



# Local Government Act 1974

## 1974 CHAPTER 7

### PART I

#### GRANTS

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

- C1 Pt. I extended by *Local Government, Planning and Land Act 1980* (c. 65), s. 68(7); excluded by *Highways Act 1980* (c. 66), s. 272(4)

#### *Rate support grants*

### 1 Rate support grants.

- (1) Subject to the provisions of this Part of this Act, the Secretary of State shall, for the year 1974-75 and each subsequent year, make grants to local authorities in England and Wales in accordance with this section; and any grants made in pursuance of this subsection shall be known as “rate support grants”.
- (2) For the purpose of fixing the estimated aggregate amount of the rate support grants for any year, the Secretary of State shall determine the aggregate amount (in this Part of this Act referred to as “the amount available for grants”) which he estimates is to be available for the payment out of money provided by Parliament of grants, other than housing subsidies and grants under section 8 below [<sup>F1</sup>or section 69 of the <sup>M1</sup>Local Government, Planning and Land Act 1980][<sup>F2</sup>or paragraph 29 of Schedule 32 to that Act], to local authorities in respect of their relevant expenditure for that year, and shall deduct therefrom—
  - (a) the portion of the amount available for grants which he estimates will be allocated to grants in respect of specific services, other than grants under section 8 below [<sup>F3</sup>or section 69 of the <sup>M2</sup>Local Government, Planning and Land Act 1980][<sup>F4</sup>or paragraph 29 of Schedule 32 to that Act]; and

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- (b) the portion of that amount which is prescribed as the aggregate amount of supplementary grants for transport purposes, within the meaning of section 6 below; and
- (c) the portion of that amount which is prescribed as the aggregate amount of supplementary grants under section 7 below;

and so much of the amount available for grants as remains after making those deductions shall be the estimated aggregate amount of the rate support grants for that year.

(3) Before determining the amount available for grants and the portions of that amount mentioned in paragraphs (a) to (c) of subsection (2) above, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable, and shall take into account—

- (a) the latest information available to him as to the rate of relevant expenditure;
- (b) any probable fluctuation in the demand for services giving rise to relevant expenditure, so far as the fluctuation is attributable to circumstances prevailing in England and Wales as a whole which are not under the control of local authorities;
- (c) the need for developing those services and the extent to which, having regard to general economic conditions, it is reasonable to develop those services; and
- (d) the current level of prices, costs and remuneration and any future variation in that level which in the opinion of the Secretary of State will result from decisions which appear to him to be final and which will have the effect of increasing or decreasing any particular prices, costs or remuneration.

(4) Subject to subsection (6) below [<sup>F5</sup>and section 8(3) of the <sup>M3</sup>Lotteries and Amusements Act 1976], in this section “relevant expenditure”, in relation to any year, means the expenditure for that year falling to be defrayed out of the rate fund of a local authority—

- (a) reduced by the amount of any payments of such descriptions as the Secretary of State may determine which fall to be made for that year into the rate fund; and
- (b) exclusive of the items of expenditure specified in subsection (5) below .

(5) The items of expenditure referred to in subsection (4)(b) above are—

- (a) sums falling to be paid to another local authority by virtue of a precept or other instrument;
- (b) expenditure under section 1(1) (awards for university and comparable courses) . . . <sup>F6</sup> of the <sup>M4</sup>Education Act 1962; and
- (c) . . . . . <sup>F7</sup>

(6) The following grants for specific services, namely grants—

- (a) to the Receiver for the Metropolitan Police District under [<sup>F8</sup>section 51 of the <sup>M5</sup>Powers of Criminal Courts Act 1973] (towards the cost of probation services) and under [<sup>F9</sup>section 59 of the <sup>M6</sup>Justices of the Peace Act 1979] (grants for magistrates’ courts purposes), and
- (b) under section 31 of the <sup>M7</sup>Police Act 1964 (police grants), whether made to a committee of a local authority or not,

shall be treated for the purposes of subsection (2) above as grants made to local authorities; and to the extent that, in any year, any expenditure of the Receiver for

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the Metropolitan Police District or of a combined police authority is met by any such grants, that expenditure shall be treated for the purposes of this section as relevant expenditure in relation to that year.

(7) In this section—

“housing subsidies” means such grants to local authorities out of money provided by Parliament for housing as may be determined by the Secretary of State to be housing subsidies for the purposes of this section; and

“rate fund”, in relation to the Greater London Council, the Common Council of the City of London and the Council of the Isles of Scilly, means the general fund or general rate, as the case may require, and in relation to any other local authority means the county fund or general rate fund.

(8) ..... F10

#### Textual Amendments

- F1** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 69\(3\)](#)
- F2** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 32 para. 31](#)
- F3** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 69\(3\)](#)
- F4** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 32 para. 31](#)
- F5** Words substituted by [Lotteries and Amusements Act 1976 \(c. 32\), Sch. 4 para. 9](#)
- F6** Words repealed by [Education Act 1975 \(c. 2\), Sch. Pt. I](#)
- F7** [S. 1\(5\)\(c\)](#) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\), ss. 3, 6, Sch. 1 Pt. I](#)
- F8** Words substituted by virtue of [Powers of Criminal Courts Act 1973 \(c. 62\), Sch. 4 para. 1\(b\)](#)
- F9** Words substituted by [Justices of the Peace Act 1979 \(c. 55\), Sch. 2 para. 28](#)
- F10** [S. 1\(8\)](#) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), Sch. 34 Pt. XVI](#)

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

- C2** [S. 1](#) restricted by [Housing Act 1980 \(c. 51\), s. 117\(3\)\(5\)](#)
- C3** Power to repeal [s. 1\(1\)–\(7\)](#) conferred by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 53\(10\)\(11\)\(c\), Sch. 8](#)
- C4** [S. 1\(2\)\(4\)](#) amended by [Price Commission Act 1977 \(c. 33\), s. 18\(3\)](#)

#### Marginal Citations

- M1** [1980 c. 65.](#)
- M2** [1980 c. 65.](#)
- M3** [1976 c. 32.](#)
- M4** [1962 c. 12.](#)
- M5** [1973 c. 62.](#)
- M6** [1979 c. 55.](#)
- M7** [1964 c. 48.](#)

## 2 Elements of rate support grants.

(1) The aggregate amount of the rate support grants for any year shall be divided by the Secretary of State into three elements, to be known respectively as “the needs element”, “the domestic element” and “the resources element”, and the aggregate amount of the needs element and of the domestic element and the estimated aggregate amount of the resources element shall be such as may be prescribed.

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- (2) Subject to the following provisions of this section, payments in respect of the elements of rate support grant shall be made to a local authority at such times as the Secretary of State may with the consent of the Treasury determine, and shall be made in aid of the revenues of the authority generally; and the provisions of Schedule 2 to this Act shall have effect with respect to the determination of the amounts payable to any local authority in respect of those elements for any year.
- (3) Except as provided by subsection (4) below, no payment in respect of the needs element shall be made to the council of a non-metropolitan district and the Secretary of State may by regulations provide that such proportion as may be determined by or under the regulations of the amount which, apart from the regulations, would be payable in respect of the needs element for any year—
- (a) to the council of a London borough or the Common Council of the City of London, or
  - (b) to the council of a metropolitan district,
- shall be payable instead to the Greater London Council or, as the case may be, to the council of the metropolitan county in which the district is situated; and any such regulations may make different provision in relation to different councils.
- (4) The Secretary of State may by regulations provide that such proportion as may be determined by or under the regulations of the amount which, apart from the regulations, would be payable in respect of the needs element for any year to the council of a non-metropolitan county shall, in such cases as may be determined in accordance with the regulations, be payable instead to the councils of districts situated in the county; and any such regulations may make different provision in relation to different councils.
- (5) No payment in respect of either the domestic element or the resources element shall be made to a county council or the Greater London Council.
- (6) Any amounts payable to a local authority in respect of the domestic element shall be taken into account for the purposes of this and any other Act as if they were payable on account of rates.
- (7) Subject to subsection (8) below, the Secretary of State may—
- (a) defray any expenditure incurred in any year in the provision of services for local authorities by any body specified in regulations made by the Secretary of State; and
  - (b) deduct from the aggregate amount of the needs element for that year such amount, not exceeding the total of the expenditure so defrayed, as appears to him to be appropriate.
- (8) Before exercising his powers under subsection (7) above, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.

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

**C5** Power to repeal s. 2 conferred by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 53\(10\)\(11\)\(c\)](#), [Sch. 8](#)

**C6** [S. 2\(7\)\(a\)](#) amended by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 52\(1\)\(a\)\(2\)](#)

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### 3 Rate support grant orders.

- (1) The estimated aggregate amount of the rate support grants fixed in accordance with section 1(2) above for any year and the matters which under this Part of this Act are to be prescribed shall be fixed and prescribed by an order (in this Part of this Act referred to as a “rate support grant order”) made by the Secretary of State with the consent of the Treasury and after consultation with such associations of local authorities as appear to the Secretary of State to be concerned and with any local authority with whom consultation appears to him to be desirable.
- (2) Every rate support grant order shall be laid before the Commons House of Parliament and shall not have effect until approved by a resolution of that House.
- (3) Together with any rate support grant order laid before the Commons House of Parliament there shall be laid a report of the considerations leading to the provisions of the order, including the considerations leading to the determination of the amount available for grants and the portions mentioned in paragraphs (a) to (c) of section 1(2) above.
- (4) A separate rate support grant order shall be made in advance for each year.

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

- C7 Power to repeal s. 3 conferred by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 53\(10\)\(11\)\(c\)](#), [Sch. 8](#)

### 4 Variation of rate support grant orders.

- (1) If it appears to the Secretary of State that, after the time when the amount available for grants was determined for any year, the relevant expenditure of local authorities for that year has been or is likely to be substantially increased by reason of—
  - (a) an increase which has taken place in the level of prices, costs or remuneration, or
  - (b) the coming into operation of a provision of an enactment passed after this Act, and that no account was taken of that increase or, as the case may be, the effect of that provision when the amount available for grants was so determined, he may for that year redetermine that amount and the portions which are to be deducted therefrom in accordance with section 1(2) above and, by an order made in the like manner and subject to the like provisions as a rate support grant order, may increase the amounts fixed by the relevant rate support grant order as the estimated aggregate amount of the rate support grants and the aggregate amount of the needs element for that year.
- (2) The provisions of sections 1(3) and 3(3) above relating to consultation and to a report of the considerations leading to a determination under section 1 above shall apply to a redetermination under this section as they apply to a determination under that section.
- (3) In redetermining under this section the amount available for grants and the portions referred to in subsection (1) above, the Secretary of State—
  - (a) shall take into account not only the effect of the increase referred to in paragraph (a) of that subsection or, as the case may be, the provision referred to in paragraph (b) thereof, but also any future variation in the level of prices, costs and remuneration current at the time of the redetermination which in his

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- opinion will result from any such decisions as are referred to in section 1(3) (d) above, and
- (b) except in the case of a change resulting from the coming into operation of any enactment passed after this Act, shall take no account of any change, as compared with the situation at the time that amount and those portions were determined for the purposes of the relevant rate support grant order, in the demand for services giving rise to relevant expenditure, in the need for developing those services, in the extent to which those services have been developed or in the extent to which, having regard to general economic conditions, it is reasonable to develop those services.
- (4) An order made under subsection (1) above in respect of any year shall specify the actual (and not the estimated) aggregate amount of the resources element for that year.
- (5) If, in a case where the Secretary of State proposes to make an order under subsection (1) above in respect of any year, it appears to him that, apart from any provision made by virtue of this subsection, the effect of the order and of any other order under subsection (1) above which he considers likely to be made in respect of that year would be that the ratio between the actual aggregate amount of the resources element for that year and the aggregate amount of the needs element for that year would be significantly different from the ratio (in this subsection referred to as “the expected ratio”) between the estimated aggregate amount of the resources element for that year, as fixed by the relevant rate support grant order, and the aggregate amount of the needs element, as so fixed, he may in the order under subsection (1) above—
- (a) specify as the aggregate amount of the resources element for that year such amount as, in his estimation, will secure that (taking account of the effect of any further orders likely to be made under subsection (1) above in respect of that year) the ratio which the amount so specified will bear to the aggregate amount of the needs element for that year will be the expected ratio; and
- (b) in order to secure that the total amount paid in respect of the resources element to local authorities entitled to payments in respect of that element does not exceed the amount specified as mentioned in paragraph (a) above, make provision for a corresponding variation in the amount payable to each such authority in respect of that element.
- (6) Except as provided by the preceding provisions of this section, an order under subsection (1) above in respect of any year shall not vary the amount of the elements of the rate support grants for that year but, subject thereto, any such order may, as respects the year to which it relates, vary any matters prescribed by the relevant rate support grant order other than—
- (a) the additional factors prescribed by that order for the purposes of paragraph 1 of Schedule 2 to this Act; and
- (b) any matter prescribed by that order in relation to the domestic element or the resources element.
- (7) In this section “relevant expenditure” has the same meaning as in section 1 above.

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

- C8** Power to repeal s. 4 conferred by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 53\(10\) \(11\)\(c\)](#), [Sch. 8](#)

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## 5 Reduction of grants in case of default.

- (1) If, in the case of any local authority or joint board, the appropriate Minister—
- (a) is satisfied that the authority or board have failed to achieve or maintain a reasonable standard in the discharge of any of their functions, regard being had to the standards maintained by other authorities and boards, and
  - (b) is of opinion that by reason of the failure a reduction should be made in the amount of any elements of rate support grant payable to the local authority or a constituent authority of the joint board,

he may, after affording to the local or constituent authority in question an opportunity of making representations, make and cause to be laid before Parliament a report stating the amount of and the reasons for the proposed reduction and setting out any representations made by the authority with respect to the proposed reduction; and if the report is approved by a resolution of the Commons House of Parliament the Secretary of State may reduce the elements of the grant accordingly.

(2) ..... F11

- (3) Any regulations in force immediately before 1st April 1974 and—
- (a) made under subsection (2) of section 4 of the <sup>M8</sup>Local Government Act 1966 (which in the context of that Act corresponds to subsection (2) above), or
  - (b) made under section 3(4) of the <sup>M9</sup>Local Government Act 1958 but, by virtue of subsection (3) of the said section 4, having effect for the purposes of that section as if made under subsection (2) thereof,

shall have effect on and after that date for the purposes of this section as if made under subsection (2) above.

- (4) In this section “joint board” includes a joint committee which continues to exist by virtue of section 263(5) of the <sup>M10</sup>Local Government Act 1972.

### Textual Amendments

F11 S. 5(2) repealed by S.I. 1982/208, art. 2

### Modifications etc. (not altering text)

C9 Power to repeal s. 5 conferred by Local Government, Planning and Land Act 1980 (c. 65), s. 53(10) (11)(c), Sch. 8

### Marginal Citations

M8 1966 c. 42.

M9 1958 c. 55.

M10 1972 c. 70.

## Grants for particular purposes

## 6 Supplementary grants for transport purposes.

(1) ..... F12

- (8) In consequence of the introduction of supplementary grants for transport purposes and of the provisions of this Part of this Act relating to rate support grants, the provisions



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of Part II of Schedule I to this Act shall have effect with respect to certain grants under . . . <sup>F13</sup> the <sup>M11</sup>Transport Act 1968.

#### Textual Amendments

**F12** S. 6(1)–(7) repealed by Local Government Finance Act 1988 (c. 41, SIF 81:1), ss. 125, 149, **Sch. 13 Pt. II**

**F13** Words repealed by Highways Act 1980 (c. 66), **Sch. 25**

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

**C10** S. 6 excluded by S.I. 1984/1863, **arts. 4, 5**

#### Marginal Citations

**M11** 1968 c. 73.

## 7 Supplementary grants towards expenditure with respect to National Parks.

- (1) For the year 1974-75 and each subsequent year the Secretary of State shall make, in accordance with the provisions of this section, supplementary grants to [<sup>F14</sup>councils of counties and metropolitan districts] in respect of their estimated expenditure in connection with National Parks.
- (2) The aggregate amount of supplementary grants under this section for any year shall be such as may be prescribed.
- (3) Supplementary grants under this section shall be payable only to [<sup>F15</sup>councils of counties and metropolitan districts which] include the whole or any part of a National Park, and the proportion of the aggregate amount of supplementary grants under this section payable for any year to a [<sup>F15</sup>council] shall be determined, by such method as may be prescribed for the purposes of this section, by reference to so much of the estimated expenditure of the council with respect to National Parks as the Secretary of State, after consultation with the Countryside Commission [<sup>F16</sup>(as respects National Parks in England) and the Countryside Council for Wales (as respects National Parks in Wales)], may determine to be appropriate to be taken into account for the purposes of this section.
- (4) Payments of supplementary grants under this section shall be made at such times as the Secretary of State may, with the consent of the Treasury, determine.

#### Textual Amendments

**F14** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 7, **Sch. 3 para. 6(a)**

**F15** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 7, **Sch. 3 para. 6(b)**

**F16** Words in s. 7(3) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4**; S.I.1991/685, **art. 3**

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

**C11** S. 7 modified (19.9.1995) by 1995 c. 25, **ss. 74(2), 125(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7, Sch. 23 para. 12)

**C12** S. 7(1) amended by Local Government, Planning and Land Act 1980 (c. 65), **s. 52(1)(b)(2)**



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## 8 Specific grants for purposes not covered by rate support grants.

- (1) ..... F17
- (2) ..... F18
- (4) ..... F19
- (5) The provisions of Part III of Schedule 1 to this Act shall have effect with respect to the termination of certain grants for specific purposes, other than highways and public transport.

### Textual Amendments

- F17** S. 8(1) repealed by Social Security and Housing Benefits Act 1982 (c. 24, SIF 113:1), s. 48(6), **Sch. 5**
- F18** S. 8(2)(3) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch 13 Pt. II**
- F19** S. 8(4) repealed by Social Security and Housing Benefits Act 1982 (c. 24, SIF 113:1), **Sch. 5**

### Modifications etc. (not altering text)

- C13** S. 8 excluded by Local Government, Planning and Land Act 1980 (c. 65), s. 54(1)(2)

## 9 Grants and loans by the Countryside Commission.

- (1) In accordance with arrangements approved by the Secretary of State and the Treasury, the Countryside Commission [<sup>F20</sup>and the Countryside Council for Wales may each] give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which, in the opinion of the Commission [<sup>F21</sup>or, as the case may be, the Council], is conducive to the attainment of any of the purposes of the <sup>M12</sup>Countryside Act 1968 or the <sup>M13</sup>National Parks and Access to the Countryside Act 1949.
- (2) On making a grant or loan under this section the Countryside Commission [<sup>F22</sup>or the Countryside Council for Wales] may impose such conditions as they think fit including (in the case of a grant) conditions for repayment in specified circumstances.
- (3) The exercise of the [<sup>F23</sup>the power of the Countryside Commission and of the Countryside Council for Wales] under this section shall be subject to any directions given to the Commission [<sup>F24</sup>or to the Council] by the Secretary of State.
- (4) The provisions of this section shall have effect in place of the provisions of section 5 of the <sup>M14</sup>Countryside Act 1968 (under which grants may be made only to persons other than public bodies and only in respect of projects approved by the Secretary of State).

### Textual Amendments

- F20** Words in s. 9(1) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(a)**; S.I.1991/685, **art. 3**
- F21** Words in s. 9(1) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(a)**; S.I.1991/685, **art. 3**
- F22** Words in s. 9(2) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(b)**; S.I. 1991/685, **art. 3**
- F23** Words in s. 9(3) expressed to be substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(c)**; S.I. 1991/685, **art. 3**

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**F24** Words in s. 9(3) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), Sch. 8 para. 4(c); S.I.1991/685, art. 3

#### Marginal Citations

**M12** 1968 c. 41.

**M13** 1949 c. 97.

**M14** 1968 c. 41.

### Supplementary

#### 10 Supplementary provisions for Part I.

(1) The following bodies are local authorities for the purposes of this Part of this Act, namely,—

- (a) the council of a county,
- (b) the Greater London Council,
- (c) the council of a district,
- (d) the council of a London borough,
- (e) the Common Council of the City of London, and
- (f) the Council of the Isles of Scilly,

and for the purposes of the provisions of this Act relating to the domestic element the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple shall also be local authorities.

(2) In this Part of this Act—

“the amount available for grants” has the meaning assigned to it by section 1(2) above;

“the appropriate Minister” means, in relation to any matter, the Minister in charge of the Government department concerned or primarily concerned with that matter;

“the domestic element”, “the needs element” and “the resources element” shall be construed in accordance with section 2(1) above;

[<sup>F25</sup> “prescribed” means prescribed by a Rate Support Grant Report made under section 60 of the <sup>M15</sup>Local Government, Planning and Land Act 1980 or by a supplementary report made under section 61 of that Act;] and

“year” means a period of twelve months beginning with 1st April.

(3) The Secretary of State may make regulations for carrying the provisions of sections 1 to 5 of and Schedule 2 to this Act into effect and, without prejudice to the generality of this provision,—

- (a) for determining the manner in which any calculation or estimate is to be made for any of the purposes of those provisions;
- (b) for determining the authority or person by or to whom any information required for those purposes is to be given and the time at which and the form in which it is to be given;
- (c) for providing that the calculations or estimates by reference to which any payments are made may be treated as either conclusive or provisional or conclusive for some purposes and provisional for other purposes and, in so far as they are treated as provisional, for the making of further calculations or

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estimates based on information not previously available and for adjusting, in the light thereof, any payment already made;

and regulations under this subsection may make different provisions for different circumstances.

- (4) Any power conferred by any provision of this Part of this Act to make regulations shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Before making regulations under any provision of this Part of this Act, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.

**Textual Amendments**

**F25** Definition substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 68\(2\)](#)

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

**C14** Power to amend s. 10(1)(2) conferred by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 53\(10\)\(11\)\(c\)](#), [Sch. 8](#)

**Marginal Citations**

**M15** [1980 c. 65.](#)

**PART II**

**RATING**

**11—** ..... **F26**  
**14.**

**Textual Amendments**

**F26** [Ss. 11–14](#) repealed and superseded by [Social Security and Housing Benefits Act 1982 \(c. 24, SIF 113:1\)](#), [s. 28\(5\)](#), [Sch. 5](#)

**15—** ..... **F27**  
**19.**

**Textual Amendments**

**F27** [Ss. 15–19, 21](#) and [22](#) repealed by [S.I. 1990/776, art. 3](#), [Sch. 1](#)

**20** ..... **F28**

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#### Textual Amendments

**F28** S. 20 repealed by Rating (Disabled Persons) Act 1978 (c. 40), **Sch. 2**

**21, 22.** ..... **F29**

#### Textual Amendments

**F29** Ss. 15–19, 21 and 22 repealed by S.I. 1990/776, art. 3, **Sch. 1**

## PART III

### LOCAL GOVERNMENT ADMINISTRATION

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

- C15** Pt. III (ss. 23-34) applied (with modifications) (1.4.1998) by S.I. 1998/633, art. L
- C16** Power to make provision about matters of the kind dealt with by Pt. III (ss. 23-34) conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (b); S.I. 1997/1930, **art. 3(1)(2)(m)**
- C17** Pt. III (ss. 23-34) applied (*temp.* from 4.5.1995 to 31.3.1996) by S.I. 1995/1042, **art. 4(1)**
- C18** Pt. III (ss. 23-34) restricted (30.7.1993) by S.I. 1993/1975, art. 10, **Sch. 2 para. 4(2)**.
- C19** Pt. III (ss. 23-34) power to extend, modify, apply or reproduce (with or without modifications) conferred (W.) (1.11.2000) and (E.) (28.7.2001) by 2000 c. 22, **ss. 68(3), 108(4)-(6)**; S.I. 2000/2948, **art. 2**  
Pt. III (ss. 23-34) extended (W.) (28.7.2001) by S.I. 2001/2275, **reg. 2**

## 23 The Commissions for Local Administration.

- (1) For the purpose of conducting investigations in accordance with this Part of this Act, there shall be—
- (a) a body of commissioners to be known as the Commission for Local Administration in England, and
  - (b) a body consisting of two or more commissioners to be known as the Commission for Local Administration in Wales
- [<sup>F30</sup>but each of the Commissions may include persons appointed to act as advisers, not exceeding the number appointed to conduct investigations.]
- (2) The Parliamentary Commissioner shall be a member of each of the Commissions.
- (3) In the following provisions of this Part of this Act the expression “Local Commissioner” means a person, other than the Parliamentary Commissioner [<sup>F31</sup>or an advisory member], who is a member of one of the Commissions.
- (4) Appointments to the office of . . . <sup>F32</sup>Commissioner shall be made by Her Majesty on the recommendation of the Secretary of State after consultation with the [<sup>F33</sup>such persons as appear to the Secretary of State to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies], and a person so appointed shall, subject to subsection (6) below, hold office during good behaviour.

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- (5) . . . . .<sup>F34</sup>Commissioners may be appointed to serve either as full-time commissioners or as part-time commissioners.
- (6) A . . .<sup>F34</sup>Commissioner may be relieved of office by Her Majesty at his own request or may be removed from office by Her Majesty on grounds of incapacity or misbehaviour, and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five years.
- (7) The Secretary of State shall designate two of the Local Commissioners for England as chairman and vice-chairman respectively of the Commission for Local Administration in England and, in the event of there being more than one Local Commissioner for Wales, shall designate one of them as chairman of the Commission for Local Administration in Wales.
- (8) The Commission for Local Administration in England shall divide England into areas and shall provide, in relation to each area, for one or more of the Local Commissioners to be responsible for the area; and where the Commission for Local Administration in Wales consist of more than one Local Commissioner they may, if they think fit, act in a similar way in Wales.
- A Local Commissioner may, by virtue of this subsection, be made responsible for more than one area.
- (9) It shall be the duty of the Commission for Local Administration in England to ensure that any Local Commissioner made responsible for an area which includes the county of Cornwall is made responsible for an area which also includes the Isles of Scilly.
- (10) Each of the Commissions—
- (a) shall make arrangements for Local Commissioners to accept cases for which they are not responsible including, where the other Commission so request, a case arising in the country of that other Commission, and
- (b) shall publish information about the procedures for making complaints under this Part of this Act.
- (11) For the year ending on 31st March 1975, and for each subsequent financial year, every Local Commissioner shall prepare a general report on the discharge of his functions and shall submit it to his Commission; and where he has discharged functions at the request of the other Commission he shall prepare a general report on the discharge of those functions and shall submit it to the other Commission.

Any such report shall be submitted to the appropriate Commission not later than two months after the end of the year to which it relates.

- (12) [<sup>F35</sup>In the financial year beginning on 1st April 1990, and in every third financial year afterwards, the Commissions shall review the operation (since the last review was made under this subsection) of the provisions of this Part of this Act about the investigation of complaints, and shall have power to convey to authorities to which this Part of this Act applies] . . .<sup>F36</sup>, or to government departments, any recommendations or conclusions reached in the course of their reviews [<sup>F37</sup>and shall send copies of those recommendations or conclusions to the representative persons and authorities concerned].

- [<sup>F38</sup>(12A) Each of the Commissions may, after consultation with the representative persons and authorities concerned, provide to the authorities or any of the authorities to which this Part of this Act applies such advice and guidance about good administrative practice

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as appears to the Commission to be appropriate and may arrange for it to be published for the information of the public.

(12B) The representative persons and authorities concerned are—

- (a) for the purposes of subsection (12) above, such persons appearing to the Commission to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies, and in the case of such authorities as are not so represented, those authorities; and
- (b) for the purposes of subsection (12A) above, such of those persons and authorities as the Commission think appropriate.]

(13) Schedule 4 to this Act shall have effect as respects the Commissions.

#### Textual Amendments

- F30** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), **s. 22(2)**
- F31** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 22(3)**
- F32** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 22(4), 194(4), **Sch. 12 Pt. II**
- F33** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(1), **Sch. 11 para. 37**
- F34** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 22(4), 194(4), **Sch. 12 Pt. II**
- F35** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 2(1)**
- F36** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(1)(4), Sch. 11 para. 38, **Sch. 12 Pt. II**
- F37** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(1), **Sch. 11 para. 38**
- F38** [S. 23\(12A\)\(12B\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 23(1)**

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

- C20** [S. 23\(12\)](#) restricted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 2(2)**

#### [<sup>F39</sup>23A Annual reports for representatives etc.

- (1) For the financial year ending in 1990 and for each subsequent financial year, each of the Commissions shall prepare a general report on the discharge of their functions and shall submit it—
  - (a) to such persons as appear to the Commission to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies, and
  - (b) in the case of such authorities as are not so represented, to those authorities.
- (2) The report shall be submitted as soon as may be after the Commission have received the reports for the year from Local Commissioners under section 23(11) above, and each Commission shall submit copies of those reports, together with their own report.
- (3) Each Commission shall arrange for the publication of the report submitted by them under subsection (1) above and of the reports of which copies are submitted by them under subsection (2) above.

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- (4) Before arranging for the publication of a report under subsection (3) above the Commission concerned shall give a reasonable opportunity for the representative persons and authorities to whom the report was submitted to comment on it.
- (5) Without prejudice to the generality of subsection (4) above, comments made by the representative persons and authorities by virtue of that subsection may relate to particular classes of authorities to which this Part of this Act applies.
- (6) Where the Commission for Local Administration in Wales consist of only one Local Commissioner, section 23(11) above and subsection (2) above shall have effect with the necessary modifications.]

**Textual Amendments**

**F39** S. 23A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 25(2)

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

**C21** S. 23A extended (W.) (28.7.2001) by [S.I. 2001/2275](#), reg. 3

24 ..... F40

**Textual Amendments**

**F40** S. 24 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 25(1), 194(4), [Sch. 12 Pt. II](#)

**25 Authorities subject to investigation.**

- (1) This Part of this Act applies to [<sup>F41</sup>the following authorities]—
  - (a) any local authority,
  - [<sup>F42</sup>(aa) the Land Authority for Wales . . . <sup>F43</sup>]
  - (b) any joint board the constituent authorities of which are all local authorities,
  - [<sup>F44</sup>(ba) the Commission for the New Towns,
  - (bb) any development corporation established for the purposes of a new town,
  - (bc) the Development Board for Rural Wales,
  - (bd) any urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980,]
  - [<sup>F45</sup>(be) any housing action trust established under Part III of the Housing Act 1988]
  - [<sup>F46</sup>(bf) the Urban Regeneration Agency;]
  - [<sup>F47</sup>(c) any joint authority established by Part IV of the Local Government Act 1985;
    - (ca) any other police authority, except the Secretary of State;
    - (cb) ..... <sup>F48</sup>]
  - [<sup>F49</sup>(d) in relation to the flood defence functions of the National Rivers Authority [<sup>F50</sup>(within the meaning of the Water Resources Act 1991)], the National Rivers Authority and any regional flood defence committee.]
- (2) Her Majesty may by Order in Council provide that this Part of this Act shall also apply, subject to any modifications or exceptions specified in the Order, to any authority



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specified in the Order, being an authority which is established by or under an Act of Parliament, and which has power to levy a rate, or to issue a precept.

- (3) An Order made by virtue of subsection (2) above may be varied or revoked by a subsequent Order so made and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any reference to an authority to which this Part of this Act applies includes a reference—
- (a) to the members and officers of that authority, and
  - (b) to any person or body of persons acting for the authority under section 101 . . .<sup>F51</sup>, or
  - (c) any committee mentioned in section 101(9) of the said Act.
- <sup>F52</sup>(5) Any reference to an authority to which this Part of this Act applies also includes a reference to any appeal committee constituted in accordance with <sup>F53</sup>paragraphs 1 and 2] of Schedule 2 to the <sup>M16</sup>Education Act 1980 <sup>F54</sup>[<sup>F54</sup>or for the purposes of paragraph 5 of Schedule 6 to the Education Act 1993].]

#### Textual Amendments

- F41** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 4**
- F42** [S. 25\(1\)\(aa\)](#) inserted by [Community Land Act 1975 \(c. 77\)](#), **Sch. 10 para. 9(1)** (continued as amended by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **Sch. 22 para. 14(1)(2)**)
- F43** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **Sch. 34 Pt. XI**
- F44** [S. 25\(1\)\(ba\)–\(bd\)](#) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 4**
- F45** [S. 25\(1\)\(be\)](#) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 para. 19**
- F46** [S. 25\(1\)\(bf\)](#) inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 6(1)**; S.I. 1993/2762, **art.3**.
- F47** [S. 25\(1\)\(c\)\(ca\)\(cb\)](#) substituted for s. 25(1)(c) by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. II para. 51(a)**
- F48** [S. 25\(1\)\(cb\)](#) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F49** [S. 25\(1\)\(d\)](#) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 1(6), 58(7), 101(1), 141(6), 160(1)(2) (4), 163, 189(4)–(10), 190, 193(1), [Sch. 1 para. 12](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F50** Words in [s. 25\(1\)\(d\)](#) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 25**
- F51** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), **Sch. 12 Pt. II**
- F52** [S. 25\(5\)](#) inserted with saving by [Education Act 1980 \(c. 20\)](#), **s. 7(7)** and S.I. 1980/959, **Sch. 3 para. 1**
- F53** Words in [s. 25\(5\)](#) substituted (1.10.1993) by 1993 c. 35, **s. 269(a)**; S.I. 1993/1975, art. 9, **Sch. 1**.
- F54** Words in [s. 25\(5\)](#) added (1.10.1993) by 1993 c. 35, **s. 269(b)**; S.I. 1993/1975, art. 9, **Sch. 1**.

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

- C22** [S. 25\(1\)\(c\)](#) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(k)** and by S.I. 1989/1815, art. 2, **Sch. 1 para. 6(b)**
- C23** [S. 25\(1\)\(c\)](#) extended by S.I. 1987/2110, art. 2(2), **Sch. 2 para. 8(h)**
- C24** [S. 25\(5\)](#) applied (with modifications) (9.5.1994) by S.I. 1994/1084, art. 8(1), **Sch. 2 Pt. I**
- C25** [S. 25\(5\)](#) modified (30.7.1993) by S.I. 1993/1975, art. 10, **Sch. 2 para. 4(1)**.

#### Marginal Citations

- M16** 1980 c. 20.

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## 26 Matters subject to investigation.

- (1) Subject to the provisions of this Part of this Act where a written complaint is made by or on behalf of a member of the public who claims to have sustained injustice in consequence of maladministration in connection with action taken by or on behalf of an authority to which this Part of this Act applies, being action taken in the exercise of administrative functions of that authority, a Local Commissioner may investigate that complaint.
- (2) A complaint shall not be entertained under this Part of this Act unless [<sup>F55</sup>it is made in writing to the Local Commissioner specifying the action alleged to constitute maladministration or]—
  - (a) it is made in writing to a member of the authority, or of any other authority concerned, specifying the action alleged to constitute maladministration, and
  - (b) it is referred to the Local Commissioner, with the consent of the person aggrieved, or of a person acting on his behalf, by that member, or by any other person who is a member of any authority concerned, with a request to investigate the complaint.
- (3) If the Local Commissioner is satisfied that any member of any authority concerned has been requested to refer the complaint to a Local Commissioner, and has not done so, the Local Commissioner may, if he thinks fit, dispense with the requirements in subsection (2)(b) above.
- (4) A complaint shall not be entertained unless it was made to [<sup>F56</sup>the Local Commissioner or] a member of any authority concerned within twelve months from the day on which the person aggrieved first had notice of the matters alleged in the complaint, but a Local Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers that [<sup>F57</sup>it is reasonable] to do so.
- (5) Before proceeding to investigate a complaint, a Local Commissioner shall satisfy himself that the complaint has been brought, by or on behalf of the person aggrieved, to the notice of the authority to which the complaint relates and that that authority has been afforded a reasonable opportunity to investigate, and reply to, the complaint.
- (6) A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters, that is to say,—
  - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment;
  - (b) any action in respect of which the person aggrieved has or had a right of appeal to a Minister of the Crown; or
  - (c) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that a Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person aggrieved to resort or have resorted to it.

- (7) A Local Commissioner shall not conduct an investigation in respect of any action which in his opinion affects all or most of the inhabitants of the [<sup>F58</sup>following area—
  - (a) where the complaint relates to the Commission for the New Towns, the area of the new town or towns to which the complaint relates;

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- (b) where the complaint relates to the Development Board for Rural Wales, the area in Wales for which the Board is for the time being responsible;
- [ where the complaint relates to the Urban Regeneration Agency, any
- <sup>F59</sup>(ba) designated area within the meaning of Part III of the Leasehold Reform, Housing and Urban Development Act 1993;]
- (c) in any other case, the area of the authority concerned.]
- (8) Without prejudice to the preceding provisions of this section, a Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action or matter as is described in Schedule 5 to this Act.
- (9) Her Majesty may by Order in Council amend the said Schedule 5 so as to [<sup>F60</sup>add to or exclude from the provisions of that Schedule (as it has effect for the time being)] such actions or matters as may be described in the Order; and any Order made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In determining whether to initiate, continue or discontinue an investigation, a Local Commissioner shall, subject to the preceding provisions of this section, act at discretion; and any question whether a complaint is duly made under this Part of this Act shall be determined by the Local Commissioner.
- [<sup>F61</sup>(11) In this section—
- (a) references to a person aggrieved include references to his personal representatives; and
- (b) references to a member of an authority concerned include, in the case of a complaint relating to a joint authority established by Part IV of the Local Government Act 1985, references to a member of a constituent council of that authority.]
- (12) A complaint shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before 1st April 1974, or in respect of any default or alleged default first arising before that date.
- [<sup>F62</sup>(13) A complaint as regards an authority mentioned in section 25(1)(ba), (bb), (bc) or (bd) above shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before the coming into force of Schedule 3 to the Local Government Act 1988, or in respect of any default or alleged default first arising before its coming into force; and subsection (12) above shall have effect subject to this.]

#### Textual Amendments

- F55** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(2)**
- F56** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(3)(7)**
- F57** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(3)(7)**
- F58** S. 26(7)(a)–(c) and words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(4)**
- F59** S. 26(7)(ba) inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 6(2)**; S.I. 1993/2762, **art.3.**
- F60** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(5)**
- F61** S. 26(11) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 51(b)**
- F62** S. 26(13) inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(6)**

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

- C26** s. 26 modified by S.I. 1991/559, **art. 2(3)** and art. 2(5)  
**C27** S. 26 modified by S.I. 1986/452, **art. 8(3)(5)**  
**C28** S. 26(11)(b) amended by S.I. 1985/1884, **art. 10, Sch. 3 para. 4(k)**  
**C29** S. 26(11)(b) extended by S.I. 1987/2110, **art. 2(2), Sch. 1 para. 8(k)**

**27 Provisions relating to complaints.**

- (1) A complaint under this Part of this Act may be made by any individual, or by any body of persons whether incorporated or not, not being—
- (a) a local authority or other authority or body constituted for purposes of the public service or of local government, or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;
  - (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department, or whose revenues consist wholly or mainly of moneys provided by Parliament.
- (2) Where the person by whom a complaint might have been made under the preceding provisions of this Part of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or by some body or individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Part of this Act unless made by the person aggrieved himself.

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

- C30** S. 27: s. 26-34 modified by S.I. 1991/559, **art. 2(3)**  
**C31** Ss. 27–30 modified by S.I. 1986/452, **art. 8(3)**

**28 Procedure in respect of investigations.**

- (1) Where a Local Commissioner proposes to conduct an investigation pursuant to a complaint, he shall afford to the authority concerned, and to any person who is alleged in the complaint to have taken or authorised the action complained of, an opportunity to comment on any allegations contained in the complaint.
- (2) Every such investigation shall be conducted in private, but except as aforesaid the procedure for conducting an investigation shall be such as the Local Commissioner considers appropriate in the circumstances of the case; and without prejudice to the generality of the preceding provision the Local Commissioner may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit, and may determine whether any person may be represented (by counsel or solicitor or otherwise) in the investigation.
- (3) The Local Commissioner may, if he thinks fit, pay to the person by whom the complaint was made, and to any other person who attends or furnishes information for the purposes of an investigation under this Part of this Act—
- (a) sums in respect of the expenses properly incurred by them;
  - (b) allowances by way of compensation for the loss of their time,

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in accordance with such scales and subject to such conditions as may be determined by [<sup>F63</sup>the Treasury].

- (4) The conduct of an investigation under this Part of this Act shall not affect any action taken by the authority concerned, or any power or duty of that authority to take further action with respect to any matters subject to the investigation.

#### Textual Amendments

**F63** Words substituted by virtue of S.I. 1981/1670, arts. 2(3), 3(5)

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

**C32** S. 28: ss. 26-34 modified by S.I. 1991/559, art. 2(3)

**C33** Ss. 27–30 modified by S.I. 1986/452, art. 8(3)

**C34** S. 28 power to apply or reproduce (with or without modifications) conferred (W.) (1.11.2000) and (E.) (28.7.2001) by 2000 c. 22, ss. 70(2), 108(4)-(6); S.I. 2000/2948, art. 2

## 29 Investigations: further provisions.

- (1) For the purposes of an investigation under this Part of this Act a Local Commissioner may require any member or officer of the authority concerned, or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation a Local Commissioner shall have the same powers as the High Court in respect of the attendance and examination of witnesses, and in respect of the production of documents.
- (3) A Local Commissioner may, under subsection (1) above, require any person to furnish information concerning communications between the authority concerned and any Government department, or to produce any correspondence or other documents forming part of any such written communications.
- (4) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information in accordance with subsection (3) above; and where that subsection applies the Crown shall not be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (5) Nothing in subsection (1) or subsection (3) above affects—
- (a) the restriction, imposed by section 11(2) of the <sup>M17</sup>Parliamentary Commissioner Act 1967, on the disclosure of information by the Parliamentary Commissioner or his officers; or
  - (b) the restriction, imposed by [<sup>F64</sup>paragraph 16 of Schedule 13 to the <sup>M18</sup>National Health Service Act 1977], on the disclosure of information by the Health Service Commissioner for England or the Health Service Commissioner for Wales, or by their officers.
- (6) To assist him in any investigation, a Local Commissioner may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of [<sup>F65</sup>the Treasury].

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- (7) Subject to subsection (4) above, no person shall be compelled for the purposes of an investigation under this Part of this Act to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (8) If any person without lawful excuse obstructs a Local Commissioner in the performance of his functions under this Part of this Act, or any officer of the Commission assisting in the performance of those functions, or is guilty of any act or omission in relation to an investigation under this Part of this Act which, if that investigation were a proceeding in the High Court, would constitute contempt of court, the Local Commissioner may certify the offence to the High Court.
- (9) Where an offence is so certified, the High Court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the High Court could deal with him if he had committed the like offence in relation to the High Court.
- (10) Nothing in subsection (8) above shall be construed as applying to the taking of any such action as is mentioned in section 28(4) above.

#### Textual Amendments

**F64** Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 60](#)

**F65** Words substituted by virtue of [S.I. 1981/1670](#), [arts. 2\(3\)](#), 3(5)

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

**C35** [S. 29](#): ss. 26-34 modified by [S.I. 1991/559](#), [art. 2\(3\)](#)

**C36** [Ss. 27–30](#) modified by [S.I. 1986/452](#), [art. 8\(3\)](#)

#### Marginal Citations

**M17** [1967 c. 13](#).

**M18** [1977 c. 49](#).

### 30 Reports on investigations.

- (1) In any case where a Local Commissioner conducts an investigation, or decides not to conduct an investigation, he shall send a report of the results of the investigation, or as the case may be a statement of his reasons for not conducting an investigation—
- to the person, if any, who referred the complaint to the Local Commissioner in accordance with section 26(2) above, and
  - to the complainant, and
  - to the authority concerned, and to any other authority or person who is alleged in the complaint to have taken or authorised the action complained of.
- (2) Where the complaint was referred by a person who was a member of an authority but who has since ceased to be a member of that authority, the report or statement shall be sent to the chairman, or, as the case may be, mayor of that authority.

[<sup>F66</sup>(2A) Where the complaint related to the Land Authority for Wales, the Local Commissioner shall also send the report or statement to the Secretary of State.]



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- (3) Apart from identifying the authority or authorities concerned, the report shall not [<sup>F67</sup>, except where subsection (3A) below applies,]—
- (a) mention the name of any person, or
  - (b) contain any particulars which, in the opinion of the Local Commissioner, are likely to identify any person and can be omitted without impairing the effectiveness of the report,
- unless, after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, the Local Commissioner considers it necessary to mention the name of that person or to include in the report any such particulars.
- [<sup>F68</sup>(3A) Where the Local Commissioner is of the opinion—
- (a) that action constituting maladministration was taken which involved a member of the authority concerned, and
  - (b) that the member's conduct constituted a breach of the National Code of Local Government Conduct,
- then, unless the Local Commissioner is satisfied that it would be unjust to do so, the report shall name the member and give particulars of the breach.]
- (4) Subject to the provisions of subsection (7) below, the authority concerned shall for a period of three weeks make copies of the report available for inspection by the public without charge at all reasonable hours at one or more of their offices; and any person shall be entitled to take copies of, or extracts from, the report when so made available.
- [<sup>F69</sup>(4A) Subject to subsection (7) below, the authority concerned shall supply a copy of the report to any person on request if he pays such charge as the authority may reasonably require.]
- (5) Not later than [<sup>F70</sup>two weeks] after the report is received by the authority concerned, the proper officer of the authority shall give public notice, by advertisement in newspapers and such other ways as appear to him appropriate, that [<sup>F71</sup>copies of the report will be available as provided by subsections (4) and (4A)] above, and shall specify the date, being a date [<sup>F72</sup>not more than one week after the public notice is first given], from which the period of three weeks will begin.
- (6) If a person having the custody of a report made available for inspection as provided by subsection (4) above obstructs any person seeking to inspect the report, or to make a copy of, or extract from, the report, he shall be liable on summary conviction to a fine not exceeding [<sup>F73</sup>level 3 on the standard scale].
- (7) The Local Commissioner may, if he thinks fit after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, direct that a report specified in the direction shall not be subject to the provisions of subsections (4) [<sup>F74</sup>, (4A) and (5) above].

#### Textual Amendments

- F66** S. 30(2A) inserted by [Community Land Act 1975 \(c. 77\)](#), **Sch. 10 para. 9(2)** (continued by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), **Sch. 22 para. 14(3)**)
- F67** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 32(1)(a)**
- F68** S. 30(3A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 32(1)(b)**
- F69** S. 30(4A) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 6(2)(5)**
- F70** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 6(3)(a)(5)**



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- F71** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(3)(b)(5)**  
**F72** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(3)(c)(5)**  
**F73** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**  
**F74** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(4)(5)**

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

- C37** S. 30: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**  
**C38** Ss. 27–30 modified by S.I. 1986/452, **art. 8(3)**  
**C39** S. 30(3A) applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**

### 31 Reports on investigations: further provisions.

[<sup>F75</sup>(1) This section applies where a Local Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.

(2) The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Local Commissioner may agree in writing, to notify the Local Commissioner of the action which the authority have taken or propose to take.

(2A) If the Local Commissioner—

- (a) does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or
- (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
- (c) does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,

he shall make a further report setting out those facts and making recommendations.

(2B) Those recommendations are such recommendations as the Local Commissioner thinks fit to make with respect to action which, in his opinion, the authority concerned should take to remedy the injustice to the person aggrieved and to prevent similar injustice being caused in the future.

(2C) Section 30 above, with any necessary modifications, and subsection (2) above shall apply to a report under subsection (2A) above as they apply to a report under that section.

(2D) If the Local Commissioner—

- (a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that subsection has expired that the authority concerned have decided to take no action, or
- (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
- (c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Local Commissioner may agree in writing, receive

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confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,

he may, by notice to the authority, require them to arrange for a statement to be published in accordance with subsections (2E) and (2F) below.

(2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Local Commissioner may agree, consisting of—

- (a) details of any action recommended by the Local Commissioner in his further report which the authority have not taken;
- (b) such supporting material as the Local Commissioner may require; and
- (c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.

(2F) The requirements for the publication of the statement are that—

- (a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Local Commissioner or, in default of agreement, nominated by him; and
- (b) publication in the first such edition shall be arranged for the earliest practicable date.

(2G) If the authority concerned—

- (a) fail to arrange for the publication of the statement in accordance with subsections (2E) and (2F) above, or
- (b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Local Commissioner may agree in writing, to agree with the Local Commissioner the form of the statement to be published,

the Local Commissioner shall arrange for such a statement as is mentioned in subsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

(2H) The authority concerned shall reimburse the Commission on demand any reasonable expenses incurred by the Local Commissioner in performing his duty under subsection (2G) above.]

[<sup>F76</sup>(3) In any case where—

- (a) a report is laid before an authority under subsection [<sup>F77</sup>(2) or (2C)] above, and
- (b) on consideration of the report, it appears to the authority that a payment should be made to, or some other benefit should be provided for, a person who has suffered injustice in consequence of maladministration [<sup>F78</sup>to which the report relates],

the authority may incur such expenditure as appears to them to be appropriate in making such a payment or providing such a benefit.]

#### Textual Amendments

**F75** S. 31 subsections (1)–(2H) substituted for subsections (1)(2) by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 26(1)(2)

**F76** S. 31(3) added by [Local Government Act 1978 \(c. 39\)](#), s. 1

**F77** Words substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(1), [Sch. 11 para. 39\(1\)\(2\)](#)

**F78** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 7\(1\)\(4\)\(5\)](#)

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

**C40** S. 31: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**

**C41** Ss. 31–34 modified by S.I. 1986/452, **art. 8(3)**

[<sup>F79</sup>**31A Consideration of adverse reports.**

- (1) Subject to subsection (3) below, any power of an authority to have their functions discharged by any person or body of persons acting for the authority shall, as respects the consideration of a further report of the Local Commissioner under section 31(2A) above, be subject to the restriction that, if it is proposed that the authority should take no action on, or not the action recommended in, the report, consideration of the report shall be referred to the authority.
- (2) Consideration of a further report of the Local Commissioner under section 31(2A) above by any such committee of a local authority as is referred to in an enactment specified in section 101(9) of the Local Government Act 1972 or by any appeal committee constituted in accordance with paragraph 1 of Schedule 2 to the Education Act 1980 shall be subject to a corresponding restriction.
- (3) The restriction imposed by subsections (1) and (2) above does not apply where the report recommends action to be taken by—
  - (a) a joint committee established under the said section 101, or
  - (b) any committee referred to in an enactment specified in paragraph (c), (d) or (h) of the said section 101(9).
- (4) If an authority considering a further report of the Local Commissioner under section 31(2A) above take into consideration a report by a person or body with an interest in the Local Commissioner’s report, they shall not conclude their consideration of the Local Commissioner’s report without also having taken into consideration a report by a person or body with no interest in the Local Commissioner’s report.
- (5) No member of an authority to which this Part of this Act applies or of a committee mentioned in subsection (2) or (3) above shall vote on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by a Local Commissioner.
- (6) Section 25(4) and (5) above do not apply to this section.]

**Textual Amendments**

**F79** S. 31A inserted by **Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 28**

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

**C42** S. 31A: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**

**C43** Ss. 31–34 modified by S.I. 1986/452, **art. 8(3)**

**32 Law of defamation, and disclosure of information.**

- (1) For the purposes of the law of defamation, any such publication as is hereinafter mentioned shall be absolutely privileged, that is to say—

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- (a) the publication of any matter in communications between a member [<sup>F80</sup>or officer] of an authority and a Local Commissioner, or any officer of either Commission, for the purposes of this Part of this Act;
  - (b) the publication of any matter by a Local Commissioner or by any officer of either Commission, in communicating with a complainant for the purposes of this Part of this Act;
  - (c) the publication of any matter in preparing, making and sending a report or statement in accordance with section 30 or section 31 above, or, subject to section 30(7) above, in making a report available to the public [<sup>F81</sup>or in supplying a copy under section 30(4A) above];
  - (d) the publication of any matter contained in a report by a Local Commissioner which has been made available to the public, being publication by inclusion in a report made or published under section 24 above.
  - [<sup>F82</sup>(e) the publication of any matter by inclusion in a statement published in accordance with section 31(2D), (2E) and (2F) or (2G) above.]
- (2) Information obtained by a Local Commissioner, or any officer of either Commission, in the course of or for the purposes of an investigation under this Part of this Act shall not be disclosed except—
- (a) for the purposes of the investigation and of any report to be made under section 30 or section 31 above; or
  - (b) for the purposes of any proceedings for an offence under the Official Secrets Acts 1911 to 1939 alleged to have been committed in respect of information obtained, by virtue of this Part of this Act, by a Local Commissioner or by an officer of either Commission or for an offence of perjury alleged to have been committed in the course of an investigation under this Part of this Act or for the purposes of an inquiry with a view to the taking of such proceedings, or
  - (c) for the purpose of any proceedings under section 29(9) above,
- and a Local Commissioner and the officers of his Commission shall not be called upon to give evidence in any proceedings (other than proceedings within paragraph (b) or (c) above) of matters coming to his or their knowledge in the course of an investigation under this Part of this Act.
- (3) A Minister of the Crown or any of the authorities mentioned in section 25(1) above may give notice in writing to a Local Commissioner with respect to any document or information specified in the notice, or any class of documents or information so specified, that in the opinion of the Minister, or as the case may be of the authority, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest; and where such a notice is given nothing in this Part of this Act shall be construed as authorising or requiring [<sup>F83</sup>the Local Commissioner or any member of the staff of a Commission who is allocated to assist him] to communicate to any other person, or for any purpose, any document or information specified in the notice, or any document or information of a class so specified:
- Provided that a notice given under this subsection by any authority may be discharged by the Secretary of State.
- (4) Nothing in subsection (3) above shall affect the obligations imposed by subsections (3) and (4) of section 29 above.
- (5) Where information is disclosed in accordance with section 29(3) above, being information which is derived from a communication from a government department,

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and which has not been made public, a Local Commissioner shall not without the written consent of an officer of the government department make a report which includes all or any of that information unless he has given the department not less than one month's notice in writing of his intention.

- (6) The provisions of this section shall apply to the Commissioners of Customs and Excise and Commissioners of Inland Revenue as they apply to a Minister of the Crown.

#### Textual Amendments

- F80** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 8(2)(4)**  
**F81** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 8(3)(4)**  
**F82** S. 32(1)(e) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 194(1), **Sch. 11 para. 40**  
**F83** Words substituted by Local Government, Planning and Land Act 1980 (c. 65), s. 184(1)

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

- C44** S. 32: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**  
**C45** Ss. 31-34 modified by S.I. 1986/452, **art. 8(3)**  
**C46** S. 32 applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. 1**  
**C47** S. 32(2)(b) amended by Official Secrets Act 1989 (c. 6, SIF 39:2), s. 16(3), **Sch. 1 para. 1(e)**

### 33 Consultation between Local Commissioner, the Parliamentary Commissioner and the Health Service Commissioners.

- (1) If, at any stage in the course of conducting an investigation under this Part of this Act, a Local Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation—

- (a) by the Parliamentary Commissioner, in accordance with section 5 of the Act of 1967, or  
(b) by the Health Service Commissioner for England or the Health Service Commissioner for Wales, in accordance with [F84 sections 109, 110, 113, 115 and 116 of the M19 National Health Service Act 1977],

he shall consult with the appropriate Commissioner about the complaint and, if he considers it necessary, inform the person initiating the complaint under this Part of this Act of the steps necessary to initiate a complaint under the Act of 1967 or under [F84 Part V of the Act of 1977], as the case may be.

- (2) Where, by virtue of subsection (1) above, a Local Commissioner consults the Parliamentary Commissioner or one of the Health Service Commissioners in relation to a complaint under this Part of this Act, he may consult that Commissioner about any matter relating to the complaint, including—

- (a) the conduct of any investigation into the complaint, and  
(b) the form, content and publication of any report of the results of such an investigation.

- (3) If, at any stage in the course of conducting an investigation under—

- (a) the Act of 1967, or  
(b) [F85 Part V of the Act of 1977],

the Commissioner conducting the investigation forms the opinion that the complaint relates partly to a matter which could be the subject of investigation under this Part of

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this Act, he shall consult with the appropriate Local Commissioner about the complaint and, if he considers it necessary, inform the person initiating the complaint under the Act of 1967 or [<sup>F85</sup>Part V of the Act of 1977], as the case may be, of the steps necessary to initiate a complaint under this Part of this Act.

- (4) Where, by virtue of subsection (3) above, a Local Commissioner is consulted about a complaint under the Act of 1967 or [<sup>F86</sup>Part V of the Act of 1977], subsection (2) above shall apply (with the necessary modifications) as it applies in relation to consultations held by virtue of subsection (1) above.
- (5) Nothing in section 11(2) of the Act of 1967, in [<sup>F87</sup>paragraph 16 of Schedule 13 to the Act of 1977], or in section 32(2) of this Act (restrictions of disclosure of information) shall apply in relation to the disclosure of information by any of the Commissioners mentioned in this section, or by any of their officers, in the course of consultations held in accordance with this section.
- (6) In this section the “Act of 1967” means the <sup>M20</sup>Parliamentary Commissioner Act 1967 and [<sup>F88</sup>the “Act of 1977” means the <sup>M21</sup>National Health Service Act 1977].

#### Textual Amendments

- F84** Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 61\(a\)](#)
- F85** Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 61\(b\)](#)
- F86** Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 61\(c\)](#)
- F87** Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 61\(d\)](#)
- F88** Words substituted by [National Health Service Act 1977 \(c. 49\)](#), [Sch. 15 para. 61\(e\)](#)

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

- C48** [S. 33](#): ss. 26-34 modified by [S.I. 1991/559](#), [art. 2\(3\)](#)
- C49** [Ss. 31–34](#) modified by [S.I. 1986/452](#), [art. 8\(3\)](#)

#### Marginal Citations

- M19** [1977 c. 49](#).
- M20** [1967 c. 13](#).
- M21** [1977 c. 49](#).

VALID FROM 30/01/2001

#### <sup>F89</sup>33A Disclosure of information by Local Commissioner to Information Commissioner.

- (1) A Local Commissioner may disclose to the Information Commissioner any information obtained by, or furnished to, the Local Commissioner under or for the purposes of this Part of this Act if the information appears to the Local Commissioner to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
- (i) Part V of the Data Protection Act 1998 (enforcement),
  - (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
  - (iii) Part IV of that Act (enforcement), or

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- (b) the commission of an offence under—
  - (i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or
  - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).
- (2) Nothing in section 32(2) of this Act shall apply in relation to the disclosure of information in accordance with this section.]

#### Textual Amendments

**F89** S. 33A inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2), **Sch. 7 para. 4** (with ss. 56, 78)

### 34 Interpretation of Part III.

- (1) In this Part of this Act, unless the context otherwise requires—
- “action” includes failure to act, and other expressions connoting action shall be construed accordingly,
  - “the Commissions” means the Commission for Local Administration in England and the Commission for Local Administration in Wales,
  - “local authority” means a county council, . . . <sup>F90</sup> a district council, [<sup>F91</sup>the Broads Authority], a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly,
  - “member”, in relation to a joint board, includes a member of any of the constituent authorities of the joint board,
  - “person aggrieved” means the person who claims or is alleged to have sustained any such injustice as is mentioned in section 26(1) above,
  - “Parliamentary Commissioner” means the Parliamentary Commissioner for Administration,
  - ..... <sup>F92</sup>
  - “tribunal” includes the person constituting a tribunal consisting of one person.
- (2) Section 269 of the <sup>M22</sup>Local Government Act 1972 (which relates to the meaning of “England” and “Wales” in Acts passed after 1st April 1974) shall apply to this Part of this Act as if it had been passed after that date.
- (3) It is hereby declared that nothing in this Part of this Act authorises or requires a Local Commissioner to question the merits of a decision taken without maladministration by an authority in the exercise of a discretion vested in that authority.

#### Textual Amendments

**F90** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

**F91** Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 21, 23(2), 27(2), **Sch. 6 para. 12**

**F92** Definition repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 194(4), **Sch. 12 Pt. II**



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

**C50** S. 34: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**

**C51** Ss. 31–34 modified by S.I. 1986/452, **art. 8(3)**

**Marginal Citations**

**M22** 1972 c. 70.

**PART IV**

MISCELLANEOUS AND GENERAL

**35 Removal or relaxation of controls affecting certain local authority functions.**

- (1) For the purpose of removing or relaxing controls which affect the exercise by local authorities of certain functions, including limits imposed on the amount of the fees which may be charged by local authorities in connection with the issue of licences and the exercise of other functions, the enactments specified in the first column of Schedule 6 to this Act shall have effect subject to the amendments specified in the second column of that Schedule.
- (2) Without prejudice to section 43(4) below, any reference in Schedule 6 to this Act to any enactment includes a reference to that enactment as applied by any other enactment, including a local Act.
- (3) Without prejudice to subsection (1) above, the Secretary of State may by order made by statutory instrument make provision for the removal or relaxation of any control, including any such limit as is referred to in subsection (1) above, which affects the exercise of any function by a local authority and which is conferred by or under any enactment on a Minister of the Crown or a body constituted by or under any enactment.
- (4) An order made under this section—
  - (a) may be revoked or varied by a further order so made, and
  - (b) may contain such incidental or consequential provisions as appear to the Secretary of State to be appropriate, including provisions amending or repealing or revoking, with or without savings, any enactment passed before this Act and any instrument made under any such enactment.
- (5) A statutory instrument containing an order under this section shall be of no effect unless approved by a resolution of each House of Parliament.
- (6) In this section “local authority” means any local authority within the meaning of the <sup>M23</sup>Local Government Act 1972, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple, the Council of the Isles of Scilly, a port health authority, the London Transport Executive and a Passenger Transport Executive.

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

**C52** S. 35(3): application continued by **Weights and Measures Act 1985 (c. 72, SIF 131), s. 196(1), Sch. 11 para. 19**

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**Marginal Citations**

M23 1972 c. 70.

**36 Recovery by local authorities of establishment charges.**

- (1) In any case where a local authority—
- (a) are empowered under any enactment to carry out any works or do any other thing on or in relation to any land or building, and
  - (b) by virtue of that or any other enactment are entitled to recover from any person expenses incurred by them in exercising that power,
- the local authority shall be entitled to recover, together with and in like manner as the expenses which are recoverable as mentioned in paragraph (b) above, such sum as appears to them to be reasonable in respect of their establishment charges.
- (2) The provisions of subsection (1) above shall have effect in substitution for any provision contained in any enactment, including an enactment in a local Act, under which a local authority who have exercised any such power as is referred to in subsection (1)(a) above have power to recover any sum in respect of their establishment charges or any element or elements of those charges.
- (3) In this section “local authority” has the same meaning as in section 35 above.

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

C53 S. 36 applied by Housing Act 1988 (c. 50, SIF 61), ss. 65(5), 68(4)

**37** ..... F93

**Textual Amendments**

F93 S. 37 repealed by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), ss. 3, 6, Sch. 1 Pt. I

**38** ..... F94

**Textual Amendments**

F94 S. 38 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 para. 3(1)(2)(3), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I

**39 Compensation for loss of office : extension of cases for which regulations may provide.**

For subsection (3) of section 259 of the <sup>M24</sup>Local Government Act 1972 (regulations providing for compensation for loss of office attributable to that Act may extend to persons whose loss is attributable to any such transfer or relinquishment of functions as is referred to in paragraph (c) of the new subsection set out below) there shall be substituted the following subsection :—

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“(3) Without prejudice to subsection (1) above, regulations under this section may make provision in relation to persons who suffer loss of employment or loss or diminution of emoluments which is attributable to—

- (a) the provisions of any such order as is referred to in section 326(1) of the Public Health Act 1936 ;
- (b) an existing local authority ceasing, as respects the whole or part of their area, to be a food and drugs authority, within the meaning of the Food and Drugs Act 1955 ;
- (c) any transfer or relinquishment of functions under any of the provisions of the Public Health Act 1936 which are incorporated in the Food and Drugs Act 1955 or in the Slaughterhouses Act 1974 ; or
- (d) the provisions of an order under section 46 of the Children and Young Persons Act 1969 ;

and, without prejudice to the repeal of any enactment by this Act, regulations making provision for any of the cases specified in paragraphs (a) to (d) above may provide that the provisions as to compensation made for that case by section 326 of the Public Health Act 1936, section 129(1) of the Food and Drugs Act 1955 or, as the case may be, paragraph 2 of Schedule 3 to the Children and Young Persons Act 1969 shall not apply in relation to persons to whom the provisions of theregulations apply.”

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

**C54** The text of s. 39 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**

**M24** 1972 c. 70.

40 ..... F95

**Textual Amendments**

**F95** S. 40 repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)

**41 Expenses.**

There shall be defrayed out of money provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of a Minister under this Act;
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

**42 Minor and consequential amendments and repeals.**

- (1) Schedule 7 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.

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- (2) The enactments specified in Schedule 8 to this Act are here by repealed to the extent specified in the third column of that Schedule.

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

**C55** The text of s. 42 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.

**43 Short title, commencement, construction, application and extent.**

- (1) This Act may be cited as the Local Government Act 1974.
- (2) Part II, other than sections 16 and 22, and sections 35, 37 and 42 of this Act and Schedules 6 to 8 to this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.
- (3) An order under subsection (2) above appointing a day for the coming into operation of any provision of Schedules 6 to 8 to this Act may contain such savings with respect to the operation of that provision as appear to the Secretary of State to be appropriate.
- (4) Any reference in this Act to any other enactment shall be construed as referring to that enactment as amended by or under any other enactment, including this Act.
- (5) In their application to the Isles of Scilly, the provisions of Parts I and IV of this Act shall have effect subject to such modifications as the Secretary of State may by order made by statutory instrument direct.
- (6) . . . . .<sup>F96</sup>, this Act shall not extend to Scotland or to Northern Ireland.

**Textual Amendments**

**F96** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), [Sch. 3](#) and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), [Sch. 3 Pt. I](#)

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

**C56** Power of appointment conferred by s. 43(2) fully exercised: [S.I. 1974/335](#), 1977/943 and 1978/1583

**Status:**

Point in time view as at 10/11/1993. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

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