



# Local Government Act 1972

## 1972 CHAPTER 70

### PART IX

#### FUNCTIONS

##### *General*

#### **179 General provision for transfer of functions.**

- (1) Subsections (2) to (4) below shall have effect for the purpose of adapting the provisions of—
- (a) public general Acts passed before, or during the same session as, this Act; and
  - (b) instruments made before the passing of this Act under public general Acts, being instruments of a legislative character and not being instruments in the nature of local enactments;

and, in particular, for the purpose of providing for the exercise of functions conferred by such provisions, but those subsections shall have effect subject to any provision to the contrary made by, or by any instrument made under, this Act and shall be without prejudice to any express provision so made.

- (2) In any such provision any reference to an administrative county or its council, or any reference which is to be construed as such a reference, shall, except where it is a reference to a specified county or council or is to be construed as such, be construed as a reference to a new county or its council, as the case may be.
- (3) In any such provision any reference to an urban district (whether as such or as a district or county district) or to the council of such a district, or any reference which is to be construed as such a reference, shall, except where it is a reference to a specified district or council or is to be construed as such, be construed as a reference to a new district or its council, as the case may be.
- (4) In any such provision any reference to a rural parish (whether as such or as a parish) or the council or meeting of such a parish, or any reference which is to be construed

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as such a reference, shall, except where it is a reference to a specified parish or its council or meeting, be construed—

- (a) as respects England, as a reference to a parish or, as the case may be, its council or meeting; and
- (b) as respects Wales, as a reference to a community or, as the case may be, its council, if any.

*The environment*

**180 Public health.**

- (1) For the purposes of the enactments to which this section applies, the local authority and sanitary authority (whether urban or not) shall—
  - (a) for a district, be the district council;
  - (b) for a London borough, be the borough council;
  - (c) for the City, be the Common Council;
  - (d) for the Inner Temple and Middle Temple, be the Sub-Treasurer and the Under Treasurer thereof respectively;
  - [<sup>F1</sup>(e) for a Welsh county or county borough, be the county council or county borough council;]

but the foregoing provision shall have effect subject to the other provisions of this Act and, in particular, to Schedule 14 to this Act and, as respects any area in Greater London, to Part I of Schedule 11 to the 1963 Act.

- (2) The <sup>M1</sup>Public Health Act 1936 shall have effect subject to the amendments and modifications specified in Part I of Schedule 14 to this Act and Part II of that Schedule shall have effect for making amendments and modifications to other enactments relating to public health, building control, public parks, lighting and related matters.
- (3) This section applies to the following enactments:—
  - (a) the Public Health Acts 1875 to 1925;
  - [<sup>F2</sup>(b) the <sup>M2</sup>Alkali, &c. Works Regulation Act 1906;]
  - (c) the <sup>M3</sup>Public Health Act 1936, except so much of it as falls within section 181(1) or (2) below;
  - [<sup>F3</sup>(d) section 8 of the <sup>M4</sup>Local Government (Miscellaneous Provisions) Act 1953;]
  - (e) Part XIII of the <sup>M5</sup>Mines and Quarries Act 1954;
  - <sup>F4</sup>(f) .....
  - [<sup>F3</sup>(g) section 1 of the <sup>M6</sup>Noise Abatement Act 1960;]
  - (h) the <sup>M7</sup>Public Health Act 1961, except so much of it as falls within section 181(2) below;
  - <sup>F5</sup>(i) .....
  - <sup>F6</sup>(j) .....
  - (k) section 6 of the <sup>M8</sup>Chronically Sick and Disabled Persons Act 1970.

- (4) Expressions used in this section and Schedule 14 to this Act and in the <sup>M9</sup>Public Health Act 1936 shall, except so far as the context otherwise requires, have the same meanings respectively in this section and that Schedule as they have in that Act.

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#### Textual Amendments

- F1** S. 180(1) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 35** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F2** S. 180(3)(b) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. I**
- F3** S. 180(3)(d)(g) repealed (*prosp.*) by Control of Pollution Act 1974 (c. 40), s. 109(2), **Sch. 4**
- F4** S. 180(3)(f) repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), **Sch. 6**.
- F5** S. 180(3)(i) repealed by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, **Sch. 3**
- F6** S. 180(3)(j) repealed by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. III**

#### Marginal Citations

- M1** 1936 c. 49.
- M2** 1906 c. 14.
- M3** 1936 c. 49.
- M4** 1953 c. 26.
- M5** 1954 c. 70.
- M6** 1960 c. 68.
- M7** 1961 c. 64.
- M8** 1970 c. 44.
- M9** 1936 c. 49.

### 181 Water and sewerage.

(1) For the purposes of the following enactments, that is to say—

- (a) Part IV of the <sup>M10</sup>Public Health Act 1936 and Part XII of that Act, so far as relating to the said Part IV;
- (b) the <sup>M11</sup>Rural Water Supplies and Sewerage Act 1944, so far as relating to water;
- (c) section 12 of the <sup>M12</sup>Local Government (Miscellaneous Provisions) Act 1953;
- (d) the <sup>M13</sup>Water Acts 1945 <sup>M14</sup> and 1948 and the <sup>M15</sup>Water Act 1958;

the local authority shall, for any district, be the district council, and for any London borough, be the borough council [<sup>F7</sup>and for any principal area in Wales, be the principal council].

(2) For the purposes of the following enactments, that is to say—

- (a) [<sup>F8</sup>sections 15, 17–24, 27, 29–34, 36 and 42] of the <sup>M16</sup>Public Health Act 1936 and sections 90 and Part XII of that Act, so far as relating to those sections;
- (b) the <sup>M17</sup>Public Health (Drainage of Trade Premises) Act 1937;
- (c) the <sup>M18</sup>Rural Water Supplies and Sewerage Act 1944, so far as relating to sewerage and the disposal of sewage;
- (d) section 13 of the <sup>M19</sup>Local Government (Miscellaneous Provisions) Act 1953;
- (e) sections 12 to 15 and Part V of, and Schedule 2 to, the <sup>M20</sup>Public Health Act 1961;

the local authority shall for any area outside Greater London be the district council.

<sup>F9</sup>(3) .....

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- (9) An order under section 6 of the <sup>M21</sup>Public Health Act 1936 or under subsection (3) above or an order amending any such order may confer on a joint board constituted for the exercise of sewerage functions any of the sewerage functions of the constituent members and may confer such functions—
  - (a) subject to any limitation or condition specified in the order (whether or not the limitation or condition applies to the discharge of the functions by the constituent member); or
  - (b) free from any limitation or condition so specified which applies to the discharge of those functions by the constituent member.
- <sup>X1</sup>(10) Schedule 15 to this Act shall have effect for making amendments and modifications to the enactments relating to water and sewerage.
- (11) In this section—
  - “sewerage functions” means functions under any of the enactments mentioned in subsection (2) above; and

F10

**Editorial Information**

**X1** The text of ss. 181(10), 186(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Textual Amendments**

**F7** Words in s. 181(1) added (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 36** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

**F8** Words substituted by **Building Act 1984** (c. 55, SIF 15), ss. 133, 135, **Sch. 6 para. 14**

**F9** Ss. 177(1)(b), 181(3)–(8) repealed by **Water Act 1973** (c. 37), **Sch. 9**

**F10** Definition repealed by **Local Government Act 1985** (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

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**Marginal Citations**

**M10** 1936 c. 49.  
**M11** 1944 c. 26.  
**M12** 1953 c. 26.  
**M13** 1945 c. 42.  
**M14** 1948 c. 22.  
**M15** 1958 c. 67.  
**M16** 1936 c. 49.  
**M17** 1937 c. 40.  
**M18** 1944 c. 26.  
**M19** 1953 c. 26.  
**M20** 1961 c. 64.  
**M21** 1936 c. 49.

**182 Town and Country Planning.**

<sup>F11</sup>(1) .....

<sup>F12</sup>(2) .....

(3) In that Schedule—

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- <sup>F12</sup>(a) .....
- (b) Part II shall have effect with respect to the exercise by such authorities of functions under other enactments relating to town and country planning and for making minor amendments and modifications of such other enactments; and
- <sup>F12</sup>(c) .....
- <sup>F12</sup>(4) .....

**Textual Amendments**

- F11** S. 182(1) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)
- F12** S. 182(2)(3)(a)(c)(4)–(6) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1,2\), s. 3, Sch.1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

<sup>F13</sup>**183** .....

**Textual Amendments**

- F13** S. 183 repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1,2\), s. 3, Sch. 1 Pt. I, Sch. 3 paras. 1, 2, 4, 6](#)

**184 National Park and countryside functions.**

- [<sup>F14</sup>(1) The functions conferred on a local planning authority by or under the National Parks and Access to the <sup>M22</sup>Countryside Act 1949 and the <sup>M23</sup>Countryside Act 1968 shall—
  - (a) as respects England elsewhere than in the metropolitan counties, Greater London and the Isles of Scilly, be exercisable in accordance with the following provisions of this section; and
  - (b) as respects Wales, be exercisable in accordance with [<sup>F15</sup>subsections (7) and (8) below].]
- (2) The following of the said functions, that is to say those conferred by—
  - (a) Part II and sections 61, 62, 63, 78, 90(5), 92 (so far as relating to parking places in a National Park), 99(3) and 101(3) of the said Act of 1949; and
  - (b) sections 12(5), 13 and 14 of the said Act of 1968;shall, subject to subsection (3) below <sup>F16</sup>. . ., be functions of the county planning authority.
- (3) The functions of a local planning authority under [<sup>F17</sup>section 9] of the said Act of 1949 shall as respects any area outside a National Park be exercisable both by county planning authorities and district planning authorities.
- (4) All other functions conferred by or under any other provision of the said Acts of 1949 and 1968 on a local planning authority shall, <sup>F18</sup>. . ., be exercisable both by county planning authorities and district planning authorities.
- (5) References in the said Acts of 1949 and 1968 to a local planning authority shall be construed accordingly.

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F19(6) .....

(7) Sections 27 to 38 of the said Act of 1949 and Parts II to IV of Schedule 3 to the said Act of 1968 (survey of public paths, etc.) shall have effect subject to the modifications specified in Part II of the said Schedule 17 and those Acts shall have effect subject to the further modifications specified in Part III of that Schedule.

(8) In that Schedule “the 1949 Act” and “the 1968 Act” mean the said Acts of 1949 and 1968 respectively.

#### Textual Amendments

**F14** S. 184(1) substituted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 para. 1** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

**F15** Words in s. 184(1)(b) substituted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 10(2)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

**F16** Words in s. 184(2) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

**F17** Words in s. 184(3) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 10(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

**F18** Words in s. 184(4) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

**F19** S. 184(6) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

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

**C1** S. 184 excluded (19.9.1995) by 1995 c. 25, **ss. 68(1), 125(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

**M22** 1949 c. 97.

**M23** 1968 c. 41.

## 185 Town development.

(1) In the <sup>M24</sup>Town Development Act 1952 (in this section referred to as “the principal Act”) in section 1(1) (which defines the term “town development” as applying to development in a county district, the provision of which will relieve congestion or over-population elsewhere) for the word “elsewhere” there shall be substituted the words “ outside the county comprising the district or districts in which the development is carried out ”.

F20(2) .....

(4) The principal Act shall have effect subject to the amendments specified in Schedule 18 to this Act, being—

- (a) amendments consequential on this Part of this Act, and
- (b) amendments incorporating provisions of section 34 of the <sup>M25</sup>Housing Act 1961 and subsections (1) and (2) of section 61 of the <sup>M26</sup>London Government Act 1963 (modification of principal Act in relation to counties and to Greater London).

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- (5) Notwithstanding anything in subsection (1) above, any development carried out after the date on which that subsection comes into force as part of a scheme begun before that date, being a scheme of town development within the meaning of the principal Act as then in force, shall be treated as town development for the purposes of that Act.

#### Textual Amendments

**F20** S. 185(2)(3) repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 194, [Sch. 34 Pt. XIV](#)

#### Marginal Citations

**M24** 1952 c. 54.  
**M25** 1961 c. 65.  
**M26** 1963 c. 33.

### 186 Traffic and transportation functions.

- <sup>F21</sup>(1) .....
- <sup>F22</sup>(2) .....
- <sup>F23</sup>(3) .....
- <sup>F21</sup>(4) .....
- <sup>F24</sup>(5) .....

- (6) So much of section 6 of the <sup>M27</sup>Transport Charges &c. (Miscellaneous Provisions) Act 1954 as requires the making of an order by the Secretary of State for the revision of any charges in connection with a ferry undertaking shall cease to have effect in relation to an undertaking operated by a local authority or a Passenger Transport Executive, and accordingly a local authority or Passenger Transport Executive operating any such ferry undertaking as is referred to in subsection (1)(c) of that section—

(a) may from time to time make such revision of any of the charges which they are authorised to demand in connection with the undertaking as seems to them appropriate; and

(b) may, if they think fit, determine that any such charges shall no longer be made; and so much of section 1(2) of the <sup>M28</sup>Ferries (Acquisition by Local Authorities) Act 1919 as requires the approval of the Secretary of State to any scale of tolls fixed by a local authority or to a determination by a local authority to free a ferry from tolls shall cease to have effect.

- (7) In subsection (6) above, “local authority” includes any existing county borough or county district council and the Common Council.

#### Textual Amendments

**F21** S. 186(1)(4) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. XV](#) Gp. 1.  
**F22** S. 186(2) repealed by [Refuse Disposal \(Amenity\) Act 1978 \(c. 3, SIF 100:3\)](#), s. 12, [Sch. 2](#)  
**F23** S. 186(3) repealed by [Transport Act 1980 \(c. 34, SIF 107:1\)](#), s. 69, [Sch. 9 Pt. I](#)  
**F24** S. 186(5) repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(3), [Sch. 8](#)

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**Marginal Citations**

- M27 1954 c. 64.
- M28 1919 c. 75.

**187 Local highway authorities and maintenance powers of district councils.**

<sup>F25</sup>(1) .....

(3) With respect to footpaths [<sup>F26</sup>, bridleways and restricted byways] within their area a district council [<sup>F27</sup>or, where they are not the highway authority, a Welsh principal council] shall have—

(a) the like powers as a highway authority under section 57(3) of the National Parks and Access to the <sup>M29</sup>Countryside Act 1949 (prosecution of offences of displaying on footpaths notices deterring public use), and

<sup>F25</sup>(b) .....

[<sup>F28</sup>(3A) “Restricted byway“ has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000.]

<sup>F25</sup>(4) .....

**Textual Amendments**

- F25** S. 187(1)(2)(3)(b)(4)–(8) repealed by Highways Act 1980 (c. 66, SIF 59), s. 343(3), **Sch. 25**
- F26** Words in s. 187(3) substituted (2.5.2006 for E., 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2(2), **Sch. Pt. 1**; S.I. 2006/1172; S.I. 2006/1279
- F27** Words in s. 187(3) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 37** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F28** S. 187(3A) inserted (2.5.2006 for E., 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2(2), **Sch. Pt. 1**; S.I. 2006/1172; S.I. 2006/1279

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

- C2** S. 187 applied (2.5.2006 for E., 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2(1), **Sch. Pt. 1**; S.I. 2006/1172; S.I. 2006/1279

**Marginal Citations**

- M29 1949 c. 97.

<sup>F29</sup>**188** .....

**Textual Amendments**

- F29** S. 188 repealed by Highways Act 1980 (c. 66, SIF 59), s. 343(3), **Sch. 25**



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## 189 Commons.

- (1) <sup>F30</sup> .....
- (2) <sup>F30</sup> .....
- (3) The references in section 12 of the <sup>M30</sup>Inclosure Act 1857 (prevention of nuisances in town and village greens, etc.) to a churchwarden or overseer of the parish in which the town or village green or land is situated shall be construed—
- (a) with respect to a green or land in a parish, as references to the parish council, or, where there is no parish council, the parish meeting;
  - (b) with respect to a green or land in a community where there is a community council, as references to the community council;
  - (c) with respect to any other green or land, as references to the council of the district [<sup>F31</sup>or Welsh principal area] in which the green or land is situated;
- and where those references fall to be construed in accordance with paragraph (c) above, the reference in the said section 12 to highways in the parish shall be construed as a reference to highways in the district [<sup>F32</sup>or (as the case may be) area].
- <sup>X2</sup>(4) In section 193(1) of the <sup>M31</sup> Law of Property Act 1925 (right of the public over certain commons, including those situated within a borough or urban district) after the words “situated within” there shall be inserted the words “ an area which immediately before 1st April 1974 was ”.

### Editorial Information

- X2** The text of s. 189(2)(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Textual Amendments

- F30** S. 189(1)(2) repealed (1.10.2006 for E and 6.9.2007 for W.) by [Commons Act 2006 \(c. 26\)](#), ss. 53, 56, [Sch. 6 Pt. 1](#) (with s. 60); S.I. 2006/2504, [art. 2\(h\)](#); S.I. 2007/2386, [art. 3\(p\)\(ii\)](#)
- F31** Words in s. 189(3)(c) inserted (1.4.1996) by 1994 c. 19, s. 66(5), [Sch. 15 para. 38\(a\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 4, [Sch. 2](#)
- F32** Words in s. 189(3) inserted (1.4.1996) by 1994 c. 19, s. 66(5), [Sch. 15 para. 38\(b\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 4, [Sch. 2](#)

### Marginal Citations

- M30** 1857 c. 31.  
**M31** 1925 c 20.

## 190 Sites for gipsy encampments.

<sup>F33</sup> .....

### Textual Amendments

- F33** S. 190 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), s. [1\(1\)](#), {[Sch. 1 Pt. 10 Group 1](#)}

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**191 Ordnance survey.**

- (1) In its application outside Greater London, the <sup>M32</sup>Ordnance Survey Act 1841 (in this section referred to as “the 1841 Act”) shall have effect subject to the following modifications.
- (2) An application under section 1 of the 1841 Act shall be sent to the proper officer of either a county council or a district council [<sup>F34</sup>(or, in Wales, a principal council)] and, where such an application is made, the function of appointing a person to assist in examining, ascertaining and marking out reputed boundaries shall be exercisable by the council to whose proper officer the application was sent.
- <sup>F35</sup>(3) .....
- (4) References, in whatever terms, in the 1841 Act—
  - (a) to the justices by whom a person is appointed under section 1 of that Act shall be construed as references to the county council or the district council, as the case may require [<sup>F34</sup>or, in Wales, the principal council)], and
  - (b) to the clerk of the peace for a county shall be construed as references to the proper officer of the county council or the district council as the case may require [<sup>F34</sup>(or, in Wales, the principal council)].
- (5) <sup>F36</sup> . . . References in that Act to a county include references to any [<sup>F37</sup>preserved county or] local government area within the meaning of this Act.

**Textual Amendments**

**F34** Words in s. 191(2)(4)(a)(b) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 39(a)(b)(c)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

**F35** S. 191(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Gp. 1.

**F36** Words in s. 191(5) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 10 Group 1}

**F37** Words in s. 191(5) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 39(d)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

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**Marginal Citations**

**M32** 1841 c. 30.

*Education, social and welfare services*

<sup>F38</sup>**192** .....

**Textual Amendments**

**F38** S. 192 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39 paras. 5, 6, 8, 30, 39, 50)

<sup>F39</sup>**193**, .....  
**194.**

*Status: Point in time view as at 01/01/2007.*

*Changes to legislation: Local Government Act 1972, Part IX is up to date with all changes known to be in force on or before 26 July 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)*

### Textual Amendments

**F39** Ss. 193, 194 repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 67, SIF 61\)](#), ss. 3, 6, **Sch. 1 Pt. 1**

## 195 Social services functions.

- (1) Outside Greater London, the local authorities for the purposes of the <sup>M33</sup>Local Authority Social Services Act 1970 (in this section referred to as “the Act of 1970”) shall be the councils of non-metropolitan counties and the councils of metropolitan districts; and accordingly in section 1 of that Act for the words “counties, county boroughs” there shall be substituted the words “ non-metropolitan counties, metropolitan districts ”.
- (2) In a non-metropolitan county [<sup>F40</sup>in England] each district council and the county council shall from time to time consult together with respect to the nature and extent of the accommodation needed for people who by reason of infirmity or disability (whether arising from age or otherwise) are in need of accommodation of a special character.
- (3) The following proposals and schemes, so far as in force immediately before 1st April 1974, that is to say,—
  - (a) proposals approved under section 20 of the <sup>M34</sup>National Health Service Act 1946 relating to the duties of local health authorities under section 22 of that Act (care of mothers and young children) or under section 12 of the <sup>M35</sup>Health Services and Public Health Act 1968 (prophylaxis, care and after-care), and
  - (b) schemes approved under section 34 of the <sup>M36</sup>National Assistance Act 1948 (relating to the provision of accommodation, the welfare of handicapped persons and the employment of disabled persons),shall cease to have effect; and the local authorities who, by virtue of section 1 of the Act of 1970, <sup>F41</sup> . . ., are the local authorities for the purposes of that Act may, with the approval of the Secretary of State, and to such extent as he may direct shall, make arrangements for carrying out the functions to which those proposals and schemes formerly related.
- (4) Any delegation scheme under section 46 of the <sup>M37</sup>Local Government Act 1958 (relating to health and welfare functions) which is in force immediately before 1st April 1974 shall cease to have effect.
- (5) Any scheme or regional plan made by a children’s regional planning committee under the <sup>M38</sup>Children and Young Persons Act 1969 and in force immediately before 1st April 1974 shall, subject to the provisions of that Act, continue in force with such modifications as may be necessary to take account of the replacement of the existing local authorities by the new authorities.
- (6) The enactments specified in Schedule 23 to this Act, being enactments conferring social services functions on local authorities in varying capacities, shall have effect subject to the amendments specified in that Schedule, being amendments designed—
  - (a) to vest those functions in the local authorities who, by virtue of section 1 of the Act of 1970, as amended by subsection (1) above, are the local authorities for the purposes of that Act; and
  - (b) to give effect to subsection (3) above, as it affects those authorities.

*Status: Point in time view as at 01/01/2007.*

*Changes to legislation: Local Government Act 1972, Part IX is up to date with all changes known to be in force on or before 26 July 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)*

[<sup>F42</sup>(7) In section 64(1) of the <sup>M39</sup>National Assistance Act 1948 (interpretation), in the definition of “local authority”, the words “county borough” shall be omitted and, after word “district”, there shall be inserted the words “ or London borough or the Common Council of the City of London ”.]

**Textual Amendments**

- F40** Words in s. 195(2) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 40(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F41** Words in s. 195(3) repealed (1.4.1996) by 1994 c. 19, s. 66(5)(8), Sch. 15 para. 40(b), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F42** S. 195(7) added (*retrospectively*) by Health Services Act 1980 (c. 53, SIF 113:2), s. 23

**Marginal Citations**

- M33** 1970 c. 42.
- M34** 1946 c. 81.
- M35** 1968 c. 46.
- M36** 1948 c. 29.
- M37** 1958 c. 55.
- M38** 1969 c. 54.
- M39** 1948 c.29(81:3).

*Miscellaneous functions*

<sup>F43</sup>196 .....

**Textual Amendments**

- F43** S. 196 repealed (22.8.1996) by 1996 c. 16, ss. 103(3), 104(1), **Sch. 9 Pt. I**

**197 Fire services.**

- (1) <sup>F44</sup> .....
- (2) <sup>F44</sup> .....
- (3) <sup>F44</sup> .....
- <sup>F45</sup>(4) .....

<sup>X3</sup>(5) In section 10 of the <sup>M40</sup> Fire Services Act 1947, as amended by Schedule 8 to the <sup>M41</sup> Local Government Act 1958 (power to make schemes in advance of alterations of local government areas) for the words from the beginning to “combined authorities” there shall be substituted the words “ If an order is made under Part IV of the Local Government Act 1972 constituting any area as a new county or altering the area of a county ”<sup>F46</sup> . . .

*Status: Point in time view as at 01/01/2007.*

*Changes to legislation: Local Government Act 1972, Part IX is up to date with all changes known to be in force on or before 26 July 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)*

**Editorial Information**

**X3** The text of s. 197(1)(5) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F44** S. 197(1)-(3) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 10 Group 1}

**F45** S. 197(4) repealed by Local Government Finance Act 1982 (c. 32, SIF 81:1), s. 38, Sch. 6 Pt. IV

**F46** Words in s. 197(5) repealed (31.10.1992) by Local Government Act 1992 (c. 19), s. 29(2), Sch. 4 Pt. II; S.I. 1992/2371, art. 2

**Marginal Citations**

**M40** 1974 c. 41.

**M41** 1958 c. 55.

<sup>F47</sup> **198,** .....  
**199.**

**Textual Amendments**

**F47** Ss. 198, 199 repealed by Food Act 1984 (c. 30, SIF 53:1), ss. 134, 136, Sch. 11

<sup>F48</sup> **200** .....

**Textual Amendments**

**F48** S. 200 repealed (1.4.1996) by 1994 c. 19, s. 66(8), Sch. 18 (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, Sch. 2

<sup>F49</sup> **201** .....

**Textual Amendments**

**F49** S. 201 repealed by Weights and Measures Act 1985 (c. 72, SIF 131), ss. 95, 98, Sch. 10 para. 1(j), Sch. 13

**202 Public transport in passenger transport areas.**

<sup>F50</sup> (1) .....

(2) <sup>F51</sup> . . . , Part II of the <sup>M42</sup> Transport Act 1968 shall have effect in its application to England and Wales subject to the amendments specified in Part I of Schedule 24 to this Act, being amendments—

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- (a) to assimilate in certain respects the provisions of the said Part II to those of Part II of the <sup>M43</sup>Transport (London) Act 1969;
  - (b) to make further provision with respect to the control of a Passenger Transport Executive by the Passenger Transport Authority; and
  - (c) to remove, or to transfer to the Passenger Transport Authority, certain functions originally conferred on the Secretary of State.
- (3) <sup>F52</sup> .....
- <sup>F53</sup>(4) .....
- (8) Expressions used in this section have the same meanings as in the <sup>M44</sup>Transport Act 1968.

**Textual Amendments**

**F50** S. 202(1) repealed (6.1.1986) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 24, **Sch. 8**; S.I. 1985/1887, art. 3(1), **Sch.**, Appendix

**F51** Words repealed (1.4.1986) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**; S.I. 1986/414, art. 2, **Sch.**, Appendix

**F52** S. 202(3) repealed (1.4.1986) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), Sch. 3 para 24, **Sch. 8**; S.I. 1986/414, art. 2, **Sch.**, Appendix

**F53** S. 202(4)-(7) repealed (6.1.1986) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), Sch. 3 para 24, **Sch. 8**; S.I. 1985/1887, art. 3(1), **Sch.**, Appendix

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**Marginal Citations**

**M42** 1968 c. 73.

**M43** 1969 c. 35.

**M44** 1968 c. 73.

<sup>F54</sup>**203** .....

**Textual Amendments**

**F54** S. 203 repealed by Transport Act 1978 (c. 55, SIF 126), s. 24(4), **Sch. 4**

**204 Licensing: licensed premises, cinemas, theatres and refreshment houses.**

<sup>F55</sup> .....

**Textual Amendments**

**F55** S. 204 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 199, 201(2), Sch. 6 para. 60, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**

<sup>F56</sup>**205** .....

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**Textual Amendments**

**F56** S. 205 repealed by [Rent Act 1977 \(c. 42, SIF 75:3\)](#), s. 155, [Sch. 25](#) (subject to the savings and transitional provisions in [Sch. 24](#))

**206 Public libraries and museums (England).**

The local authorities for the purposes of the <sup>M45</sup>Public Libraries and Museums Act 1964 in England shall be county councils, <sup>F57</sup> . . . , London borough councils, district councils, the Common Council and the Council of the Isles of Scilly and, subject to the provisions of section 5 of that Act, each of the following authorities, that is to say—

- (a) the council of a non-metropolitan county;
- (b) the council of a London borough and the Common Council;
- (c) the council of a metropolitan district;

shall be a library authority for those purposes.

**Textual Amendments**

**F57** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)

**Marginal Citations**

**M45** 1964 c. 75.

<sup>F58</sup>**207** .....

**Textual Amendments**

**F58** s. 207 repealed (1.4.1996) by 1994 c. 19, s. 66(5)(8), [Sch. 15](#) para. 42, [Sch. 18](#) (with ss. 54(5)(7), 55(5), [Sch. 17](#) paras. 22(1), 23(2)); S.I. 1996/396, art. 4, [Sch. 2](#)

**208 Amendments of Public Libraries and Museums Act 1964.**

(1) It shall not be necessary for any local authority within the meaning of the <sup>M46</sup>Public Libraries and Museums Act 1964 to obtain the consent of the Secretary of State to the provision of a museum or art gallery under section 12(1) of that Act or to the transfer of a museum or art gallery and its collections under section 12(2) of that Act, or to apply for an order under section 15(2) of that Act for the purpose of amalgamating a fund established under that section with a similar fund maintained under a local Act, and accordingly in the said section 15(2) for the words after “aforesaid” there shall be substituted the words “ it may amalgamate the funds, but without prejudice to the effect of any condition attached to any particular gift received by the authority ”.

(2) The powers conferred by section 14 of the said Act of 1964 (contributions to expenses of museums and art galleries) on certain local authorities shall be exercisable by every local authority within the meaning of that Act, whether or not a library authority or maintaining a museum or art gallery.

<sup>X4</sup>(3) The following additional amendments shall be made in the said Act of 1964—

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- (a) in section 4(2)(a), after the word “council” there shall be inserted the words “ in Wales ”;
- (b) in sections 5(3), 6(5) and (6), 10(2), 11(2) and 21, for the words “non-county borough or urban district”, wherever occurring, there shall be substituted the words “ district in Wales ”;
- (c) in the proviso to section 5(3), for the words from “at the request” to “40,000” there shall be substituted the words “ if the Secretary of State thinks fit ”;
- (d) in section 6(6), after the word “above” there shall be inserted the words “ or under section 207 of the Local Government Act 1972 ”;
- (e) in section 6(7), for the words from the beginning to “above he” there shall be substituted the words “ Where the council of a district in Wales are constituted a library authority under section 207 of the Local Government Act 1972, the Secretary of State ”, and for the words “approved council” there shall be substituted the words “ council so constituted ”;
- (f) in section 11(2), the reference to section 60(2) of the <sup>M47</sup> Local Government Act 1958 shall be construed as a reference to section 255 below ;
- (g) in section 15(1), after the word “maintaining” there shall be inserted the words “ or proposing to provide ” and for the words from “for the time being” onwards there shall be substituted the words “ which the authority maintains or proposes to provide under that section ” ;
- (h) in section 16, for the words “local authority” there shall be substituted the words “ library authority ”;
- (i) in section 21, in subsections (1) and (3) after the words “county council” there shall be inserted the words “ in Wales ” and in subsection (1) the words from “and expenses” onwards shall cease to have effect;
- (j) in section 24(1), for the words “this Act” there shall be substituted the words “ the provisions of this Act relating to libraries ” and for the word “county” there shall be substituted the words “ non-metropolitan county ”;
- (k) in Schedule 2, in paragraph 2(1), the words from “but except” onwards shall cease to have effect.

**Editorial Information**

**X4** The text of s. 204(9), 208(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M46** 1964 c. 75.

**M47** 1958 c. 55.

**F59** **209** .....

**Textual Amendments**

**F59** S. 209 repealed by [Employment and Training Act 1973 \(c. 50\)](#), [Sch. 4](#)



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## 210 Charities.

- (1) Where, immediately before 1st April 1974, any property is held, as sole trustee, exclusively for charitable purposes by an existing local authority for an area outside Greater London, other than the parish council, parish meeting or representative body of an existing rural parish in England (but including the corporation of a borough included in a rural district), that property shall vest (on the same trusts) in a new local authority in accordance with subsections (2) to (5) below.
- (2) Subject to subsection (3) below, where the property is held by one of the existing authorities specified below, and is so held for the benefit of, or of the inhabitants of, or of any particular class or body of persons in, a specified area, the property shall vest in the new authority specified below, the area of which comprises the whole or the greater part of that specified area, and where the property is so held but is not held for such a benefit, it shall vest in the new authority specified below, the area of which comprises the whole or the greater part of the area of the existing authority, that is to say—
  - (a) where the existing authority is a county council, the new authority is the council of the new county;
  - (b) where the existing authority is the council of a borough or urban district in England, the new authority is the council of the parish constituted under Part V of Schedule 1 to this Act or, where there is no such parish, the council of the district;
  - (c) where the existing authority is the council of a borough or urban district in Wales, the new authority is the council of the community or, where there is no such council, the council of the district; and
  - (d) where the existing authority is a rural district council, then, if the rural district is coextensive with a parish, the new authority is the parish council, and in any other case the new authority is the council of the district.
- (3) Where the property is held by an existing county council or county borough council for the purposes of a charity registered in the register established under section 4 of the <sup>M48</sup>Charities Act 1960 in any part of that register which is maintained by the Secretary of State by virtue of section 2 of that Act (educational charities) then—
  - (a) if the property is so held for the benefit of, or of the inhabitants of, or of any particular class or body of persons in, a specified area, the property shall vest in the new authority which is the local education authority for the whole or the greater part of that specified area, and
  - (b) in any other case, the property shall vest in the new authority which is the local education authority for the whole or the greater part of the area of the existing county council or county borough council by which the property is held.
- (4) Where the property is held by the corporation of a borough included in a rural district, it shall vest in the parish council for the parish consisting of the area of the existing borough.
- (5) Where the property is held by the parish council, parish meeting or representative body of an existing rural parish in Wales, then—
  - (a) in the case of property held by an existing parish council, the property shall vest in the community council for the community or group of communities, the area or areas of which are co-extensive with the area of the parish or parishes for which the existing parish council act;

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- (b) in the case of property held by the parish meeting or representative body of an existing parish the area of which is comprised in a community for which there is a community council, the property shall vest in that community council; and
- (c) in any other case, the property shall vest in the council of the district which comprises the area of the existing rural parish.
- (6) Where, immediately before 1st April 1974, any power with respect to a charity, not being a charity incorporated under the Companies Acts or by charter, is under the trusts of the charity or by virtue of any enactment vested in, or in the holder of an office connected with, any existing local authority to which subsection (1) above applies, that power shall vest in, or in the holder of the corresponding office connected with, or (if there is no such office) the proper office of, the corresponding new authority, that is to say, the new authority in which, had the property of the charity been vested in the existing local authority, that property would have been vested under subsections (1) to (5) above.
- (7) References in subsection (6) above to a power with respect to a charity do not include references to a power of any person by virtue of being a charity trustee thereof; but where under the trusts of any charity, not being a charity incorporated under the Companies Acts or by charter, the charity trustees immediately before 1st April 1974 include either an existing local authority to which subsection (1) above applies or the holder of an office connected with such an existing local authority, those trustees shall instead include the corresponding new authority as defined in subsection (6) above or, as the case may require, the holder of the corresponding office connected with, or (if there is no such office) the proper officer of, that authority.
- <sup>F60</sup>(8) .....
- <sup>F61</sup>(9) .....
- (10) Nothing in the foregoing provisions of this section shall affect any power of Her Majesty, the court or any other person to alter the trusts of any charity and nothing in those provisions shall apply in a case to which section 211 below applies.
- (11) In this section the expression “local authority”, in relation to a parish, includes a parish meeting and the representative body of a parish, and the expressions “charitable purposes”, “charity”, “charity trustees”, “court” and “trusts” have the same meanings as in the <sup>M49</sup>Charities Act 1960.

#### Textual Amendments

**F60** S. 210(8) repealed (1.9.1992) by Charities Act 1992 (c. 41), s. 78(2), Sch. 7; S.I. 1992/1900, art. 2, Sch. 1

**F61** S. 210(9) repealed (1.8.1993) by 1993 c. 10, ss. 98(2), 99(1), Sch. 7.

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

**C3** S. 210 excluded by National Health Service Reorganisation Act 1973 (c. 32), s. 25(4)

#### Marginal Citations

**M48** 1960 c. 58.

**M49** 1960 c. 58.

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## 211 Welsh Church funds.

- (1) Any property which, immediately before 1st April 1974, is vested in the council of an existing county or county borough in Wales and is required to be applied in accordance with a scheme under section 19 of the <sup>M50</sup>Welsh Church Act 1914 (application of Welsh Church funds for charitable or eleemosynary purposes) shall be vested, by virtue of this Act, in the council of the new county which comprises the whole or the greater part of the area of that existing county or county borough.
- (2) Where, by virtue of subsection (1) above, property vested in the council of an existing county becomes vested in the council of a new county which does not comprise the whole of the area of the existing county, the new county council shall transfer an apportioned part of the property to each of the other new county councils whose areas include parts of the area of the existing county.
- (3) An apportionment for the purposes of subsection (2) above shall be made by agreement between the new county councils concerned, or, in default of such an agreement, shall be determined by arbitration before a single arbitrator appointed by agreement between those councils or, in default of such an agreement, appointed by the Secretary of State.
- (4) The vesting or transfer of any property by virtue of this section shall not affect the application of the property in accordance with the scheme under section 19 of the <sup>M51</sup>Welsh Church Act 1914 which is applicable to it immediately before 1st April 1974 or the amendment or revocation of any such scheme by a further scheme under that section.

### Marginal Citations

**M50** 1914 c. 91.

**M51** 1914 c. 91.

<sup>F62</sup>212 .....

### Textual Amendments

**F62** S. 212 repealed by [Local Land Charges Act 1975 \(c. 76, SIF 98:2\)](#), s. 19(1), [Sch. 2](#)

## 213 Local licence duties.

- (1) The power to levy the duties on the following licences, namely—
  - <sup>F63</sup>(a) .....
  - <sup>F64</sup>(c) .....
  - (d) licences for dealing in game or for killing game, shall, in England <sup>F65</sup>. . . outside Greater London, be vested in the councils of districts [<sup>F66</sup>and, in Wales, be vested in the principal councils].
- (2) In accordance with subsection (1) above, section 6 of the <sup>M52</sup> Finance Act 1908 (licences for dealing in game and killing game) shall be amended as follows:—

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- (a) in subsection (1), for the words from “as from” to the end of the subsection there shall be substituted the words “ in England and Wales be vested in the councils of districts ” ;
- (b) in subsection (2), the words from “fix” to “transfer, and may” shall be omitted, for the words “county councils” there shall be substituted the words “ district councils ”, and the words from “The transfer under this section” to “any such adjustment” shall be omitted and at the end of the subsection there shall be added the words “ and as if any reference in those provisions to a county council were a reference to a council having power to levy those duties after 1st April 1974 ”; and
- (c) for subsection (5) there shall be substituted the following subsection:—
- “(5) In relation to Greater London, references in this section to a district council shall be construed as references to the council of a London borough or the Common Council of the City of London”.

<sup>F67</sup>(3) .....

(4) <sup>F68</sup> .....

#### Textual Amendments

- F63** S. 213(1)(a)(b) repealed by [Consumer Credit Act 1974 \(c. 39\)](#), s. 192(3)(4), **Sch. 5**
- F64** S. 213(c) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 41, **Sch. 7 Pt. IV**
- F65** Words in s. 213(1) repealed (1.4.1996) by 1994 c. 19, s. 66(5)(8), Sch. 15 para. 43, **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F66** Words in s. 213(1) added (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 43** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F67** S. 213(3) repealed by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), s. 192(3)(b), Sch. 5
- F68** S. 213(4) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), s. 1(1), {Sch. 1 Pt. 10 Group 1}

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

- C4** S. 213: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\)](#), **Sch. 1**
- C5** The text of s. 213(2)(a)–(c)(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M52** 1908 c. 16.

## 214 Cemeteries and crematoria.

- (1) The following authorities, that is to say, the councils of [<sup>F69</sup>Welsh counties, county boroughs] districts, London boroughs, parishes and communities, the Common Council and the parish meetings of parishes having no parish council, whether separate or common, shall be burial authorities for the purposes of, and have the functions given to them by, the following provisions of this section and Schedule 26 to this Act; and—
- (a) the powers conferred by the Burial Acts 1852 to 1906 to provide burial grounds shall cease to be exercisable; and

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- (b) any existing burial board, joint burial board or joint committee with the powers of such a board established under the <sup>M53</sup>Burial Act 1852 or section 53(2) of the <sup>M54</sup>Local Government Act 1894 or by any local statutory provision shall cease to exist.
- (2) Burial authorities may provide and maintain cemeteries whether in or outside their area.
- (3) The Secretary of State may by order make provision with respect to the management, regulation and control of the cemeteries of burial authorities and any such order may—
- (a) impose a fine for any contravention of the order; and
- (b) contain such provision amending or repealing any enactment (including any enactment in Schedule 26 to this Act) or revoking any instrument made under any enactment as appears to the Secretary of State to be necessary or proper in consequence of the order.
- (4) An order under this section may only be made after consultation with associations appearing to the Secretary of State to be representative of local authorities and with other bodies appearing to him to be concerned, and any such order shall be of no effect unless approved by a resolution of each House of Parliament.
- (5) A burial authority within the meaning of this section, other than a parish meeting, shall also be a burial authority for the purposes of the <sup>M55</sup>Cremation Acts 1902 <sup>M56</sup> and 1952.
- (6) A burial authority may contribute towards any expenses incurred by any other person in providing or maintaining a cemetery in which the inhabitants of the authority's area may be buried.
- (7) Schedule 26 to this Act shall have effect with respect to the exercise of functions of burial authorities and the management of cemeteries and crematoria and for making amendments and modifications of the enactments relating to cemeteries and crematoria.
- (8) In this section and that Schedule “cemetery” includes a burial ground or any other place for the interment of the dead (including any part of any such place set aside for the interment of a dead person's ashes).

#### Textual Amendments

**F69** Words in s. 214(1) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 44** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

#### Marginal Citations

**M53** 1852 c. 85.

**M54** 1894 c. 73 (56 & 57 Vict.).

**M55** 1902 c. 8.

**M56** 1952 c. 31.

## 215 Maintenance of a closed churchyard.

- (1) Subject to subsection (2) below, where outside the area subject to the <sup>M57</sup>Welsh Church Act 1914 a churchyard has been closed by an Order in Council, the parochial church council shall maintain it by keeping it in decent order and its walls and fences in good repair.

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(2) A parochial church council which is liable under subsection (1) above to maintain a closed churchyard may—

- (a) if the churchyard is in a parish or community having a separate parish or community council, serve a written request on that council to take over the maintenance of the churchyard;
- (b) if the churchyard is in a parish not having a separate parish council, serve such a request on the chairman of the parish meeting;
- (c) if the churchyard is in a community not having a separate community council, serve such a request on the council of the [<sup>F70</sup>county or county borough] in which the community is situated; or
- (d) if the churchyard is in England elsewhere than the City and the Temples and is not in any parish, serve such a request on the council of the district or London borough in which the churchyard is situated;

and, subject to subsection (3) below, the maintenance of the churchyard shall be taken over by the authority on whom the request is served or the parish meeting, as the case may be, three months after service of the request.

(3) If, pursuant to subsection (2) above, a request is served on a parish or community council or the chairman of a parish meeting and, if that council or meeting so resolve and, before the expiration of the said three months, give written notice of the resolution to the council of the [<sup>F71</sup>district, Welsh county or (as the case may be) county borough] and to the parochial church council maintaining the churchyard, the [<sup>F72</sup>local authority to whom the notice is given] , and not the parish or community council or parish meeting, shall take over the maintenance of the churchyard at the expiration of the said three months.

(4) Where before the passing of this Act a church council established under the constitution of the Church in Wales, in purported exercise of the powers conferred by section 18 of the <sup>M58</sup>Burial Act 1855 (maintenance of closed churchyard payable out of rates), issued a certificate with respect to a closed churchyard to a local authority, and that authority thereupon took over the maintenance of the churchyard, the authority's action shall be deemed to have been lawful for all purposes, and the authority for the time being responsible for the maintenance of the churchyard shall have the like duty with respect to its maintenance as a parochial church council elsewhere than the area subject to the <sup>M59</sup>Welsh Church Act 1914.

(5) In subsection (1) above, “the area subject to the <sup>M60</sup>Welsh Church Act 1914” means the area in which the Church of England was disestablished by that Act.

#### Textual Amendments

- F70** Words in s. 215(2)(c) substituted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 45(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F71** Words in s. 215(3) substituted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 45(3)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F72** Words in s. 215(3) substituted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 45(3)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

#### Marginal Citations

- M57** 1914 c. 91.  
**M58** 1855 c. 128.  
**M59** 1914 c. 91.

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**M60** [1914 c. 91.](#)

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