



# Local Government Act 1988

## 1988 CHAPTER 9

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **27 Local authority publicity.**

- (1) In section 2 of the <sup>M1</sup>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.

*Status: Point in time view as at 05/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1988, Part IV. (See end of Document for details)*

#### Marginal Citations

M1 1986 c. 10.

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

- (1) The following section shall be inserted after section 2 of the <sup>M2</sup>Local Government Act 1986 (prohibition of political publicity)—

### “2A Prohibition on promoting homosexuality by teaching or by publishing material.

- (1) A local authority shall not—
- (a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality;
  - (b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship.
- (2) Nothing in subsection (1) above shall be taken to prohibit the doing of anything for the purpose of treating or preventing the spread of disease.
- (3) In any proceedings in connection with the application of this section a court shall draw such inferences as to the intention of the local authority as may reasonably be drawn from the evidence before it.
- (4) In subsection (1)(b) above “maintained school” means,—
- (a) in England and Wales, a county school, voluntary school, nursery school or special school, within the meaning of the Education Act 1944; and
  - (b) in Scotland, a public school, nursery school or special school, within the meaning of the Education (Scotland) Act 1980.”
- (2) 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.

#### Marginal Citations

M2 1986 c. 10.

## 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.

*Status: Point in time view as at 05/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1988, Part IV. (See end of Document for details)*

### **30 Additional powers for auditors of local authorities etc.**

- (1) After section 25 of the <sup>M3</sup>Local Government Finance Act 1982 there shall be inserted the sections set out in Schedule 4 to this Act.
- (2) In section 16 of that Act (auditor’s right to obtain documents and information) for the words “for the purposes of the audit”, in each place where they occur, there shall be substituted “for the purposes of his functions under this Act”.
- (3) This section and 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.
- (4) This section and that Schedule shall extend to England and Wales only.

#### **Marginal Citations**

**M3** 1982 c. 32.

### **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.

### **32 Direct labour organisations.**

- (1) Schedule 6 to this Act (which relates to direct labour organisations) shall have effect.
- (2) Subject to subsection (3) below, that Schedule shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be appointed for different provisions or different purposes.
- (3) Paragraphs 8(1) and (3) and 11 of that Schedule shall come into force on the day on which this Act is passed.
- (4) An order under this section may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (5) Paragraph 11 of that Schedule extends to Scotland only.

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

**C1** Power of appointment conferred by s. 32(2)(4) fully exercised: [S.I. 1988/979](#), 1043

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*Status: Point in time view as at 05/02/1991.*

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### 33 Local authority companies.

- (1) A local authority or relevant public body shall not enter into a contract under which a company which is associated with the authority or body is to carry out work falling within a defined activity, unless, before entering into that contract, the authority or body has taken reasonable steps for the purpose of securing competition for the carrying out of that work.
- (2) For the purpose of this section a company is associated with a local authority or relevant public body if, by virtue of any decision of the authority or body (including that of any committee or sub-committee thereof in the course of discharging any function conferred upon them by virtue of section 101 of the <sup>M4</sup>Local Government Act 1972, or, in relation to Scotland, section 56 of the <sup>M5</sup>Local Government (Scotland) Act 1973)—
- (a) the authority or body, or
  - (b) any member or officer of the authority or body, or
  - (c) any nominee of the authority or body,

is a member either of the company or of another company which, in accordance with section 736 of the <sup>M6</sup>Companies Act 1985, is the company's subsidiary or holding company.

[<sup>F1</sup>(2A) In relation to England and Wales, a company is also associated with a local authority, or relevant public body, to which Part V of the Local Government and Housing Act 1989 applies (companies in which local authorities have interests) if the company is under the control or subject to the influence of the authority or body within the meaning of that Part or the authority or body has a minority interest in the company.]

- (3) In this section—
- (a) “defined activity” has the meaning assigned by section 2 above;
  - (b) “local authority” has the meaning assigned by subsection (2) or, as the case may be, subsection (3) of section 1 above; and
  - (c) “relevant public body” means any authority or committee falling within paragraphs (e) to (j) of subsection (1) of section 1 above.
- (4) This section (and, so far as is relevant for the purposes of the definitions in subsection (3) above, sections 1 and 2 above) shall be deemed to have come into force on 11th February 1988 and, accordingly, has effect in relation to contracts entered into on or after that day.

#### Textual Amendments

- F1** S. 33(2A) inserted (*prosp.*) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 194(1), 195(2), [Sch. 11 para. 97](#)

#### Marginal Citations

- M4** 1972 c. 70.  
**M5** 1973 c. 65.  
**M6** 1985 c. 6.

*Status: Point in time view as at 05/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1988, Part IV. (See end of Document for details)*

### **34 Arrangements under Employment and Training Act 1973.**

- (1) In section 45(2) of the <sup>M7</sup>Local Government (Miscellaneous Provisions) Act 1982 (local authorities having power to enter into arrangements under <sup>M8</sup>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**

**M7** 1982 c. 30.

**M8** 1973 c. 50.

### **35 Amendment of Local Government (Scotland) Act 1973.**

- (1) The <sup>M9</sup>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—

#### **“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.

*Status: Point in time view as at 05/02/1991.*

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### **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.

#### **Marginal Citations**

**M9** 1973 c. 65.

### **36 Commutation of smallholdings payments.**

Any annual or other periodic payments under the terms of any settlement in respect of amounts payable under section 27 of the <sup>M10</sup>Land Settlement (Facilities) Act 1919 which, apart from this section, would fall to be made to a county council or district council by the Minister of Agriculture, Fisheries and Food or the Secretary of State may be commuted by him into a single payment, either by agreement with that council or, in default of agreement, by an order made by him in that behalf.

#### **Marginal Citations**

**M10** 1919 c. 59.

### **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.

*Status: Point in time view as at 05/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1988, Part IV. (See end of Document for details)*

### **38 Abolition of duty on dog licences.**

- (1) The duty charged under the <sup>M11</sup>Dog Licences Act 1959 on licences for dogs is hereby abolished.
- (2) In section 1 of the <sup>M12</sup>Protection of Animals (Cruelty to Dogs) Act 1933 (disqualification for keeping a dog of any person convicted of cruelty to dogs), at the end there shall be inserted the following subsection—
  - “(5) For the purposes of this section a person shall be presumed, until the contrary is shown, to keep a dog—
    - (a) if it is found or seen in that person’s custody, charge or possession, or in his house or premises;
    - (b) in the case of hounds, if he is their owner or master.”
- (3) In section 1 of the <sup>M13</sup>Protection of Animals (Cruelty to Dogs) (Scotland) Act 1934 (disqualification for keeping a dog of any person convicted of cruelty to dogs), at the end there shall be inserted the following subsection—
  - “(5) For the purposes of this section a person shall be presumed, until the contrary is shown, to keep a dog—
    - (a) if it is found or seen in that person’s custody, charge or possession, or in his house or premises;
    - (b) in the case of hounds, if he is their owner or master.”
- (4) 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.

#### **Marginal Citations**

**M11** 1959 c. 55.

**M12** 1933 c. 17.

**M13** 1934 c. 25.

### **39 Control of stray dogs.**

- (1) The <sup>M14</sup>Dogs Act 1906 shall be amended in accordance with the provisions of this section.
- [<sup>F2</sup>(2) Section 3 (seizure of stray dogs) shall be amended as follows for the purpose of conferring upon a duly authorised officer of a local authority the same powers as those conferred upon a police officer by that section—
  - (a) in subsection (1), after the word “officer” there shall be inserted the words “or a duly authorised officer of a local authority”;
  - (b) in subsections (2) and (4), after the word “behalf” there shall be inserted the words “or a duly authorised officer of a local authority”;
  - (c) in subsection (6), after the word “area” where it first occurs there shall be inserted the words “and the local authority for an area” and for the words “in that area” there shall be substituted the words “by the officers of his force or, as the case may be, by the local authority’s officers”;
  - (d) in subsection (7), for the words from the beginning to the word “section” there shall be substituted the words “A dog seized under this section shall not be disposed of”; and

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- (e) after subsection 9 there shall be inserted the following subsection—
- “(9A) In this section and section 4 below, the expression “local authority” means a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.”]
- (3) Section 3 shall be amended as follows for the purpose of extending the powers of seizure and detention of stray dogs to those found on land or premises other than highways or places of public resort—
- (a) in subsection (1), after the word “resort” there shall be inserted the words “or on any other land or premises”; and
- (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) The powers under subsection (1) of this section shall not be exercised in relation to a dog found on any land or premises other than a highway or place of public resort unless the owner or occupier of the land or premises has consented to such exercise.”
- [<sup>F2</sup>(4) At the end of section 4 (1) (delivery of stray dogs to police) there shall be inserted the words “but this subsection shall not apply where the finder is a duly authorised officer of a local authority”.]
- (5) Any enactment in any local Act which amends section 3 or confers powers on a local authority (within the meaning of that section) in relation to that section as it applies to the area of the local authority shall cease to have effect.
- (6) This section shall come into force at the end of the period of two months beginning on the day on which this Act is passed.
- (7) This section extends to England and Wales only.

#### Textual Amendments

**F2** S. 39(2)(4) repealed (*prosp.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **ss. 162(2)**, 164(3), Sch. 16 Pt. IX

#### Marginal Citations

**M14** 1906 c. 32.

### 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.



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*Status: Point in time view as at 05/02/1991.*

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## **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:**

Point in time view as at 05/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government Act 1988, Part IV.