



# Local Government Act 2003

## 2003 CHAPTER 26

### PART 8

#### MISCELLANEOUS AND GENERAL

#### CHAPTER 1

#### MISCELLANEOUS

#### *Charging and trading*

### **93 Power to charge for discretionary services**

- (1) Subject to the following provisions, a best value authority may charge a person for providing a service to him if—
  - (a) the authority is authorised, but not required, by an enactment to provide the service to him, and
  - (b) he has agreed to its provision.
- (2) Subsection (1) does not apply if the authority—
  - (a) has power apart from this section to charge for the provision of the service, or
  - (b) is expressly prohibited from charging for the provision of the service.
- (3) The power under subsection (1) is subject to a duty to secure that, taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.
- (4) The duty under subsection (3) shall apply separately in relation to each kind of service.
- (5) Within the framework set by subsections (3) and (4), a best value authority may set charges as it thinks fit and may, in particular—
  - (a) charge only some persons for providing a service;
  - (b) charge different persons different amounts for the provision of a service.

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- (6) In carrying out functions under this section, a best value authority shall have regard to such guidance as the appropriate person may issue.
- (7) The following shall be disregarded for the purposes of subsection (2)(b)—
  - (a) section 111(3) of the Local Government Act 1972 (c. 70) (subsidiary powers of local authorities not to include power to raise money),
  - (b) section 34(2) of the Greater London Authority Act 1999 (c. 29) (corresponding provision for Greater London Authority), and
  - (c) section 3(2) of the Local Government Act 2000 (c. 22) (well-being powers not to include power to raise money).
- (8) In subsection (1), “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### **94 Power to disapply section 93(1)**

- (1) The appropriate person may by order disapply section 93(1)—
  - (a) in relation to particular descriptions of best value authority or particular best value authorities;
  - (b) in relation to the provision of a particular kind of service by—
    - (i) all best value authorities,
    - (ii) particular best value authorities, or
    - (iii) particular descriptions of best value authority.
- (2) The power under subsection (1) includes power to disapply for a particular period.

#### **95 Power to trade in function-related activities through a company**

- (1) The appropriate person may by order—
  - (a) authorise best value authorities to do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions, and
  - (b) make provision about the persons in relation to whom authority under paragraph (a) is exercisable.
- (2) No order under this section may authorise a best value authority—
  - (a) to do in relation to a person anything which it is required to do in relation to him under its ordinary functions, or
  - (b) to do in relation to a person anything which it is authorised, apart from this section, to do in relation to him for a commercial purpose.
- (3) An order under this section may be made in relation to—
  - (a) all best value authorities, particular best value authorities or particular descriptions of best value authority;
  - (b) all things authorised to be done for the purpose of carrying on a particular function, particular things authorised to be done for that purpose or particular descriptions of thing authorised to be so done.
- (4) Power conferred by an order under this section shall only be exercisable through a company within the meaning of Part 5 of the Local Government and Housing Act 1989 (c. 42) (companies in which local authorities have interests).

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- (5) A best value authority on which power is conferred by an order under this section shall be treated as a local authority for the purposes of Part 5 of the Local Government and Housing Act 1989 if it would not otherwise be such an authority, but only in relation to a body corporate through which it exercises, or proposes to exercise, the power conferred by the order.
- (6) In its application by virtue of subsection (5), section 70(1) of the Local Government and Housing Act 1989 (c. 42) (power to make provision about what a company under the control, or subject to the influence of, a local authority does) shall only apply in relation to the doing for a commercial purpose of the thing to which the order under this section relates.
- (7) In this section—
- “best value authority” does not include—
  - (a) a police authority established under section 3 of the Police Act 1996 (c. 16),
  - (b) the Common Council of the City of London in its capacity as a police authority,
  - (c) the Metropolitan Police Authority, or
  - (d) the London Development Agency;
- “ordinary functions”, in relation to a best value authority, means functions of the authority which are not functions under this section.

## 96 Regulation of trading powers

- (1) The appropriate person may by order impose conditions in relation to the exercise by a best value authority of—
- (a) a power to do anything for a commercial purpose, or
  - (b) a power to do anything for such a purpose through a company.
- (2) In exercising such a power as is mentioned in subsection (1), a best value authority shall have regard to such guidance as the appropriate person may issue.
- (3) An order under this section may be made in relation to—
- (a) all best value authorities,
  - (b) particular best value authorities, or
  - (c) particular descriptions of best value authority.
- (4) In this section, “best value authority” does not include—
- (a) a police authority established under section 3 of the Police Act 1996,
  - (b) the Common Council of the City of London in its capacity as a police authority,
  - (c) the Metropolitan Police Authority, or
  - (d) the London Development Agency.
- (5) In subsection (1)(b), “company” has the same meaning as in Part 5 of the Local Government and Housing Act 1989.

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## **97 Power to modify enactments in connection with charging or trading**

- (1) If it appears to the Secretary of State that an enactment (whenever passed or made), other than section 93(2) or 95(2), prevents or obstructs best value authorities—
  - (a) charging by agreement for the provision of a discretionary service, or
  - (b) doing for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions,
 he may by order amend, repeal, revoke or disapply the enactment.
- (2) The Secretary of State may by order amend, repeal, revoke or disapply an enactment (whenever passed or made), other than section 93, which makes in relation to a best value authority provision for, or in connection with, power to charge for the provision of a discretionary service.
- (3) The power under subsection (1) or (2) to amend or disapply an enactment includes power to amend or disapply an enactment for a particular period.
- (4) An order under this section may be made in relation to—
  - (a) all best value authorities,
  - (b) particular best value authorities, or
  - (c) particular descriptions of best value authority.
- (5) An order under subsection (1)(b) may be made in relation to—
  - (a) all things authorised to be done for the purpose of carrying on a particular function,
  - (b) particular things authorised to be done for that purpose, or
  - (c) particular descriptions of thing authorised to be so done.
- (6) An order under subsection (1)(b) may not be used to authorise a best value authority to do in relation to a person anything which it is required to do in relation to him under its ordinary functions.
- (7) In exercising the power under subsection (1) or (2), the Secretary of State—
  - (a) must not make any provision which has effect in relation to Wales unless he has consulted the National Assembly for Wales, and
  - (b) must not make any provision in relation to legislation made by the National Assembly for Wales without the consent of the Assembly.
- (8) The National Assembly for Wales may submit proposals to the Secretary of State that the power under subsection (1) or (2) should be exercised in relation to Wales in accordance with those proposals.
- (9) Subject to subsection (10), no order shall be made under this section unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.
- (10) An order under this section which is made only for the purpose of amending an earlier order under this section—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(11) In this section—

“discretionary service”, in relation to a best value authority, means a service which the authority is authorised, but not required, to provide;

“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));

“ordinary functions”, in relation to a best value authority, means functions of the authority which are not functions under section 95.

## **98 Procedure for orders under section 97**

(1) Before making an order under section 97, the Secretary of State shall consult—

- (a) such best value authorities as appear to him to be likely to be affected by his proposals, and
- (b) such other persons as appear to him to be representative of interests likely to be so affected.

(2) If following consultation under subsection (1) and, where the proposals relate to best value authorities in Wales, consultation under subsection (7)(a) of section 97, the Secretary of State proposes to make an order under that section, he shall lay before each House of Parliament a document which—

- (a) explains his proposals,
- (b) sets them out in the form of a draft order,
- (c) gives details of consultation under subsection (1), and
- (d) where the proposals relate to best value authorities in Wales, sets out the views of the National Assembly for Wales.

(3) Where a document relating to proposals is laid before Parliament under subsection (2), no draft of an order under section 97 to give effect to the proposals (with or without modification) shall be laid before Parliament until after the expiry of the period of sixty days beginning with the day on which the document was laid.

(4) In calculating the period mentioned in subsection (3), no account shall be taken of any time during which —

- (a) Parliament is dissolved or prorogued, or
- (b) either House is adjourned for more than four days.

(5) In preparing a draft order under section 97 the Secretary of State shall consider any representations made during the period mentioned in subsection (3).

(6) A draft order laid before Parliament in accordance with section 97(9) must be accompanied by a statement of the Secretary of State giving details of—

- (a) any representations considered in accordance with subsection (5), and
- (b) any changes made to the proposals contained in the document laid before Parliament under subsection (2).

(7) Nothing in this section applies to an order under section 97 which is made only for the purpose mentioned in section 97(10).

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### Performance categories

#### 99 Categorisation of English local authorities by reference to performance

- (1) The Audit Commission must from time to time produce a report on its findings in relation to the performance of English local authorities in exercising their functions.
- (2) A report under subsection (1) must (in particular) categorise each English local authority to which the report relates according to how the authority has performed in exercising its functions.
- (3) As regards each report produced under subsection (1), the Audit Commission—
  - (a) must send a copy of the report to the Secretary of State, and
  - (b) must publish the report.
- (4) Where the Secretary of State receives a report produced under subsection (1), he may by order make provision categorising the English local authorities to which the report relates in accordance with their categorisation in the report.
- (5) In making an order under subsection (4), the Secretary of State may depart from the categorisation in the report only for the purpose of correcting any clerical or typographical error in the report notified to him by the Audit Commission.
- (6) An order under subsection (4) may provide for the categorisation for which it provides to have effect—
  - (a) from such time as may be specified by the order;
  - (b) only for such period as may be specified by the order.
- (7) In this section—
 

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales;

“English local authority” means—

  - (a) a county council in England,
  - (b) a district council,
  - (c) a London borough council,
  - (d) the Common Council of the City of London in its capacity as a local authority, or
  - (e) the Council of the Isles of Scilly.

#### Commencement Information

**II** S. 99 in force at 18.11.2003 by [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8](#), [Sch.](#))

#### 100 Exercise of powers by reference to authorities' performance categories

- (1) The powers mentioned in subsection (2) may (in particular) be exercised for making provision in relation to a description of authority framed by reference to English local authorities that from time to time are, by reason of an order under section 99(4), of a particular category.
- (2) Those powers are the powers—

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- (a) to make orders under section 70 of the Local Government and Housing Act 1989 (c. 42);
  - (b) to make orders under sections 4 to 6, 16 and 19 of the Local Government Act 1999 (c. 27);
  - (c) to make orders under sections 3, 5 and 6 of the Local Government Act 2000 (c. 22);
  - (d) to make orders under section 1 of the Regulatory Reform Act 2001 (c. 6);
  - (e) to make orders under sections 95 to 97 of this Act;
  - (f) to make regulations under section 119 of this Act.
- (3) Schedule 3 (which amends certain of the provisions conferring, or governing the exercise of, those powers and does so for purposes of their exercise in relation to authorities, whether or not English local authorities, to which they apply) has effect.
- (4) The Secretary of State may by order amend subsection (2) for the purpose of adding a reference to a power to make provision by order or regulations that is exercisable in relation to all or any English local authorities (whether or not also exercisable in relation to any other person or body).
- (5) The Secretary of State may, for the purpose mentioned in subsection (6), by order make provision amending the enactments conferring, or governing the exercise of, a power added by an order under subsection (4) to those mentioned in subsection (2).
- (6) That purpose is enabling the power, so far as exercisable in relation to English local authorities, to be exercised—
- (a) in relation to—
    - (i) all the English local authorities in relation to which it is exercisable,
    - (ii) particular English local authorities, or
    - (iii) particular descriptions of English local authority;
  - (b) differently in relation to different English local authorities or descriptions of English local authority.
- (7) An order under subsection (4) or (5) shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (8) In this section “English local authority” has the meaning given by section 99(7).

#### Commencement Information

- I2** S. 100(1) (2)(4)-(8) in force at 18.11.2003 by [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8](#), [Sch.](#))
- I3** S. 100(3) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))

#### Contracting-out

### 101 Staff transfer matters: general

- (1) In exercising a power to contract with a person for the provision of services, a best value authority (in Scotland, a relevant authority) must—
- (a) deal with matters affecting—

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- (i) who will be the employer of existing staff if a contract is entered into and carried out, or
  - (ii) what will be the terms and conditions of employment of existing staff, or the arrangements for their pensions, if their employer changes as a result of a contract being entered into and carried out,
    - in accordance with directions given to it by the appropriate person;
  - (b) have regard to guidance issued to it by the appropriate person on matters relating to the employment or pensions of existing staff.
- (2) In subsection (1), references to existing staff, in relation to a contract for the provision of services, are to staff who before the contract is carried out are engaged in the provision of any of the services.
- (3) Where the provision of any services under a contract with a best value authority (in Scotland, a relevant authority) for their provision is to cease in circumstances where they are to be provided instead by members of the authority’s staff, the authority shall comply with directions given to it by the appropriate person for the purpose of requiring it to offer employment to staff who, before the services cease to be provided under the contract, are engaged in the provision of any of the services.
- (4) The duties under Part 1 of the Local Government Act 1999 (c. 27) (best value) of a best value authority have effect subject to subsections (1) and (3).
- (5) The duties under sections 1 and 2 of the Local Government in Scotland Act 2003 (asp 1) (best value) of a relevant authority have effect subject to subsections (1) and (3).
- (6) Directions given, or guidance issued, for the purposes of subsection (1) or (3)—
- (a) may be addressed to—
    - (i) all best value authorities (or, as the case may be, relevant authorities), or
    - (ii) authorities of a particular description;
  - (b) may be different for different cases or authorities.
- (7) For the purposes of this section, the Secretary of State is the “appropriate person” in relation to a best value authority in Wales that is—
- (a) a police authority established under section 3 of the Police Act 1996 (c. 16), or
  - (b) a fire authority constituted by a combination scheme.
- (8) In this section—
- “appropriate person”, in relation to Scotland, means the Scottish Ministers; and
  - “relevant authority” means—
    - (a) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
    - (b) the Strathclyde Passenger Transport Authority, or
    - (c) any other body to which Part 1 of the Local Government in Scotland Act 2003 (asp 1) (best value and accountability) applies.

#### Commencement Information

- I4** S. 101 in force at 18.11.2003 so far as relating to E. and so far as relating to a best value authority in W. mentioned in s. 101(7) by S.I. 2003/2938, art. 2(b) (with art. 8, Sch.)



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VALID FROM 27/11/2003

## 102 Staff transfer matters: pensions

- (1) The appropriate person shall exercise his power to give directions under section 101(1) so as to secure that where a local authority is contracting with a person (“the contractor”) for the provision of services that are to be provided under a contract instead of by employees of the authority, it does so on terms—
  - (a) that require the contractor, in the event of there being any transferring employees, to secure pension protection for each of them, and
  - (b) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.
- (2) For the purposes of subsection (1)—
  - (a) “transferring employee” means an employee of the authority whose contract of employment becomes, by virtue of the application of the TUPE regulations in relation to what is done for the purposes of carrying out the contract between the authority and the contractor, a contract of employment with someone other than the authority, and
  - (b) “pension protection” is secured for a transferring employee if after that change in his employer he has, as an employee of his new employer, rights to acquire pension benefits and those rights—
    - (i) are the same as, or
    - (ii) under the directions count as being broadly comparable to or better than,  
those that he had as an employee of the authority.
- (3) The appropriate person shall exercise his power to give directions under section 101(1) so as to secure that where—
  - (a) a local authority has contracted with a person (“the first contractor”) for the provision of services,
  - (b) the application of the TUPE regulations in relation to what was done for the purposes of carrying out the contract between the authority and the first contractor resulted in employees of the authority (“the original employees”) becoming employees of someone other than the authority, and
  - (c) the authority is contracting with a person (“the subsequent contractor”) for the provision of any of the services,the authority contracts with the subsequent contractor on terms satisfying the requirements of subsection (4).
- (4) Those requirements are that the terms—
  - (a) require the subsequent contractor, in the event of there being any transferring original employees, to secure pension protection for each of them, and
  - (b) so far as relating to the securing of pension protection for an original employee, are enforceable by the employee.
- (5) For the purposes of subsection (4)—
  - (a) “transferring original employee” means an original employee—
    - (i) whose contract of employment becomes, by virtue of the application of the TUPE regulations in relation to what is done for the purposes

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- of carrying out the contract between the authority and the subsequent contractor, a contract of employment with someone other than his existing employer, and
- (ii) whose contract of employment on each occasion when an intervening contract was carried out became, by virtue of the application of the TUPE regulations in relation to what was done for the purposes of carrying out the intervening contract, a contract of employment with someone other than his existing employer;
- (b) “pension protection” is secured for a transferring original employee if after the change in his employer mentioned in paragraph (a)(i) he has, as an employee of his new employer, rights to acquire pension benefits and those rights—
- (i) are the same as, or
- (ii) under the directions count as being broadly comparable to or better than,
- those that he had before that change.
- (6) In subsection (5)(a)(ii), “intervening contract” means a contract with the authority for the provision, at times after they are provided under the contract with the first contractor and before they are to be provided under a contract with the subsequent contractor, of the services to be provided under the contract with the subsequent contractor.
- (7) Any expression used in this section, and in the TUPE regulations, has in this section the meaning that it has in the TUPE regulations.
- (8) In this section—
- “appropriate person”, in relation to Scotland, means the Scottish Ministers;
- “local authority”—
- (a) in relation to England and Wales, means a local authority for the purposes of section 1(1)(a) of the Local Government Act 1999 (c. 27) (local authorities in England and Wales that are best value authorities), and
- (b) in relation to Scotland, means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
- “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794), or any regulations replacing those regulations, as from time to time amended.

### 2004 local government elections

#### 103 Power to change date of elections in England

- (1) The Secretary of State may by order provide that in 2004—
- (a) the ordinary day of election of councillors for—
- (i) all local government areas in England, or
- (ii) all local government areas in England, except parishes, and
- (b) the day on which the poll is to be held at the second ordinary election under the Greater London Authority Act 1999 (c. 29),

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shall be changed so as to be the same as the date of the poll at the European Parliamentary general election.

- (2) Where the Secretary of State makes an order under subsection (1), he may by order—
- (a) make provision modifying, in relation to elections in England in 2004—
    - (i) section 89(1) or (2) of the Local Government Act 1972 (c. 70) (holding of elections to fill casual vacancies in the office of councillor for a principal area), or
    - (ii) rules made for the purposes of section 89(6) of that Act (which provides for casual vacancies in the office of parish councillor to be filled in accordance with rules under section 36 of the Representation of the People Act 1983 (c. 2));
  - (b) make provision disapplying section 16(1) of the Representation of the People Act 1985 (c. 50) (which postpones for 3 weeks the poll at an election of parish councillors where the date of the poll at a European Parliamentary general election and the ordinary day of election for councillors in England and Wales are the same) in relation to elections in England in 2004;
  - (c) make such provision as he thinks fit for the purpose of enabling the annual meeting in 2004 of an authority to which subsection (3) applies to be held after the date of the poll at the European Parliamentary general election.
- (3) This subsection applies to—
- (a) any of the following for which 2004 is not a year of ordinary elections of councillors to the council—
    - (i) a county council in England,
    - (ii) a district council, and
    - (iii) a parish council;
  - (b) an authority established by Part 4 of the Local Government Act 1985 (c. 51) (joint authorities);
  - (c) a police authority established under section 3 of the Police Act 1996 (c. 16);
  - (d) the Metropolitan Police Authority.
- (4) Where the National Assembly for Wales makes an order under section 104, the Secretary of State may by order make in relation to elections in England such consequential provision, including provision excluding or modifying the application of any enactment, as he thinks fit.
- (5) Before making an order under this section, the Secretary of State must consult—
- (a) the Electoral Commission, and
  - (b) such other persons or bodies as he considers appropriate.
- (6) Subsection (5) may be satisfied by consultation before, as well as by consultation after, the commencement of this section.
- (7) In subsection (1)—
- “local government area” has the same meaning as in the Representation of the People Act 1983 (c. 2);
  - “ordinary election” is to be read in accordance with section 2(7) of the Greater London Authority Act 1999 (c. 29).
- (8) In subsection (4) “enactment” includes an enactment comprised in secondary legislation within the meaning of the Interpretation Act 1978 (c. 30).

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## **104 Power to change date of elections in Wales**

- (1) The National Assembly for Wales may by order provide that in 2004 the ordinary day of election of councillors for—
  - (a) all local government areas in Wales, or
  - (b) all local government areas in Wales, except communities, or
  - (c) all communities,
 shall be changed so as to be the same as the date of the poll at the European Parliamentary general election.
- (2) Where the Assembly makes an order under subsection (1), it may by order—
  - (a) make provision modifying, in relation to elections in Wales in 2004—
    - (i) section 89(1) or (2) of the Local Government Act 1972 (c. 70) (holding of elections to fill casual vacancies in the office of councillor for a principal area), or
    - (ii) rules made for the purposes of section 89(6) of that Act (which provides for casual vacancies in the office of community councillor to be filled in accordance with rules under section 36 of the Representation of the People Act 1983);
  - (b) make provision disapplying section 16(1) of the Representation of the People Act 1985 (c. 50) (which postpones for 3 weeks the poll at an election of community councillors where the date of the poll at a European Parliamentary general election and the ordinary day of election for councillors in England and Wales are the same) in relation to elections in Wales in 2004.
- (3) Where the Secretary of State makes an order under section 103, the National Assembly for Wales may by order make in relation to elections in Wales such consequential provision, including provision excluding or modifying the application of any enactment, as it thinks fit.
- (4) Before making an order under this section, the National Assembly for Wales must consult—
  - (a) the Electoral Commission, and
  - (b) such other persons or bodies as it considers appropriate.
- (5) Subsection (4) may be satisfied by consultation before, as well as by consultation after, the commencement of this section.
- (6) In subsection (1), “local government area” has the same meaning as in the Representation of the People Act 1983 (c. 2).
- (7) In subsection (3) “enactment” includes an enactment comprised in secondary legislation within the meaning of the Interpretation Act 1978 (c. 30).

### *Valuation Tribunal Service*

## **105 The Valuation Tribunal Service**

- (1) There shall be a body corporate to be known as the Valuation Tribunal Service (referred to in this section, section 106 and Schedules 4 and 5 as “the Service”).
- (2) The Service shall have the following functions in relation to valuation tribunals in England—

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- (a) providing, or arranging for the provision of, the services required for the operation of tribunals, in particular—
    - (i) accommodation,
    - (ii) staff (including clerks to tribunals),
    - (iii) information technology,
    - (iv) equipment, and
    - (v) training for members and staff of (including clerks to) tribunals;
  - (b) giving general advice about procedure in relation to proceedings before tribunals.
- (3) The Service shall provide the Secretary of State with such information, advice and assistance as he may require.
- (4) The Service may do anything which it considers is calculated to facilitate, or is conducive or incidental to, the carrying-out of its functions.
- (5) The Service shall carry out its functions with respect to valuation tribunals in the manner which it considers best calculated to secure their efficient and independent operation.
- (6) The Service shall, in relation to its functions with respect to valuation tribunals, consult the tribunals concerned about the carrying-out of its functions.
- (7) The Secretary of State may—
  - (a) after consultation with the Service, give directions to it for the purpose of securing the effective carrying-out of its functions, and
  - (b) issue guidance to the Service about the carrying-out of its functions.
- (8) The Service shall, in carrying out its functions—
  - (a) comply with any directions under subsection (7)(a), and
  - (b) have regard to any guidance under subsection (7)(b).
- (9) Schedule 4 (which makes further provision about the Service) has effect.

**Commencement Information**

**I5** S. 105(9) in force at 18.11.2003 for specified purposes by [S.I. 2003/2938](#), [art. 2\(c\)](#) (with [art. 8](#), [Sch.](#))

## **106 Transfer to Service of property, rights and liabilities**

- (1) The Secretary of State may make one or more schemes for the transfer to the Service of—
  - (a) such of his property, rights and liabilities, or
  - (b) such of the property, rights and liabilities of a valuation tribunal in England, as appear to him to be appropriate to be transferred for the performance of the Service's functions.
- (2) On the day appointed by a transfer scheme for the coming into force of the scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this subsection, be transferred in accordance with the provisions of the scheme.
- (3) Schedule 5 (which makes further provision in relation to transfer schemes) has effect.

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#### Commencement Information

**I6** S. 106 in force at 18.11.2003 by S.I. 2003/2938, **art. 2(a)** (with **art. 8, Sch.**)

### Audit Commission

#### 107 Auditors' public interest reports: time allowed for consideration

- (1) The Audit Commission Act 1998 (c. 18) is amended as follows.
- (2) In section 11(4) (body subject to audit must consider section 8 report or section 11(3) recommendation within four months of its being sent), for “four months” there is substituted “one month”.
- (3) In section 11(6) (auditor’s power to extend time limit), for “four months” there is substituted “one month”.
- (4) In section 11A(8) (Mayor and Assembly must consider section 8 report or section 11(3) recommendation within four months of its being sent to the Greater London Authority), for “four months” substitute “one month”.
- (5) In section 11A(9) (auditor’s power to extend time limit), for “four months” there is substituted “one month”.

#### Commencement Information

**I7** S. 107 in force at 18.11.2003 by S.I. 2003/2938, **art. 2(a)** (with **art. 8, Sch.**)

#### 108 Auditors' public interest reports: publicity

After section 13 of the Audit Commission Act 1998 (c. 18) there is inserted—

##### “13A Additional publicity for non-immediate reports

- (1) This section applies where under section 10(1) an auditor has sent a report that is not an immediate report to a body or its chairman, except where the body is a health service body.
- (2) The auditor may—
  - (a) notify any person he thinks fit of the fact that he has made the report,
  - (b) publish the report in any way he thinks fit, and
  - (c) supply a copy of the report, or of any part of it, to any person he thinks fit.
- (3) From the time when the report is sent under section 10(1), but subject to subsection (4)—
  - (a) the auditor shall ensure that any member of the public may—
    - (i) inspect the report at all reasonable times without payment, and
    - (ii) make a copy of the report or of any part of it;
  - (b) any member of the public may require the auditor to supply him with a copy of the report, or of any part of it, on payment of a reasonable sum.

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- (4) From the end of the period of one year beginning with the day when the report is sent under section 10(1), the obligations of the auditor under subsection (3)—
- (a) cease to be his obligations, but
  - (b) become obligations of the Commission instead.”

#### Commencement Information

**18** S. 108 in force at 18.11.2003 by S.I. 2003/2938, art. 2(a) (with art. 8, Sch.)

### 109 Registered social landlords

- (1) After section 41 of the Audit Commission Act 1998 there is inserted—

#### “41A Inspections of registered social landlords

- (1) The Commission may carry out an inspection of—
- (a) the quality of services provided by a registered social landlord;
  - (b) a registered social landlord’s arrangements for securing continuous improvement in the efficiency, effectiveness and economy with which it provides services.
- (2) Where the Commission has carried out an inspection under subsection (1) it shall issue a report.
- (3) A report under subsection (2) shall mention any matter that, as a result of the inspection, the Commission considers should be drawn specifically to the attention of the Relevant Authority.
- (4) The Commission—
- (a) shall send a copy of a report under subsection (2) to the registered social landlord concerned and to the Relevant Authority;
  - (b) may publish a report under subsection (2) and any information in respect of a report.
- (5) Section 11 of the Local Government Act 1999 (best value inspections under section 10: inspectors' powers and duties, and offences) shall apply for the purposes of an inspection of a registered social landlord under subsection (1) of this section as it applies for the purposes of an inspection of a best value authority under section 10 of that Act.
- (6) The Commission shall, when drawing up any programme of inspections under subsection (1), consult the Relevant Authority.

#### 41B Fees for inspections under section 41A

- (1) The appropriate person may by order make provision of any of the following kinds in relation to the charging of fees by the Commission in respect of inspections under section 41A(1)—
- (a) provision authorising the Commission to prescribe a scale or scales of fees in respect of inspections;
  - (b) provision governing the prescribing of scales;

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- (c) provision requiring a registered social landlord inspected under section 41A(1) to pay to the Commission any fee applicable to the inspection in accordance with a scale prescribed under provision of the kind mentioned in paragraph (a);
  - (d) such incidental, consequential or supplementary provision as the appropriate person thinks necessary or expedient.
- (2) In subsection (1) “the appropriate person” means—
  - (a) in relation to registered social landlords for which the Housing Corporation is the Relevant Authority, the Secretary of State, and
  - (b) in relation to registered social landlords for which the National Assembly for Wales is the Relevant Authority, the Assembly.
- (3) The Secretary of State shall, before making an order under subsection (1), consult—
  - (a) the Commission and the Housing Corporation, and
  - (b) persons appearing to the Secretary of State to represent registered social landlords affected by his proposals.
- (4) The National Assembly for Wales shall, before making an order under subsection (1), consult—
  - (a) the Commission, and
  - (b) persons appearing to the Assembly to represent registered social landlords affected by its proposals.
- (5) The Commission shall, before prescribing a scale of fees that it is authorised to prescribe by an order under subsection (1) made by the Secretary of State, consult—
  - (a) the Secretary of State and the Housing Corporation, and
  - (b) persons appearing to the Commission to represent registered social landlords affected by its proposals.
- (6) The Commission shall, before prescribing a scale of fees that it is authorised to prescribe by an order under subsection (1) made by the National Assembly for Wales, consult—
  - (a) the Assembly, and
  - (b) persons appearing to the Commission to represent registered social landlords affected by its proposals.”
- (2) In section 52(1) of that Act (orders and regulations to be made by statutory instrument), after “the Secretary of State” there is inserted “ or the National Assembly for Wales ”.
- (3) In paragraph 8(2) of Schedule 1 to that Act (categories of function in respect of which Commission must over time balance income and expenditure), after paragraph (c) there is inserted—
  - “(ca) its functions under section 41A relating to such landlords;”.
- (4) After paragraph 8 of that Schedule there is inserted—
  - “8A Each of—
    - (a) the Secretary of State, and
    - (b) the National Assembly for Wales,



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may make grants to the Commission in respect of expenditure incurred or to be incurred by the Commission in connection with the carrying-out of its functions under section 41A.”

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**Commencement Information**

- I9** S. 109(1) in force at 18.11.2003 for specified purposes by [S.I. 2003/2938](#), [art. 2\(d\)](#) (with [art. 8](#), [Sch.](#))  
**I10** S. 109(3)(4) in force at 18.11.2003 by [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8](#), [Sch.](#))

**110 Financial year**

- (1) In Schedule 1 to the Audit Commission Act 1998 (c. 18) (which makes provision about the Commission’s financial affairs), in paragraph 11(5) (which defines “financial year” for the purposes of the Schedule as the 12 months ending with 31st October in any year) for “31st October” there is substituted “ 31st March ”.
- (2) Subsection (1) shall apply in relation to financial years of the Commission beginning after the one in which this section comes into force.
- (3) In relation to the financial year of the Commission in which this section comes into force, Schedule 1 to the Audit Commission Act 1998 shall have effect as if the period referred to in paragraph 11(5) were a period beginning with the 1st November on which the year began and ending with the 31st March 17 months later.
- (4) In this section, “the Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales.

**111 Delegation**

After paragraph 11 of Schedule 1 to the Audit Commission Act 1998, there is inserted—

**“Delegation**

- 11A The Commission may delegate any of its functions to—
- (a) a committee or sub-committee established by the Commission (including a committee or sub-committee including persons who are not members of the Commission), or
  - (b) an officer or servant of the Commission.”

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**Commencement Information**

- I11** [S. 111](#) in force at 18.11.2003 by [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8](#), [Sch.](#))

*Other*

**112 Standards Board for England: delegation**

In Schedule 4 to the Local Government Act 2000 (c. 22) (Standards Board for England), after paragraph 9 there is inserted—

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### “Delegation

- 9A The Standards Board may delegate any of its functions to—
- (a) a committee or sub-committee established by the Board,
  - (b) an individual member of the Board, or
  - (c) an officer or servant of the Board.”

#### Commencement Information

**I12** S. 112 in force at 18.11.2003 by S.I. 2003/2938, art. 2(a) (with art. 8, Sch.)

### 113 Standards committees and monitoring officers: delegation

- (1) In Chapter 1 of Part 3 of the Local Government Act 2000 (conduct of local government members), after section 54 there is inserted—

#### “54A Sub-committees of standards committees

- (1) A standards committee of a relevant authority may appoint one or more sub-committees for the purpose of discharging any of the committee’s functions, whether or not to the exclusion of the committee.
  - (2) Subsection (1) does not apply to functions under section 55 or 56.
  - (3) A sub-committee under subsection (1) shall be appointed from among the members of the standards committee by which it is appointed.
  - (4) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in England or of a police authority in Wales—
    - (a) regulations under section 53(6)(a) and (c) to (g) may make provision in relation to such sub-committees, and
    - (b) sections 53(7), (8) and (10) and 54(4) and (6) apply in relation to such sub-committees as they apply in relation to standards committees.
  - (5) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in Wales other than a police authority—
    - (a) regulations under section 53(11) may make provision in relation to such sub-committees, and
    - (b) section 54(5) and (7) apply in relation to such sub-committees as they apply in relation to standards committees.
  - (6) Subject to any provision made by regulations under section 53(6)(a) or (11)
    - (a) (as applied by this section)—
      - (a) the number of members of a sub-committee under subsection (1), and
      - (b) the term of office of those members,
 are to be fixed by the standards committee by which the sub-committee is appointed.”
- (2) In Chapter 5 of that Part (conduct in local government: supplementary), after section 82 there is inserted—

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*“Delegation by monitoring officers*

**82A Monitoring officers: delegation of functions under Part 3**

- (1) This section applies to functions of a monitoring officer of a relevant authority in relation to matters referred to him under section 60(2), 64(2), 70(4) or 71(2).
  - (2) Where the monitoring officer considers that in a particular case he himself ought not to perform particular functions to which this section applies, those particular functions shall in that case be performed personally by a person nominated for the purpose by the monitoring officer.
  - (3) Where a deputy nominated by the monitoring officer under section 5(7) of the Local Government and Housing Act 1989 (nomination of member of monitoring officer’s staff to act as deputy when monitoring officer absent or ill) considers that in a particular case he himself ought not to perform particular functions—
    - (a) to which this section applies, and
    - (b) which, by reason of the absence or illness of the monitoring officer, would but for this subsection fall to be performed by the deputy,those particular functions shall, while the monitoring officer continues to be unable to act by reason of absence or illness, be performed in that case personally by a person nominated for the purpose by the deputy.
  - (4) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is an officer of the relevant authority, the authority shall provide the officer with such staff, accommodation and other resources as are, in the officer’s opinion, sufficient to allow those functions to be performed.
  - (5) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is not an officer of the relevant authority, the authority shall—
    - (a) pay the person a reasonable fee for performing the functions,
    - (b) reimburse expenses properly incurred by the person in performing the functions, but only to the extent that the amount of the expenses is reasonable, and
    - (c) provide the person with such staff, accommodation and other resources as are reasonably necessary for the person’s performance of the functions.”
- (3) In section 5 of the Local Government and Housing Act 1989 (c. 42) (designation etc. of monitoring officers), after subsection (7) there is inserted—
- “(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).”

**114 Paid time off for councillors not to be political donation**

- (1) In paragraph 4(1) of Schedule 7 to the Political Parties, Elections and Referendums Act 2000 (c. 41) (matters that are not donations), after paragraph (a) there is inserted—

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- “(aa) remuneration allowed to an employee by his employer if the employee is a member of a local authority and the remuneration is in respect of time the employer permits the employee to take off during the employee’s working hours for qualifying business—
- (i) of the authority,
  - (ii) of any body to which the employee is appointed by, or is appointed following nomination by, the authority or a group of bodies that includes the authority, or
  - (iii) of any other body if it is a public body;”.

(2) In paragraph 4 of that Schedule, after sub-paragraph (3) there is inserted—

“(4) In sub-paragraph (1)(aa)—

“employee” and “employer”—

- (a) in relation to England and Wales, and Scotland, have the same meaning as in the Employment Rights Act 1996, and
- (b) in relation to Northern Ireland, have the same meaning as in the Employment Rights (Northern Ireland) Order 1996;

“local authority” means a local authority in any part of the United Kingdom, including the Common Council of the City of London but excluding a parish or community council;

“working hours” of an employee—

- (a) in relation to England and Wales, and Scotland, has the same meaning as in section 50 of the Employment Rights Act 1996, and
- (b) in relation to Northern Ireland, has the same meaning as in Article 78 of the Employment Rights (Northern Ireland) Order 1996;

“qualifying business”, in relation to a body, means—

- (a) the doing of anything for the purpose of the discharge of the functions of the body or of any of its committees or sub-committees, and
- (b) where the body is a local authority operating executive arrangements within the meaning of Part 2 of the Local Government Act 2000 and arrangements exist for functions of any other body to be discharged by the authority’s executive or any committee or member of the executive, the doing of anything for the purpose of the discharge of those functions.”

(3) Subsections (1) and (2) shall be deemed to have come into force on 16th February 2001.

(4) The Electoral Commission shall remove from the register kept by it under section 69 of the Political Parties, Elections and Referendums Act 2000 (c. 41) any entry that they would not have been required to make had subsections (1) and (2) actually been in force throughout the period beginning with 16th February 2001 and ending with the passing of this Act.

## 115 Overview and scrutiny committees: voting rights of co-opted members

In Schedule 1 to the Local Government Act 2000 (c. 22) (further provision about executive arrangements), after paragraph 11 there is inserted—

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### **“Overview and scrutiny committees: voting rights of co-opted members**

- 12
- (1) A local authority in England may permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee.
  - (2) Permission under sub-paragraph (1) may only be given in accordance with a scheme made by the local authority.
  - (3) A scheme for the purposes of this paragraph may include—
    - (a) provision for a maximum or minimum in relation to the number of co-opted members of an overview and scrutiny committee entitled to vote at meetings of the committee, and
    - (b) provision for giving effect to any maximum or minimum established under paragraph (a).
  - (4) The power to make a scheme for the purposes of this paragraph includes power to vary or revoke such a scheme.
  - (5) In this paragraph, references to a co-opted member, in relation to an overview and scrutiny committee of a local authority, are to a member of the committee who is not a member of the authority.

### **Overview and scrutiny committees: voting rights of co-opted members**

- 13
- (1) The Secretary of State may by regulations make provision about the exercise of the powers under paragraph 12.
  - (2) Regulations under sub-paragraph (1) may, in particular, require schemes for the purposes of paragraph 12 (“voting rights schemes”)—
    - (a) to provide for permission to be given only by means of approving a proposal by the committee concerned;
    - (b) to provide for a proposal for the purposes of the scheme (“a scheme proposal”) to specify—
      - (i) the person to whom the proposal relates,
      - (ii) the questions on which it is proposed he should be entitled to vote, and
      - (iii) the proposed duration of his entitlement to vote,and to include such other provision about the form and content of such a proposal as the regulations may provide;
    - (c) to provide for a scheme proposal to be made only in accordance with a published statement of the policy of the committee concerned about the making of such proposals;
    - (d) to include such provision about the procedure to be followed in relation to the approval of scheme proposals as the regulations may provide.
  - (3) Regulations under sub-paragraph (1) may include provision for the notification to the Secretary of State by local authorities of the making, variation or revocation of voting rights schemes.

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- (4) The Secretary of State may by direction require a local authority to vary a voting rights scheme.

#### **Overview and scrutiny committees: voting rights of co-opted members**

- 14 (1) A local authority which makes a scheme for the purposes of paragraph 12 shall, while the scheme is in force, make copies of it available at its principal office at all reasonable hours for inspection by members of the public.
- (2) If a local authority makes a scheme for the purposes of paragraph 12, or varies or revokes such a scheme, it must as soon as reasonably practicable after doing so publish in one or more newspapers circulating in its area a notice which complies with this paragraph.
- (3) In the case of the making of a scheme, the notice under sub-paragraph (2) shall—
- (a) record the making of the scheme,
  - (b) describe what it does,
  - (c) state that copies of it are available for inspection at the principal office of the local authority, and
  - (d) specify—
    - (i) the address of that office, and
    - (ii) the times when the scheme is available for inspection there.
- (4) In the case of the variation of a scheme, the notice under sub-paragraph (2) shall—
- (a) record the variation,
  - (b) describe what it does,
  - (c) state that copies of the scheme as varied are available for inspection at the principal office of the local authority, and
  - (d) specify—
    - (i) the address of that office, and
    - (ii) the times when the scheme is available for inspection there.
- (5) In the case of the revocation of a scheme, the notice under sub-paragraph (2) shall record the revocation.”

#### **Commencement Information**

**I13** S. 115 in force at 18.11.2003 by S.I. 2003/2938, art. 2(a) (with art. 8, Sch.)

#### **116 Local polls**

- (1) A local authority may conduct a poll to ascertain the views of those polled about—
- (a) any matter relating to—
    - (i) services provided in pursuance of the authority’s functions, or
    - (ii) the authority’s expenditure on such services, or

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- (b) any other matter if it is one relating to the authority’s power under section 2 of the Local Government Act 2000 (c. 22) (authority’s power to promote well-being of its area).
- (2) It shall be for the local authority concerned to decide—
  - (a) who is to be polled, and
  - (b) how the poll is to be conducted.
- (3) In conducting a poll under this section, a local authority must have regard to any guidance issued by the appropriate person on facilitating participation in a poll under this section by such of those polled as are disabled people.
- (4) This section is without prejudice to any powers of a local authority exercisable otherwise than by virtue of this section.
- (5) In this section, “local authority” means—
  - (a) in relation to England—
    - (i) a county council;
    - (ii) a district council;
    - (iii) a London borough council;
    - (iv) the Greater London Authority;
    - (v) the Common Council of the City of London in its capacity as a local authority;
    - (vi) the Council of the Isles of Scilly, and
  - (b) in relation to Wales, a county council or a county borough council.

## **117 Generally accepted accounting practice: power to amend enactments**

- (1) The appropriate person may by order amend or repeal an enactment relating to a local authority if he considers it appropriate to do so in the light of generally accepted accounting practice as it applies to local government.
- (2) It does not matter for the purposes of subsection (1) whether the enactment itself relates to the accounts of a local authority.
- (3) No order under this section shall be made by the Secretary of State unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (4) In this section—
  - “enactment” includes an enactment contained in this Act or any Act passed after this Act;
  - “local authority” means—
    - (a) a body which is a local authority for the purposes of Part 1, or
    - (b) a parish council, a community council or charter trustees.

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### **Commencement Information**

**I14** S. 117 in force at 18.11.2003 for E. by S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

**Status:** Point in time view as at 18/11/2003. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Local Government Act 2003, Part 8 is up to date with all changes known to be in force on or before 14 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)

VALID FROM 27/11/2003

## 118 Appropriate sum under section 137(4) of the Local Government Act 1972

- (1) In section 137 of the Local Government Act 1972 (c. 70) (which enables local authorities to incur expenditure for certain purposes not otherwise authorised), in subsection (4)(a) (which makes provision in connection with the calculation of the maximum amount of such expenditure in any financial year), for “subsection (4AA) below” there is substituted “ Schedule 12B to this Act ”.
- (2) After Schedule 12A to that Act there is inserted—

“SCHEDULE  
12B

Section 137(4)(a)

### APPROPRIATE SUM UNDER SECTION 137(4)

- 1 This Schedule has effect to determine for the purposes of section 137(4)(a) above the sum that is for the time being appropriate to a local authority.
- 2 The sum appropriate to the local authority for the financial year in which section 118 of the Local Government Act 2003 comes into force is £5.00.
- 3 (1) For each subsequent financial year, the sum appropriate to the local authority is the greater of the sum appropriate to the authority for the financial year preceding the year concerned and the sum produced by the following formula—

$$\frac{A \times B}{C}$$

- (2) A is the sum appropriate to the local authority for the financial year preceding the year concerned.
- (3) B is the retail prices index for September of the financial year preceding the year concerned.
- (4) C is the retail prices index for September of the financial year which precedes that preceding the year concerned except where sub-paragraph (5) below applies.
- (5) Where the base month for the retail prices index for September of the financial year mentioned in sub-paragraph (4) above (the first year) differs from that for the index for September of the financial year mentioned in sub-paragraph (3) above (the second year), C is the figure which the Secretary of State calculates would have been the retail prices index for September of the first year if the base month for that index had been the same as the base month for the index for September of the second year.
- (6) References in sub-paragraphs (3) to (5) above to the retail prices index are to the general index of retail prices (for all items) published by the Office for National Statistics.



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- (7) If that index is not published for a month for which it is relevant for the purposes of any of those sub-paragraphs, the sub-paragraph shall be taken to refer to any substituted index or index figures published by that Office.
- (8) For the purposes of sub-paragraph (5) above, the base month for the retail prices index for September of a particular year is the month—
  - (a) for which the retail prices index is taken to be 100, and
  - (b) by reference to which the index for the September in question is calculated.
- (9) In calculating the sum produced by the formula in sub-paragraph (1) above a part of a whole (if any) shall be calculated to two decimal places only—
  - (a) adding one hundredth where (apart from this sub-paragraph) there would be five, or more than five, one-thousandths, and
  - (b) ignoring the one-thousandths where (apart from this sub-paragraph) there would be less than five one-thousandths.
- 4 Before the beginning of a financial year, the appropriate person may by order provide for a different sum to have effect as the sum appropriate to a local authority for the year in place of the sum calculated for the year in accordance with paragraph 3 above.
- 5 In paragraph 4 above “the appropriate person” means—
  - (a) as respects England, the Secretary of State;
  - (b) as respects Wales, the National Assembly for Wales.
- 6 An order under paragraph 4 above may make different provision in relation to local authorities of different descriptions.
- 7 An order under paragraph 4 above made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

## 119 Use of fixed penalties paid for litter and dog-fouling offences

- (1) Section 88(6)(a) of the Environmental Protection Act 1990 (c. 43) (which requires authorities to pay any receipts from fixed penalties for litter offences to the Secretary of State or the National Assembly for Wales and applies also to fixed penalties for dog-fouling offences by virtue of section 4(2) of the Dogs (Fouling of Land) Act 1996) ceases to have effect.
- (2) An authority in England and Wales to which fixed penalties are payable in pursuance of notices under—
  - (a) section 88 of the Environmental Protection Act 1990 (fixed penalty notices for leaving litter), or
  - (b) section 4 of the Dogs (Fouling of Land) Act 1996 (c. 20) (fixed penalty notices for not removing dog faeces),may use any sums it receives in respect of fixed penalties payable to it in pursuance of such notices only for the purposes of functions of its that are qualifying functions.
- (3) The following are qualifying functions for the purposes of this section—
  - (a) functions under Part 4 of the Environmental Protection Act 1990 (litter etc.),
  - (b) functions under the Dogs (Fouling of Land) Act 1996, and

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- (c) functions of a description specified in regulations made by the appropriate person.
- (4) Regulations under subsection (3)(c) may (in particular) have the effect that an authority may use the sums mentioned in subsection (2) (its “fixed-penalty receipts”) for the purposes of any of its functions.
- (5) An authority shall supply the appropriate person with such information relating to its use of its fixed-penalty receipts as the appropriate person may require.
- (6) The appropriate person may by regulations—
  - (a) make provision for what an authority is to do with its fixed-penalty receipts—
    - (i) pending their being used for the purposes of qualifying functions of the authority;
    - (ii) if they are not so used before such time after their receipt as may be specified by the regulations;
  - (b) make provision for accounting arrangements in respect of an authority’s fixed-penalty receipts.
- (7) The provision that may be made under subsection (6)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the appropriate person) other than the authority.
- (8) Before making regulations under this section, the appropriate person must consult—
  - (a) the authorities to which the regulations are to apply, and
  - (b) such other persons as the appropriate person considers appropriate.

#### Commencement Information

**I15** S. 119 in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))

VALID FROM 01/04/2004

#### **120 Regulation of cosmetic piercing and skin-colouring businesses**

- (1) Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (regulation of tattooing, ear-piercing and electrolysis businesses) is amended as follows.
- (2) In subsection (1) (requirement for person carrying on business to be registered), for paragraph (b) (ear-piercing) there is substituted—
  - “(aa) of semi-permanent skin-colouring;
  - (b) of cosmetic piercing; or”
 (and in the side-note for “ear-piercing” there is substituted “ semi-permanent skin-colouring, cosmetic piercing ”).
- (3) In subsection (2) (requirement to register premises where business carried on)—
  - (a) for “ear-piercing” there is substituted “ semi-permanent skin-colouring, cosmetic piercing ”, and
  - (b) for “pierce their ears” there is substituted “ carry out semi-permanent skin-colouring on them, pierce their bodies ”.

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- (4) In subsection (5) (local authority may not require particulars about individuals whose ears have been pierced etc.), for “or whose ears he has pierced” there is substituted “, whose bodies he has pierced or on whom he has carried out semi-permanent skin-colouring”.
- (5) After subsection (8) there is inserted—
- “(9) In this section “semi-permanent skin-colouring” means the insertion of semi-permanent colouring into a person’s skin.”
- (6) Schedule 6 (which makes provision about transition) has effect.

## 121 Fire brigade establishment schemes: removal of Secretary of State’s functions

The following provisions cease to have effect—

- (a) section 19(3) to (8) of the Fire Services Act 1947 (c. 41) (functions of Secretary of State in relation to fire brigade establishment schemes), and
- (b) paragraph (a) of section 7(2) of the Fire Services Act 1959 (c. 44) (approval by Secretary of State of establishment scheme for fire authority on its becoming, or becoming a successor to, a combined authority).

## 122 Repeal of prohibition on promotion of homosexuality

Section 2A of the Local Government Act 1986 (c. 10) (local authorities prohibited from promoting homosexuality) ceases to have effect.

# CHAPTER 2

## GENERAL

## 123 Orders and regulations

- (1) Any power to make orders or regulations under this Act includes power—
  - (a) to make different provision for different cases or areas, and
  - (b) to make incidental, supplementary, consequential or transitional provision or savings (including provision amending or repealing any enactment or instrument made under any enactment).
- (2) The power under subsection (1)(a) includes, in particular, power to make different provision for different local authorities or descriptions of local authority (including descriptions framed by reference to authorities in particular areas).
- (3) The generality of the power under subsection (1)(a) shall not be taken to be prejudiced by any specific provision of this Act authorising differential provision.
- (4) No—
  - (a) order under this Act which, in exercise of the power under subsection (1)(b) to make incidental or supplementary provision, amends or repeals any enactment contained in an Act, or
  - (b) regulations under this Act which, in exercise of that power to make incidental or supplementary provision, amend or repeal any such enactment,

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shall be made by the Secretary of State unless a draft of the statutory instrument containing the order or regulations (whether containing the order, or regulations, alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.

- (5) Any power to make orders or regulations under this Act is exercisable by statutory instrument.
- (6) A statutory instrument that—
- (a) contains an order or regulations under this Act, and
  - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to a statutory instrument containing an order or regulations made by the National Assembly for Wales.
- (8) This section does not apply to orders under section 128.

## 124 General interpretation

In this Act—

“appropriate person” means—

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the National Assembly for Wales;

“best value authority” means an authority or body which is a best value authority for the purposes of Part 1 of the Local Government Act 1999 (c. 27);

“financial year” means a period of 12 months beginning with 1st April;

“valuation tribunal” means a tribunal established under Schedule 11 to the Local Government Finance Act 1988 (c. 41).

## 125 Application to Isles of Scilly

Part 1 and sections 25 to 28 apply to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order provide.

### Commencement Information

**I16** S. 125 in force at 18.11.2003 for specified purposes by S.I. 2003/2938, art. 2(e) (with art. 8, Sch.)

## 126 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure under this Act of a Minister of the Crown or government department, and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received under this Act by a Minister of the Crown shall be paid into the Consolidated Fund.

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- (3) There shall be paid out of or into the Consolidated Fund any increase attributable to this Act in the sums payable out of or into that Fund under any other enactment.

#### Commencement Information

**I17** S. 126 in force at 18.11.2003 for E. by S.I. 2003/2938, **art. 3(a)** (with **art. 8, Sch.**)

### 127 Minor and consequential amendments and repeals

- (1) Schedule 7 (minor and consequential amendments) has effect.
- (2) The enactments and instruments specified in Schedule 8 are hereby repealed or revoked to the extent specified there.
- (3) The Secretary of State may by order make provision consequential on this Act amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act.
- (4) In this section, “Act” includes a private or local Act.

#### Commencement Information

- I18** S. 127 partly in force; s. 127(1)(2) in force for specified purposes at Royal Assent see s. 128(1)(b)(c); s. 127(1)(2) in force for specified purposes at 18.11.2003 see s. 128(2)(e)(f)
- I19** S. 127(1) in force at 18.11.2003 for specified purposes for E. by S.I. 2003/2938, **art. 3(e)** (with **art. 8, Sch.**)
- I20** S. 127(1) in force at 18.11.2003 for specified purposes by S.I. 2003/2938, **art. 2(f)** (with **art. 8, Sch.**)
- I21** S. 127(2) in force at 18.11.2003 for specified purposes for E. by S.I. 2003/2938, **art. 3(f)** (with **art. 8, Sch.**)
- I22** S. 127(2) in force at 18.11.2003 for specified purposes by S.I. 2003/2938, **art. 2(g)** (with **art. 8, Sch.**)
- I23** S. 127(3)(4) in force at 18.11.2003 for E. by S.I. 2003/2938, **art. 3(a)** (with **art. 8, Sch.**)

### 128 Commencement

- (1) The following provisions shall come into force on the day on which this Act is passed—
- (a) this section and sections 30, 34, 35, 72, 73, 103, 104, 110, 114, 121, 123, 124 and 129;
- (b) paragraphs 7, 9(1), 24(1), (2) and (5), 25(1), 28, 33(1), 34, 35, 40, 51(1), 55 and 60 of Schedule 7, and section 127(1) so far as relating thereto;
- (c) Schedule 8, so far as relating to—
- (i) the Fire Services Act 1947 (c. 41),
- (ii) the Fire Services Act 1959 (c. 44),
- (iii) Schedule 9 to the Local Government Finance Act 1988 (c. 41), and
- (iv) paragraph 80(1) of Schedule 13 to the Local Government Finance Act 1992 (c. 14),
- and section 127(2) so far as relating thereto.

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- (2) The following provisions shall come into force at the end of the period of two months beginning with the day on which this Act is passed—
- (a) Chapter 1 of Part 3;
  - (b) sections 38 and 39, so far as relating to England;
  - (c) Part 6, except sections 75(2) to (5) and 83;
  - (d) sections 87, 88, 91, 93 to 98, 113, 116 and 122;
  - (e) paragraphs 41 to 48, 49(a), 50(a), 52 to 54 and 81 of Schedule 7, and section 127(1) so far as relating thereto;
  - (f) Schedule 8, so far as relating to—
    - (i) section 2A of the Local Government Act 1986 (c. 10),
    - (ii) section 28 of the Local Government Act 1988 (c. 9),
    - (iii) Part 4 of Schedule 4 to the Local Government and Housing Act 1989 (c. 42),
    - (iv) section 25 of the Local Government Finance Act 1992,
    - (v) paragraphs 96 and 97 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19),
    - (vi) paragraph 5 of Schedule 1 to the Education Act 1996 (c. 56),
    - (vii) paragraph 13 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31),
    - (viii) section 31 of the Local Government Act 1999 (c. 27) and section 136(1) of the Greater London Authority Act 1999 (c. 29), and
    - (ix) section 104 of the Local Government Act 2000 (c. 22),
 and section 127(2) so far as relating thereto.
- (3) The following provisions shall come into force on such day as the Secretary of State may by order appoint—
- (a) sections 62(2) and (11), 65, 70(4) to (6), 83, 92(1), 99, 100(1), (2) and (4) to (8), 105 to 108, 109(3) and (4), 111, 112, 115 and 125;
  - (b) section 101, so far as relating to England and so far as relating to a best value authority in Wales mentioned in subsection (7) of that section;
  - (c) section 109(1), so far as relating to registered social landlords for which the Housing Corporation is the Relevant Authority for the purposes of Part 1 of the Housing Act 1996 (c. 52);
  - (d) Schedules 4 and 5;
  - (e) paragraphs 1, 10, 11, 20, 21, 24(3), 25(4) to (6), 26(3), 27, 31, 33(2) and (4), 36 to 39, 65, 68 to 78 and 80 of Schedule 7, and section 127(1) so far as relating thereto;
  - (f) Schedule 8, so far as consequential on any of the provisions mentioned in paragraphs (a) to (e), and section 127(2) so far as relating thereto.
- (4) The following provisions shall come into force on such day as the National Assembly for Wales may by order appoint—
- (a) sections 38 and 39, so far as relating to Wales;
  - (b) sections 40, 61(6) and (7), 63, 70(7) to (9), 75(2) to (5) and 92(2);
  - (c) section 101, so far as relating to a best value authority in Wales, other than one mentioned in subsection (7) of that section;

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- (d) section 109(1), so far as relating to registered social landlords for which the Assembly is the Relevant Authority for the purposes of Part 1 of the Housing Act 1996 (c. 52), and section 109(2);
  - (e) Schedule 2;
  - (f) paragraphs 5, 9(2), 12 to 17, 22, 24(4), 25(2) and (3), 49(b), 50(b), 51(2), 56 to 58, 66(2), 67 and 79 of Schedule 7, and section 127(1) so far as relating thereto;
  - (g) Schedule 8 so far as—
    - (i) relating to section 137(4C) of the Local Government Act 1972 (c. 70) and paragraph 30 of Schedule 15 to the Local Government (Wales) Act 1994 (c. 19), or
    - (ii) consequential on any of the provisions mentioned in paragraphs (a) to (f),and section 127(2) so far as relating thereto.
- (5) So far as relating to Scotland, sections 101 and 102 shall come into force on such day as the Scottish Ministers may by order appoint.
- (6) The remaining provisions of this Act—
- (a) so far as relating to England, shall come into force on such day as the Secretary of State may by order appoint, and
  - (b) so far as relating to Wales, shall come into force on such day as the National Assembly for Wales may by order appoint.
- (7) Power to make orders under this section is exercisable by statutory instrument.
- (8) Orders under this section may make different provision for different purposes.
- (9) A person who has power under this section to appoint a day for the coming into force of a provision may by order make in connection with the coming into force of that provision such transitional provision or saving as the person considers necessary or expedient.

## **129 Short title and extent**

- (1) This Act may be cited as the Local Government Act 2003.
- (2) Subject to the following provisions, this Act extends to England and Wales only.
- (3) Sections 83(2), 101 and 102 extend also to Scotland.
- (4) The following provisions extend also to Scotland, Northern Ireland and Gibraltar—
  - (a) sections 103, 104 and 128,
  - (b) this section, and
  - (c) paragraph 7(2) of Schedule 7, and section 127(1) so far as relating thereto.
- (5) Section 114 extends also—
  - (a) to Scotland, but only so far as (within the meaning of the Scotland Act 1998 (c. 46)) it confers or removes functions exercisable otherwise than in or as regards Scotland, and
  - (b) to Northern Ireland.
- (6) Each of sections 123 and 124, so far as relating to any other provision of this Act, has the same extent as that other provision.

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- (7) Except as provided by subsection (8), any amendment, repeal or revocation made by this Act has the same extent as the enactment or instrument to which it relates.
- (8) Subsection (7) does not apply to—
- (a) sections 85, 113(3), 114 and 121(a),
  - (b) paragraphs 8 and 53 of Schedule 7, and
  - (c) the entries in Schedule 8 relating to—
    - (i) the Fire Services Act 1947 (c. 41),
    - (ii) section 7(1) of the Fire Services Act 1959 (c. 44), and
    - (iii) section 33 of the Local Government Act 1988 (c. 9).



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