



# Local Government (Miscellaneous Provisions) Act 1976

## 1976 CHAPTER 57

### PART I

#### GENERAL

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

**C1** Pt. I(ss. 1–44) extended by [Airports Act 1986](#) (c. 31, SIF 9), s. 58, **Sch. 2 para. 1(1)** and by [Water Act 1989](#) (c.15, SIF 81:1), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(2)(xxi), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### *Highways*

**F1** 1–6 .....

**Textual Amendments**

**F1** Ss. 1–6 repealed by [Highways Act 1980](#) (c. 66, SIF 59), s. 343(3), **Sch. 25**

**7 Control of road-side sales.**

- (1) If a highway authority considers that, for the purpose of avoiding danger on or facilitating the passage of traffic over a highway for which it is the highway authority, it is appropriate to make an order under this subsection in respect of the highway, the authority may make an order (hereafter in this section referred to as a “control order”) specifying the highway and providing that, subject to subsection (5) of this section—
- (a) no person shall sell anything on the highway or offer or expose anything for sale on the highway; and

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- (b) no person shall, for the purpose of selling anything or offering or exposing anything for sale on the highway or of attracting from users of the highway offers to buy anything, put, keep or use on the highway, or on land within fifteen metres from any part of the highway any stall or similar structure or any container or vehicle.
- (2) The highway authority for a highway in respect of which a control order is in force may vary or revoke the order by a subsequent order.
- (3) [<sup>F2</sup>Paragraphs 20 to 23, paragraph 24 (except so much of it as relates to appeals by district councils) and paragraph 25 of Schedule 9 to the Road Traffic Regulation Act 1984](which relate to the procedure for making orders under the provisions of that Act mentioned in [<sup>F2</sup>paragraphs 20(1) and 24(a) and (b) of that Schedule]) shall have effect as if subsections (1) and (2) of this section were included among those provisions.
- (4) If a person contravenes a control order which is in force for a highway, the highway authority for the highway may by a notice served on him require him not to contravene the order after a date specified in the notice (which must not be before the expiration of the period of 7 days beginning with the date of service of the notice); and—
- (a) if a person on whom a notice relating to a contravention of a control order is served in pursuance of this subsection contravenes the order after the expiration of that period, or causes, permits or procures another person to contravene it after the expiration of that period, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F3</sup>level 3 on the standard scale];
- (b) if a contravention in respect of which a person is convicted of an offence in pursuance of the preceding paragraph is continued by him after the expiration of the period of 7 days beginning with the date of the conviction he shall, as respects each day on which the contravention is so continued, be guilty of a further offence and liable on summary conviction to a fine not exceeding £10.
- (5) A control order does not apply—
- (a) to anything done at premises used as a shop or petrol filling station either—
- (i) in pursuance of planning permission granted or deemed to be granted under [<sup>F4</sup>the <sup>M1</sup>Town and Country Planning Act 1990], or
- (ii) in a case where the premises are, without such permission, lawfully used as a shop or petrol filling station, or
- <sup>F5</sup>(iii) .....
- (b) to anything done at a market in respect of which tolls, stallages or rents are payable;
- (c) to the sale, offer or exposure for sale of things from or on a vehicle which is used only for the purpose of itinerant trading with the occupiers of premises or which is used only for that purpose and for purposes other than trading;
- (d) to such a vehicle as is mentioned in the preceding paragraph or to containers on the vehicle;
- (e) to, or to containers used in connection with, the sale, offer or exposure for sale, by or on behalf of the occupier of land used for agriculture and on that land, of agricultural produce produced on that land;
- (f) to the provision, in a lay-by situated on a highway, of facilities for the purchase of refreshments by persons travelling on the highway or on another highway near to the highway;

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(g) to anything as respects which the control order provides that the order is not to apply to it.

In paragraph (e) of this subsection “agriculture” and “agricultural” have the same meanings as in the <sup>M2</sup>Agriculture Act 1947.

(6) References in the preceding provisions of this section to a control order are, in the case of a control order which has been varied in pursuance of subsection (2) of this section, references to the order as so varied.

**Textual Amendments**

- F2** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, **Sch. 13 para. 34**
- F3** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F4** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 35(1)(a)**
- F5** [S. 7\(5\)\(a\)\(iii\)](#) repealed (27.7.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), ss. 32, 84(6), **Sch. 7, para. 3, Sch. 19, Pt. I** (with s. 84(5)); S.I. 1992/1630, art. 2, Schs. 1, 2

**Marginal Citations**

- M1** 1990 c. 8.
- M2** 1947 c. 48.

*Housing*

**F6**8 .....

**Textual Amendments**

- F6** [S. 8](#) repealed by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. 47, **Sch. 7 Pt. XVI**

**F7**9, 10. ....

**Textual Amendments**

- F7** [Ss. 9, 10](#) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 36, **Sch. 1 Pt. I**

*Heating etc*

**11 Production and supply of heat etc. by local authorities.**

- (1) Subject to subsections (2) and (3) of this section, a local authority may—
- (a) produce heat or electricity or both;
  - (b) establish and operate such generating stations and other installations as the authority thinks fit for the purpose of producing heat or electricity or both;
  - (c) buy or otherwise acquire heat;

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- (d) use, sell or otherwise dispose of heat produced or acquired [<sup>F8</sup>or electricity produced]by the authority by virtue of this section;
- (e) without prejudice to the generality of the preceding paragraph, enter into and carry out agreements for the supply by the authority, to premises within or outside the authority’s area, of such heat as is mentioned in the preceding paragraph and steam produced from and air and water heated by such heat.
- [<sup>F9</sup>(2) Nothing in subsection (1) of this section shall be construed as exempting a local authority from the requirements of Part I of the Electricity Act 1989.
- (3) Except in such cases as may be prescribed, a local authority shall not be entitled to sell electricity which is produced otherwise than in association with heat.]
- (4) A local authority may—
- construct, lay and maintain pipes and associated works for the purpose of conveying heat produced or acquired by the authority by virtue of this section and steam produced from and air and water heated by such heat;
  - contribute towards the cost incurred by another person in providing or maintaining pipes or associated works which are connected with pipes provided by the authority in pursuance of the preceding paragraph.
- (5) Parts V and VI of Schedule 3 to the <sup>M3</sup>Water Act 1945 (which relate to the laying of mains and the breaking open of streets) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those Parts apply in relation to water mains and pipes but as if—
- sections 19(4) and 21 of that Schedule (which relate to the erection of street notices and the laying of service pipes) were omitted, and in section 22 of that Schedule the words “which they are authorised to lay” were omitted; and
  - for any reference to undertakers or limits of supply there were substituted respectively a reference to the authority in question and the area of the authority; and
  - for the reference to the special Act in section 25(4) of that Schedule there were substituted a reference to this subsection.
- (6) It shall be the duty of a local authority by which an installation for producing heat is operated in pursuance of this section in any year to furnish to the Secretary of State, as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at it as are prescribed.
- (7) In this section—
- “associated works”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as are prescribed;
- <sup>F10</sup> . . . and
- “prescribed” means prescribed by regulations made by statutory instrument by the Secretary of State [<sup>F11</sup>which, in the case of regulations under subsection (3) of this section, shall be subject to annulment in pursuance of a resolution of either House of Parliament];
- and nothing in this section (except the restrictions imposed by subsection (3)) shall be construed as prejudicing any power exercisable by a local authority [<sup>F12</sup>(in its capacity as such)]apart from this section.

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### Textual Amendments

- F8** Words inserted by [Electricity Act 1989 \(c. 29, SIF 41:1\)](#), s. 112(1)(3), Sch. 16 para. 20(2), Sch. 17 paras. 33, **35(1)**
- F9** Subsections (2) and (3) substituted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 20(2), Sch. 17 paras. 33, **35(1)**
- F10** Definition repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3)(4), Sch. 16 para. 20(4)(a), Sch. 17 paras. 33, 35(1), **Sch. 18**
- F11** Words added by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 20(4)(b), Sch. 17 paras. 33, **35(1)**
- F12** Words inserted by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 20(4)(c), Sch. 17 paras. 33, **35(1)**

### Marginal Citations

- M3** 1945 c. 42.

## 12 Provisions supplementary to s. 11.

- (1) A local authority which supplies or proposes to supply heat, hot air, hot water or steam in pursuance of the preceding section may make byelaws—
- with respect to the works and apparatus to be provided or used by persons other than the authority in connection with the supply;
  - for preventing waste and unauthorised use of the supply and unauthorised interference with works and apparatus used by the authority or any other person in connection with the supply;
  - providing for any specified contravention of the byelaws to be an offence punishable on summary conviction with a fine of such an amount, not exceeding [<sup>F13</sup>level 3 on the standard scale], as is specified in the byelaws.
- (2) Subsections (1) to (5) of section 82 of Schedule 3 to the <sup>M4</sup>Water Act 1945 (which relates to the entry of premises by authorised officers of water undertakers) shall have effect for the purpose of authorising the entry of premises by authorised officers of an authority which provides or proposes to provide such a supply as is mentioned in the preceding subsection as if for any reference to undertakers there were substituted a reference to the authority and as if in subsection (1) of that section—
- for paragraph (a) there were substituted the following paragraph—
    - for the purpose of installing, examining, adjusting, removing or reading any meter used or to be used by the authority for measuring the heat, hot air, hot water or steam supplied or to be supplied by the authority;”
  - for the words from “the special Act” onwards in paragraph (b) there were substituted the words “ byelaws in force by virtue of section 12 of the Local Government (Miscellaneous Provisions) Act 1976 ”; and
  - for the words “the special Act” in paragraphs (c) and (d) there were substituted the words “ section 11 of that Act ”.
- (3) [<sup>F14</sup>Subsections (1) and (2) above have effect subject to paragraph 11(2) of Schedule 1 to the Building Act 1984; and]section 80 of the <sup>M5</sup>Health and Safety at Work etc. Act 1974 (which among other things provides that regulations under subsection (1) of that section may repeal or modify any provision to which that subsection applies if it appears to the authority making the regulations that it is expedient to do so in

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consequence of any provision made by or under Part I of that Act) shall have effect as if the provisions to which subsection (1) of that section applies included subsection (1) of this section and byelaws in force by virtue of subsection (1) of this section.

- (4) The accounts of a local authority by which expenditure is incurred under any of the provisions of the preceding section and this section shall include a separate account of that expenditure and of any income connected with functions conferred on the authority by those provisions.

#### Textual Amendments

**F13** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 40, 46**

**F14** Words substituted by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(1), **Sch. 6 para. 17**

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

**C2** Power to repeal or alter s. 12(1) conferred by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 1(3), **Sch. 1 para. 11(2)(a)**

**C3** Power to modify s. 12(2) conferred by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 1(3), **Sch. 1 para. 11(2)(b)**

#### Marginal Citations

**M4** [1945 c. 42.](#)

**M5** [1974 c. 37.](#)

### Land

## 13 Compulsory acquisition by local authorities of rights over land.

- (1) A local authority which may be authorised by a Minister of the Crown, by means of a compulsory purchase order, to purchase any land compulsorily for any purpose may be authorised by that Minister, by means of such an order, to purchase compulsorily for that purpose such new rights over the land as are specified in the order; and in this subsection “new rights” means rights which are not in existence when the order specifying them is made.
- (2) <sup>F15</sup> . . . the <sup>M6</sup>Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make them apply to the compulsory purchase of rights by virtue of the preceding subsection as they apply to the compulsory purchase of land so that, in appropriate contexts, references in those Acts to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.
- (3) Without prejudice to the generality of the preceding subsection, in relation to the purchase of rights in pursuance of subsection (1) of this section—
- <sup>F16</sup>(a) . . . . .
- (b) Part I of the said Act of 1965 <sup>F17</sup> . . . shall have effect with the modifications specified in Part II of Schedule 1 to this Act; and
- (c) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.
- (4) Nothing in the preceding provisions of this section shall authorise the purchase of any rights by an authority for a purpose for which there is power by virtue of <sup>F18</sup>section 250

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of the Highways Act 1980](which relates to the compulsory acquisition of rights by highway authorities) to authorise the authority to acquire the rights.

[<sup>F19</sup>(5) In this section “compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981, and Schedule 3 to that Act shall apply to the compulsory purchase of rights by virtue of subsection (1) above.]

#### Textual Amendments

**F15** Words repealed by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(3), **Sch. 6 Pt. I**

**F16** S. 13(3)(a) repealed by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(3), **Sch. 6 Pt. I**

**F17** Words repealed by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(3), **Sch. 6 Pt. I**

**F18** Words substituted by Highways Act 1980 (c. 66, SIF 59), s. 343(2), **Sch. 24 para. 27(a)**

**F19** S. 13(5) substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(1), **Sch. 4 para. 26**

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

**C4** S. 13 applied by Town and Country Planning Act 1990 (c. 8, SIF 123:1), s. 244(4)

**C5** Power to apply s. 13 conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4 para. (c)(i); S.I. 1997/1930, art. 2(2)(m)**

**C6** S. 13 extended (19.9. 1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 1(2)(a)(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

**C7** S. 13(2)(3) applied (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), ss. 49(7), 70(1)

**C8** S. 13(5) applied (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), ss. 49(7), 70(1)

#### Marginal Citations

**M6** 1965 c. 56.

## 14 Injurious affection connected with certain land held by local authorities and acquired by agreement before 1st April 1974.

(1) Where an interest in land is held by a local authority for a purpose for which the authority can by virtue of an enactment be authorised to acquire land compulsorily and—

- (a) the interest was acquired by agreement by the authority or another body before 1st April 1974 and, where it was acquired by another body, has not since the acquisition been transferred otherwise than by an Act or an order made under an Act; and
- (b) provisions of the Lands Clauses Acts or the <sup>M7</sup>Compulsory Purchase Act 1965 apply to the acquisition but those provisions do not include section 68 of the <sup>M8</sup>Lands Clauses Consolidation Act 1845 (under which there is among other things a right to compensation in respect of land injuriously affected by certain works) or section 10 of the said Act of 1965 (which re-enacts the said section 68),

the authority may by resolution provide that, on and after the date when the resolution comes into force, the said section 68 or as the case may be the said section 10 shall be included among the provisions aforesaid which apply to the acquisition.

(2) Where an authority passes a resolution in pursuance of the preceding subsection in connection with any land in which the authority holds an interest, it shall be the duty of the authority—

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- (a) to send to the appropriate Minister a copy of the resolution and a map indicating the land;
  - (b) to publish in two successive weeks, in one or more local newspapers circulating in the area in which the land is situated, a copy of the resolution and a notice stating—
    - (i) a place in the area of the council where a map indicating the land may be inspected by members of the public free of charge between 10 a.m. and 4 p.m. on each weekday, except Saturdays and bank holidays, during a period specified in the notice (which shall not be less than 21 days beginning with the date of first publication of the notice in pursuance of this paragraph), and
    - (ii) that any person having an interest in land which could be injuriously affected by virtue of the resolution if it came into force may object to the resolution in accordance with the following subsection, and
    - (iii) the designation and address of the appropriate Minister;
  - (c) not later than the date aforesaid, to serve a copy of the resolution and of the said notice, by post by the recorded delivery service, on each person who, after reasonable inquiry, appears to the authority to be such a person as is mentioned in paragraph (b)(ii) of this subsection; and
  - (d) not later than that date, to affix a copy of the resolution and the said notice in a prominent position on the land.
- (3) Any such person as is mentioned in paragraph (b)(ii) of the preceding subsection may object to the resolution in question by serving on the appropriate Minister, within the period mentioned in paragraph (b)(i) of that subsection, a notice setting out the grounds of his objection.
- (4) A resolution passed in pursuance of subsection (1) of this section shall not come into force unless the appropriate Minister makes an order providing that it shall come into force and, where he makes such an order, shall come into force on the date specified in the order; and the appropriate Minister—
- (a) shall not make such an order in respect of a resolution before the expiration of the period specified in pursuance of paragraph (b)(i) of subsection (2) of this section in the notice published in pursuance of that subsection in connection with the resolution; and
  - (b) may hold an inquiry for the purpose of deciding whether to make such an order in respect of a resolution.
- (5) Where an order is made in pursuance of this section in respect of a resolution passed by an authority, it shall be the duty of the authority—
- (a) to publish in two successive weeks, in one or more local newspapers circulating in the area in which the land to which the resolution relates is situated, a notice stating that the order has been made, the date specified in the order as that on which the resolution comes into force and the effect of the following subsection; and
  - (b) to serve a copy of the notice, by post by the recorded delivery service, on each person on whom notice in respect of the resolution was served in pursuance of subsection (2)(c) of this section.
- (6) No question as to the validity of a resolution purporting to be passed in pursuance of subsection (1) of this section or of an order purporting to be made in pursuance of this section in respect of such a resolution shall be entertained in any proceedings begun



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after the expiration of the period of three months beginning with the date when notice relating to the resolution was first published in pursuance of the preceding subsection; and, except as otherwise determined in proceedings begun before the expiration of that period, such a resolution shall be deemed to be duly passed and such an order shall be deemed to be duly made.

- (7) In this section “the appropriate Minister” means, in relation to a resolution passed by an authority in connection with any land in which an interest is held by the authority, the Minister of the Crown having power to authorise the authority to acquire land compulsorily for the purposes for which the interest is held by the authority; and section 250 of the <sup>M9</sup>Local Government Act 1972 (which relates to local inquiries) shall have effect in relation to an inquiry in pursuance of subsection (4)(b) of this section as if for the reference to the Secretary of State in subsection (1) of that section there were substituted a reference to the appropriate Minister.

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

**C9** Power to apply s. 14 conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (c)(i); S.I. 1997/1930, **art. 2(2)(m)**

**Marginal Citations**

- M7** 1965 c. 56.
- M8** 1845 c. 18.
- M9** 1972 c. 70.

**<sup>F20</sup>15 Power of local authorities to survey land which they propose to acquire compulsorily.**

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**Textual Amendments**

**F20** S. 15 omitted (13.7.2016) by virtue of **Housing and Planning Act 2016 (c. 22)**, s. 216(3), **Sch. 14 para. 9**; S.I. 2016/733, **reg. 3(h)** (with **reg. 6**)

**16 Power of local authorities to obtain particulars of persons interested in land.**

- (1) Where, with a view to performing a function conferred on a local authority by any enactment, the authority considers that it ought to have information connected with any land, the authority may serve on one or more of the following persons, namely—
  - (a) the occupier of the land; and
  - (b) any person who has an interest in the land either as freeholder, mortgagee or lessee or who directly or indirectly receives rent for the land; and
  - (c) any person who, in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it,

a notice specifying the land and the function and the enactment which confers the function and requiring the recipient of the notice to furnish to the authority, within a period specified in the notice (which shall not be less than fourteen days beginning with the day on which the notice is served), the nature of his interest in the land and

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the name and address of each person whom the recipient of the notice believes is the occupier of the land and of each person whom he believes is, as respects the land, such a person as is mentioned in the provisions of paragraphs (b) and (c) of this subsection.

(2) A person who—

- (a) fails to comply with the requirements of a notice served on him in pursuance of the preceding subsection; or
- (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F21</sup>level 5 on the standard scale].

### Textual Amendments

**F21** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

### Modifications etc. (not altering text)

- C10** S. 16 extended by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), **s. 33(7)**  
S. 16 extended (19.9.1995) by [1995 c. 25, ss. 65\(7\), 125\(2\)](#), **Sch. 8 para. 1(2)(c)(4)** (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))  
S. 16 extended (6.5.2003) by [London Development Agency Act 2003 \(c. i\)](#), **ss. 1, 2**
- C11** S. 16: power to transfer functions conferred by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), **ss. 3(2)(c)(i), 79**  
S. 16: power to apply conferred (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), **Sch. 4 para. (c)(i); S.I. 1997/1930, art. 2(2)(m)**
- C12** S. 16: certain functions transferred (7.8.1991) by [S.I. 1991/1773, art. 8\(1\)\(3\)](#), **Sch. 2**  
S. 16: certain functions transferred (10.1.1992) by [S.I. 1991/2913, art. 8\(1\)\(3\)](#), **Sch. 2**
- C13** S. 16 modified (7.8.1991) by [S.I. 1991/1773, art. 8\(2\)\(3\)](#), **Sch. 2**  
S. 16 modified (10.1.1992) by [S.I. 1991/2913, art. 8\(2\)\(3\)](#), **Sch. 2**
- C14** S. 16 restricted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), **s. 117(1), Sch. 13 para. 45** (with [s. 118\(1\)\(2\)\(4\)](#))
- C15** S. 16 amended (16.11.2000) by [S.I. 2000/2853, reg. 3\(1\)](#), **Sch. 2 para. 17**
- C16** S. 16 extended (2.7.2009) by [Broads Authority Act 2009 \(c. i\)](#), **s. 23** (with [ss. 2\(3\), 16\(3\), 42, Sch. 6 Pt. ss. 2, 3](#))
- C17** S. 16 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\)](#), **arts. 1(1), 4, Sch.**
- C18** S. 16 modified (E.) (6.4.2010) by [The Southampton Port Health Authority Order 2010 \(S.I. 2010/1218\)](#), **arts. 1(1), 4, Sch.**
- C19** S. 16 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\)](#), **arts. 1, 4, Sch.**
- C20** S. 16 modified (E.) (6.4.2010) by [The Portsmouth Port Health Authority Order 2010 \(S.I. 2010/1217\)](#), **arts. 1(1), 4, Sch.**
- C21** S. 16 modified (E.) (6.4.2010) by [The Cornwall Port Health Authority Order 2010 \(S.I. 2010/1215\)](#), **arts. 1(1), 4, Sch.** (with [art. 2](#))
- C22** S. 16 applied (with modifications) (E.) (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\)](#), **arts. 1(1), 9, Sch. 2**
- C23** S. 16 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\)](#), **arts. 1(1), 9, Sch. 2**
- C24** S. 16 functions etc. assigned to the port health authority and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\)](#), **arts. 1(1), 9, Sch. 2** (with [art. 9\(3\)](#))

*Status: Point in time view as at 21/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

## *Bathing and boating*

### **17 Byelaws about bathing and boating.**

- (1) Where any part of the area of a local authority having power to make byelaws under both section 231 of the <sup>M10</sup>Public Health Act 1936 and section 76 of the <sup>M11</sup>Public Health Act 1961 (which authorise the making of byelaws about public bathing and pleasure boats) is bounded by or is to seaward of the low water mark, the authority may exercise that power as respects any area of the sea which is outside the area of the authority and within 1,000 metres to seaward of any place where that mark is within or on the boundary of the area of the authority.
- (2) The Secretary of State may, before he confirms any byelaws made by virtue of this section, amend the byelaws so as to reduce the area in which the byelaws have effect if it appears to him appropriate to do so with a view to ensuring that the byelaws do not have effect in an area for which another local authority has made or may make byelaws by virtue of this section.
- (3) An offence against byelaws made by an authority by virtue of the preceding provisions of this section may be inquired into and dealt with as if committed within the area of the authority.
- <sup>X1</sup>(4) In subsection (1) of the said section 231 (which specifies the matters which may be regulated by byelaws under that section about public bathing), after paragraph (a) there shall be inserted the following paragraph—
  - (aa) prohibit or restrict public bathing at times when and places as respects which warning is given, by the display of flags or by other means specified in the byelaws, that bathing is dangerous.
- (5) Subsection (3) of the said section 76 (which among other things provides that byelaws about pleasure boats may be made by an authority so as to have effect outside the area of the authority but within 1,000 yards of low water mark of ordinary spring tides) shall cease to have effect; but any byelaws which are in force by virtue of that subsection immediately before it ceases to have effect shall continue in force and may be revoked or varied by byelaws made in pursuance of that section.

#### **Editorial Information**

**X1** The text of ss. 17(4), 18(1)-(4), 19(6), 22(1)(3), 27(1)(3)(5) and Sch. 2 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**

**M10** 1936 c. 49.  
**M11** 1961 c. 64.

### **18 Licensing of pleasure boats and boatmen.**

- (1) In subsection (1) of section 94 of the <sup>M12</sup>Public Health Acts Amendment Act 1907 (which among other things relates to the licensing of boatmen and persons assisting in the charge or navigation of pleasure boats) for the words “boatmen or persons assisting in the charge or navigation of” there shall be substituted the words “ persons in charge of or navigating ”.

*Status: Point in time view as at 21/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

- (2) In subsection (3) of the said section 94 (which among other things prohibits the carrying of passengers for hire in a boat or vessel for which no licence is in operation) for the words from “for hire in” onwards there shall be substituted the words “for hire in any pleasure boat or vessel unless—
- (a) the boat or vessel is so licensed and the licence is not suspended; and
  - (b) the person in charge of the boat or vessel and any other person navigating it is so licensed and his licence is not suspended and the conditions of his licence are complied with”.
- (3) At the end of subsection (4) of the said section 94 (which provides that a licence under that section is not required for a boat or vessel licensed by or under regulations of the Secretary of State) there shall be inserted the words “ or for a person in charge of or navigating such a boat or vessel ”.
- (4) At the end of subsection (6) of the said section 94 (which penalises contraventions of that section) there shall be inserted the words “ ; but a person shall not be guilty of an offence under this subsection by reason of a failure to comply with such conditions as are mentioned in subsection (3)(b) of this section if it is shown that there is a reasonable excuse for the failure ”.

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

**C25** The text of ss. 17(4), 18(1)-(4), 19(6), 22(1)(3), 27(1)(3)(5) and Sch. 2 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**

**M12** 1970 c. 53.

*Places of entertainment*

**19 Recreational facilities.**

- (1) A local authority may provide, inside or outside its area, such recreational facilities as it thinks fit and, without prejudice to the generality of the powers conferred by the preceding provisions of this subsection, those powers include in particular powers to provide—
- (a) indoor facilities consisting of sports centres, swimming pools, skating rinks, tennis, squash and badminton courts, bowling centres, dance studios and riding schools;
  - (b) outdoor facilities consisting of pitches for team games, athletics grounds, swimming pools, tennis courts, cycle tracks, golf courses, bowling greens, riding schools, camp sites and facilities for gliding;
  - (c) facilities for boating and water ski-ing on inland and coastal waters and for fishing in such waters;
  - (d) premises for the use of clubs or societies having athletic, social or recreational objects;
  - (e) staff, including instructors, in connection with any such facilities or premises as are mentioned in the preceding paragraphs and in connection with any other recreational facilities provided by the authority;

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

- (f) such facilities in connection with any other recreational facilities as the authority considers it appropriate to provide including, without prejudice to the generality of the preceding provisions of this paragraph, facilities by way of parking spaces and places at which food, drink and tobacco may be bought from the authority or another person;

and it is hereby declared that the powers conferred by this subsection to provide facilities include powers to provide buildings, equipment, supplies and assistance of any kind.

- (2) A local authority may make any facilities provided by it in pursuance of the preceding subsection available for use by such persons as the authority thinks fit either without charge or on payment of such charges as the authority thinks fit.
- (3) A local authority may contribute—
- (a) by way of grant or loan towards the expenses incurred or to be incurred by any voluntary organisation in providing any recreational facilities which the authority has power to provide by virtue of subsection (1) of this section; and
  - (b) by way of grant towards the expenses incurred or to be incurred by any other local authority in providing such facilities;

and in this subsection “voluntary organisation” means any person carrying on or proposing to carry on an undertaking otherwise than for profit.

<sup>F22</sup>(4) . . . . .

- (5) Any property which, immediately before the date when this subsection comes into force, is held by a local authority <sup>F23</sup>. . . for the purposes of section 221(b) of the <sup>M13</sup>Public Health Act 1936 or <sup>F23</sup>. . . section 4 of the <sup>M14</sup>Physical Training and Recreation Act 1937 or, in pursuance of section 144(1)(b) of the <sup>M15</sup>Local Government Act, 1972, for the purposes of recreation shall on and after that date be held by the local authority for the purposes of this section <sup>F23</sup>. . .

[<sup>F24</sup>(5A) . . . . .]

- <sup>X2</sup>(6) In section 222(1) of the Public Health Act 1936 (which relates to charges in respect of any baths, wash-house, swimming bath or bathing place under the management of a local authority) for the words “washhouse, swimming bath or bathing place” there shall be substituted the words “ or washhouse ”.

#### Editorial Information

**X2** The text of ss. 17(4), 18(1)-(4), 19(6), 22(1)(3), 27(1)(3)(5) and Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Textual Amendments

**F22** S. 19(4) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

**F23** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

**F24** S. 19(5A) was inserted after s. 19(5) by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 53(3)(a)** and was repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

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

**C26** S. 19 amended and certain functions transferred by S.I. 1989/304, **art. 5(3)(i)(4)**

**C27** S. 19 extended (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 8** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### **Marginal Citations**

**M13** 1936 c. 49.

**M14** 1937 c. 46.

**M15** 1972 c. 70.

## **20 Provision of sanitary appliances at places of entertainment.**

- (1) A local authority (other than a county council [<sup>F25</sup>in England] and the Greater London Council) may, by a notice served on an owner or occupier of a relevant place in the area of the authority, require him—
  - (a) to provide, before the expiration of a period specified in the notice and in such positions at the place as are so specified, sanitary appliances of such kinds and numbers as are so specified;
  - (b) to maintain and keep clean the appliances to the reasonable satisfaction of the authority;
  - (c) to provide and maintain a proper supply of such things for use in connection with the appliances as are so specified (which may be or include cold water or hot water or both); and
  - (d) to make the appliances and things available for use by members of the public resorting to the place and, if the notice so requires, to make them so available free of charge.
- (2) A notice in pursuance of this section may require the provision of sanitary appliances on such occasions as are specified in the notice but if it does so it shall not also require the provision of sanitary appliances as respects which occasions are not so specified.
- (3) A notice in pursuance of this section—
  - (a) shall not require the provision, in connection with any building for which fixed sanitary appliances could be required by virtue of building regulations in force when the notice is served if the building were to be newly constructed then, of fixed sanitary appliances which are of a different kind from, or which as respects a particular kind are more numerous than, those which could be required as aforesaid;
  - (b) shall not require the provision of movable sanitary appliances at a betting office;
  - (c) shall, unless it is an occasional notice, specify as the period before the expiration of which sanitary appliances are to be provided in pursuance of the notice a period equal to or longer than that during which the recipient of the notice may appeal against it in pursuance of the following section.
- (4) It is hereby declared that a notice in pursuance of this section in respect of a relevant place may—
  - (a) be served on an owner or occupier of the place notwithstanding that he is for the time being required to comply with a previous notice served on him in pursuance of this section in respect of the place;
  - (b) require the provision at the place of appliances already provided there.

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*Status: Point in time view as at 21/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part 1. (See end of Document for details)*

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- (5) A person authorised in writing in that behalf by a local authority (other than a county council [<sup>F25</sup>in England] and the Greater London Council) may at any reasonable time, upon producing if so required evidence that he is so authorised, enter any relevant place for the purpose of determining whether the authority should serve a notice in pursuance of this section in respect of the place or of ascertaining whether the requirements of such a notice served on a person who is an owner or occupier of the place are being complied with; and a person who wilfully obstructs another person acting in the exercise of powers conferred on the other person by this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F26</sup>level 3 on the standard scale].
- (6) Subject to subsections (7) and (8) of this section, a person who without reasonable excuse fails to comply with a notice in respect of a relevant place which was served on him in pursuance of this section when he was an owner or occupier of the place shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or, on conviction on indictment, to a fine; and if after the conviction of a person of such an offence the failure in question continues he shall, as respects each day on which it continues, be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 or, on conviction on indictment, to a fine.
- (7) In proceedings for an offence under the preceding subsection of failing to comply with a notice it shall be a defence to prove that at the time of the failure the person on whom the notice was served was neither an owner nor an occupier of the relevant place in question and that he did not cease to be an owner or occupier of it by reason of anything done or omitted by him or any other person with a view to avoiding compliance with the notice.
- (8) In proceedings for an offence under subsection (6) of this section which is alleged to have been committed on a particular day it shall be a defence to prove that on that day the relevant place in question was closed to members of the public or was used neither as a betting office nor for any of the purposes mentioned in paragraph (a) of the definition of relevant place in the following subsection; and in proceedings for an offence under subsection (6) of this section of failing to comply with an occasional notice it shall be a defence to prove—
- (a) that the alleged offence is in respect of a requirement of the notice which is unreasonable; or
  - (b) that it would have been fairer to serve the notice on a person, other than the defendant,—
    - (i) who was an owner or occupier of the relevant place in question when the notice was served on the defendant, and
    - (ii) whose name and address were furnished by the defendant, to the local authority which served the notice, before the expiration of the period specified in the notice in pursuance of subsection (1)(a) of this section.
- (9) In this section and the following section—
- [<sup>F27</sup> “betting office” means premises, other than a track within the meaning of the Gambling Act 2005, in respect of which a betting premises licence under Part 8 of that Act has effect;]
  - “occasional notice” means a notice in pursuance of this section requiring the provision of sanitary appliances on occasions specified in the notice;

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“sanitary appliances” means water closets, other closets, urinals and wash basins;

“relevant place” means any of the following places—

- (a) a place which is normally used or is proposed to be normally used for any of the following purposes, namely—
  - (i) the holding of any entertainment, exhibition or sporting event to which members of the public are admitted either as spectators or otherwise,
  - (ii) the sale of food or drink to members of the public for consumption at the place;
- (b) a place which is used on some occasion or occasions or is proposed to be used on some occasion or occasions for any of the purposes aforesaid; and
- (c) a betting office.

(10) Without prejudice to the operation of section 38(1) of the <sup>M16</sup>Interpretation Act 1889, in section 6(1) of the <sup>M17</sup>Chronically Sick and Disabled Persons Act 1970 (which provides that a person required to provide sanitary conveniences by a notice under section 89 of the <sup>M18</sup>Public Health Act 1936 shall in complying with the notice have regard to the needs of disabled persons) for the words “section 89 of the <sup>M19</sup>Public Health Act 1936” there shall be substituted the words “ section 20 of the Local Government (Miscellaneous Provisions) Act 1976 ”.

[<sup>F28</sup>(11) A notice under this section shall draw the attention of the person on whom it is served—

- (a) to sections 6(1) and 7 of the Chronically Sick and Disabled Persons Act 1970; and
- (b) to the Code of Practice for Access for the Disabled to Buildings.

(12) In subsection (11) of this section “the Code of Practice for Access for the Disabled to Buildings” means, subject to subsection (13) of this section, the British Standards Institution code of practice referred to as BS 5810: 1979.

(13) Section 28 of the Chronically Sick and Disabled Persons Act 1970 (power to define certain expressions for the purposes of provisions of that Act) shall have effect as if any reference in it to a provision of that Act included a reference to this section.]

#### Textual Amendments

**F25** Words in s. 20(1)(5) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch.

**F26** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46

**F27** S. 20(9): definition of "betting office" substituted (1.9.2007) by Gambling Act 2005 (c. 19), ss. 356, 358, Sch. 16 para. 8 (with ss. 352, 354, Sch. 16 para. 21); S.I. 2006/3272, art. 2(4)(5), Sch. 3B (with Sch. 4 (as amended by S.I. 2007/1157, arts. 7-12; S.I. 2007/2169, arts. 7-11)) (as inserted by S.I. 2007/2169, arts. 3, 6, Sch.)

**F28** S. 20(11)(12)(13) inserted by Disabled Persons Act 1981 (c. 43, SIF 81:3), s. 4

#### Marginal Citations

**M16** 1889 c. 63.

**M17** 1970 c. 44.

**M18** 1936 c. 49.

**M19** 1936 c. 49.



*Status: Point in time view as at 21/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

## **21 Appeal to county court against certain notices under s. 20.**

- (1) A person on whom a notice other than an occasional notice is served in pursuance of the preceding section may, within six weeks beginning with the date of service of the notice, appeal to the county court against the notice on one or both of the following grounds, namely—
  - (a) that a requirement of the notice is unreasonable; and
  - (b) that it would have been fairer to serve the notice on another person who is an owner or occupier of the relevant place in question.
- (2) Where a ground of an appeal in pursuance of the preceding subsection is the ground mentioned in paragraph (b) of that subsection the other person in question shall be made a respondent to the appeal in accordance with rules of court except in a case where the rules provide that he shall not be made a respondent to the appeal.
- (3) On an appeal in pursuance of subsection (1) of this section the court shall either—
  - (a) quash the notice to which the appeal relates; or
  - (b) modify the notice so that, instead of imposing its requirements on the appellant, it imposes them upon another person who is an owner or occupier of the relevant place in question; or
  - (c) order that the appellant be entitled to recover from such a person a specified part of the expenses incurred by the appellant in complying with the notice; or
  - (d) dismiss the appeal;but the court shall not be entitled to exercise its powers under paragraph (b) or (c) of this subsection unless a ground of the appeal is that mentioned in paragraph (b) of subsection (1) of this section.
- (4) Where the court modifies a notice in pursuance of paragraph (b) of the preceding subsection the notice shall be deemed to be served in pursuance of the preceding section on the other person in question on the date on which the modification is made; but that person shall not be entitled to appeal against the notice in pursuance of this section.
- (5) It shall be the duty of the court, in determining whether to order that the appellant be entitled to recover from another person a part of the cost of complying with a notice, to have regard to the terms of any agreement relating to the relevant place in question to which either person is a party.
- (6) Where a person appeals in pursuance of this section against a notice, the notice shall be of no effect pending the determination of the appeal; and where the court determines the appeal otherwise than by quashing the notice it may extend the period specified in the notice in pursuance of subsection (1)(a) of the preceding section.

## **22 Byelaws about fairs etc.**

- <sup>x3</sup>(1) In subsection (1) of section 75 of the <sup>M20</sup>Public Health Act 1961, after paragraph (c) (by virtue of which certain authorities may make byelaws for, among other things, the preservation of cleanliness, order and public safety at any pleasure fair within the meaning of that section) there shall be inserted the following paragraph—
- “(d) without prejudice to the generality of the preceding paragraph, for preventing outbreaks of fire which might endanger—
    - (i) stands, stalls or other structures used or intended for use in connection with any pleasure fair, or

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

(ii) caravans used or intended for use as sleeping accommodation in connection with any pleasure fair, and for reducing the risk of, and the spread of fire from, such outbreaks.”

(2) Subsection (4) of the said section 75 (which provides that nothing in that section or any byelaws under it applies to certain fairs or to places controlled by authorities having powers to make byelaws for those places) shall cease to have effect; but the repeal of that subsection shall not have the effect of applying byelaws made before the repeal comes into force to a fair or place specified in that subsection.

<sup>x3</sup>(3) At the end of subsection (8) of the said section 75 (which among other things requires the Secretary of State to be satisfied, before he confirms a byelaw under that section, that bodies representing the interests of persons carrying on the entertainments to which that section applies have been consulted about the byelaw) there shall be inserted the words “ and, in the case of a byelaw made in pursuance of subsection (1) (d) of this section, that the fire authority within the meaning of the Fire Services Act 1947 for the area to which the byelaw applies have been so consulted ”.

#### **Editorial Information**

**X3** The text of ss. 17(4), 18(1)-(4), 19(6), 22(1)(3), 27(1)(3)(5) and Sch. 2 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**

**M20** 1961 c. 64.

### *Dangerous trees and excavations*

## **23 Power of local authorities to deal with dangerous trees.**

(1) Where a district council, a London borough council or the Common Council [<sup>F29</sup>, or a county or county borough council in Wales]—

- (a) receives from a person appearing to the council to be an owner or occupier of any land in the area of the council on which a tree is situated a notice requesting the council to make the tree safe; and
- (b) considers that the tree is in such a condition that there is imminent danger of its causing damage to persons or property,

the council may take such steps on the land, whether by felling the tree or otherwise, as it thinks are appropriate for the purpose of making the tree safe and may recover the expenses reasonably incurred in doing so from the person who gave the notice.

(2) Where such a council—

- (a) receives from a person appearing to the council to be an owner or occupier of land a notice requesting the council to make safe a tree on other land which is in its area and which appears to the council not to be owned or occupied by that person; and
- (b) considers that the tree is in such a condition that it is likely to cause damage to persons or property on the first-mentioned land; and

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

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- (c) knows the name and address of no person appearing to the council to be an owner or occupier of the other land and either—
- (i) has made reasonable but unsuccessful enquiries for the purpose of ascertaining the name and address of such a person, or
  - (ii) considers that in view of the imminence of the danger of such damage from the tree the delay involved in making enquiries or further enquiries about the name and address of such a person is unwarranted,
- the council may take such steps on the other land as are mentioned in the preceding subsection and may recover the expenses reasonably incurred in doing so from any person who was an owner or occupier of the other land when the council took those steps.
- (3) Where such a council—
- (a) receives from a person appearing to the council to be an owner or occupier of land a notice requesting the council to make safe a tree on other land which is in its area and which appears to the council not to be owned or occupied by that person; and
  - (b) considers that the tree is in such condition that it is likely to cause damage to persons or property on the first-mentioned land; and
  - (c) knows the name and address of a person appearing to the council to be an owner or occupier of the other land,
- the council may serve on such a person as is mentioned in paragraph (c) of this subsection a notice requiring him to take on the other land, within a reasonable period specified in the notice (which must not expire before the expiration of 21 days beginning with the date of service of the notice), such steps for making the tree safe as are so specified.
- (4) Where it appears to such a council that a tree on land in the area of the council which is not owned or occupied by the council is in such a condition that it is likely to cause damage to persons or property on other land in that area which is owned or occupied by the council, subsection (2) (except paragraph (b)) of this section, or as the case may require subsection (3) (except paragraph (b)) of this section, shall apply as if the other land were occupied by another person and he had duly given notice to the council in pursuance of that subsection in respect of the tree.
- (5) A person on whom a notice is served by a council in pursuance of subsection (3) of this section may, within 21 days beginning with the date of service of the notice, appeal to the county court against the notice on one or more of the following grounds, namely—
- (a) that he is neither an owner nor an occupier of the land on which the tree is situated;
  - (b) that the tree is not in such condition as is mentioned in paragraph (b) of that subsection;
  - (c) that less expensive steps than those specified in the notice would suffice for the purpose of making the tree safe;
  - (d) that it would have been fairer to serve the notice on another person who is an owner or occupier of the land aforesaid;
- and any other person who is an owner or occupier of the land to which the notice relates may within the period aforesaid appeal to the county court against the notice on one or both of the grounds mentioned in paragraphs (b) and (c) of this subsection.
- (6) Subsections (2) to (6) of section 21 of this Act shall apply to an appeal in pursuance of the preceding subsection as they apply to an appeal in pursuance of subsection (1)

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of that section as if for the references in subsections (2) and (3) of that section to paragraph (b) of subsection (1) of that section there were substituted references to paragraph (d) of the preceding subsection, for the references in subsections (3) and (5) of that section to the relevant place there were substituted references to the land on which the tree is situated and for the reference in subsection (4) of that section to section 20 of this Act and the reference in subsection (6) of that section to section 20(1) (a) of this Act there were substituted a reference to subsection (3) of this section.

- (7) If a person on whom a notice is served by a council in pursuance of subsection (3) of this section fails to comply with the notice, the council may take the steps specified in the notice and recover from that person the expenses reasonably incurred in doing so.

#### Textual Amendments

**F29** Words in s. 23(1) inserted (1.7.1997) by S.I. 1996/3071, art. 2, Sch.

## 24 Provisions supplementary to s. 23.

- (1) A person authorised in writing in that behalf by such a council as is mentioned in subsection (1) of the preceding section may enter on any land for the purpose of—
- (a) determining whether the council should take steps in pursuance of subsection (2) or (7) or serve a notice in pursuance of subsection (3) of that section in respect of a tree on the land; or
  - (b) exercising on behalf of the council a power conferred on the council by subsection (2) or (7) of that section in respect of a tree on the land.
- (2) A person authorised to enter on any land in pursuance of the preceding subsection—
- (a) shall, if so required before or after entering on the land, produce evidence of his authority to enter;
  - (b) may take with him on to the land such other persons and such equipment as are necessary for achieving the purpose for which he was authorised to enter on the land;
  - (c) shall, if the land is unoccupied when he enters or the occupier is then temporarily absent, leave the land as effectually secured against trespassers as he found it.
- (3) If a person—
- (a) wilfully obstructs another person in the exercise of a power conferred on the other person by subsection (1) or (2)(b) of this section; or
  - (b) while another person is on land in pursuance of the said subsection (1) or (2)(b), wilfully obstructs the other person in doing things connected with the purpose for which the other person is authorised to be on the land,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F30</sup>level 3 on the standard scale].
- (4) If a person interested in any land suffers damage by reason of—
- (a) the exercise of the power to enter on the land which is conferred by virtue of subsection (1)(a) of this section; or
  - (b) the exercise on the land, in connection with the exercise of the power mentioned in the preceding paragraph, of the power conferred by subsection (2)(b) of this section; or

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- (c) a failure to perform the duty imposed by subsection (2)(c) of this section in respect of the land,  
he shall be entitled to recover compensation for the damage from the local authority which authorised the entry in question.
- (5) Any dispute as to a person's entitlement to compensation in pursuance of the preceding subsection or as to the amount of the compensation shall be determined by the [<sup>F31</sup>Upper Tribunal], and [<sup>F32</sup>section] 4 of the <sup>M21</sup>Land Compensation Act 1961 (which [<sup>F33</sup>relates to] costs) shall with the necessary modifications apply in relation to the determination by the Tribunal of such a dispute.
- (6) Where a council is entitled by virtue of the preceding section to recover any expenses from a person, the council shall also be entitled to recover from him interest on the amount of the expenses or on such portion of it as is for the time being unpaid, at [<sup>F34</sup>such reasonable rate as the council may determine], from the date on which the council served notice on him demanding payment of the expenses.

#### Textual Amendments

- F30** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F31** Words in s. 24(5) substituted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 120(a)** (with [Sch. 5](#))
- F32** Word in s. 24(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 120(b)** (with [Sch. 5](#))
- F33** Words in s. 24(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 120(c)** (with [Sch. 5](#))
- F34** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2\)](#), s. 1(6), **Sch. 6 para. 21**

#### Marginal Citations

- M21** [1961 c. 33.](#)

## 25 Power of certain councils with respect to dangerous excavations.

- (1) Where a district council, a London borough council or the Common Council [<sup>F35</sup>, or a county or county borough council in Wales]—
- (a) considers that an excavation made at any time by some person on land in the area of the council is accessible to the public from a highway or a place of public resort and, by reason of its being unenclosed or inadequately enclosed, is a danger to the public; and
- (b) knows the name and address of no person appearing to the council to be an owner or occupier of the land on which it appears to the council that works to remove the danger should be carried out and either—
- (i) has made reasonable but unsuccessful enquiries for the purpose of ascertaining the name and address of such a person, or
- (ii) considers that in view of the imminence of the danger the delay involved in making enquiries or further enquiries about the name and address of such a person is unwarranted,

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the council may carry out on the land mentioned in paragraph (b) of this subsection such works as appear to the council to be necessary for the purpose of removing the danger.

- (2) Where such a council—
- (a) considers that an excavation made at any time by some person on land in the area of the council is as mentioned in paragraph (a) of the preceding subsection; and
  - (b) knows the name and address of a person appearing to the council to be an owner or occupier of the land on which it appears to the council that works to remove the danger in question should be carried out,
- the council may serve on an owner or occupier of the land a notice specifying the excavation and stating that the council proposes to carry out, for the purpose of removing the danger in question, such works as are specified in the notice at such places on the land as are so specified.
- (3) If any person having an interest in or a right over land in respect of which a notice is served in pursuance of the preceding subsection objects to the notice on one or more of the following grounds, namely—
- (a) that the excavation is not a danger to the public; or
  - (b) that works other than some or all of those specified in the notice are appropriate for the purpose of removing the danger; or
  - (c) that places other than some or all of those so specified are appropriate as the site of works for removing the danger,
- he may, during the period of 21 days beginning with the date on which the notice was served, appeal to the county court against the notice.
- (4) On such an appeal the court shall either quash the notice or dismiss the appeal or, where a ground of the appeal is the ground specified in paragraph (b) or (c) of the preceding subsection, modify the notice so that it refers only to works or, as the case may be, places which the appellant agrees or the appellants agree are appropriate for the purpose of removing the danger; but the notice shall not be modified by the court so as to refer to a place on land of which no appellant is an owner or occupier.
- (5) If no appeal in pursuance of subsection (3) of this section is made against a notice within the period mentioned in that subsection or if on such an appeal the appeal is dismissed or the notice is modified as mentioned in the preceding subsection, the council which served the notice may, at any time after the expiration of that period or, as the case may be, after the appeal is dismissed or the notice is modified, carry out the works specified in the notice at the places so specified.
- (6) It shall be the duty of a council by which works have been carried out in pursuance of this section to maintain and repair the works except—
- (a) so far as they consist of the filling in of the excavation in question;
  - (b) after the works have been removed in pursuance of the following subsection;
  - (c) in a case where the council has agreed with a person who is for the time being an owner or occupier of the land on which the works are situated that he shall maintain and repair the works and he has performed his obligations under the agreement.
- (7) Where it appears to a council by which works have been carried out in pursuance of this section that if the works were removed the excavation in question would not be a danger to the public, then—

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- (a) the council may remove the works; and
  - (b) it shall be the duty of the council to remove the works, except so far as they consist of the filling in of the excavation in question, if it is requested to do so by a person having an interest in or a right over the land on which the works are situated.
- (8) <sup>F36</sup> . . . A district council, a London borough council or the Common Council [<sup>F35</sup>, or a county or county borough council in Wales,] may pay to any person the whole or part of the expenses incurred by him in carrying out works for preventing or removing danger to the public from an excavation made at any time by some person on land in the area of the authority, whether or not the person who incurred the expenses had a duty to carry out any such works.

#### Textual Amendments

**F35** Words in s. 25(1)(8) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch.

**F36** Words in s. 25(8) repealed (18.10.2000 for E. and 9.4.2001 for W.) by 2000 c. 22, s. 107(2), Sch. 6; S.I. 2000/2836, art. 2(b)(i); S.I. 2001/1471, art. 2

## 26 Provisions supplementary to s. 25.

- (1) A person authorised in writing in that behalf by such a council as is mentioned in subsection (1) of the preceding section may enter on any land in the area of the council for the purpose of—
- (a) ascertaining whether the land is suitable as the site of works which the council may carry out or for which the council may serve a notice in pursuance of that section; or
  - (b) carrying out, maintaining, repairing or removing in pursuance of that section any works on behalf of the council; or
  - (c) ascertaining whether any works carried out by the council in pursuance of that section should be or have been maintained, repaired or removed.
- (2) A person authorised by a council to enter on land in pursuance of the preceding subsection—
- (a) shall, if so required before or after entering on the land, produce evidence of his authority to enter;
  - (b) may take with him on to the land such other persons and such equipment as are necessary for achieving the purpose for which he was authorised to enter on the land;
  - (c) shall, if the land is unoccupied when he enters or the occupier is then temporarily absent, leave the land as effectually secured against trespassers as he found it.
- (3) If a person having an interest in or a right over any land suffers damage in consequence of the carrying out, maintaining, repairing or removing of works by a council in pursuance of the preceding section or the exercise by a person authorised by a council of a power conferred by subsection (1) or (2)(b) of this section or a failure of such a person to perform the duty imposed by subsection (2)(c) of this section, the person who suffers the damage shall, subject to the following subsection, be entitled to recover compensation for the damage from the council; and subsection (5) of section 24 of

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this Act shall have effect for the purposes of this subsection as if for the reference to subsection (4) of that section there were substituted a reference to this subsection.

(4) No compensation shall be payable by virtue of the preceding subsection, to any person having an interest in the site of the excavation in question, in respect of damage attributable to the presence of permanent works on any land other than damage attributable to interference with an easement or profit.

(5) If a person—

- (a) wilfully obstructs another person in the exercise of a power conferred on the other person by subsection (1) or (2)(b) of this section; or
- (b) while another person is on land in pursuance of the said subsection (2)(b) wilfully obstructs him in doing things connected with the works in question; or
- (c) without the agreement of the council by which works have been carried out in pursuance of the preceding section, removes or otherwise interferes with the works,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F37</sup>level 3 on the standard scale].

(6) Nothing in the preceding section or the preceding provisions of this section applies to an excavation—

- (a) on operational land of statutory undertakers; or
- (b) on land of [<sup>F38</sup>the Coal Authority] of such a description as the Secretary of State may specify by regulations made by statutory instrument;

and the definition of “operational land” in [<sup>F39</sup>section 263 of the Town and Country Planning Act 1990] shall apply for the purposes of paragraph (a) of this subsection as if in that section “statutory undertakers” had the same meaning as in that paragraph and “undertaking” had a corresponding meaning.

**Textual Amendments**

- F37** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F38** Words in [s. 26\(6\)\(b\)](#) substituted (31.10.1994) by 1994 c. 21, **ss. 67, 68(2)**, **Sch. 9 para. 18(2)** (with [s. 40\(1\)](#)); 1994/2553, art. 2
- F39** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 35(3)**

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

- C28** [S. 26](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), **Sch. 7 para. 2(1)(xxxiii)**
- C29** [S. 26](#) extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 1\(1\)\(xxx\)](#), [Sch. 17 paras. 33, 35\(1\)](#)
- C30** [S. 26](#) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxiv)**; S.I. 1996/218, **art. 2**

*Alterations of supplemental provisions of Public Health Acts*

**27 Alterations of supplemental provisions of Public Health Acts.**

- (1) <sup>F40</sup> .....
- <sup>F41</sup>(2) .....
- (3) <sup>F42</sup> .....



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- (4) For the purposes of the provisions of the <sup>M22</sup>Public Health Act 1936 relating to joint boards within the meaning of that Act <sup>F43</sup> . . . , sections 16, 32 and 41 of this Act (which correspond respectively to sections 277, 274 and 286 of that Act) shall be treated as provisions of that Act and may accordingly be applied to those bodies by orders under those provisions.
- <sup>X4</sup>(5) In section 322 of the Public Health Act 1936 (which relates to councils in default), for the words in subsection (2) from the beginning to “question” there shall be substituted the words “ If the Minister is satisfied that any council, port health authority or joint board have failed to discharge their functions under this Act in any case where they ought to have done so ”, and for the words “so specified” in subsection (3) there shall be substituted the words “ specified in his order ”.
- (6) The repeal by this Act of sections 295, 313 and 314 of the <sup>M23</sup>Public Health Act 1936 shall not affect any order in force by virtue of the section in question immediately before the repeal takes effect.
- (7) It is hereby declared that references in the preceding provisions of this section to any enactment do not include references to it as incorporated in or applied by or under any other enactment.

#### Editorial Information

- X4** The text of ss. 17(4), 18(1)-(4), 19(6), 22(1)(3), 27(1)(3)(5) and Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Textual Amendments

- F40** S. 27(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 13**
- F41** S. 27(2) repealed by Local Government Finance Act 1982 (c. 32, SIF 81:1), s. 38(5), **Sch. 6 Pt. IV**
- F42** S. 27(3) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 13**
- F43** Words repealed by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, **Sch. 3**

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

- C31** S. 27 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**
- C32** S. 27 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

#### Marginal Citations

- M22** 1936 c. 49.
- M23** 1936 c. 49.

### *Financial provisions*

## 28 Funds of local authorities etc.

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

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### Textual Amendments

- F44** S. 28(1)(2) repealed (with savings in 1990/431, Sch. 1 para. 1(a) ) by [Local Government and Housing Act 1989 \(c.42, SIF 81:1, 2\)](#), s. 194(2), [Sch. 12 Pt. I](#)
- F45** S. 28(3) repealed (with savings in S.I. 1990/431, [Sch. 1 para. 1\(a\)](#) ) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(2), [Sch. 12 Pt. I](#)

## 29 Repayment of unclaimed compensation etc. paid into court.

### (1) Where—

- (a) a local authority has paid money into court in pursuance of section 76 or 85 of the <sup>M24</sup>Lands Clauses Consolidation Act 1845 or section 9 of or Schedule 2 <sup>F46</sup>... to the <sup>M25</sup>Compulsory Purchase Act 1965; and
- (b) after the expiration of the period of twelve years beginning with the date when the money was paid into court any of the money, or any assets attributable to the money by way of interest, securities, accumulations from securities, proceeds of sale of securities or otherwise, has not or have not been ordered by a court of competent jurisdiction to be paid or transferred to or applied for the benefit of the authority or another person,

the High Court may, on the application of the authority, order that the money or assets shall be paid or transferred to the authority.

- (2) Where at any time after money has been paid or assets have been transferred to a local authority in pursuance of the preceding subsection it appears to the High Court, on the application of another person, that the Court would have ordered the whole or part of the money or assets to be paid or transferred to the applicant if the money or assets had not been paid or transferred to the authority as aforesaid, the Court may order the authority to pay to the applicant such a sum as the Court considers just.

- (3) If a former authority paid money into court as mentioned in subsection (1)(a) of this section in respect of land or an interest in land which—

- (a) is held by a local authority; and
- (b) has not since its acquisition by the former authority been transferred otherwise than by an Act or an order made under an Act,

subsection (1) of this section shall have effect in relation to the payment as if it had been made by the local authority on the date on which it was actually made; and in this subsection “former authority” means an authority which has ceased to exist and which, when it existed, was constituted in pursuance of the enactments relating to local government which were then in force.

- <sup>F47</sup>(4) For the purposes of the preceding subsection—

- (a) any land held by a parish council shall be treated as held by the district council whose area includes the area of the parish council, and
- (b) any land held by a community council shall be treated as held by the county or county borough council whose area includes the area of the community council.]

### Textual Amendments

- F46** Words in s. 29(1)(a) omitted (13.7.2016) by virtue of [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 16 para. 14](#); S.I. 2016/733, reg. 3(j)

*Status: Point in time view as at 21/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part 1. (See end of Document for details)*

**F47** S. 29(4)(a)(b) substituted for subsection (4) (7.1.1997) by S.I. 1996/3071, art. 2, **Sch.**

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

**C33** Power to apply s. 29 conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (c)(i); S.I. 1997/1930, **art. 2(2)(m)**

**C34** S. 29 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 1(2)(d)(4)** (with ss. 7(6), 115, 117, **Sch. 8** para. 7)

**C35** S. 29 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**

**C36** S. 29 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**

**C37** S. 29(1) applied (with modifications) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 4(2)**

**Marginal Citations**

**M24** 1845 c. 18.

**M25** 1965 c. 56.

**30 Power to forgo repayment of advances of remuneration paid to deceased employees.**

(1) If a person in the employment of a local authority—

- (a) receives from the authority remuneration in respect of a future period on the assumption that he will be employed in that employment throughout that period; and
- (b) dies before the expiration of that period,

the authority may, subject to the following subsection, forgo the repayment of so much of the remuneration as relates to the period after his death.

- (2) An authority shall not be entitled to forgo such a repayment in respect of a period after the relevant death if—
  - (a) a pension is payable for that period in respect of the deceased out of money provided by Parliament or out of a fund which is maintained by the authority or into which contributions have been paid by the authority in respect of service of the deceased; and
  - (b) the rate of the pension is not less than the rate of relevant remuneration which was received by the deceased for his last year of service in the employment in question or, if relevant remuneration at different rates was received by him for that year, is not less than the highest of those rates;

and in paragraph (b) of this subsection “relevant remuneration”, in relation to a deceased person and a year, means remuneration which would have fallen to be taken into account in respect of that year in calculating a retirement pension payable to him in respect of the employment in question on his attaining pensionable age and being granted such a retirement pension.

[<sup>F48</sup>(3) For the purposes of this section—

- (a) the cases in which a person is in the employment of a local authority are to be taken to include cases where a person is a member of a police force maintained by a local authority; and
- (b) in such cases, references to employment are to be construed accordingly.]

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

#### Textual Amendments

- F48** S. 30(3) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 126](#); S.I. 2011/3019, art. 3, Sch. 1

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

- C38** S. 30 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), [Sch. 13 para. 13\(g\)](#)
- C39** S. 30 extended (5.7.1994) by [1994 c. 19](#), s. 39, [Sch. 13 para. 20\(f\)](#) (with ss. 54(5)(7), 55(5), Sch. 17 paras 22(1), 23(2))  
S. 30 extended (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), [Sch. 7 para. 13\(6\)](#) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C40** S. 30: power to apply conferred (1.9.1997) by [1997 c. 50](#), s. 44(1), [Sch. 4 para. \(c\)\(ii\)](#); S.I. 1997/1930, [art. 2\(2\)\(m\)](#)
- C41** S. 30 applied (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), [art. 17\(6\)](#)  
S. 30 applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), [art. 17\(6\)](#)
- C42** S. 30(3)(a) applied (with modifications) (8.5.2017) by [The Greater Manchester Combined Authority \(Transfer of Police and Crime Commissioner Functions to the Mayor\) Order 2017 \(S.I. 2017/470\)](#), art. 1(2), [Sch. 1 para. 4\(3\)](#)

### 31 Indemnities for officers of local authorities appointed as receivers or administrators.

If an officer of a local authority is appointed [<sup>F49</sup>as a deputy for a person by the Court of Protection] or, on the nomination of the authority, as the administrator of the estate of a deceased person, the authority may pay to the officer any sum which he becomes liable to pay in consequence of the appointment and may pay the premiums in respect of any policy of insurance for indemnifying the officer from the consequences of any act or omission connected with the appointment which occurs while he holds the appointment.

#### Textual Amendments

- F49** Words in s. 31 substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68(1)(3), [Sch. 6 para. 23](#) (with ss. 27-29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)

#### Miscellaneous

### 32 Power of local authorities to execute works outside their areas.

Any power to execute works which is conferred on a local authority by any enactment may, unless the contrary intention appears in that or any other enactment, be exercised outside as well as inside the area of the authority.

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

- C43** S. 32: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), [Sch.2](#)  
S. 32 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), [Sch.2](#)  
S. 32: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), [Sch.2](#)

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- S. 32 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**
- C44** S. 32: power to transfer functions conferred by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), **ss. 3(2)(c)(ii)**, 79
- C45** S. 32 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**
- C46** S. 32 modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)
- C47** S. 32 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**
- C48** S. 32 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**
- C49** S. 32 modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**
- C50** S. 32 applied (with modifications) (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**
- C51** S. 32 functions transferred and modified (E.) (14.6.2016) by The River Tees Port Health Authority Order 2016 (S.I. 2016/644), arts. 1(1), 9, **Sch. 2**
- C52** S. 32 functions etc. assigned to the port health authority and modified (E.) (31.3.2017) by The Weymouth Port Health Authority Order 2017 (S.I. 2017/558), arts. 1(1), 9, **Sch. 2** (with art. 9(3))

### **33 Restoration or continuation of supply of water, gas or electricity.**

- (1) If any premises in the area of a district council, a London borough council or the Common Council [<sup>F50</sup>, or a county or county borough council in Wales] are occupied as a dwelling and the supply of water, gas or electricity to the premises—
- (a) is cut off in consequence of the failure of the owner or former owner of the premises to pay a sum payable by him in connection with the supply; or
  - (b) is in the opinion of the council likely to be cut off in consequence of such a failure,
- the council may, at the request in writing of the occupier of the premises, make such arrangements as it thinks fit with the [<sup>F51</sup>person]who provided the supply for it to be restored to the premises or, as the case may be, for it to be continued to the premises.
- (2) Where under arrangements made in pursuance of the preceding subsection in respect of any premises a council makes a payment in respect of a sum which, at the time when the relevant supply to the premises was or became likely to be cut off as mentioned in that subsection, a person was liable to pay in connection with the supply to the [<sup>F51</sup>person]who provided it, the council shall be entitled to demand and recover from that person a sum equal to the payment; and where under such arrangements a council makes a payment in respect of the restoration of a supply to any premises or a payment for a supply to any premises, the council shall be entitled to demand and recover from the owner of the premises a sum equal to the payment reduced by any amount received by the council in pursuance of subsection (4) of this section in respect of the payment.
- (3) A council by which a sum is recoverable from a person in pursuance of the preceding subsection shall also be entitled to recover from him interest on the sum, from the date of service of the demand for the sum, at [<sup>F52</sup>such reasonable rate as the council may determine]; and such a demand must—
- (a) be served on the recipient in writing; and
  - (b) give particulars of the payment to which the sum demanded relates; and

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part I. (See end of Document for details)*

- (c) in the case of a demand for a sum on which interest is payable by virtue of this subsection, state the rate of the interest and that interest is payable from the date aforesaid.
- (4) Where by virtue of the preceding provisions of this section a council is entitled to recover from the owner of any premises a sum on account of a payment in respect of the restoration or continuation of a supply to the premises or a payment for a supply to the premises or interest on such a sum [<sup>F53</sup>the sum so recoverable, together with any interest accrued due, shall, until recovered, be a charge on the premises concerned and if]—
  - (a) the owner of the premises is, under the terms on which a person occupies the premises, required to pay for a supply of the kind to which that sum relates; and
  - (b) the council has served a notice on that person requiring him to pay to the council, instead of to the owner of the premises, the rent for the premises which apart from this subsection is or becomes payable by him to the owner of the premises,

it shall be the duty of that person to comply with the notice except so far as the council directs otherwise and the council may accordingly recover from him from time to time sums equal to the rent in question.

[<sup>F54</sup>(4A) A charge under subsection (4) above takes effect from the date when the council makes the payment referred to in that subsection and, for the purposes of enforcing a charge,

- (a) the council shall have the same powers and remedies, under the Law of Property Act 1925 and otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and, subject to paragraph (b) below, of appointing a receiver; and
- (b) the power to appoint a receiver shall be exercisable at any time after the expiry of one month from the date when the charge takes effect.]

(5) In this section “the owner”, in relation to any premises, means a person who apart from the preceding subsection is entitled on his own behalf or as a trustee or agent for another person to rent for the premises from the occupier of the premises and “former owner”, in relation to any premises, means a person who was so entitled to rent for the premises from the occupier or former occupier of the premises.

**Textual Amendments**

- F50** Words in s. 33(1) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 1(5)**
- F51** Word substituted by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 24**
- F52** Words substituted by **Local Government, Planning and Land Act 1980** (c. 65, SIF 81:1, 2), s. 1(6), **Sch. 6 para. 21**
- F53** Words substituted by **Local Government and Housing Act 1989** (c. 42, SIF 81:1, 2), s. 194(1), **Sch. 11 para. 47**
- F54** S. 33(4A) inserted by **Local Government and Housing Act 1989** (c. 42, SIF 81:1, 2), s. 194(1), **Sch. 11 para. 47**

*Status: Point in time view as at 21/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act 1976, Part 1. (See end of Document for details)*

### Textual Amendments

**F55** S. 34 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

## 35 Removal of obstructions from private sewers.

- (1) If a private sewer is obstructed at a point within the area of a local authority (other than a county council [<sup>F56</sup>in England]. . .), the authority may serve on each of the persons who is an owner or occupier of premises served by the sewer, or on each of such of those persons as the authority thinks fit, a notice requiring the recipients of notices in pursuance of this subsection in respect of the obstruction to remove it before a time specified in the notice; and that time shall not be earlier than forty-eight hours after the service of the notice or, if different notices in respect of the same obstruction are served in pursuance of this subsection at different times, shall not be earlier than forty-eight hours after the latest of those times.
- (2) If an obstruction in respect of which notices have been served by an authority in pursuance of the preceding subsection is not removed within the period specified in the notices, the authority may remove it.
- (3) Where an authority has reasonably incurred expenses in removing an obstruction in pursuance of the preceding subsection, the authority may serve on each of the persons on whom it served notice in pursuance of subsection (1) of this section in respect of the obstruction a further notice—
  - (a) requiring him to pay to the authority a sum equal to so much of the expenses as is specified in the further notice; and
  - (b) specifying the other persons on whom notices in pursuance of this subsection have been or are to be served in respect of the expenses and the amount specified or to be specified in each of those notices;and it shall be the duty of the authority, in determining what amounts to specify in notices to be served by the authority in pursuance of this subsection in respect of any expenses, to have regard to any matters which appear to the authority to indicate the cause of the obstruction and, so far as the authority are aware of the obligations, to any obligations to remove the obstruction which arose under agreements between persons on whom the notices are to be served.
- (4) A person on whom a notice is served in pursuance of the preceding subsection may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against the notice on the ground that it would be reasonable for the whole or part of the sum specified in the notice to be paid by some other person who is an owner or occupier of premises served by the sewer in question.
- (5) On an appeal in pursuance of the preceding subsection against a notice the court shall either dismiss the appeal or order that the whole or part of the sum specified in the notice shall be paid to the authority which served the notice by—
  - (a) a person, other than the appellant, who is an owner or occupier of premises served by the sewer in question; or
  - (b) persons, other than the appellant, each of whom is such an owner or occupier, in such proportions as are specified in the order,and that the sum specified in the notice shall be reduced accordingly; but the court shall not order any payment by a person other than the appellant unless that person has, not later than the beginning of the period of eight days ending with that on which

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the hearing of the appeal is begun, been made a respondent to the appeal in accordance with rules of court.

- (6) Where a local authority has served a notice on a person in pursuance of subsection (3) of this section, then—
- (a) if the person has not appealed against the notice in pursuance of subsection (4) of this section within the period specified in that subsection, the authority shall be entitled after the expiration of that period to recover from him the sum specified in the notice; and
  - (b) if he has so appealed within that period and the court has not reduced to nil the sum specified in the notice, the authority shall be entitled after the determination of the appeal to recover from him the sum specified in the notice or, if the court has reduced that sum to a smaller sum, the smaller sum.
- (7) Expressions used in this section and in Part II of the <sup>M26</sup>Public Health Act 1936 have the same meanings in this section as in that Part; and sections 287 and 288 of that Act (which confer power to enter premises and penalise obstruction) shall have effect as if references to that Act included references to this section.

#### Textual Amendments

**F56** Words in s. 35(1) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch. para. 1(6)

#### Marginal Citations

**M26** 1936 c. 49.

### 36 Power of local authorities to appoint times and charges for markets.

- (1) Any provision of a local Act which confers power on a local authority to make byelaws appointing days on which or the hours during which markets or fairs are to be or may be held shall be construed as conferring on the authority a power to appoint such days or hours by resolution.
- (2) A local authority which maintains a market in pursuance of a local Act may, notwithstanding anything in any enactment relating to the market, make in connection with the market such charges as the authority determines from time to time.

### <sup>F57</sup>37 Control of parking on areas used for loading or unloading goods vehicles.

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#### Textual Amendments

**F57** S. 37 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, Sch. 14

### 38 Use of spare capacity of computers of local authorities.

- (1) If a local authority—
  - (a) has provided a computer for the purpose of enabling the authority to perform any of its functions other than functions under this section; and



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(b) considers that the computer can, without detriment to its use for that purpose, be used for the benefit of the authority in pursuance of the following provisions of this section,

the authority may enter into agreements with other persons for the provision by the authority of facilities for using the computer or of services provided by means of the computer.

(2) An agreement in pursuance of this section may contain such terms as to payment or otherwise as the parties consider appropriate; and it shall be the duty of a local authority, in settling the terms of such an agreement, to ensure that they are terms on which the authority considers that a person other than a local authority could reasonably be expected to provide the facilities or services in question.

(3) In this section “computer” means any device for storing and processing information.

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

- C53** S. 38 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 para. 13(g)**
- C54** S. 38 extended (5.7.1994) by [1994 c. 19, s. 39](#), **Sch. 13 para. 20(f)** (with ss. 54(5)(7), 55(5), [Sch. 17 paras 22\(1\), 23\(2\)](#))  
S. 38 extended (19.9.1995) by [1995 c. 25, ss. 65\(7\), 125\(2\)](#), **Sch. 8 para. 3(2)** (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))
- C55** S. 38: power to apply conferred (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), **Sch. 4 para. (c)(iii)**; [S.I. 1997/1930, art. 2\(2\)\(m\)](#)
- C56** S. 38 modified (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), **art. 29(2)**  
S. 38 modified (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), **art. 29(2)**

### **39 Protection of members and officers etc. of local authorities from personal liability.**

(1) Section 265 of the <sup>M27</sup>Public Health Act 1875 (which relates to the protection from personal liability of members and officers of certain authorities) shall have effect <sup>F58</sup>. . . as if any reference to those authorities and the first reference to that Act included respectively a reference to a local authority and to any other public general Act and any local Act and as if the reference to the general purposes of that Act included a reference to the purposes of the other public general Act or the local Act in question.

(2) A person who is appointed as a member of a committee of a local authority or a joint committee of two or more local authorities by virtue of subsection (3) or (4) of section 102 of the <sup>M28</sup>Local Government Act 1972 (which authorises among other things the appointment to such a committee of a person who is not a member of a relevant authority) shall, if he is not a member of the authority which appointed him, be treated as such a member for the purposes of the said section 265 as modified by the preceding subsection.

#### **Textual Amendments**

- F58** Words repealed by [Local Government Finance Act 1982 \(c. 32, SIF 81:1, 2\)](#), s. 38(5), **Sch. 6 Pt. IV**

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

- C57** S. 39 applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**
- C58** Power to apply s. 39 conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (c)(iv); S.I. 1997/1930, **art. 2(2)(m)**
- C59** S. 39 applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 1**
- C60** S. 39 applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 3**
- C61** S. 39 applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 2**

#### **Marginal Citations**

- M27** 1875 c. 55.
- M28** 1972 c. 70.

## **40 Local authorities not affected by trusts attaching to certain securities issued by them.**

- (1) Where a local authority maintains in pursuance of any enactment a register of persons entitled to instruments which have been issued as evidence of or as security for any loan made to the authority, the officer [<sup>F59</sup>or other person] who keeps the register on behalf of the authority (hereafter in this section referred to as “the registrar”) may if he thinks fit enter in the register as the description of a person so entitled a description specified by that person which may be a description of him as a trustee of a particular trust or a trustee without specifying a trust or any other description indicating the capacity in which he is entitled to such an instrument.
- (2) Where a person entitled to such an instrument holds an office or official position, the registrar may if he thinks fit, at the request of that person either before or after his name is entered in the register in connection with the instrument, enter in the register, instead of the person’s name, a description of him as the holder of the office or position; and where such a description is entered in the register any transfer of an instrument to which the description relates may be executed by, and any payment of interest or repayment of principal in connection with such an instrument may be made to, the holder for the time being of the office or position.
- (3) No notice of any trust shall be entered in the register or given to the registrar except as authorised by the preceding provisions of this section; and, notwithstanding anything in the terms of an entry in the register, neither the authority which maintains it nor the registrar shall be affected by notice of any trust relating to an instrument issued as aforesaid nor required to enquire about the propriety of anything done in connection with such an instrument.
- (4) References to a register in the preceding provisions of this section do not include a register maintained in pursuance of regulations made by virtue of paragraph 4 of Schedule 13 to the <sup>M29</sup>Local Government Act 1972 (which relates to certain mortgages, stocks and bonds).

#### **Textual Amendments**

- F59** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(1), **Sch. 11 para. 48**

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## Marginal Citations

M29 1972 c. 70.

## 41 Evidence of resolutions and minutes of proceedings etc.

- (1) A document which—
- (a) purports to be a copy of—
    - (i) a resolution, order or report of a local authority or a precursor of a local authority, or
    - (ii) the minutes of the proceedings at a meeting of a local authority or a precursor of a local authority; and
  - (b) bears a certificate purporting to be signed by the proper officer of the authority or a person authorised in that behalf by him or the authority and stating that the resolution was passed or the order or report was made by the authority or precursor on a date specified in the certificate or, as the case may be, that the minutes were signed in accordance with paragraph 41 of Schedule 12 to the <sup>M30</sup>Local Government Act 1972 or the corresponding provision specified in the certificate of the enactments relating to local government which were in force when the minutes were signed,

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution, order, report or minutes in question.

- (2) In the preceding subsection references to a local authority, except the first and second references in paragraph (b), include references to a committee of a local authority and a sub-committee of such a committee and references to a precursor of a local authority include references to a committee of such a precursor and a sub-committee of such a committee.

<sup>F60</sup>(2A) In the case of a local authority which are operating executive arrangements, a document which—

- (a) purports to be a copy of a record of any decision made by the executive of that authority, <sup>F61</sup>or a member of that executive] or any person acting on behalf of that executive, where that record is required to be kept or produced by section 22 of the Local Government Act 2000 or any regulations made under that section <sup>M31</sup>; and
- (b) bears a certificate purporting to be signed by the proper officer of the authority or by a person authorised in that behalf by him or any other person who, by virtue of regulations made under section 22 of the Local Government Act 2000, is authorised or required to produce such a record, stating that the decision was made on the date specified in the certificate by that executive, or as the case may be, <sup>F62</sup>by the member of that executive or] by the person acting on behalf of that executive,

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the decision in question.]

<sup>F63</sup>(2B) Subsection (2C) applies to a record if—

- (a) it records a decision made or action taken by a member of a local authority or of a precursor of a local authority in exercise of a function of the authority or precursor by virtue of arrangements made under section 236 of the Local Government and Public Involvement in Health Act 2007, and

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- (b) it is required to be made by regulations under section 100EA of the Local Government Act 1972.
- (2C) If a document which purports to be a copy of a record to which this subsection applies bears a certificate—
- (a) purporting to be signed by—
- (i) the proper officer of the local authority, or
- (ii) a person authorised in that behalf by that officer or by the local authority, and
- (b) stating that the decision was made or the action was taken by the member of the local authority on the date specified in the certificate,
- the document shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the decision, or nature of the action, in question.]
- (3) A document which—
- (a) purports to be a copy of an instrument by which the proper officer of a local authority appointed a person to be an officer of the authority or authorised a person to perform functions specified in the instrument; and
- (b) bears a certificate purporting to be signed as mentioned in subsection (1)(b) of this section and stating that the document is a copy of the instrument in question,
- shall be evidence in any proceedings of the fact that the instrument was made by the said proper officer and of the terms of the instrument.
- (4) In the preceding provisions of this section “precursor”, in relation to a local authority, means any authority which has ceased to exist but which when it existed was constituted, in pursuance of the enactments relating to local government which were then in force, for an area any part of which is included in the area of the local authority.

#### Textual Amendments

- F60** S. 41(2A) inserted (E.W.) (11.7.2001 (E.), 1.4.2002 (W.)) by S.I. 2001/2237, arts. 2(c), 11(1)(a); S.I. 2002/808, art. 11(1)(a)
- F61** Words in s. 41(2A)(a) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 237(3)(a), 245; S.I. 2008/3110, art. 2(i)
- F62** Words in s. 41(2A)(b) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 237(3)(b), 245; S.I. 2008/3110, art. 2(i)
- F63** S. 41(2B)(2C) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 237(3)(c), 245; S.I. 2008/3110, art. 2(i)

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

- C62** S. 41: power to transfer functions conferred by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), ss. 3(2)(c)(iii), 79  
S. 41: power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), Sch. 4 para. (c)(v); S.I. 1997/1930, art. 2(2)(m)
- C63** S. 41 amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), Sch. 13 para. 13(g)
- C64** S. 41: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), Sch. 2  
S. 41: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), Sch. 2
- C65** S. 41 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), Sch. 2  
S. 41 modified (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), Sch. 2
- C66** S. 41 extended (5.7.1994) by 1994 c. 19, s. 39, Sch. 13 para. 20(f) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

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- S. 41 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 17(4)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- C67** S. 41 applied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), **art. 21(3)**
- S. 41 applied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), **art. 21(3)**
- C68** S. 41 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**
- C69** S. 41 modified (E.) (6.4.2010) by The Cowes Port Health Authority Order 2010 (S.I. 2010/1216), arts. 1(1), 4, **Sch.**
- C70** S. 41 modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**
- C71** S. 41 modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)
- C72** S. 41 modified (E.) (6.4.2010) by The Bristol Port Health Authority Order 2010 (S.I. 2010/1214), arts. 1, 4, **Sch.**
- C73** S. 41 applied (with modifications) (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**
- C74** S. 41 applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 3**
- C75** S. 41 applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 2**
- C76** S. 41 functions transferred and modified (E.) (14.6.2016) by The River Tees Port Health Authority Order 2016 (S.I. 2016/644), arts. 1(1), 9, **Sch. 2**
- C77** S. 41 functions etc. assigned to the port health authority and modified (E.) (31.3.2017) by The Weymouth Port Health Authority Order 2017 (S.I. 2017/558), arts. 1(1), 9, **Sch. 2** (with art. 9(3))
- C78** S. 41 modified by S.I. 2020/442, Sch. para. 1 (as inserted (W.) (21.7.2020) by The Local Authorities (Coronavirus) (Meetings) (Wales) (Amendment) Regulations 2020 (S.I. 2020/653), regs. 1(2), **5(2)**)

#### Marginal Citations

- M30** 1972 c. 70.
- M31** See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (S.I. 2000/3272).

## 42 Certain future local Acts etc. to be subject to the planning enactments etc. except as otherwise provided.

- (1) An Act or order to which this section applies shall have effect subject to—
- (a) the provisions of the enactments relating to town and country planning;
  - (b) the provisions of the enactments relating to historic buildings and ancient monuments;
  - <sup>F64</sup>(c) ..... and
  - [<sup>F65</sup>(d) Part II of the Food and Environment Protection Act 1985 (which relates to deposits in the sea.)]
- except so far as the Act or order expressly provides otherwise.
- (2) This section applies to an Act or order which is—
- (a) a local Act passed after or in the same Session as this Act;
  - (b) a provisional order confirmed by an Act so passed; or
  - (c) an order which is made in the exercise of powers conferred by an Act and comes into force after the passing of this Act or in the same Session as this Act,

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and which authorises the carrying out on land specified in the Act or order of works of a kind so specified.

#### Textual Amendments

**F64** S. 42(1)(c) repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)

**F65** S. 42(1)(d) substituted by [Food and Environment Protection Act 1985 \(c. 48, SIF 111\)](#), [Pt. II](#), s. 15(6)

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

**C79** S. 42 excluded (28.11.1991) by [London Underground \(Safety Measures\) Act 1991 \(c. xviii\)](#), s. [33\(1\)](#)

S. 42 excluded (16.3.1992) by [London Underground Act 1992 \(c. iii\)](#), s. [16\(1\)](#)

**C80** S. 42 restricted (27.5.1993) by 1993, c. vii, s. 16(1)

S. 42 restricted (1.7.1993) by 1993, c. ix, s. 11(1)

**C81** S. 42 applied (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [9\(6\)](#)

**C82** S. 42 restricted (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014 \(S.I. 2014/2384\)](#), art. 1, [Sch. 19 Pt. 1 para. 8](#)

**C83** S. 42 restricted (30.10.2019) by [The Northampton Gateway Rail Freight Interchange Order 2019 \(S.I. 2019/1358\)](#), art. 1, [Sch. 14 para. 4](#) (with art. 45(7), [Sch. 13 Pt. 1 para. 19](#))

**C84** S. 42 restricted (25.5.2020) by [The West Midlands Rail Freight Interchange Order 2020 \(S.I. 2020/511\)](#), art. 1, [Sch. 14 para. 4](#)

**F66** 43 .....

#### Textual Amendments

**F66** S. 43 repealed by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. 47, [Sch. 7Pt. XVI](#)

### Supplemental

#### 44 Interpretation etc. of Part I.

(1) In this Part of this Act, except where the contrary intention appears—

“apparatus” includes any structure constructed in order that apparatus may be lodged in it;

“the Common Council” means the Common Council of the City of London; [<sup>F67</sup>“executive” and “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000;]

“functions” includes powers and duties;

“highway” has the same meaning as in [<sup>F68</sup>the <sup>M32</sup>Highways Act 1980];

“local Act” includes a provisional order confirmed by an Act;

[<sup>F69</sup>“local authority” means a county council, <sup>F70</sup>. . . a district council, a London borough council, the Common Council, the Council of the Isles of Scilly and—

(a) in sections 13 to 16, 29, 30, 38, 39 and 41 of this Act, [<sup>F71</sup>a [<sup>F72</sup>police and crime commissioner, the Mayor's Office for Policing and Crime] . . . <sup>F73</sup>. . . ]. . . a joint authority established by Part IV of the Local Government Act 1985 [<sup>F74</sup>an economic prosperity board established

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under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act,]<sup>F75</sup>, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004]<sup>F76</sup>...  
[<sup>F77</sup>and the London Fire Commissioner];

(b) in sections 1, 16, 19, 30, 36, 39 and 41 of this Act, a parish council and a community council.

(c) [<sup>F78</sup>in section 40 of this Act, a joint authority established by Part IV of the Local Government Act 1985, an authority established under section 10 of that Act (waste regulation and disposal authorities),  
<sup>F79</sup>[<sup>F80</sup>..., [<sup>F81</sup>an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act,]<sup>F82</sup>the London Fire Commissioner] and the South Yorkshire Pensions Authority.]]

“notice” means notice in writing;

“owner”, in relation to any land, place or premises, means a person who, either on his own account or as agent or trustee for another person, is receiving the rackrent of the land, place or premises or would be entitled to receive it if the land, place or premises were let at a rackrent, and “owned” shall be construed accordingly;

“statutory undertakers” means any of the following bodies, namely, any statutory undertakers within the meaning of [<sup>F83</sup>the Highways Act 1980,]<sup>F84</sup>[<sup>F85</sup>..., <sup>F86</sup>... and, <sup>F86</sup>... [<sup>F87</sup>a universal service provider in connection with the provision of a universal postal service]]. . . ; and

“traffic sign” has the same meaning as in the <sup>M33</sup>Road Traffic Regulation Act [<sup>F88</sup>1984].

[<sup>F89</sup>“universal service provider” has the same meaning as in [<sup>F90</sup>Part 3 of the Postal Services Act 2011] ; and references to the provision of a universal postal service shall be construed in accordance with [<sup>F91</sup>that Part] .]

[<sup>F92</sup>(1ZA) The undertaking of a universal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Part; and references in this Part to his undertaking shall be construed accordingly.]

[<sup>F93</sup>(1A) Sections 13, 15, 16, 29, 30, 32, 38, 39 and 41 of this Act shall have effect as if the Broads Authority were a local authority and the Broads (as defined in the Norfolk and Suffolk Broads Act 1988) were its local government area.]

[<sup>F94</sup>(1B) Section 16 of this Act shall have effect as if the Environment Agency were a local authority.]

[<sup>F95</sup>(1C) In relation to the Natural Resources Body for Wales, section 16 of this Act shall have effect—

- (a) as if that Body were a local authority; and
- (b) as if, in its application by virtue of paragraph (a), any reference to a function were a reference to the Body’s relevant transferred functions (within the meaning of article 11 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I.2012/1903)).]

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- (2) [<sup>F96</sup>Section 322 of the <sup>M34</sup>Highways Act 1980] (which relates to the service of documents) shall apply to the service of any document by or on the Secretary of State in pursuance of [<sup>F96</sup>section 7 of this Act as if that section were a provision of that Act].
- (3) When an offence under this Part of this Act (including an offence under byelaws made by virtue of section 12 of this Act) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- Where the affairs of a body corporate are managed by its members the preceding provisions of this subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) Except so far as this Part of this Act expressly provides otherwise and subject to the provisions of section 33 of the <sup>M35</sup>Interpretation Act 1889 (which relates to offences under two or more laws), nothing in this Part of this Act—
- (a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Part of this Act or an instrument made in pursuance of this Part of this Act;
  - (b) affects any restriction imposed by or under any other enactment, whether public, local or private; or
  - (c) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part of this Act.
- (5) Nothing in paragraph (a) of the preceding subsection applies to the failure of a person to perform a duty imposed on him by section 1(4), 2(5), 25(6) or 7(b) [<sup>F97</sup>of this Act or section 61(2)(c) of the Road Traffic Regulation Act 1984].
- (6) References in this Part of this Act to any enactment are references to it as amended by or under any other enactment.

#### Textual Amendments

- F67** Words in S. 44(1) inserted (E.W.) (11.7.2001 (E.), 1.4.2002 (W.)) by S.I. 2001/2237, arts. 2(c), 11(2); S.I. 2002/808, art. 11(2)
- F68** Words substituted by Highways Act 1980 (c. 66, SIF 59), s. 343(2), Sch. 24 para. 27(c)
- F69** Definition of “local authority” substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 84, Sch. 14 Pt. II para. 53(b)
- F70** Words repealed by virtue of Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17
- F71** S. 44(1): words in para. (a) of definition of “local authority” inserted (1.10.1994 for specified purposes, otherwise 1.4.1995) by 1994 c. 29, s. 43, Sch. 4 para. 18; S.I. 1994/2025, art. 6(2) (g)(subject to art. 6(3)-(6)); S.I. 1994/3262, art. 4, Sch.
- F72** Words in s. 44(1) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), Sch. 16 para. 127; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 40)
- F73** Word in para. (a) in definition in s. 44(1) repealed (3.7.2000) by 1999 c. 29, ss. 323, Sch. 34 Pt. VIII; S.I. 2000/1094, art. 4(i)
- F74** Words in s. 44(1) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), Sch. 6 para. 43(a); S.I. 2009/3318, art. 2(c)



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- F75** Words in s. 44(1) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as it is not already in force) by **Policing and Crime Act 2017 (c. 3)**, s. 183(1)(5)(e), **Sch. 1 para. 36**; S.I. 2017/399, Sch. para. 38
- F76** Words in s. 44(1) omitted (26.5.2015) by virtue of **Deregulation Act 2015 (c. 20)**, s. 115(7), **Sch. 13 para. 6(11)(a)**; S.I. 2015/994, art. 6(g)
- F77** Words in s. 44(1) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by **Policing and Crime Act 2017 (c. 3)**, s. 183(1)(5)(e), **Sch. 2 para. 51(a)**; S.I. 2018/227, **reg. 4(c)**
- F78** Para. (c) inserted by S.I. 1990/1765, **art. 4(5)**
- F79** Words in s. 44(1) omitted (26.5.2015) by virtue of **Deregulation Act 2015 (c. 20)**, s. 115(7), **Sch. 13 para. 6(11)(b)**; S.I. 2015/994, art. 6(g)
- F80** S. 44(1): words in para. (c) of definition inserted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007 (c. 28)**, ss. 209, 245, **Sch. 13 para. 33(b)**; S.I. 2008/917, **art. 2(1)(p)**
- F81** Words in s. 44(1) inserted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009 (c. 20)**, s. 148(6), **Sch. 6 para. 43(b)**; S.I. 2009/3318, art. 2(c)
- F82** Words in s. 44(1) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by **Policing and Crime Act 2017 (c. 3)**, s. 183(1)(5)(e), **Sch. 2 para. 51(b)**; S.I. 2018/227, **reg. 4(c)**
- F83** Words substituted by **Highways Act 1980 (c. 66, SIF 59)**, **Sch. 24 para. 27(c)**
- F84** Words repealed by **Water Act 1989 (c. 15, SIF 130)**, ss. 58(7), 101(1), 141(6), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F85** Words substituted by virtue of **British Telecommunications Act 1981 (c. 38, SIF 96)**, **Sch. 3 para. 10(4)**
- F86** Words repealed by **Telecommunications Act 1984 (c. 12, SIF 96)**, s. 109, **Sch. 4 para. 3(1)(d)**, Sch. 5 para. 45, Sch. 7 Pt. I
- F87** S. 44(1): words in the definition of “statutory undertakers” substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 42(2)(a)**
- F88** Words substituted by **Road Traffic Regulation Act 1984 (c. 27, SIF 107:1)**, s. 146, **Sch. 13 para. 35(a)**
- F89** S. 44(1): definition of “universal service provider” inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 42(2)(b)**
- F90** Words in s. 44(1) substituted (1.10.2011) by **Postal Services Act 2011 (c. 5)**, s. 93(2)(3), **Sch. 12 para. 102(a)**; S.I. 2011/2329, art. 3
- F91** Words in s. 44(1) substituted (1.10.2011) by **Postal Services Act 2011 (c. 5)**, s. 93(2)(3), **Sch. 12 para. 102(b)**; S.I. 2011/2329, art. 3
- F92** S. 44(1ZA) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 42(3)**
- F93** S. 44(1A) inserted by **Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1)**, ss. 21, 23(2), 27(2), **Sch. 6 para. 15**
- F94** S. 44(1B) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 33** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F95** S. 44(1C) inserted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755)**, art. 1(2), **Sch. 2 para. 153** (with Sch. 7)
- F96** Words substituted by **Highways Act 1980 (c. 66, SIF 59)**, s. 343(2), **Sch. 24 para. 27**
- F97** Words substituted by **Road Traffic Regulation Act 1984 (c. 27, SIF 107:1)**, s. 146, **Sch. 13 para. 35(b)**

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

- C85** S. 44(1)(a) applied (with modifications) (8.5.2017) by **The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470)**, art. 1(2), **Sch. 1 para. 4(4)**
- C86** S. 44(1) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(m)**
- C87** S. 44(1) extended by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 8(j)**
- C88** S. 44(3)–(5) extended by **Road Traffic Regulation Act 1984 (c. 27, SIF 107:1)**, s. 61(7)

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#### **Marginal Citations**

**M32** 1980 c. 66.

**M33** 1984 c. 27.

**M34** 1980 c. 66.

**M35** 1889 c. 63.

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