the Common Council of the City of London.

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- (6) In this paragraph “police vehicle” means, in relation to Scotland, a vehicle used only in connection with the discharge of the functions of a police authority.
- (7) In this paragraph “trailer” means a vehicle intended or adapted to be drawn by a motor vehicle.

VALID FROM 10/11/1994

*Management of vehicles*

- [<sup>F12</sup>7A (1) The following (and only the following) fall within section 2(2)(gg) above—
- (a) arranging for motor vehicles to be available to meet the requirements from time to time of a defined authority;
  - (b) securing that the statutory provisions relating to registration, licensing, safety and insurance are complied with as respects motor vehicles so made available and that the drivers of such vehicles are duly licensed; and
  - (c) arranging for the provision of fuel for, and the cleaning, repair and maintenance of, such vehicles.
- (2) In sub-paragraph (1) above references to motor vehicles do not include references to any which are to be used exclusively for the purposes of a defined authority’s functions as a police or fire authority.
- (3) In this paragraph references to motor vehicles include references to trailers; and “motor vehicle” and “trailer” have the same meanings as in paragraph 7 above.]

**Textual Amendments**

**F12** Sch. 1 para. 7A inserted (10.11.1994) by [S.I. 1994/2884](#), [art. 2\(2\)](#)

*[<sup>F13</sup> Managing sports and leisure facilities]*

**Textual Amendments**

**F13** Sch. 1 para. 8 added by [S.I. 1989/2488](#), [art. 2\(2\)](#)

- 8 (1) Subject to sub-paragraphs (2) and (3), managing any of the following facilities, including any of those facilities provided in sports centres or leisure centres or on other premises where facilities not mentioned in this sub-paragraph are also provided, falls within section 2(2)(ee) above—
- (a) swimming pools, skating rinks, gymnasias;
  - (b) tennis courts, squash courts, badminton courts, pitches for team games, athletics grounds;
  - (c) tracks and centres for bicycles (whether motorised or not), golf courses, putting greens, bowling greens, bowling centres, bowling alleys;

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- (d) riding centres, courses for horse racing, artificial ski slopes, centres for flying, ballooning or parachuting, and centres for boating or water sports on inland or coastal waters.
- (2) Managing any of the facilities described in sub-paragraph (1) shall not fall within section 2(2)(ee) above if the facilities are provided—
- (a) on premises not predominantly used for sport or physical recreation;
  - (b) on premises occupied by educational institutions.
- (3) Managing any of the facilities described in sub-paragraph (1) shall not fall within section 2(2)(ee) above—
- (a) if that facility is provided—
    - (i) in England or Wales under section 53 of the Education Act 1944 (whether or not also provided under section 41 of that Act) and whether or not also provided under section 19 of the Local Government (Miscellaneous Provisions) Act 1976; or
    - (ii) in Scotland under section 6 or 17 of the Education (Scotland) Act 1980, whether or not also provided under section 15(2) of the Local Government and Planning (Scotland) Act 1982; and
  - (b)
    - (i) where the facility is on premises on which no other facility described in sub-paragraph (1) is provided, if educational institutions have used it exclusively in the immediately preceding financial year for more than 600 hours; or
    - (ii) where the facility is on premises on which two or more of the facilities described in sub-paragraph (1) are provided, if educational institutions have used exclusively in the immediately preceding financial year facilities of at least half of the descriptions provided (whether concurrently or at different times) and the aggregate periods of their exclusive use in that year of the facilities so described exceeds 600 hours.
- (4) For the purposes of sub-paragraph (1), without prejudice to the generality of the term, “managing” includes arranging—
- (a) for instruction in the sport or other physical recreational activity provided;
  - (b) for supervision of the sport or activity;
  - (c) catering;
  - (d) the hiring out of equipment for use at the facility;
  - (e) the marketing and promotion of the facility;
  - (f) the taking of bookings;
  - (g) the collection of, and accounting for, fees and charges;
  - (h) the physical security of the premises;
  - (j) the cleaning and proper maintenance of the facility other than the external parts of buildings;
- and also includes assuming responsibility for heating, lighting and other service charges in relation to the facility.
- (5) In this paragraph, “educational institutions”—
- in England and Wales, means schools which are county or voluntary schools, or special schools, maintained by the local education authority; and institutions for the provision of higher or further education, or both, which are either

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maintained by the local education authority or are substantially dependent for their maintenance on assistance from the local education authority; and  
in Scotland means public schools, or special schools, under the management of the education authority and any other institutions provided and maintained by the education authority for the provision of further education; and  
in England, Wales and Scotland, for the purposes of sub-paragraph (2)(b) only, includes nursery schools.

### *Housing management*

- [<sup>F14</sup>9] (1) Subject to paragraph (2), the following (and only the following) fall within section 2(2)(h) above—
- (a) dealing with applications for local authority housing once a property has been allocated to the applicant until immediately after the tenancy agreement has been entered into, and dealing with assignments under section 92 of the 1985 Act (assignments by way of exchange) or with assignments to another secure tenant by way of exchange under section 55 of the 1987 Act (assignment of secure tenancy) after the landlord has given his consent;
  - (b) informing local authority housing tenants of the terms of their tenancies and taking steps to enforce any such terms;
  - (c) collecting local authority housing rent and service charges, and service charge loan payments arising from such service charges, keeping a suitable record of the sums collected, collecting any arrears, negotiating an agreement for the payment of any arrears, and monitoring compliance with such an agreement;
  - (d) arranging for the vacating of local authority housing once a tenancy or licence has terminated;
  - (e) inspecting vacant property, assessing whether works are needed prior to the next letting, ensuring that any such works are carried out and reporting on progress to the landlord;
  - (f) taking steps to prevent vandalism and unlawful occupation of vacant property, including ensuring that any necessary works are carried out and reporting on progress to the landlord;
  - (g) taking steps to remove unlawful occupants from local authority housing;
  - (h) assessing the condition of the common parts of local authority housing, assessing the maintenance, repair, cleaning (including disinfection) and clearance of such parts that is necessary, ensuring that any necessary works are carried out and reporting on progress to the landlord;
  - (i) assessing requests for repairs to local authority housing, ensuring that any necessary works are carried out and reporting on progress to the landlord;
  - (j) carrying out inspections and surveys of local authority housing for the purposes of ascertaining—
    - (i) its physical condition or state of repair, or
    - (ii) whether or not such housing is occupied;
  - (k) assessing claims for compensation under regulations made under section 96 of the 1985 Act <sup>F15</sup> or section 60 of the 1987 Act <sup>F16</sup> (right to carry out repairs) and making recommendations to the landlord;
  - (l) assessing applications for payment—



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- (i) under regulations made under section 99A of the 1985 Act or section 58A of the 1987 Act (right to compensation for improvements) <sup>F17</sup>, or
    - (ii) under section 100 of the 1985 Act or section 58 of the 1987 Act (power to reimburse cost of work adding to value of property), and making recommendations to the landlord;
  - (m) operating reception and security services provided at the entrance to local authority housing; and
  - (n) taking action to control any disturbance in local authority housing or to resolve disputes between occupants, including dealing with such bodies (including appropriate dispute resolution agencies) as may be appropriate.
- (2) The activities described in sub-paragraphs (1)(a), (d), (g) and (j)(ii) do not fall within section 2(2)(h) above where they relate to a tenancy or prospective tenancy if—
  - (a) the tenant is not an individual or, as the case may be, all the tenants are not individuals; or
  - (b) the tenancy is—
    - (i) a long tenancy within the meaning of section 115 of the 1985 Act,
    - (ii) a lease granted in pursuance of the right to acquire on rent to mortgage terms conferred by Part V of the 1985 Act,
    - (iii) a lease granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or
    - (iv) a lease under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, direct or indirect, to the value of the demised premises.
- (3) In this paragraph—
  - “the 1985 Act” means the Housing Act 1985 <sup>F18</sup>;
  - “the 1987 Act” means the Housing (Scotland) Act 1987 <sup>F19</sup>;
  - “local authority housing” means housing accommodation provided by a local authority under Part II of the 1985 Act, or, as regards Scotland, under Part I of the 1987 Act, including—
    - (i) garages, parking spaces and outhouses provided in connection with such housing accommodation and usually enjoyed with it, and
    - (ii) common parts of buildings containing two or more dwelling-houses,but excluding hostels as defined in section 622 of the 1985 Act or section 2(5) of the 1987 Act;
  - “secure tenancy” has the same meaning as in section 79 of the 1985 Act or section 44 of the 1987 Act (secure tenancies);
  - “service charge” means an amount payable by a tenant of premises which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the landlord’s costs of management;
  - “tenancy” has the same meaning as in section 621 of the 1985 Act or section 82 of the 1987 Act, and also includes a secure tenancy, and “tenant” shall be construed accordingly; and
  - “vacant property” means housing accommodation provided by a local authority (including garages, parking spaces and outhouses provided in connection with

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such housing accommodation and usually enjoyed with it) which is unoccupied, whether by reason of the termination of a secure tenancy or otherwise.]

#### Textual Amendments

- F14** Sch. 1 para. 9 inserted (23.6.1994) by S.I. 1994/1671, art. 2(2)
- F15** Section 96 was substituted by section 121 of the Leasehold Reform, Housing and Urban Development Act 1993 (c.28).
- F16** Section 60 was substituted by section 146 of the Leasehold Reform, Housing and Urban Development Act 1993
- F17** Section 99A was inserted by section 122 of the Leasehold Reform, Housing and Urban Development Act 1993; section 58A was inserted by section 147 of that Act; section 100 was amended by paragraph 16(1) and (2) of Schedule 3 to the Housing and Planning Act 1986 (c.63) and paragraph 66 of Schedule 11 to the Local Government and Housing Act 1989 (c.42).
- F18** 1985 c.68.
- F19** 1987 c.26.

VALID FROM 10/11/1994

#### Security work

- [<sup>F20</sup>10 (1) The following (and only the following) fall within section 2(2)(i) above—
- (a) operating security controls in relation to persons entering or leaving land which is occupied by a defined authority or in which such an authority has an interest, or moving between different parts of such land; and
  - (b) operating security patrols in respect of such land.
- (2) In sub-paragraph (1) above the references to land which is occupied by a defined authority or in which such an authority has an interest do not include references to—
- (a) any library, museum or art gallery;
  - (b) any police establishment; or
  - (c) in the case of the references in paragraph (a), any dwelling or residential establishment.
- (3) In sub-paragraph (2) above the reference to a library, museum or art gallery is a reference to—
- (a) one maintained under the Public Libraries and Museums Act 1964 <sup>F21</sup>; or
  - (b) one established under the Public Libraries Consolidation (Scotland) Act 1887 <sup>F22</sup>, or one to which that Act applies.
- (4) In sub-paragraph (2) above “police establishment”, “dwelling” and, subject to sub-paragraph (5) below, “residential establishment” have the same meanings as in paragraph 2(2) above.
- (5) In sub-paragraph (2) above “residential establishment” includes, in relation to Scotland, a hostel provided under section 13 of the Education (Scotland) Act 1980 <sup>F23</sup>.]

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### Textual Amendments

- F20** Sch. 1 para. 10 inserted (10.11.1994) by S.I. 1994/2884, art. 2(4)  
**F21** 1964 c.75.  
**F22** 1887 c.42.  
**F23** 1980 c.44.

VALID FROM 10/11/1994

### *Legal services*

- [<sup>F24</sup>11 (1) The provision of legal services by legal staff falls within section 2(2)(j) above.
- (2) For the purposes of sub-paragraph (1) above, without prejudice to the generality of the term, “legal services” includes—
- (a) legal advice to any of the following, namely—
    - (i) a defined authority or its elected members;
    - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
    - (iii) any officer or department of a defined authority;
  - (b) legal advice to any other person in relation to the discharge of any functions of a defined authority;
  - (c) legal work in or in connection with any criminal or civil proceedings before any court or tribunal or at any inquiry;
  - (d) conveyancing work in relation to property of any kind;
  - (e) legal work in connection with any of the following, namely—
    - (i) contracts or agreements of any kind;
    - (ii) matters relating to property of any kind;
    - (iii) a defined authority’s insurance arrangements;
    - (iv) statutory orders, notices and byelaws and, in Scotland, management rules under sections 112 to 118 of the Civic Government (Scotland) Act 1982 <sup>F25</sup>; and
    - (v) local or personal Bills or, in Scotland, private legislation within the meaning of section 82 of the Local Government (Scotland) Act 1973 <sup>F26</sup>; and
  - (f) legal work in connection with the provision of a legal service for a defined authority otherwise than by a member of its own staff.
- (3) In sub-paragraph (1) above “legal staff” means any of the following, or any person under their management or control, namely—
- (a) solicitors, legal executives, barristers and advocates;
  - (b) licensed conveyancers within the meaning of the Administration of Justice Act 1985 <sup>F27</sup>; and
  - (c) qualified conveyancers within the meaning of section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 <sup>F28</sup>.]

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#### Textual Amendments

- F24** Sch. 1 para. 11 inserted (10.11.1994) by S.I. 1994/2884, art. 2(4)  
**F25** 1982 c.45.  
**F26** 1973 c.65.  
**F27** 1985 c.61.  
**F28** 1990 c.40.

#### *Construction and property services*

- [<sup>F29</sup>12 (1) The provision of construction and property services in connection with the development, maintenance or management of relevant land falls within section 2(2)(k) above.
- (2) For the purposes of sub-paragraph (1) above, “construction and property services” means services in any of the following fields, namely–
- (a) architecture (including landscape architecture);
  - (b) engineering;
  - (c) valuation;
  - (d) property management; and
  - (e) surveying (including quantity and building surveying), being services which fall within sub-paragraph (3) below and are not excluded by sub-paragraph (4) below.
- (3) Services fall within this sub-paragraph if they consist of or are provided for the purposes of, or in connection with, any of the following, namely–
- (a) the giving of advice to any of the following–
    - (i) a defined authority or its elected members;
    - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
    - (iii) any officer or department of a defined authority;
  - (b) the giving of advice to any other person in relation to the discharge of any functions of a defined authority;
  - (c) the establishment and management of capital and revenue programmes for the development and maintenance of relevant land;
  - (d) the design and planning of development projects and maintenance work, including feasibility studies, investigatory work and the preparation of plans, costings and reports;
  - (e) the management of such projects and such work, including finance and contract management;
  - (f) the management of relevant land, excluding the management of local authority housing (as defined in paragraph 9 above); and
  - (g) the procuring, monitoring or supervision of, or the arranging of payment for, any services which fall within paragraphs (a) to (f) above and are provided for a defined authority by any person.
- (4) The following services are excluded by this sub-paragraph–
- (a) any services provided in pursuance of section 6 of the Highways Act 1980<sup>F30</sup> (delegation etc of functions with respect to trunk roads) or in pursuance

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- of section 4 of the Roads (Scotland) Act 1984 <sup>F31</sup> (agreements between authorities); and
- (b) any services provided for the purposes of, or in connection with, sewerage functions carried out on behalf of sewerage undertakers in pursuance of arrangements entered into for the purposes of section 97 of the Water Industry Act 1991 <sup>F32</sup>.
- (5) The following are “relevant land” for the purposes of this paragraph—
- (a) land which is occupied by a defined authority;
- (b) land in which such an authority has or is seeking to acquire an interest;
- (c) land for the maintenance or management of which such an authority assumes responsibility by agreement;
- (d) highways for which such an authority is the highway authority and which are maintainable at the public expense; and
- (e) public roads within the meaning of the Roads (Scotland) Act 1984 in relation to which such an authority is the local roads authority.]

#### Textual Amendments

**F29** Sch. 1 para. 12 inserted (11.11.1994) by S.I. 1994/2888, art. 2(2)

**F30** 1980 c. 66

**F31** 1984 c. 54

**F32** 1991 c. 56

VALID FROM 20/07/1995

#### *[FINANCIAL SERVICES*

- <sup>F33</sup>13 (1) The provision of services consisting of, or provided for the purposes of, or in connection with, any of the following, (and only the following) falls within section 2(2)(1) above, namely
- (a) financial advice to any of the following, namely—
- (i) a defined authority or its elected members;
- (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
- (iii) any officer or department of a defined authority;
- (b) financial advice to any other person in relation to the discharge of any functions of a defined authority;
- (c) accounting services including, in particular, the completion of statutory accounts and the maintenance of appropriate financial records;
- (d) the administration of direct and indirect taxation for a defined authority;
- (e) the development and maintenance of financial information and management systems;
- (f) audit services including, in particular, liaison with external auditors and other appropriate bodies;

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- (g) the administration, collection and recovery of non-domestic rates, council tax, water and sewerage charges or rates, community charges and general rates;
  - (h) the provision of payroll facilities;
  - (i) subject to sub-paragraph (2) below, the determination, administration and making of payments, including arranging abatements and rebates;
  - (j) the collection of income and the recovery of debts;
  - (k) the administration of a defined authority's pension fund including, in particular, the management of investments and actuarial services;
  - (l) the arrangement and management of borrowing and investment and the monitoring of cash-flow;
  - (m) the administration of a defined authority's insurance arrangements;
  - (n) financial consultancy work including, in particular, research;
  - (o) the procurement, monitoring or supervision of, or the arranging of payment for, any services which fall within paragraphs (a) to (n) above and are provided for a defined authority by any person.
- (2) The activities described in sub-paragraph (1)(i) above do not fall within section 2(2) (1) above where they relate to
- (a) mandatory and discretionary awards made pursuant to the Education Act 1962 <sup>F34</sup>,
  - (b) education maintenance allowances payable pursuant to the Scholarship and Other Benefits Regulations 1977 <sup>F35</sup> or bursaries, scholarships or other allowances payable pursuant to section 49 of the Education (Scotland) Act 1980 <sup>F36</sup>,
  - (c) clothing grants payable pursuant to section 5 of the Education (Miscellaneous Provisions) Act 1948 <sup>F37</sup> or section 54 of the Education (Scotland) Act 1980;
  - (d) free school meals and milk provided pursuant to section 22 of the Education Act 1980 <sup>F38</sup> or section 53 of the Education (Scotland) Act 1980; or
  - (e) board and lodging fees payable pursuant to section 111 of the Education Reform Act 1988 <sup>F39</sup> or section 52 of the Education (Scotland) Act 1980.]

#### Textual Amendments

- F33** Sch. 1 para. 13 inserted (20.7.1995) by S.I. 1995/1915, art. 4
- F34** 1962 c.12.
- F35** S.I. 1977/1443.
- F36** 1980 c.44.
- F37** 1948 c.40.
- F38** 1980 c.20.
- F39** 1988 c.40.

*Status: Point in time view as at 23/06/1994.*

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VALID FROM 20/07/1995

### INFORMATION TECHNOLOGY SERVICES

- <sup>F40</sup>14 (1) The provision of information technology services falls within section 2(2)(m) above.
- (2) For the purposes of sub-paragraph (1) above, “information technology services” means services which are designed to secure for a defined authority the availability or application of information technology.
- (3) Without prejudice to the generality of sub-paragraph (2) above, information technology services include services which consist of or are provided for the purposes of, or in connection with, any of the following
- (a) giving advice in relation to information technology to any of the following—
    - (i) a defined authority or its members;
    - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
    - (iii) any officer or department of a defined authority;
  - (b) giving advice to any person as to the application of information technology;
  - (c) assessing a defined authority’s requirements for information technology, and keeping those requirements under review, including appraising any such technology for the time being in use;
  - (d) arranging for information technology to be available to meet the requirements of a defined authority;
  - (e) developing information technology;
  - (f) maintaining equipment used in connection with information technology.
- (4) In this paragraph “information technology” means any computer, telecommunications or other technology the principal use of which is the recording, processing and communication of information by electronic means.

#### Textual Amendments

**F40** Sch. 1 para. 14 inserted (20.7.1995) by S.I. 1995/1915, art. 4

VALID FROM 20/07/1995

### PERSONNEL SERVICES

- <sup>F41</sup>15 (1) Provision of the following services (and only the following) falls within section 2(2)(n) above—
- (a) personnel advice to any of the following, namely —
    - (i) a defined authority or its elected members;

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- (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
  - (iii) any officer or department of a defined authority;
  - (b) personnel advice to any other person in relation to the discharge of any functions of a defined authority;
  - (c) conducting organisational and method studies and work studies including, in particular, conducting management service reviews and preparing business plans;
  - (d) human resource management including, in particular, recruitment, monitoring, assessment and appraisal;
  - (e) personnel research;
  - (f) developing and maintaining statistical and managerial information systems;
  - (g) subject to sub-paragraph (2) below, training a defined authority's employees including, in particular, arranging, monitoring and evaluating training and development programmes;
  - (h) developing and maintaining employee relations policies, practices and procedures;
  - (i) personnel work in connection with any of the following, namely
    - (i) pay and other employee benefits including, in particular, superannuation benefits;
    - (ii) terms and conditions of employment;
    - (iii) health and safety policies and procedures;
    - (iv) employee welfare policies and procedures including, in particular, occupational health services; and
    - (v) redundancy arrangements and agreements;
  - (j) procuring, monitoring or supervising any services which fall within paragraphs (a) to (i) above and are provided for a defined authority by any person.
- (2) The activities described in sub-paragraph (1)(g) above do not fall within section 2(2)(n) above where they relate to—
- (a) the ordinary supervision of trainees or other employees; or
  - (b) the training of fire-fighting members of fire brigades.

#### **Textual Amendments**

**F41** Sch. 1 para. 15 inserted (20.7.1995) by S.I. 1995/1915, art. 4



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## SCHEDULE 2

Section 17(2)

### PUBLIC SUPPLY OR WORKS CONTRACTS: THE PUBLIC AUTHORITIES

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

- C1** Sch. 2 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 25(c)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

#### *Public authorities*

A local authority.

An urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980.

A development corporation established for the purposes of a new town.

The Commission for the New Towns.

A police authority constituted under section 2 of the <sup>M14</sup>Police Act 1964 or as mentioned in section 3(1) of that Act, or established by section 24 or 25 of the <sup>M15</sup>Local Government Act 1985.

#### Marginal Citations

**M14** 1964 c. 48.

**M15** 1985 c. 51.

A fire authority constituted by a combination scheme and a metropolitan county fire and civil defence authority.

The London Fire and Civil Defence Authority.

A metropolitan county passenger transport authority.

An authority established by an order under section 10(1) of the Local Government Act 1985 (waste disposal).

**F42** . . . . . **F43**

#### Textual Amendments

**F42** Words in Sch. 2 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 110, **Sch. 21 Pt. II**; S.I. 1994/507, art. 4, **Sch. 2**, Appendix

**F43** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

A water development board in Scotland.

. . . . . **F44**

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**Textual Amendments**

**F44** Words repealed by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\), ss. 1, 3\(1\)\(3\), s. 72\(3\), Sch. 2 para. 17, Sch. 10](#)

The Broads Authority.

The Lake District Special Planning Board.

The Peak Park Joint Planning Board.

A Passenger Transport Executive, that is to say, any body constituted as such an Executive for a passenger transport area for the purposes of Part II of the <sup>M16</sup>Transport Act 1968.

**Marginal Citations**

**M16** [1968 c. 73.](#)

[<sup>F45</sup>A probation committee (within the meaning of the Probation Service Act 1993).]

**Textual Amendments**

**F45** Words in [Sch. 2](#) substituted (E.W.) (5.2.1994) by [1993 c. 47, ss. 32\(2\), 33\(2\), Sch. 3 para. 8](#)

A joint committee discharging under section 101 of the <sup>M17</sup>Local Government Act 1972 functions of local authorities (within the meaning of that section).

**Marginal Citations**

**M17** [1972 c. 70.](#)

*Interpretation*

In the application of this Schedule to England and Wales, “local authority” means—

- (a) a county council, a district council, a London borough council, a parish council, a community council or the Council of the Isles of Scilly;
- (b) the Common Council of the City of London in its capacity as local authority or police authority;

and includes a residuary body established by Part VII of the <sup>M18</sup>Local Government Act 1985.

In the application of this Schedule to Scotland—

- (a) “local authority” means a regional, islands or district council or any joint board or joint committee within the meaning of the <sup>M19</sup>Local Government (Scotland) Act 1973, and
- (b) “water development board” has the same meaning as in section 109(1) of the <sup>M20</sup>Water (Scotland) Act 1980.

**Marginal Citations**

**M18** [1985 c. 51.](#)

**M19** [1973 c. 65.](#)

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M20 1980 c. 45.

## SCHEDULE 3

Section 29.

### LOCAL GOVERNMENT ADMINISTRATION

#### *Local Government Act 1974 (c. 7)*

- 1 Part III of the Local Government Act 1974 (local government administration) shall be amended as mentioned in paragraphs 2 to 10 below.
- 2 (1) In section 23(12) (Commissions to review operation of certain provisions in each financial year) for the words from “The Commissions” to “local authorities” there shall be substituted “In the financial year beginning on 1st April 1990, and in every third financial year afterwards, the Commissions shall review the operation (since the last review was made under this subsection) of the provisions of this Part of this Act about the investigation of complaints, and shall have power to convey to authorities to which this Part of this Act applies”.
- (2) Section 23(12) shall not require a review in the financial year in which this Schedule comes into force; but the review in the financial year beginning on 1st April 1990 must relate to the operation of the provisions mentioned in section 23(12) since the last review was made under section 23(12) as unamended.
- 3 (1) Section 24 (representative bodies) shall be amended as follows.
- (2) For subsection (6) (representative bodies to arrange for publication of reports) there shall be substituted—

“(6) Each Commission shall arrange for the publication of the report submitted by them under subsection (4) above and of the reports of which copies are submitted by them under subsection (5) above.”
- (3) In subsection (7) for “local authorities” there shall be substituted “authorities to which this Part of this Act applies”.
- (4) For subsection (8) there shall be substituted—

“(8) Before arranging for the publication of a report under subsection (6) above the Commission concerned shall give a reasonable opportunity for the appropriate representative body to comment on it, and if any comments are made shall (when arranging for the report to be published) arrange for it to be published with an annex containing such of the comments as the body think appropriate.”
- (5) Sub-paragraphs (2) and (4) above apply to any report submitted under section 24(4) after the coming into force of this Schedule and to any report a copy of which is submitted under section 24(5) after the coming into force of this Schedule.
- 4 In section 25(1) (authorities subject to investigation) after “applies to” there shall be inserted “the following authorities” and the following shall be inserted after paragraph (b)—

“(ba) the Commission for the New Towns,

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- (bb) any development corporation established for the purposes of a new town,
  - (bc) the Development Board for Rural Wales,
  - (bd) any urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980,”.
- 5 (1) Section 26 (matters subject to investigation) shall be amended as follows.
  - (2) In subsection (2) (complaint not to be entertained unless made through a member of the authority concerned) after “unless” there shall be inserted “it is made in writing to the Local Commissioner specifying the action alleged to constitute maladministration or”.
  - (3) In subsection (4) (complaint must be made within 12 months of notice of matters complained of, but Commissioner may investigate complaint not so made if he considers there are special circumstances which make it proper to do so) after “unless it was made to” there shall be inserted “the Local Commissioner or” and for “there are special circumstances which make it proper” there shall be substituted “it is reasonable”.
  - (4) In subsection (7) for “area of the authority concerned” there shall be substituted “following area—
    - (a) where the complaint relates to the Commission for the New Towns, the area of the new town or towns to which the complaint relates;
    - (b) where the complaint relates to the Development Board for Rural Wales, the area in Wales for which the Board is for the time being responsible;
    - (c) in any other case, the area of the authority concerned.”
  - (5) In subsection (9) (power to exclude from matters not subject to investigation) for “exclude from the provisions of that Schedule” there shall be substituted “add to or exclude from the provisions of that Schedule (as it has effect for the time being)”.
  - (6) The following shall be inserted after subsection (12)—
    - (“13) A complaint as regards an authority mentioned in section 25(1)(ba), (bb), (bc) or (bd) above shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before the coming into force of Schedule 3 to the Local Government Act 1988, or in respect of any default or alleged default first arising before its coming into force; and subsection (12) above shall have effect subject to this.”
  - (7) Sub-paragraph (3) above applies to any complaint made after the coming into force of this Schedule.
- 6 (1) Section 30 (reports on investigations) shall be amended as follows.
  - (2) After subsection (4) there shall be inserted—
    - “(4A) Subject to subsection (7) below, the authority concerned shall supply a copy of the report to any person on request if he pays such charge as the authority may reasonably require.”
  - (3) In subsection (5) (not later than one week after receiving report, authority to give public notice of date from which report is available for inspection)—

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- (a) for “one week” there shall be substituted “two weeks”,
  - (b) for “the report will be available for inspection as provided by subsection (4)” there shall be substituted “copies of the report will be available as provided by subsections (4) and (4A)”, and
  - (c) for “after the giving of the public notice” there shall be substituted “not more than one week after the public notice is first given”.
- (4) In subsection (7) (Local Commissioner may direct that report shall not be subject to certain provisions) for “and (5) above about its publication” there shall be substituted “, (4A) and (5) above”.
- (5) This paragraph applies to any report received by an authority in pursuance of section 30(1)(c) after the coming into force of this Schedule.
- 7 (1) Section 31 (reports: further provisions) shall be amended as follows.
- (2) ..... F46
- (4) In subsection (3)(b) for “referred to in the report” there shall be substituted “to which the report relates”.
- (5) This paragraph applies where any report is made after the coming into force of this Schedule.

**Textual Amendments**

**F46** Sch. 3 paras. 7(2)(3), 15(a) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), Sch. 12 Pt. II Note 3

- 8 (1) Section 32 (defamation and disclosure) shall be amended as follows.
- (2) In subsection (1)(a) after “member” there shall be inserted “or officer”.
  - (3) In subsection (1)(c) after “public” there shall be inserted “or in supplying a copy under section 30(4A) above”.
  - (4) This paragraph applies to any publication after the coming into force of this Schedule.
- 9 (1) In paragraph 4(5) of Schedule 4 (functions of a Local Commissioner, other than that of making a report, may be performed by an officer) the words “, other than that of making any report,” shall be omitted.
- (2) This paragraph applies to the making of any report after the coming into force of this Schedule, whether or not the making was begun by a Local Commissioner before the coming into force.
- 10 The following shall be inserted at the end of Schedule 5 (matters not subject to investigation)—
- “6 Action taken by an authority mentioned in section 25(1)(ba), (bb) or (bc) of this Act which is not action in connection with functions in relation to housing.
  - 7 Action taken by an authority mentioned in section 25(1)(bd) of this Act which is not action in connection with functions in relation to town and country planning.”

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*Local Government (Scotland) Act 1975 (c. 30)*

- 11 Part II of the Local Government (Scotland) Act 1975 (local administration) shall be amended as mentioned in paragraphs 12 to 17 below.
- 12 In section 23 (authorities subject to investigation) in subsection (1) there shall be added at the end—  
“(i) any licensing board within the meaning of the Licensing (Scotland) Act 1976.”
- 13 (1) In section 24 (matters subject to investigation)—  
(a) in subsection (2) after “unless” there shall be inserted “it is made in writing to the Commissioner specifying the action alleged to constitute maladministration or”;  
(b) in subsection (4) after “unless it was made to” there shall be inserted “the Commissioner or” and for “there are special circumstances which make it proper” there shall be substituted “it is reasonable”;  
(c) in subsection (9) for “exclude from the provisions of that Schedule” there shall be substituted “add to or exclude from the provisions of that Schedule (as it has effect for the time being)”.
- (2) Sub-paragraph (1)(b) above applies to any complaint made after the coming into force of this Schedule.
- 14 In section 28(7) (reports on investigations) the words “about its publication” shall cease to have effect.
- 15 In section 29 (reports on investigations: further provisions) in subsection (3)—  
(a) .....<sup>F47</sup>  
(b) in paragraph (b) for “referred to in the report” there shall be substituted “to which the report relates”.

**Textual Amendments**

**F47** Sch. 3 paras. 7(2)(3), 15(a) repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), Sch. 12 Pt. II Note 3

- 16 In section 30 (defamation and disclosure) in subsection (1)(c) for “a report available to the public” there shall be substituted “copies of a report available as provided by section 28(4) above”.
- 17 (1) In Schedule 4 (functions of the Commissioner, other than that of making a report, may be performed by an officer) in paragraph 4(3) the words “, other than that of making any report,” shall be omitted.

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- (2) This paragraph applies to the making of any report after the coming into force of this Schedule, whether or not the making was begun by the Commissioner before the coming into force.

## SCHEDULE 4

Section 30.

### M21 SECTIONS TO BE INSERTED IN PART III OF LOCAL GOVERNMENT FINANCE ACT 1982

#### Marginal Citations

M21 1982 c. 32.

#### *Power of auditor to issue prohibition order.*

- 25A (1) The person who is for the time being the auditor in relation to the accounts of any body whose accounts are required to be audited in accordance with this Part of this Act may issue an order under this section (in this Part referred to as a “prohibition order”) if he has reason to believe that the body or any officer of the body—
- (a) is about to make or has made a decision which involves or would involve the body incurring expenditure which is unlawful; or
  - (b) is about to take or has taken a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency; or
  - (c) is about to enter an item of account, the entry of which is unlawful;
- and for the purposes of this section and section 25B below, the actions of a committee or sub-committee of the body or of any other person (not being an officer) authorised to act on behalf of the body shall be treated as the actions of the body itself.
- (2) A prohibition order is one—
- (a) which is addressed to the body or officer concerned;
  - (b) which specifies the paragraph of subsection (1) above which is relevant and the decision, course of action or item of account to which the order relates;
  - (c) which specifies the date on which (subject to subsection (5) below) the order is to take effect, being a date not earlier than the date of service of a copy of the order in accordance with paragraph (a) or, as the case may be, paragraphs (a) and (b) of subsection (4) below; and
  - (d) which requires the body or officer concerned to desist from making or implementing the decision, taking or continuing to take the course of action or, as the case may be, entering the item of account in question.
- (3) Where two or more auditors are appointed in relation to the accounts of any body, the power to issue a prohibition order may be exercised by the auditors acting jointly or by such one of them as they may determine; and, in relation to such an order, any reference in subsections (4) and (5) below to the auditor is a reference to the auditor or auditors by whom the order is issued.
- (4) A copy of a prohibition order—
- (a) shall be served on the body to which, or to an officer of which, it is addressed; and

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- (b) in the case of an order addressed to an officer, shall also be served on him; and
  - (c) may be served on such other person or persons as appears to the auditor to be appropriate.
- (5) A prohibition order shall not have effect unless, not later than the end of the period of seven days beginning on the date of service referred to in subsection (2)(c) above, the auditor serves on the body concerned and on any officer on whom a copy of the order was served under subsection(4)(b) above, a statement of the auditor’s reasons for the belief referred to in subsection (1) above.
- (6) Any copy of an order or statement which under this section is to be served on an officer of a body shall be served on him by addressing it to him and by delivering it to him or leaving it at, or sending it by post, to the office at which he is employed.
- (7) A prohibition order may at any time be revoked (but not varied) by the person who is for the time being the auditor in relation to the accounts of the body to which or to an officer of which the order was addressed.

*Effect of and appeals against prohibition orders.*

- 25B (1) So long as a prohibition order has effect, it shall not be lawful for the body concerned or any officer of that body to make or implement the decision, to take or continue to take the course of action or, as the case may be, to enter the item of account to which the order relates.
- (2) A prohibition order—
- (a) takes effect, subject to subsection (5) of section 25A above, on the date specified in the order in accordance with subsection (2)(c) of that section; and
  - (b) continues to have effect, subject to any order or decision of the High Court on an appeal under subsection (3) below, until revoked under section 25A(7) above.
- (3) Not later than twenty-eight days after the service under section 25A(5) above of a statement of reasons relating to a prohibition order, the body concerned (but not any officer of that body) may appeal against the order to the High Court in accordance with rules of court.
- (4) On an appeal against a prohibition order under subsection (3) above, the High Court may make such order as it thinks fit for the payment by the body concerned of expenses incurred by the auditor in connection with the appeal.
- (5) Any expenses reasonably incurred by the auditor in or in connection with the issue of a prohibition order shall be recoverable by him from the body concerned.
- (6) In this section “the body concerned”, in relation to a prohibition order, means the body to which, or to an officer of which, the order is addressed.

*Supplementary provisions as to prohibition orders.*

- 25C (1) In any case where—
- (a) before a prohibition order is issued, a body enters into a contract to dispose of or acquire an interest in land, and



*Status: Point in time view as at 23/06/1994.*

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- (b) before the disposal or acquisition is completed, a prohibition order takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition,
- the existence of the prohibition order shall not prejudice any remedy in damages which may be available to any person by reason of the body's failure to complete the contract.
- (2) No action shall lie against an auditor in respect of any loss or damage alleged to have been caused by reason of the issue of a prohibition order which was issued in good faith; but nothing in this subsection affects the right of a court to award costs against an auditor on an appeal under section 25B(3) above.

*Power of auditor to apply for judicial review.*

- 25D (1) Subject to section 31(3) of the Supreme Court Act 1981 (no application for judicial review without leave) the auditor appointed in relation to the accounts of a body may make an application for judicial review with respect to—
- (a) any decision of that body, or
- (b) any failure by that body to act,
- which (in either case) it is reasonable to believe would have an effect on the accounts of that body.
- (2) The existence of the powers conferred on an auditor under this Part of this Act shall not be regarded as a ground for refusing an application falling within subsection (1) above (or an application for leave to make such an application).
- (3) On an application for judicial review made as mentioned in subsection (1) above, the court may make such order as it thinks fit for the payment by the body to whose decision the application relates of expenses incurred by the auditor in connection with the application.

SCHEDULE 5

Section 31.

LAND HELD BY PUBLIC BODIES

- 1 Part X of the <sup>M22</sup>Local Government, Planning and Land Act 1980 shall be amended as mentioned in the following provisions of this Schedule.

**Marginal Citations**

**M22** 1980 c. 65.

PROSPECTIVE

- 2 (1) The following shall be inserted after section 96—

**“96A Information about entries.**

- (1) Where land is entered on a register under section 95(3) above, the Secretary of State shall as soon as is reasonably practicable after entering the land send

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a copy of the information included in the register in relation to the land to any body to whom this Part of this Act applies, if it appears from the register that the body or a subsidiary of the body owns a freehold or leasehold interest in the land.

(2) Where land is entered on a register under section 95(3) above and the Secretary of State amends the information included in the register in relation to the land, he shall as soon as is reasonably practicable after amending the information send a copy of the amended information to any body to whom this Part of this Act applies, if it appears from the register that the body or a subsidiary of the body owns a freehold or leasehold interest in the land.

(3) The fact that the Secretary of State must send anything to a council under section 96 above does not displace any duty of his to send anything to the council under subsection (1) or (2) above.

(4) Subsection (5) below applies where a copy sent under subsection (1) or (2) above has been received by a body.

(5) If at any time the body becomes aware that any information in the only or latest copy received by them is or has become inaccurate, they shall as soon as is reasonably practicable after becoming so aware inform the Secretary of State that the information is inaccurate and give him (so far as they are able) the corrected information.

(6) Subsection (5) above does not apply if, when the body becomes so aware, the land concerned is no longer entered on a register under section 95(3) above.”

(2) Section 96A(1) and (2) apply whether the land was entered on the register before or after the coming into force of this paragraph; and in its application to land entered on the register before the coming into force of this paragraph section 96A(1) shall have effect as if for the words “entering the land” there were substituted the words “the coming into force of paragraph 2 of Schedule 5 to the Local Government Act 1988.”

3 The following shall be substituted for section 97 (Secretary of State’s power to require information)—

**“97 Secretary of State’s power to require information.**

(1) The Secretary of State may direct a body to whom this Part of this Act applies to inform him whether the body or a subsidiary of the body holds a freehold or leasehold interest in land which is specified, or is of a description specified, in the direction.

(2) A body need only comply with a direction under subsection (1) above as regards land which is situated in an area in relation to which this Part of this Act is in operation.

(3) Where a body to whom this Part of this Act applies or a subsidiary of such a body holds a freehold or leasehold interest in land situated in an area in relation to which this Part of this Act is in operation, the Secretary of State may direct the body to whom this Part of this Act applies to give him such information about the land as he may specify.”

4 (1) Section 98 (directions to dispose of land) shall be amended as follows.

*Status: Point in time view as at 23/06/1994.*

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(2) After subsection (2) there shall be inserted—

“(2A) A direction under this section may include provision that no disposal of an interest to which the direction relates shall, while the direction remains unrevoked, be made in favour of a person or body who—

- (a) is specified, or is of a description specified, in the direction, and
- (b) is at the date the disposal is proposed to be made associated with the body to whom the direction is given.”

(3) After subsection (5) there shall be inserted—

“(6) In subsection (2A) above references to a disposal of an interest include references to a contract to dispose of an interest, and references to making a disposal include references to entering into such a contract.

(7) For the purposes of subsection (2A) above a person is associated with a body if (but only if)—

- (a) he is a member of the body or of a subsidiary of the body, or
- (b) he is a nominee of the body or of a subsidiary of the body.

(8) For the purposes of subsection (2A) above a body is associated with another body if (but only if)—

- (a) the other body, or a subsidiary of the other body, is a member of it,
- (b) any of its members is also a member of the other body or of a subsidiary of the other body, or
- (c) any of its members is a nominee of the other body or of a subsidiary of the other body.

(9) Notwithstanding section 100(1) below, in subsections (7) and (8) above “subsidiary” has the same meaning as in section 736(1) of the Companies Act 1985.”

(4) No direction may be varied under section 98(3) so as to include provision mentioned in section 98(2A) if the direction sought to be varied was given before the coming into force of this paragraph.

5 (1) Section 99 (directions: supplementary) shall be amended as follows.

(2) After subsection (5) there shall be inserted—

“(5A) The Secretary of State need not give notice under subsection (1) above as regards a further direction revoking a previous direction given under section 98 above.

(5B) The Secretary of State need not give notice under subsection (1) above as regards a further direction varying a previous direction given under section 98 above if—

- (a) the variation consists only of one which omits part of the land to which the previous direction relates, or
- (b) the variation is stated in the further direction to consist only of one which is made to take account of a representation of the body to whom the previous direction was given.

*Status: Point in time view as at 23/06/1994.*

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(5C) The contents of a direction under section 98 above may differ from its proposed contents contained in a notice given under subsection (1) above if—

- (a) the difference consists only of a variation which omits part of the land referred to in the proposed contents, or
- (b) the difference is stated in the direction to consist only of a variation which is made to take account of a representation of the body to whom the notice was given;

and the words “as proposed” in subsection (3) above shall have effect accordingly.

(5D) The Secretary of State may by order made by statutory instrument substitute a period specified in the order for the period of 42 days specified in subsection (3) above or for such other period as is for the time being specified in that subsection by virtue of an order under this subsection.

(5E) No order under subsection (5D) above may substitute a period as regards a notice given before the coming into force of the order.”

(3) In subsection (6)(b) for “section” there shall be substituted “subsection”.

(4) In subsection (7) after “subsection” there shall be inserted “(5D) or”.

(5) Section 99(5A) and (5B) apply whether the previous direction was given before or after the coming into force of this paragraph; and section 99(5C) applies whether the notice was given before or after the coming into force of this paragraph.

6 The following shall be inserted after section 99—

**“99A Power of entry.**

- (1) A person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of helping the Secretary of State to decide whether to give a direction under section 98 above in relation to the land.
- (2) A person may not enter land under this section unless, at the time of the authorisation under subsection (1) above, at the time of the entry, and at all times between the authorisation and the entry, the land is entered on a register maintained under section 95 above.
- (3) A person may not enter land under this section unless at least 21 clear days’ notice in writing of the intended entry has been given to every person who is an owner or occupier.
- (4) In this section “owner”, in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding, or entitled to the rents and profits of, the land under a lease or agreement.”

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## SCHEDULE 6

Section 32.

### DIRECT LABOUR ORGANISATIONS

#### *Local Government, Planning and Land Act 1980 (c. 65)*

- 1 Part III of the Local Government, Planning and Land Act 1980 shall be amended as mentioned in paragraphs 2 to 10 below.
- 2
  - (1) Section 7 (limitations on power to enter into works contracts) shall be amended as follows.
  - (2) In subsection (1) after “works contract” (in each place) there shall be inserted “under which they are to carry out work”.
  - (3) After subsection (1) there shall be inserted—
    - “(1A) A local authority may not enter into a works contract under which they are to carry out work unless the competition condition is fulfilled, that is, the other party to the contract, in entering into it and doing anything else in connection with it before entering into it, did not act in a manner having the effect or intended or likely to have the effect of restricting, distorting or preventing competition.
    - (1B) Subsection (1A) above shall not prevent the local authority from entering into the contract unless, at the time it is proposed to be entered into, they are aware of the failure to fulfil the competition condition.”
  - (4) At the end of subsection (3)(c) there shall be added “who are not, or include at least three persons who are not, local authorities or development bodies”.
- 3
  - (1) Section 9 (regulation of functional work) shall be amended as follows.
  - (2) In subsection (4)(a) for “included in a list maintained by them” there shall be substituted “who are not, or include at least three persons who are not, local authorities or development bodies and who are included in a list maintained by the authority or body seeking to undertake the work”.
  - (3) After subsection (4)(a) there shall be inserted—
    - “(aa) that they have included in the invitation prescribed matters (which may relate to the time allowed for responding, the method of responding, or otherwise); and
    - (aaa) that they have complied with prescribed requirements as to responses (which may include requirements to disregard certain responses, requirements about the keeping or opening of responses, or otherwise); and
    - (aaaa) that, in reaching the decision that they should undertake the work and in doing anything else in connection with the work before reaching the decision, they have not acted in a manner having the effect or intended or likely to have the effect of restricting, distorting or preventing competition; and”.

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- (4) After subsection (4)(b) there shall be inserted “; and “prescribed” in paragraphs (aa) and (aaa) above means prescribed by regulations made by the Secretary of State.”
- (5) After subsection (5) there shall be inserted—
- “(5A) Regulations under subsection (3)(a) above may provide that the conditions in subsection (4)(aa) and (aaa) above are not to apply if the work falling within a description specified by the regulations satisfies such criteria as are so specified.”
- (6) In subsection (6) for “conditions specified in subsection (4)” there shall be substituted “condition specified in subsection (4)(a)”.
- 4           In section 10 (accounts) in subsection (3) after paragraph (b) there shall be inserted “; and
- (c) the maintenance of street lighting.”
- 5           (1) Section 13 (annual balance sheet etc.) shall be amended as follows.
- (2) Subsection (2)(a) and subsection (3) shall be omitted.
- (3) After subsection (5) there shall be inserted—
- “(5A) A revenue account must be expressed in such form as the Secretary of State may specify in writing.”
- 6           In section 16 (general financial duty: treatment of deficits) subsection (4) shall be omitted.
- 7           Section 17 (rates of return: powers of Secretary of State) shall be omitted.
- 8           (1) Section 18 (annual reports) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—
- “(1A) A report under this section must include—
- (a) a statement identifying such (if any) of the work undertaken as falls within construction or maintenance work by virtue of a decision under section 20(5) below; and
- (b) a copy of each of the documents which it is required to prepare in accordance with section 13(1) above.”
- (3) After subsection (2) there shall be inserted—
- “(2A) A local authority or development body who have prepared a report under this section shall send a copy to the Secretary of State and to their auditor not later than 31st October in the financial year following that to which the report relates.

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(2B) Where a local authority's or development body's auditor has been sent a copy of a report in accordance with subsection (2A) above, he shall consider the statement of rate of return a copy of which is contained in the report by virtue of subsection (1A)(b) above, and shall give his written opinion on the statement to the authority or body concerned and to the Secretary of State."

(4) At the end of the section there shall be added—

"(5) For the purposes of subsections (2A) and (2B) above a local authority's or development body's auditor is the person who under any enactment is appointed, for the financial year for which the report is prepared, to audit the accounts of the authority or body."

9 After section 19 there shall be inserted—

*“ Sanctions*

#### **19A Notice for purpose of getting information.**

(1) If it appears to the Secretary of State that a local authority or development body have carried out or undertaken construction or maintenance work—

- (a) under a contract they have entered into in contravention of section 7 above,
- (b) in circumstances where any provision of section 9(2) to (7) above has not been complied with as regards the work,
- (c) in circumstances where section 10 above has not been complied with as regards the work,
- (d) in circumstances where the provisions of section 12(1) above or of directions under section 12(5) above have not been complied with as regards any account kept in respect of the work,
- (e) in circumstances where section 13 above has not been complied with as regards the preparation or contents of the documents required by that section for the financial year in which the work is undertaken,
- (f) in circumstances where any provision of section 16(1) to (3) above has not been complied with as regards work of the description concerned, or
- (g) in circumstances where any provision of section 18(1) to (2A) above has not been complied with as regards the financial year in which the work is undertaken,

he may serve on the authority or body a written notice falling within subsection (2) below.

(2) The notice is one which—

- (a) informs the authority or body that it appears to him that they have acted as mentioned in one of the paragraphs (identified in the notice) of subsection (1) above,
- (b) identifies the work concerned and states why it so appears, and
- (c) contains the requirement mentioned in subsection (3) below.

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- (3) The requirement is that the authority or body submit to him within such time as is specified in the notice a written response which—
  - (a) states that they have not acted as mentioned in the paragraph concerned of subsection (1) above and justifies the statement, or
  - (b) states that they have acted as so mentioned and gives reasons why he should not give a direction under section 19B below.
- (4) The Secretary of State may serve on an authority or body different notices under this section identifying the same work, whether they identify the same paragraph or different paragraphs of subsection (1) above.

### **19B Power to give directions.**

- (1) Where—
  - (a) the Secretary of State has served a notice on an authority or body under section 19A above,
  - (b) the time specified in the notice has expired (whether or not he has received a written response to the notice), and
  - (c) it still appears to him that the authority or body have acted as mentioned in the paragraph concerned of section 19A(1) above,
 he may give a direction under subsection (2) or (3) below.
- (2) The Secretary of State may direct that with effect from such date as is specified in the direction the authority or body—
  - (a) shall cease to have power to carry out such construction or maintenance work as is identified in the direction, or
  - (b) shall, as regards such construction or maintenance if such conditions as are specified in the direction are fulfilled.
- (3) Alternatively, he may direct that with effect from such date as is specified in the direction the authority or body—
  - (a) shall cease to have power to carry out such construction or maintenance work as is identified in the direction, and
  - (b) shall, as regards such other construction or maintenance work as is so identified, only have power to carry it out if such conditions as are specified in the direction are fulfilled.
- (4) Where the Secretary of State has given a direction under subsection (2) or (3) above or this subsection (the previous direction) he may give a direction (a new direction) that with effect from such date as is specified in the new direction—
  - (a) any prohibition applying by virtue of the previous direction (whether the prohibition applies outright or if conditions are not fulfilled) shall cease to apply,
  - (b) any outright prohibition applying by virtue of the previous direction is replaced by a prohibition applying (as regards the same work) if conditions specified in the new direction are not fulfilled, or
  - (c) any prohibition applying as regards work by virtue of the previous direction (whether the prohibition applies outright or if conditions are not fulfilled) is replaced by a prohibition which applies only to such of that work as is identified in the new direction but which



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is otherwise in the same terms as the prohibition in the previous direction.

- (5) If the Secretary of State directs under this section that an authority or body shall cease to have power to carry out work, or shall only have power to carry out work if certain conditions are fulfilled, the direction shall have effect notwithstanding any enactment by virtue of which they are required or authorised to do the work or (as the case may be) to do it without the need for the conditions to be fulfilled.
- (6) The power to give a direction under this section shall be exercised in writing.
- (7) A direction under this section may include such supplementary, incidental, consequential or transitional provisions (whether with respect to work in progress or outstanding contractual commitments or otherwise) as appear to the Secretary of State to be necessary or expedient.”

10 (1) Section 20 (interpretation) shall be amended as follows.

(2) In subsection (1) after paragraph (b) of the definition of “construction or maintenance work” there shall be inserted “and

(c) the maintenance of street lighting;”.

(3) In subsection (1), in paragraph (a) of the definition of “development body”, sub-paragraph (iii) and the word “and” at the end of sub-paragraph (ii) shall be omitted.

(4) In subsection (1) for paragraph (a) of the definition of “local authority” there shall be substituted—

“(a) in relation to England and Wales—

(i) a county council, a district council, a London borough council, the Inner London Education Authority, a joint authority established by Part IV of the Local Government Act 1985 or the Council of the Isles of Scilly, or

(ii) The Common Council of the City of London in its capacity as local authority or police authority;”.

(5) ..... F48

(6) After subsection (4) there shall be inserted—

“(5) If a local authority or development body undertake work which (apart from this subsection) would not fall within construction or maintenance work, and which in their opinion cannot be undertaken efficiently separately from construction or maintenance work, the work shall (if they so decide) be treated as falling within construction or maintenance work.

(6) In section 10(3)(c) above and in subsection (1) above, in paragraph (c) of the definition of “construction or maintenance work”, “street” (except in relation to Scotland) has the meaning given by section 329(1) of the Highways Act 1980 and (in relation to Scotland) means a road as defined in section 25(3) of the Local Government and Planning (Scotland) Act 1982.

(7) Nothing in sections 19A and 19B above shall prejudice any remedy available to a person (apart from those sections) in respect of a failure to observe a provision of this Part of this Act.”

*Status: Point in time view as at 23/06/1994.*

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### Textual Amendments

**F48** Sch. 6 para. 10(5) repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), Sch. 7 Pt. I

### Local Government (Scotland) Act 1975 (c. 30)

11 (1) Schedule 3 to the Local Government (Scotland) Act 1975 shall be amended as follows.

(2) In paragraph 22(1) (local authority funds)—

- (a) for “either or both” there shall be substituted “any”, and
- (b) after sub-paragraph (b) there shall be inserted—

“(c) a fund (to be known as a “DLO reserve fund”) to which there may be charged any deficit in, or into which there may be paid any surplus of—

- (i) any DLO revenue account kept by the authority under section 10(1) of the Local Government, Planning and Lnad Act 1980;
- (ii) any account kept by the authority under section 9(2) of the Local Government Act 1988.”

(3) After paragraph 24 there shall be inserted—

“24A A local authority by whom a DLO reserve fund is established under paragraph 22 above may from time to time—

- (a) pay into that fund any surplus; or
  - (b) charge to that fund any deficit,
- referred to in paragraph 22(1)(c) above.”

## SCHEDULE 7

Section 41.

### REPEALS

#### PART I

#### PUBLIC SUPPLY OR WORKS CONTRACTS

Chapter	Short title	Extent of repeal
1985 c. 68.	Housing Act 1985.	Section 52(a).
1987 c. 26.	Housing (Scotland) Act 1987.	Section 337.

These repeals shall have effect in accordance with section 23 of this Act.

*Status: Point in time view as at 23/06/1994.*

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## PART II

### LOCAL GOVERNMENT ADMINISTRATION

Chapter	Short title	Extent of repeal
1974 c. 7.	Local Government Act 1974.	In Schedule 4, in paragraph 4(5) the words “, other than that of making any report,”.
1975 c. 30.	Local Government (Scotland) Act 1975.	In section 28(7) the words “about its publication”.  In Schedule 4, in paragraph 4(3) the words “, other than that of making any report,”.

These repeals shall have effect in accordance with section 29 of and Schedule 3 to this Act.

## PART III

### DIRECT LABOUR ORGANISATIONS

Chapter	Short title	Extent of repeal
1980 c. 65.	Local Government, Planning and Land Act 1980.	In section 13, subsections (2) (a) and (3).  In section 16, subsections (4) to (6).  Section 17.  In section 19, in subsection (1) the words “other than the reference in section 16(4)(b) above”, and subsections (3) and (4).  In section 20, in subsection (1), in paragraph (a) of the definition of “development body”, sub-paragraph (iii) and the word “and” at the end of sub-paragraph (ii).

These repeals shall have effect as provided by order under section 32 of this Act.

*Status: Point in time view as at 23/06/1994.*

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## PART IV

### DOG LICENCES

Chapter	Short title	Extent of repeal
23 & 24 Geo. 5 c. 17.	Protection of Animals (Cruelty to Dogs) Act 1933.	In section 1(1), the words “and for holding or obtaining a dog licence”. Section 1(3). In section 1(4), the words “or applies for or obtains a dog licence”.
24 & 25 Geo. 5 c. 25.	Protection of Animals (Cruelty to Dogs) (Scotland) Act 1934.	In section 1(1), the words “and for holding or obtaining a dog licence”. Section 1(3). In section 1(4), the words “or applies for or obtains a dog licence”.
7 & 8 Eliz. 2 c. 55.	Dog Licences Act 1959.	In section 2, the words “and for holding and obtaining a dog licence”. Section 3.
1966 c. 42.	Local Government Act 1966.	The whole Act. Section 36. In section 40(3), the words “or 36”.
1966 c. 51.	Local Government (Scotland) Act 1966.	In Schedule 3, in Part II, the entry relating to the Dog Licences Act 1959. Section 43.
1969 c. 48.	Post Office Act 1969.	In Schedule 4, in Part II, the entry relating to the Dog Licences Act 1959. Section 12(2)(a). In section 134, in subsection (1), the words “for dogs”, “in Great Britain”, “thereon and so,” and

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*Status: Point in time view as at 23/06/1994.*

**Changes to legislation:** *Local Government Act 1988 is up to date with all changes known to be in force on or before 22 June 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)*

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		“shall licences” and in subsection (2) the words “in Great Britain”.
		In section 135(1)(a), the words “licences for dogs.”
1972 c. 70.	Local Government Act 1972.	Section 213(1)(c).
1973 c. 65.	Local Government (Scotland) Act 1973.	In Schedule 27, paragraph 165.

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These repeals shall have effect at the end of the period of 2 months beginning with the day on which this Act is passed.

**Status:**

Point in time view as at 23/06/1994.

**Changes to legislation:**

Local Government Act 1988 is up to date with all changes known to be in force on or before 22 June 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.