



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART I

#### LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

##### *Duties of particular officers*

#### **4 Designation and reports of head of paid service.**

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers as the head of their paid service; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.

[<sup>F1</sup>(1A) In the case of an elected local policing body, the body's chief executive is to be taken to have been designated as the head of the body's paid service (and, accordingly, subsection (1)(a) does not apply; but references to persons designated under this section include references to the body's chief executive).]

- (2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.
- (3) Those matters are—
- (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
  - (b) the number and grades of staff required by the authority for the discharge of their functions;
  - (c) the organisation of the authority's staff; and
  - (d) the appointment and proper management of the authority's staff.

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- (4) It shall be the duty of the head of a relevant authority's paid service, as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be <sup>F2</sup>sent—
- (a) in the case of an elected local policing body, to the body and to the police and crime panel for the body's police area; and
- <sup>F3</sup>(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—
- (i) which corresponds to the authority's area, or
- (ii) within which the area of the authority falls;]
- <sup>F4</sup>(ab) in the case of the London Fire Commissioner, to the Commissioner;]
- (b) in any other case, to] each member of the authority.
- (5) It shall be the duty of a relevant authority <sup>F5</sup>(other than an elected local policing body)] to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the <sup>M1</sup>Local Government Act 1972 or in section 56 of <sup>F6</sup>, or Schedule 10 or 20 to,] the <sup>M2</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.
- <sup>F7</sup>(5A) It shall be the duty of an elected local policing body to consider any report under this section by the head of the body's paid service, and to do so no later than three months after the body is sent a copy of the report.]
- <sup>F8</sup>(5B) It shall be the duty of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 to consider any report under this section by the head of the authority's paid service and to do so no later than three months after the authority is sent a copy of the report.]
- <sup>F9</sup>(5C) It shall be the duty of the London Fire Commissioner to consider any report under this section by the head of the Commissioner's paid service and to do so no later than three months after the Commissioner is sent a copy of the report.]
- (6) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) <sup>F10</sup> and (ja) to (jc)] of section 21(1) below <sup>F11</sup>, an elected local policing body <sup>F12</sup>, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner]]]; and
- (b) in relation to Scotland, <sup>F13</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- (7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F1** S. 4(1A) inserted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 201\(2\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F2** Words in s. 4(4) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 201\(3\)](#); S.I. 2011/3019, art. 3, Sch. 1

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- F3** S. 4(4)(aa) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 62(2)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F4** S. 4(4)(ab) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 87(2)**; S.I. 2018/227, reg. 4(c)
- F5** Words in s. 4(5) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 201(4)**; S.I. 2011/3019, art. 3, Sch. 1
- F6** Words in s. 4(5) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(3)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F7** S. 4(5A) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 201(5)**; S.I. 2011/3019, art. 3, Sch. 1
- F8** S. 4(5B) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 62(3)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F9** S. 4(5C) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 87(3)**; S.I. 2018/227, reg. 4(c)
- F10** Words in s. 4(6)(a) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 12(2)**
- F11** Words in s. 4(6)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 62(4)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F12** Words in s. 4(6)(a) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 87(4)**; S.I. 2018/227, reg. 4(c)
- F13** Words in s. 4(6)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(3)(b)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

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

- C1** Pt. 1 applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **23(4)**
- C2** S. 4 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
S. 4 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 72(1) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C3** S. 4 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C4** S. 4 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(a)**
- C5** S. 4 applied (with modifications) (E.) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 9(3)**
- C6** S. 4 applied (26.6.2020) by S.I. 2017/469, **Sch. 1 para. 2(2)** (as inserted by The Greater Manchester Combined Authority (Fire and Rescue Functions) (Amendment) Order 2020 (S.I. 2020/641), arts. 1, **9**)
- C7** S. 4(2)-(6) applied (with modifications) (E.) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **17(6)**
- C8** S. 4(2)-(5)(6) applied (with modifications) (E.) (25.5.2018) by The West Suffolk (Local Government Changes) Order 2018 (S.I. 2018/639), arts. 1, **9(7)**
- C9** S. 4(2)-(5)(6) applied (with modifications) (E.) (25.5.2018) by The East Suffolk (Local Government Changes) Order 2018 (S.I. 2018/640), arts. 1, **9(7)**
- C10** S. 4(2)-(5)(6) applied (with modifications) (E.) (26.5.2018) by The Somerset West and Taunton (Local Government Changes) Order 2018 (S.I. 2018/649), arts. 1, **9(7)**
- C11** S. 4(2)-(5)(6) applied with modifications (E.) (26.5.2018) by The Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (S.I. 2018/648), arts. 1, **13(7)**

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- C12** S. 4(2)-(5)(6) applied with modifications (E.) (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **28(7)**
- C13** S. 4(2)-(5)(6) applied (E.) (23.5.2019) by [The Buckinghamshire \(Structural Changes\) Order 2019 \(S.I. 2019/957\)](#), arts. 1, **7(5)**
- C14** S. 4(2)-(5)(6) applied (with modifications) (E.W.) (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\)](#), arts. 1, **9(7)**

#### Marginal Citations

- M1** 1972 c. 70.  
**M2** 1973 c. 65.

## 5 Designation and reports of monitoring officer.

(1) It shall be the duty of every relevant authority—

- (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section [<sup>F14</sup>and, where relevant, section 5A below]; and
- (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [<sup>F15</sup>and, where relevant, the duties under section 5A below] to be performed;

and [<sup>F16</sup>subject to subsection (1A) below] the officer so designated may be the head of the authority’s paid service <sup>F17</sup>... but shall not be their chief finance officer.

[<sup>F18</sup>(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority’s paid service.

(1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Greater London Authority, and
- (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.]

[<sup>F19</sup>(1C) In the case of an elected local policing body, the body's chief executive is to be taken to have been designated as the monitoring officer (and, accordingly, subsection (1) (a) does not apply; but references to persons designated under this section include references to the body's chief executive).]

(2) [<sup>F20</sup>Subject to subsection (2B),] it shall be the duty of a relevant authority’s monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, [<sup>F21</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—

- (a) a contravention by the authority, by any committee, [<sup>F21</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any such joint committee of any enactment or rule of law [<sup>F22</sup>or of any code of practice made or approved by or under any enactment]; or

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- [<sup>F23</sup>(aa) any such maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners), or]
- (b) any such maladministration or injustice as is mentioned in <sup>F24</sup>... Part II of the <sup>M3</sup>Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland)[<sup>F25</sup>; or
- (c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005 [<sup>F26</sup>or the Public Services Ombudsman (Wales) Act 2019].]
- to prepare a report to the authority with respect to that proposal, decision or omission.
- [<sup>F27</sup>(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the <sup>M4</sup>Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.]
- [<sup>F28</sup>(2AA) No duty shall arise by virtue of subsection (2)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 [<sup>F29</sup>or the Public Services Ombudsman (Wales) Act 2019] in relation to the proposal, decision or omission concerned.]
- [<sup>F30</sup>(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.]
- (3) It shall be the duty of a relevant authority's monitoring officer—
- (a) in preparing a report under this section to consult so far as practicable with the [<sup>F31</sup>person who is for the time being designated as the head of the authority's paid service under section 4 above] and with their chief finance officer; and
- [<sup>F32</sup>(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—
- (i) which corresponds to the authority's area, or
- (ii) within which the area of the authority falls;]
- [<sup>F33</sup>(ab) in the case of the London Fire Commissioner, to the Commissioner;]
- (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be [<sup>F34</sup>sent—
- (a) in the case of an elected local policing body, to the body and to the police and crime panel for the body's police area; and
- (b) in any other case, to] each member of the authority [<sup>F35</sup>and, in a case where the relevant authority have a mayor and council manager executive, to the council manager of the authority].
- [<sup>F36</sup>(3A) The references in subsection (2) above, in relation to a relevant authority in England, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to—
- (a) any inshore fisheries and conservation authority (“IFC authority”) the members of which include persons who are members of the relevant authority, and
- (b) any sub-committee appointed by such an authority;
- but in relation to any such IFC authority or sub-committee the reference in subsection (3)(b) above to each member of the authority shall have effect as a reference

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to each member of the IFC authority or, as the case may be, of the IFC authority which appointed the sub-committee.]

<sup>F37</sup>(4) .....

(5) It shall be the duty of a relevant authority [<sup>F38</sup>and of any IFC authority falling within paragraph (a) of subsection (3A) above][<sup>F39</sup>and of any such committee as is mentioned in subsection (4) above]—

(a) to consider any report under this section by a monitoring officer or his [<sup>F40</sup>deputy—

(i) in the case of an elected local policing body, no later than three months after the body is sent a copy of the report; and

[<sup>F41</sup>(ia) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, no later than three months after the authority is sent a copy of the report;]

[<sup>F42</sup>(ib) in the case of the London Fire Commissioner, no later than three months after the Commissioner is sent a copy of the report;]

(ii) in any other case, at] a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority [<sup>F43</sup>or committee]; and

(b) without prejudice to any duty imposed by virtue of section 115 of the <sup>M5</sup>Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;

and nothing in section 101 of the <sup>M6</sup>Local Government Act 1972 or in section 56 of <sup>F44</sup>... the <sup>M7</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.

(6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.

(7) The duties of a relevant authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.

[<sup>F45</sup>(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).]

(8) In this section [<sup>F46</sup>and in section 5A]—

“business day”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the <sup>M8</sup>Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;

“chief finance officer”, in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M9</sup>Local Government Act 1985, section 112 of the Local Government Finance Act 1988 [<sup>F47</sup>, section 127(2) of the Greater London Authority Act 1999][<sup>F48</sup>, Schedule 1 to the Police Reform and Social

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Responsibility Act 2011<sup>[F49]</sup>, section 4D(4) of the Fire and Rescue Services Act 2004] or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs; <sup>[F50]</sup>and]

<sup>[F51]</sup>“inshore fisheries and conservation authority” means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;]

“relevant authority”—

- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to <sup>[F52]</sup>(k) of section 21(1) below <sup>[F53]</sup>, an elected local policing body <sup>[F54]</sup>, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner]; and
- (b) in relation to Scotland, means a local authority.

<sup>[F55]</sup>(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.]

<sup>[F56]</sup>(8B) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to duties conferred on a monitoring officer by paragraph 38B of Schedule 12 to the Local Government Act 1972 (duties of monitoring officer for principal council in Wales in relation to polls consequent on community meetings).]

- (9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F14** Words in s. 5(1)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(a); S.I. 2002/808, arts. 1(2), **22(1)(a)**
- F15** Words in s. 5(1)(b) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(b); S.I. 2002/808, arts. 1(2), **22(1)(b)**
- F16** Words in s. 5(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(2)**
- F17** Words in s. 5(1) omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(2)**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 55)
- F18** S. 5(1A)(1B) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(3)**
- F19** S. 5(1C) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(3)**; S.I. 2011/3019, art. 3, Sch. 1
- F20** Words in s. 5(2) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(c); S.I. 2002/808, arts. 1(2), **22(1)(c)**
- F21** Words in s. 5(2) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(b)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F22** Words in s. 5(2)(a) repealed (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1)(2), 108(4), Sch. 5 para. 24(1)(4), **Sch. 6**
- F23** S. 5(2)(aa) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 14(2)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F24** Words in s. 5(2)(b) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 12 para. 14(2)(b), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))

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- F25** S. 5(2)(c) and word inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 24(2)**; S.I. 2005/2800, art. 5(1)(3)
- F26** Words in s. 5(2)(c) inserted (E.W.) (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 11(a)**; S.I. 2019/1096, **reg. 2**
- F27** S. 5(2A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(6)**
- F28** S. 5(2AA) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 24(3)**; S.I. 2005/2800, art. 5(1)(3)
- F29** Words in s. 5(2AA) inserted (E.W.) (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 11(b)**; S.I. 2019/1096, **reg. 2**
- F30** S. 5(2B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(d); S.I. 2002/808, arts. 1(2), **22(1)(d)**
- F31** Words in s. 5(3)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 35(c)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F32** S. 5(3)(aa) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(2)**; S.I. 2017/399, **reg. 2**, **Sch. para. 38**
- F33** S. 5(3)(ab) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 88(2)**; S.I. 2018/227, **reg. 4(c)**
- F34** Words in s. 5(3)(b) substituted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(4)**; S.I. 2011/3019, **art. 3**, **Sch. 1**
- F35** Words in s. 5(3)(b) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(a), 178(2), **Sch. 4 Pt. B**
- F36** S. 5(3A) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 13(2)**; S.I. 2010/2195, **art. 3(2)(l)**
- F37** S. 5(4) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, **art. 3(b)** (with arts. 8, 12); S.I. 2011/556, **art. 2(2)(o)** (with art. 2(3))
- F38** Words in s. 5(5) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 13(3)**; S.I. 2010/2195, **art. 3(2)(l)**
- F39** Words in s. 5(5) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, **art. 3(b)** (with arts. 8, 12); S.I. 2011/556, **art. 2(2)(o)** (with art. 2(3))
- F40** Words in s. 5(5)(a) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(5)**; S.I. 2011/3019, **art. 3**, **Sch. 1**
- F41** S. 5(5)(a)(ia) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(3)**; S.I. 2017/399, **reg. 2**, **Sch. para. 38**
- F42** S. 5(5)(a)(ib) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 88(3)**; S.I. 2018/227, **reg. 4(c)**
- F43** Words in s. 5(5)(a) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, **art. 3(b)** (with arts. 8, 12); S.I. 2011/556, **art. 2(2)(o)** (with art. 2(3))
- F44** Words in s. 5(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 161(1)(4)**, **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F45** S. 5(7A) inserted (E.W.) (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 113(3)**, 128(2)(d)
- F46** Words in s. 5(8) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(f); S.I. 2002/808, arts. 1(2), **22(1)(f)**
- F47** S. 5(8): words in the definition of "chief finance officer" inserted (8.5.2000 for specified purposes, otherwise 3.7.2000) by 1999 c. 29, **s. 132(1)(2)** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, **arts. 3, 4**
- F48** Words in s. 5(8) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(6)(a)**; S.I. 2011/3019, **art. 3**, **Sch. 1**



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- F49** Words in s. 5(8) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(4)(a)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F50** Word in s. 5(8) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F51** Words in s. 5(8) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 13(4)**; S.I. 2010/2195, art. 3(2)(l)
- F52** S. 5(8): words in para. (a) of the definition of "relevant authority" substituted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(7)**
- F53** Words in s. 5(8) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(4)(b)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F54** Words in s. 5(8) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 88(4)**; S.I. 2018/227, reg. 4(c)
- F55** S. 5(8A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(8)**
- F56** S. 5(8B) inserted (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 95(2), 178(3)**; S.I. 2012/1187, art. 2(1)(k)

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

- C15** S. 5 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C16** S. 5 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(1), **Sch. 6 para. 7(3)**
- C17** S. 5 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 73** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2** (as amended: (27.5.2000) by S.I. 2000/1435, art. 2, **Sch. 1 Pt. I para. 5**; (E.W.) (28.7.2001) by 2000 c. 22, ss. 107, 108(4), Sch. 5 para. 24(5), **Sch. 6**; and (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 49**; and (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 38**; S.I. 2012/628, **art. 6(i)**)
- C18** S. 5 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 15** (with s. 32); S.S.I. 2000/312, **art. 2**
- C19** S. 5 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C20** S. 5 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(b)**
- C21** S. 5 applied (E.) (24.3.2005) by The New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, **Sch. 4 para. 9(3)**
- C22** S. 5 applied (E.) (24.3.2010) by The South Downs National Park Authority (Establishment) Order 2010 (S.I. 2010/497), art. 1, **Sch. 4 para. 9(3)**
- C23** S. 5 applied (with modifications) (E.) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **7**
- C24** S. 5 applied (E.) (8.5.2017) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(4), **16**
- C25** S. 5 applied (E.) (8.5.2017) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), arts. 1(3), **6**
- C26** S. 5 applied (with modifications) (E.) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 9(4)**
- C27** S. 5 applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **15**
- C28** S. 5 applied (E.) (8.5.2017) by The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430), arts. 1(3), **12(2)**

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- C29** S. 5 applied (E.) (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **17(2)** (with art. 28)
- C30** S. 5 applied (26.6.2020) by S.I. 2017/469, **Sch. 1 para. 2(3)** (as inserted by The Greater Manchester Combined Authority (Fire and Rescue Functions) (Amendment) Order 2020 (S.I. 2020/641), arts. 1, **9**)
- C31** S. 5 applied (E.) (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **13(2)**
- C32** S. 5 applied (E.) (30.1.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(2), **16(2)**
- C33** S. 5(1) applied (10.5.2000) by S.I. 2000/1095, **art. 6(5)(a)**
- C34** S. 5(2)-(7) applied (with modifications) (E.) (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **8(4)**
- C35** S. 5(2)-(7) applied (with modifications) (E.) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **17(4)**
- C36** S. 5(2)-(7) applied (with modifications) (E.) (25.5.2018) by The West Suffolk (Local Government Changes) Order 2018 (S.I. 2018/639), arts. 1, **9(5)**
- C37** S. 5(2)-(7) applied (with modifications) (E.) (25.5.2018) by The East Suffolk (Local Government Changes) Order 2018 (S.I. 2018/640), arts. 1, **9(5)**
- C38** S. 5(2)-(7) applied with modifications (E.) (26.5.2018) by The Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (S.I. 2018/648), arts. 1, **28(5)**
- C39** S. 5(2)-(7) applied (with modifications) (E.) (26.5.2018) by The Somerset West and Taunton (Local Government Changes) Order 2018 (S.I. 2018/649), arts. 1, **9(5)**
- C40** S. 5(2)-(7) applied with modifications (E.) (26.5.2018) by The Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (S.I. 2018/648), arts. 1, **13(5)**
- C41** S. 5(2)-(7) applied (with modifications) (E.) (23.5.2019) by The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957), arts. 1, **7(4)**
- C42** S. 5(2)-(7) applied (with modifications) (E.) (14.2.2020) by The Northamptonshire (Structural Changes) Order 2020 (S.I. 2020/156), arts. 1, **9(5)**

#### Marginal Citations

- M3** 1975 c. 30.
- M4** 1974 c. 7.
- M5** 1988 c. 41.
- M6** 1972 c. 70.
- M7** 1973 c. 65.
- M8** 1971 c. 80.
- M9** 1985 c. 51.

#### [<sup>F57</sup>5A Reports of monitoring officer—local authorities operating executive arrangements

- (1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.
- (2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.
- (3) The events referred to for the purposes of subsection (2) are—

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- (a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or
  - (b) any such maladministration or [<sup>F58</sup>failure] as is mentioned in Part III of the Local Government Act 1974 <sup>F59</sup> (Local Commissioners)<sup>F60</sup>; or
  - (c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005 [<sup>F61</sup>or the Public Services Ombudsman (Wales) Act 2019].]
- (4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.
- <sup>F62</sup>(4A) [No duty shall arise by virtue of subsection (3)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 [<sup>F63</sup>or the Public Services Ombudsman (Wales) Act 2019] in relation to the proposal, decision or omission concerned.]
- (5) It shall be the duty of an authority's monitoring officer—
- (a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer; and
  - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority [<sup>F64</sup>and, where the authority has a mayor and council manager executive, the council manager].
- (6) It shall be the duty of the authority's executive—
- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and
  - (b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.
- (7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—
- (a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;
  - (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and
  - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.

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- (9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority's monitoring officer.
- (10) The duties of an authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.]

#### **Textual Amendments**

- F57** S. 5A inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/3327, arts. 1(2), 23(2); S.I. 2002/808, arts. 1(2), **22(2)**
- F58** Word in s. 5A(3)(b) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 14(3)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F59** 1974 c.7.
- F60** S. 5A(3)(c) and word inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 25(2)**; S.I. 2005/2800, art. 5(1)(3)
- F61** Words in s. 5A(3)(c) inserted (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 12(a)**; S.I. 2019/1096, reg. 2
- F62** S. 5A(4A) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 25(3)**; S.I. 2005/2800, art. 5(1)(3)
- F63** Words in s. 5A(4A) inserted (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 12(b)**; S.I. 2019/1096, reg. 2
- F64** Words in s. 5A(5)(b) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(b), 178(2), **Sch. 4 Pt. B**

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

- C43** S. 5A(2)-(7) applied (with modifications) (E.) (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **8(4)**
- C44** S. 5A(2)(5) applied (with modifications) (E.) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **17(4)**
- C45** S. 5A(2)(5) applied (with modifications) (E.) (25.5.2018) by The West Suffolk (Local Government Changes) Order 2018 (S.I. 2018/639), arts. 1, **9(5)**
- C46** S. 5A(2)(5) applied (with modifications) (E.) (25.5.2018) by The East Suffolk (Local Government Changes) Order 2018 (S.I. 2018/640), arts. 1, **9(5)**
- C47** S. 5A(2)(5) applied (with modifications) (E.) (26.5.2018) by The Somerset West and Taunton (Local Government Changes) Order 2018 (S.I. 2018/649), arts. 1, **9(5)**
- C48** S. 5A(2)(5) applied with modifications (E.) (26.5.2018) by The Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (S.I. 2018/648), arts. 1, **13(5)**
- C49** S. 5A(2)(5) applied with modifications (E.) (26.5.2018) by The Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (S.I. 2018/648), arts. 1, **28(5)**
- C50** S. 5A(2)(5) applied (with modifications) (E.) (23.5.2019) by The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957), arts. 1, **7(4)**
- C51** S. 5A(2)(5) applied (with modifications) (E.W.) (14.2.2020) by The Northamptonshire (Structural Changes) Order 2020 (S.I. 2020/156), arts. 1, **9(5)**

## **6 Officer responsible for financial administration of certain authorities.**

- (1) On and after the commencement day the Common Council shall—

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- (a) make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority or port health authority, and
  - (b) secure that one of its officers has responsibility for the administration of those affairs.
- (2) Section 17 of the <sup>M10</sup>City of London Sewers Act 1897 (functions of the chamberlain of the City of London as regards financial affairs) shall cease to have effect on the commencement day.
- (3) On and after the commencement day the person having responsibility for the administration of certain of the financial affairs of the Common Council under subsection (1) above shall—
  - (a) be a member of one or more of the bodies specified in subsection (5) below; or
  - (b) be the person who immediately before that day was the chamberlain of the City of London; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the <sup>M11</sup>Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (4) On and after the commencement day the person having responsibility for the administration of the financial affairs of a new successor body under section 73 of the <sup>M12</sup>Local Government Act 1985 shall—
  - (a) be a member of one or more of the bodies specified in subsection (5) below; or
  - (b) be the person who immediately before that day had responsibility for the administration of the financial affairs of the body concerned under the said section 73; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (5) The bodies referred to in subsections (3)(a) and (4)(a) above are—
  - (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants of Scotland;
  - (c) the Chartered Association of Certified Accountants;
  - (d) the Chartered Institute of Public Finance and Accountancy;
  - (e) the Institute of Chartered Accountants in Ireland;
  - (f) the Chartered Institute of Management Accountants;
  - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (6) The Secretary of State may make regulations containing, as regards the Common Council and any new successor body to which section 73 of the <sup>M13</sup>Local Government Act 1985 applies, provisions equivalent to sections 114 to 116 of the <sup>M14</sup>Local Government Finance Act 1988 (reports etc.) subject to—
  - (a) modifications to confine the provisions to the Common Council in its capacity as a local authority, police authority or port health authority; and

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- (b) any other modifications the Secretary of State thinks fit;  
and any such regulations may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) In this section—  
“the commencement day” means the day on which this section comes into force;  
“the Common Council” means the Common Council of the City of London;  
“new successor body” means a body corporate established at any time by an order under section 67(3) of the Local Government Act 1985 (new body succeeding to residuary body’s functions).
- (8) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### **Marginal Citations**

- M10** 1897 c. cxxxiii.  
**M11** 1988c. 41.  
**M12** 1985 c. 51.  
**M13** 1985c. 51.  
**M14** 1988 c. 41.

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**Changes to legislation:**

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