



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 [^{F1}relevant 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 [^{F2}relevant 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.

Status: Point in time view as at 01/04/2021.

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- (6) In carrying out functions under this section, a [^{F3}relevant 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),^{F4}...
 - (c) section 3(2) of the Local Government Act 2000 (c. 22) (well-being powers not to include power to raise money).
 - [^{F5}(d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities and combined authorities),
 - (e) section 102C(4) of that Act (Integrated Transport Authorities),
 - (f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), and
 - (g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities).]
- (8) In subsection (1), “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- [^{F6}(9) In this section, “relevant authority ” means—
- (a) a best value authority;
 - [^{F7}(aa) a county council or county borough council in Wales;]
 - [^{F8}(ab) the Passenger Transport Executive of an integrated transport area in England;]
 - [^{F9}(ac) a National Park authority for a National Park in Wales;]
 - (b) a parish council;
 - (c) a parish meeting of a parish which does not have a separate parish council; or
 - (d) a community council.]

Textual Amendments

- F1** Words in s. 93(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F2** Words in s. 93(5) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F3** Words in s. 93(6) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F4** Word in s. 93(7)(b) repealed (18.2.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 25 Pt. 3](#); S.I. 2012/411, art. 2(g)
- F5** S. 93(7)(d)-(g) inserted (18.2.2012) by [Localism Act 2011 \(c. 20\), ss. 14\(2\), 240\(2\)](#); S.I. 2012/411, art. 2(e)
- F6** S. 93(9) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(3\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F7** S. 93(9)(aa) substituted (20.3.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\), ss. 168\(2\)\(a\), 175\(3\)\(t\)](#)
- F8** S. 93(9)(ab) inserted (18.2.2012) by [Localism Act 2011 \(c. 20\), ss. 12\(4\), 240\(2\)](#); S.I. 2012/411, art. 2(e)

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F9 S. 93(9)(ac) inserted (20.3.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), **ss. 168(2)(b), 175(3)(t)**

Modifications etc. (not altering text)

- C1** S. 93(1) disappplied (23.12.2008) by Local Authorities (England) (Charges for Property Searches) (Disapplication) Order 2008 (S.I. 2008/2909), arts. 1(2), **3** (with art. 4)
- C2** S. 93(1) disappplied (3.3.2009) by Local Authorities (Charges for Property Searches) (Disapplication) (Wales) Order 2009 (No. 55), arts. 1(2), **3** (with art. 4)
- C3** S. 93(1) excluded (E.) (6.4.2015) by The Local Government (Prohibition of Charges at Household Waste Recycling Centres) (England) Order 2015 (S.I. 2015/619), arts. 1(2), **4** (with art. 5)

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 [^{F10} relevant authority] or particular [^{F11}relevant authorities];
 - (b) in relation to the provision of a particular kind of service by—
 - (i) all [^{F12}relevant authorities],
 - (ii) particular [^{F13}relevant authorities], or
 - (iii) particular descriptions of [^{F14} relevant authority].

(2) The power under subsection (1) includes power to disapply for a particular period.

[^{F15}(3) In this section, “relevant authority” has the meaning given in section 93.]

Textual Amendments

- F10** Words in s. 94(1)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 7 para. 3(4)(a); S.I. 2008/917, art. 2(1)(a)
- F11** Words in s. 94(1)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(b)**; S.I. 2008/917, art. 2(1)(a)
- F12** Words in s. 94(1)(b)(i) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(b)**; S.I. 2008/917, art. 2(1)(a)
- F13** Words in s. 94(1)(b)(ii) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(b)**; S.I. 2008/917, art. 2(1)(a)
- F14** Words in s. 94(1)(b)(iii) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(a)**; S.I. 2008/917, art. 2(1)(a)
- F15** S. 94(3) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(c)**; S.I. 2008/917, art. 2(1)(a)

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

- (1) The appropriate person may by order—
- (a) authorise [^{F16}relevant 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 [^{F17}relevant authority]—

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- (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 [^{F18}relevant authorities], particular [^{F18}relevant authorities] or particular descriptions of [^{F19}relevant 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).
- (5) A [^{F20}relevant 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—
- ^{F21}.....
- ^{F22}.....
- [^{F23}“relevant authority” means—
- (a) a best value authority, other than [^{F24}the Common Council of the City of London in its capacity as a police authority and]^{F25}... ;
- (aa) [^{F26}a county council or county borough council in Wales;]
- (ab) [^{F27}the Passenger Transport Executive of an integrated transport area in England;]
- (ac) [^{F28}a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;]
- (ad) [^{F29}a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;]
- (ae) [^{F29}a National Park authority for a National Park in Wales;]
- (b) a parish council;
- (c) a parish meeting of a parish which does not have a separate parish council; or
- (d) a community council.]
- “ordinary functions”, in relation to a [^{F30}relevant authority], means functions of the authority which are not functions under this section.

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Textual Amendments

- F16** Words in s. 95(1)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F17** Words in s. 95(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F18** Words in s. 95(3)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F19** Words in s. 95(3)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F20** Words in s. 95(5) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F21** Words in s. 95(7) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(c\), 18 Pt. 8](#); S.I. 2008/917, art. 2(1)(a)(i)(v)
- F22** Words in s. 95(7) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 320\(a\)](#); S.I. 2012/2892, art. 2(i)
- F23** Words in s. 95(7) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(d\)](#); S.I. 2008/917, art. 2(1)(a)
- F24** Words in s. 95(7) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 320\(b\)](#); S.I. 2012/2892, art. 2(i)
- F25** Words in s. 95(7) repealed (31.3.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 25 Pt. 32](#); S.I. 2012/628, art. 4(d)
- F26** Words in s. 95(7) substituted (1.4.2021) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\), regs. 1\(2\), 5\(5\)\(a\)](#)
- F27** Words in s. 95(7) inserted (18.2.2012) by [Localism Act 2011 \(c. 20\), ss. 12\(5\), 240\(2\)](#); S.I. 2012/411, art. 2(e)
- F28** Words in s. 95(7) 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. 83\(4\)](#); S.I. 2017/399, reg. 2, Sch. para. 38
- F29** Words in s. 95(7) inserted (1.4.2021) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\), regs. 1\(2\), 5\(5\)\(b\)](#)
- F30** Words in s. 95(7) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(5\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)

96 Regulation of trading powers

- (1) The appropriate person may by order impose conditions in relation to the exercise by a [^{F31}relevant authority] of—
- a power to do anything for a commercial purpose, or
 - 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 [^{F32}relevant 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—
- all [^{F33}relevant authorities],
 - particular [^{F34}relevant authorities], or
 - particular descriptions of [^{F35}relevant authority].

[^{F36}(4) In this section, “relevant authority” has the meaning given in section 95.]

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- (5) In subsection (1)(b), “company” has the same meaning as in Part 5 of the Local Government and Housing Act 1989.

Textual Amendments

- F31** Words in s. 96(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F32** Words in s. 96(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F33** Words in s. 96(3)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F34** Words in s. 96(3)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F35** Words in s. 96(3)(c) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F36** S. 96(4) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(c\)](#); S.I. 2008/917, art. 2(1)(a)

97 Power to modify enactments in connection with charging or trading

- (1) If it appears to the [^{F37}appropriate authority] that an enactment (whenever passed or made), other than section 93(2) or 95(2), prevents or obstructs [^{F38}relevant authorities]—
- charging by agreement for the provision of a discretionary service, or
 - doing for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions,
- [^{F39}the appropriate authority] may by order amend, repeal, revoke or disapply the enactment.
- (2) The [^{F40}appropriate authority] may by order amend, repeal, revoke or disapply an enactment (whenever passed or made), other than section 93, which makes in relation to a [^{F41}relevant 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—
- all [^{F42}relevant authorities],
 - particular [^{F43}relevant authorities], or
 - particular descriptions of [^{F44}relevant authority].
- (5) An order under subsection (1)(b) may be made in relation to—
- 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.
- (6) An order under subsection (1)(b) may not be used to authorise a [^{F45}relevant authority] to do in relation to a person anything which it is required to do in relation to him under its ordinary functions.

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F46(7A)

F46(7B)

F46(7C)

F47(8)

(9) Subject to subsection (10), no order shall be made [F48] by the Secretary of State] 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 [F49] by the Secretary of State] 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.

[F50(10A) Subject to subsection (10B), no order may be made by the Welsh Ministers under this section unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.

(10B) An order under this section which is made by the Welsh Ministers only for the purpose mentioned in subsection (10) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

(11) In this section—

[F51]“the appropriate authority” means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the Welsh Ministers;]

“discretionary service”, in relation to a [F52]relevant 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 [F52]relevant authority], means functions of the authority which are not functions under section 95.

[F53]“relevant authority” means—

(a) in relation to England—

(i) a best value authority in England;

(ii) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;

(iii) a parish council; or

(iv) a parish meeting of a parish which does not have a separate parish council; and

(b) [F54]in relation to Wales—

(i) a county council or county borough council in Wales;

(ii) a community council;

(iii) a National Park authority for a National Park in Wales;

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- (iv) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.]]

Textual Amendments

- F37** Words in s. 97(1) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(a)(i)**
- F38** Words in s. 97(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(a)
- F39** Words in s. 97(1) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(a)(ii)**
- F40** Words in s. 97(2) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(b)**
- F41** Words in s. 97(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F42** Words in s. 97(4)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(a)
- F43** Words in s. 97(4)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(a)
- F44** Words in s. 97(4)(c) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F45** Words in s. 97(6) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F46** S. 97(7A)-(7C) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(c)**
- F47** S. 97(8) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(c)**
- F48** Words in s. 97(9) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(d)**
- F49** Words in s. 97(10) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(e)**
- F50** S. 97(10A)(10B) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(f)**
- F51** Words in s. 97(11) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(g)(i)**
- F52** Words in s. 97(11) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F53** Words in s. 97(11) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(g)(ii)**
- F54** Words in s. 97(11) substituted (1.4.2021) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\)](#), regs. 1(2), **5(6)**

98 Procedure for orders under section 97^{F55}: England]

- (1) Before making an order under section 97, the Secretary of State shall consult—
- (a) such [^{F56}relevant 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.

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- (2) If following consultation under subsection (1)^{F57} ..., the Secretary of State proposes to make an order under [F58 section 97], 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, [F59 and]
 - (c) gives details of consultation under subsection (1),^{F60} ...
 - ^{F61}(d)
- (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).

[F62(8) In this section, “relevant authority” has the meaning given in section 97.]

Textual Amendments

- F55** Word in s. 98 heading inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(a)**
- F56** Words in s. 98(1)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(8)(a)**; S.I. 2008/917, art. 2(1)(a)
- F57** Words in s. 98(2) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(b)(i)**
- F58** Words in s. 98(2) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(b)(ii)**
- F59** Word in s. 98(2)(b) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(b)(iii)**
- F60** Word in s. 98(2)(c) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(b)(iv)**
- F61** S. 98(2)(d) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(b)(v)**
- F62** S. 98(8) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(8)(b)**; S.I. 2008/917, art. 2(1)(a)

Status: Point in time view as at 01/04/2021.

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[^{F63}98A. Procedure for orders under section 97: Wales

- (1) Before making an order under section 97, the Welsh Ministers must consult—
 - (a) such relevant authorities as appear to them to be likely to be affected by their proposals, and
 - (b) such other persons as appear to them to be representative of interests likely to be so affected.
- (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 97, they must lay before the National Assembly for Wales a document which—
 - (a) explains their proposals,
 - (b) sets them out in the form of a draft order, and
 - (c) gives details of the consultation under subsection (1).
- (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 97 to give effect to the proposals (with or without modification) may be laid before the Assembly 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 is to be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (5) In preparing a draft order under section 97 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).
- (6) A draft order laid before the National Assembly for Wales in accordance with section 97(10A) must be accompanied by a statement of the Welsh Ministers 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 the Assembly 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(10B).
- (8) In this section, “relevant authority” has the meaning given in section 97.]

Textual Amendments

F63 S. 98A inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(4)**

Performance categories

^{F64}99 Categorisation of English local authorities by reference to performance

.....

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Textual Amendments

- F64** S. 99 omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 53](#); [S.I. 2015/841](#), art. 3(x) (with [Sch. para. 9\(1\)](#)) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

100 Exercise of powers by reference to authorities' performance categories

^{F65}(1)

^{F65}(2)

- (3) Schedule 3 (which amends certain of the provisions conferring, or governing the exercise of, [^{F66}certain 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.

^{F67}(4)

^{F67}(5)

^{F67}(6)

^{F67}(7)

^{F67}(8)

Textual Amendments

- F65** S. 100(1)(2) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 54\(2\)](#); [S.I. 2015/841](#), art. 3(x) (with [Sch. para. 9\(2\)](#)) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)
- F66** Words in s. 100(3) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 54\(3\)](#); [S.I. 2015/841](#), art. 3(x) (with [Sch. para. 9\(2\)](#)) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)
- F67** S. 100(4)-(8) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 54\(4\)](#); [S.I. 2015/841](#), art. 3(x) (with [Sch. para. 9\(2\)](#)) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

Commencement Information

- I1** S. 100(1) (2)(4)-(8) in force at 18.11.2003 by [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8](#), [Sch.](#))
- I2** S. 100(3) in force at 18.11.2003 for E. by [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#))
- I3** S. 100(3) in force at 27.11.2003 for W. by [S.I. 2003/3034](#), art. 2, [Sch. 1 Pt. I](#)

Contracting-out

101 Staff transfer matters: general

- (1) In exercising a power to contract with a person for the provision of services, [^{F68a}relevant authority] must—
- (a) deal with matters affecting—
- (i) who will be the employer of existing staff if a contract is entered into and carried out, or

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- (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 [^{F69}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).
- ^{F70}(5A)
- (6) Directions given, or guidance issued, for the purposes of subsection (1) or (3)—
 - (a) may be addressed to—
 - (i) [^{F71}all relevant authorities], or
 - (ii) authorities of a particular description;
 - (b) may be different for different cases or authorities.
- ^{F72}(7)
- [^{F73}(7A) In this section, in relation to England and Wales, “ relevant authority ” means—
 - (a) a best value authority;
 - [^{F74}(aa) a county council or county borough council in Wales;]
 - [a National Park authority for a National Park in Wales;
 - ^{F75}(ab) (ac) a fire and rescue authority in Wales, constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;]
 - [a parish council;
 - ^{F75}(b) (c) a parish meeting of a parish which does not have a separate parish council; or
 - (d) a community council.]
- (8) In this section [^{F76}, in relation to Scotland]—
 - “appropriate person”^{F77} ... 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

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- (c) any other body to which Part 1 of the Local Government in Scotland Act 2003 (asp 1) (best value and accountability) applies.]

Textual Amendments

- F68** Words in s. 101(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(9\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F69** Words in s. 101(3) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(9\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F70** S. 101(5A) omitted (E.W.) (1.4.2021) by virtue of [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\), regs. 1\(2\), 5\(7\)\(a\)](#)
- F71** Words in s. 101(6)(a)(i) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(9\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F72** S. 101(7) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 321](#); S.I. 2012/2892, art. 2(i)
- F73** S. 101(7A) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(9\)\(c\)](#); S.I. 2008/917, art. 2(1)(a)
- F74** S. 101(7A)(aa) substituted (E.W.) (1.4.2021) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\), regs. 1\(2\), 5\(7\)\(b\)\(i\)](#)
- F75** S. 101(7A)(ab)(ac) inserted (E.W.) (1.4.2021) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\), regs. 1\(2\), 5\(7\)\(b\)\(ii\)](#)
- F76** Words in s. 101(8) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(9\)\(d\)\(i\)](#); S.I. 2008/917, art. 2(1)(a)
- F77** Words in s. 101(8) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(9\)\(d\)\(ii\), Sch. 18 Pt. 8](#); S.I. 2008/917, art. 2(1)(a)(i)(v)

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.](#))
- I5** S. 101 in force at 27.11.2003 so far as relating to a best value authority in W., other than one mentioned in s. 101(7) by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)

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—
- that require the contractor, in the event of there being any transferring employees, to secure pension protection for each of them, and
 - 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)—
- “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

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- (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 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

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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.

[^{F78}(7A) In this section, in relation to England, “local authority” means—

- (a) a county council in England, a district council, a London borough council, a parish council or a parish meeting of a parish which does not have a separate parish council;
- (b) the Council of the Isles of Scilly;
- (c) the Common Council of the City of London in its capacity as a local authority; and
- (d) the Greater London Authority so far as it exercises its functions through the Mayor.

(7B) In this section, in relation to Wales, “local authority” means a county council, county borough council or community council in Wales.]

(8) In this section [^{F79}, in relation to Scotland]—

“appropriate person”, ^{F80}... means the Scottish Ministers;
“local authority”—

- (a) ^{F81}
- (b) ^{F82}... means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

[^{F83}(9) In this section,]

“the TUPE regulations” means the [^{F84}Transfer of Undertakings (Protection of Employment) Regulations 2006], or any regulations replacing those regulations, as from time to time amended.

Textual Amendments

- F78** S. 102(7A)(7B) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 7 para. 3\(10\)](#); S.I. 2008/917, art. 2(1)(a)
- F79** Words in s. 102(8) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 7 para. 3\(11\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F80** Words in s. 102(8) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 7 para. 3\(11\)\(b\)](#), [18 Pt. 8](#); S.I. 2008/917, art. 2(1)(a)(i)(v)
- F81** Words in s. 102(8) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 7 para. 3\(11\)\(c\)\(i\)](#), [18 Pt. 8](#); S.I. 2008/917, art. 2(1)(a)(i)(v)
- F82** Words in s. 102(8) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 7 para. 3\(11\)\(c\)\(ii\)](#), [18 Pt. 8](#); S.I. 2008/917, art. 2(1)(a)(i)(v)
- F83** Words in s. 102(9) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 7 para. 3\(11\)\(d\)](#); S.I. 2008/917, art. 2(1)(a)
- F84** Words in s. 102 substituted (with application in accordance with reg. 21(1) of the amending S.I.) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006](#) (S.I. 2006/246), reg. 1(2), [Sch. 2 para. 1\(i\)](#)

Commencement Information

- I6** S. 102 in force at 27.11.2003 for W. by S.I. 2003/3034, art. 2, [Sch. 1 Pt. I](#)
- I7** S. 102 in force at 1.4.2004 for E. by S.I. 2003/2938, [art. 7\(a\)](#) (with art. 8, Sch.)

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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),
 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.

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- (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).

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).

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- (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 [^{F85}the Valuation Tribunal for England (referred to in this section and Schedule 4 as “the Tribunal”)]—
- (a) providing, or arranging for the provision of, the services required for the operation of [^{F86}the Tribunal], in particular—
 - (i) accommodation,
 - (ii) staff (including [^{F87}the clerk of the Tribunal]),
 - (iii) information technology,
 - (iv) equipment, and
 - (v) training for members and staff of [^{F88}the Tribunal (including the clerk of the Tribunal)];
 - [^{F89}(aa) making payments in accordance with paragraph A14 [^{F90}or A18A(8)] of Schedule 11 to the Local Government Finance Act 1988;]
 - (b) giving general advice about procedure in relation to proceedings before [^{F91}the Tribunal].
- (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 [^{F92}the Tribunal] in the manner which it considers best calculated to secure [^{F93}its] efficient and independent operation.
- (6) The Service shall, in relation to its functions with respect to [^{F94}the Tribunal], consult [^{F95}the President of the Tribunal] 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.

Textual Amendments

F85 Words in s. 105(2) substituted (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 16 para. 11\(2\)\(a\)](#); S.I. 2008/3110, art. 6(d)(ii)

Status: Point in time view as at 01/04/2021.

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- F86** Words in s. 105(2)(a) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(2)(b)**; S.I. 2008/3110, art. 6(d)(ii)
- F87** Words in s. 105(2)(a)(ii) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(2)(c)**; S.I. 2008/3110, art. 6(d)(ii)
- F88** Words in s. 105(2)(a)(v) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(2)(d)**; S.I. 2008/3110, art. 6(d)(ii)
- F89** S. 105(2)(aa) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(2)(e)**; S.I. 2008/917, art. 2(1)(aa)
- F90** Words in s. 105(2)(aa) inserted (31.10.2012) by Local Government Finance Act 2012 (c. 17), **Sch. 4 para. 10**
- F91** Words in s. 105(2)(b) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(2)(f)**; S.I. 2008/3110, art. 6(d)(ii)
- F92** Words in s. 105(5) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(3)(a)**; S.I. 2008/3110, art. 6(d)(ii)
- F93** Word in s. 105(5) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(3)(b)**; S.I. 2008/3110, art. 6(d)(ii)
- F94** Words in s. 105(6) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(4)(a)**; S.I. 2008/3110, art. 6(d)(ii)
- F95** Words in s. 105(6) substituted (1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 16 para. 11(4)(b)**; S.I. 2008/3110, art. 6(d)(ii)

Modifications etc. (not altering text)

- C4** S. 105(2) modified (temp.) (27.3.2008) by Local Government and Public Involvement in Health Act 2007 (Commencement No.5 and Transitional, Saving and Transitory Provision) Order 2008 (S.I. 2008/917), **art. 7(2)**

Commencement Information

- I8** S. 105(1)-(8) in force at 1.4.2004 by S.I. 2003/2938, **art. 6(a)** (with art. 8, Sch.)
- I9** S. 105(9) in force at 18.11.2003 for specified purposes by S.I. 2003/2938, **art. 2(c)** (with art. 8, Sch.)
- I10** S. 105(9) in force at 1.4.2004 in so far as not already in force by S.I. 2003/2938, **art. 6(a)** (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—
- such of his property, rights and liabilities, or
 - 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.

Commencement Information

- I11** S. 106 in force at 18.11.2003 by S.I. 2003/2938, **art. 2(a)** (with art. 8, Sch.)

Status: Point in time view as at 01/04/2021.

Changes to legislation: Local Government Act 2003, Chapter 1 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)

Audit Commission

^{F96}107 Auditors' public interest reports: time allowed for consideration

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Textual Amendments

F96 S. 107 repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 1 Pt. 2](#); [S.I. 2015/841](#), art. 3(a) (with arts. 5-8Sch.) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

^{F97}108 Auditors' public interest reports: publicity

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Textual Amendments

F97 S. 108 repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 1 Pt. 2](#); [S.I. 2015/841](#), art. 3(a) (with arts. 5-8Sch.) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

^{F98}109 Registered social landlords

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Textual Amendments

F98 S. 109 repealed (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 16](#); [S.I. 2010/862](#), art. 3 (with Sch.)

^{F99}110 Financial year

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Textual Amendments

F99 S. 110 repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 1 Pt. 2](#); [S.I. 2015/841](#), art. 3(a) (with arts. 5-8Sch.) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

^{F100}111 Delegation

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Textual Amendments

F100 S. 111 repealed (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 1 Pt. 2](#); [S.I. 2015/841](#), art. 3(a) (with arts. 5-8Sch.) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)

Status: Point in time view as at 01/04/2021.

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Other

F101 112 Standards Board for England: delegation

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Textual Amendments

F101 S. 112 repealed (1.7.2012 for specified purposes, 22.11.2012 for remaining purposes) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 25 Pt. 5](#); S.I. 2012/1463, [art. 5\(d\)](#) (with arts. 67) (as amended (3.7.2012) by S.I. 2012/1714, [art. 2](#)); S.I. 2012/2913, [arts. 1\(2\)](#), 2(c) (with arts. 5, 6)

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—

Status: Point in time view as at 01/04/2021.

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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—

Status: Point in time view as at 01/04/2021.

Changes to legislation: Local Government Act 2003, Chapter 1 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)

- “(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.

F102 115 Overview and scrutiny committees: voting rights of co-opted members

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Status: Point in time view as at 01/04/2021.

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Textual Amendments

F102 S. 115 repealed (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 25 Pt. 4](#); S.I. 2012/1008, art. 4(c)

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
 - (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.

Modifications etc. (not altering text)

C5 S. 116 modified (E.) (7.4.2020) by [The Local Government and Police and Crime Commissioner \(Coronavirus\) \(Postponement of Elections and Referendums\) \(England and Wales\) Regulations 2020 \(S.I. 2020/395\)](#), regs. 1, **11**

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.

Status: Point in time view as at 01/04/2021.

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- (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.

Commencement Information

I12 S. 117 in force at 18.11.2003 for E. by S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

I13 S. 117 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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.

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- (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.
 - (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.”

Commencement Information

I14 S. 118 in force at 27.11.2003 for W. by S.I. 2003/3034, art. 2, Sch. 1 Pt. I

Status: Point in time view as at 01/04/2021.

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I15 S. 118 in force at 1.4.2004 for E. by S.I. 2003/2938, **art. 7(a)** (with **art. 8, Sch.**)

F103 119 Use of fixed penalties paid for litter and dog-fouling offences

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Textual Amendments

F103 S. 119 repealed (6.4.2006 for E., 15.3.2007 (being the date on which S.I. 2007/739 came into force) for W.) by **Clean Neighbourhoods and Environment Act 2005 (c. 16)**, s. 108(1)(2), **Sch. 5 Pt. 9**; S.I. 2006/795, **art. 2(3)**, **Sch. 2** (with **art. 4**); S.I. 2006/2797, **art. 4(pp)**

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 ”.
- (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.

Commencement Information

I16 S. 120 in force at 1.4.2004 for W. by S.I. 2003/3034, **art. 2, Sch. 1 Pt. II**
I17 S. 120 in force at 1.4.2004 for E. by S.I. 2003/2938, **art. 7(a)** (with **art. 8, Sch.**)

F104 121 Fire brigade establishment schemes: removal of Secretary of State’s functions

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Status: Point in time view as at 01/04/2021.

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Textual Amendments

F104 S. 121 repealed (1.10.2004 except in relation to W. otherwise 10.11.2004) by [Fire and Rescue Services Act 2004 \(c. 21\), s. 61, Sch. 2](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

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.

Status:

Point in time view as at 01/04/2021.

Changes to legislation:

Local Government Act 2003, Chapter 1 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.