

Status: Point in time view as at 01/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1988, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3 **E+W+S**

Section 29.

LOCAL GOVERNMENT ADMINISTRATION

Local Government Act 1974 (c. 7)

- 1 Part III of the Local Government Act 1974 (local government administration) shall be amended as mentioned in paragraphs 2 to 10 below.
- 2 (1) In section 23(12) (Commissions to review operation of certain provisions in each financial year) for the words from “The Commissions” to “local authorities” there shall be substituted “In the financial year beginning on 1st April 1990, and in every third financial year afterwards, the Commissions shall review the operation (since the last review was made under this subsection) of the provisions of this Part of this Act about the investigation of complaints, and shall have power to convey to authorities to which this Part of this Act applies”.
- (2) Section 23(12) shall not require a review in the financial year in which this Schedule comes into force; but the review in the financial year beginning on 1st April 1990 must relate to the operation of the provisions mentioned in section 23(12) since the last review was made under section 23(12) as unamended.
- 3 (1) Section 24 (representative bodies) shall be amended as follows.
- (2) For subsection (6) (representative bodies to arrange for publication of reports) there shall be substituted—

“(6) Each Commission shall arrange for the publication of the report submitted by them under subsection (4) above and of the reports of which copies are submitted by them under subsection (5) above.”
- (3) In subsection (7) for “local authorities” there shall be substituted “authorities to which this Part of this Act applies”.
- (4) For subsection (8) there shall be substituted—

“(8) Before arranging for the publication of a report under subsection (6) above the Commission concerned shall give a reasonable opportunity for the appropriate representative body to comment on it, and if any comments are made shall (when arranging for the report to be published) arrange for it to be published with an annex containing such of the comments as the body think appropriate.”
- (5) Sub-paragraphs (2) and (4) above apply to any report submitted under section 24(4) after the coming into force of this Schedule and to any report a copy of which is submitted under section 24(5) after the coming into force of this Schedule.
- 4 In section 25(1) (authorities subject to investigation) after “applies to” there shall be inserted “the following authorities” and the following shall be inserted after paragraph (b)—

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- “(ba) the Commission for the New Towns,
- (bb) any development corporation established for the purposes of a new town,
- (bc) the Development Board for Rural Wales,
- (bd) any urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980.”.

- 5 (1) Section 26 (matters subject to investigation) shall be amended as follows.
- (2) In subsection (2) (complaint not to be entertained unless made through a member of the authority concerned) after “unless” there shall be inserted “it is made in writing to the Local Commissioner specifying the action alleged to constitute maladministration or”.
- (3) In subsection (4) (complaint must be made within 12 months of notice of matters complained of, but Commissioner may investigate complaint not so made if he considers there are special circumstances which make it proper to do so) after “unless it was made to” there shall be inserted “the Local Commissioner or” and for “there are special circumstances which make it proper” there shall be substituted “it is reasonable”.
- (4) In subsection (7) for “area of the authority concerned” there shall be substituted “following area—
- (a) where the complaint relates to the Commission for the New Towns, the area of the new town or towns to which the complaint relates;
 - (b) where the complaint relates to the Development Board for Rural Wales, the area in Wales for which the Board is for the time being responsible;
 - (c) in any other case, the area of the authority concerned.”
- (5) In subsection (9) (power to exclude from matters not subject to investigation) for “exclude from the provisions of that Schedule” there shall be substituted “add to or exclude from the provisions of that Schedule (as it has effect for the time being)”.
- (6) The following shall be inserted after subsection (12)—
- (“13)** A complaint as regards an authority mentioned in section 25(1)(ba), (bb), (bc) or (bd) above shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before the coming into force of Schedule 3 to the Local Government Act 1988, or in respect of any default or alleged default first arising before its coming into force; and subsection (12) above shall have effect subject to this.”
- (7) Sub-paragraph (3) above applies to any complaint made after the coming into force of this Schedule.
- 6 (1) Section 30 (reports on investigations) shall be amended as follows.
- (2) After subsection (4) there shall be inserted—
- “(4A) Subject to subsection (7) below, the authority concerned shall supply a copy of the report to any person on request if he pays such charge as the authority may reasonably require.”

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- (3) In subsection (5) (not later than one week after receiving report, authority to give public notice of date from which report is available for inspection)—
 - (a) for “one week” there shall be substituted “two weeks”,
 - (b) for “the report will be available for inspection as provided by subsection (4)” there shall be substituted “copies of the report will be available as provided by subsections (4) and (4A)”, and
 - (c) for “after the giving of the public notice” there shall be substituted “not more than one week after the public notice is first given”.
 - (4) In subsection (7) (Local Commissioner may direct that report shall not be subject to certain provisions) for “and (5) above about its publication” there shall be substituted “, (4A) and (5) above”.
 - (5) This paragraph applies to any report received by an authority in pursuance of section 30(1)(c) after the coming into force of this Schedule.
- 7 (1) Section 31 (reports: further provisions) shall be amended as follows.
- (2) F1
 - (4) In subsection (3)(b) for “referred to in the report” there shall be substituted “to which the report relates”.
 - (5) This paragraph applies where any report is made after the coming into force of this Schedule.

Textual Amendments

F1 Sch. 3 paras. 7(2)(3), 15(a) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#) Note 3

- 8 (1) Section 32 (defamation and disclosure) shall be amended as follows.
- (2) In subsection (1)(a) after “member” there shall be inserted “or officer”.
 - (3) In subsection (1)(c) after “public” there shall be inserted “or in supplying a copy under section 30(4A) above”.
 - (4) This paragraph applies to any publication after the coming into force of this Schedule.
- 9 (1) In paragraph 4(5) of Schedule 4 (functions of a Local Commissioner, other than that of making a report, may be performed by an officer) the words “, other than that of making any report,” shall be omitted.
- (2) This paragraph applies to the making of any report after the coming into force of this Schedule, whether or not the making was begun by a Local Commissioner before the coming into force.
- 10 The following shall be inserted at the end of Schedule 5 (matters not subject to investigation)—
- “6 Action taken by an authority mentioned in section 25(1)(ba), (bb) or (bc) of this Act which is not action in connection with functions in relation to housing.

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- 7 Action taken by an authority mentioned in section 25(1)(bd) of this Act which is not action in connection with functions in relation to town and country planning.”

Local Government (Scotland) Act 1975 (c. 30)

- 11 Part II of the Local Government (Scotland) Act 1975 (local administration) shall be amended as mentioned in paragraphs 12 to 17 below.

- 12 In section 23 (authorities subject to investigation) in subsection (1) there shall be added at the end—

“(i) any licensing board within the meaning of the Licensing (Scotland) Act 1976.”

- 13 (1) In section 24 (matters subject to investigation)—

- (a) in subsection (2) after “unless” there shall be inserted “it is made in writing to the Commissioner specifying the action alleged to constitute maladministration or”;
- (b) in subsection (4) after “unless it was made to” there shall be inserted “the Commissioner or” and for “there are special circumstances which make it proper” there shall be substituted “it is reasonable”;
- (c) in subsection (9) for “exclude from the provisions of that Schedule” there shall be substituted “add to or exclude from the provisions of that Schedule (as it has effect for the time being)”.

- (2) Sub-paragraph (1)(b) above applies to any complaint made after the coming into force of this Schedule.

- 14 In section 28(7) (reports on investigations) the words “about its publication” shall cease to have effect.

- 15 In section 29 (reports on investigations: further provisions) in subsection (3)—

- (a)^{F2}
- (b) in paragraph (b) for “referred to in the report” there shall be substituted “to which the report relates”.

Textual Amendments

F2 Sch. 3 paras. 7(2)(3), 15(a) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#) Note 3

- 16 In section 30 (defamation and disclosure) in subsection (1)(c) for “a report available to the public” there shall be substituted “copies of a report available as provided by section 28(4) above”.

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- 17 (1) In Schedule 4 (functions of the Commissioner, other than that of making a report, may be performed by an officer) in paragraph 4(3) the words “, other than that of making any report,” shall be omitted.
- (2) This paragraph applies to the making of any report after the coming into force of this Schedule, whether or not the making was begun by the Commissioner before the coming into force.

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