



Local Government Act 1988

1988 CHAPTER 9

^{F1F2}PART I

COMPETITION

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Textual Amendments

- F1** Pt. I repealed (E.W.) (27.7.1999 with effect in accordance with ss. 21, 27 of the amending Act) by 1999 c. 27, ss. 21(1)(b), 34, **Sch. 2(1)**, Note
- F2** Pt. 1 repealed (S.) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. **60(1)(f)**, 62(2); S.S.I. 2003/134, art. 2(1), sch.

PART II

PUBLIC SUPPLY OR WORKS CONTRACTS

Modifications etc. (not altering text)

- C1** Pt. II (ss. 17-23) applied (*temp.* until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 10**
Pt. II (ss. 17-23): power to apply conferred (1.9.1997) by 1997 c. 50, s. 44, **Sch. 4** para. (h)(ii); S.I. 1997/1930, **art. 3**

17 Local and other public authority contracts: exclusion of non-commercial considerations.

- (1) It is the duty of every public authority to which this section applies, in exercising, in relation to its public supply or works contracts, any proposed or any subsisting such contract, as the case may be, any function regulated by this section to exercise that function without reference to matters which are non-commercial matters for the purposes of this section.

Status: Point in time view as at 16/01/2012.

Changes to legislation: Local Government Act 1988 is up to date with all changes known to be in force on or before 13 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)

- (2) The public authorities to which this section applies are those specified in Schedule 2 to this Act.
- (3) The contracts which are public supply or works contracts for the purposes of this section are contracts for the supply of goods or materials, for the supply of services or for the execution of works; but this section does not apply in relation to contracts entered into before the commencement of this section.
- (4) The functions regulated by this section are—
 - (a) the inclusion of persons in or the exclusion of persons from—
 - (i) any list of persons approved for the purposes of public supply or works contracts with the authority, or
 - (ii) any list of persons from whom tenders for such contracts may be invited;
 - (b) in relation to a proposed public supply or works contract with the authority—
 - (i) the inclusion of persons in or the exclusion of persons from the group of persons from whom tenders are invited,
 - (ii) the accepting or not accepting the submission of tenders for the contract,
 - (iii) the selecting the person with whom to enter into the contract, or
 - (iv) the giving or withholding approval for, or the selecting or nominating, persons to be sub-contractors for the purposes of the contract; and
 - (c) in relation to a subsisting public supply or works contract with the authority—
 - (i) the giving or withholding approval for, or the selecting or nominating, persons to be sub-contractors for the purposes of the contract, or
 - (ii) the termination of the contract.
- (5) The following matters are non-commercial matters as regards the public supply or works contracts of a public authority, any proposed or any subsisting such contract, as the case may be, that is to say—
 - (a) the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces;
 - (b) whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;
 - (c) any involvement of the business activities or interests of contractors with irrelevant fields of Government policy;
 - (d) the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons;
 - (e) the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;
 - (f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;
 - (g) financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support;
 - (h) ^{F3}use or non-use by contractors of technical or professional services provided by the authority under the ^{M1}Building Act 1984 or the ^{M2}Building (Scotland) Act [^{F4}2003 (asp 8)] .]

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- (6) The matters specified in subsection (5) above include matters which have occurred in the past as well as matters which subsist when the function in question falls to be exercised.
- (7) Where any matter referable to a contractor would, as a matter specified in subsection (5) above, be a non-commercial matter in relation to him, the corresponding matter referable to—
- (a) a supplier or customer of the contractor;
 - (b) a sub-contractor of the contractor or his supplier or customer;
 - (c) an associated body of the contractor or his supplier or customer; or
 - (d) a sub-contractor of an associated body of the contractor or his supplier or customer;

is also, in relation to the contractor, a non-commercial matter for the purposes of this section.

- (8) In this section—

“approved list” means such a list as is mentioned in subsection (4)(a) above;

“associated body”, in relation to a contractor, means any company which (within the meaning of [^{F5}the Companies Acts (see section 1159 of the Companies Act 2006)]) is the contractor’s holding company or subsidiary or is a subsidiary of the contractor’s holding company;

“business” includes any trade or profession;

“business activities” and “business interests”, in relation to a contractor or other person, mean respectively any activities comprised in, or any investments employed in or attributable to, the carrying on of his business and “activity” includes receiving the benefit of the performance of any contract;

“contractor”, except in relation to a subsisting contract, means a “potential contractor”, that is to say—

- (a) in relation to functions as respects an approved list, any person who is or seeks to be included in the list; and
- (b) in relation to functions as respects a proposed public supply or works contract, any person who is or seeks to be included in the group of persons from whom tenders are invited or who seeks to submit a tender for or enter into the proposed contract, as the case may be;

“exclusion” includes removal;

“Government policy” falls within “irrelevant fields” for the purposes of this section if it concerns matters of defence or foreign or Commonwealth policy and “involve”, as regards business activities and any such field of policy, includes the supply of goods or materials or services to, or the execution of works for, any authority or person having functions or carrying on business in that field and, as regards business interests and any such field of policy, includes investment in any authority or person whose business activities are so involved;

“industrial dispute” has, as regards a dispute in Great Britain, the same meaning as trade dispute in [^{F6}Part V of the Trade Union and Labour Relations (Consolidation) Act 1992] and “involve”, as regards business activities and an industrial dispute, includes the supply of goods, materials or services to or by, or the execution of works for or by, any party to the dispute, any other person affected by the dispute, or any authority concerned with the enforcement of law and order in relation to the dispute;

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“political, industrial or sectarian affiliations or interests” means actual or potential membership of, or actual or potential support for, respectively, any political party, any employers’ association or trade union or any society, fraternity or other association;

“suppliers or customers” and “sub-contractors” includes prospective suppliers or customers and sub-contractors; and “supplier”, in relation to a contractor, includes any person who, in the course of business, supplies him with services or facilities of any description for the purposes of his business; and “employers’ association” and “trade union” have, as regards bodies constituted under the law of England and Wales or Scotland, the same meaning as in the [^{F7}Trade Union and Labour Relations (Consolidation) Act 1992].

^{F8}(9)

[^{F9}(10) This section does not prevent a public authority to which it applies from exercising any function regulated by this section with reference to a non-commercial matter to the extent that the authority considers it necessary or expedient to do so to enable or facilitate compliance with—

- (a) the duty imposed on it by section 149 of the Equality Act 2010 (public sector equality duty), or
- (b) any duty imposed on it by regulations under section 153 or 154 of that Act (powers to impose specific duties).]

Textual Amendments

- F3** S. 17(5)(h) ceases to have effect in part (S.) (1.4.2003) by virtue of [Local Government in Scotland Act 2003 \(asp 1\)](#), **ss. 7(3)**, 62(2); S.S.I. 2003/134, art. 2(1), sch.
- F4** Words in s. 17(5)(h) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 19** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F5** Words in s. 17(8) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 93** (with art. 10)
- F6** S. 17(8): words in definition of "industrial dispute" substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(2), 302, **Sch. 2 para. 38(a)**
- F7** Words in s. 17(8) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(2), 302, **Sch. 2 para. 38(b)**
- F8** S. 17(9) repealed (5.4.2011) by [Equality Act 2010 \(c. 15\)](#), s. 216(3), Sch. 26 para. 10(a), **Sch. 27 Pt. 1** (with ss. 6(4), 205); S.I. 2011/1066, art. 2(g)(i)
- F9** S. 17(10) inserted (5.4.2011) by [Equality Act 2010 \(c. 15\)](#), s. 216(3), **Sch. 26 para. 10(b)** (with ss. 6(4), 205); S.I. 2011/1066, art. 2(g)(i)

Modifications etc. (not altering text)

- C2** S. 17 power to modify conferred (27.9.1999 in relation to E. and in relation to W. for specified purposes only and otherwise 1.10.1999) by [1999 c. 27](#), **s. 19(1)**; S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- C3** S. 17 extended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 12**
- C4** S. 17 modified (W.) (31.3.2002 with application as mentioned in art. 1(2)) by [The Local Government Best Value \(Exclusion of Non-commercial Considerations\) \(Wales\) Order 2002 \(S.I. 2002/678\)](#), **art. 2**
- C5** S. 17(5)(a) excluded (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), **s. 7(1)(2)62(2)**; S.S.I. 2003/134, art. 2(1), sch.
- C6** S. 17(5)(b) excluded (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), **s. 7(1)(2)62(2)**; S.S.I. 2003/134, art. 2(1), sch.

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C7 S. 17(5)(d) excluded (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\), s. 7\(1\)\(2\)62\(2\)](#); [S.S.I. 2003/134, art. 2\(1\), sch.](#)

Marginal Citations

M1 1984 c. 55.

M2 1959 c. 24.

F10 18 Race relations matters.

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Textual Amendments

F10 S. 18 repealed (5.4.2011) by [Equality Act 2010 \(c. 15\), s. 216\(3\), Sch. 26 para. 11, Sch. 27 Pt. 1](#) (with [ss. 6\(4\), 205](#)); [S.I. 2011/1066, art. 2\(g\)\(i\)](#)

19 Provisions supplementary to or consequential on section 17.

- (1) The Secretary of State may, by order made by statutory instrument, specify as a non-commercial matter for the purposes of section 17 above, any other matter which appears to him to be irrelevant to the commercial purposes of public supply or works contracts of any description.
- (2) The power conferred by subsection (1) above includes power to apply section 17(6) and (7) above to any matter specified in the order and to amend any definition in section 17(8) above of an expression used in any paragraph of section 17(5) above without making any other provision.
- (3) An order under subsection (1) above may include such consequential and transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) No order under subsection (1) above shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (5) Section 17 above applies to a public authority where, in exercising functions regulated by that section, the authority is, as well as where it is not, acting on behalf of a Minister of the Crown.
- (6) Where a public authority makes arrangements under section 101 of the ^{M3}Local Government Act 1972 [^{F11}, regulations under section 19 of the Local Government Act 2000 (discharge of functions of and by another local authority)] or in relation to Scotland section 56 of the ^{M4}Local Government (Scotland) Act 1973 for the exercise by another public authority of any function regulated by section 17 above, section 17 shall apply to that other public authority in exercising that function as if it were exercising the function in relation to its own public supply or works contracts, any proposed or any subsisting such contract, as the case may be.
- (7) The duty imposed by section 17(1) above does not create a criminal offence but—
 - (a) in proceedings for judicial review, the persons who have a sufficient interest or, in Scotland, title and interest in the matter shall include any potential contractor or, in the case of a contract which has been made, former potential contractor (or, in any case, any body representing contractors), as such; and

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- (b) a failure to comply with it is actionable by any person who, in consequence, suffers loss or damage.
- (8) In any action under section 17(1) above by a person who has submitted a tender for a proposed public supply or works contract arising out of the exercise of functions in relation to the proposed contract the damages shall be limited to damages in respect of expenditure reasonably incurred by him for the purpose of submitting the tender.
- (9) Nothing in section 17 above or subsection (1) above implies that the exercise of any function regulated by that section may not be impugned, in proceedings for judicial review, on the ground that it was exercised by reference to other matters than those which are non-commercial matters for the purposes of that section.
- ^{F12}(10)
- (11) In consequence of section 17 above, the following provisions (which require local authorities to secure the insertion of fair wages clauses in all housing contracts), namely—
- (a) section 52(a) of the ^{M5}Housing Act 1985, and
- (b) section 337 of the ^{M6}Housing (Scotland) Act 1987,
- shall cease to have effect.
- (12) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

Textual Amendments

- F11** Words in s. 19(6) inserted (11.7.2001 for E., 1.4.2002 for W.) by [The Local Authorities \(Executive and Alternative Arrangements\) \(Modification of Enactments and Other Provisions\) \(England\) Order 2001 \(S.I. 2001/2237\)](#), art. 18(1) and [The Local Authorities \(Executive and Alternative Arrangements\) \(Modification of Enactments and Other Provisions\) \(Wales\) Order 2002 \(S.I. 2002/808\)](#), **art. 17(1)**
- F12** S. 19(10) repealed (5.4.2011) by [Equality Act 2010 \(c. 15\)](#), s. 216(3), Sch. 26 para. 12, **Sch. 27 Pt. 1** (with ss. 6(4), 205); S.I. 2011/1066, art. 2(g)(i)

Marginal Citations

- M3** 1972 c. 70.
- M4** 1973 c. 65.
- M5** 1985 c. 68.
- M6** 1987 c. 26.

20 Duty of public authorities to give reasons for certain decisions within section 17.

- (1) Where a public authority exercises a function regulated by section 17 above by making, in relation to any person, a decision to which this section applies, it shall be the duty of the authority forthwith to notify that person of the decision and, if that person so requests in writing within the period of 15 days beginning with the date of the notice, to furnish him with a written statement of the reasons for the decision.
- (2) This section applies to the following decisions in relation to any person, namely—
- (a) in relation to an approved list, a decision to exclude him from the list,
- (b) in relation to a proposed public supply or works contract—

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- (i) where he has asked to be invited to tender for the contract, a decision not to invite him to tender,
 - (ii) a decision not to accept the submission by him of a tender for the contract,
 - (iii) where he has submitted a tender for the contract, a decision not to enter into the contract with him, or
 - (iv) a decision to withhold approval for, or to select or nominate, persons to be sub-contractors for the purposes of the contract, or
- (c) in relation to a subsisting public supply or works contract with him—
- (i) a decision to withhold approval for, or to select or nominate, persons to be sub-contractors for the purposes of the contract, or
 - (ii) a decision to terminate the contract.
- (3) A statement of reasons under subsection (1) above shall be sent to the person requesting it within the period of 15 days beginning with the date of the request.
- (4) The Secretary of State may by order amend subsection (1) or (3) above so as to substitute for the period specified in that subsection such other period as he thinks fit and such an order may make different amendments of subsections (1) and (3).
- (5) The power to make an order under subsection (4) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

21 Transitional duty of public authorities as regards existing lists.

- (1) Subject to subsection (3) below, it is the duty of a public authority which, at the commencement of this section, maintains an approved list—
- (a) to consider whether persons have been included in or excluded from the list by reference to non-commercial matters, and
 - (b) if it appears to the authority that that is the case to compile the list afresh in accordance with subsections (4) to (6) below.
- (2) Persons shall be treated by a public authority as having been excluded from a list by reference to non-commercial matters if, in relation to the list, the authority has—
- (a) circulated to potential contractors questionnaires including questions relating to non-commercial matters, or
 - (b) notified potential contractors of its intention to have regard to non-commercial matters, or
 - (c) issued statements of policy framed by reference to non-commercial matters.
- (3) Inclusion or exclusion by a local authority from its list by reference to a non-commercial matter does not give rise to the duty to compile the list afresh under subsection (1) above if that matter falls within paragraph (a) (but no other paragraph) of section 17(5) above and the local authority's action was reasonably necessary to secure compliance with section 71 of the ^{M7}Race Relations Act 1976.
- (4) The duty of an authority to compile afresh an approved list shall be discharged as follows—

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- (a) the authority shall publish notice of its intention to compile the list afresh and (by the notice) invite persons to apply within a specified period to be included in the list; and
 - (b) at the end of that period the authority shall proceed to compile the list afresh from among the applicants in accordance with the duty imposed by section 17 above.
- (5) Publication by an authority of the notice required by subsection (4) above shall be effected by causing the notice to be published—
- (a) in at least one newspaper circulating in the authority’s area or, if the extent of the authority’s functions so require, in at least one national newspaper; and
 - (b) in at least one newspaper or journal circulating among such persons as undertake contracts of the description to which the list relates.
- (6) The period specified in the notice under subsection (4) above as the period within which applications are to be made shall not be shorter than the period of 28 days beginning with the date of publication of the notice.
- (7) The duty imposed by this section shall be discharged by a public authority as soon as is reasonably practicable after the commencement of this section and in any event within the period of three months.
- (8) This section does not create a criminal offence but paragraph (a) of section 19(7) above applies for the purposes of the duty imposed by this section as it applies for the purposes of the duty imposed by section 17(1) above.
- (9) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

Marginal Citations

M7 1976 c. 74.

22 Exclusion of charges for inclusion in approved list.

- (1) A public authority which maintains an approved list shall not require a person to pay any sum as a condition of his inclusion or continued inclusion in the list or of his being considered for such inclusion.
- (2) Subsection (1) above does not create an offence but a contravention of it is actionable by the person seeking to be included or retained in the list.
- (3) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

23 Commencement.

Sections 17 to 22 above shall come into force at the end of the period of 14 days beginning with the day on which this Act is passed.

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PART III

PRIVATELY LET HOUSING ACCOMMODATION

24 Power to provide financial assistance for privately let housing accommodation.

[^{F13}(1) Subject to section 25 below, a local housing authority shall have power to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation.

(2) For the purposes of this section and section 25 below a local authority provide a person with financial assistance if they do or agree to do any of the following, that is to say—

- (a) make a grant or loan to that person;
- (b) guarantee or join in guaranteeing the performance of any obligation owed to or by that person;
- (c) indemnify or join in indemnifying that person in respect of any liabilities, loss or damage; or
- (d) if that person is a body corporate, acquire share or loan capital in that person.

(3) For the purposes of this section property is privately let as housing accommodation at any time when—

- (a) it is occupied as housing accommodation in pursuance of a lease or licence of any description or under a statutory tenancy; and
- (b) the immediate landlord of the occupier of the property is a person other than a local authority in England and Wales or a public-sector landlord in Scotland.

(4) Neither section 438 of the ^{M8}Housing Act 1985 (local authority mortgage interest rates) nor section 219 of the ^{M9}Housing (Scotland) Act 1987 (local authority home-loan interest rates) shall apply in relation to anything done under this section.

(5) In the ^{M10}Housing Associations Act 1985—

- ^{F14}(a)
- (b) ^{F15}
- ^{F14}(c)

(6) In this Part—

“disposal”, in relation to any land, includes a disposal by the creation of any interest in the land;

“housing accommodation”, in relation to England and Wales, has the same meaning as in Part II of the ^{M11}Housing Act 1985;

“landlord”, in relation to a person whose occupation of any property is in pursuance of a lease or statutory tenancy, has the same meaning as in the ^{M12}Landlord and Tenant Act 1985 or, in Scotland, the ^{M13}Rent (Scotland) Act 1984 and, in relation to a person whose occupation is in pursuance of a licence, means the person who for the time being owns the interest in right of which the licence was granted;

“lease”, in relation to England and Wales, has the same meaning as in the Housing Act 1985;

“loan” includes any form of credit and the remission (whether in whole or in part and whether temporarily or permanently) of any liability or obligation;

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“local authority”—

- (a) in relation to England and Wales, means a local housing authority or a county council;
- (b) in relation to Scotland, means a [^{F16}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“local housing authority”—

- (a) in relation to England and Wales, has the same meaning as in the Housing Act 1985;
- (b) in relation to Scotland, means [^{F17}a local authority];

“public-sector landlord”, in relation to Scotland, means—

- (a) a local authority;
- (b) a joint board or joint committee within the meaning of the ^{M14}Local Government (Scotland) Act 1973;
- (c) any trust under the control of any body mentioned in paragraph (a) or (b) above;
- (d) a development corporation established by an order made, or having effect as if made, under section 2 of the ^{M15}New Towns (Scotland) Act 1968;
- (e) the Scottish Special Housing Association;

“statutory tenancy”—

- (a) in relation to England and Wales, has the same meaning as in the ^{M16}Housing Act 1985;
- (b) in relation to Scotland, has the same meaning as in the ^{M17}Rent (Scotland) Act 1984.]

Textual Amendments

- F13** Ss. 24-26 repealed (S.) (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), **sch. 7** (with s. 193); [S.S.I. 2009/122](#), art. 3
- F14** S. 24(5)(a)(c) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. I**; [S.I. 1996/2402](#), art. 3
- F15** S. 24(5)(b) repealed by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(2), **Sch. 18**
- F16** S. 24(6): words in definition of “local authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(5)(a)**; [S.I. 1996/323](#), art. 4(1)(b)(c)
- F17** S. 24(6): words in definition of “local housing authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(5)(b)**; [S.I. 1996/323](#), art. 4(1)(b)(c)

Marginal Citations

- M8** 1985 c. 68.
- M9** 1987 c. 26.
- M10** 1985 c. 69.
- M11** 1985 c. 68.
- M12** 1985 c. 70.
- M13** 1984 c. 58.
- M14** 1973 c. 65.
- M15** 1968 c. 16.
- M16** 1985 c. 68.
- M17** 1984 c. 58.

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25 Consent required for provision of financial assistance etc.

- [^{F13}(1) Subject to the following provisions of this section, a local authority shall neither—
- (a) exercise the power conferred by section 24 above; nor
 - (b) so exercise any other power [^{F18}(whether conferred before or after the passing of this Act)] as to provide any person, for the purposes of or in connection with the matters mentioned in subsection (1) of that section, with any financial assistance or with any gratuitous benefit,
- except under and in accordance with a consent given by the Secretary of State.
- (2) Nothing in this section shall require the consent of the Secretary of State to a person's being provided by any local authority with any assistance or benefit if—
- (a) an obligation to provide that person with that particular assistance or benefit—
 - (i) is imposed on the authority by or under any enactment; or
 - (ii) not being an obligation arising as the result of the exercise on or after 6th February 1987 of any option conferred on the authority, has arisen by virtue of an agreement entered into by them before that date;
 - [^{F19}(b) the assistance or benefit is provided in consequence of, or in connection with, the making by the authority, or by persons who include the authority, of a requirement under [^{F20}section 41 or 98 of the Water Industry Act 1991] for the provision of a water main or public sewer;]
 - (c) the assistance or benefit is provided under [^{F21}section 257(3) of the National Health Service Act 2006 or section 195(3) of the National Health Service (Wales) Act 2006] or section 16A(3)(b) of the National Health Service (Scotland) Act 1978 (power to make payments to voluntary organisations out of sums received from health authorities);
 - (d) the assistance or benefit is provided in exercise of any power the expenses of exercising which are recoverable under Schedule 10 to the ^{M18}Housing Act 1985 or Schedule 9 to the ^{M19}Housing (Scotland) Act 1987 (recovery of expenses of carrying out works required to be carried out by a repair notice, . . . ^{F22} or a notice relating to a house in multiple occupation);
 - (e) the assistance or benefit is provided in consequence of, or in connection with, the service . . . ^{F23} of an improvement order under Part IV of the said Act of 1987, . . . ^{F23}; or
 - (f) the assistance or benefit is provided in exercise of any power conferred by—
 - (i) section 273 of the said Act of 1985 (power to cleanse premises of vermin before demolition);
 - (ii) sections 379 to 394 of the said Act of 1985 or sections 178 to 190 of the said Act of 1987 (powers exercisable pursuant to the making of a control order);^{F24} . . .
 - (iii) Parts XIV to XVI of the said Act of 1985 or Parts XII to XIV of the said Act of 1987 (loans and grants for, and assistance with, the acquisition, improvement, repair and conversion of housing)[^{F25} or
 - (iv) article 3 of the Regulatory Reform (Housing Assistance)(England and Wales) Order 2002 (power of local housing authorities to provide assistance)]
- (3) Any transaction entered into in contravention of this section shall be void.
- (4) Subject to subsections (3) and (4) of section 26 below, where at any time on or after 6th February 1987 and before the passing of this Act a local authority in England and Wales has done anything which would have been a contravention of this section if it

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had been in force at that time, the same consequences shall follow as if this section had been in force at that time.

- (5) For the purposes of this section a local authority provide a person with a gratuitous benefit if—
- (a) they provide that person, or agree to provide that person, with a benefit consisting in the disposal to any person of any land or other property, in the provision to any person of any goods, services or facilities, in the carrying out for any person of any works or in the making to any person of any payment; and
 - (b) that benefit is or is to be provided either for no consideration or for a consideration which has a value in money or money's worth which is significantly less than the value, in money or money's worth, of the benefit which is or is to be provided by the authority.
- (6) In determining for the purposes of subsection (5) above whether any benefit is or is to be provided by a local authority for no consideration, and in determining for those purposes the value of any consideration, there shall be disregarded—
- (a) so much (if any) of the consideration for the benefit in question as consists—
 - (i) in the acquisition by any person of any such property as is mentioned in section 24(1) above or in a promise that any such property will be acquired by any person;
 - (ii) in the carrying out of any works by any person for the purposes of the construction, conversion, rehabilitation, improvement or maintenance of any such property or in a promise that any works will be carried out by any person for any such purposes;
 - (iii) in the carrying out by any person of any acts of management in relation to any such property or in a promise that any acts of management will be carried out by any person in relation to any such property; or
 - (iv) in the grant of a right to nominate persons to be occupiers of any such property or in a promise to grant any such right;
- and
- (b) without prejudice to paragraph (a) above, so much of any transaction entered into after the passing of this Act otherwise than in pursuance of another transaction entered into before that time as provides, in relation to any property which is or is intended to be occupied as housing accommodation, for an obligation which—
 - (i) restricts the occupation of the property as housing accommodation, or
 - (ii) (whether because it relates to a matter affecting the suitability of the property for particular purposes or otherwise) has the effect of restricting its occupation as housing accommodation,
 to occupation by persons of a particular description or to occupation by virtue of an interest or agreement of a particular description.
- (7) In the application of this section to Scotland the references in subsection (2)(a)(ii) above to 6th February 1987 shall have effect as references to the date on which this Act is passed.]

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Textual Amendments

- F13** Ss. 24–26 repealed (S.) (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); [S.S.I. 2009/122](#), art. 3
- F18** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(1), [Sch. 11 para. 96](#)
- F19** S. 25(2)(b) substituted 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. 79\(2\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), [58](#)
- F20** Words in s. 25(2)(b) substituted (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 48](#)
- F21** Words in s. 25(2)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 103](#) (with [Sch. 3 Pt. 1](#))
- F22** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(4), [Sch. 12 Pt. II](#)
- F23** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(4), [Sch. 12 Pt. II](#)
- F24** Word in s. 25(2)(f)(ii) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(2), 15, [Sch. 6](#)
- F25** S. 25(2)(f)(iv) and preceding word inserted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(2), 9, [Sch. 1 para. 3](#)

Modifications etc. (not altering text)

- C8** S. 25 excluded (11.9.1996 for specified purposes and otherwise 16.12.1997) by [1996 c. 53](#), s. [132\(7\)](#); [S.I. 1996/2352](#), [art. 2\(2\)](#); [S.I. 1997/2846](#), [art. 2](#)

Marginal Citations

- M18** [1985 c. 68](#).
M19 [1987 c. 26](#).

26 Consents under section 25.

- [^{F13}(1) A consent given for the purposes of section 25 above—
- (a) may be given either unconditionally or subject to conditions;
 - (b) may be given in relation to a particular case or in relation to such description of cases (including cases described by reference to a particular local authority or a particular manner of providing assistance or benefits) as may be specified in the consent; and
 - (c) except in relation to anything already done or agreed to be done on the authority of the consent, may be varied or revoked by a notice given or published by the Secretary of State in such manner as he may consider appropriate.
- (2) In determining whether to give a consent for the purposes of section 25 above in relation to any assistance or benefit or whether to vary or revoke a consent so given, and in determining to what (if any) conditions such a consent should be subject, the Secretary of State—
- (a) shall take into account the extent (if any) to which, and the circumstances in which, it is appropriate, in his opinion, that a local authority should bear the financial burden and risks of acquiring, constructing, converting, rehabilitating, improving, maintaining or managing any of the property in

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- relation to which assistance or benefits might be provided by virtue of the consent; and
- (b) may take into account any other matter whatever which he considers relevant.
- [^{F26}(2A) Before determining whether to consent under section 25 to the exercise of a power, the Secretary of State shall consult the Regulator of Social Housing if—
- (a) the power is to be exercised by a local authority in England, and
- (b) exercise of the power would involve the disposal by the authority of social housing (within the meaning of Part 2 of the Housing and Regeneration Act 2008).]
- (3) Where before the passing of this Act any statement has been made by or on behalf of the Secretary of State—
- (a) that, if an enactment were in force requiring his consent to a person's being provided by a local authority with assistance or benefits of any description, he would give his consent for the purposes of that enactment in relation to any matter or would so give his consent subject to certain conditions; and
- (b) that, if any such enactment is passed, his statement is to be treated as a consent for the purposes of that enactment,
- that statement shall have effect, both for the purposes of subsection (4) of section 25 above and after the passing of this Act, as if it were a consent given for the purposes of that section on the conditions (if any) specified in the statement.
- (4) Where a consent given for the purposes of section 25 above or a statement such as is mentioned in subsection (3) above relates, in whole or in part, to any assistance or benefits provided before the consent was given or the statement made, that consent or statement shall have effect for the purposes of this section and that section—
- (a) as if the consent had been given, or the statement made, before the assistance or benefits were provided; and
- (b) in the case of a consent relating to any assistance or benefits provided before the passing of this Act, as if the consent had been such a statement;
- but a consent or statement having effect in accordance with this subsection shall not affect any interest deriving from, or impose any liability in respect of, any disposal of property which was made before the giving of the consent or the making of the statement and was made by a person who, apart from paragraphs (a) and (b) above, had power to make it by virtue of section 25(3) or (4) above.
- (5) Where a consent to a disposal of land by a local authority has been given for the purposes of section 25 above or any such statement as is mentioned in subsection (3) above has effect as such a consent [^{F27}then, if the consent given for the purposes of section 25 above so provides], no further consent of the Secretary of State to that disposal shall (if the disposal is after the passing of this Act) be required by virtue of—
- (a) section 26(4) of the ^{M20}Town and Country Planning Act 1959 or section 74(2) of the ^{M21}Local Government (Scotland) Act 1973 (disposal of land for less than the best price etc.);
- (b) section 123(2) of the ^{M22}Local Government Act 1972 (disposal of land by certain local authorities); or
- (c) section 32(2) or 43(1) of the ^{M23}Housing Act 1985 or section 12 of the ^{M24}Housing (Scotland) Act 1987 (disposal of land held for housing purposes and of certain other land).

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- (6) Subsection (3) above and, in so far as they relate to a statement such as is mentioned in that subsection, subsections (4) and (5) above shall not extend to Scotland.]

Textual Amendments

- F13** Ss. 24-26 repealed (S.) (1.4.2010) by [Housing \(Scotland\) Act 2006 \(asp 1\)](#), s. 195(3), [sch. 7](#) (with s. 193); S.S.I. 2009/122, art. 3
- F26** S. 26(2A) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), [Sch. 2 para. 20](#)
- F27** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 132(7)

Marginal Citations

- M20** 1959 c. 53.
- M21** 1973 c. 65.
- M22** 1972 c. 70.
- M23** 1985 c. 68.
- M24** 1987 c. 26.

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous

27 Local authority publicity.

- (1) In section 2 of the ^{M25}Local Government Act 1986 (prohibition of political publicity by local authorities), for subsection (2) (matters to be considered in determining whether material prohibited) there shall be substituted—

“(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

- (a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;
- (b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.”
- (2) In section 4 of that Act (issue by Secretary of State of codes of recommended practice on publicity), in subsection (1) for the words from “for the guidance” to the end there shall be substituted “; and local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.”
- (3) This section shall come into force at the end of the period of two months beginning with the day on which this Act is passed.

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Marginal Citations

M25 1986 c. 10.

F28 28 Prohibition on promoting homosexuality by teaching or by publishing material.

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Textual Amendments

F28 S. 28 repealed: (S.) (29.3.2001) by 2000 asp 7, s. 36(1), **Sch. 4** (with s. 31); S.S.I. 2001/113, **art. 2(c)** (**d**); and (18.11.2003) by Local Government Act 2003 (c. 26), s. 128(2)(f)(ii), **Sch. 8 Pt. 1**

29 Local government administration.

- (1) Schedule 3 to this Act (which relates to local government administration) shall have effect.
- (2) That Schedule shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) In that Schedule, paragraphs 1 to 10 extend to England and Wales only and paragraphs 11 to 17 extend to Scotland only.

F29 30

Textual Amendments

F29 S. 30 repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**

31 Land held by public bodies.

- (1) Schedule 5 to this Act (which relates to land held by public bodies) shall have effect.
- (2) Subject to subsection (3) below, that Schedule shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (3) Paragraph 2 of that Schedule shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (4) This section and that Schedule extend to England and Wales only.

F30 32 Direct labour organisations.

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Textual Amendments

F30 S. 32 repealed: (E.W.) (27.7.1999 with effect in accordance with ss. 21, 27 of the amending Act) by 1999 c. 27, ss. 21(1)(c), 34, **Sch. 2(1)**, Note; and (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), ss. **60(1)(f)**, 62(2); S.S.I. 2003/134, art. 2(1), sch.

F31 33 Local authority companies.

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Textual Amendments

F31 S. 33 repealed: (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), ss. 60(1)(f), 62(2); S.S.I. 2003/134, art. 2(1), sch.; and (E.W.) (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), Sch. 7 para. 8, **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 3(a)(i)(ii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. 1

34 Arrangements under Employment and Training Act 1973.

- (1) In section 45(2) of the ^{M26}Local Government (Miscellaneous Provisions) Act 1982 (local authorities having power to enter into arrangements under ^{M27}Employment and Training Act 1973) after paragraph (a) there shall be inserted—
 - “(aa) an authority established by Part III or IV of the Local Government Act 1985 or by an order under section 10 of that Act;
 - (ab) a body corporate established by an order under section 67 of that Act.”
- (2) This section shall be deemed to have come into force, as regards any authority or body concerned, on the day the authority or body was established.
- (3) This section extends to England and Wales only.

Marginal Citations

M26 1982 c. 30.
M27 1973 c. 50.

35 Amendment of Local Government (Scotland) Act 1973.

- (1) The ^{M28}Local Government (Scotland) Act 1973 shall be amended in accordance with the provisions of this section.
- (2) In section 97 (establishment of Commission for Local Authority Accounts in Scotland), in subsection (2) the word “and” after paragraph (c) shall be omitted and at the end there shall be added “and
 - (e) functions conferred by sections 97A and 97B of this Act.”
- (3) After section 97 there shall be inserted the following sections—

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“97A Studies for improving economy etc. in services.

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local authorities or by other bodies whose accounts are required to be audited in accordance with this Part of this Act, and for improving the financial or other management of such authorities or other bodies.
- (2) The Commission shall publish or otherwise make available its recommendations and the results of any studies undertaken or promoted under this section.
- (3) Before undertaking or promoting any study under this section the Commission shall consult such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate.

97B Furnishing of information and documents to Commission.

- (1) Without prejudice to any other provision of this Part of this Act, the Commission may require any body whose accounts are required to be audited in accordance with this Part of this Act, and any officer or member of any such body, to furnish the Commission or any person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Part of this Act of the Commission or of that person, including the carrying out of any study under section 97A of this Act.
- (2) Any person who without reasonable excuse fails to comply with a requirement imposed by subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (4) In section 99 (general duties of auditors) after paragraph (b) there shall be added—
 - “(c) that the local authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.”
- (5) This section shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) This section extends to Scotland only.

<p>Marginal Citations M28 1973 c. 65.</p>
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Textual Amendments

F32 S. 36 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. II**

37 Dog registration scheme.

- (1) The Secretary of State may by regulations make provision for the establishment and administration of a dog registration scheme by local authorities, or such other organisations as he may, after consulting with them, designate.
- (2) Regulations made under this section shall be exercisable by statutory instrument.

^{F33}38 Abolition of duty on dog licences.

Textual Amendments

F33 S. 38 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 17** Group 1

^{F34}39 Control of stray dogs.

Textual Amendments

F34 S. 39 repealed (6.4.2008) by Clean Neighbourhoods and Environment Act 2005 (c. 16), s. 108(3), **Sch. 5 Pt. 6**; S.I. 2008/956, art. 2(b)

General

40 Finance.

There shall be paid out of money provided by Parliament—

- (a) any expenses of the Secretary of State incurred in consequence of this Act;
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

41 Repeals.

The enactments mentioned in Schedule 7 to this Act are repealed to the extent specified in column 3, but subject to any provision at the end of any Part of that Schedule.

42 Citation and extent.

- (1) This Act may be cited as the Local Government Act 1988.
- (2) This Act does not extend to Northern Ireland.

Status:

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