



Local Government Act 2003

2003 CHAPTER 26

PART 8 U.K.

MISCELLANEOUS AND GENERAL

CHAPTER 1 U.K.

MISCELLANEOUS

Charging and trading

97 Power to modify enactments in connection with charging or trading E+W

- (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 [^{F1}relevant 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 [^{F2}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—
 - (a) all [^{F3}relevant authorities],
 - (b) particular [^{F4}relevant authorities], or
 - (c) particular descriptions of [^{F5}relevant authority].

Status: Point in time view as at 01/04/2010. This version of this provision has been superseded.

Changes to legislation: Local Government Act 2003, Section 97 is up to date with all changes known to be in force on or before 07 September 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)

- (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 [^{F6}relevant authority] to do in relation to a person anything which it is required to do in relation to him under its ordinary functions.

[^{F7}(7A) In exercising a power under subsection (1) or (2), the Secretary of State must not make provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.

- (7B) In exercising a power under subsection (1) or (2), the Secretary of State—
- (a) must not amend, or repeal or disapply, Measures or Acts of the National Assembly for Wales without the consent of the National Assembly for Wales;
 - (b) must not amend, or revoke or disapply, subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.

(7C) Subsection (7B) does not apply to the extent that the Secretary of State is making incidental or consequential provision.]

- (8) The [^{F8}Welsh Ministers] 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.

(11) In this section—

“discretionary service”, in relation to a [^{F9}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 [^{F9}relevant authority], means functions of the authority which are not functions under section 95.

[^{F10} “ relevant authority ” means—

- ((a)) a best value authority;
- ((aa)) [^{F11}a Welsh improvement authority;]
- ((b)) a parish council;

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- ((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. 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)
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** S. 97(7A)-(7C) substituted for (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 141(2)(a)**, 245(2)
- F8** Words in s. 97(8) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 141(2)(b)**, 245(2)
- F9** 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)
- F10** Words in s. 97(11) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(7)(c)**; S.I. 2008/917, art. 2(1)(a)
- F11** Words in s. 97(11) inserted (1.4.2010) by Local Government (Wales) Measure 2009 (nawm 2), s. 53(2), **Sch. 1 para. 29**; S.I. 2009/3272, art. 3(1), Sch. 2

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