



# Local Government, Planning and Land Act 1980

## 1980 CHAPTER 65

### PART III

#### DIRECT LABOUR ORGANISATIONS

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

- C1** Pt. III (ss. 5-23): power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), Sch. 4 para. (d)(i); S.I. 1997/1930, art. 3(2)(m)
- C2** Pt. III (ss. 5-23) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), Sch. 8 para. 8(1) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### *Works Contracts*

### 5 Meaning of "works contract".

(1) Subject to subsection (2) below, in this Part of this Act "works contract" means a contract which is or comprises—

(a) an agreement (in this Part of this Act referred to as a "maintenance agreement") under—

(i) section 5(3)(c) of the <sup>M1</sup>London Government Act 1963 (agreements between . . . <sup>F1</sup> London authorities for the carrying out of works of maintenance by one party in connection with land or buildings for the maintenance of which another party is responsible), or

(ii) section 1 of the <sup>M2</sup>Local Authorities (Goods and Services) Act 1970 (in this Part of this Act referred to as "the 1970 Act") (which provides for the carrying out by a local authority of such works of maintenance as are referred to in subsection (1)(d) of that section); or

(b) . . . . . <sup>F2</sup>

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- (c) an agreement made by virtue of any other enactment (including a provision of a local Act) which provides for the carrying out by a local authority of any construction or maintenance work;

and in this section “works authority”, in relation to a works contract, means the local authority or, if there is more than one, each of the local authorities, by whom construction or maintenance work is or is to be undertaken in pursuance of the contract.

- (2) A contract is not a works contract by reason only that it is or comprises an agreement under which the functions of a Minister of the Crown or of any public body, within the meaning of the 1970 Act, fall to be discharged by a local authority, notwithstanding that, in the exercise of the functions, the local authority undertake construction or maintenance work.
- (3) If and so far as the provision by a works authority of goods, materials, services, vehicles, plant or other equipment which is incidental to construction or maintenance work undertaken by that authority in pursuance of a works contract is the subject of a separate agreement, that agreement shall be treated as part of the works contract for the purposes of this Part of this Act.

#### Textual Amendments

- F1** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)  
**F2** [S. 5\(1\)\(b\)](#) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)

#### Marginal Citations

- M1** [1963 c. 33 \(81:1\)](#).  
**M2** [1970 c. 39 \(81:4\)](#).

## 6 Regulation of works contracts.

- (1) Except in so far as section 7 below otherwise provides, a local authority may enter into a works contract in such circumstances and on such terms, having regard to the duty imposed on them by section 16 below, as they consider appropriate.
- (2) Notwithstanding anything in the 1970 Act or in any other enactment relating to such an agreement as is mentioned in section 5(1)(c) above, a body which is a public body within the meaning of the 1970 Act may not (whether as the works authority or as the body for whom any works are to be carried out) enter into a contract which in any respect contravenes any limitation imposed by section 7 below.
- (3) In any case where—
- before the appointed day, and whether before or after the passing of this Act, a local authority entered into a maintenance agreement, and
  - the circumstances in which or the terms on which the maintenance agreement was entered into are such that, having regard to section 7 below and to any regulations made under that section, it would not be lawful for them to enter into a similar agreement immediately after the appointed day,
- then, at the expiry of the period of twelve months beginning on the appointed day, it shall cease to be lawful for the maintenance agreement to be carried out.
- (4) Accordingly, if the maintenance agreement is governed by English Law and the parties to it do not make other provision before the expiry of that period of twelve months,

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the <sup>M3</sup>Law Reform (Frustrated Contracts) Act 1943 shall apply to the maintenance agreement with effect from the expiry of that period.

#### Marginal Citations

M3 1943 c. 40 (30).

## 7 Limitations on power to enter into works contracts.

(1) A local authority may not—

- (a) enter into a works contract [<sup>F3</sup>under which they are to carry out work] whose value exceeds the prescribed amount unless they do so as the result of acceptance of a tender, or
- (b) enter into a works contract [<sup>F3</sup>under which they are to carry our work] whose value is equal to or less than the prescribed amount unless they have complied with such conditions as may be prescribed by regulations made by the Secretary of State.

[<sup>F4</sup>(1A) A local authority may not enter into a works contract under which they are to carry out work unless the competition condition is fulfilled, that is, the other party to the contract, in entering into it and doing anything else in connection with it before entering into it, did not act in a manner having the effect or intended or likely to have the effect or restricting, distorting or preventing competition.

(1B) Subsection (1A) above shall prevent the local authority from entering into the contract unless, at the time it is proposed to be entered into, they are aware of the failure to fulfill the competition condition]

(2) In this section “the prescribed amount ” means an amount specified in regulations made by the Secretary of State.

(3) For the purposes of this Part of this Act an authority enter into a contract as the result of acceptance of a tender if—

- (a) the contract was made by acceptance of an offer on their part to carry out the work in question; and
- (b) they made the offer in response to an invitation to submit such offers; and
- (c) the invitation was extended to at least three other persons [<sup>F5</sup>who are not, or include at least three persons who are not, local authorities or development bodies].

(4) The Secretary of State may by regulations—

- (a) direct the manner in which the value of a contract is to be determined for the purposes of this section; and
- (b) specify descriptions of contract to which subsection (1) above is not to apply; and
- (c) specify for the purposes of subsection (3)(c) above a number of persons different from three.

(5) Without prejudice to the generality of subsection (4) above, regulations made by virtue of paragraph (a) of that subsection may direct that a number of contracts shall be treated as if they were one contract for the purpose of determining whether the prescribed amount is exceeded.

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- (6) Regulations under this section may make different provision in relation to different contracts and descriptions of contracts.
- (7) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F3** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32, Sch. 6 para 2(2)
- F4** S. 7(1A)(1B) inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32, Sch. 6 para. 2(3)
- F5** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32, Sch. 6 para. 2(4)

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

- C3** S. 7(1) excluded (S.) by S.I. 1990/1782, reg. 7(1)  
 S. 7(1) restricted (6.4.1992) by S.I. 1992/582, reg.3.

### Functional work

## 8 Meaning of functional work

- (1) Subject to subsection (2) below, in this Part of this Act “functional work ” means reconstruction or maintenance work undertaken by a local authority otherwise than under a works contract or by a development body, for the performance of, or in connection with—
- (a) their functions; or
  - (b) their obligations under any arrangements, agreement or requirement made under any enactment and providing for the discharge by them of any functions of—
    - (i) a Minister of the Crown; or
    - [<sup>F6X1</sup>(ii) a water authority; or]
    - [<sup>F6X1</sup>(ii) a sewerage undertaker; or]
    - (iii) a local authority within the meaning of Part VI of the <sup>M4</sup>Local Government Act 1972 ; or
    - (iv) a regional, islands or district council; or
    - (v) a joint board within the meaning of section 235 of the <sup>M5</sup>Local Government (Scotland) Act 1973.
- (2) Subject to subsection (3) below, where a local authority or development body carry out construction or maintenance work for the performance of, or in connection with, any of their functions or any of their obligations such as are referred to in subsection (1) (b) above by placing a contract for the doing of the work by another person (either directly or, in whole or in part, through sub-contractors) the work shall be treated as not being functional work.
- (3) Subsection (2) above shall not apply to work done under a contract if that work is dependent upon, or incidental or preparatory to, other construction or maintenance work undertaken or to be undertaken by persons in the employment of the local authority or development body.

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#### Editorial Information

- X1** S. 8(1)(b)(ii) commencing “a sewerage ” substituted (E.W.) for para. ii commencing “a water ” by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 61(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

#### Textual Amendments

- F6** S. 8(1)(b)(ii) commencing “a sewerage ” substituted (E.W.) for para. ii commencing “a water ” by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 61(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**

#### Marginal Citations

- M4** 1972 c. 70 (81:1).  
**M5** 1973 c. 65 ( 81:2).

## 9 Regulation of functional work.

- (1) Subject to the following provisions of this section, a local authority or development body may undertake such functional work as they consider appropriate, having regard to the duty imposed by section 16 below.
- (2) A local authority or development body may not undertake such functional work of any description unless they have first prepared a written statement—
  - (a) of the amount which they will credit to their DLO revenue account in respect of carrying out the work or of carrying out work of that description which they intend or expect to carry out; or
  - (b) of a method by which they intend that the amount to be so credited shall be calculated.
- (3) The Secretary of State may by regulations—
  - (a) specify descriptions of functional work which a local authority or development body may not undertake unless they have first complied with the conditions specified in subsection (4) below as well as with subsection (2) above; and
  - (b) specify conditions with which a local authority or development body must comply, as well as complying with subsection (2) above, before they undertake functional work of any other description.
- (4) The conditions mentioned in subsection (3)(a) above are—
  - (a) that they have invited offers to undertake the work, in accordance with conditions specified by them, from at least three persons [<sup>F7</sup>who are not, or include at least three persons who are not, local authorities or development bodies and who are included in a list maintained by the authority or body seeking to undertake the work] of persons who are willing to undertake such work; and
  - [<sup>F8</sup>(aa) that they have included in the invitation prescribed matters (which they may relate to the time allowed for responding, the method of responding, or otherwise); and
  - (aaa) that they have complied with the prescribed requirements as to responses (which may include requirements to disregard certain responses, requirements about the keeping or opening of responses, or otherwise); and

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- (aaaa) that, in reaching the decision that they should undertake the work and in doing anything else in connection with the work before reaching the decision, they have not acted in a manner having the effect or intended or likely to have the effect of restricting, distorting or preventing competition; and]
- (b) that they have furnished any statement which they are required to furnish in pursuance of subsection (8) below ;
- [<sup>F9</sup>and “prescribed ” in paragraphs (aa) and (aaa) above means prescribed by regulations made by the Secretary of State]
- (5) The Secretary of State may by regulations specify for the purposes of subsection (4) (a) above a number of persons different from three.
- [<sup>F10</sup>(5A) Regulations under subsection (3)(a) above may provide that the conditions in subsection (4)(aa) and (aaa) above are not to apply if the work falling within a description specified by the regulations satisfies such criteria as are so specified]
- (6) Where a local authority or development body are required to comply with the [<sup>F11</sup>condition specified in subsection (4)(a)] above, the written statement which they are required to prepare under subsection (2) above is a statement consistent with conditions corresponding to those specified in the invitation mentioned in subsection (4)(a) above.
- (7) Where—
- (a) a local authority or development body are required to comply with conditions specified in regulations made by virtue of subsection (3)(b) above; and
- (b) the conditions require them to invite offers to undertake work,
- the written statement which they are required to prepare under subsection (2) above is a statement consistent with conditions corresponding to those specified in the invitation.
- (8) If any person requires a local authority or development body to do so, they shall furnish him with a written statement showing who is to undertake the work, its estimated cost and the price of each offer submitted to the local authority or development body in consequence of the invitation mentioned in subsection (4)(a) above.
- (9) In subsection (8) above “estimated cost ”, in relation to any work, means—
- (a) if the local authority or development body are to carry out the work themselves, its cost as estimated under subsection (2) above; and
- (b) if any other person is to carry it out, the price for which he has contracted to carry it out.
- (10) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F7** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 32, Sch. 6 para. 3\(2\)](#) (subject to savings in [S.I. 1988/979, art. 4](#) and [S.I. 1988/1043, art. 4](#))
- F8** [S. 9\(4\)\(aa\)–\(aaaa\)](#) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 32, Sch. 6 para. 3\(3\)](#)
- F9** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 32, Sch. 6 para. 3\(4\)](#)
- F10** [S. 9\(5A\)](#) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 32, Sch. 6 para. 3\(5\)](#)
- F11** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 32, Sch. 6 para. 3\(6\)](#)

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

- C4 S. 9(4)(aaaa) excluded by S.I. 1988/1043, **art. 4**  
C5 S. 9(4)(aaaa) excluded by S.I. 1988/979, **art. 4** and S.I. 1988/1043, **art. 4**

*Accounting Provisions*

**10 Accounts relating to construction or maintenance work**

- (1) Every local authority who undertake construction or maintenance work—
- (a) under works contracts, or
  - (b) by way of functional work,
- and every development body who undertake construction or maintenance work by way of functional work shall keep, in respect of each of the descriptions of such work specified in subsection (2) below—
- (i) a revenue account (in this Act referred to as a “DLO revenue account ”); and
  - (ii) such other accounts as may be directed by the Secretary of State.
- (2) The descriptions of construction or maintenance work mentioned in subsection (1) above are—
- [<sup>F12</sup>(a) general highway works and works in connection with the construction or maintenance of a sewer;
- (b) works of new construction, other than general highway works or works in connection with the construction of a sewer, the cost of which in the estimation of the authority or development body will exceed £50,000; and
  - (c) works of new construction, other than general highway works or works in connection with the construction of a sewer, the cost of which in the estimation of the authority or development body will not exceed £50,000; and
  - (d) works of maintenance within the meaning of the 1970 Act other than such works of maintenance in connection with highways of the maintenance of a sewer]
- [<sup>F13</sup>The descriptions of construction or maintenance work mentioned in subsection (1) above are in Scotland—
- (a) general highway works;
  - (b) general water and sewerage works;
  - (c) works of new construction, other than general highway works or general water and sewerage works, the cost of which in the estimation of the authority or development body will exceed £50,000;
  - (d) works of new construction, other than general highway works or general water and sewerage works, the cost of which in the estimation of the authority or development body will not exceed £50,000; and
  - (e) works of maintenance within the meaning of the 1970 Act other than such works of maintenance in connection with highways or water and sewerage works]
- (3) In subsection (2) above “general highway works ” means—
- (a) construction and maintenance work for the purpose of the laying out, construction, improvement, maintenance or repair of highways, other than



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- work for the purpose of the construction of highways which is connected with the carrying out of other works of new construction; and
- (b) the gritting of or clearing of snow from highways [<sup>F14</sup>]; and
  - (c) the maintenance of street lighting]
- (4) The Secretary of State may by regulations—
- (a) amend subsection (2) above;
  - (b) specify descriptions of construction or maintenance work, in addition to the descriptions of such work specified in that subsection, as being descriptions of such work in respect of which a local authority or development body are to be under a duty to keep the accounts mentioned in subsection (1) above.
- (5) A statutory instrument containing regulations under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “works of new construction ” means building or civil engineering works of any description which are not works of maintenance within the meaning of the 1970 Act.

#### Textual Amendments

**F12** S. 10(2)(a)–(d) substituted (E.W.) by S.I. 1981/339, **reg. 3**

**F13** Words inserted (S.) by S.I. 1982/319, **art. 3**

**F14** S. 10(3)(c) and the word “and ” immediately preceding it inserted (I.10.1988) by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 32, Sch. 6 para. 4](#)

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

**C6** S. 10 applied (9.1.1995) by S.I. 1994/3167, **regs. 4, 6(1)**

## 11 Exemption from requirement to keep separate accounts under section 10.

- (1) Subsection (1) of section 10 above does not require a local authority or development to keep—
- (a) in respect of any description of construction or maintenance work specified in subsection (2) of that section; or
  - (b) in respect of any description of such work specified in regulations under subsection (4) of that section,
- accounts for any financial year separate from accounts kept for that year in respect of any other description of construction or maintenance work, if the local authority or development body did not at any one time in the previous financial year employ more than thirty persons, other than persons excluded by subsection (2) below, who were engaged (whether wholly or partly) in carrying out construction or maintenance work of that description.
- (2) The persons excluded by this subsection are persons engaged wholly or mainly upon the design, development or control of construction or maintenance work.
- (3) The Secretary of State may by order specify for the purposes of subsection (1) above a number of persons less than thirty.
- (4) The power to make an order conferred by subsection (3) above shall be exercisable by statutory instrument.



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- (5) A statutory instrument containing such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

C7 S. 11 applied (9.1.1995) by S.I. 1994/3167, regs. 4, 6(1)

**12 Contents of accounts relating to construction or maintenance work.**

- (1) Subject to subsection (4) below, a local authority or development body may not credit and DLO revenue account in respect of the cost of carrying out any functional work with a sum in excess of the appropriate amount.
- (2) Where they have prepared a written statement in accordance with section 9(2)(a) above, the appropriate amount is the amount specified in that statement.
- (3) Where they have prepared a written statement in accordance with section 9(2)(b) above, the appropriate amount is an amount calculated in accordance with method in that statement.
- (4) Where the statement allowed for a variation in the appropriate amount in the event of changed circumstances, then if the circumstances arise (but not otherwise) the local authority or development body may credit the account with such sum as the statement allowed for in those circumstances.
- (5) Subject to subsections (1) and (4) above, the Secretary of State may give directions—
- (a) as to items which are to be included in accounts kept under section 10 above;
  - (b) as to the method of determining the amount of any item to be included in such accounts;
  - (c) as to the method of determining the cost undertaking any construction or maintenance work; and
  - (d) as to the extent to which the cost of providing professional, technical and administrative services for the purposes of or in connection with construction or maintenance work of any description is to be treated as part of the cost of undertaking such work of that description.

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

C8 S. 12 applied (9.1.1995) by S.I. 1994/3167, regs. 4, 6(1)

**13 Annual balance sheet etc.**

- (1) Every local authority who in any financial year undertake construction or maintenance work, whether under works contracts or by way of functional work or both, and every development body who in any financial year undertake construction or maintenance work by way of functional work, shall prepare the documents mentioned in subsection (2) below not later than 30th September in the financial year following that year.
- (2) The documents are—
- (a) .....

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- (b) a revenue account;
- (c) a statement of rate of return.
- (3) ..... <sup>F16</sup>
- (4) Subject to subsection (5) below, a revenue account must show a true and fair view of the financial result of the local authority or development body having undertaken, in the financial year to which it relates, each description of construction or maintenance work to which it relates.
- (5) Where by virtue of section 11 above a revenue account relates to more than one description of construction or maintenance work, subsection (4) above shall have effect as if it required the account to show a true and fair view of the combined financial result of the local authority or development body having undertaken, in the financial year to which the account relates, all the descriptions of construction or maintenance work to which it relates.
- [<sup>F17</sup>(5A) A revenue account must be expressed in such form as the Secretary of State may specify in writing]
- (6) A statement of rate of return must give such information as is necessary to show whether, in respect of the financial year to which it relates, the local authority or development body have complied with section 16(1) below.

#### Textual Amendments

- F15** S. 13(2)(a) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), ss. 32, 41, [Sch. 6 para. 5\(2\)](#), [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part)
- F16** S. 13(3) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), ss. 32, 41, [Sch. 6 para. 5\(2\)](#), [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part)
- F17** S. 13(5A) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, [Sch. 6 para. 5\(3\)](#)

## 14 Accounts under section 10 and other local authority accounts.

- (1) Sections 10, 12 and 13 above are without prejudice to the power of the Secretary of State to make regulations under [<sup>F18</sup>section 23 of the <sup>M6</sup>Local Government Finance Act 1982] or section 105 of the <sup>M7</sup>Local Government (Scotland) Act 1973 (regulations relating to publication of information and the form, preparation, keeping and certification of accounts, etc.) relating to DLO revenue accounts and accounts required by directions under section 10(1)(ii) above.
- (2) Notwithstanding anything in subsection (2) of section 2 of the 1970 Act (local authorities, within the meaning of that Act, to keep a separate account in respect of agreements under section 1), a local authority shall not be required by that subsection to keep a separate account in respect of any agreement under section 1 of that Act which provides for the carrying out of such works of maintenance as are referred to in subsection (1)(d) of that section.

#### Textual Amendments

- F18** Words substituted (E.W.) by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 34, [Sch. 5 para. 8\(2\)](#)

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

**C9** S. 14 applied (9.1.1995) by S.I. 1994/3167, regs. 4, 6(1)

**Marginal Citations**

**M6** 1982 c. 32 ( 81:1)

**M7** 1973 c. 65 ( 81:2).

*Financial provisions*

**15 Payment for construction or maintenance work undertaken in pursuance of delegated functions etc.**

- (1) Where a local authority or development body undertake construction or maintenance work which is functional work by virtue of paragraph (b) of section 8(1) above, they shall be entitled notwithstanding anything in any enactment or in the arrangements or agreement referred to in that paragraph, to a payment in respect of undertaking that work equal to the amount which, in accordance with this Part of this Act, would be credited to the DLO revenue account kept by them in respect of work of that description if the work so undertaken were functional work by virtue of paragraph (a) of that subsection.
- (2) Subject to subsection (3) below, nothing in subsection (1) above applies to functional work undertaken in pursuance of an arrangement or agreement entered into before the appointed day.
- (3) If the arrangement or agreement entered into before the appointed day provides for the delegation of a function for an indefinite period or for a period terminable by the parties to it or by either of them, this section shall apply to work undertaken in pursuance of the arrangement or agreement in the first financial year which begins after the appointed day and in subsequent financial years.

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

**C10** S. 15 applied (9.1.1995) by S.I. 1994/3167, regs. 4, 6(1)

**16 General financial duty: treatment of deficits.**

- (1) Every local authority or development body who undertake construction or maintenance work—
  - (a) of any of the descriptions specified in subsection (2) of section 10 above; or
  - (b) of any description specified by regulations under subsection (4) of that section,whether under works contracts or by way of functional work or both, shall secure that, in respect of each financial year, their revenue from work of that description shows such positive rate of return on the capital employed for the purpose of carrying out the work as the Secretary of State may direct.
- (2) Subject to subsection (3) below, the rate of return on capital employed shall be determined for the purposes of this section by such method as the Secretary of State may direct.

*Status: Point in time view as at 01/01/1993.*

*Changes to legislation: Local Government, Planning and Land Act 1980, Part III is up to date with all changes known to be in force on or before 15 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The rate of return shall in all cases be determined on a current cost accounting basis.

(4) ..... F19

(5) ..... F20

**Textual Amendments**

**F19** S. 16(4) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), ss. 32, 41, Sch. 6 para. 6, [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part)

**F20** Ss. 16(5)(6), 19(3)(4) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 41, [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part)

17 ..... F21

**Textual Amendments**

**F21** S. 17 repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), ss. 32, 41, Sch. 6 para. 7, [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part and to savings in S.I. 1988/979, [art. 5](#) and 1988/1043, [art. 5](#)) and applied (9.1.1995) by S.I. 1994/3167, [regs. 4, 6\(1\)](#) and Pt. III (ss. 5-23) expressed to be repealed (E.W.) (27.7.1999 with effect as mentioned in s. 21(1)(a)) by 1999 c. 27, s. 34, [Sch. 2\(1\)](#), Note

*Supplementary*

**18 Annual reports on construction or maintenance work.**

(1) Every local authority who in any financial year undertake construction or maintenance work, whether under works contracts or by way of functional work or both, and every development body who in any financial year undertake construction or maintenance by way of functional work shall prepare a report in accordance with subsection (2) below on the construction or maintenance work undertaken by them during that financial year.

[<sup>F22</sup>(1A) A report under this section must include—

- (a) a statement identifying such (if any) of the work undertaken as falls within construction or maintenance work by virtue of a decision under section 20(5) below; and
- (b) a copy of each of the documents which it is required to prepare in accordance with section 13(1) above]

(2) A report under this section shall be prepared not later than 30th September in the financial year following that to which it relates and shall include such information as the Secretary of State may direct relating to construction or maintenance work of any description specified in subsection (2) of section 10 above or in regulations under subsection (4) of that section.

[<sup>F23</sup>(2A) A local authority or development body who have prepared a report under this section shall send a copy to the Secretary of State and to their auditor not later than 31st October in the financial year following that to which the report relates.

*Status: Point in time view as at 01/01/1993.*

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- (2B) Where a local authority's or development body's auditor has been sent a copy of a report in accordance with subsection (2A) above, he shall consider the statement of rate of return a copy of which is contained in the report by virtue of subsection (1A) (b) above, and shall give his written opinion on the statement to the authority or body concerned and to the Secretary of State]
- (3) Any person may inspect a report of a local authority or development body under this section and shall be supplied with a copy of the report by the authority or body on payment of such charge for a copy as they may reasonably require.
- (4) A local authority or development body shall publish in at least one newspaper circulating in their area notice—
- (a) of the place where and the time when any report under this section may be inspected;
  - (b) of the fact that copies of the report are available for supply to any person requiring them; and
  - (c) of the charge for each such copy.
- [<sup>F24</sup>(5) For the purposes of subsections (2A) and (2B) above a local authority's or development body's auditor is the person who under any enactment is appointed, for the financial year for which the report is prepared, to audit the accounts of the authority or body]

#### Textual Amendments

- F22** S. 18(1A) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, [Sch. 6 para. 8\(2\)](#)
- F23** S. 18(2A)(2B) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, [Sch. 6 para. 8\(3\)](#)
- F24** S. 18(5A) added by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, [Sch. 6 para. 8\(4\)](#)

## 19 Application to joint committees.

- (1) Where two or more local authorities arrange for the discharge by a joint committee of theirs of any of their functions under any enactment not contained in this Part of this Act, this Part of this Act shall have effect as if any reference init to a local authority . . . . <sup>F25</sup>, included a reference to the joint committee.
- (2) Notwithstanding anything in any enactment, a joint committee appointed by two or more authorities may not at any time undertake construction or maintenance work—
- (a) under works contract, or
  - (b) by way of functional work,
- unless arrangements are in force at that time providing for the proportions in which they are to meet any deficit in any DLO revenue account of the joint committee.
- (3) . . . . . <sup>F26</sup>

#### Textual Amendments

- F25** Words repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 41, [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part)
- F26** [Ss. 16\(5\)\(6\), 19\(3\)\(4\)](#) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 41, [Sch. 7 Pt. III](#) (subject to the provision at the end of that Part)

*Status: Point in time view as at 01/01/1993.*

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

**C11** S. 19 applied (9.1.1995) by S.I. 1994/3167, regs. 4, 6(1)

#### *[<sup>F27</sup> Sanctions]*

#### Textual Amendments

**F27** Ss. 19A, 19B inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32, Sch. 6 para. 9

#### <sup>F28</sup>19A Notice for purpose of getting information.

- (1) If it appears to the Secretary of State that a local authority or development body have carried out or undertaken construction or maintenance work —
- (a) under a contract they have entered into in contravention of section 7 above,
  - (b) in circumstances where any provision of section 9(2) to (7) above has not been complied with as regards the work,
  - (c) in circumstances where section 10 above has not been complied with as regards the work,
  - (d) in circumstances where the provisions of section 12(1) above or of directions under section 12(5) above have not been complied with as regards any account kept in respect of the work,
  - (e) in circumstances where section 13 above has not been complied with as regards the preparation or contents of the documents required by that section for the financial year in which the work is undertaken,
  - (f) in circumstances where any provision of section 16(1) to (3) above has not been complied with as regards work of the description concerned, or
  - (g) in circumstances where any provision of section 18(1) to (2A) above has not been complied with as regards the financial year in which the work is undertaken,
- he may serve on the authority or body a written notice falling within subsection (2) below.
- (2) The notice is one which—
- (a) informs the authority or body that it appears to him that they have acted as mentioned in one of the paragraphs (identified in the notice) of subsection (1) above,
  - (b) identifies the work concerned and states why it so appears, and
  - (c) contains the requirement mentioned in subsection (3) below.
- (3) The requirement is that the authority or body submit to him within such time as is specified in the notice a written response which—
- (a) states that they have not acted as mentioned in the paragraph concerned of subsection (1) above and justifies the statement, or
  - (b) states that they have acted as so mentioned and gives reasons why he should give a direction under section 19B below.
- (4) The Secretary of State may serve on an authority or body different notices under this section identifying the same work, whether they identify the same paragraph or different paragraphs of subsection (1) above.

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### Textual Amendments

**F28** Ss. 19A, 19B inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, [Sch. 6 para. 9](#)

### <sup>F29</sup>19B Power to give directions.

- (1) Where—
  - (a) the Secretary of State has served notice on an authority or body under section 19A above,
  - (b) the time specified in the notice has expired (whether or not he has received a written response to the notice), and
  - (c) it still appears to him that the authority or body have acted as mentioned in the paragraph concerned of section 19A(1) above,he may give a direction under subsection (2) or (3) below.
- (2) The Secretary of State may direct that with effect from such date as is specified in the direction the authority or body—
  - (a) shall cease to have power to carry out such construction or maintenance work as is identified in the direction, or
  - (b) shall, as regards such construction or maintenance work as is so identified, only have the power to carry it out if such conditions as are specified in the direction are fulfilled.
- (3) Alternatively, he may direct that with effect from such date as is specified in the direction the authority or body—
  - (a) shall cease to have power to carry out such construction or maintenance work as is identified in the direction, and
  - (b) shall, as regards such other construction or maintenance work as is so identified, only have power to carry it out if such conditions as are specified in the direction are fulfilled.
- (4) Where the Secretary of State has given a direction under subsection (2) or (3) above or this subsection (the previous direction) he may give a direction (a new direction) that with effect from such date as is specified in the new direction—
  - (a) any prohibition applying by virtue of the previous direction (whether the prohibition applies outright or if the conditions are not fulfilled) shall cease to apply,
  - (b) any outright prohibition applying by virtue of the previous direction is replaced by a prohibition applying (as regards the same work) if conditions specified in the new direction are not fulfilled, or
  - (c) any prohibition applying as regards work by virtue of the previous direction (whether the prohibition applies outright or if conditions are not fulfilled) is replaced by a prohibition which applies only to such of that work as is identified in the new direction but which is otherwise in the same terms as the prohibition in the previous direction.
- (5) If the Secretary of State directs under this section that an authority or body shall cease to have power to carry out work, or shall only have power to carry out work if certain conditions are fulfilled, the direction shall have effect notwithstanding any enactment by virtue of which they are required or authorised to do the work or (as the case may be) to do it without the need for the conditions to be fulfilled.



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- (6) The power to give a direction under this section shall be exercised in writing.
- (7) A direction under this section may include such supplementary, incidental, consequential or transitional provisions (whether with respect to work in progress or outstanding contractual commitments or otherwise) as appear to the Secretary of State to be necessary or expedient.

#### Textual Amendments

**F29** Ss. 19A, 19B inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32, **Sch. 6 para. 9**

### General

## 20 Interpretation of Part III.

- (1) In this Part of this Act—
- “appointed day ” shall be construed in accordance with section 23 below;
- “construction or maintenance work ” means, subject to subsections (2) [<sup>F30</sup>to (4)] below—
- (a) building or engineering work involved in the construction, improvement, maintenance or repair of buildings and other structures or in the laying out, construction, improvement, maintenance or repair of highways and other land, and
- (b) the gritting of or clearing of snow from highways;
- (c) [<sup>F31</sup>the maintenance of street lighting;]
- “development body ” means—
- (a) in relation to England and Wales—
- (i) the Commission for New Towns;
- (ii) a development corporation established under the [<sup>F32M8</sup>New Towns Act 1981] . . . <sup>F33</sup>
- (iii) . . . . . <sup>F33</sup>
- (b) in relation to Scotland—
- (i) any body established under section 3 or 5 of the <sup>M9</sup>Water (Scotland) Act 1967;
- (ii) a development corporation established under the <sup>M10</sup>New Towns (Scotland) Act 1968; and
- (iii) the Scottish Special Housing Association;
- (c) in relation to England and Wales and to Scotland, an urban development corporation established under this Act;
- “DLO revenue account ” has the meaning assigned to it by section 10(1) above;
- “functional work ” shall be construed in accordance with section 8 above;
- [<sup>F34c</sup>“highway ”, in relation to Scotland, means a road as defined in section 151 of the <sup>M11</sup>Roads (Scotland) Act 1984;]
- “local authority ” means—
- (a) [<sup>F35</sup>in relation to England and Wales—

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- (i) a county council, a district council, a London borough council, [<sup>F36</sup>the Inner London Education Authority], a joint authority established by Part IV of the <sup>M12</sup>Local Government Act 1985 or the Council of the Isles of Scilly, or
  - (ii) The Common Council of the City of London on its capacity as local authority or police authority;]
- (b) in relation to Scotland, a regional, islands or district council;
  - “works contract ” has the meaning assigned to it by subsection (1) of section 5 above; and
  - “the 1970 Act ” has the meaning assigned to it by paragraph (a) of that subsection.
- (2) Notwithstanding anything in subsection (1) above, in this Act “construction or maintenance work ” does not include—
  - (a) work relating to parks, gardens, playing fields, open spaces or allotments, except to the extent that the work relates to a building or structure; or
  - (b) the routine maintenance of a specific building or structure or of specific buildings or structures by a person employed wholly or mainly for that purpose;and a person shall be treated as employed mainly for the purpose referred to in paragraph (b) above if he is employed for that purpose and also to do security work or cleaning work in relation to the building or buildings or structure or structures concerned.
- [<sup>F37</sup>(2A) Notwithstanding anything in subsection (1) above, and without prejudice to subsection (2) above, in the application of this Act to Scotland “construction or maintenance work ” in relation to—
  - (a) sewage treatment works (within the meaning of the <sup>M13</sup>Sewerage (Scotland) Act 1968); or
  - (b) waterworks (within the meaning of the <sup>M14</sup>Water (Scotland) Act 1980), does not include works of maintenance (within the meaning of the <sup>M15</sup>Local Authorities (Goods and Services) Act 1970) by a person employed wholly or mainly in connection with such treatment works or as the case may be waterworks]
- (3) Notwithstanding anything in subsection (1) above, in this Act “construction or maintenance work ” does not include work undertaken by a local authority authorised by any enactment to carry on a dock or harbour undertaking if that work is undertaken for the purposes of or in connection with that undertaking.
- [<sup>F38</sup>(4) Notwithstanding anything in subsection (1) above, in this Act “construction or maintenance work ” does not include work undertaken by a local authority or a development body pursuant to an agreement made (or having effect as if made) with the Secretary of State on or after 1st April 1982—
  - (a) which is made by virtue of any provision of the Employment and Training Act 1973;
  - (b) which specifies the work to be undertaken by the authority or body; and
  - (c) under which the whole or part of the cost of the work so specified is to be paid by the Secretary of State]
- [<sup>F39</sup>(5) If a local authority or development body undertake work which (apart from this subsection) would not fall within construction or maintenance work, and which in their opinion cannot be undertaken efficiently separately from construction or maintenance

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work, the work shall (if they so decide) be treated as falling within construction or maintenance work.

- (6) In section 10(3)(c) above and subsection (1) above, in paragraph (c) of the definition of “construction or maintenance work”, “street” (except in relation to Scotland) has the meaning given by section 329(1) of the <sup>M16</sup>Highways Act 1980 and (in relation to Scotland) means a road as defined in section 25(3) of the <sup>M17</sup>Local Government and Planning (Scotland) Act 1982.
- (7) Nothing in sections 19A and 19B above shall prejudice any remedy available to a person (apart from those sections) in respect of failure to observe a provision of this Part of this Act.]

#### Textual Amendments

- F30** Words substituted by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. **38(2)**
- F31** Para. (c) and the word “and” preceding it inserted (*1.10.1988*) by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, Sch. 6 para 10(2)
- F32** Words substituted by [New Towns Act 1981 \(c. 64 SIF 123:3\)](#), s. 81, Sch. 12 para. 28(b)
- F33** Sub-para (iii) and the word “and” at the end of sub-para (ii) repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), ss. 32, 41, Sch. 6 para 10(3), **Sch. 7 Pt. II** (subject to the provision at the end of that Part)
- F34** Definition inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 82**
- F35** Para. (a) substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, **Sch. 6 para. 10(4)**
- F36** Words repealed (1.4.1990) by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), s. 237, **Sch. 13 Pt. I**
- F37** S. 20(2A) inserted (S.) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. **56**
- F38** S. 20(4) substituted by virtue of [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(3), **Sch. 6 para. 27**
- F39** S. 20(5)–(7) inserted (24.6.1988 as to s. 20(5) and 1.10.1988 as to s. 20(6)(7)) by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 32, **Sch. 6 para 10(6)**

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

- C12** S. 20(1) extended by [S.I. 1985/1884](#), art. 10, **Sch. 3 para 4(s)**

#### Marginal Citations

- M8** 1981 c. 64 (123:3)
- M9** 1967 c. 78 (130).
- M10** 1968 c. 16 (123:4).
- M11** 1984 c. 54 (108).
- M12** 1985 c. 51 (81:1).
- M13** 1968 c. 47 (160:2).
- M14** 1980 c. 45 (130)
- M15** 1970 c. 39 (81:4)
- M16** 1980 c. 60 (59).
- M17** 1982 c. 43 (81:2).

## 21 Exemption of small direct labour organisations from requirements of Part III.

- (1) This Part of this Act does not apply to a local authority or development body in any year if they did not in the previous year at any one time employ more than thirty persons, other than persons excluded by subsection (2) below, who were engaged (whether wholly or partly) in carrying out construction or maintenance work.

*Status: Point in time view as at 01/01/1993.*

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- (2) The persons excluded by this subsection are persons engaged wholly or mainly upon the design, development or control of construction or maintenance work.
- (3) The Secretary of State may by order specify for the purposes of subsection (1) above a number of persons less than thirty.
- (4) The power to make an order conferred by subsection (3) above shall be exercisable by statutory instrument.
- (5) A statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The Secretary of State may direct that this Part of this Act shall not apply to a local authority or development body in any year if he is satisfied that the only reason why it would apply to that authority or body is that at some time in the previous year the number of their employees engaged in construction or maintenance work exceeded the relevant number because it was necessary to exceed that number in order to carry out urgent construction or maintenance work whose necessity could not reasonably have been foreseen by the authority or body.
- (7) In subsection (6) above “the relevant number ” means thirty or such lesser number as may for the time being be specified for the purposes of subsection (1) above.
- [<sup>F40</sup>(8) In this section “year ” means financial year.]

#### Textual Amendments

**F40** S. 21(8) added by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\), s. 47, Sch. 6 para. 8\(1\)](#)

## 22 Consequential repeal or amendment of local statutory provisions.

- (1) the Secretary of State may by order—
  - (a) repeal any provision of a local Act passed before or in the same session as this Act or of an order or other instrument made under or confirmed by any Act so passed if it appears to him that the provision is inconsistent with or has become unnecessary in consequence of any provision of this Part of this Act ; and
  - (b) amend any provision of such a local Act, order or instrument if it appears to him that the provision requires amendment in consequence of any provision contained in this Part of this Act or any repeal made by virtue of paragraph (a) above.
- (2) An order under subsection (1) above may contain such incidental or transitional provisions as the Secretary of State considers appropriate in connection with the order.
- (3) It shall be the duty of the Secretary of State, before he makes an order under subsection (1) above repealing or amending any provision of a local Act, to consult each local authority which he considers would be affected by the repeal or amendment of that provision.
- (4) A statutory instrument containing an order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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## 23 Part III—supplementary

- (1) Any power to make regulations or give directions conferred by this Part of this Act includes power to make different provision in relation to local authorities or development bodies in England, in Wales and in Scotland.
- (2) Any power to make regulations conferred by this Part of this Act shall be exercisable by statutory instrument.
- (3) This Part of this Act, except this section, shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes ; and any reference in any provision of this Part of this Act to the appointed day is a reference to the day appointed under this section for the coming into operation of that provision or, if different days are so appointed for different purposes of that provision, the first day so appointed.

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### Modifications etc. (not altering text)

- C13** 1.4.1981 appointed (E.W.) under s. 23(3), except for s. 16(1) which comes into operation for specified purposes on 1.4.1982 and for other purposes on 1.4.1981, by [S.I. 1981/341](#), [art. 2](#)
- C14** 1.4.1982 appointed under s. 23(3) for the coming into operation (S.) of Part III except s. 15(2)(3) by [S.I. 1982/317](#), [art. 2](#)

**Status:**

Point in time view as at 01/01/1993.

**Changes to legislation:**

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