



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART I **E+W+S**

#### LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

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

- C1** Pt. 1 (ss. 1-21) applied (temp. from 4.5.1995 to 31.3.1996) by [S.I. 1995/1042, art. 4\(1\)](#)  
Pt. 1 (ss. 1-21): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), [Sch. 4](#) para. (j)(i); [S.I. 1997/1930, art. 2\(1\)\(2\)\(m\)](#) (subject to [art. 2\(3\)](#))  
Pt. 1 (ss. 1-21): extended (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by [2000 c. 22, ss. 23, 108\(4\)](#), [Sch. 1 para. 3\(13\)](#); [S.I. 2000/2849, art. 2\(e\)](#)
- C2** Pt. 1 (ss. 1-21): extended (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), regs. 1(2), 3(6)

#### *Political restriction of officers and staff*

### **1 Disqualification and political restriction of certain officers and staff.** **E+W+S**

- (1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.
- (2) In the <sup>M1</sup>House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—
- “Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.”
- (3) In section 80 of the <sup>M2</sup>Local Government Act 1972 (disqualification for election and holding office as member of local authority)—

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- (a) in subsection (1)(a) (paid office holders and employees), the words “joint board, joint authority or” shall be omitted; and
  - (b) in subsection (6) (extension of meaning of “local authority”), after the word “includes” there shall be inserted “ a joint board and ”.
- (4) In section 31 of the <sup>M3</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—
- (a) in subsection (1)(a)(ii), the words “or joint board” shall be omitted; and
  - (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board.”
- (5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.
- (6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.
- (7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.
- (8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.

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

- C3** S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by [S.I. 1995/789, art. 2, Sch. entry 11](#)  
 S. 1 extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\), Sch. 7 para. 7\(4\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))  
 S. 1 extended (8.5.2000) by [1999 c. 29, ss. 68, 70](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(b\), Sch. Pt. 2](#)
- C4** Ss. 1-3 modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\), arts. 1, 12\(4\)](#)
- C5** Ss. 1-3 modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 12\(4\)](#)

**Marginal Citations**

- M1** [1975 c. 24.](#)

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**M2** 1972 c. 70.

**M3** 1973 c. 65.

## 2 Politically restricted posts. **E+W+S**

- (1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—
  - (a) the person designated under section 4 below as the head of the authority's paid service;
  - (b) the statutory chief officers;
  - (c) a non-statutory chief officer;
  - (d) a deputy chief officer;
  - (e) the monitoring officer designated under section 5 below;
  - (f) any person holding a post to which he was appointed in pursuance of section 9 below; and
  - (g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 below or with section 100G(2) of the <sup>M4</sup>Local Government Act 1972 or section 50G(2) of the <sup>M5</sup>Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated).
- (2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—
  - (a) the full time posts the annual rate of remuneration in respect of which is or exceeds £19,500 or such higher amount as may be specified in or determined under regulations made by the Secretary of State;
  - (b) the part time posts the annual rate of remuneration in respect of which would be or exceed that amount if they were full time posts in respect of which remuneration were paid at the same rate as for the part time post; and
  - (c) posts not falling within paragraph (a) or (b) above the duties of which appear to the authority to fall within subsection (3) below,as are not posts for the time being exempted under section 3 below, posts for the time being listed under section 100G(2) of the <sup>M6</sup>Local Government Act 1972 or section 50G(2) of the <sup>M7</sup>Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.
- (3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—
  - (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented<sup>F1</sup> or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority];
  - (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- (4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two

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- months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.
- (5) It shall be the duty of every local authority in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.
- (6) In this section “the statutory chief officers” means—
- (a) the chief education officer [<sup>F2</sup>or director of education] appointed under [<sup>F3</sup>section 532 of the Education Act 1996][<sup>F2</sup>or section 78 of the <sup>M8</sup>Education (Scotland) Act 1980];
  - (b) the chief officer of a fire brigade maintained under the <sup>M9</sup>Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;
  - (c) the director of social services or [<sup>F4</sup>chief social work officer] appointed under section 6 of the <sup>M10</sup>Local Authority Social Services Act 1970 or section 3 of the <sup>M11</sup>Social Work (Scotland) Act 1968; and
  - (d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M12</sup>Local Government Act 1985, section 112 of the <sup>M13</sup>Local Government Finance Act 1988 [<sup>F5</sup>, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the <sup>M14</sup>Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs.
- (7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—
- (a) a person for whom the head of the authority’s paid service is directly responsible;
  - (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and
  - (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (8) In this section “deputy chief officer” means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.
- (9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.
- (10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—
- (a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a local education authority or, in Scotland, is under the management of or is assisted by an education authority; or
  - (b) any other post as a teacher or lecturer in any such school, college, institution or establishment,

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or of requiring any such post to be included in any list prepared and maintained under this section.

- (11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

#### Textual Amendments

- F1** Words in s. 2(3)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 22; S.I. 2002/808, arts. 1(2), **21**
- F2** Words in s. 2(6)(a) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(2)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F3** Words in s. 2(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 95** (with s. 1(4), Sch. 39 paras. 30, 39)
- F4** Words in s. 2(6)(c) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(2)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F5** Words in s. 2(6)(d) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, s. **127(8)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

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

- C4** Ss. 1-3 modified (E.) (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1778), arts. 1, **12(4)**
- C5** Ss. 1-3 modified (E.) (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1777), arts. 1, **12(4)**
- C6** S. 2 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

- M4** 1972 c. 70.  
**M5** 1973 c. 65.  
**M6** 1972 c. 70.  
**M7** 1973 c. 65.  
**M8** 1980 c. 44.  
**M9** 1947 c. 41.  
**M10** 1970 c. 42.  
**M11** 1968 c. 49.  
**M12** 1985 c. 51.  
**M13** 1988 c. 41.  
**M14** 1973 c. 65.

### 3 Grant and supervision of exemptions from political restriction. **E+W+S**

- (1) It shall be the duty of the Secretary of State to appoint a person—
- to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and
  - to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.

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- (2) A person appointed under subsection (1) above—
- (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and
  - (b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.
- (3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—
- (a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; and
  - (b) in the case of a post falling within paragraph (a) or (b) of that subsection, the authority have certified whether or not, in their opinion, the duties of the post fall within subsection (3) of that section;
- and it shall be the duty of a local authority to give a certificate for the purposes of paragraph (b) above in relation to any post if they are requested to do so by the holder of that post.
- (4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3) above, that person shall direct—
- (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.
- (5) A person appointed under subsection (1) above shall not give a direction under subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—
- (a) is a post the duties of which fall within section 2(3) above; and
  - (b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the <sup>M15</sup>Local Government Act 1972 or section 50G(2) of the <sup>M16</sup>Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.
- (6) It shall be the duty of a local authority—
- (a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;
  - (b) to comply with any direction under this section with respect to the list maintained by the authority; and
  - (c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.
- (7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.

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- (8) The Secretary of State may—
- (a) appoint different persons under subsection (1) above for England and for Wales;
  - (b) provide for the appointment of such numbers of staff to assist any person appointed under that subsection, and to act on that person's behalf, as the Secretary of State may with the consent of the Treasury determine;
  - (c) pay to or in respect of a person appointed under that subsection and members of such a person's staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and
  - (d) provide for a person appointed under that subsection and such a person's staff to hold office on such other terms as the Secretary of State may so determine.

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

- C4** Ss. 1-3 modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **12(4)**
- C5** Ss. 1-3 modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **12(4)**
- C7** S. 3 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by [S.I. 1995/789](#), art. 2, **Sch. entry 11**  
S. 3 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)  
S. 3 extended (8.5.2000) by [1999 c. 29](#), ss. 68, 70 (with **Sch. 12 para. 9(1)**); [S.I. 2000/801](#), art. 2(2)(b), **Sch. Pt. 2**

**Marginal Citations**

- M15** 1972 c. 70.  
**M16** 1973 c. 65.

*Duties of particular officers*

**4 Designation and reports of head of paid service. E+W+S**

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers as the head of their paid service; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.
- (2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.
- (3) Those matters are—
- (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
  - (b) the number and grades of staff required by the authority for the discharge of their functions;
  - (c) the organisation of the authority's staff; and

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- (d) the appointment and proper management of the authority’s staff.
- (4) It shall be the duty of the head of a relevant authority’s paid service, as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be sent to each member of the authority.
- (5) It shall be the duty of a relevant authority to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the <sup>M17</sup>Local Government Act 1972 or in section 56 of [<sup>F6</sup>, or Schedule 10 or 20 to,] the <sup>M18</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.
- (6) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and
  - (b) in relation to Scotland, [<sup>F7</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- (7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F6** Words in s. 4(5) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(3)(a), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F7** Words in s. 4(6)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(1)(3)(b) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

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

- C8** S. 4 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 13(7)(a) (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 4 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 72(1) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2
- C9** S. 4 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, 17(7)
- C10** S. 4 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, 17(7)(a)

#### Marginal Citations

- M17** 1972 c. 70.  
**M18** 1973 c. 65.

## 5 Designation and reports of monitoring officer. E+W+S

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section [<sup>F8</sup>and, where relevant, section 5A below]; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [<sup>F9</sup>and, where relevant, the duties under section 5A below] to be performed;



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and <sup>F10</sup>subject to subsection (1A) below] the officer so designated may be the head of the authority's paid service <sup>F11</sup>(or, in the case of a police authority established under <sup>F12</sup>section 3 of the Police Act 1996]<sup>F13</sup>[or the Metropolitan Police Authority], the clerk to the authority)] but shall not be their chief finance officer.

<sup>F14</sup>(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority's paid service.]

<sup>F14</sup>[(1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Greater London Authority, and
- (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.]

(2) <sup>F15</sup>Subject to subsection (2B),] it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, <sup>F16</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—

- (a) a contravention by the authority, by any committee, <sup>F16</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any such joint committee of any enactment or rule of law <sup>F17</sup>or of any code of practice made or approved by or under any enactment]; or
- (b) any such maladministration or injustice as is mentioned in Part III of the <sup>M19</sup>Local Government Act 1974 (Local Commissioners) or Part II of the <sup>M20</sup>Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland),

to prepare a report to the authority with respect to that proposal, decision or omission.

<sup>F18</sup>(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the <sup>M21</sup>Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.]

<sup>F19</sup>(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.]

(3) It shall be the duty of a relevant authority's monitoring officer—

- (a) in preparing a report under this section to consult so far as practicable with the <sup>F20</sup>person who is for the time being designated as the head of the authority's paid service under section 4 above] and with their chief finance officer; and
- (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority <sup>F21</sup>and, in a case where the relevant authority have a mayor and council manager executive, to the council manager of the authority].

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- (4) The references in subsection (2) above, in relation to a relevant authority in England and Wales, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to any of the following, that is to say—
- <sup>F22</sup>(a) .....
- (b) any local fisheries committee the members of which include persons so appointed;
- <sup>F23</sup>(c) .....
- (d) any sub-committee appointed by a committee falling within paragraphs (a) to (c) above;
- but in relation to any such committee or sub-committee the reference in subsection (3) (b) above to each member of the authority shall have effect as a reference to each member of the committee or, as the case may be, of the committee which appointed the sub-committee.
- (5) It shall be the duty of a relevant authority and of any such committee as is mentioned in subsection (4) above—
- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority or committee; and
- (b) without prejudice to any duty imposed by virtue of section 115 of the <sup>M22</sup>Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;
- and nothing in section 101 of the <sup>M23</sup>Local Government Act 1972 or in section 56 of <sup>F24</sup>... the <sup>M24</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.
- (6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (7) The duties of a relevant authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.
- <sup>F25</sup>(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).]
- (8) In this section [<sup>F26</sup>and in section 5A]—
- “business day”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the <sup>M25</sup>Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;
- “chief finance officer”, in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M26</sup>Local Government Act 1985, section 112 of the Local Government Finance Act 1988 [<sup>F27</sup>, section 127(2)

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of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs; and

“relevant authority”—

- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to [F28(k)] of section 21(1) below; and
- (b) in relation to Scotland, means a local authority.

[F29(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.]

- (9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F8** Words in s. 5(1)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(a); S.I. 2002/808, arts. 1(2), **22(1)(a)**
- F9** Words in s. 5(1)(b) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(b); S.I. 2002/808, arts. 1(2), **22(1)(b)**
- F10** Words in s. 5(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(2)**
- F11** Words in s. 5(1)(b) inserted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F12** Words in s. 5(1) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2) (zd)**
- F13** Words in s. 5(1) inserted (for certain purposes on the “operative date” (as defined in art. 1(2)(c) of S.I. 2000/1095) and on 3.7.2000 for all other purposes) by 1999 c. 29, s. 325, **Sch. 27 para. 62** (with Sch. 12 para. 9(1)); S.I. 2000/1095, **art. 4(2)(c)**
- F14** S. 5(1A)(1B) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(3)**
- F15** Words in s. 5(2) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(c); S.I. 2002/808, arts. 1(2), **22(1)(c)**
- F16** Words in s. 5(2) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(b)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F17** Words in s. 5(2)(a) repealed (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1)(2), 108(4), Sch. 5 para. 24(1)(4), **Sch. 6**
- F18** S. 5(2A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(6)**
- F19** S. 5(2B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(d); S.I. 2002/808, arts. 1(2), **22(1)(d)**
- F20** Words in s. 5(3)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(c)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F21** Words in s. 5(3)(b) added (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(e); S.I. 2002/808, arts. 1(2), **22(1)(e)**
- F22** S. 5(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F23** S. 5(4)(c) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2**, **Sch.**
- F24** Words in s. 5(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(4), **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F25** S. 5(7A) inserted (E.W.) (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 113(3)**, 128(2)(d)
- F26** Words in s. 5(8) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(f); S.I. 2002/808, arts. 1(2), **22(1)(f)**

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- F27** S. 5(8): words in the definition of "chief finance officer" inserted (8.5.2000 for specified purposes, otherwise 3.7.2000) by 1999 c. 29, s. 132(1)(2) (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4
- F28** S. 5(8): words in para. (a) of the definition of "relevant authority" substituted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), Sch. 5 para. 24(1)(7)
- F29** S. 5(8A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), Sch. 5 para. 24(1)(8)

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

- C11** S. 5 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 13(7)(b) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C12** S. 5 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(1), Sch. 6 para. 7(3)
- C13** S. 5 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 73 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2 (as amended: (27.5.2000) by S.I. 2000/1435, art. 2, Sch. 1 Pt. I para. 5; (E.W.) (28.7.2001) by 2000 c. 22, ss. 107, 108(4), Sch. 5 para. 24(5), Sch. 6; and (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), Sch. 22 para. 49; and (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 19 para. 38; S.I. 2012/628, art. 6(i))
- C14** S. 5 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 36, Sch. 5 para. 15 (with s. 32); S.S.I. 2000/312, art. 2
- C15** S. 5 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, 17(7)
- C16** S. 5 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, 17(7)(b)
- C17** S. 5(1) applied (10.5.2000) by S.I. 2000/1095, art. 6(5)(a)

#### Marginal Citations

- M19** 1974 c. 7.  
**M20** 1975 c. 30.  
**M21** 1974 c. 7.  
**M22** 1988 c. 41.  
**M23** 1972 c. 70.  
**M24** 1973 c. 65.  
**M25** 1971 c. 80.  
**M26** 1985 c. 51.

### [<sup>F30</sup>5A Reports of monitoring officer—local authorities operating executive arrangements **E+W**

- (1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.
- (2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.
- (3) The events referred to for the purposes of subsection (2) are—
  - (a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or
  - (b) any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974 <sup>F31</sup> (Local Commissioners).

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- (4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.
- (5) It shall be the duty of an authority's monitoring officer—
  - (a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer; and
  - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority and, where the authority has a mayor and council manager executive, the council manager.
- (6) It shall be the duty of the authority's executive—
  - (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and
  - (b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.
- (7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—
  - (a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;
  - (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and
  - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
- (9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority's monitoring officer.
- (10) The duties of an authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.]

#### Textual Amendments

**F30** S. 5A inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/3327, arts. 1(2), 23(2); S.I. 2002/808, arts. 1(2), 22(2)

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**F31** 1974 c.7.

## **6 Officer responsible for financial administration of certain authorities. E+W+S**

- (1) On and after the commencement day the Common Council shall—
  - (a) make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority or port health authority, and
  - (b) secure that one of its officers has responsibility for the administration of those affairs.
- (2) Section 17 of the <sup>M27</sup>City of London Sewers Act 1897 (functions of the chamberlain of the City of London as regards financial affairs) shall cease to have effect on the commencement day.
- (3) On and after the commencement day the person having responsibility for the administration of certain of the financial affairs of the Common Council under subsection (1) above shall—
  - (a) be a member of one or more of the bodies specified in subsection (5) below; or
  - (b) be the person who immediately before that day was the chamberlain of the City of London; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the <sup>M28</sup>Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (4) On and after the commencement day the person having responsibility for the administration of the financial affairs of a new successor body under section 73 of the <sup>M29</sup>Local Government Act 1985 shall—
  - (a) be a member of one or more of the bodies specified in subsection (5) below; or
  - (b) be the person who immediately before that day had responsibility for the administration of the financial affairs of the body concerned under the said section 73; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (5) The bodies referred to in subsections (3)(a) and (4)(a) above are—
  - (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants of Scotland;
  - (c) the Chartered Association of Certified Accountants;
  - (d) the Chartered Institute of Public Finance and Accountancy;
  - (e) the Institute of Chartered Accountants in Ireland;
  - (f) the Chartered Institute of Management Accountants;
  - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.

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- (6) The Secretary of State may make regulations containing, as regards the Common Council and any new successor body to which section 73 of the <sup>M30</sup>Local Government Act 1985 applies, provisions equivalent to sections 114 to 116 of the <sup>M31</sup>Local Government Finance Act 1988 (reports etc.) subject to—
- (a) modifications to confine the provisions to the Common Council in its capacity as a local authority, police authority or port health authority; and
  - (b) any other modifications the Secretary of State thinks fit;
- and any such regulations may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) In this section—
- “the commencement day” means the day on which this section comes into force;
  - “the Common Council” means the Common Council of the City of London;
  - “new successor body” means a body corporate established at any time by an order under section 67(3) of the Local Government Act 1985 (new body succeeding to residuary body’s functions).
- (8) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

**Marginal Citations**

- M27** 1897 c. cxxxiii.
- M28** 1988c. 41.
- M29** 1985 c. 51.
- M30** 1985c. 51.
- M31** 1988 c. 41.

*Appointment and management etc. of staff*

**7 All staff to be appointed on merit. E+W+S**

- (1) Every appointment of a person to a paid office or employment under—
- (a) a local authority or parish or community council in England and Wales, or
  - (b) a local authority in Scotland,
- shall be made on merit.
- (2) <sup>M32M33</sup>Subsection (1) above applies to all appointments made by, or by any committee of, a local authority or parish or community council, whether made under section 112 of the Local Government Act 1972 or section 64 of the Local Government (Scotland) Act 1973 (appointment of staff) or otherwise, but has effect subject to—
- <sup>F32</sup>(a) .....
  - (b) section 18 of the <sup>M34</sup>Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);
  - (c) section 7 of the <sup>M35</sup>Sex Discrimination Act 1975 (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);

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- (d) section 5 of the <sup>M36</sup>Race Relations Act 1976 (discrimination permitted in relation to employment where being of a particular racial group is a genuine occupational qualification); <sup>F33</sup> . . .
  - (e) section 113 of the <sup>M37</sup>Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities) [<sup>F34</sup>; and.
  - <sup>F34</sup>(f) [<sup>F35</sup>sections 4, 4A, 4D and 4E of the Disability Discrimination Act 1995 (discrimination and duties to make adjustments in relation to employees and office-holders).]
- (3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F32** S. 7(2)(a) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(a)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F33** Word in s. 7(2)(d) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(b)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III** (and repealed (*prosp.*) by 1995 c. 50, s. 70(3)(5), **Sch. 7** (with ss. 59, 64, 65))
- F34** S. 7(2)(f) and preceding “; and” inserted (2.12.1996) by 1995 c. 50, s. 70(4), **Sch. 6 para. 5(c)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F35** S. 7(2)(f) substituted (3.7.2003 for specified purposes) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), reg. 1(2)(3), **31(1)**

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

- C18** S. 7 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 7 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C19** S. 7 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C20** S. 7 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(e)**

#### Marginal Citations

- M32** 1972 c. 70.  
**M33** 1973 c. 65.  
**M34** 1947 c. 41.  
**M35** 1975 c. 65.  
**M36** 1976 c. 74.  
**M37** 1988 c. 41.

## 8 Duty to adopt standing orders with respect to staff. **E+W+S**

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
- (a) to incorporate such provision as may be prescribed by the regulations instanding orders relating to their staff; and
  - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.



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- (2) For the purposes of this section standing orders relate to the staff of a relevant authority if they make provision for regulating—
  - (a) the appointment of persons to paid office or employment under the authority; or
  - (b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may require a relevant authority's standing orders—
  - (a) so to restrict the manner of exercising the power to take steps for or towards the selection of candidates for interview, or for appointment, as to make it exercisable only by the authority themselves, by a committee or sub-committee of the authority or by particular officers of the authority;
  - (b) to restrict the power of the authority or any of their committees or sub-committees—
    - (i) to give directions to persons making appointments on their behalf as to the identity of the individuals to be appointed; or
    - (ii) otherwise to interfere with the making of appointments by such persons;
  - (c) to require the monitoring officer of the authority to prepare a report to the authority in respect of every proposed appointment of a person to a politically restricted post;
  - (d) to require every such report to state whether, in the opinion of the monitoring officer, the proposed appointment can be made—
    - (i) without any contravention of any provision made by or under this Part; and
    - (ii) without any matter being taken into account which could not properly be taken into account;and, if in his opinion it cannot be so made, his reasons; and
  - (e) to prohibit the authority or any committee, sub-committee or other person acting on their behalf from dismissing or taking other disciplinary action against a person holding office or employment under the authority except in accordance with recommendations contained in a report made to the authority by an independent person of such a description as is prescribed by the regulations.
- (4) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate; and that provision may include—
  - (a) provision which, for the purposes of any such restriction as is mentioned in subsection (3) above, makes modifications of any enactment with respect to the delegation of a relevant authority's functions;
  - (b) provision which (with or without modifications) applies provisions of section 5 above in relation to any report prepared in consequence of regulations made by virtue of subsection (3)(c) above;
  - (c) provision specifying the consequences—
    - (i) in relation to any appointment or contract of employment;
    - (ii) in relation to any proceedings on a complaint to an [<sup>F36</sup>employment tribunal]; and

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- (iii) in relation to any expenditure incurred by the authority,  
of any contravention of standing orders made in pursuance of the regulations;  
and
- [<sup>F37</sup>(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons—
- (i) in pursuance of section 9 below;
- (ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and
- (iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor’s assistant).]
- (5) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and
- (b) in relation to Scotland, means a [<sup>F38</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

#### Textual Amendments

- F36** Words in s. 8(4)(c)(ii) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F37** S. 8(4)(d) substituted (E.) (18.5.2001) by [The Local Authorities \(Executive Arrangements\) \(Modification of Enactments and Further Provisions\) \(England\) Order 2001 \(S.I. 2001/1517\)](#), **art. 5**  
S. 8(4)(d) substituted (W.) (1.4.2002) by [The Local Authorities \(Executive Arrangements\) \(Modification of Enactments and Further Provisions\) \(Wales\) Order 2002 \(S.I. 2002/803\)](#), **art. 5**
- F38** Words in s. 8(5)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(5)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C21** S. 8 with the omission of subsection (4)(c) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
S. 8 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C22** S. 8 applied (E.W.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **17(7)(d)**
- C23** S. 8 applied (E.W.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **17(7)**

## 9 Assistants for political groups. **E+W+S**

- (1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person’s political activities or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.
- (2) An appointment is an appointment in pursuance of this section if—
- (a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;

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- (b) the terms of the appointment comply with subsection (3) below;
  - (c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and
  - (d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.
- (3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—
- (a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the <sup>M38</sup>Local Government Act 1972 (annual meeting of principal councils); and
  - (b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the <sup>M39</sup>Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.
- (4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—
- (a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and
  - (b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;
- and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—
- (a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;
  - (b) prohibit the allocation of a post to a political group which does not qualify for one; and
  - (c) prohibit the allocation of more than one post to any one political group.
- (6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—
- (a) the membership of that group comprises at least one-tenth of the membership of the authority;
  - (b) the number of the other groups (if any) which are larger than that group does not exceed two; and
  - (c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;
- and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that

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paragraph as secure that there are no more nor less than three groups which do qualify for a post.

(7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—

- (a) the groups qualifying for a post shall be that group and one other group; and
- (b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;

and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.

(8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—

- (a) section 101 of the <sup>M40</sup>Local Government Act 1972 (delegation); or
- (b) section 56 of [<sup>F39</sup>, or Schedule 10 or 20 to,] the <sup>M41</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland), [<sup>F40</sup>; or
- (c) Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)]

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

[<sup>F41</sup>(8A) Neither an executive, a committee of an executive or a member of an executive, of a relevant authority, shall exercise any power under—

- (a) sections 14 to 18 of the Local Government Act 2000 (discharge of functions); or
- (b) section 101(5) of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities),

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

(8B) An area committee of a relevant authority shall not exercise any power under arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.]

(9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.

(10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—

- (a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;
- (b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;

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- (c) requiring the question whether a person is or is not a member of apolitical group to be determined in such manner as may be provided for by or under the regulations;
- (d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;
- (e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(11) In this section—

“appropriate year”, in relation to a post held by any person under a relevant authority, means—

- (a) where the authority is one in relation to which provision for whole council elections has been made by virtue of section 7(4)(a) or 26(2)(a) of the <sup>M42</sup>Local Government Act 1972, the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and
- (b) in any other case, the period of twelve months beginning with the third anniversary of that person’s appointment to that post;

[<sup>F42</sup>“area committee” has the same meaning as in section 18 of the Local Government Act 2000;]

“membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority;

“relevant authority”—

- (a) in relation to England and Wales, means the council of any county, [<sup>F43</sup>county borough] district or London borough; and
- (b) in relation to Scotland, means a [<sup>F44</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

#### Textual Amendments

- F39** Words in s. 9(8)(b) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(6)(a), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F40** S. 9(8)(c) and the word preceding it inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(a); S.I. 2002/808, arts. 1(2), 23(a)
- F41** S. 9(8A)(8B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(b); S.I. 2002/808, arts. 1(2), 23(b)
- F42** S. 9(11): definition of "area committee" inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(c); S.I. 2002/808, arts. 1(2), 23(c)
- F43** S. 9(11): words in the definition of “relevant authority” para. (a) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch. para. 3(1)
- F44** S. 9(11): words in the definition of “relevant authority” para. (b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(1)(6)(b) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

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

- C24** S. 9 applied in part (8.5.2000) by 1999 c. 29, s. 67(8) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2

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**C25** S. 9 applied in part (with modifications) (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), regs. 1(2), **3(7)(8)**

#### Marginal Citations

**M38** 1972 c. 70.  
**M39** 1973 c. 65.  
**M40** 1972 c. 70.  
**M41** 1973 c. 65.  
**M42** 1972 c. 70.

## 10 Limit on paid leave for local authority duties. **E+W+S**

(1) Notwithstanding anything in [<sup>F45</sup>section 50(4) of the Employment Rights Act 1996] (conditions of time off for public duties), where—

- (a) a local authority permit an employee of theirs to take time off for the purpose of performing the duties of a member of a relevant council; and
- (b) those duties do not include the duties of chairman of the council,

it shall be unlawful for the authority to make any payment of remuneration or other payment to that employee in respect of so much (if any) of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time off to which the employee would not be entitled apart from his membership of that council.

(2) In this section—

“chairman”, in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

“employee” has the same meaning as in the [<sup>F46</sup>the Employment Rights Act 1996];

“financial year” means the twelve months ending with 31st March; and

“relevant council” means the council of any county, [<sup>F47</sup>county borough] district or London borough, the Common Council of the City of London, a parish or community council or any council in Scotland which is a local authority for the purposes of [<sup>F48</sup>subsection (2) of section 50] of that Act (time off for public duties);

and subsection (3) of that section (meaning of duties of a member of a body) shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

- F45** Words in s. 10(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, [Sch. 1 para. 44\(a\)](#) (with ss. 191-195, 202)
- F46** S. 10(2): words in the definition of “employee” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, [Sch. 1 para. 44\(b\)\(i\)](#) (with ss. 191-195, 202)
- F47** S. 10(2): words in the definition of “relevant council” inserted (7.1.1997) by S.I. 1996/3071, [art. 2](#), [Sch. para. 3\(2\)](#)
- F48** S. 10(2): words in the definition of “relevant council” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, [Sch. 1 para. 44\(b\)\(ii\)](#) (with ss. 191-195, 202)

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

- C26** S. 10 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, [art. 2](#), [Sch.](#) entry 11

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- S. 10 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C27** S. 10 applied (E.W.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **15(2)**
- C28** S. 10 applied (E.W.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **15(2)**

## 11 Confidentiality of staff records. **E+W+S**

- (1) Nothing in [<sup>F49</sup>section 17 of the <sup>M43</sup>Local Government Finance Act 1982 or] section 79 of the <sup>M44</sup>Local Government Act 1985 (public inspection of accounts etc.) or in section 101 or 106 of the <sup>M45</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland) shall entitle any person—
- to inspect so much of any document as contains personal information about a member of the relevant body's staff; or
  - to require any such information to be disclosed in answer to any question.
- (2) Information shall be regarded as personal information about a member of the relevant body's staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—
- that that individual holds or has held any office or employment under that body; or
  - that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that body.
- (3) In this section—
- “document” includes accounts, books, deeds, contracts, bills, vouchers and receipts; and
- “relevant body” in relation to accounts which are required to be audited in accordance with [<sup>F50</sup>the Audit Commission Act 1998] or Part VII of the said Act of 1973, means the body whose accounts are required to be audited or, as the case may be, the Common Council of the City of London;
- and references in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.
- (4) This section shall have effect only in relation to—
- the inspection of, or of documents relating to, accounts for periods beginning on or after 1st April 1990; and
  - the disclosure of information in answer to questions about such accounts.

### Textual Amendments

- F49** Words in s. 11(1) repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1)(3), 55(2), Sch. 3 para. 18(1)(a), **Sch. 5**
- F50** S. 11(3): words in definition of “relevant body” substituted (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 18(1)(b)**

### Modifications etc. (not altering text)

- C29** S. 11 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11

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### Marginal Citations

- M43** 1982 c. 32.  
**M44** 1985 c. 51.  
**M45** 1973c. 65.

## 12 Conflict of interest in staff negotiations. **E+W+S**

- (1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include—
- (a) a person who is both a member of the authority and in such employment; or
  - (b) a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.
- (2) In this section—
- [<sup>F51</sup> “member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of its constituent or affiliated trade unions;]
- “official” and “trade union” have the same meanings as in <sup>M46</sup>[<sup>F52</sup>the Trade Union and Labour Relations (Consolidation) Act 1992]
- and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1)(a) of the <sup>M47</sup>Local Government Act 1972 or section 31(1)(a) of the <sup>M48</sup>Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.
- (3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

### Textual Amendments

- F51** Definition of 'member' in s. 12(2) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\), ss. 300\(2\), 302, Sch. 2 para. 39\(2\)](#)
- F52** Words in s. 12(2) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\), ss. 300\(2\), 302, Sch. 2 para. 39\(3\)](#)

### Modifications etc. (not altering text)

- C30** S. 12 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by [S.I. 1995/789, art. 2, Sch. entry 11](#)  
 S. 12 extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\), Sch. 7 para. 13\(8\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))  
 S. 12 applied (with modifications) by [1995 c. x, ss. 1\(3\), 44, Sch. Pt. I](#)
- C31** S. 12 applied (E.W.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\), arts. 1, 17\(7\)\(e\)](#)
- C32** S. 12 applied (E.W.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 17\(7\)](#)

### Marginal Citations

- M46** 1974 c.52.  
**M47** 1972 c. 70.



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**M48** 1973 c. 65.

*Voting rights of members of certain committees*

**13 Voting rights of members of certain committees: England and Wales. E+W+S**

- (1) Subject to the following provisions of this section, a person who—
- (a) is a member of a committee appointed under a power to which this section applies by a relevant authority and is not a member of that authority;
  - (b) is a member of a joint committee appointed under such a power by two or more relevant authorities and is not a member of any of those authorities; or
  - (c) is a member of a sub-committee appointed under such a power by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

- (2) The powers to which this section applies are—
- (a) the powers conferred on any relevant authority by subsection (1) of section 102 of the <sup>M49</sup>Local Government Act 1972 (ordinary committees, joint committees and sub-committees);
  - <sup>F53</sup>(b) .....
  - (c) the powers exercisable by any relevant authority for the purposes of section 2 of the <sup>M50</sup>Local Authority Social Services Act 1970 (social services committees) or by virtue of section 4 of that Act (joint social services committees and sub-committees).

- (3) Nothing in subsection (1) above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (4) below; but, except—
- (a) in the case of a sub-committee appointed by a committee falling within paragraph (e) of that subsection; and
  - (b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

- (4) A committee or sub-committee falls within this subsection if it is—
- <sup>F54</sup>(a) .....
  - (b) a local fisheries committee for any sea fisheries district;
  - (c) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M51</sup>Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);
  - <sup>F55</sup>(d) .....
  - (e) a committee appointed under section 102(4) of the Local Government Act 1972 (appointment of advisory committees by local authorities);

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- (f) a committee constituted in accordance with [<sup>F56</sup>Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)];
  - (g) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;
  - (h) a sub-committee appointed by a committee falling within any of [<sup>F57</sup>paragraphs (b) to (g)] above or such a sub-committee as is so prescribed.
- [<sup>F58</sup>(5) Nothing in this section shall prevent the appointment of a person who is not a member of a local education authority as a voting member of—
- (a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority,
  - (b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities, or
  - (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee’s functions with respect to education,
- where that appointment is required [<sup>F59</sup>either] by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees) [<sup>F60</sup>or pursuant to regulations under subsection (6) of that section].]
- [<sup>F61</sup>(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in his place, as a voting member of a joint committee, or a sub-committee of such a committee, where—
- (a) that local authority have a mayor and council manager executive <sup>F62</sup>; and
  - (b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive.]
- [<sup>F63</sup>(6) The Secretary of State may, if it appears to him appropriate to do so in consequence of the preceding provisions of this section, withdraw any approval given before the coming into force of this section in relation to any arrangements for the purposes of paragraph 1 of Part II of Schedule 1 to the said Act of 1944].
- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (5) above to a voting member, in relation to any [<sup>F64</sup>committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection], is a reference to a person who is entitled to vote at any meeting of that committee or sub-committee on any question which falls to be decided at that meeting.
- (8) In subsection (3) of section 102 of the <sup>M52</sup>Local Government Act 1972, the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities) shall be omitted.
- (9) In this section—

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[<sup>F65</sup>“council manager”, “executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); and]

<sup>F66</sup>

“relevant authority” means a local authority of any of the descriptions specified in [<sup>F67</sup>paragraphs (a) to (f) or (h) to (j)] of section 21(1) below or any parish or community council;

and references in this section to voting include references to making use of a casting vote.

### Textual Amendments

- F53** S. 13(2)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(a), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F54** S. 13(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F55** S. 13(4)(d) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F56** Words in s. 13(4)(f) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(2)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F57** Words in s. 13(4)(h) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F58** S. 13(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(3)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F59** Word in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F60** Words in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F61** S. 13(5A) inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(a); S.I. 2002/803, art. 6(1)(a)
- F62** See regulations 11 and 12 of the [Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2000](#) (S.I. 2000/2851) and the [Local Authorities \(Executive Arrangements\) \(Discharge of Functions\) \(Wales\) Regulations 2001](#) (S.I. 2001/2287 (W.175)).
- F63** S. 13(6) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(c), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F64** Words in s. 13(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(4)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F65** S. 13(9): definition inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(b); S.I. 2002/803, art. 6(1)(b)
- F66** S. 13(9): the definition of “foundation governors” and the “and” immediately following it repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 96(1)(5), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39 paras. 5, 6, 8, 30, 39)
- F67** S. 13(9): words in the definition of “relevant authority” substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

### Modifications etc. (not altering text)

- C33** S. 13 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- S. 13 excluded (8.5.2000) by 1999 c. 29, s. 154(4), **Sch. 10 para. 9(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

*Status: Point in time view as at 22/07/2004.*

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- C34** S. 13 applied (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **17(2)**
- C35** S. 13 applied (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **17(2)**

**Marginal Citations**

- M49** 1972 c. 70.
- M50** 1970 c. 42.
- M51** 1972 c. 11.
- M52** 1972 c. 70.

**14 Voting rights of members of certain committees: Scotland. E+W+S**

- (1) Subject to the following provisions of this section, a person who—
- (a) is a member of a committee appointed under subsection (1) of section 57 of the <sup>M53</sup>Local Government (Scotland) Act 1973 by a relevant authority and is not a member of that authority;
  - (b) is a member of a joint committee appointed under that subsection by two or more relevant authorities and is not a member of any of those authorities; or
  - (c) is a member of a sub-committee appointed under that subsection by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

<sup>F68</sup>(2) .....

<sup>F68</sup>(3) .....

- (4) Nothing in [<sup>F69</sup>subsection (1)] above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (5) below; but, except—

- (a) in the case of a sub-committee appointed by a committee falling within paragraph (b) of that subsection; and
- (b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

- (5) A committee or sub-committee falls within this subsection if it is—
- (a) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M54</sup>Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);
  - (b) a committee appointed under section 57(4) of the <sup>M55</sup>Local Government (Scotland) Act 1973 (appointment of advisory committees by local authorities);
  - (c) a committee constituted in accordance with Schedule A1 to the <sup>M56</sup>Education (Scotland) Act 1980 (appeal committees for hearing placing and other appeals);

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- [<sup>F70</sup>(d) a Children’s Panel Advisory Committee formed under paragraph 3, or a joint advisory committee formed under paragraph 8, of Schedule 1 to the Children (Scotland) Act 1995;]
- (e) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;
- (f) a sub-committee appointed by a committee falling within any of paragraphs (a) to (e) above or such a sub-committee as is so prescribed.
- [<sup>F71</sup>(6) Nothing in this section shall prevent the appointment as a voting member of—
- (a) a committee such as is mentioned in subsection (1) of section 124 of the <sup>M57</sup>Local Government (Scotland) Act 1973 (committees appointed by education authority); or
- (b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or
- (c) any sub-committee of such a committee or joint committee,  
of a person such as is mentioned in subsection (4) of the said section 124.]
- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (6) above to a voting member, in relation to any such committee, joint committee or sub-committee as is mentioned in that subsection, is a reference to a person who is entitled to vote at any meeting of that committee, joint committee or sub-committee on any question which falls to be decided at that meeting.
- (8) In the Local Government (Scotland) Act 1973—
- (a) in section 57(3), the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities);
- [<sup>F72</sup>(aa) section 124(5);]
- (b) in section 161(6), the words from “but at least” onwards (which make corresponding provision in relation to a social work committee);
- (c) in Schedule 10, paragraph 11 (which requires at least half of a joint education committee to be members of the appointing authorities);
- (d) in Schedule 20, paragraph 10 (which requires at least two-thirds of a joint social work committee to be members of the appointing authorities),  
shall be omitted.
- (9) In this section “relevant authority” means a [<sup>F73</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and references in this section to voting include references to making use of a casting vote.

#### Textual Amendments

- F68** S. 14(2)(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(7)(a), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F69** Words in s. 14(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(1)(7)(b) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F70** S. 14(5)(d) substituted (1.4.1997) by 1995 c. 36, s. 105(4), Sch. 4 para. 49(1)(2) (with s. 103(1)); S.I. 1996/3201, art. 3(7)

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- F71** S. 14(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(d)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F72** S. 14(8)(aa) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(e)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F73** Words in s. 14(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(f)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

- M53** 1973 c. 65.  
**M54** 1972 c. 11.  
**M55** 1973 c. 65.  
**M56** 1980 c.44.  
**M57** 1973 c. 65.

*Political balance on committees etc.*

## 15 Duty to allocate seats to political groups. **E+W+S**

- (1) It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time;
  - (b) where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the <sup>M58</sup>Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;
  - (c) where, at the time of the meeting required by paragraph 1 of Schedule 7 to the <sup>M59</sup>Local Government (Scotland) Act 1973 to be held in an election year within twenty-one days of the election, the members of the authority are divided into different political groups, at or as soon as practicable after the meeting;
  - (d) as soon as practicable after any such division as is mentioned in paragraphs (a) to (c) above occurs; and
  - (e) at such other times as may be prescribed by regulations made by the Secretary of State.
- (2) Except in such cases as may be prescribed by regulations made by the Secretary of State, it shall be the duty of every committee of a relevant authority which is a committee having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time; and
  - (b) as soon as practicable after any occasion on which the members of the committee are changed in consequence of a determination under this section.
- (3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or

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committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.

(4) Subject to subsection (6) below, it shall be the duty of a relevant authority or committee of a relevant authority—

- (a) in performing their duty under subsection (3) above; and
- (b) in exercising their power, at times not mentioned in subsection (3) above, to determine the allocation to different political groups of seats on a body to which this section applies,

to make only such determinations as give effect, so far as reasonably practicable, to the principles specified in subsection (5) below.

(5) The principles mentioned in subsection (4) above, in relation to the seats on any body which fall to be filled by appointments made by any relevant authority or committee of a relevant authority, are—

- (a) that not all the seats on the body are allocated to the same political group;
- (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
- (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.

(6) Where any relevant authority or committee of a relevant authority are required, in determining the allocation to different political groups of seats on a body to which this section applies, to give effect to the principles specified in subsection (5) above—

- (a) any seats which, in accordance—
  - (i) with provision made by virtue of subsection (5) of section 13 above;
  - or
  - (ii) with subsection (6) of section 14 above,

are to be or may be filled by the appointment of persons who are not members of the authority shall be taken into account for the purpose of determining how many seats constitute a majority of the seats on a body mentioned in either of those subsections; but

- (b) that authority or committee shall, in making that determination, disregard for all other purposes any seats which, in accordance with any such provision, the said subsection (6) or otherwise, are to be or may be so filled;

and for the purposes of this subsection a seat on an advisory committee of a relevant authority or on a sub-committee appointed by such an advisory committee shall not be treated as one which may be so filled unless the authority have determined that it must be so filled.

(7) Schedule 1 to this Act shall have effect for determining the bodies to which this section applies and for the construction of this section and sections 16 and 17 below.

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

- C36** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C37** Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**
- C38** S. 15 excluded (3.4.1995) by 1994 c. 19, **ss. 30(11), 31(9)** (with ss. 54(7), 55(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 5**
- S. 15 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b), Sch. Pt. 2**
- S. 15 extended (E.W.) (26.11.2000 for E. and 28.7.2001 for W.) by 2000 c. 22 ss. 21(11)(b), 108(4); S.I. 2000/2849, **art. 2(a)**
- S. 15 excluded (E.W.) (19.12.2000 for E. and police authorities in Wales otherwise 28.7.2001) by 2000 c. 22, **ss. 53(10), 108(4); S.I. 2000/3335, art. 2**
- S. 15 applied (E.) (2.4.2001) by S.I. 2001/1299, **reg. 6(10)(b)**
- S. 15 excluded (W.) (28.7.2001) by S.I. 2001/2283, **reg. 12**
- S. 15 applied (W.) (28.7.2001) by S.I. 2001/2284, **reg. 5(1)(b)**
- C39** S. 15(2)(3)(5) modified by S.I. 1990/1553, **reg. 23** (as added by S.I. 1991/1398, **reg. 8**)

#### Marginal Citations

- M58** 1972 c. 70.  
**M59** 1973 c. 65.

## 16 Duty to give effect to allocations. **E+W+S**

- (1) Where any relevant authority or any committee of a relevant authority have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority or committee so to exercise their power to make appointments to that body as to give effect—
- (a) as soon as practicable after the determination; and
  - (b) if a vacancy subsequently occurs on that body, as soon as practicable after the occurrence of the vacancy,
- to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.
- (2) Where—
- (a) any person has been appointed, otherwise than for a fixed term, to a body to which section 15 above applies; and
  - (b) that appointment was made, in pursuance of subsection (1) above, in accordance with the wishes of a political group,
- then, so long as that person's seat continues to be allocated to that group, the authority or committee which made the appointment shall act in accordance with the wishes of that group in determining whether and when to terminate the appointment.
- (3) The proceedings of a body to which section 15 above applies shall not be invalidated by any defect by virtue of this section or that section in the appointment of any person to that body.
- (4) This section applies in relation to an allocation of seats to different political groups whether or not that allocation is made in pursuance of any duty under section 15 above.



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

- C40** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C41** Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**
- C42** S. 16 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

**17 Exceptions to and extensions of political balance requirements. E+W+S**

- (1) Subject to subsection (2) below, sections 15 and 16 above shall not apply in relation to appointments by a relevant authority or committee of a relevant authority to any body in so far as different provision is made by arrangements approved by the authority or committee—
- (a) in such manner as may be prescribed by regulations made by the Secretary of State; and
- (b) without any member of the authority or committee voting against them.
- (2) Arrangements approved under subsection (1) above in relation to any body shall not affect any duty imposed by virtue of section 15(1)(c), (d) or (e) or (2) above on a relevant authority or committee to review the representation of different political groups on that body; and, accordingly, such arrangements shall cease to have effect when any such duty arises.
- (3) The Secretary of State may, for the purpose of securing what appears to him to be the appropriate representation of different political groups on any sub-committee falling within subsection (4) below, by regulations make such provision as he thinks fit.
- (4) The sub-committees that fall within this subsection are those to which appointments may be made by bodies to which section 15 above applies but which are not themselves such bodies.
- (5) Without prejudice to the generality of subsection (3) above, regulations under that subsection may contain provision applying, with or without modifications, any provision made by or under section 15 or 16 above, subsections (1) and (2) above or Schedule 1 to this Act.

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

- C43** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C44** S. 17 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

*Allowances*

**18 Schemes for basic, attendance and special responsibility allowances for local authority members. E+W+S**

- (1) [<sup>F74</sup>Subject to subsection (1A),] the Secretary of State may by regulations authorise or require any such relevant authority as may be specified or described in the regulations to make a scheme providing for the payment of—
- (a) a basic allowance for every member of the authority who is a councillor;

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- (b) an attendance allowance in relation to the carrying out by any such member of such duties as may be specified in or determined under the regulations; and
  - (c) a special responsibility allowance for any such member who has such special responsibilities in relation to the authority as may be so specified or determined.
- [<sup>F75</sup>(1A) In relation to a district council, county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b).]
- (2) Regulations under this section may also authorise or require a scheme made by a relevant authority under the regulations to include provision for the payment to appointed members of allowances in respect of such losses of earnings and expenses as—
- (a) are necessarily sustained or incurred in the carrying out, in connection with their membership of the authority or any committee or sub-committee of the authority, of duties specified in or determined under the regulations; and
  - (b) are not of a description in respect of which provision is made for an allowance under any of sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973.
- [<sup>F76</sup>(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members.]
- (3) Without prejudice to the generality of the powers conferred by subsections (1) [<sup>F77</sup>to (2A)] above, regulations under this section may contain such provision as the Secretary of State considers appropriate for requiring a scheme made by a relevant authority under the regulations—
- (a) to make it a condition of any payment by way of allowance that, in the financial year to which the payment would relate, the aggregate amount which the authority has paid out or is already liable to pay out under the scheme does not exceed such maximum amount as may be specified in or determined under the regulations;
  - (b) to make provision for different maximum amounts to be applicable, for the purposes of any such condition, in relation to different allowances or in relation to different members or members of different groups;
  - (c) to make provision in relation to claims which cannot be paid by virtue of any such condition and provision for the payment to members of the authority who are councillors of an amount by way of supplement to the basic allowance where, in any financial year, the aggregate paid out or owing under the scheme is less than an amount specified in or determined under the regulations;
  - (d) to provide that the amount authorised by virtue of subsection (2) above to be paid by way of allowance in any case shall not exceed such amount as may be so specified or determined;
  - (e) to contain such provision as may be so specified or determined with respect to the general administration of the scheme, with respect to the manner in which, time within which and forms on which claims for any allowance are to be made and with respect to the information to be provided in support of any such claim;

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- (f) to contain such provision as may be so specified or determined for avoiding the duplication of payments or of allowances, for determining the bodies by which payments of allowances are to be made and for the apportionment of payments between different bodies.
- [<sup>F78</sup>(3A) Regulations under this section may make provision for or in connection with—
- (a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,
  - (b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.
- <sup>F78</sup>(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.
- <sup>F78</sup>(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.
- <sup>F78</sup>(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of county councils and county borough councils in Wales.
- <sup>F78</sup>(3E) Regulations under subsection (3B) above may include provision—
- (a) with respect to the number of persons who may or must be appointed to the panel of a council,
  - (b) with respect to the persons who may or must be appointed to the panel of a council,
  - (c) for or in connection with the appointment by councils of joint panels.
- <sup>F78</sup>(3F) Regulations under subsection (3C) may include provision—
- (a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,
  - (b) with respect to the persons who may or must be appointed to such a panel.
- <sup>F78</sup>(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—
- (a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,
  - (b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,
  - (c) which permits different recommendations to be made in relation to different councils or descriptions of council.]
- (4) Regulations under this section may—

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- (a) prohibit the payment, otherwise than in accordance with sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973 or in such other cases as may be specified in the regulations, of any allowance to a member of a relevant authority who is a councillor or to any appointed member of a relevant authority;
  - (b) impose requirements on a relevant authority with respect to the publication, in the minutes of that authority or otherwise, of the details of amounts paid in pursuance of a scheme made under the regulations;
  - [<sup>F79</sup>(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and]
  - (c) contain such incidental provision and such supplemental, consequential and transitional provision in connection with the other provisions of the regulations as the Secretary of State considers appropriate.
- (5) In this section “relevant authority” means—
- (a) a local authority of any of the descriptions specified in any of the paragraphs of section 21(1) below, other than [<sup>F80</sup>paragraphs (d), (g) and (j)], or in section 21(2) below;
  - (b) any body on which a body which is a relevant authority by virtue of paragraph (a) above is represented and which is designated as a relevant authority for the purposes of this section by regulations made by the Secretary of State; or
  - (c) any appeal committee so designated which is constituted in accordance with [<sup>F81</sup>paragraph 2 or 3 of Schedule 33 to the Education Act 1996];
- and references in this section to an appointed member, in relation to a relevant authority, are references to any person who is a member of the authority without being a councillor or who is a member of one or more of the authority’s committees or sub-committees without being a member of the authority.
- [<sup>F82</sup>(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough council shall have regard to any guidance for the time being issued by the Secretary of State.]
- (6) In this section any reference to a councillor includes a reference to a member of the authority concerned who, in accordance with regulations under this section, is to be treated as if he were a councillor.

#### Textual Amendments

- F74** Words in s. 18(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 99(3)(4), 108(4)
- F75** S. 18(1A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 99(3)(4), 108(4)
- F76** S. 18(2A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(5), 108(4); S.I. 2001/415, art. 2(b)
- F77** S. 18(3): words “to 2A” substituted for “and (2)” (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(6), 108(4); S.I. 2001/415, art. 2(b)
- F78** S. 18(3A)-(3G) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(7), 108(4); S.I. 2001/415, art. 2(b)
- F79** S. 18: subsection (4)(ba) substituted for the word “and” in subsection (4)(b) (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(8), 108(4); S.I. 2001/415, art. 2(b)
- F80** Words in s. 18(5)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, Sch. 4 Pt. I para. 37; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, Sch. (subject to art. 5)

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- F81** Words in s. 18(5)(c) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 97** (with ss. 1(4), 561, 562, **Sch. 39** paras. 30, 39)
- F82** S. 18(5A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(9)**, 108(4); S.I. 2001/415, **art. 2(b)**

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

- C45** S. 18 applied (with modifications) (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, **art. 2**, **Sch.** entry 11
- S. 18 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(1)** (with ss. 7(6), 115, 117, **Sch. 8** para. 7)
- S. 18 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(2)** (with ss. 7(6), 115, 117, **Sch. 8** para. 7)
- C46** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
- C47** S. 18(1)(b) applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**
- C48** S. 18(2)(b) restricted (E.) (1.5.2003) by The Local Authorities (Members Allowances) (England) Regulations 2003 (S.I. 2003/1021), regs. 1(1), **34(1)(c)** (with reg. 34(2))
- C49** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
- C50** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
- C51** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**

*Members' interests*

**19 Members' interests. E+W+S**

- [<sup>F83</sup>(1) The Secretary of State may by regulations require each member of a local authority—
- (a) to give a general notice to the proper officer of the authority setting out such information about the member's direct and indirect pecuniary interests as may be prescribed by the regulations, or stating that he has no such interests; and
  - (b) from time to time to give to that officer such further notices as may be so prescribed for the purpose of enabling that officer to keep the information provided under the regulations up to date.
- (2) Any member of a local authority who—
- (a) without reasonable excuse fails to comply with the requirements of any regulations under this section; or
  - (b) in giving a notice in compliance with any such requirement, provides information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) Proceedings for an offence under subsection (2) above shall not be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.
- (4) Neither section 96 of the <sup>M60</sup>Local Government Act 1972 (general notice of pecuniary interests) nor section 40 of the <sup>M61</sup>Local Government (Scotland) Act 1973

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- (corresponding provision for Scotland) shall apply in relation to any notice given in pursuance of any regulations under this section; but such regulations may provide—
- (a) that the giving of a notice in pursuance of any such regulations shall be deemed to be sufficient disclosure for the purposes of section 94 of the said Act of 1972 (disability of members of authorities for voting on account of interest in contracts etc.) or for the purposes of section 38 of the said Act of 1973; and
  - (b) that the proper officer of a local authority is to maintain such records of the information contained in notices given to him as may be prescribed by the regulations and is to keep those records open to inspection by members of the public.
- (5) A local authority shall not be entitled (whether by means of making it a condition of any appointment or by any other means whatever) to impose any obligations on their members to disclose any interests other than those that they are required to disclose by virtue of section 94 of the Local Government Act 1972, section 38 of the Local Government (Scotland) Act 1973 or any regulations under this section.
- (6) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) References in this section to the indirect pecuniary interests of a member of a local authority shall include references to any such interests as, by virtue of any connection between that member or his spouse and any other person, would fall to be disclosed—
- (a) in the case of a local authority in England and Wales, under section 94 of the Local Government Act 1972; or
  - (b) in the case of a local authority in Scotland, under section 38 of the Local Government (Scotland) Act 1973,
- if the authority were proposing to enter into a contract with that other person.]

#### Textual Amendments

- F83** S. 19 repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

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

- C52** S. 19 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch.](#) entry 11  
 S. 19 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), [Sch. 7 para. 10\(2\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))  
 S. 19 applied (with modifications) (8.5.2000) by [1999 c. 29](#), s. 154(4), [Sch. 10 para. 13\(12\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), art. 2(2)(b), [Sch. Pt. 2](#)  
 S. 19 excluded (E.) (27.11.2001, *temp.* until 27.11.2002) by [S.I. 2001/3577](#), [art. 3\(1\)\(b\)](#)  
 S. 19 excluded (E.) (27.11.2001, *temp.* until 27.7.2002) by [S.I. 2001/3376](#), [art. 3\(1\)\(c\)](#)
- C53** S. 19 applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, [14\(2\)\(c\)](#)
- C54** S. 19 applied (*temp.*) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [14\(2\)\(c\)](#)

#### Commencement Information

- I1** S.19 wholly in force: s. 19 not in force at Royal Assent, see s. 195(2); s. 19 in force for certain purposes at 16.1.1990 by [S.I. 1989/2445](#), [art. 4](#) and in force at 8.5.1992 so far as not already in force by [S.I. 1992/760](#), [art. 2](#)

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#### Marginal Citations

**M60** 1972 c. 70.

**M61** 1973 c.65.

### *Duty to adopt certain procedural standing orders*

## **20 Duty to adopt certain procedural standing orders. E+W+S**

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
  - (a) to incorporate such provision as may be prescribed by the regulations in standing orders for regulating their proceedings and business; and
  - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may require such standing orders as are mentioned in that subsection to contain provision which, notwithstanding any enactment or the decision of any relevant authority or committee or sub-committee of a relevant authority, authorises persons who are members of such an authority, committee or sub-committee—
  - (a) to requisition meetings of the authority or of any of their committees or sub-committees;
  - (b) to require a decision of a committee or sub-committee of the authority to be referred to and reviewed by the authority themselves or by a committee of the authority;
  - (c) to require that a vote with respect to a matter falling to be decided by the authority or by any of their committees or sub-committees is to be taken in a particular manner.
- (3) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (4) In this section “relevant authority”—
  - (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (j) of section 21(1) below or any parish or community council; and
  - (b) in relation to Scotland, means a local authority.

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

**C55** S. 20 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11  
S. 20 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 12(3) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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### *Interpretation of Part I*

## 21 Interpretation of Part I. **E+W+S**

(1) Any reference in this Part to a local authority is, in relation to England and Wales, a reference to a body of one of the following descriptions—

- (a) a county council;
- <sup>F84</sup>(aa) a county borough council;
- (b) a district council;
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;
- (e) the Council of the Isles of Scilly;
- (f) a fire authority constituted by a combination scheme under the <sup>M62</sup>Fire Services Act 1947;
- <sup>F85</sup>(g) a police authority established under [<sup>F86</sup>section 3 of the Police Act 1996][<sup>F87</sup>or the Metropolitan Police Authority];
- (h) an authority established under section 10 of the <sup>M63</sup>Local Government Act 1985 (waste disposal authorities);
- (i) a joint authority established by Part IV of that Act ([<sup>F88</sup>police,] fire services, civil defence and transport) [<sup>F89</sup>or the London Fire and Emergency Planning Authority];
- (j) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);
- (k) the Broads Authority;
- (l) any joint board the constituent members of which consist of any of the bodies specified above; [<sup>F90</sup> . . .]
- <sup>F91</sup>(m) . . . . . [<sup>F92</sup> and
- <sup>F92</sup>(n) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M64</sup>Town and Country Planning Act 1990.]

(2) Any reference in this Part to a local authority is, in relation to Scotland, a reference to a [<sup>F93</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board within the meaning of section 235(1) of the <sup>M65</sup>Local Government (Scotland) Act 1973.

(3) In this Part—

“contravention” includes a failure to comply;

[<sup>F94</sup>“council manager”, “executive”, “executive arrangements” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000;]

“modifications” includes additions, alterations and omissions;

“proper officer”—

- (G) in relation to a local authority in England and Wales, has the same meaning as in the Local Government Act 1972; and
- (G) in relation to a local authority in Scotland, has the same meaning as in the Local Government (Scotland) Act 1973; and



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“subordinate legislation” has the same meaning as in the <sup>M66</sup>Interpretation Act 1978.

- (4) References in this Part to an officer of a local authority or to a paid office under a local authority do not include references to, or to the office of, the chairman or vice-chairman of the authority (whether referred to as such, as mayor, Lord Mayor, deputy mayor, as Lord Provost or otherwise [<sup>F95</sup> or a member of any executive of the authority (other than a council manager)]).

#### Textual Amendments

- F84** S. 21(1)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(3)**
- F85** S. 21(1)(g) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 38**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F86** Words in s. 21(1)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**
- F87** Words in s. 21(1)(g) substituted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. II para. 50; S.I. 2002/344, art. 3 (with transitional provisions in art. 4)
- F88** Word in s. 21(1)(i) repealed (1.4.1995 (E.W.) otherwise (*prosp.*)) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F89** Words in s. 21(1)(i) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 55** (with Sch. 12 para. 9(1)); S.I. 2000/1094, art. 4(a)(h)
- F90** Word in s. 21(1)(l) omitted (23.11.1995) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F91** S. 21(1)(m) repealed (1.4.1997) by 1995 c. 25, s. 120(1), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F92** S. 21(1)(n) and the preceding “and” added (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F93** Words in s. 21(2) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(8)**; S.I. 1996/323, art. 4(1)(c)
- F94** S. 21(3): definition inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(a); S.I. 2002/808, arts. 1(2), **24(a)**
- F95** Words in s. 21(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(b); S.I. 2002/808, arts. 1(2), **24(b)**

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

- C56** S. 21 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. entry 11**

#### Marginal Citations

- M62** 1947c. 41.  
**M63** 1985 c. 51.  
**M64** 1990 c. 8.  
**M65** 1973 c. 65.  
**M66** 1978 c. 30.

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## PART II **E+W+S**

### LOCAL GOVERNMENT ADMINISTRATION

#### 22 **Advisory Commissioners.** **E+W+S**

- (1) Section 23 of the <sup>M67</sup>Local Government Act 1974 (constitution and functions of Commissions for Local Administration) shall have effect with the amendments specified in subsections (2) to (4) below.
- (2) In subsection (1), at the end, there shall be added the words “ but each of the Commissions may include persons appointed to act as advisers, not exceeding the number appointed to conduct investigations.” ”
- (3) In subsection (3), after the words “Parliamentary Commissioner” there shall be inserted the words “ or an advisory member” ”.
- (4) In subsections (4), (5) and (6) the word “Local” shall be omitted.
- (5) In Schedule 4 to the said Act, in paragraph 3 (remuneration), at the end there shall be inserted the following sub-paragraph—

“(3) Sub-paragraphs (1) and (2) above apply in relation to Commissioners who are advisory members of the Commission as they apply in relation to Local Commissioners.”

#### Marginal Citations

M67 1974 c. 7.

#### 23 **Advice and guidance by Commissions for Local Administration and Scottish Commissioner.** **E+W+S**

- (1) In section 23 of the Local Government Act 1974 (appointment and functions of Commissions for Local Administration) there shall be inserted, after subsection (12), the following subsections—
  - “(12A) Each of the Commissions may, after consultation with the representative persons and authorities concerned, provide to the authorities or any of the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to the Commission to be appropriate and may arrange for it to be published for the information of the public.
  - (12B) The representative persons and authorities concerned are—
    - (a) for the purposes of subsection (12) above, such persons appearing to the Commission to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies, and in the case of such authorities as are not so represented, those authorities; and
    - (b) for the purposes of subsection (12A) above, such of those persons and authorities as the Commission think appropriate.”

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[<sup>F96</sup>(2) In section 21 of the <sup>M68</sup>Local Government (Scotland) Act 1975 (appointment and functions of Commissioner for Local Administration in Scotland) there shall be inserted, after subsection (4), the following subsection—

“(4A) The Commissioner may, after consultation with such associations of local authorities as appear to him to be appropriate, provide to the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to him to be appropriate and may arrange for it to be published for the information of the public.”]

#### Textual Amendments

**F96** S. 23(2) repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 13\(a\)](#); S.S.I. 2002/467, [art. 2](#)

#### Marginal Citations

**M68** 1975 c. 30.

## 24 Expenses of Commissions for Local Administration. **E+W+S**

(1) The following provisions shall be substituted for paragraphs 6 to 11 of Schedule 4 to the Local Government Act 1974—

### Expenses of the Commissions

- “6
- (1) Each of the Commissions shall be treated as if they were a specified body for the purposes of sections 78 and 79 (revenue support grant) of the Local Government Finance Act 1988 (“the 1988 Act”), and those sections shall accordingly have effect with the following modifications.
  - (2) Before making a determination under section 78 of the 1988 Act, the Secretary of State shall, except in the case mentioned in paragraph 8 below, take into account estimates of the expenses of each Commission together with any observations thereon made and submitted to him in accordance with paragraph 7 below.
  - (3) The Secretary of State may also take into account any other information available to him as to the expenses of the Commissions, whatever its source.
  - (4) A determination under section 78 of the 1988 Act shall not be invalid merely because the requirements of paragraph 7 below were not complied with.
  - (5) For the purposes of section 78(7) of the 1988 Act, each Commission shall be treated as if they were also a notifiable authority.
- “7
- (1) Each Commission shall prepare an estimate of the expenses which they will incur in the forthcoming financial year with a view to submitting it to the Secretary of State.
  - (2) Each Commission shall send copies of the estimate to such representatives of local government as the Secretary of State directs for consideration by those representatives.

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(3) Any observations by those representatives shall be submitted to the Commission within one month of the receipt of the Commission's estimate, and it shall be the duty of the Commission to take any such observations into consideration before submitting their estimate of their expenses to the Secretary of State.

(4) Each Commission shall, not later than such date in any year as the Secretary of State specifies in writing to the Commission, submit their estimate of their expenses for the forthcoming financial year to the Secretary of State together with copies of all observations made under this paragraph by the representatives of local government or, if none were made, together with a statement of that fact.

“8 Where a Commission fail to submit an estimate of their expenses for the forthcoming financial year under paragraph 7 above, the Secretary of State may, for the purposes of a determination under section 78 of the 1988 Act, assume those expenses to be such as he sees fit.”

(2) Anything done before the passing of this Act which corresponds to a thing authorised or required to be done by any provision of the paragraphs 6(2) and (3), 7 and 8 substituted by subsection (1) above and done for the purposes of sections 78 and 79 of the <sup>M69</sup>Local Government Finance Act 1988 shall be treated as validly done under that provision and those sections shall have effect accordingly.

(3) The foregoing provisions shall have effect for the financial years beginning on or after 1st April 1990.

#### Marginal Citations

M69 1988 c. 41.

## 25 Annual reports of Commissions: new provisions. **E+W+S**

(1) The representative body for England and the representative body for Wales designated under section 24 of the <sup>M70</sup>Local Government Act 1974 are hereby dissolved and accordingly that section shall cease to have effect.

(2) After section 23 of that Act there shall be inserted the following section—

### “23A Annual reports for representatives etc.

(1) For the financial year ending in 1990 and for each subsequent financial year, each of the Commissions shall prepare a general report on the discharge of their functions and shall submit it—

- (a) to such persons as appear to the Commission to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies, and
- (b) in the case of such authorities as are not so represented, to those authorities.

(2) The report shall be submitted as soon as may be after the Commission have received the reports for the year from Local Commissioners under

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 19 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)*

section 23(11) above, and each Commission shall submit copies of those reports, together with their own report.

- (3) Each Commission shall arrange for the publication of the report submitted by them under subsection (1) above and of the reports of which copies are submitted by them under subsection (2) above.
- (4) Before arranging for the publication of a report under subsection (3) above the Commission concerned shall give a reasonable opportunity for the representative persons and authorities to whom the report was submitted to comment on it.
- (5) Without prejudice to the generality of subsection (4) above, comments made by the representative persons and authorities by virtue of that subsection may relate to particular classes of authorities to which this Part of this Act applies.
- (6) Where the Commission for Local Administration in Wales consist of only one Local Commissioner, section 23(11) above and subsection (2) above shall have effect with the necessary modifications.”

#### Marginal Citations

M70 1974 c. 7.

## 26 Implementation of recommendations of Commissioners for Local Administration in England and Wales. **E+W+S**

- (1) In section 31 of the Local Government Act 1974 (action to be taken in relation to adverse reports), the following subsections shall be substituted for subsections (1) to (2A)—

“(1) This section applies where a Local Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.

- (2) The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Local Commissioner may agree in writing, to notify the Local Commissioner of the action which the authority have taken or propose to take.

(2A) If the Local Commissioner—

- (a) does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or
- (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
- (c) does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,

he shall make a further report setting out those facts and making recommendations.

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*Status: Point in time view as at 22/07/2004.*

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- (2B) Those recommendations are such recommendations as the Local Commissioner thinks fit to make with respect to action which, in his opinion, the authority concerned should take to remedy the injustice to the person aggrieved and to prevent similar injustice being caused in the future.
- (2C) Section 30 above, with any necessary modifications, and subsection (2) above shall apply to a report under subsection (2A) above as they apply to a report under that section.
- (2D) If the Local Commissioner—
- (a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that subsection has expired that the authority concerned have decided to take no action, or
  - (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
  - (c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,
- he may, by notice to the authority, require them to arrange for a statement to be published in accordance with subsections (2E) and (2F) below.
- (2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Local Commissioner may agree, consisting of—
- (a) details of any action recommended by the Local Commissioner in his further report which the authority have not taken;
  - (b) such supporting material as the Local Commissioner may require; and
  - (c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.
- (2F) The requirements for the publication of the statement are that—
- (a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Local Commissioner or, in default of agreement, nominated by him; and
  - (b) publication in the first such edition shall be arranged for the earliest practicable date.
- (2G) If the authority concerned—
- (a) fail to arrange for the publication of the statement in accordance with subsections (2E) and (2F) above, or
  - (b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Local Commissioner may agree in writing, to agree with the Local Commissioner the form of the statement to be published,

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the Local Commissioner shall arrange for such a statement as is mentioned in subsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

(2H) The authority concerned shall reimburse the Commission on demand any reasonable expenses incurred by the Local Commissioner in performing his duty under subsection (2G) above."

(2) This section shall not have effect in relation to a report made before the coming into force of this section.

[<sup>F97</sup>27 **Implementation of recommendations of Commissioner for Local Administration in Scotland.** **E+W+S**

(1) In section 29 of the <sup>M71</sup>Local Government (Scotland) Act 1975 (action to be taken in relation to adverse reports), the following subsections shall be substituted for subsections (1) to (2A)—

“(1) This section applies where the Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.

[ The report shall be laid before the authority concerned and it shall be the duty <sup>F98</sup>(2) of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Commissioner may agree in writing, to notify the Commissioner of the action which the authority have taken or propose to take.]]

(2A) If the Commissioner—

- (a) does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or
- (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
- (c) does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,

he shall make a further report setting out those facts and making recommendations.

(2B) Those recommendations are such recommendations as the Commissioner thinks fit to make with respect to the action which, in his opinion, the authority concerned should take to remedy the injustice to the person aggrieved and to prevent similar injustice being caused in the future.

(2C) Section 28 of this Act, with any necessary modifications, and subsection (2) above shall apply to a report under subsection (2A) above as they apply to a report under that section.

(2D) If the Commissioner—

- (a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 19 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)*

subsection has expired that the authority concerned have decided to take no action; or

- (b) is not satisfied with the action which the authority concerned have taken or propose to take; or
- (c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,

he may, by notice to the authority, require them to arrange for a statement to be published in accordance with subsections (2E) and (2F) below.

- (2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Commissioner may agree, consisting of—
  - (a) details of any action recommended by the Commissioner in his further report which the authority have not taken;
  - (b) such supporting material as the Commissioner may require; and
  - (c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.

- (2F) The requirements for the publication of the statement are that—
  - (a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Commissioner or, in default of agreement, nominated by him; and
  - (b) publication in the first such edition shall be arranged for the earliest practicable date.

- (2G) If the authority concerned—
  - (a) fail to arrange for the publication of the statement in accordance with subsections (2E) and (2F) above, or
  - (b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Commissioner may agree in writing, to agree with the Commissioner the form of the statement to be published,

the Commissioner shall arrange for such a statement as is mentioned in subsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

- (2H) The authority concerned shall reimburse the Commissioner on demand any reasonable expenses incurred by the Commissioner in performing his duty under subsection (2G) above."

- (2) In section 32 of the <sup>M72</sup>Local Government (Scotland) Act 1975 (interpretation of provisions about investigations by the Commissioner) the following subsection shall be inserted after subsection (2)—

"(2A) Except in the case of a joint board or joint committee, references in this Part of this Act to the authority concerned are, in relation to action taken by or on behalf of an authority to whom this Part of this Act applies (whether by virtue of subsection (1) or (2) of section 23 of this Act), references to that authority."



*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 19 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) This section shall not have effect in relation to a report made before the coming into force of this section.

#### Textual Amendments

**F97** S. 27 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 13\(b\)](#); [S.S.I. 2002/467](#), [art. 2](#)

**F98** S. 27(2) repealed (S.) (21.5.1997) by [1997 c. 35](#), ss. 10, 11(2), [Sch.](#)

#### Marginal Citations

**M71** 1975 c. 30.

**M72** 1975 c. 30.

## 28 Consideration of adverse reports: England and Wales. **E+W+S**

- (1) The following section shall be inserted after section 31 of the <sup>M73</sup>Local Government Act 1974—

### “31A Consideration of adverse reports.

- (1) Subject to subsection (3) below, any power of an authority to have their functions discharged by any person or body of persons acting for the authority shall, as respects the consideration of a further report of the Local Commissioner under section 31(2A) above, be subject to the restriction that, if it is proposed that the authority should take no action on, or not the action recommended in, the report, consideration of the report shall be referred to the authority.
- (2) Consideration of a further report of the Local Commissioner under section 31(2A) above by any such committee of a local authority as is referred to in an enactment specified in section 101(9) of the Local Government Act 1972 or by any appeal committee constituted in accordance with paragraph 1 of Schedule 2 to the Education Act 1980 shall be subject to a corresponding restriction.
- (3) The restriction imposed by subsections (1) and (2) above does not apply where the report recommends action to be taken by—
  - (a) a joint committee established under the said section 101, or
  - (b) any committee referred to in an enactment specified in paragraph (c), (d) or (h) of the said section 101(9).
- (4) If an authority considering a further report of the Local Commissioner under section 31(2A) above take into consideration a report by a person or body with an interest in the Local Commissioner’s report, they shall not conclude their consideration of the Local Commissioner’s report without also having taken into consideration a report by a person or body with no interest in the Local Commissioner’s report.
- (5) No member of an authority to which this Part of this Act applies or of a committee mentioned in subsection (2) or (3) above shall vote on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by a Local Commissioner.

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 19 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)*

(6) Section 25(4) and (5) above do not apply to this section.”

(2) This section shall not have effect in relation to a report made before the coming into force of section 26 above.

#### Marginal Citations

M73 1974c. 7.

### [<sup>F99</sup>29 Consideration of adverse reports: Scotland. **E+W+S**

(1) The following section shall be inserted after section 29 of the <sup>M74</sup>Local Government (Scotland) Act 1975—

#### “ Consideration of adverse reports.

- (1) Subject to subsection (3) below, any power of an authority to have their functions discharged by any person or body of persons acting for the authority shall, as respects the consideration of a further report of the Commissioner under section 29(2A) of this Act, be subject to the restriction that, if it is proposed to take no action on, or not the action recommended in, there port, consideration of the report shall be referred to the authority.
- (2) Consideration of a further report of the Commissioner under section 29(2A) of this Act by—
  - (a) any such committee as is mentioned in section 23(2) of this Act; or
  - (b) an education committee appointed under section 124 of the Act of 1973;
 shall be subject to a corresponding restriction.
- (3) The restriction imposed by subsections (1) and (2) above does not apply where the report recommends action to be taken by a joint committee—
  - (a) established under section 56 of the Act of 1973 or under paragraph 7 of Schedule 10 or paragraph 6 of Schedule 20 to that Act (local authority, education and social work joint committees); or
  - (b) referred to in paragraph (a), (b), or (e) of section 23(2) of this Act (fire, police and local government and teachers’ superannuation joint committees).
- (4) If an authority considering a further report of the Commissioner under section 29(2A) of this Act take into consideration a report by a person or body with an interest in the Commissioner’s report, they shall not conclude their consideration of the Commissioner’s report without also having taken into consideration a report by a person or body with no interest in the Commissioner’s report.
- (5) No member of an authority to which this Part of this Act applies or of a committee mentioned in subsection (2) or (3) above shall vote on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by the Commissioner.”

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 19 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) This section shall not have effect in relation to a report made before the coming into force of section 27 above.]

#### Textual Amendments

**F99** S. 29 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 13\(c\)](#); S.S.I. 2002/467, [art. 2](#)

#### Marginal Citations

**M74** 1975c. 30.

### 30 Declaration of acceptance of office of councillor etc. **E+W+S**

- (1) Before section 34 of the <sup>M75</sup>Local Government (Scotland) Act 1973 there shall be inserted the following section—

*“ Acceptance of Office*

#### **33A Declaration of acceptance of office of councillor.**

- (1) A person elected to office as a councillor of a local authority shall not, unless—
- (a) he has made a declaration of acceptance of office in a form prescribed by an order made by the Secretary of State; and
  - (b) the declaration has within two months from the day of the election been delivered to the proper officer of the local authority,
- act in the office except for the purpose of taking such a declaration.
- (2) If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected shall at the expiration of that time become vacant.
- (3) The declaration shall be made before either—
- (a) two members of the local authority to which the declarant is elected; or
  - (b) the proper officer of the local authority; or
  - (c) the sheriff; or
  - (d) a justice of the peace.
- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.”
- (2) In section 83 of the <sup>M76</sup>Local Government Act 1972 (declaration of acceptance of office) in subsection (1) and subsection (4), for the words “rules under section 42 above” there shall be substituted the words “an order made by the Secretary of State”.

#### Marginal Citations

**M75** 1973 c. 65.

**M76** 1972 c. 70.

*Status: Point in time view as at 22/07/2004.*

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### 31 National Code of Local Government Conduct. **E+W+S**

- [<sup>F100</sup>(1) The Secretary of State, for the guidance of members of local authorities, may issue a code of recommended practice as regards the conduct of members of such authorities to be known as the National Code of Local Government Conduct.
- (2) The Secretary of State may revise or withdraw a code issued under this section.
- (3) The Secretary of State, before issuing, revising or withdrawing a code, shall consult—
- (a) as respects England and Wales, such representatives of local government, and
  - (b) as respects Scotland, such associations of local authorities,
- as appear to him to be appropriate.
- (4) A code shall not be issued unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (5) Where the Secretary of State proposes to revise a code, he shall lay a draft of the proposed alterations before each House of Parliament and—
- (a) he shall not make the revision until after the expiration of the period of 40 days beginning with the day on which the draft is laid (or, if copies are laid before each House of Parliament on different days, with the later of those days); and
  - (b) if within that period either House resolves that the alterations be withdrawn, he shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).
- (6) In reckoning any period of 40 days for the purposes of subsection (5) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- [<sup>F101</sup>(6A) Subsections (4) to (6) above do not apply to a code which applies only to Scotland and such a code shall not be issued unless a draft of it has been laid before and approved by a resolution of the Scottish Parliament.
- <sup>F101</sup>(6B) Where the Scottish Ministers propose to revise such a code as is mentioned in subsection (6A), they shall lay a draft of the proposed alterations before the Scottish Parliament and—
- (a) they shall not make the revision until after the expiration of the period of 40 days beginning with the day on which the draft is laid; and
  - (b) if within that period the Parliament resolves that the alterations be withdrawn, they shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).
- <sup>F101</sup>(6C) In reckoning any period of 40 days for the purposes of subsection (6B) above no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.]
- (7) The form of declaration of acceptance of office under section 83 of the <sup>M77</sup>Local Government Act 1972 or section 33A of the <sup>M78</sup>Local Government (Scotland) Act 1973 may include an undertaking by the declarant to be guided by the National Code of Local Government Conduct in the performance of his functions.
- (8) In this section—
- “local authority” means—
- (a) as respects England and Wales, a county council [<sup>F102</sup>a county borough council,], a district council, a London borough council, a parish council,

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a community council, the Common Council of the City of London or the Council of the Isles of Scilly;

- (b) as respects Scotland, a [<sup>F103</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board or joint committee within the meaning of section 235(1) of the Local Government (Scotland) Act 1973; and

“member”, in relation to a local authority, includes any person who, whether or not a member of the authority, is a member of a committee or sub-committee of the authority or of any joint committee of theirs.]

#### Textual Amendments

- F100** S. 31 repealed (S.) (1.5.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), [ss. 60\(1\)\(g\)](#), [62\(2\)](#); [S.S.I. 2003/134](#), [art. 2\(2\)](#)
- F101** S. 31(6A)-(6C) inserted (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\)](#), [4](#), [Sch. para. 97](#) (with [art. 5](#)); [S.I. 1998/3178](#), [art. 3](#)
- F102** S. 31(8): words in para. (a) of the definition of “local authority” inserted (7.1.1997) by [S.I. 1996/3071](#), [art. 2](#), [Sch. para. 3\(4\)](#)
- F103** S. 31(8): words in para. (b) of the definition of “local authority” substituted (S.) (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)](#), [Sch. 13 para. 161\(1\)\(9\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#)

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

- C57** S. 31 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 11](#)  
S. 31 applied (temp.) (4.5.1995 to 31.3.1996) by [S.I. 1995/1042](#), [art. 4\(1\)](#)  
S. 31 extended (E.W.) (19.9.1995) by [1995 c. 25](#), [ss. 63\(5\)](#), [125\(2\)](#), [Sch. 7 para. 9](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#))  
S. 31 excluded (E.) (temp.) (27.11.2001 to 27.7.2002) by [S.I. 2001/3576](#), [art. 3\(1\)\(c\)](#)
- C58** S. 31 applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), [arts. 1](#), [14\(2\)\(a\)](#)
- C59** S. 31 applied (temp.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), [arts. 1](#), [14\(2\)\(a\)](#)

#### Marginal Citations

- M77** [1972 c. 70](#).  
**M78** [1973 c. 65](#).

## 32 Anonymity in reports on investigations. **E+W+S**

(1) In section 30 of the <sup>M79</sup> Local Government Act 1974 (reports on investigations by Local Commissioners)—

- (a) in subsection (3) (report only to identify a person if the Local Commissioner thinks it necessary), after the words “shall not” there shall be inserted the words “, except where subsection (3A) below applies,”; and
- (b) the following subsection shall be inserted after subsection (3)—

“(3A) Where the Local Commissioner is of the opinion—

- (a) that action constituting maladministration was taken which involved a member of the authority concerned, and
- (b) that the member’s conduct constituted a breach of the National Code of Local Government Conduct,

*Status: Point in time view as at 22/07/2004.*

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then, unless the Local Commissioner is satisfied that it would be unjust to do so, the report shall name the member and give particulars of the breach.”

F104(2) .....

**Textual Amendments**

**F104** S. 32(2) repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

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**Marginal Citations**

**M79** 1974 c. 7.

**PART III E+W+S**

ECONOMIC DEVELOPMENT AND DISCRETIONARY EXPENDITURE BY LOCAL AUTHORITIES

F105**33** ..... **E+W**

**Textual Amendments**

**F105** S. 33 repealed (28.7.2001) by [2000 c. 22](#), ss. 107, 108(4), [Sch. 5 para. 27](#), [Sch. 6](#)

F106**34** ..... **E+W**

**Textual Amendments**

**F106** S. 34 repealed (18.10.2000 for E. and 9.4.2001 for W.) by [2000 c. 22](#), s. 107, [Sch. 5 para. 27](#), [Sch. 6](#); S.I. 2000/2836, [art. 2\(b\)\(iv\)](#); S.I. 2001/1471, [art. 2](#)

F107**35** ..... **E+W**

**Textual Amendments**

**F107** S. 35 repealed (18.10.2000 for E. and 9.4.2001) by [2000 c. 22](#), s. 107, [Sch. 6](#); S.I. 2000/2836, [art. 2\(b\)\(iv\)](#); S.I. 2001/1471, [art. 2](#)

**36 Amendments of existing power to incur discretionary expenditure. E+W+S**

(1) Section 137 of the <sup>M80</sup>Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised) shall be amended in accordance with subsections (2) to (8) below and, accordingly, after the coming into force of this section, shall have effect as set out in Schedule 2 to this Act.

*Status: Point in time view as at 22/07/2004.*

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- (2) In subsection (1), after the words “in the interests of” there shall be inserted “ and will bring direct benefit to ”; after the words “incur any expenditure” there shall be inserted “ (a) ” and at the end there shall be added the words “nor
- (b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred”.
- (3) After subsection (1) there shall be inserted the following subsection—
- “(1A) In any case where—
- (a) by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and
- (b) the power or duty of the authority to incur expenditure for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),
- the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitation or condition.”
- (4) Subsections (2A) and (2B) (which relate to the giving of financial assistance to persons carrying on commercial or industrial undertakings) shall cease to have effect and, in subsection (2C), paragraph (a) (which relates to publicity on the promotion of the economic development of the authority’s area) shall also cease to have effect.
- (5) In subsection (3) (contributions permitted to charitable and public service funds etc.),
- 
- (a) for the words “as aforesaid” there shall be substituted “ to the following provisions of this section ”;
- (b) in paragraph (b) after the words “public service” there shall be inserted “ (whether to the public at large or to any section of it) ”; and
- (c) at the end of paragraph (c) there shall be added “ or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973 ”.
- (6) In subsection (4) (expenditure not to exceed the product of a 2p rate) for the words following “not exceed” there shall be substituted “the amount produced by multiplying
- 
- (a) such sum as is for the time being appropriate to the authority under subsection (4AA) below, by
- (b) the relevant population of the authority’s area”; and subsection (8) (which relates to the computation of a 2p rate) shall cease to have effect.
- (7) After subsection (4) there shall be inserted the following subsections—
- “(4AA) For the purposes of subsection (4)(a) above, except in so far as the Secretary of State by order specifies a different sum in relation to an authority of a particular description,—
- (a) the sum appropriate to a county council or the council of a non-metropolitan district is £2.50;
- (b) the sum appropriate to a metropolitan district council, a London borough council or the Common Council is £5.00; and
- (c) the sum appropriate to a parish or community council is £3.50.

*Status: Point in time view as at 22/07/2004.*

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- (4AB) For the purposes of subsection (4)(b) above the relevant population of a local authority’s area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (8) In subsection (4B) (amounts deductible in determining expenditure under the section) for paragraph (a) there shall be substituted the following paragraph—
- “(a) the amount of any expenditure which forms part of the authority’s gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure)”.
- (9) In section 83(3) of the <sup>M81</sup>Local Government (Scotland) Act 1973 (contributions permitted to charitable and public service funds etc.), at the end of paragraph (c) there shall be added “ or by such a person or body as is referred to in section 137(3)(c) of the Local Government Act 1972 ”.

#### Marginal Citations

**M80** 1972 c. 70.

**M81** 1973 c. 65.

### 37 Conditions of provision of financial assistance. E+W

After section 137 of the <sup>M82</sup>Local Government Act 1972 there shall be inserted the following section—

#### “137A Financial assistance to be conditional on provision of information.

- (1) If in any financial year a local authority provides financial assistance—
- (a) to a voluntary organisation, as defined in subsection (2D) of section 137 above, or
- (b) to a body or fund falling within subsection (3) of that section,
- and the total amount so provided to that organisation, body or fund in that year equals or exceeds the relevant minimum, then, as a condition of the assistance, the authority shall require the organisation, body or fund, within the period of twelve months beginning on the date when the assistance is provided, to furnish to the authority a statement in writing of the use to which that amount has been put.
- (2) In this section “financial assistance” means assistance by way of grant or loan or by entering into a guarantee to secure any money borrowed and, in relation to any financial assistance,—
- (a) any reference to the amount of the assistance is a reference to the amount of money granted or lent by the local authority or borrowed in reliance on the local authority’s guarantee; and



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- (b) any reference to the date when the assistance is provided is a reference to the date on which the grant or loan is made or, as the case may be, on which the guarantee is entered into.
- (3) The relevant minimum referred to in subsection (1) above is £2,000 or such higher sum as the Secretary of State may by order specify.
- (4) It shall be a sufficient compliance with a requirement imposed by virtue of subsection (1) above that there is furnished to the local authority concerned an annual report or accounts which contain the information required to be in the statement.
- (5) A statement (or any report or accounts) provided to a local authority in pursuance of such a requirement shall be deposited with the proper officer of the authority.
- (6) In this section “local authority” includes the Common Council.”

**Marginal Citations**

**M82** 1972 c. 70.

**38 Information etc. on individuals’ rights. E+W**

- (1) Section 142 of the <sup>M82</sup>Local Government Act 1972 (provision of information, etc.) shall be amended as follows.
- (2) There shall be inserted after subsection (2)—
- “(2A) A local authority may assist voluntary organisations to provide for individuals—
- (a) information and advice concerning those individuals’ rights and obligations; and
- (b) assistance, either by the making or receiving of communications or by providing representation to or before any person or body, in asserting those rights or fulfilling those obligations.”

**Marginal Citations**

**M83** 1972 c. 70.

**F108 PART IV E+W**

REVENUE ACCOUNTS AND CAPITAL FINANCE OF LOCAL AUTHORITIES

**Textual Amendments**

**F108** Pt. IV repealed (18.11.2003 for E. for the repeal of ss. 45, 53, 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E. in so far as not already in force) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), Sch. 7 para. 29; [S.I. 2003/2938](#), arts. 3(h), 7(b) (with art. 8, Sch.); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I (with Sch. 2 para. 2)

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

**C60** Pt. IV savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, **9(7)**

*Introductory*

**F108**<sup>39</sup> **Application of Part IV.** **E+W**

.....

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

**C61** S. 39 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, **3**

**F108**<sup>40</sup> **Capital purposes.** **E+W**

.....

*Charge of expenditure to revenue accounts*

**F108**<sup>41</sup> **Expenditure to be charged to revenue account.** **E+W**

.....

**F108**<sup>42</sup> **Expenditure excluded from section 41(1).** **E+W**

.....

*Borrowing*

**F108**<sup>43</sup> **Borrowing powers.** **E+W**

.....

**F108**<sup>44</sup> **Borrowing limits etc.** **E+W**

.....

**F108**<sup>45</sup> **The authority’s own limits.** **E+W**

.....

**F108**<sup>46</sup> **Register of loan instruments and certain existing loans.** **E+W**

.....

*Status: Point in time view as at 22/07/2004.*

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**F108 47 Security for money borrowed etc. E+W**

.....

*Credit arrangements*

**F108 48 Credit arrangements. E+W**

.....

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

**C62** S. 48(7) savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

**F108 49 Initial and subsequent cost of credit arrangements. E+W**

.....

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

**C63** S. 49 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

**F108 50 Limits on powers to enter into credit arrangements. E+W**

.....

**F108 51 Variation of credit arrangements. E+W**

.....

**F108 52 Transitional credit arrangements. E+W**

.....

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

**C64** S. 52 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

*Credit approvals*

**F108 53 Basic credit approvals. E+W**

.....

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**F108 54** **Supplementary credit approvals.** **E+W**

.....

**F108 55** **Criteria for issuing credit approvals.** **E+W**

.....

**F108 56** **Use of credit approvals by local authorities.** **E+W**

.....

**F108 57** **Effect of certain capital grants on credit approvals.** **E+W**

.....

*Capital receipts*

**F108 58** **Capital receipts.** **E+W**

.....

**F108 59** **The reserved part of capital receipts.** **E+W**

.....

**F108 60** **The usable balance of capital receipts.** **E+W**

.....

**F108 61** **Capital receipts not wholly in money paid to the authority.** **E+W**

.....

*Aggregate credit limit*

**F108 62** **Aggregate credit limit.** **E+W**

.....

*Amounts set aside to meet credit liabilities*

**F108 63** **Duty to set certain amounts aside as provision to meet credit liabilities.** **E+W**

.....

**F108 64** **Use of amounts set aside to meet credit liabilities.** **E+W**

.....

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## Supplementary

### <sup>F108</sup> 65 Information. **E+W**

.....

### <sup>F108</sup> 66 Interpretation of Part IV. **E+W**

.....

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

- C65** S. 66 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

## PART V **E+W**

### COMPANIES IN WHICH LOCAL AUTHORITIES HAVE INTERESTS

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

- C66** Pt. 5 (ss. 67-73): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), [Sch. 4](#) para. (j)(iii); [S.I. 1997/1930, art. 2\(1\)\(2\)\(m\)](#)
- C67** Pt. 5 modified (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 95\(5\)\(6\)](#), [128\(2\)\(d\)](#)

### 67 Application of, and orders under, Part V. **E+W**

- (1) Any reference in this Part to a company is a reference to a body corporate of one of the following descriptions—
- a company limited by shares;
  - a company limited by guarantee and not having a share capital;
  - a company limited by guarantee and having a share capital;
  - an unlimited company; and
  - a society registered or deemed to be registered under the <sup>M84</sup>Industrial and Provident Societies Act 1965 or under the <sup>M85</sup>Industrial and Provident Societies Act (Northern Ireland) 1969.
- (2) Expressions used in paragraphs (a) to (d) of subsection (1) above have the same meaning as in Chapter I of Part I of the <sup>M86</sup>Companies Act 1985 or the corresponding enactment for the time being in force in Northern Ireland.
- (3) Any reference in this Part to a local authority is a reference to a body of one of the following descriptions—
- a county council;
  - <sup>F109</sup>(aa) a county borough council;
  - a district council;
  - <sup>F110</sup>(bb) the Greater London Authority;

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- <sup>F110</sup>(bc) a functional body, within the meaning of the Greater London Authority Act 1999;]
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;
- (e) the Council of the Isles of Scilly;
- (f) a parish council;
- (g) a community council;
- [<sup>F111</sup>(ga) the Greater London Magistrates' Courts Authority;]
- (h) a fire authority constituted by a combination scheme under the <sup>M87</sup>Fire Services Act 1947;
- [<sup>F112</sup>(i) a police authority established under [<sup>F113</sup>section 3 of the Police Act 1996]. . . . ;]
- (j) an authority established under section 10 of the <sup>M88</sup>Local Government Act 1985 (waste disposal authorities);
- (k) a joint authority established by Part IV of that Act (<sup>F114</sup>... fire services, civil defence and transport);
- (l) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);
- (m) the Broads Authority;
- [<sup>F115</sup>(ma) a National Park authority;]
- (n) any joint board the constituent members of which consist of any of the bodies specified above;
- <sup>F116</sup>(o) .....
- [<sup>F117</sup>(oo) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M89</sup>Town and Country Planning Act 1990; and]
- (p) a Passenger Transport Executive.
- (4) Any power to make an order under this Part shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and under any such power different provision maybe made for different cases and different descriptions of cases (including different provision for different areas).
- [<sup>F118</sup>(5) The power under subsection (4) above to make differential provision includes, in particular, power to make different provision for different local authorities or descriptions of local authority.]

#### Textual Amendments

- F109** S. 67(3)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. 3(6)**
- F110** S. 67(3)(bb)(bc) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, s. **393(1)(2)** (with Sch. 12 para. 9(1)); S.I. 2000/3434, **arts. 3, 4**
- F111** S. 67(3)(ga) inserted (1.4.2001) by 1999 c. 22, s. 83(3), Sch. 12 paras. 4, 6 (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (with savings in Sch. 2 para. 2)
- F112** S. 67(3)(i) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 39**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4, Sch.**
- F113** Words in s. 67(3)(i) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**

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- F114** Word in s. 67(3)(k) repealed (E.W.) (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.**
- F115** S. 67(3)(ma) inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 10** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- F116** S. 67(3)(o) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F117** S. 67(3)(oo) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(3)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**
- F118** S. 67(5) inserted (18.11.2003 for E. and 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 2**; S.I. 2003/2938, art. 3(a) (with art. 8, **Sch.**); S.I. 2003/3034, art. 2, **Sch. 1 Pt. I**

#### Commencement Information

- I2** S. 67 wholly in force at 7.10.1993; s. 67 not in force at Royal Assent see s. 195(2); s. 67 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, **art. 4**; s. 67 in force so far as not already in force at 7.10.1993 by S.I. 1993/2140, **art. 3**

#### Marginal Citations

- M84** 1965 c.12.  
**M85** 1969 c.24. (N.I.)  
**M86** 1985 c. 6.  
**M87** 1947c. 41.  
**M88** 1985 c. 51.  
**M89** 1990 c. 8.

## 68 Companies controlled by local authorities and arm's length companies. **E+W**

- (1) For the purposes of this Part, unless the Secretary of State otherwise directs, a company is for the time being under the control of a local authority if—
- by virtue of section 736 of the <sup>M90</sup>Companies Act 1985 the company is at that time a subsidiary of the local authority for the purposes of that Act; or
  - paragraph (a) above does not apply but the local authority have at that time power to control a majority of the votes at a general meeting of the company as mentioned in subsection (3) below; or
  - paragraph (a) above does not apply but the local authority have at that time power to appoint or remove a majority of the board of directors of the company; or
  - the company is under the control of another company which, by virtue of this subsection, is itself under the control of the local authority;
- and, for the purposes of paragraph (d) above, any question whether one company is under the control of another shall be determined by applying the preceding provisions of this subsection, substituting a reference to the other company for any reference to the local authority.
- (2) A direction under subsection (1) above—
- may be limited in time and may be made conditional upon such matters as appear to the Secretary of State to be appropriate; and
  - may be made with respect to a particular company or a description of companies specified in the direction.
- (3) The reference in subsection (1)(b) above to a power to control a majority of votes at a general meeting of the company is a reference to a power which is exercisable—

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- (a) in the case of a company limited by shares, through the holding of equity share capital in any one or more of the following ways, namely, by the local authority, by nominees of the local authority and by persons whose shareholding is under the control of the local authority; or
  - (b) in the case of any company, through the holding of votes at a general meeting of the company in any one or more of the following ways, namely, by the local authority, by a group of members of the company the composition of which is controlled by the local authority and by persons who have contractually bound themselves to vote in accordance with the instructions of the local authority; or
  - (c) partly in one of those ways and partly in the other.
- (4) Subsection (3) of section 736A of the <sup>M91</sup>Companies Act 1985 (right to appoint or remove a majority of a company's board of directors) and the following provisions of that section as they have effect in relation to subsection (3) apply for the purposes of subsection (1)(c) above with the substitution for the word "right", wherever it occurs, of the word "power".
- (5) For the purposes of subsection (3)(a) above, a person's shareholding is under the control of a local authority if—
- (a) his right to hold the shares arose because of some action which the authority took, or refrained from taking, in order to enable him to have the right; and
  - (b) the local authority, alone or jointly with one or more other persons can require him to transfer his shareholding (or any part of it) to another person.
- (6) Notwithstanding that, by virtue of the preceding provisions of this section, a company is for the time being under the control of a local authority, the company is for the purposes of this Part an "arm's length company", in relation to any financial year if, at a time before the beginning of that year, the authority resolved that the company should be an arm's length company and, at all times from the passing of that resolution up to the end of the financial year in question, the following conditions have applied while the company has been under the control of the local authority,—
- (a) that each of the directors of the company was appointed for a fixed term of at least two years;
  - (b) that, subject to subsection (7) below, no director of the company has been removed by resolution under section 303 of the Companies Act 1985;
  - (c) that not more than one-fifth of the directors of the company have been members or officers of the authority;
  - (d) that the company has not occupied (as tenant or otherwise) any land in which the authority have an interest otherwise than for the best consideration reasonably obtainable;
  - (e) that the company has entered into an agreement with the authority that the company will use its best endeavours to produce a specified positive return on its assets;
  - (f) that, except for the purpose of enabling the company to acquire fixed assets or to provide it with working capital, the authority have not lent money to the company or guaranteed any sum borrowed by it or subscribed for any securities in the company;
  - (g) that the authority have not made any grant to the company except in pursuance of an agreement or undertaking entered into before the financial year (within the meaning of the Companies Act 1985) of the company in which the grant was made; and



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- (h) that the authority have not made any grant to the company the amount of which is in any way related to the financial results of the company in any period.
- (7) If the Secretary of State so directs, the removal of a director shall be disregarded for the purposes of subsection (6)(b) above; but the Secretary of State shall not give such a direction if it appears to him that the director was removed with a view to influencing the management of the company for other than commercial reasons.

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

- C68** S. 68 applied (with modifications) (11.3.1996) by [S.I. 1996/330, reg. 9\(1\)](#)
- C69** S. 68(1) applied (29.4.1996) by [1992 c. 19, s. 1A\(5\)](#) (as inserted (29.4.1996) by [1996 c. 10, s. 5\(2\)](#)) (which amendment fell (11.9.1998) by reason of the repeal of [1996 c. 10, s. 5\(2\)](#) by [1998 c. 18, ss. 54\(3\), 55\(2\), Sch. 5](#))
- S. 68(1) applied (11.9.1998) by [1998 c. 18, ss. 45\(5\), 55\(2\)](#)
- C70** S. 68(1) applied (with modifications) (14.3.1995) by [S.I. 1995/402, reg. 3\(2\)](#)

#### **Commencement Information**

- I3** S. 68 wholly in force at 7.10.1993; s. 68 not in force at Royal Assent see s. 195(2); s. 68 in force for certain purposes at 16.1.1990 by [S.I. 1989/2445, art. 4](#); s. 68 in force so far as not already in force at 7.10.1993 by [S.I. 1993/2410, art. 3](#)

#### **Marginal Citations**

- M90** [1985 c. 6.](#)
- M91** [1985 c. 6.](#)

## **69 Companies subject to local authority influence. E+W**

- (1) For the purposes of this Part, unless the Secretary of State otherwise directs, a company which is not at the time under the control of a local authority is for the time being subject to the influence of a local authority if it is not a banking or insurance company or a member of a banking or insurance group and at that time there is such a business relationship between the company and the authority as is referred to in subsection (3) below and either—
- (a) at least 20 per cent. of the total voting rights of all the members having the right to vote at a general meeting of the company are held by persons who are associated with the authority as mentioned in subsection (5) below; or
  - (b) at least 20 per cent. of the directors of the company are persons who are so associated; or
  - (c) at least 20 per cent. of the total voting rights at a meeting of the directors of the company are held by persons who are so associated.
- (2) A direction under subsection (1) above—
- (a) may be limited in time and may be made conditional upon such matters as appear to the Secretary of State to be appropriate; and
  - (b) may be made with respect to a particular company or a description of companies specified in the direction.
- (3) For the purposes of this section there is a business relationship between a company and a local authority at any time if the condition in any one or more of the following paragraphs is fulfilled—

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- (a) within a period of twelve months which includes that time the aggregate of the payments to the company by the authority or by another company which is under the control of the authority represents more than one-half of the company's turnover, as shown in its profit and loss account for the most recent financial year for which the company's auditors have made a report on the accounts or, if there is no such account, as estimated by the authority for the period of twelve months preceding the date of the estimate or for such part of that period as follows the formation of the company;
  - (b) more than one-half of the company's turnover referred to in paragraph (a) above is derived from the exploitation of assets of any description in which the local authority or a company under the control of the authority has an interest (disregarding an interest in land which is in reversion on a lease granted for more than 7 years);
  - (c) the aggregate of—
    - (i) grants made either by the authority and being expenditure for capital purposes or by a company under the control of the authority, and
    - (ii) the nominal value of shares or stock in the company which is owned by the authority or by a company under the control of the authority, exceeds one-half of the net assets of the company;
  - (d) the aggregate of—
    - (i) grants falling within paragraph (c)(i) above,
    - (ii) loans or other advances made or guaranteed by the authority or by a company under the control of the authority, and
    - (iii) the nominal value referred to in paragraph (c)(ii) above, exceeds one-half of the fixed and current assets of the company;
  - (e) the company at that time occupies land by virtue of an interest which it obtained from the local authority or a company under the control of the authority and which it so obtained at less than the best consideration reasonably obtainable; and
  - (f) the company intends at that time to enter into (or complete) a transaction and, when that is done, there will then be a business relationship between the company and the authority by virtue of any of paragraphs (a) to (e) above.
- (4) In subsection (3) above—
- (a) the reference in paragraph (c) to the net assets of the company shall be construed in accordance with section 152(2) of the <sup>M92</sup>Companies Act 1985; and
  - (b) the reference in paragraph (d) to the fixed and current assets of the company shall be construed in accordance with paragraph 77 of Schedule 4 to that Act; and in either case, the reference is a reference to those assets as shown in the most recent balance sheet of the company on which, at the time in question, the auditors have made a report or, if there is no such balance sheet, as estimated by the local authority for the time in question.
- (5) For the purposes of this section, a person is at any time associated with a local authority if—
- (a) he is at that time a member of the authority;
  - (b) he is at that time an officer of the authority;

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- (c) he is at that time both an employee and either a director, manager, secretary or other similar officer of a company which is under the control of the authority;  
or
  - (d) at any time within the preceding four years he has been associated with the authority by virtue of paragraph (a) above.
- (6) If and to the extent that the Secretary of State by order so provides, a person is at any time associated with a local authority if—
- (a) at that time he is, or is employed by or by a subsidiary of, a person who for the time being has a contractual relationship with the authority to provide—
    - (i) advice with regard to the authority's interest in any company (whether existing or proposed to be formed), or
    - (ii) advice with regard to the management of an undertaking or the development of land by a company (whether existing or proposed to be formed) with which it is proposed that the authority should enter into any lease, licence or other contract or to which it is proposed that the authority should make any grant or loan, or
    - (iii) services which facilitate the exercise of the authority's rights in any company (whether by acting as the authority's representative at a meeting of the company or as a director appointed by the authority or otherwise);
  - (b) at any time within the preceding four years, he has been associated with the authority by virtue of paragraph (b) or paragraph (c) of subsection (5) above;
  - (c) he is at that time the spouse of, or carries on business in partnership with, a person who is associated with the authority by virtue of subsection (5)(a) above; or
  - (d) he holds a relevant office in a political association or other body which, in the nomination paper of a person who is an elected member of the authority, formed part of that person's description.
- (7) For the purposes of subsection (6)(d) above, an office in a political association or body is relevant to a local authority in the following circumstances—
- (a) if the association or body is active only in the area of the local authority, any office in it is relevant; and
  - (b) in any other case, an office is relevant only if it is in a branch or other part of the association or body which is active in the area of the local authority.
- (8) In relation to a company which is an industrial and provident society, any reference in this section to the directors of the company is a reference to the members of the committee of management.
- (9) Subject to subsections (4) and (8) and section 67 above, expressions used in this section have the same meaning as in the <sup>M93</sup>Companies Act 1985.

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

C71 S. 69 applied (with modifications) (11.3.1996) by S.I. 1996/330, reg. 9(2)

**Commencement Information**

I4 S. 69 wholly in force at 7.10.1993; s. 69 not in force at Royal Assent see s. 195(2); s. 69 in force for certain purposes at 16.1.1990 by S.I.1989/2445, art. 4; s. 69 in force so far as not already in force at 7.10.1993 by S.I. 1993/2410, art. 3

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#### Marginal Citations

M92 1985 c.6.

M93 1985 c. 6.

## 70 Requirements for companies under control or subject to influence of local authorities. **E+W**

- (1) In relation to companies under the control of local authorities and companies subject to the influence of local authorities, the Secretary of State may by order make provision regulating, forbidding or requiring the taking of certain actions or courses of action; and an order under this subsection may—
  - (a) make provision in relation to those companies which are arm's length companies different from that applicable to companies which are not; and
  - (b) make provision in relation to companies under the control of local authorities different from that applicable in relation to companies under the influence of local authorities.
- (2) It shall be the duty of every local authority to ensure, so far as practicable, that any company under its control complies with [<sup>F119</sup>any provisions made by order under subsection (1) above which are for the time being applicable to it]; and if a local authority fails to perform that duty in relation to any company, any payment made by the authority to that company and any other expenditure incurred by the authority in contravention of any such provisions shall be deemed for the purposes of [<sup>F120</sup>the Audit Commission Act 1998] to be expenditure which is unlawful.
- (3) In order to secure compliance, in relation to companies subject to the influence of [<sup>F121</sup>a local authority], with provisions made by virtue of subsection (1) above, an order under that subsection may prescribe requirements to be complied with by [<sup>F122</sup>the] local authority in relation to conditions to be included in such leases, licences, contracts, gifts, grants or loans as may be so prescribed which are made with or to a company subject to the influence of the local authority.
- (4) It shall be the duty of a local authority to comply with any requirements for the time being applicable to it under subsection (3) above; and if a local authority fails to perform that duty, any expenditure which is incurred by the local authority under the lease, licence, contract, gift, grant or loan in question shall be deemed for the purposes of [<sup>F123</sup>the Audit Commission Act 1998] to be expenditure which is unlawful.
- (5) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection may make provision requiring a company or local authority to obtain the consent of the Secretary of State, or of the Audit Commission for Local Authorities in England and Wales, before taking any particular action or course of action.
- [<sup>F124</sup>(6) An order under subsection (1) may be made in relation to—
  - (a) all local authorities,
  - (b) particular local authorities, or
  - (c) particular descriptions of local authority.]

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### Textual Amendments

- F119** Words in s. 70(2) substituted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 30\(2\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F120** Words in s. 70(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), [Sch. 3 para. 18\(3\)\(a\)](#)
- F121** Words in s. 70(3) substituted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 30\(3\)\(a\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F122** Word in s. 70(3) substituted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 30\(3\)\(b\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F123** Words in s. 70(4) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), [Sch. para. 18\(3\)\(b\)](#)
- F124** S. 70(6) inserted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 3 para. 3](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

### Commencement Information

- I5** S. 70 wholly in force at 7.10.1993; s. 70 not in force at Royal Assent see s. 195(2); s. 70 in force for certain purposes at 16.1.1990 by [S.I.1989/2445, art. 4](#); s. 70 in force so far as not already in force at 7.10.1993 by [S.I.1993/2410, art. 3](#)

## 71 Control of minority interests etc. in certain companies. **E+W**

- (1) In relation to a local authority, subsection (2) below applies to any company other than—
- a company which is or, if the action referred to in that subsection is taken, will be under the control of the local authority; and
  - a company of a description specified for the purposes of this section by an order made by the Secretary of State;
- and in this section an “authorised company” means a company falling within paragraph (b) above.
- (2) Except with the approval of the Secretary of State, in relation to a company to which this subsection applies, a local authority may not—
- subscribe for, or acquire, whether in their own name or in the name of a nominee, any shares or share warrants in the company;
  - become or remain a member of the company if it is limited by guarantee;
  - exercise any power, however arising, to nominate any person to become a member of the company;
  - exercise any power to appoint directors of the company;
  - permit any officer of the authority, in the course of his employment, to make any such nomination or appointment as is referred to in paragraph (c) or paragraph (d) above; or
  - permit an officer of the authority, in the course of his employment, to become or remain a member or director of the company.
- (3) Any approval of the Secretary of State under subsection (2) above may be general or relate to any specific matter or company.
- (4) A local authority may not take any action, or refrain from exercising any right, which would have the result that a person who is disqualified from membership of the

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authority (otherwise than by being employed by that or any other local authority or by a company which is under the control of a local authority) becomes a member or director of an authorised company or is authorised, in accordance with section 375 of the <sup>M94</sup>Companies Act 1985, to act as the authority's representative at a general meeting of an authorised company (or at meetings of an authorised company which include a general meeting).

(5) In any case where,—

- (a) in accordance with section 375 of the Companies Act 1985, a local authority have authorised a member or officer of the authority to act as mentioned in subsection (4) above, or
- (b) a member or officer of a local authority has become a member or director of an authorised company as mentioned in subsection (7) below,

the authority shall make arrangements (whether by standing orders or otherwise) for enabling members of the authority, in the course of proceedings of the authority (or of any committee or sub-committee thereof), [<sup>F125</sup>or, where a local authority is operating executive arrangements under Part II of the Local Government Act 2000, for enabling members of the executive, in the course of proceedings of the executive (or of any committee of the executive),] to put to the member or officer concerned questions about the activities of the company.

(6) Nothing in subsection (5) above shall require the member or officer referred to in that subsection to disclose any information about the company which has been communicated to him in confidence.

(7) Any member or officer of a local authority who has become a member or director of an authorised company by virtue of—

- (a) a nomination made by the authority, or
- (b) election at a meeting of the company at which voting rights were exercisable (whether or not exercised) by the authority or by a person bound to vote in accordance with the instructions of the authority, or
- (c) an appointment made by the directors of another company, the majority of whom became directors of that company by virtue of a nomination made by the authority or election at a meeting of the company at which voting rights were exercisable as mentioned in paragraph (b) above,

shall make a declaration to the authority, in such form as they may require, of any remuneration or re-imbusement of expenses which he receives from the company as a member or director or in respect of anything done on behalf of the company.

(8) Subject to section 67 above, expressions used in this section have the same meaning as in the Companies Act 1985.

#### **Textual Amendments**

**F125** Words in s. 71(5) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by [S.I. 2001/2237](#), arts. 1(2), 26(1); [S.I. 2002/808](#), arts. 1(2), **25(1)**

#### **Commencement Information**

**I6** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 195(2); s. 71 in force for specified purposes at 16.1.1990 by [S.I. 1989/2445](#), art. 4; s. 71(1)(5) in force for specified purposes and s. 71(4)(6)(8) fully in force at 1.4.1995 by [S.I. 1995/841](#), art. 2 (with transitional provisions in art. 3)

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#### Marginal Citations

M94 1985 c. 6.

### 72 Trusts influenced by local authorities. **E+W**

- (1) The Secretary of State may by order made by statutory instrument adapt the provisions of section 69 above so as to make them applicable to trusts which are not charitable; and, subject to subsection (2) below, this Part shall apply in relation to trusts which are subject to local authority influence by virtue of that section as so adapted as it applies in relation to companies which are subject to local authority influence.
- (2) In the exercise of the power conferred by section 70 above, as applied in relation to trusts by subsection (1) above, the Secretary of State may make different provision for trusts as compared with companies.

#### Commencement Information

**I7** S. 72 wholly in force at 7.10.1993; s. 72 not in force at Royal Assent see s. 195(2); s. 72 in force for certain purposes at 16.1.1990 by [S.I. 1989/2445](#), [art. 4](#); s. 72 in force so far as not already in force at 7.10.1993 by [S.I. 1993/2410](#), [art. 3](#)

### 73 Authorities acting jointly and by committees. **E+W**

- (1) In any case where—
  - (a) apart from this section a company would not be under the control of anyone local authority, but
  - (b) if the actions, powers and interests of two or more local authorities were treated as those of one authority alone, the company would be under the control of that one authority,the company shall be treated for the purposes of this Part as under the control of each of the two or more local authorities mentioned in paragraph (b) above.
- (2) In any case where, apart from this section, a company would not be treated as being subject to the influence of any one local authority, it shall be treated as being subject to the influence of each of a number of local authorities (in this section referred to as a “group”) if the conditions in subsection (3) below are fulfilled with respect to the company and the group of authorities.
- (3) The conditions referred to in subsection (2) above are—
  - (a) that at least one of the conditions in paragraphs (a) to (e) of subsection (3) of section 69 above would be fulfilled—
    - (i) if any reference therein to the company being under the control of a local authority were a reference to its being under the control of any one of the authorities in the group or of any two or more of them taken together; and
    - (ii) if any other reference therein to the local authority were a reference to any two or more of the authorities in the group taken together; and
  - (b) that at least one of the conditions in paragraphs (a) to (c) of subsection (1) of section 69 above would be fulfilled if any reference therein to the local authority were a reference to those local authorities who are taken into account

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- under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) above taken together; and
- (c) that if the condition (or one of the conditions) which would be fulfilled as mentioned in paragraph (b) above is that in subsection (1)(a) of section 69 above, then, so far as concerns each local authority in the group, at least one person who, in terms of subsection (5) of that section, is associated with that authority has the right to vote at a general meeting of the company; and
- (d) that, if paragraph (c) above does not apply, then, so far as concerns each local authority in the group, a person who, in terms of section 69(5) above, is associated with the authority is a director of the company.
- (4) For the purposes of this Part, anything done, and any power exercisable, by a committee or sub-committee of a local authority, or by any of the authority's officers [<sup>F126</sup>or, where a local authority is operating executive arrangements under Part II of the Local Government Act 2000, by the authority's executive, any committee of the executive, or any member of the executive], shall be treated as done or, as the case may be, exercisable by the authority.
- (5) For the purposes of this Part, anything done, and any power exercisable, by a joint committee of two or more local authorities or by a sub-committee of such a joint committee shall be treated as done or, as the case may be, exercisable by each of the local authorities concerned.

#### Textual Amendments

**F126** Words in s. 73(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by [S.I. 2001/2237](#), arts. 1(2), 26(2); [S.I. 2002/808](#), arts. 1(2), **25(2)**

## PART VI **E+W**

### HOUSING FINANCE

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

**C72** Pt. 6 (ss. 74-86) applied (1.4.1997) by [1992 c. 5, s. 140G](#) (as inserted (1.4.1997) by [1996 c. 52, s. 121, Sch. 12 paras. 4](#); [S.I. 1997/618](#), art. 2 (subject to transitional provisions in [Sch.](#)))

### *Housing accounts*

#### 74 **Duty to keep Housing Revenue Account. **E+W****

- (1) A local housing authority shall keep, in accordance with proper practices, an account, called the "Housing Revenue Account", of sums falling to be credited or debited in respect of—
- (a) houses and other buildings which have been provided under Part II of the <sup>M95</sup>Housing Act 1985 (provision of housing);
- (b) land which has been acquired or appropriated for the purposes of that Part;
- (c) houses purchased under section 192 of that Act (purchase of house found on appeal against repair notice to be unfit and beyond repair at reasonable cost);



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- (d) dwellings in respect of which a local authority have received assistance under section 1 or section 4(2A) of the <sup>M96</sup>Housing (RuralWorkers) Act 1926;
  - (e) any property which—
    - (i) with the consent of the Secretary of State given under section 417(1) of the Housing Act 1985,
    - (ii) with the consent of a Minister given under section 50(1)(e) of the <sup>M97</sup>Housing (Financial Provisions) Act 1958, or
    - (iii) by virtue of section 50(2) of that Act (houses vesting in local authority on default of another person),was brought within the corresponding account kept under Part XIII of the Housing Act 1985 for years beginning before 1st April 1990; and
  - (f) such land, houses or other buildings not within the preceding paragraphs as the Secretary of State may direct.
- (2) References in subsection (1) above and the other provisions of this Part to provisions of the Housing Act 1985 include, where the context so admits, references to the corresponding provisions of earlier enactments; and the reference in paragraph (b) of that subsection to land acquired for the purposes of Part II of that Act includes—
- (a) land which a local authority were deemed to have acquired under Part V of the <sup>M98</sup>Housing Act 1957 by virtue of section 57(6) of that Act (land acquired for re-development in pursuance of re-development plan) before the repeal of that section on 25th August 1969; and
  - (b) any structures on such land which were made available to a local authority under section 1 of the <sup>M99</sup>Housing (Temporary Accommodation) Act 1944 (prefabs).
- (3) Paragraphs (a) to (e) of subsection (1) above shall not apply to—
- (a) land, houses or other buildings disposed of by the authority;
  - (b) land acquired by the authority for the purpose of disposing of houses provided, or to be provided, on the land, or of disposing of the land to a person who intends to provide housing accommodation on it [<sup>F127</sup>or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided];
  - (c) houses provided by the authority on land so acquired; or
  - (d) such land, houses or other buildings as the Secretary of State may direct;
- and paragraph (a) of that subsection shall not apply to houses and other buildings provided on or before 6th February 1919.
- (4) A local housing authority not possessing property to which subsection (1) above applies shall nevertheless keep a Housing Revenue Account unless the Secretary of State consents to their not doing so and they comply with such conditions (if any) as may be specified in the consent.
- (5) In this Part—
- (a) references to the houses or other property of an authority within the authority's Housing Revenue Account are references to the houses, dwellings or other property to which subsection (1) above for the time being applies; and
  - (b) references (however expressed) to a disposal are references to a conveyance of the freehold, or a grant or assignment of a lease (other than a shared ownership lease) which is a long tenancy within the meaning given by section 115 of the <sup>M100</sup>Housing Act 1985.

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- (6) Sections 417 to 420 of, and Schedule 14 to, the Housing Act 1985 (which are superseded by this section, sections 75 to 78 below and Schedule 4 to this Act) shall cease to have effect.

#### Textual Amendments

**F127** Words in s. 74(3)(b) inserted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 para. 24(2)**

#### Marginal Citations

**M95** 1985 c. 68.  
**M96** 1926 c. 56.  
**M97** 1958 c. 42.  
**M98** 1957 c. 56.  
**M99** 1944 c. 36.  
**M100** 1985 c. 68.

### 75 The keeping of the Housing Revenue Account. **E+W**

Schedule 4 to this Act shall have effect with respect to the keeping of a local housing authority's Housing Revenue Account, as follows—

- Part I - Credits to the account.
- Part II - Debits to the account.
- Part III - Special cases.
- Part IV - Supplementary provisions.

### 76 Duty to prevent debit balance on Housing Revenue Account. **E+W**

- (1) This section applies where for any year (“the relevant year”) a local housing authority who are required to keep a Housing Revenue Account possess any houses or other property within the account.
- (2) The authority shall, during the months of January and February immediately preceding the relevant year, formulate proposals which satisfy the requirements of subsection (3) below and relate to—
  - (a) the income of the authority for the year from rents and other charges in respect of houses and other property within their Housing Revenue Account;
  - (b) the expenditure of the authority for the year in respect of the repair, maintenance, supervision and management of such property; and
  - (c) such other matters connected with the exercise of the authority's functions in relation to such property as the Secretary of State may direct.
- (3) Proposals formulated by the authority under subsection (2) above satisfy the requirements of this subsection at any time if, on the assumption that the following will prove correct, namely—
  - (a) the best assumptions that they are able to make at that time as to all matters which may affect the amounts falling to be credited or debited to their Housing Revenue Account for the relevant year; and
  - (b) the best estimates that they are able to make at that time of the amounts which, on those assumptions, will fall to be so credited or debited,

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implementation of the proposals will secure that the account for that year does not show a debit balance.

- (4) No assumptions shall be made under subsection (3) above as to the exercise by the Secretary of State of any power except on the basis of information published by him or on his behalf or supplied by him to the authority.
- (5) Subject to subsections (6) and (7) below, the authority shall implement the proposals formulated by them under subsection (2) above.
- (6) The authority shall from time to time determine whether the proposals formulated under subsection (2) above satisfy the requirements of subsection (3) above; and—
  - (a) terminate that question in the affirmative, they may make such revisions of the proposals as they think fit, so long as the proposals (as so revised) continue to satisfy those requirements;
  - (b) if they determine that question in the negative, they shall make such revisions of the proposals as are reasonably practicable towards securing that the proposals (as so revised) satisfy those requirements.
- (7) Where the proposals formulated under subsection (2) above are revised under subsection (6) above, subsections (3) to (6) above shall apply in relation to the proposals as so revised as they applied in relation to the proposals as originally formulated.
- (8) The authority shall, within one month of formulating their proposals under subsection (2) above, or of revising those proposals under subsection (6) above, prepare a statement setting out—
  - (a) those proposals as so formulated or so revised;
  - (b) the estimates made by them under subsection (3)(b) above on the basis of which those proposals were so formulated or so revised; and
  - (c) such other particulars relating to those proposals and estimates as the Secretary of State may direct;and a direction under paragraph (c) above may specify the manner in which the particulars are to be set out in the statement.
- (9) The authority shall, until the end of the year next following the relevant year, keep copies of the statement which is for the time being the latest statement prepared by them under subsection (8) above available for inspection by the public without charge at all reasonable hours at one or more of their offices; and any person shall be entitled to take copies of, or extracts from, that statement when so made available.

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

C73 S. 76 modified (28.11.1994) by S.I. 1994/2825, reg. 39

**77 Power to keep Housing Repairs Account. E+W**

- (1) A local housing authority who are required to keep a Housing Revenue Account may also keep, in accordance with proper practices, an account called the “Housing Repairs Account”.
- (2) An authority who keep a Housing Repairs Account shall carry to the credit of the account for any year—

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- (a) sums transferred for the year from their Housing Revenue Account; and
  - (b) sums receivable by the authority for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account (either from their tenants or from the sale of scrapped or salvaged materials).
- (3) The authority shall carry to the debit of the account for any year—
- (a) all expenditure incurred by them for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account;
  - (b) such expenditure incurred by them for the year in connection with the improvement or replacement of houses or other property within their Housing Revenue Account as may from time to time be determined by the Secretary of State; and
  - (c) sums transferred for the year to the Housing Revenue Account in accordance with subsection (5) below.
- (4) The authority shall secure that sufficient credits are carried to the account to secure that no debit balance is shown in the account for any year.
- (5) The authority may carry some or all of any credit balance in the account for any year to the credit of their Housing Revenue Account.
- (6) So much of any credit balance shown in an authority's Housing Repairs Account at the end of the year beginning 1st April 1989 as is not carried to the credit of their Housing Revenue Account for that year shall be carried forward and credited to some other revenue account of theirs for the year beginning 1st April 1990.

## **78 Directions to secure proper accounting. E+W**

The Secretary of State may give directions as to the accounting practices (whether actual or prospective) which are to be followed by a local housing authority in the keeping of their Housing Revenue Account or Housing Repairs Account.

### **[<sup>F128</sup>78A Directions as to treatment of service charges, &c. E+W**

- (1) The Secretary of State may give directions as to what items or amounts are to be regarded as referable to property within a local housing authority's Housing Revenue Account where one or more parts of a building have been disposed of but the common parts remain property within that account.
- (2) Any such direction also has effect for the purposes of any Housing Repairs Account kept by the authority.
- (3) Directions under this section may give the authority a discretion as to whether items or amounts are accounted for in the Housing Revenue Account or any Housing Repairs Account or in another revenue account.
- (4) In this section “common parts” includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more parts of the building.]

*Status: Point in time view as at 22/07/2004.*

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#### Textual Amendments

**F128** S. 78A inserted (1.10.1996 with effect as mentioned in [Sch. 18 para. 4\(2\)](#) of the amending Act) by 1996 c. 52, s. 222, [Sch. 18 para. 4\(1\)](#); S.I. 1996/2402, [art. 3](#) (subject to transitional provisions in [Sch.](#))

#### [<sup>F129</sup>78B Directions as to accounting for work subject to competitive tendering. **E+W**

- (1) This section applies where work is carried out by a local housing authority which has successfully bid for the work on a competitive basis.
- (2) The Secretary of State may give directions—
  - (a) to secure that the amount debited to the Housing Revenue Account or any Housing Repairs Account of the authority in respect of the work reflects the amount of the authority's successful bid for the work rather than expenditure actually incurred;
  - (b) allowing an authority to credit to its Housing Revenue Account any surpluses reasonably attributable to work undertaken on or in connection with property within that account.
- (3) Directions under subsection (2)(a) may make provision for determining the amount to be treated as the amount of the authority's successful bid.

References in this Part to expenditure shall be construed as references to the amount falling to be debited in accordance with the directions.

- (4) Directions under subsection (2)(b) may make provision as to the ascertainment of the surpluses referred to and the circumstances in which a surplus is or is not to be taken to be attributable to property within an authority's Housing Revenue Account.]

#### Textual Amendments

**F129** S. 78B inserted (1.10.1996 with effect as mentioned in [Sch. 18 para. 4\(2\)](#) of the amending Act) by 1996 c. 52, s. 222, [Sch. 18 para. 4\(1\)](#); S.I. 1996/2402, [art. 3](#) (subject to transitional provisions in [Sch.](#))

### *Housing subsidies*

#### 79 Housing Revenue Account subsidy. **E+W**

- (1) Housing Revenue Account subsidy shall be payable for each year to local housing authorities.
- (2) [<sup>F130</sup>Housing Revenue Account subsidy shall be paid by the appropriate person—
  - (a) in such instalments, at such times and in such manner, and
  - (b) subject to such conditions as to claims, records, certificates, supply of Housing Revenue Account business plans, audit or otherwise,as the appropriate person may determine.]
- (3) Sections 421 to 427A of the <sup>M101</sup>Housing Act 1985 (which are superseded, in their application to local housing authorities, by this section and sections 80 and 86 below) shall cease to apply in relation to such authorities.

*Status: Point in time view as at 22/07/2004.*

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#### Textual Amendments

**F130** S. 79(2) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(1\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)

#### Marginal Citations

**M101** 1985 c. 68.

### 80 Calculation of Housing Revenue Account subsidy. **E+W**

(1) <sup>F131</sup>The amount of Housing Revenue Account subsidy (if any) payable to a local housing authority for a year shall be calculated in such manner as the appropriate person may from time to time determine.

(1A) A determination under subsection (1) above may (in particular)—

- (a) provide for all or part of the amount to be calculated in accordance with a formula or formulae;
- (b) provide for the amount, or part of the amount, to be calculated by reference to—

- (i) whether any Housing Revenue Account business plan that the authority are required to prepare by any time has been supplied to the appropriate person or has been supplied to the appropriate person by that time;
- (ii) the appropriate person's assessment of any Housing Revenue Account business plan prepared by the authority and supplied to the appropriate person;
- (iii) whether conditions are met that relate to, or to the authority's conduct of, the authority's finances or any aspect of those finances;
- (iv) an assessment of the state of, or of the authority's conduct of, the authority's finances or any aspect of those finances;
- (v) whether conditions are met that relate to housing provided by the authority, to housing functions of the authority or to the authority's performance in exercising such functions;
- (vi) an assessment of, or of the state of, housing provided by the authority;
- (vii) an assessment of the authority's performance in exercising functions in relation to housing provided by the authority or in otherwise exercising housing functions;
- (viii) whether, as respects housing provided by the authority, management functions exercisable in relation to that housing have been entrusted to a company;
- (ix) whether, where such functions have been entrusted to a company, conditions are met that relate to the performance of the company in exercising the functions;
- (x) an assessment, where such functions have been entrusted to a company, of the performance of the company in exercising those functions;
- (xi) assumptions as to any matter;

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- (c) have the effect that the amount, or part of the amount, is nil or a negative amount;
- (d) make different provision for different parts of the amount.]

<sup>F132</sup>(2) .....

(3) In determining a formula for the purposes of this section for any year, [<sup>F133</sup>the appropriate person may (in particular)] include variables framed (in whatever way he considers appropriate) by reference to—

- (a) any amounts which fall to be or were credited or debited to the authority's Housing Revenue Account for that year or any previous year;
- (b) any amounts which, on such assumptions as the [<sup>F134</sup>appropriate person] may determine (whether or not borne out or likely to be borne out by events), would fall to be or would have been so credited or debited; and
- (c) such other matters relating to the authority, or to (or to tenants of) houses and other property which are or have been within the account, as he thinks fit;

<sup>F135</sup> ...

(4) Without prejudice to the generality of subsection (3) above, a formula may require it to be assumed that the amount for any year of the rental income or housing expenditure of each authority (or each authority in England or in Wales) is to be determined—

- (a) by taking the amount which the [<sup>F136</sup>appropriate person] considers (having regard, amongst other things, to past and expected movements in incomes, costs and prices) should be or should have been the aggregate amount for that year of the rental incomes or, as the case may be, the housing expenditure of all of the authorities (or all of the authorities in England or Wales) taken together; and
- (b) by apportioning that amount between them in such manner as the [<sup>F136</sup>appropriate person] considers appropriate (which may involve, if he thinks fit, inferring the aggregate values of the houses and other property within their respective Housing Revenue Accounts from the average values of any of the houses and other property which they have disposed of);

and in this subsection “rental income” means income falling within item 1 of Part I of Schedule 4 to this Act and “housing expenditure” means expenditure falling within item 1 of Part II of that Schedule or falling to be debited to the authorities' Housing Repairs Accounts.

[<sup>F137</sup>(5) Nothing in subsections (1A) to (4) above is to be taken as limiting the appropriate person's discretion under subsection (1) above.

(6) The appropriate person may make a determination under subsection (1) above, or a calculation under such a determination, on the basis of information received by him on or before such date as he thinks fit.]

#### Textual Amendments

**F131** S. 80(1)(1A) substituted for s. 80(1) (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(2)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

**F132** S. 80(2) repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004, and 1.4.2004 for E.) by [Local Government Act 2003 \(c. 26\)](#), **ss. 90(2)**, 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 7(a)(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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- F133** Words in s. 80(3) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(3\)\(a\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)
- F134** Words in s. 80(3)(b) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(4\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)
- F135** Words in s. 80(3) repealed (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(3\)\(b\), 128\(6\), Sch. 8 Pt. 1; S.I. 2003/2938, art. 3\(a\)\(i\)\(iii\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)
- F136** Words in s. 80(4) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(4\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)
- F137** S. 80(5)(6) inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(5\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)

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

- C74** S. 80: power to restrict conferred (1.12.1998) by [1998 c. 38, s. 22\(5\), Sch. 3 Pt. II para. 8 \(with ss. 139\(2\), 143\(2\)\); S.I. 1998/2789, art. 2](#)

### [<sup>F138</sup>80ZA] **Negative amounts of subsidy payable to appropriate person** E+W

- (1) If calculation in accordance with a determination under section 80(1) above of the amount of Housing Revenue Account subsidy payable to a local housing authority for a year produces a negative amount—
  - (a) the authority shall for that year debit the equivalent positive amount to their Housing Revenue Account, and
  - (b) pay that equivalent amount to the appropriate person.
- (2) Amounts payable to the appropriate person under subsection (1)(b) above shall be paid to him in such instalments, at such times and in such manner as he may determine.
- (3) A payment in respect of an amount payable under subsection (1)(b) above shall be accompanied by such information as the appropriate person may require.
- (4) The appropriate person may charge a local housing authority interest, at such rates and for such periods as he may determine, on any sum payable to him under subsection (1)(b) above that is not paid by such time as may be determined under subsection (2) above for its payment.
- (5) The appropriate person may charge a local housing authority an amount equal to any additional costs incurred by him as a result of any sum payable to him under subsection (1)(b) above not being paid by such time as may be determined under subsection (2) above for its payment.]

#### Textual Amendments

- F138** S. 80ZA inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 90\(1\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)



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[<sup>F139</sup> **80A Final decision on amount of Housing Revenue Account subsidy.** **E+W**]

(1) The Secretary of State shall, as soon as he thinks fit after the end of the year, make a final decision as to the amount (if any) of Housing Revenue Account subsidy payable to a local housing authority for that year and notify the authority in writing of his decision.

[ Notification in writing of a decision under this section is to be taken as given to a local  
<sup>F140</sup>(1A) housing authority where notice of the decision is sent using electronic communications to such address as may for the time being be notified by that authority to the Secretary of State for that purpose.

<sup>F140</sup>(1B) Notification in writing of a decision under this section is also to be treated as given to a local housing authority where—

- (a) the Secretary of State and that authority have agreed that notifications of decisions under this section required to be given in writing to that authority may instead be accessed by that authority on a web site;
- (b) the decision is a decision to which that agreement applies;
- (c) the Secretary of State has published the decision on a web site;
- (d) that authority is notified, in a manner for the time being agreed for the purpose between it and the Secretary of State, of—
  - (i) the publication of the decision on a web site;
  - (ii) the address of that web site; and
  - (iii) the place on that web site where the notice may be accessed, and how it may be accessed.

<sup>F140</sup>(1C) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (1A) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

<sup>F140</sup>(1D) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (1B) above may revoke the agreement, and such a revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.]

(2) Once notified to the authority the decision is conclusive as to the amount (if any) payable by way of subsidy and shall not be questioned in any legal proceedings.

(3) Where the amount of Housing Revenue Account subsidy paid to an authority is less than the amount finally decided, the authority is entitled to be paid the balance.

(4) Where Housing Revenue Account subsidy has been paid to an authority in excess of the amount finally decided, the Secretary of State may recover the excess, with interest from such time and at such rates as he thinks fit.

[<sup>F141</sup>(4A) Without prejudice to other methods of recovery, a sum recoverable under subsection (4) above may—

- (a) be recovered by withholding or reducing subsidy, and

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- (b) if the sum is referable to housing benefit in respect of houses or other property within the authority's Housing Revenue Account, be recovered by withholding or reducing rent rebate subsidy under Part 8 of the Social Security Administration Act 1992.]
- (5) Nothing in this section affects any power of the Secretary of State to vary a determination as to the amount of subsidy before the final decision is made.]

#### Textual Amendments

- F139** S. 80A inserted (1.10.1996 with effect as mentioned in [Sch. 18 para. 5\(2\)](#) of the amending Act) by [1996 c. 52, s. 222, Sch. 18 para. 5\(1\)](#); [S.I. 1996/2402, art. 3](#)
- F140** S. 80A(1A)-(1D) inserted (E.) (10.12.2000) by [S.I. 2000/3056, art. 2](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605, art. 2\(2\)](#)
- F141** [S. 80A\(4A\)](#) substituted for words (18.11.2003) by [Local Government Act 2003 \(c. 26\), s. 128\(3\)\(e\), Sch. 7 para. 31](#); [S.I. 2003/2938, art. 2\(a\)](#) (with art. 8, Sch.)

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

- C75** S. 80A extended (W.) (1.4.2001) by [S.I. 2001/605, art. 2\(1\), Sch.](#)

<sup>F142</sup>**81** ..... **E+W**

#### Textual Amendments

- F142** S. 81 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), s. 3, Sch.1](#)

## **82 Residual debt subsidy for year 1989–90. E+W**

- (1) Where, in the case of any local housing authorities to whom no housing subsidy is payable for the year beginning 1st April 1989, houses or other property within their respective Housing Revenue Accounts—
- are disposed of in that year, or
  - are in that year the subject of such other transactions as the Secretary of State may determine,
- residual debt subsidy shall be payable for that year to those authorities in respect of costs relating to the houses or other property.
- (2) Residual debt subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (3) Payment of residual debt subsidy shall be subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.
- (4) Residual debt subsidy paid to a local housing authority shall be credited to the authority's Housing Revenue Account and, accordingly, for the year beginning 1st April 1989 the reference to housing subsidy in item 3 in Part I of Schedule 14 to the <sup>M102</sup>Housing Act 1985 shall be taken to include a reference to residual debt subsidy.

*Status: Point in time view as at 22/07/2004.*

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**Marginal Citations**

M102 1985 c. 68.

**83 Calculation of residual debt subsidy. E+W**

- (1) The amount of the residual debt subsidy (if any) payable to a local housing authority shall be calculated—
  - (a) in accordance with such formulae as the Secretary of State may from time to time determine; and
  - (b) by reference to such houses or other property as the Secretary of State may for the time being determine.
- (2) A determination of the Secretary of State under this section may relate to disposals or other transactions which occur before the making of the determination.

**84 Adjustment of housing subsidy for year 1989-90. E+W**

- (1) In any case where, apart from this subsection and subsection (2) below, the amount of housing subsidy payable to a local housing authority for the year beginning 1st April 1989 would be reduced or extinguished as a result of the transfer from the authority to a housing action trust of housing, land or other property as mentioned in section 74 of the <sup>M103</sup>Housing Act 1988, the Secretary of State, in the exercise of his power under section 423(2) of the Housing Act 1985, may adjust the authority's base amount for that year to take account of the effect of that transfer.
- (2) If, in accordance with subsection (1) above, the Secretary of State can make an adjustment of a local housing authority's base amount for the year beginning 1st April 1989 to take account of a transfer of housing, land or other property to a housing action trust, he may, instead of or as well as making such an adjustment, take account of the effect of the transfer in the making or varying of any determination for that year under section 424 (housing costs differential) or in the making of any determination under section 425 (local contribution differential) of the Housing Act 1985.
- (3) Subsections (1) and (2) above shall be deemed to have been in force so as to be applicable for the year beginning 1st April 1989.

**Marginal Citations**

M103 1988 c. 50.

*Supplementary*

**85 Power to obtain information. E+W**

- (1) A local housing authority, and any officer or employee of a local housing authority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to exercise his functions under section 80 or 83 above.

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- (2) A local housing authority shall supply the Secretary of State with such certificates supporting the information required by him as he may specify.
- (3) If a local housing authority, or any officer or employee of a local housing authority concerned with their housing functions, fails to comply with subsection (1) or (2) above before the end of such period as the Secretary of State may specify, he may exercise his functions under section 80 or 83 above on the basis of such assumptions and estimates as he sees fit.

## 86 Recoupment of subsidy in certain cases. **E+W**

- (1) Where Housing Revenue Account subsidy or residual debt subsidy has been paid to a local housing authority and it appears to the Secretary of State that the case falls within rules published by him, he may recover from the authority [<sup>F143</sup>any or <sup>F144</sup>. . . other authority which subsequently exercises the functions of a local housing authority for any part of the same area] the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates as he may so determine.
- (2) Without prejudice to other methods of recovery, a sum recoverable under this section may be recovered by withholding or reducing subsidy.

### Textual Amendments

**F143** Words in s. 86(1) inserted (28.11.1994) by **S.I. 1994/2825, reg. 10**

**F144** Words in s. 86(1) omitted (1.4.1996) by virtue of **S.I. 1996/619, art. 10**

## 87 Determinations and directions. **E+W**

- (1) A determination made or direction given by the Secretary of State under this Part—
  - (a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housing authorities;
  - (b) may be made before, during or after the end of the year to which it relates; and
  - (c) may be varied or revoked by a subsequent determination or direction.
- (2) Before making a determination or giving a direction under this Part relating to all local housing authorities or any description of such authorities, the Secretary of State shall consult such representatives of local government and relevant professional bodies as appear to him to be appropriate; and, before making a determination or giving a direction relating to a particular local housing authority, he shall consult that authority.
- (3) As soon as practicable after making a determination under this Part, the Secretary of State shall send a copy of the determination to the local housing authority or authorities to which it relates.
- <sup>F145</sup>(4) References in this section to sending to a local housing authority a copy of a determination under this Part include references to using electronic communications for sending a copy of a determination to such address as may for the time being be notified to the Secretary of State by that authority for that purpose.

*Status: Point in time view as at 22/07/2004.*

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- <sup>F146</sup>(5) For the purposes of this section a copy of a determination under this Part is also to be treated as sent to a local housing authority where—
- (a) the Secretary of State and that authority have agreed to the authority instead having access to determinations on a web site;
  - (b) the determination is a determination to which that agreement applies;
  - (c) the Secretary of State has published the determination on a web site;
  - (d) that authority is notified, in a manner for the time being agreed for the purpose between that authority and the Secretary of State, of—
    - (i) the publication of the determination on a web site;
    - (ii) the address of that web site; and
    - (iii) the place on that web site where the determination may be accessed, and how it may be accessed.
- <sup>F147</sup>(6) A local housing authority which is no longer willing to accept electronic communications for the sending of copies of determinations under this Part, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (4) above and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.
- <sup>F148</sup>(7) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (5) above may revoke the agreement and such a revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.]

#### Textual Amendments

**F145** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)

**F146** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)

**F147** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)

**F148** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)

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

**C76** S. 87 extended (W.) (1.4.2001) by [S.I. 2001/605](#), [art. 2\(1\)](#), [Sch.](#)

#### <sup>F149</sup>87A Orders amending Part 6 **E+W**

- (1) The appropriate person may by order—
- (a) amend, repeal or re-enact provisions of sections 74 to 76 and 78 of, and Schedule 4 to, this Act;
  - (b) provide for any such provisions—
    - (i) not to apply, whether at all or in cases specified by the order or to authorities so specified;

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- (ii) to apply, whether generally or in cases so specified or to authorities so specified, subject to modifications so specified.
- (2) An order under this section may (in particular)—
- (a) add items to, or remove items from, Part 1 or 2 of Schedule 4 to this Act, or vary items of those Parts;
  - (b) confer discretions, or expand, curtail or repeal discretions conferred, on the appropriate person or any other person;
  - (c) be made before, during or after the end of any year to which it relates.
- (3) In subsection (2)(b) above “discretion” includes power to make a determination or give a direction.
- (4) An order under this section may—
- (a) contain such incidental, consequential, transitional or supplementary provisions (including provisions amending or repealing enactments), and such savings, as the appropriate person considers appropriate;
  - (b) make different provision for different cases or authorities.
- (5) The power to make an order under this section is exercisable by statutory instrument.
- (6) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.]

#### Textual Amendments

**F149** S. 87A inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), ss. **91(1)**, 128(2)(d)

## 88 Construction and application of Part VI. **E+W**

- (1) In this Part—
- (a) expressions which are used in Part XIII of the <sup>M104</sup>Housing Act 1985 (general financial provisions) have the same meaning as in that Part;
  - <sup>F150</sup>(aa) “the appropriate person” means—
    - (i) in relation to England, the Secretary of State, and
    - (ii) in relation to Wales, the National Assembly for Wales;]
  - (b) references to a local housing authority’s Housing Revenue Account or Housing Repairs Account include, where the context so admits, references to the corresponding account kept by them under that Part;
  - (c) references to a revenue account of a local housing authority other than their Housing Revenue Account do not include references to a Housing Repairs Account; [<sup>F151</sup> and]
  - (d) references to proper practices shall be construed in accordance with [<sup>F152</sup>section 21 of the Local Government Act 2003][<sup>F153</sup>; and
  - <sup>F154</sup>(e) “electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—
    - <sup>F155</sup>(i) by means of [<sup>F156</sup>an electronic communications network]; or
    - (ii) by other means but while in an electronic form;
  - <sup>F157</sup>(f) “address”, in relation to electronic communications, includes any number or address used for the purposes of such communications.]

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- (2) Sections 82 to 84 above and, so far as relating to those sections or residual debt subsidy, this section and sections 85 to 87 above, have effect for the year beginning on 1st April 1989.
- (3) Subject to subsection (2) above, this Part has effect for years beginning on or after 1st April 1990.
- (4) If, before the passing of this Act, any statement was made by or on behalf of the Secretary of State—
  - (a) that, if this Part were then in force, he would make, under section 83 above, such a determination as is set out in the statement, and
  - (b) that, when this Act is passed, he is to be regarded as having made under that section the determination set out in the statement,the determination set out in the statement shall have effect as if it had been validly made under section 83 above at the time of the statement.
- (5) Any consultation undertaken—
  - (a) before the passing of this Act, and
  - (b) before the making of such a statement as is referred to in subsection (4) above, and
  - (c) in connection with a determination proposed to be set out in the statement,shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.
- (6) Any consultation undertaken before the passing of this Act in connection with a determination proposed to be made under this Part shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.

#### Textual Amendments

- F150** S. 88(1)(aa) inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), [ss. 89\(6\)](#), [128\(6\)](#); [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)
- F151** Word in s. 88(1)(c) deleted (E.) (10.12.2000) by virtue of [S.I. 2000/3056](#), [art. 4\(a\)](#)
- F152** Words in s. 88(1)(d) substituted (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004, and 1.4.2004 for E.) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(6\)](#), [Sch. 7 para. 32](#); [S.I. 2003/2938](#), [art. 7\(a\)](#) (with [art. 8](#), [Sch.](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)
- F153** Word in s. 88(1)(c) deleted (E.) (10.12.2000) by virtue of [S.I. 2000/3056](#), [art. 4\(a\)](#)
- F154** S. 88(1)(e)(f) and the preceding "and" inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 4\(b\)](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)
- F155** [1984 c. 12](#).
- F156** Words in s. 88(1)(e)(i) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 17 para. 100](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), [arts. 1\(2\)](#), [2\(1\)](#), [Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142](#), [art. 1\(3\)](#)); [S.I. 2003/3142](#), [art. 3\(2\)](#) (with [art. 11](#))
- F157** S. 88(1)(e)(f) and the preceding "and" inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 4\(b\)](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)

#### Marginal Citations

- M104** [1985 c. 68](#).

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**PART VII E+W**

**RENEWAL AREAS**

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

C77 Pt. VII (ss. 89-100) amended (24.9.1996) by 1996 c. 52, ss. 221, 232(2)

**89 Declaration of renewal area. E+W**

- (1) Where a local housing authority, upon consideration of [<sup>F158</sup>a report containing particulars of the matters] mentioned in subsection (3) below and of any other matters which the authority consider relevant, are satisfied—
  - (a) that the living conditions in an area within their district consisting primarily of housing accommodation are unsatisfactory, and
  - (b) that those conditions can most effectively be dealt with by declaring the area to be a renewal area,

then, subject to the following provisions of this Part, they may cause the area to be defined on a map and by resolution declare it to be a renewal area [<sup>F159</sup>for the period specified in the declaration] .

- (2) <sup>F160</sup> .....

[<sup>F161</sup>(3) The matters referred to in subsection (1) above are—

- (a) the living conditions in the area concerned;
- (b) the ways in which those conditions may be improved (whether by the declaration of a renewal area or otherwise);
- (c) the powers available to the authority (including powers available apart from this Act) if the area is declared to be a renewal area;
- (d) the authority’s detailed proposals for the exercise of those powers during the period that the area will be a renewal area (if so declared);
- (e) the cost of those proposals;
- (f) the financial resources available, or likely to be available, to the authority (from whatever source) for implementing those proposals; and
- (g) the representations (if any) made to the authority in relation to those proposals,

and the report shall contain a recommendation, with reasons, as to whether a renewal area should be declared and, if so, the period for which the area should be a renewal area.

- (4) Subject to section 95 below, an area which is declared to be a renewal area shall be such an area—
  - (a) until the end of the period specified in the declaration, or
  - (b) if at any time during that period the local housing authority by resolution extend the period for which the area is to be a renewal area, until the end of the period specified in the resolution (unless further extended under this paragraph).

- (5) In considering whether—
  - (a) to declare an area to be a renewal area, or
  - (b) to extend the period for which an area is to be a renewal area,



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a local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.

(6) Before exercising their power—

- (a) to declare an area to be a renewal area, or
- (b) to extend (or further extend) the period for which an area is to be a renewal area,

a local housing authority shall take the steps required by subsection (7) below.

(7) Those steps are such as appear to the authority best designed to secure—

- (a) that the detailed proposals referred to in subsection (3)(d) above or, where the authority are considering the extension of the period for which an area is to be a renewal area, such of those proposals as remain to be implemented, are brought to the attention of persons residing or owning property in the area; and
- (b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning those proposals.

(8) A resolution under subsection (1) or (4)(b) above has effect from the day on which it is passed and is a local land charge.]

#### Textual Amendments

- F158** Words in s. 89(1) substituted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 2(2)(a)** (with art. 14(2))
- F159** Words in s. 89(1) inserted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 2(2)(b)** (with art. 14(2))
- F160** S. 89(2) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), **arts. 1, 14(1), 15** {Sch. 5 para. 2(3)}, {Sch. 6} (with art. 14(2))
- F161** S. 89(3)-(8) substituted for s. 89(3)-(7) (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 2(4)** (with art. 14(2))

## 90 Conditions for declaration of renewal area. **E+W**

**F162** .....

#### Textual Amendments

- F162** S. 90 repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15, **Sch. 5 para. 3, Sch. 6** (with art. 14(2))

## [<sup>F163</sup>91 Renewal area: steps to be taken after declaration or extension **E+W**

(1) As soon as may be after—

- (a) declaring an area to be a renewal area; or
- (b) extending (or further extending) the period for which an area is to be a renewal area,

a local housing authority shall take the steps required by subsection (2) below.

(2) Those steps are such as appear to the authority best designed to secure—

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- (a) that the resolution to which the declaration, or extension (or further extension) of the period, relates is brought to the attention of persons residing or owning property in the area; and
- (b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning action to be taken with respect to the renewal area.]

#### Textual Amendments

**F163** S. 91 substituted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(2)(3), 14, **Sch. 5 para. 4**

### 92 Duty to publish information. **E+W**

- (1) Where a local housing authority have declared an area to be a renewal area, they shall from time to time publish, in such manner as appears to them best designed to secure that the information is brought to the attention of persons residing or owning property in the area, information with respect to—
- (a) the action they propose to take in relation to the area,
  - (b) the action they have taken in relation to the area, and
  - (c) the assistance available for the carrying out of works in the area,
- being such information as appears to them best designed to further the purpose for which the area was declared a renewal area.
- (2) <sup>F164</sup> .....

#### Textual Amendments

**F164** S. 92(2) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15, **Sch. 5 para. 5, Sch. 6** (with art. 14(2))

### 93 General powers of local housing authority. **E+W**

- (1) Where a local housing authority have declared an area to be a renewal area, the authority may exercise the powers conferred by this section.
- (2) For the purpose of securing or assisting in securing all or any of the objectives mentioned in subsection (3) below, the authority may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, any land in the area on which there are premises consisting of or including housing accommodation or which forms part of the curtilage of any such premises; and the authority may provide housing accommodation on land acquired under this subsection.
- (3) The objectives referred to in subsection (2) above are—
- (a) the improvement or repair of the premises, either by the authority or by a person to whom they propose to dispose of the premises;
  - (b) the proper and effective management and use of the housing accommodation, either by the authority or by a person to whom they propose to dispose of the premises comprising the accommodation; and
  - (c) the well-being of the persons for the time being residing in the area.

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- (4) For the purpose of effecting or assisting the improvement of the amenities in the area, the authority may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, any land in the area (including land which the authority propose to dispose of to another person who intends to effect or assist the improvement of those amenities).
- (5) The authority may—
- (a) carry out works (including works of demolition) on land owned by the authority in the area (whether or not that land was acquired under subsection(2) or subsection (4) above);<sup>F165</sup> ...
  - <sup>F165</sup>(b) .....  
<sup>F165</sup> ....
- (6) The authority may enter into an agreement with a housing association or other person under which, in accordance with the terms of the agreement,<sup>F166</sup> ... the authority's functions under subsection (5) above are to be exercisable by that association or other person.
- (7) If after—
- (a) the authority have entered into a contract for the acquisition of land under subsection (2) or subsection (4) above, or
  - (b) a compulsory purchase order authorising the acquisition of land under either of those subsections has been confirmed,
- the renewal area concerned ceases to be such an area or the land is excluded from the area, the provisions of the subsection in question shall continue to apply as if the land continued to be in a renewal area.
- (8) The powers conferred by this section are without prejudice to any power which a local housing authority may have under or by virtue of any other enactment.

**Textual Amendments**

**F165** S. 93(5)(b) and words repealed (19.7.2003) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(3), 13(2), [Sch. 6](#) (with art. 13(4))

**F166** Words in s. 93(6) repealed (19.7.2003) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(3), 13(3), [Sch. 6](#) (with art. 13(4))

**94 Power to apply for orders extinguishing right to use vehicles on highway. E+W**

- (1) A local housing authority who have declared a renewal area may exercise the powers of a local planning authority under [<sup>F167</sup>sections 249 and 250 of the Town and Country Planning Act 1990] (extinguishment of right to use vehicles on certain highways) with respect to a highway in that area notwithstanding that they are not the local planning authority, but subject to the following provisions.
- (2) The local housing authority shall not make an application under [<sup>F168</sup>subsection (2) or subsection (6) of section 249] (application to Secretary of State to make or revoke order extinguishing right to use vehicles) except with the consent of the local planning authority.

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- (3) If the local housing authority are not also the highway authority, any such application made by them shall in the first place be sent to the highway authority who shall transmit it to the Secretary of State.
- (4) Where an order under [<sup>F169</sup>subsection (2) of section 249] (order extinguishing right to use vehicles) has been made on an application made by a local housing authority by virtue of this section, any compensation under [<sup>F169</sup>subsection (1) of section 250] (compensation for loss of access to highway) is payable by them instead of by the local planning authority.

**Textual Amendments**

**F167** Words substituted by Planning (Consequential Provisions) Act1990 (c. 11, SIF 123: 1, 2), s. 4, Sch. 2 para. 84(a)

**F168** Words substituted by Planning (Consequential Provisions) Act1990 (c. 11, SIF 123: 1, 2), s. 4, Sch. 2 para. 84(b)

**F169** Words substituted by Planning (Consequential Provisions) Act1990 (c. 11, SIF 123: 1, 2), s. 4, Sch. 2 para. 84(c)

**95 Exclusion of land from, or termination of, renewal area. E+W**

- (1) Subject to subsection (2) below, a local housing authority may by resolution—
  - (a) exclude land from a renewal area; or
  - (b) declare that an area shall cease to be a renewal area;
 and as soon as may be after passing such a resolution the authority shall take the steps required by [<sup>F170</sup>subsection (5)] below.
- [<sup>F171</sup>(2) Before exercising any power under subsection (1) above, an authority shall take such steps as appear to the authority best designed to secure—
  - (a) that the proposed exclusion or cessation, as the case may be, is brought to the attention of persons residing or owning property in the area; and
  - (b) that those persons are informed of the name and address of the person to whom should be addressed representations concerning the proposed exclusion or cessation.]
  - (3) <sup>F172</sup> . . . . .
  - (4) <sup>F172</sup> . . . . .
  - (5) The authority shall take such <sup>F173</sup> . . . steps as appear to them best designed to secure that the resolution is brought to the attention of persons residing or owning property in the renewal area.
  - (6) A resolution under subsection (1) above has effect from the day on which it is passed.
  - (7) A resolution under subsection (1) above does not affect the continued operation of the provisions of this Part, or any other enactment relating to renewal areas, in relation to works begun before the date on which the exclusion or cessation takes effect; but the resolution does have effect with respect to works which have not been begun before that date, notwithstanding that expenditure in respect of the works has been approved before that date.

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#### Textual Amendments

- F170** Words in s. 95(1) substituted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 6(2)** (with art. 14(2))
- F171** S. 95(2) substituted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 6(3)** (with art. 14(2))
- F172** S. 95(3)(4) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15, **Sch. 5 para. 6(4)**, **Sch. 6** (with art. 14(2))
- F173** Word in s. 95(5) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15, **Sch. 5 para. 6(5)**, **Sch. 6** (with art. 14(2))

## 96 Contributions by the Secretary of State. **E+W**

- (1) The Secretary of State may pay contributions to local housing authorities towards such expenditure incurred by them under this Part as he may determine.
- (2) The rate or rates of the contributions, the calculation of the expenditure to which they relate and the manner of their payment shall be such as may be determined by the Secretary of State with the consent of the Treasury; and any determination under this subsection or subsection (1) above may be made generally, or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area.
- (3) Contributions under this section shall be payable subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.
- (4) If, before the declaration of a renewal area, a local housing authority are satisfied that the rate of contributions which, in accordance with a determination under subsection (2) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for contributions at a higher rate in respect of that area.
- (5) An application under subsection (4) above shall be made in such form and shall contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.
- (6) If an application under subsection (4) above is approved, the Secretary of State may pay contributions under subsection (1) above in respect of the area concerned at such higher rate as he may determine under subsection (2) above.

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

- C78** S. 96 amended (28.11.1994) by [S.I. 1994/2825](#), **reg. 54**

## 97 Powers of entry and penalty for obstruction. **E+W**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving not less than seven days' notice of his intention to the occupier, and to the owner if the owner is known, enter premises—

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- (a) for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised; or
  - (b) for the purpose of survey or valuation where the authority are authorised by this Part to acquire the premises compulsorily.
- (2) An authorisation for the purposes of this section—
- (a) shall be in writing stating the particular purpose or purposes for which the entry is authorised; and
  - (b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.
- (3) It is a summary offence intentionally to obstruct an officer of the local housing authority or of the Secretary of State, or a person authorised to enter premises under subsection (1) above, in the performance of anything which that officer, authority or person is by this Part required or authorised to do.
- (4) A person who commits an offence under subsection (3) above is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (5) In this section “owner”, in relation to premises,—
- (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and
  - (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

## 98 Part VIII of Housing Act 1985. **E+W**

- (1) The provisions of this Part have effect in place of Part VIII of the <sup>M105</sup>Housing Act 1985 (housing action areas and general improvement areas) and, accordingly, after the appointed day, a local housing authority shall no longer have power under that Part to declare an area a housing action area or a general improvement area.
- (2) If, apart from this subsection, a general improvement area would remain in existence on the first anniversary of the appointed day, the area shall, by virtue of this section cease to be a general improvement area on that first anniversary.
- (3) In any case where, immediately before the appointed day, the period for which a housing action area has effect exceeds two years, the duration of that area shall, by virtue of this section, be such that, subject to subsection (4) below, it ends on the first anniversary of the appointed day.
- (4) Nothing in subsection (3) above affects the power of a local housing authority,—
- (a) by resolution under section 250(1)(b) of the Housing Act 1985, to bring a housing action area to an end; or
  - (b) by resolution under section 251 of that Act, to extend, on one occasion only, the duration of a housing action area by a period of two years.
- (5) In the application of section 245 of the Housing Act 1985 (contributions by Secretary of State towards expenditure of local housing authorities relating to environmental works in housing action areas) in relation to expenditure—
- (a) which was incurred on or after 14th June 1989, and

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(b) in respect of which no contribution under that section was paid before the appointed day,

for subsection (2) of that section there shall be substituted the following subsection—

“(2) In the case of any expenditure, the contribution—

(a) shall be equal to one-half of the amount of the expenditure; and

(b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.”

(6) In the application of section 259 of the Housing Act 1985 (contributions by Secretary of State towards expenditure of local housing authorities relating to general improvement areas) in relation to expenditure—

(a) which was incurred on or after 14th June 1989, and

(b) in respect of which no contribution under that section was paid before the appointed day,

for subsection (2) of that section there shall be substituted the following subsection—

“(2) In the case of any expenditure, the contribution—

(a) shall be equal to one-half of the amount of the expenditure; and

(b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.”

(7) In the preceding provisions of this section “the appointed day” means the day appointed for the coming into force of this section.

#### Marginal Citations

M105 1985 c. 68.

## 99 Directions and guidance. **E+W**

Any power under this Part to give <sup>F174</sup>. . . guidance may be so exercised as to make different provision for different cases, different descriptions of cases and different areas and, in particular, with respect to different local housing authorities or descriptions of authority (including a description framed by reference to authorities in a particular area).

#### Textual Amendments

F174 Words in s. 99 repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, Sch. 5 para. 7, Sch. 6 (with art. 14(2))

## 100 Interpretation of Part VII. **E+W**

(1) In this Part, except where the context otherwise requires,—

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with it;

“house in multiple occupation” has the same meaning as in Part XI of the <sup>M106</sup>Housing Act 1985, except that it does not include any part of such a house

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which is occupied as a separate dwelling by persons who do form a single household;

“housing accommodation” means dwellings, houses in multiple occupation and hostels;

“local housing authority” and any reference to the district of such an authority shall be construed in accordance with sections 1 and 2 of the Housing Act 1985.

(2) Part XVII of the Housing Act 1985 (compulsory purchase and land compensation) applies in relation to this Part as if it were contained in that Act.

#### Marginal Citations

M106 1985 c. 68.

### <sup>F175</sup>PART VIII **E+W**

#### Textual Amendments

**F175** Pt. VIII (ss. 101-138) repealed (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (with transitional provisions in **arts. 5, 8**)

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

**C79** Pt. VIII (ss. 101-138) excluded (17.12.1996) by 1996 c. 53, s. **102(1)(2)**; S.I. 1996/2842, **art. 3**

### PART IX **E+W+S**

#### MISCELLANEOUS AND GENERAL

*Local Government Finance Act 1988, local finance (Scotland) and block grants*

#### **139** Local Government Finance Act 1988: amendments. **E+W**

Schedule 5 to this Act (which amends the <sup>M129</sup>Local Government Finance Act 1988) shall have effect.

#### Marginal Citations

M129 1988 c. 41.

#### <sup>F189</sup>**140** <sup>F189</sup> Scottish non-domestic rates: interim provisions. **E+W+S**



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**Textual Amendments**

**F189** S. 140 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), [Sch.14](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(d\)](#), Sch.

**F190** **141** ..... **E+W+S**

**Textual Amendments**

**F190** S. 141 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), [Sch.14](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(d\)](#), Sch.

**142 Powers to vary incidence of standard community charge: Scotland. E+W+S**

In section 10 of the <sup>M130</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 (liability for and calculation of standard community charge) for subsections (6) and (7) there shall be substituted the following subsections—

- “(6) The standard community charge due to a local authority in respect of any premises in respect of any financial year shall be the product of the personal community charge determined in respect of that year by the local authority and—
- (a) where the premises are in a specified class, the standard community charge multiplier determined in respect of that class by the authority; or
  - (b) where the premises are not in a specified class, the standard community charge multiplier determined by the authority in relation to such premises,
- in respect of that year.
- (7) A specified class is one which has been prescribed under this subsection or determined under regulations made under subsection (7F) below.
- (7A) A local authority shall determine their standard community charge multiplier or multipliers before such date in each year as is prescribed.
- (7B) A standard community charge multiplier must be one of the following, 0, ½, 1, 1½, 2.
- (7C) A local authority may resolve that different standard community charge multipliers shall apply in relation to different classes of premises prescribed under subsection (7) above.
- (7D) A standard community charge multiplier relating to a class of premises prescribed under subsection (7) above shall not exceed such maximum multiplier as may be prescribed in relation to that class.
- (7E) In prescribing classes under subsection (7) above, the Secretary of State may classify premises by reference to such factors as he thinks fit, including, without prejudice to that generality—
- (a) the physical characteristics of premises or any part of them;
  - (b) the fact that premises are, or any part of them is, unoccupied;

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- (c) the fact that premises are, or any part of them is, occupied for prescribed purposes;
  - (d) the fact that premises are, or any part of them is, occupied by persons of prescribed descriptions;
  - (e) the circumstances of persons liable to pay the standard community charge.
- (7F) The Secretary of State may, by regulations, make provision—
- (a) enabling local authorities or local authorities of such class or classes as he may specify in the regulations—
    - (i) to determine, in relation to their areas, classes of premises additional to those prescribed under subsection (7) above;
    - (ii) to determine different such classes of premises in relation to different parts of their areas; and
    - (iii) to resolve that different standard community charge multipliers shall apply in relation to different classes of premises determined under the regulations, and
  - (b) requiring them, when determining a class or classes under the regulations, to classify premises only by reference to one or more prescribed factors being such factors as the Secretary of State thinks fit.
- (7G) Regulations under subsection (7F) above may make provision enabling the district council to resolve that different standard community charge multipliers shall apply in relation to such different classes of premises as have, in relation to the district, been determined under the regulations by the council of the region in which the district is situated.
- (7H) A regional council may resolve that different standard community charge multipliers shall apply in relation to the same specified class of premises in different districts within the region.”

#### Marginal Citations

M130 1987 c. 47.

### 143 Reduced liability for personal community charges: Scotland. **E+W+S**

—The following section shall be inserted after section 9 of the <sup>M131</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987—

#### “9A Reduced liability for personal community charge.

- (1) The Secretary of State may make regulations as regards any case where—
  - (a) a person is or was liable to pay, in respect of any time in such financial year as is prescribed, the personal community charge determined by a local authority in respect of that year; and
  - (b) prescribed conditions are fulfilled.
- (2) Regulations under this section may provide that the amount of a person’s liability in respect of personal community charge shall not be such amount as it would be apart from the regulations or, as the case may be, such amount

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as it was, but instead such smaller amount as is arrived at in accordance with prescribed rules.

- (3) The conditions mentioned in subsection (1) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the following—
- (a) rates for a period before 1 April 1989;
  - (b) the circumstances of or other matters relating to the person concerned;
  - (c) an amount relating to the local authority concerned and specified, or to be specified, for the purposes of the regulations in a report laid, or to be laid, before the House of Commons;
  - (d) such other amounts as may be prescribed or arrived at in a prescribed manner;
  - (e) the making of an application by the person concerned.
- (4) The rules mentioned in subsection (2) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the factors mentioned in subsection (3)(a) to (d) above.
- (5) Without prejudice to the generality of section 31(2) of this Act, regulations under this section may include—
- (a) provision requiring the Secretary of State to specify in a report, for the purposes of the regulations, an amount in relation to each local authority;
  - (b) provision requiring him to lay the report before the House of Commons;
  - (c) provision for the review of any prescribed decision of a local authority relating to the application or operation of the regulations.
- (6) To the extent that he would not have power to do so apart from this subsection, the Secretary of State may—
- (a) include in regulations under this section such amendments of any social security instrument as he thinks expedient in consequence of the regulations under this section;
  - (b) include in any social security instrument such provision as he thinks expedient in consequence of regulations under this section.
- and any such amendments or provision may be deemed by the regulations or, as the case may be, instrument to have come into effect prior to the date of coming into force of the regulations or instrument.
- (7) In subsection (6) above “social security instrument” means an order or regulations made, or falling to be made, by the Secretary of State under the Social Security Act 1986.”

**Marginal Citations**

M131 1987 c. 47.

**144 Community charge grants: Scotland. E+W+S**

The following section shall be inserted after section 23 of the <sup>M132</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987—

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“PART IIIA **E+W+S**

COMMUNITY CHARGE GRANTS

**23A Community charge grants.**

- (1) If regulations under section 9A have effect in respect of a financial year, the Secretary of State may, with the consent of the Treasury, pay a grant to a local authority in respect of that year.
- (2) The amount of the grant shall be such as the Secretary of State may, with the consent of the Treasury, determine.
- (3) A grant under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may, with the consent of the Treasury, determine.
- (4) In making any payment of grant under this section the Secretary of State may impose such conditions as he may, with the consent of the Treasury, determine; and the conditions may relate to the repayment in specified circumstances of all or part of the amount paid, or otherwise.
- (5) In deciding whether to pay a grant under this section, and in determining the amount of any such grant, the Secretary of State shall have regard to his estimate of the aggregate of—
  - (c) any amount which, in consequence of the regulations, the local authority might reasonably be expected to lose, or to have lost, by way of payments in respect of community charges in respect of the financial year concerned; and
  - (d) any administrative expenses the local authority might reasonably be expected to incur, or to have incurred, in respect of the financial year in giving effect to the regulations.”

.....

**Marginal Citations**  
M132 1987c. 47.

**145 Amendment of Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments: Scotland. **E+W+S****

Schedule 6 to this Act (which amends the <sup>M133</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments) shall have effect.

.....

**Marginal Citations**  
M133 1987 c. 47.

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**Textual Amendments**

**F191** S. 146 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), [Sch.14](#) (with s. 118(1)(2)(4)); S.I. 1992/2454 art.3 (with saving in art. 4) and subject to an amendment (28.11.1994) by S.I. 1994/2825, [reg. 40](#)

**F192** **147 Adjustment of block grant.** [E+W](#)

.....

**Textual Amendments**

**F192** S. 147 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

**F193** **148 Rate support grant, 1985/86.** [E+W](#)

.....

**Textual Amendments**

**F193** S. 148 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

**149 Statutory references to rating.** [E+W](#)

(1) In the case of a provision which is made by or under any enactment and refers to a rate or a rateable value or any other factor connected with rating, the Secretary of State may make regulations—

- (a) providing that the reference shall instead be to some other factor (whether or not connected with rating); or
- (b) providing for the factor to be amended (whether by limiting its operation or in any other way);

and this section shall have effect in place of section 119 of the <sup>M134</sup>Local Government Finance Act 1988.

(2) Regulations under this section—

- (a) may make provision in such manner as the Secretary of State thinks fit (whether by amending provisions or otherwise);
- (b) may provide for a factor expressed by reference to valuation, rent, a premium, the length of a lease, anything connected with rating, or any other matter whatever;
- (c) may provide for a factor expressed by reference to a combination of matters (whether expressed in terms of a formula or otherwise);
- (d) may provide for a factor which includes a method of adjustment (whether by reference to indexation or otherwise);
- (e) may make provision with respect to the resolution of disputes (whether by a court or otherwise); and
- (f) may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

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- (3) A factor expressed by reference to rent may be by reference to ground rent, rent of premises at a market rate, rent as limited by law, or otherwise.
- (4) Nothing in this section shall be construed as limiting the power conferred by section 14 of the <sup>M135</sup>Interpretation Act 1978 to revoke, amend or vary regulations previously made under this section.
- (5) In this section “enactment” means an enactment contained in Schedule 10 to this Act, or in any other Act whether passed before or in the same Session as this Act; and for this purpose “Act” includes a private or local Act.
- (6) Without prejudice to the generality of the powers conferred by this section, section 37 of the <sup>M136</sup>Landlord and Tenant Act 1954 (which provides for compensation by reference to rateable values) shall be amended in accordance with Schedule 7 to this Act.

#### Marginal Citations

M134 1988 c. 41.

M135 1978 c. 30.

M136 1954 c. 56.

### *Charges by certain authorities*

#### **150 Power to allow charges. E+W+S**

- (1) The Secretary of State may make regulations providing that a charge may be imposed in respect of anything—
  - (a) which is done by any relevant authority or by any relevant authority of a prescribed description,
  - (b) which is prescribed or falls within a prescribed description,
  - (c) in respect of which there is no power or duty to impose a charge apart from the regulations, and
  - (d) which is not done in the course of exercising an excepted function.
- (2) The regulations may include such provision as the Secretary of State sees fit as regards charges for which the regulations provide; and nothing in subsections (3) to (5) below or section 190(1) below is to prejudice this.
- (3) The regulations—
  - (a) may be made as regards services rendered, documents issued, or any other thing done by an authority (whether in pursuance of a power or a duty);
  - (b) may provide that the amount of a charge (if imposed) is to be at the authority’s discretion or to be at its discretion subject to a maximum.
- (4) Where the regulations provide that a charge may not exceed a maximum amount they may—
  - (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
  - (b) prescribe, as regards any amount, a sum or a method of calculating the amount.

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- (5) The regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (6) No regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

## **151 Power to amend provisions about charges. E+W+S**

- (1) Subject to subsection (4) below, this section applies in the case of an existing provision to the extent that the provision allows (as opposed to requires) a charge to be imposed in respect of anything which is done by relevant authorities (or any of them) and which is not done in the course of exercising an excepted function.
- (2) The Secretary of State may make regulations—
  - (a) repealing the provision concerned to the extent that it so provides,
  - (b) amending the provision to that extent, or
  - (c) repealing the provision to that extent and replacing it with new provisions;and subsection (6) of section 150 above applies in relation to regulations under this section as it applies in relation to regulations under that section.
- (3) For the purposes of subsection (1) above—
  - (a) the charge may be expressed in terms of making a charge, paying a fee, or otherwise;
  - (b) the charge may relate to services rendered, documents issued, or any other thing done by a relevant authority (whether in pursuance of a power or a duty).
- (4) A charge does not fall within subsection (1) above if—
  - (a) it is one whose proceeds fall (or part of whose proceeds falls) to be paid into the Consolidated Fund; <sup>F194</sup>or
  - (b) it is a charge amounting to local taxation.]
- (5) Regulations under subsection (2) above may not require the imposition of a charge; and subsection (6) below shall have effect subject to this.
- (6) The regulations may include such provision as the Secretary of State sees fit as regards charges; and nothing in subsections (7) to (9) below or section 190(1) below is to prejudice this.
- (7) The regulations may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.
- (8) Where the regulations provide that a charge may not exceed a maximum amount they may—
  - (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
  - (b) prescribe, as regards any amount, a sum or a method of calculating the amount.
- (9) The regulations—
  - (a) may confer discretion as to the amount in a case where an existing provision confers none (or vice versa);
  - (b) may, in a case where an existing provision confers a discretion as to the amount, confer a different one; and

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- (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (10) For the purposes of this section an existing provision is a provision of an Act passed before, or in the same Session as, this Act.
- (11) In this section “Act” includes a private or local Act.

**Textual Amendments**

**F194** S. 151(4)(b) and word substituted (S.) (1.4.1996) for s. 151(4)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(10)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

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

**C83** S. 151 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 11** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)

S. 151 amended (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 87(6), **Sch. 14 para. 7** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

**152 Interpretation, consultation and commencement of ss. 150 and 151. E+W+S**

- (1) For the purposes of sections 150 and 151 above the following are excepted functions—
  - (a) functions relating to education in schools;
  - (b) functions relating to the provision of a public library service;
  - (c) functions relating to fire fighting, that is to say, the extinction of fire and the protection of life and property in case of fire;
  - (d) functions relating to the registration of electors;
  - (e) functions relating to the conduct of elections;
  - <sup>F195</sup>(f) .....
- (2) For the purposes of those sections in their application to England and Wales, each of the following is a relevant authority—
  - (a) a county council;
  - <sup>F196</sup>(aa) a county borough council;
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) a fire authority constituted by a combination scheme under the <sup>M137</sup>Fire Services Act 1947;
  - <sup>F197</sup>(g) .....
  - (h) an authority established under section 10 of the <sup>M138</sup>Local Government Act 1985 (waste disposal authorities);
  - (i) a joint authority established by Part IV of that Act (<sup>F198</sup>... fire services, civil defence and transport);
  - (j) an authority or board constituted a port health authority at any time by an order under section 2 of the <sup>M139</sup>Public Health (Control of Disease) Act 1984;
  - <sup>F199</sup>(ja) a National Park authority]



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- [<sup>F200</sup>(jb) a conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000;]
- (k) .....
- (l) the Broads Authority. [<sup>F201</sup> . . .]
- [<sup>F202</sup>(m) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M140</sup>Town and Country Planning Act 1990.]
- [<sup>F203</sup>(n) the London Fire and Emergency Planning Authority.]
- (3) For the purposes of those sections in their application to Scotland, each of the following is a relevant authority—
- [<sup>F204</sup>(a) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]
- (d) a port local authority or joint port local authority constituted under section 172 of the <sup>M141</sup>Public Health (Scotland) Act 1897, [<sup>F205</sup>and
- (e) a joint board or joint committee within the meaning of section 235(1) of the Local Government (Scotland) Act 1973.]
- (4) The Secretary of State may by order made by statutory instrument provide for any other body to be, or for a body to cease to be, a relevant authority for the purposes of those sections; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In those sections “prescribed” means prescribed by the regulations concerned.
- (6) Before exercising any power to make regulations under section 150 or section 151 above, the Secretary of State shall consult—
- (a) as respects England and Wales, such representatives of local government, and
- (b) as respects Scotland, such associations of local authorities, as appear to him to be appropriate.
- (7) This section and sections 150 and 151 above shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F195** S. 152(1)(f) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. 1 para. 41, Sch. 9 Pt. 1; S.I. 1994/3262, art. 4 Sch. (subject to transitional provisions in art. 5(2)-(8))
- F196** S. 152(2)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch. para. 3(7)
- F197** S. 152(2)(g) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. 1 para. 41, Sch. 9 Pt. 1; S.I. 1994/3262, art. 4 Sch. (subject to transitional provision in art. 5(2)-(8))
- F198** Words in s. 152(2)(i) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. I para. 41, Sch. 9 Pt. I; S.I. 1994/3262, art. 4 Sch. (subject to transitional provision in art. 5(2)-(8))
- F199** S. 152(2)(ja) inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), Sch. 8 para. 11 (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- F200** S. 152(2)(jb) inserted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 87(6), Sch. 14 para. 7 (with s. 84(4)-(6)); S.I. 2001/114, art. 2(2)(e); S.I. 2001/1410, art. 2(g)
- F201** S. 152(2)(l) word repealed (3.7.2000) by 1999 c. 29, s. 423, Sch. 34 Pt. 8 (with Sch. 12 para. 9(1)); S.I. 2000/1094, art. 4(i)
- F202** S. 152(2)(m) and word “and” immediately preceding it inserted (23.11.1995) by 1995 c. 25, s. 78, Sch. 10 para. 31(4) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2

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- F203** S. 152((2)(n) inserted (3.7.2000) by 1999 c. 29, s. 328(8), Sch. 29 Pt. I para. 56 (with **Sch. 12 para. 9(1)**); S.I. 2000/1094, **art. 4(h)**
- F204** S. 152(3)(a) substituted (1.4.1996) for paras. (a)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(11)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F205** S. 152(3)(e) and the word “and” immediately preceding it substituted (1.4.1996) for paras. (e)(f) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(11)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

- M137** 1947c. 41.  
**M138** 1985 c. 51.  
**M139** 1984 c. 22.  
**M140** 1990 c. 8.  
**M141** 1897 c. 38.

### 153 Charges: temporary traffic signs. **E+W+S**

- (1) In section 65 of the <sup>M142</sup>Road Traffic Regulation Act 1984 (powers and duties of highways authorities and roads authorities as to placing of traffic signs) after subsection (3) there shall be inserted the following subsection—

“(3A) No charge may be made—

- (a) in England and Wales, by a highway authority which is the council of a county, metropolitan district or London borough or the Common Council of the City of London, or
- (b) in Scotland, by a local roads authority,

with respect to the exercise of their power under subsection (1) above to permit a traffic sign to be placed on or near any road in their area if—

- (i) the sign conveys information of a temporary nature or is otherwise intended to be placed only temporarily; and
- (ii) the sign is to be placed by a body which is prescribed for the purposes of this subsection as being a body appearing to the Secretary of State to be representative of the interests of road users or any class of road users.”

- (2) Subsection (1) above does not apply in any case where, before this section comes into force, the payment of a charge has been agreed.

#### Marginal Citations

- M142** 1984 c. 27.

### 154 Charges: library services. **E+W**

- (1) For subsections (2) to (5) of section 8 of the <sup>M143</sup>Public Libraries and Museums Act 1964 (exceptions to restrictions on charging for library facilities) there shall be substituted the following subsections—

“(2) Subject to subsections (3) and (4) below, the Minister may by regulations—

- (a) authorise library authorities to make charges for such library facilities made available by them as may be specified in the regulations; and

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- (b) make such provision as regards charges by library authorities for library facilities, other than provision requiring the making of charges, as he thinks fit.
- (3) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for lending any written material to any person where—
  - (a) it is the duty of the authority under section 7(1) above to make facilities for borrowing available to that person;
  - (b) the material is lent in the course of providing such facilities to that person on any library premises;
  - (c) the material is lent in a form in which it is readable without the use of any electronic or other apparatus; and
  - (d) that person is not a person who has required any such apparatus to be used, or made available to him, for putting the material into such a form in order that he may borrow it;but this subsection shall not prevent any regulations under this section from authorising the making of charges in respect of the use of any facility for the reservation of written materials or in respect of borrowed materials which are returned late or in a damaged condition.
- (4) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for making facilities available for any person to do any of the following on any library premises, that is to say—
  - (a) reading the whole or any part of any of the written materials for the time being held by the authority in a form in which they are readable without the use of any electronic or other apparatus or in microform;
  - (b) consulting (whether or not with the assistance of any such apparatus or of any person) such catalogues, indexes or similar articles as are maintained, in any form whatever, exclusively for the purposes of that authority's public library service.
- (5) Without prejudice to the generality of subsection (2) above, the power to make regulations under this section shall include power—
  - (a) to confer a discretion as to the amount of any charge made under the regulations;
  - (b) to provide for such a discretion to be exercisable subject to such maximum amount or scale of maximum amounts as may be specified in or determined under the regulations;
  - (c) to require library authorities to take such steps as may be specified or described in the regulations for making the amounts of their charges for library facilities known to the public;
  - (d) to make such other incidental provision and such supplemental, consequential and transitional provision as the Minister thinks necessary or expedient; and
  - (e) to make different provision for different cases, including different provision in relation to different persons, circumstances or localities.
- (5A) The power to make regulations under this section shall be exercisable by statutory instrument; and no regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.”

*Status: Point in time view as at 22/07/2004.*

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(2) After subsection (6) of that section there shall be inserted the following subsection—

“(7) In this section—

“library premises” means—

- (a) any premises which are occupied by a library authority and are premises where library facilities are made available by the authority, in the course of their provision of a public library service, to members of the public;
- (b) any vehicle which is used by a library authority for the purpose of providing such a service and is a vehicle in which facilities are so made available;

“the Minister” means—

- (a) in relation to library authorities whose areas are in England, the Lord President of the Council; and
- (b) in relation to library authorities whose areas are in Wales, the Secretary of State;

and

“written material” means—

- (a) any book, journal, pamphlet or other similar article; or
- (b) any reprographic copy (within the meaning of the Copyright, Designs and Patents Act 1988) of any article falling within paragraph (a) above or any other reproduction of such an article made by any means whatever.”

(3) This section shall come into force on such day as the Lord President of the Council and the Secretary of State, acting jointly, may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.

#### Commencement Information

**I8** S. 154 wholly in force at 01. 01. 1992 see S.I. 1991/2940, art. 2

#### Marginal Citations

**M143** 1964 c. 75.

### Miscellaneous local government provisions

#### 155 Emergency financial assistance to local authorities. **E+W+S**

(1) In any case where—

- (a) an emergency or disaster occurs involving destruction of or danger to life or property, and
- (b) as a result, one or more local authorities incur expenditure on, or in connection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience, in their area or among its inhabitants,

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the Secretary of State may establish a scheme under this section for the giving of financial assistance to those authorities in respect of that expenditure.

- [<sup>F206</sup>(1A) Expenditure incurred as mentioned in subsection (1) above by—
- (a) the London Fire and Emergency Planning Authority,
  - (b) the Metropolitan Police Authority, or
  - (c) Transport for London, in respect of places or areas within Greater London,
- shall be treated for the purposes of this section as expenditure so incurred by the Greater London Authority (and, accordingly, as so incurred by a local authority).
- (1B) To the extent that any financial assistance given to the Greater London Authority under this section is referable to expenditure incurred by a body mentioned in paragraph (a), (b) or (c) of subsection (1A) above, the financial assistance shall be treated for the purposes of section 103 of the Greater London Authority Act 1999 as a payment made to the Greater London Authority for the purposes of that body.]
- (2) Financial assistance given pursuant to a scheme under this section shall take the form of grants paid by the Secretary of State with the consent of the Treasury and, subject to that, the terms and conditions of a scheme shall be such as the Secretary of State considers appropriate to the circumstances of the particular emergency or disaster concerned.
- (3) Without prejudice to the generality of subsection (2) above, a scheme under this section may—
- (a) make the payment of grants conditional upon the making of claims of a description specified in the scheme;
  - (b) make provision with respect to the expenditure qualifying for grant and the rates and amounts of grants;
  - (c) make provision in certain specified circumstances for the repayment of any grant, in whole or in part; and
  - (d) make different provision for different local authorities or descriptions of authority and for different areas.
- (4) In the application of this section to England and Wales, any reference to a local authority is a reference to—
- (a) a county council;
  - [<sup>F207</sup>(aa) a county borough council;]
  - (b) a district council;
  - [<sup>F208</sup>(bb) the Greater London Authority;]
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - [<sup>F209</sup>(ea) a police authority established under section [<sup>F210</sup>3 of the <sup>M144</sup>Police Act 1996];  
<sup>F211</sup> ...]
  - (eb) <sup>F212</sup> .....
  - [<sup>F213</sup>(f) the Receiver for the Metropolitan Police District; or]
  - (g) a joint authority established by Part IV of the <sup>M145</sup>Local Government Act 1985, other than a metropolitan county passenger transport authority [<sup>F214</sup>; or
  - (h) a fire authority in England and Wales constituted by a combination scheme under the Fire Services Act 1947.]

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- (5) In the application of this section to Scotland, any reference to a local authority is a reference to
- [<sup>F215</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]
- <sup>F216</sup>. . . a joint board or joint committee within the meaning of the <sup>M146</sup>Local Government (Scotland) Act 1973.
- (6) The reference in subsection (1)(b) above to expenditure incurred by a local authority includes, in the case of an authority in England and Wales, expenditure incurred in defraying, or contributing towards defraying, expenditure incurred by a parish or community council.
- (7) This section shall come into force on 1st April 1990.

#### Textual Amendments

- F206** S. 155(1A)(1B) inserted (3.7.2000) by 1999 c. 29, s. 104(1)(2) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 4
- F207** S. 155(4)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2 Sch. para. 3(8)
- F208** S. 155(4)(bb) inserted (3.7.2000) by 1999 c. 29, s. 104(1)(3)(a) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 4
- F209** S. 155(4)(ea) inserted (1.4.1995) by 1994 c. 29, s. 43, Sch. 4 para. 42; S.I. 1994/3262, art. 4, Sch. (subject to art. 5)
- F210** Words in s. 155(4)(ea) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104, Sch. 7 Pt. I para. 1(2)(zd)
- F211** Word in s. 155(4)(ea) repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 8 Pt. 1; S.I. 2003/2938, art. 7(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F212** S. 155(4)(eb) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. II para. 53(b), Sch. 7 Pt. V(1); S.I. 2002/344, art. 3 (with transitional provisions in art. 4)
- F213** S. 155(4)(f) ceased to have effect (3.7.2000) by virtue of 1999 c. 29, s. 104(1)(3)(c) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 4
- F214** S. 155(4)(h) and words inserted (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004, and 1.4.2004 for E.) by Local Government Act 2003 (c. 26), ss. 37, 128(6); S.I. 2003/2938, art. 7(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F215** S. 155(5) words substituted (1.4.1996) for paras. (a)(b)(c) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(12)(a) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d)
- F216** S. 155(5): letter “(d)” repealed (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(12)(b), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d)

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

- C84** S. 155 amended (28.11.1994) by S.I. 1994/2825, reg. 41
- S. 155 power to deal with matters of the kind dealt with in this part conferred (1.9.1997) by 1997 c. 50, s. 44(1), Sch. 4 para. (j)(iv); S.I. 1997/1930, art. 2(m)

#### Marginal Citations

- M144** 1996 c. 16.
- M145** 1985 c. 51.
- M146** 1973 c.65.

*Status: Point in time view as at 22/07/2004.*

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## 156 Contingency planning and co-ordination in respect of emergencies and disasters. **E+W**

(1) In section 138 of the <sup>M147</sup>Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters) after subsection (1) there shall be inserted the following subsection—

“(1A) If a principal council are of the opinion that it is appropriate to undertake contingency planning to deal with a possible emergency or disaster which, if it occurred,—

- (a) would involve destruction of or danger to life or property, and
- (b) would be likely to affect the whole or part of their area,

they may incur such expenditure as they consider necessary on that planning (whether relating to a specific kind of such possible emergency or disaster or generally in relation to possible emergencies or disasters falling within paragraphs (a) and (b) above).”

(2) In subsection (3) of that section—

- (a) for the words from the beginning to “authorise” there shall be substituted “Nothing in this section authorises”; and
- (b) for the words “the power conferred by that subsection is” there shall be substituted “the powers conferred by subsections (1) and (1A) above are”.

(3) At the end of the section there shall be added the following subsections—

“(5) With the consent of the Secretary of State, a metropolitan county fire and civil defence authority and the London Fire and Civil Defence Authority may incur expenditure in co-ordinating planning by principal councils in connection with their functions under subsection (1) above.

(6) In this section “contingency planning” means the making, keeping under review and revising of plans and the carrying out of training associated with the plans.”

### Marginal Citations

M147 1972 c. 70.

## 157 Commutation of, and interest on, periodic payments of grants etc. **E+W+S**

(1) In any case where, by virtue of any enactment, the Secretary of State has a power or duty to make to a local authority any annual or other periodic payments by way of contribution, grant or subsidy towards expenditure incurred or to be incurred by the local authority, the Secretary of State—

- (a) may determine to commute any such payments which would otherwise fall due on or after 1st April 1990 either into a single payment or into such number of payments (being less than would otherwise be payable) as he considers appropriate; and
- (b) may, if he thinks it appropriate, pay to the Public Works Loans Commissioners the whole or any part of any single or other payment determined under paragraph (a) above so as to reduce or extinguish such debt (whether then due or not) of the local authority to those Commissioners as the Secretary of State thinks fit.

*Status: Point in time view as at 22/07/2004.*

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- (2) The amount required to reduce or extinguish a debt as mentioned in paragraph (b) of subsection (1) above shall be such as may be determined by the Public Works Loans Commissioners and where, by virtue of that paragraph, only part of a commuted payment is paid to those Commissioners, the balance shall be paid to the local authority concerned.
- (3) Subsection (1) above applies whether the annual or other periodic payments began, or would otherwise begin, before, on or after the passing of this Act and applies notwithstanding anything in any enactment requiring the paymentsto be made over a period of twenty years or any other specified period.
- (4) A single or other payment falling to be made by virtue of subsection (1) above is in this section referred to as a “commuted payment” and the calculation of the amount of any commuted payment shall be such as appears to the Secretary of State to be appropriate.
- (5) In any case where the amount of any annual or other periodic payment such as is mentioned in subsection (1) above is, at the passing of this Act, calculated by reference to a rate of interest which varies from time to time, the Secretary of State may substitute a fixed rate of interest.
- (6) In this section “local authority”, as respects England and Wales, means any of the following—
- (a) a county council;
  - [<sup>F217</sup>(aa) a county borough council;]
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) the Metropolitan Police Authority;
  - [<sup>F218</sup>(g) a police authority established under [<sup>F219</sup>section 3 of the <sup>M148</sup>Police Act 1996];]
  - (ga) <sup>F220</sup>.....
  - (h) a joint authority established by Part IV of the <sup>M149</sup>Local Government Act 1985; and
  - (i) a residuary body established under Part VII of that Act;
- and, as respects Scotland, means a [<sup>F221</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]or a joint board or joint committee within the meaning of section 235(1) of the <sup>M150</sup>Local Government (Scotland) Act 1973.
- (7) If, after a commuted payment has been made to a local authority or to the Public Works Loans Commissioners, it appears to the Secretary of State that the payment was smaller or greater than it should have been (whether by virtue of a miscalculation, the occurrence of any event, the failure to comply with any condition or otherwise) the Secretary of State may, as the case may require,—
- (a) make a further payment to the authority concerned or to those Commissioners; or
  - (b) require the repayment or payment to him by that authority of such sum as he may direct.
- (8) Without prejudice to the operation of the preceding provisions of this section, with respect to—
- (a) any contribution in respect of an expense incurred on or after 1st April 1990; and



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[<sup>F222</sup>(b) so much of any contributions in respect of an expense incurred on or after 1st April 1989 and before 1st April 1990 as have not been made before 1st April 1990]

section 569 of the <sup>M151</sup>Housing Act 1985 (contribution by Secretary of State to certain expenses incurred by local housing authorities) shall be amended as follows -

- (i) in subsection (2) (which relates to contributions as annual payments) for the words following “shall be” there shall be substituted the words “ equal to the relevant percentage of the amount of the expense incurred ”;and
- (ii) subsection (5) (which relates to annual loan charges) shall cease to have effect.

(9) Without prejudice to the generality of section 230 of the <sup>M152</sup>Local Government Act <sup>M153</sup>1972 or section 235(1) of the Local Government (Scotland) Act 1973 (local authorities’ duty to make reports and returns to the Secretary of State), every local authority and the Inner London Education Authority shall furnish to the Secretary of State such information as he may by notice in writing reasonably require for the purposes of this section and, if the notice so specifies, any such information shall be certified and audited in such manner and supplied not later than such date and in such form as may be so specified.

(10) Nothing in this section applies in relation to any payments to which, under Part IV of Schedule 15 to the Housing Act 1985 (superseded contributions etc.: town development subsidy), provision already exists for the commutation of payments.

#### Textual Amendments

- F217** S. 157(6)(aa) inserted (7.1.1997) by S.I. 1997/3071, art. 2, **Sch. para. 3(9)**
- F218** S. 157(6)(g) substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 43**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F219** Words in s. 157(6)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. 1 para. 1(2) (zd)**
- F220** S. 157(6)(ga) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 2 para. 54, Sch. 7 Pt. 5; S.I. 2002/344, art. 3 (with transitional provision in art. 4)
- F221** Words in s. 157(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(13)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F222** S. 157(8)(b) substituted (E.W.) (*retrospective* to 1.1.1993) by 1993 c. 28, s. 138(1)(2)

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

- C85** S. 157 amended (28.11.1994) by S.I. 1994/2825, **reg. 42(1)(a)**  
S. 157 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(n)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))  
S. 157 power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(v); S.I. 1997/1930, **art. 2(m)**
- C86** S. 157(1) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(a)**
- C87** S. 157(1)(b) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(b)**

#### Marginal Citations

- M148** 1996 c. 16.  
**M149** 1985 c. 51.  
**M150** 1973 c. 65.  
**M151** 1985 c. 68.  
**M152** 1972 c. 70.

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M153 1973 c. 65.

**158 Electronic transfer of documents. E+W**

- (1) In subsection (2) of section 9 of the <sup>M154</sup>Local Land Charges Act 1975, the words “A requisition under this section must be in writing, and” shall be omitted.
- (2) In subsection (2) of section 14 of that Act after the word “include” there shall be inserted “(a)”, and at the end of that subsection there shall be inserted the following paragraphs—
- “(b) power to make rules providing for the use of electronic means in the making of requisitions for, and in the issue of, official search certificates, notwithstanding subsection (3) of section 231 of the Local Government Act 1972 (service of documents on local authorities) provided that—
- (i) such rules shall not provide that a requisition is duly made by electronic means, except where the local authority to whom it is made consents to the use of those means, or that an official search certificate is duly issued by electronic means, except where the person requiring the search consents to the use of those means; and
- (ii) such consent may be given either generally or in relation to a specified document or description of documents, and either before or after the making of the requisition or the issue of the certificate; and
- (c) power to make rules modifying the application of sections 10 and 11 above in cases where—
- (i) the rules provide for the making of a requisition for, or the issuing of, an official search certificate by electronic means, and
- (ii) there has been any error or failure in those means.”

**Marginal Citations**

M154 1975 c. 76.

**159 Prevention of continuance or recurrence of default of local authority: Scotland. E+W+S**

- (1) Section 211 of the <sup>M155</sup>Local Government (Scotland) Act 1973 (provision for default of local authority) shall be amended in accordance with this section.
- (2) After subsection (2) there shall be inserted the following subsections—
- “(2A) If the Secretary of State or appropriate Minister—
- (a) is about to make an order under subsection (2) above; and
- (b) is satisfied that the failure to which the order relates has continued or recurred,
- he may, in that order and without any local inquiry, declare the authority to be in default in respect of the continuance or recurrence of the failure and direct

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them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(2B) The Secretary of State or appropriate Minister may, in an order under subsection (2) above, notify the local authority that any continuance or recurrence of the failure in respect of which the authority have been declared to be in default happening after the date of the order may be made the subject of an application to the Court of Session under subsection (3A) below.”

(3) After subsection (3) there shall be inserted the following subsection—

“(3A) If—

- (a) a local authority have been notified under subsection (2B) above; and
- (b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been such continuance or recurrence of the failure and do otherwise as to the court appears to be just.”

**Marginal Citations**

M155 1973 c. 65.

F223 160 ..... E+W

**Textual Amendments**

F223 S. 160 omitted (7.1.1997) by virtue of S.I. 1996/3071, art. 2, Sch. para. 3(10)

*Miscellaneous housing provisions*

**161 Housing authorities not required to keep a housing stock. E+W+S**

(1) At the end of section 9 of the <sup>M156</sup>Housing Act 1985 (provision of housing accommodation) there shall be added the following subsection—

“(5) Nothing in this Act shall be taken to require (or to have at any time required) a local housing authority itself to acquire or hold any houses or other land for the purposes of this Part.”

(2) At the end of section 2 of the <sup>M157</sup>Housing (Scotland) Act 1987 (powers of local authorities to provide housing accommodation) there shall be added the following subsection—

“(6) Nothing in this Act shall be taken to require (or to have at any time required) a local authority itself to acquire or hold any houses or other land for the purposes of this Part.”

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#### Marginal Citations

M156 1985 c. 68.

M157 1987 c. 26.

### 162 Determination of rents. **E+W**

In section 24 of the Housing Act 1985 (rents), there shall be added at the end the following subsections—

“(3) In exercising their functions under this section, a local housing authority shall have regard in particular to the principle that the rents of houses of any class or description should bear broadly the same proportion to private sector rents as the rents of houses of any other class or description.

(4) In subsection (3) “private sector rents”, in relation to houses of any class or description, means the rents which would be recoverable if they were let on assured tenancies within the meaning of the Housing Act 1988 by a person other than the authority.”

### 163 Exchanges between secure and assured tenants. **E+W**

(1) Section 92 of the Housing Act 1985 (assignment of secure tenancies by way of exchange) shall be amended in accordance with subsections (2) and (3) below.

(2) At the end of subsection (1) there shall be added the words “ or to an assured tenant who satisfies the conditions in subsection (2A) ”.

(3) After subsection (2) there shall be inserted the following subsection—

“(2A) The conditions to be satisfied with respect to an assured tenant are—

- (a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity; and
- (b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2).”

(4) In section 117 of the Housing Act 1985 (index of defined expressions for Part IV) before the entry relating to “cemetery” there shall be inserted—

“ assured tenancy »section 622 ”.

### <sup>F224</sup>164 Exception to the right to buy in case of certain dwelling-houses for persons of pensionable age. **E+W**

#### Textual Amendments

**F224** S. 164 repealed (11.10.1993) by 1993 c. 28, s.187(2), **Sch.22**; S.I. 1993/2134, art.4(b), **Sch. 2** (with Sch. 1 para. 4(1)(2))

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 19 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)*

## 165 Unfit housing etc. **E+W**

- (1) In the Housing Act 1985,—
  - (a) Part VI (repair notices) shall be amended in accordance with Part I of Schedule 9 to this Act;
  - (b) Part IX (slum clearance) shall be amended in accordance with Part II of that Schedule;
  - (c) Part XI (houses in multiple occupation) shall be amended in accordance with Part III of that Schedule;
  - (d) Part XVII (compulsory purchase and land compensation) shall be amended in accordance with Part IV of that Schedule; and
  - (e) Part XVIII (miscellaneous and general) shall be amended in accordance with Part V of that Schedule.
- (2) Part VII of the Housing Act 1985 (improvement notices) shall cease to have effect.
- (3) For any financial year beginning after the day appointed for the coming into force of this subsection the following provisions of this section shall have effect in place of sections 312 to 314 of the Housing Act 1985 (slum clearance subsidy); and in those provisions “slum clearance functions” means any of the functions under the provisions of Part IX of that Act relating to—
  - (a) the demolition, closing or purchase of unfit premises,
  - (b) the demolition of obstructive buildings, and
  - (c) clearance areas,but does not include functions under sections 308 to 311 of that Act (owner’s redevelopment or improvement).
- (4) On such conditions as he may determine the Secretary of State may pay slum clearance subsidy to a local housing authority in respect of any financial year for which, applying such method of calculation as may be determined by the Secretary of State, the authority have incurred a loss in connection with the exercise of their slum clearance functions; and the rate or rates of the subsidy and the manner in which it is paid shall be such as may be determined by him.
- (5) If for any financial year, applying such method of calculation as is referred to in subsection (4) above, a local housing authority have incurred a surplus in connection with the exercise of their slum clearance functions, the Secretary of State may require the authority to pay to him such sum as he may determine in respect of that surplus, together with interest thereon from such time and at such rate or rates as he may determine.
- (6) Any determination of the Secretary of State under subsection (4) or subsection (5) above—
  - (a) shall be made with the consent of the Treasury;
  - (b) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area; and
  - (c) may make different provision for different cases or descriptions of case.
- (7) If, before the declaration of a renewal area under Part VII of this Act, a local housing authority are satisfied that the rate of slum clearance subsidy which, in accordance with a determination under subsection (4) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with

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regard to the area, they may, before making the declaration, apply to the Secretary of State for a subsidy at a higher rate in respect of that area.

- (8) An application under subsection (7) above shall be made in such form and contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.
- (9) If an application under subsection (7) above is approved, the Secretary of State may pay slum clearance subsidy in respect of the area concerned at such higher rate as he may determine under subsection (4) above.

## 166 Amendments relating to defective housing. **E+W+S**

- (1) Part XVI of the <sup>M158</sup>Housing Act 1985 (in this section referred to as “the 1985 Act”) and Part XIV of the <sup>M159</sup>Housing (Scotland) Act 1987 (in this section referred to as “the 1987 Act”) (assistance for owners of defective housing) shall each be amended in accordance with this section.
- (2) In section 537 of the 1985 Act and section 265 of the 1987 Act (determination of form of assistance to which applicant is entitled) in subsection (1) after the word “determine” there shall be inserted “ assoon as reasonably practicable ”.
- (3) In section 539 of the 1985 Act and section 267 of the 1987 Act (meaning of “work required for reinstatement” etc.) after subsection (1) there shall be inserted the following subsection—
  - “(1A) In any case where—
    - (a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
    - (b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,
 the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.”
- (4) In section 561 of the 1985 Act and section 289 of the 1987 Act (Secretary of State’s control over designation, variation or revocation)—
  - (a) in subsection (2) after the word “before” there shall be inserted “ the cut-off date or if it is later ” and after the words “twomonths” there shall be inserted “ or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A)below ”;
  - (b) after that subsection there shall be inserted the subsection specified in subsection (5) below; and
  - (c) in subsection (3) for the words “within that period” there shall be substituted “ before the cut-off date or, if it is later, the expiry of the period for the time being specified in or for the purposes of subsection (2) above ”.
- (5) The subsection referred to in subsection (4)(b) above is as follows—
  - “(2A) If, within the period for the time being specified in or (by virtue of the previous operation of this subsection) for the purposes of subsection (2) above, the Secretary of State is satisfied that he does not have reasonably sufficient

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information to enable him to come to a decision with respect to there solution concerned, he may direct for the purposes of that subsection that it shall have effect as if for the period so specified there were substituted such longer period as is specified in the direction.”

(6) In section 567 of the 1985 Act (modifications of Part XVI in relation to shared ownership leases) for subsections (1) to (3) there shall be substituted the following subsections—

“(1) If it appears to a local housing authority that the interest of a person eligible for assistance in respect of a defective dwelling in their area is—

(a) a shared ownership lease, or

(b) the freehold acquired under the terms of a shared ownership lease,

the authority shall prepare and submit to the Secretary of State a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.

(2) A scheme under subsection (1) above shall not have effect unless approved by the Secretary of State; and any such approval may be made conditional upon compliance with requirements specified by him.”

(7) Any power of the Secretary of State to make regulations under subsection (4) of section 567 of the 1985 Act shall cease to have effect; and in paragraph (d) of that subsection after the word “class” there shall be inserted “ or description ”.

#### **Marginal Citations**

**M158** 1985 c. 68.

**M159** 1987 c.26.

### **167 Reports to tenants etc. on local housing authority functions. E+W**

(1) In accordance with the provisions of this section, every local housing authority shall, for each year, furnish to each person who at the end of that year is one of their housing revenue account tenants a report containing such information as may be determined by the Secretary of State relating to the functions of the authority as a local housing authority during that year (including functions which in that year were exercised by any other person as agent of the authority).

(2) In this section “year” means a period of twelve months beginning on 1stApril; and the report relating to any year shall be furnished as soon as practicable after the end of that year and, in any event, not later than six months after the end of that year.

(3) In this section “housing revenue account tenant”, in relation to a local housing authority, means a person who, as tenant or licensee, occupies a house or other property within the authority’s Housing Revenue Account; and, in the case of joint tenants or joint licensees, it shall be a sufficient compliance with the obligation under subsection (1) above to furnish each housing revenue account tenant with a report that a single copy of it is furnished to the tenants or licensees jointly.

(4) At the same time as they furnish a report under this section to their housing revenue account tenants, a local housing authority shall send a copyof the report to the Secretary of State.

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- (5) The power to make a determination under subsection (1) above may be so exercised as to make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housing authorities.
- (6) The reference in subsection (3) above to a house or other property within an authority's Housing Revenue Account shall be construed in accordance with section 74(5) above.
- (7) In this section "tenant" has the same meaning as in the <sup>M160</sup>Housing Act 1985.
- (8) Before making a determination under this section, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.

#### Marginal Citations

M160 1985 c.68.

### 168 Contributions towards costs of housing mobility arrangements. E+W+S

- (1) The Secretary of State may with the consent of the Treasury make grants or loans towards the cost of arrangements for enabling or assisting persons to move and become,—
  - (a) in England and Wales, tenants or licensees of dwellings; and
  - (b) in Scotland, tenants of houses.
- (2) The grants or loans may be made subject to such conditions as the Secretary of State may determine and may be made so as to be repayable or, as the case may be, repayable earlier if there is a breach of such a condition.
- (3) In this section—
  - "dwelling" means a building or a part of a building occupied or intended to be occupied as a separate dwelling;
  - "house" has the same meaning as in the <sup>M161</sup>Housing (Scotland) Act 1987; and
  - "tenant" does not include a tenant under a long lease within the meaning of the <sup>M162</sup>Landlord and Tenant Act 1987 or, as respects Scotland, under a lease for a period exceeding 20 years.
- (4) Section 107 of the <sup>M163</sup>Housing Act 1985 and section 80 of the Housing (Scotland) Act 1987 (which make provision similar to that made by the preceding provisions of this section, but limited to secure tenants) shall cease to have effect.

#### Marginal Citations

M161 1987 c.26.

M162 1987 c. 31.

M163 1985 c. 68.



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**169 Powers of local authorities and Secretary of State as respects services etc. for owners and occupiers of houses for work on them. E+W**

- (1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of dwellings in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.
- (2) Works are relevant works in relation to a dwelling or, as the case may be, a dwelling in any area, if they are works of any of the following descriptions, that is to say—
  - (a) works to cause the dwelling to be fit for human habitation,
  - (b) where the occupant is disabled, works for any of the purposes specified in [F225section 23 of the Housing Grants, Construction and Regeneration Act 1996 (disabled facilities grants: purposes)],
  - F226(c) .....
  - F226(d) .....
- (3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—
  - (a) to consider whether or not to make a charge for exercising it; and
  - (b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.
- (4) A relevant authority shall have power to give financial assistance in any form to—
  - (a) any housing association,
  - (b) any charity, or
  - (c) any body, or body of any description, approved by the Secretary of State,towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of a relevant authority—
  - (a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and
  - (b) in exercising any power conferred by subsection (4) above in relation to any association, charity or body—
    - (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
    - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.

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- (7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.
- (8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.
- (9) In this section—

“charity” means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court’s jurisdiction with respect to charities;

“housing association” means a housing association within the meaning of section 1(1) of the <sup>M164</sup>Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such [<sup>F227</sup>works]);

“local housing authority” shall be construed in accordance with section 1 of the <sup>M165</sup>Housing Act 1985; and

“relevant authority” means a local housing authority or county council.

#### Textual Amendments

- F225** Words in s. 169(2)(b) substituted (17.12.1996) by 1996 c. 53, s. 103, **Sch. 1 para. 15(1)(2)**; S.I. 1996/2842, **art. 3**
- F226** S. 169(2)(c)(d) repealed (19.7.2003) by **The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860)**, **art. 1(3)**, **Sch. 4 para. 3**, **Sch. 6**
- F227** S. 169(9): words in definition of "housing association" substituted (1.10.1996) by S.I. 1996/2325, **art. 5(1)**, **Sch. 2 para. 19(6)**

#### Marginal Citations

- M164** 1985 c. 69.  
**M165** 1985 c. 68.

### 170 Powers of local authorities and Secretary of State as respects services, etc., for owners and occupiers of houses for work on them: Scotland. **E+W+S**

- (1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of houses in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.
- (2) Relevant works are such works as may be specified in regulations made by the Secretary of State and such works may be so specified by reference to such factors (including factors relating to persons of such descriptions as may be so specified) as the Secretary of State thinks fit.
- (3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—
- (a) to consider whether or not to make a charge for exercising it; and

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- (b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.
- (4) A relevant authority shall have power to give financial assistance in any form to—
- (a) any housing association,
  - (b) any charity, or
  - (c) any body, or body of any description, approved by the Secretary of State,
- towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of houses in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of a relevant authority—
- (a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and
  - (b) in exercising any power conferred by subsection (4) above in relation to any association, charity or body—
    - (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
    - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.
- (7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.
- (8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.
- (9) In this section—
- “charity” means any body, corporate or not, established for charitable purposes;
  - “charitable purposes” shall be construed in the same way as if it were contained in the Income Tax Acts;
  - “house” has the meaning given by section 338 of the <sup>M166</sup>Housing (Scotland) Act 1987;
  - “housing association” means a housing association within the meaning of section 1(1) of the <sup>M167</sup>Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works);

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“relevant authority” means a [<sup>F228</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]

#### Textual Amendments

**F228** S. 170(9): words in definition of “relevant authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(14)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

**M166** 1987c. 26.  
**M167** 1985 c. 69.

### 171 Winding up of home purchase assistance scheme. **E+W+S**

- (1) The Secretary of State may by order make provision for the purpose of bringing to an end the scheme for assistance for first-time buyers which—
- (a) as respects England and Wales, is contained in sections 445 to 450 of the <sup>M168</sup>Housing Act 1985, and
  - (b) as respects Scotland, is contained in sections 222 to 227 of the Housing (Scotland) Act 1987,
- and in the following provisions of this section, the enactments specified in paragraphs (a) and (b) above together with any orders and directions made under those enactments are referred to as “the assistance legislation”.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection—
- (a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;
  - (b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number of payments of such amount and payable at such time or times as may be determined in accordance with the order; and
  - (c) may provide for the amendment or repeal, in whole or in part, of the assistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.
- (3) The following powers, namely,—
- (a) the powers conferred on the Secretary of State by subsection (3) of section 446 of the Housing Act 1985 and subsection (3) of section 223 of the Housing (Scotland) Act 1987 to relax or modify the conditions in subsection (2) of each of those sections respectively (conditions qualifying a purchaser for assistance), and
  - (b) any power to make an order under any provision of the assistance legislation, may be so exercised as to make provision for the purpose referred to in subsection (1) above.

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- (4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

M168 1985 c. 68.

**172 Transfer of new town housing stock. E+W**

- (1) Subject to the following provisions of this section, the Secretary of State may by regulations make provision for requiring and authorising each new town corporation to take such steps as may be prescribed for making and giving effect to proposals for disposing of their housing stock, either by transferring it as a whole to a prescribed person or by transferring different parts of it to different prescribed persons.
- (2) Regulations under subsection (1) above shall not require a new town corporation to transfer any dwelling or associated property, rights, liabilities or obligations to any person other than—
- the district council <sup>F229</sup>or Welsh county council or county borough council] within whose <sup>F230</sup>area] the dwelling is situated; or
  - a person approved for the purposes of, and in accordance with, the regulations by the Housing Corporation <sup>F231</sup>. . . .
- (3) Regulations under subsection (1) above shall not require a new town corporation to give effect to a proposal for the transfer of any dwelling if the dwelling is one in respect of which a notice has been served under section 122 of the <sup>M169</sup>Housing Act 1985 (notice of a claim to exercise the right to buy) before the prescribed time and such other conditions as maybe prescribed are satisfied.
- (4) A new town corporation shall not, in pursuance of any regulations under subsection (1) above, transfer any dwellings, or any associated property, rights, liabilities or obligations, to any person except with the consent of the Secretary of State; and the Secretary of State shall not give his consent to a proposed transfer unless he is satisfied—
- that there has been compliance with all such requirements with respect to the publication of information about the proposal and matters connected with its implementation, and with respect to consultation about the proposal, as are prescribed;
  - that all such steps have been taken as are prescribed for the purpose of protecting the interests of the occupiers of the dwellings or the interests of the occupiers of any dwellings excluded from the proposal by virtue of subsection (3) above or any such consultation; and
  - that the terms on which the transfer is made—
    - require such price to be paid for the property transferred as appears to him to be the price which, on the prescribed assumptions, it would realise if sold on the open market by a willing vendor; and
    - include all such other terms as are prescribed.
- (5) Regulations under subsection (1) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with

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their other provisions as the Secretary of State considers appropriate, including, without prejudice to the generality of the foregoing, provision corresponding to subparagraphs (2) and (3) of paragraph 2 of Schedule 12 to the <sup>M170</sup>Housing Act 1988 (matters relating to registration of title).

(6) Subject to subsection (7) below, Part III of the <sup>M171</sup>New Towns Act 1981 (transfer of dwellings and associated property to district councils) shall cease to have effect.

(7) Nothing in subsection (6) above shall—

- (a) affect the operation after the time when that subsection comes into force of so much of any transfer scheme made under Part III of the said Act of 1981 before that time as contains management arrangements with respect to land in which a new town corporation have an interest;
- (b) affect the application after that time of section 50 of that Act (financial arrangements) in relation to any transfer scheme made under that Part before that time; or
- (c) prevent the Secretary of State from exercising his power to make grants to a district council [<sup>F229</sup>or Welsh county council or county borough council] under section 51A of that Act (grants in respect of defects in transferred dwellings) where the grants are paid before the 1st April 1990 or such later date as the Secretary of State may by order made by statutory instrument appoint in relation to that council;

and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this section—

“dwelling” means any building or part of a building occupied, or erected or adapted for occupation, as a dwelling or as a hostel (including any land belonging to it or usually enjoyed with it);

“housing stock”, in relation to a new town corporation, means—

- (a) the dwellings (whether or not in the area of a particular new town) which are vested in that corporation and were erected, adapted or acquired for occupation as dwellings; and
- (b) except so far as may be prescribed, any associated property, rights, liabilities and obligations of that corporation;

“liabilities and obligations”, in relation to a new town corporation, includes liabilities and obligations which, apart from the regulations, would not be capable of being assigned or transferred by the corporation, including liabilities and obligations under Part V of the <sup>M172</sup>Housing Act 1985 (the right to buy);

“new town corporation” means the Commission for the New Towns <sup>F232</sup> . . . or a development corporation, within the meaning of the New Towns Act 1981; and

“prescribed” means prescribed by or determined under regulations under subsection (1) above.

(9) For the purposes of this section the following property, rights, liabilities and obligations of a new town corporation shall be treated as associated with any dwellings comprised in their housing stock, that is to say—

- (a) any interest of the corporation in any land occupied or set aside for occupation or use with the dwellings;

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- (b) any interest of the corporation in land in the vicinity of the dwellings which is held by them for the benefit or use of the persons living in those dwellings (rather than the inhabitants of a new town as a whole) or for providing facilities for the persons living in those dwellings, and any other property and any rights of the corporation so held;
- (c) any property and rights held by the corporation—
  - (i) for the administration of an estate comprising the dwellings or any associated property;
  - (ii) for the maintenance or service of the dwellings or any associated property; or
  - (iii) otherwise in connection with any such property;
- (d) any rights, liabilities and obligations which the corporation have in connection with any of the dwellings or any associated property or in connection with any dwellings which were previously part of their housing stock;
- (e) any interest of the corporation in land set aside by them as an open space for the use or enjoyment of persons living in the dwellings (rather than for the use of the inhabitants of a new town as a whole).

#### Textual Amendments

- F229** Words in s. 172(2)(a)(7)(c) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**
- F230** Word in s. 172(2)(a) substituted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**
- F231** Words in s. 172(2)(b) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 75, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F232** S. 172(8): words in definition of “new town corporation” repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

#### Marginal Citations

- M169** 1985 c. 68.
- M170** 1988 c. 50.
- M171** 1981 c. 64.
- M172** 1985 c. 68.

### 173 Consent required for subsequent disposals. **E+W**

- (1) Where a dwelling which is for the time being subject to a secure tenancy is transferred under section 172 above to a person approved as mentioned in subsection (2)(b) of that section (in this section referred to as an “approved person”), that person shall not dispose of it except—
  - (a) with the consent of the Secretary of State, which may be given either unconditionally or subject to conditions; or
  - (b) by an exempt disposal, as defined in section 81(8) of the <sup>M173</sup>Housing Act 1988;and any reference in the following provisions of this section to an initial transfer is a reference to the transfer of a dwelling to an approved person under section 172 above.
- (2) Where an estate or interest in a dwelling of the approved person who acquired it on the initial transfer has been mortgaged or charged, the prohibition in subsection (1)

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above applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—

- (a) by operation of law or by virtue of an order of a court, the dwelling which has been acquired on the initial transfer passes or is transferred from the approved person to another person, and
- (b) that passing or transfer does not constitute a disposal for which consent is required under this section,

this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the dwelling passes or is transferred were the approved person.

- (3) Where subsection (1) above applies—
  - (a) the new town corporation by whom the initial transfer is made shall furnish to the approved person a copy of the consent of the Secretary of State under section 172(4) above; and
  - (b) the instrument by which the initial transfer is effected shall contain a statement in a form approved by the Chief Land Registrar that the requirement of this section as to consent applies to a subsequent disposal of the dwelling by the approved person.
- (4) For the purposes of this section the grant of an option to purchase the fee simple or any other interest in a dwelling is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.
- (5) Before giving any consent required by virtue of this section, the Secretary of State—
  - (a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any dwelling proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation.
- (6) If, apart from subsection (7) below, the consent of the Housing Corporation <sup>F233</sup> . . . would be required under [<sup>F234</sup>section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or] section 9 of the <sup>M174</sup>Housing Associations Act 1985 (control of dispositions of land by [<sup>F234</sup>unregistered]housing associations) for a disposal in respect of which, by virtue of subsection (1) above, the consent of the Secretary of State is required, the Secretary of State shall consult that body before giving his consent for the purposes of this section.
- (7) No consent shall be required under [<sup>F235</sup>section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985] for any disposal in respect of which consent is given [<sup>F236</sup>under this section].
- (8) Where the title of the new town corporation to the dwelling which is transferred by the initial transfer is not registered, and the initial transfer is a [<sup>F237</sup>transfer or grant] of a description mentioned in [<sup>F238</sup>section 4 of the Land Registration Act 2002] (compulsory registration of title)—
  - <sup>F239</sup>(a) . . . . .
  - (b) the corporation shall give the approved person a certificate in a form approved by the Chief Land Registrar stating that the corporation is entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the initial transfer is effected or summarised in the certificate; and



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- (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the <sup>F240</sup>Land Registration Act 2002] the corporation by whom the initial transfer was made is liable to indemnify him.

<sup>F241</sup>(9) Where the Chief Land Registrar approves an application for registration of—

- (a) a disposition of registered land, or  
(b) a person’s title under a disposition of unregistered land,

and the instrument effecting the initial transfer contains the statement required by subsection (3) above, he shall enter in the register a restriction reflecting the limitation under this section on subsequent disposal.]

(10) In this section—

- (a) “dwelling” and “new town corporation” have the same meaning as in section 172 above; and  
(b) “secure tenancy” has the meaning assigned by section 79 of the <sup>M175</sup>Housing Act 1985.

#### Textual Amendments

- F233** Words in s. 173(6) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 76(1)(2), **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F234** Words in s. 173(6) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(a)**
- F235** Words in s. 173(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(b)**
- F236** Words in s. 173(7) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 76(1)(3)** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F237** Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(a)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F238** Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F239** S. 173(8)(a) repealed (1.4.1998) by 1997 c. 2, s. 4(2), **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2(c)**
- F240** Words in s. 173(8)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(c)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F241** S. 173(9) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(3)** (with s. 129); S.I. 2003/1725, art. 2(1)

#### Marginal Citations

- M173** 1988 c.50.  
**M174** 1985 c. 69.  
**M175** 1985 c. 68.

<sup>F242</sup>174 ..... **E+W**

#### Textual Amendments

- F242** S. 174 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19, Pt. IX**; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in **Sch.**)

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## 175 Repeal of the Town Development Act 1952. **E+W**

No undertaking shall be given under section 2 or 4 of the <sup>M176</sup>Town Development Act 1952 (Government and local authority contributions for the purposes of town development), and no payment shall be made in pursuance of any such undertaking, at any time after 31st March 1990; and that Act shall cease to have effect except for the purposes of any town development (within the meaning of that Act) in relation to which any undertaking has been given before that date under section 2 of that Act.

### Marginal Citations

**M176** 1952 c.54.

## 176 Amendment of definition of occupation for purposes of purchase of house by secure tenant: Scotland. **E+W+S**

(1) In section 61(10) of the <sup>M177</sup>Housing (Scotland) Act 1987 (definition of occupation of house for purposes of purchase by secure tenant)—

- (a) in paragraph (a)(v) (occupation by member of tenant’s family succeeding to tenancy may be treated, at discretion of landlord, as occupation for purposes of right to buy) the words “in the discretion of the landlord” shall be omitted; and
- (b) in paragraph (b) (rules for determining period of occupation) there shall be added at the end—

“and

(iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.”.

(2) This section does not apply in any case where the application to purchase the house under section 63(2) of that Act has been served before the coming into force of this section.

### Marginal Citations

**M177** 1987 c. 26.

## [<sup>F243</sup>177 Sale to secure tenants of houses provided for persons of pensionable age: Scotland. **E+W+S**

In section 69 of the Housing (Scotland) Act 1987 (Secretary of State’s power to authorise refusal to sell certain houses provided for persons of pensionable age) after subsection (1) there shall be inserted the following subsection—

“(1A) This section applies only to houses first let on a secure tenancy before 1st January 1990.”]

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### Textual Amendments

**F243** S. 177 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

## 178 Application of secure tenant's right to buy to cases where landlord is lessee: Scotland. **E+W+S**

[<sup>F244</sup>(1) In section 76 of the Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants)—

- (a) in subsection (1)(a)—
  - (i) for the word “not” there shall be substituted the word “neither”; and
  - (ii) after the word “house” there shall be inserted the words “nor holds the interest of the landlord under a registered lease of the house or of land which includes it”;
- (b) in subsection (2) for the words “heritable proprietor of the house” there shall be substituted the words “either the heritable proprietor of the house or the holder of the interest of the landlord under a registered lease of the house or of land which includes it”; and
- (c) in subsection (3)(b) at the end there shall be inserted the words “or a local authority is the holder of the interest of the landlord under a registered lease of the house or of land which includes it.”]

(2) After section 84 of that Act there shall be inserted the following section—

### “84A Application of right to buy to cases where landlord is lessee.

- (1) Sections 61 to 84 (but not 76 or 77) and 216 (the “right to buy” provisions) shall, with the modifications set out in this section, apply so as to provide for—
  - (a) the acquisition by the tenant of a house let on a secure tenancy of the landlord's interest in the house as lessee under a registered lease of the house or of land which includes it or as assignee of that interest; and
  - (b) the obtaining of a loan by the tenant in that connection,as these sections apply for the purposes of the purchase of a house by the tenant from the landlord as heritable proprietor of it and the obtaining by the tenant of a loan in that connection.
- (2) References in the right to buy provisions to the purchase or sale of a house shall be construed respectively as references to the acquisition or disposal of the landlord's interest in the house by way of a registered assignation of that interest and cognate expressions shall be construed accordingly.
- (3) The reference in section 61(2)(b) to the landlord's being the heritable proprietor of the house shall be construed as a reference to the landlord's being the holder of the interest of the lessee under a registered lease of the house or of land which includes it.
- (4) References in the right to buy provisions to the market value of or price to be paid for a house shall be construed respectively as references to the market value of the landlord's interest in the house and to the price to be paid for acquiring that interest.

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- (5) References in section 64(1) to the tenant’s enjoyment and use of a house as owner shall be construed as references to his enjoyment and use of it as assignee of the landlord’s interest in the house.
- (6) The reference in subsection (4) of section 64 to an option being offered to the landlord or to any other person to purchase the house in advance of its sale to a third party shall be construed as a reference to an option being offered to have the interest acquired by the tenant re-assigned to the landlord or assigned to the other person in advance of its being disposed of to a third party; and the references in subsection (5) and (9) of that section to an option to purchase shall be construed accordingly.
- (7) In this section and section 76—  
“registered lease” means a lease—  
(a) which is recorded in the general register of sasines; or  
(b) in respect of which the interest of the lessee is registered in the Land Register of Scotland  
under the Registration of Leases (Scotland) Act 1857; and  
“registered assignation” means, in relation to such a lease, an assignation thereof which is so recorded or in respect of which the interest of the assignee has been so registered.”

#### Textual Amendments

**F244** S. 178(1) repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

#### [<sup>F245</sup>179 Amendment of powers of Scottish Homes to dispose of land. **E+W+S**

- (1) In section 2 of the <sup>M178</sup>Housing (Scotland) Act 1988 (which, amongst other things, enables Scottish Homes to dispose of land)—
- (a) in subsection (2) (powers of Scottish Homes), after “(3)” there shall be inserted “ and (3A) ”;
- (b) in subsection (3)(b)—  
(i) after “above” there shall be inserted the words “, other than the power under paragraph (h) to dispose of land, ”; and  
(ii) for the word “with” where secondly occurring there shall be substituted the words “ between it and ”;
- (c) after subsection (3) there shall be inserted the following subsection—  
“(3A) The power conferred by subsection (2)(h) above upon Scottish Homes to dispose of land may be exercised only with the consent of the Secretary of State (which consent may be given in relation to particular cases or classes of case and may be made subject to conditions).”; and
- (d) subsection (6) (certain land not to be disposed of, without consent, for less than best price) shall be omitted.]

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#### Textual Amendments

**F245** S. 179 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

#### Marginal Citations

**M178** 1988 c. 43.

### 180 Race relations: codes of practice in housing field. **E+W+S**

The amendments of section 47 of the <sup>M179</sup>Race Relations Act 1976 (codes of practice) made by subsections (2) and (3) of section 137 of the <sup>M180</sup>Housing Act 1988 (codes of practice in the field of rented housing) shall be varied as follows—

- (a) in subsection (1)(c) of the said section 47 the words following “field of housing” shall be omitted; and
- (b) the word “rented”, where it occurs in subsections (1)(d) and (3A) of that section, shall be omitted.

#### Marginal Citations

**M179** 1976 c. 74.

**M180** 1988 c. 50.

### [<sup>F246</sup>181 Duty of landlord to inform secure tenant seeking to buy house about changes in law: Scotland. **E+W+S**

In section 76 of the <sup>M181</sup>Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants) there shall be added at the end the following subsections—

“(4) Where—

- (a) by way of any enactment (including an enactment made under this Act), any change is to be made in the law relating to the calculation of the price at which the tenant of a house is entitled under this Act to purchase it, being a change which does not come into force upon the passing or making of that enactment but which, when it does come into force will affect the price of the house, and
- (b) the house is one in respect of which an application to purchase has, in the period ending with the coming into force of the change, been served under section 63(1) and not withdrawn but no contract of sale of the house has been constituted under section 66(2),

the landlord shall, upon the passing or making of that enactment or, if later, upon the service of the application to purchase, forthwith give written notice to the tenant stating the nature of the change and how it will affect the price and suggesting that the tenant should seek appropriate advice.

- (5) For the purposes of subsection (4), a change in the law will affect the price of a house if, on the day it falls to be calculated under the law as changed, the price will be different from what it would have been that day had there been no such change.”]

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#### Textual Amendments

**F246** S. 181 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

#### Marginal Citations

**M181** 1987 c. 26.

#### Other provisions

<sup>F247</sup>**182** ..... **E+W+S**

#### Textual Amendments

**F247** S. 182 repealed (1.10.1996) by 1996 c. 52, s. 227, Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)

### **183 Extension of powers of Housing Corporation and Housing for Wales to give financial assistance. **E+W****

For section 87 of the <sup>M182</sup>Housing Associations Act 1985 (grants towards expenses in promoting or assisting registered housing associations) there shall be substituted the following section—

#### **“87 Financial assistance with respect to formation, management, etc. of certain housing associations.**

- (1) The Corporation may give financial assistance to any person in respect of the following activities—
  - (a) promoting and giving advice on the formation of registered housing associations and co-operative housing associations (in this section referred to collectively as “relevant associations”);
  - (b) managing, providing services for, and giving advice on the running of, relevant associations; and
  - (c) assisting tenants and licensees of a relevant association to take part in the management of the association or of some or all of the dwellings provided by the association.
- (2) Assistance under this section may be in the form of grants, loans, guarantees or incurring expenditure for the benefit of the person assisted or in such other way as the Corporation considers appropriate, except that the Corporation may not, in giving any form of financial assistance, purchase loan or share capital in a company.
- (3) With respect to financial assistance under this section, the following—
  - (a) the procedure to be followed in relation to applications for assistance,
  - (b) the circumstances in which assistance is or is not to be given,

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- (c) the method for calculating, and any limitations on, the amount of assistance, and
- (d) the manner in which, and the time or times at which, assistance is to be given,

shall be such as may be specified by the Corporation, acting in accordance with such principles as it may from time to time determine.

- (4) In giving assistance under this section, the Corporation may provide that the assistance is conditional upon compliance by the person to whom the assistance is given with such conditions as it may specify.
- (5) Where assistance under this section is given in the form of a grant, subsections (1), (2) and (7) to (9) of section 52 of the Housing Act 1988 (recovery, etc. of grants) shall apply as they apply in relation to a grant to which that section applies, but with the substitution, for any reference in those subsections to the registered housing association to which the grant has been given, of a reference to the person to whom assistance is given under this section.
- (6) Section 53 of the Housing Act 1988 (determinations under Part II) shall apply in relation to a determination under this section as it applies to a determination under sections 50 to 52 of that Act.”

#### Marginal Citations

M182 1985 c. 69.

### 184 Extension of functions of Audit Commission. **E+W**

- (1)
- <sup>F248F249</sup>(2) .....
- (3)<sup>F248</sup>

#### Textual Amendments

**F248** S. 184(1)(3) repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**

**F249** S. 184(2) repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**

### 185 Publication of reports of Controller of Audit: Scotland. **E+W+S**

In section 102 of the <sup>M183</sup>Local Government (Scotland) Act 1973 (reports to Commission for Local Authority Accounts by Controller of Audit)—

- (a) in subsections (1) and (2) there shall, in each case, be added at the end the words “ and may send a copy of any report so made to any other person he thinks fit ”; and
- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of

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that copy report to each member of the authority and make additional copies available for public inspection.”

#### Marginal Citations

M183 1973 c. 65.

### 186 Security of tenure on ending of long residential tenancies. **E+W**

- (1) Schedule 10 to this Act shall have effect (in place of Part I of the <sup>M184</sup>Landlord and Tenant Act 1954) to confer security of tenure on certain tenants under long tenancies and, in particular, to establish assured periodic tenancies when such long tenancies come to an end.
- (2) Schedule 10 to this Act applies, and section 1 of the Landlord and Tenant Act 1954 does not apply, to a tenancy of a dwelling-house—
  - (a) which is a long tenancy at a low rent, as defined in Schedule 10 to this Act; and
  - (b) which is entered into on or after the day appointed for the coming into force of this section, otherwise than in pursuance of a contract made before that day.
- (3) If a tenancy—
  - (a) is in existence on 15th January 1999, and
  - (b) does not fall within subsection (2) above, and
  - (c) immediately before that date was, or was deemed to be, a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954,
 then, on and after that date (and so far as concerns any notice specifying a date of termination on or after that date and any steps taken in consequence thereof), section 1 of that Act shall cease to apply to it and Schedule 10 to this Act shall apply to it unless, before that date, the landlord has served a notice under section 4 of that Act specifying a date of termination which is earlier than that date.
- (4) The provisions of Schedule 10 to this Act have effect notwithstanding any agreement to the contrary, but nothing in this subsection or that Schedule shall be construed as preventing the surrender of a tenancy.
- (5) Section 18 of the Landlord and Tenant Act 1954 (duty of tenants of residential property to give information to landlords or superior landlords) shall apply in relation to property comprised in a long tenancy at a low rent, within the meaning of Schedule 10 to this Act, as it applies to property comprised in a long tenancy at a low rent within the meaning of Part I of that Act, except that the reference in that section to subsection (1) of section 3 of that Act shall be construed as a reference to sub-paragraph (1) of paragraph 3 of Schedule 10 to this Act.
- (6) Where, by virtue of subsection (3) above, Schedule 10 to this Act applies to a tenancy which is not a long tenancy at a low rent as defined in that Schedule, it shall be deemed to be such a tenancy for the purposes of that Schedule.

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

C88 S. 186 modified by S.I. 1990/776, arts. 2(2), 5(2)(b)



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#### Marginal Citations

M184 1954 c. 56.

### 187 Construction industry: grants and guarantees. **E+W**

- (1) The Secretary of State may, for the purpose of promoting or facilitating the carrying on of any of the activities specified in subsection (2) below, do one or both of the following, that is to say—
  - (a) make grants to any person who carries on any such activities;
  - (b) guarantee the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with sums borrowed temporarily by any such person.
- (2) The activities mentioned in subsection (1) above are—
  - (a) the assessment of, and of applications of, materials, products, systems and techniques used or proposed for use in the construction industry; and
  - (b) the issue of certificates, promotion of common standards and publication of information with respect to any such materials, products, systems or techniques.
- (3) The consent of the Treasury shall be required for the exercise by the Secretary of State of his power under this section to make a grant or give a guarantee; but, subject to that consent and to the following provisions of this section, that power shall be a power to make a grant or give a guarantee in such manner and on such conditions as he thinks fit.
- (4) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.
- (5) Where any sums are paid out in fulfilment of a guarantee given under this section in respect of any person's borrowing, that person shall make to the Secretary of State, at such times and in such manner as the Secretary of State may, with the consent of the Treasury, from time to time direct—
  - (a) payments, of such amounts as the Secretary of State may so direct, in or towards repayment of those sums; and
  - (b) payments of interest, at such rate as the Secretary of State may so direct, on what is outstanding for the time being in respect of those sums.
- (6) As soon as possible after the end of any financial year in which—
  - (a) any sums are paid out in fulfilment of a guarantee given under this section, or
  - (b) any liability in respect of the principal of sums so paid out, or in respect of interest on any such sums, is outstanding,the Secretary of State shall lay before each House of Parliament a statement relating to the sums.

### 188 Repeal of s. 2 of the Education (Grants and Awards) Act 1984. **E+W**

Section 2 of the <sup>M185</sup>Education (Grants and Awards) Act 1984 (limit on expenditure approved for grant purposes) shall not apply in relation to any expenditure approved for the financial year beginning with 1st April 1990 or any subsequent financial year.

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#### Marginal Citations

M185 1984 c. 11.

<sup>F250</sup> 189 ..... **E+W**

#### Textual Amendments

**F250** S. 189 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**

### Supplementary

#### 190 Regulations. **E+W+S**

- (1) Under any power to make regulations conferred by any provision of this Act, different provision may be made for different cases and different descriptions of cases (including different provision for different areas).
- (2) Any power to make regulations conferred by any provision of this Act shall be exercisable by statutory instrument which, except in the case of a statutory instrument containing regulations under section 150 or section 151 or Schedule 10, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### 191 Separate provisions for Wales. **E+W**

- (1) Where any provision of this Act which extends to England and Wales confers (directly or by amendment of another Act) a power on the Secretary of State to make regulations, orders, rules or determinations or to give directions or specify any matter, the power may be exercised differently for England and Wales, whether or not it is exercised separately.
- (2) This section is without prejudice to section 190(1) above and to any other provision of this Act or of any Act amended by this Act by virtue of which powers may be exercised differently in different cases or in any other circumstances.

#### 192 Financial provisions. **E+W+S**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any sums required for the payment by the Secretary of State of grants, subsidies or contributions under this Act;
  - (b) any sums required by the Secretary of State for fulfilling any guarantees under this Act;
  - (c) any other expenses of the Secretary of State under this Act; and
  - (d) any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

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### **193 Application to Isles of Scilly.** **E+W**

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **194 Amendments and repeals.** **E+W+S**

- (1) Schedule 11 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Part I of Schedule 12 to this Act, which relate to or are superseded by the provisions of Part IV of this Act, are hereby repealed to the extent specified in the third column of that Schedule; and the Secretary of State may by order made by statutory instrument make provision (in consequence of the said Part IV) amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act.
- (3) In subsection (2) above “Act” includes a private or local Act and a statutory instrument by which the power in that subsection is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The other enactments specified in Part II of Schedule 12 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of that Schedule.

#### **Commencement Information**

- I9** S. 194(1), partly in force; s. 194(1) in force for certain purposes at 27.2.1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(1), **Sch.**  
S. 194(1) partly in force; s. 194(1) in force for certain purposes at 1.4.1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**  
S. 194(1) partly in force; s. 194(1) in force at 1.4.1991 so far as it relates to Sch. 11 para. 113, see s. 195(2) and S.I. 1991/953, **art. 2**  
S. 194(1) partly in force: s. 194(1) in force at 8.5.1992 so far as it relates to Sch. 11 para. 30, see s. 195(2) and S.I. 1992/760, **art. 2**  
S. 194(1) partly in force: s. 194(1) in force at 25.1.1993 so far as it relates to Sch. 11 para. 14, see s. 195(2) and S.I. 1993/105, **art. 2**
- I10** S. 194(4) partly in force; s. 194(4) in force for certain purposes at 1.4.1991 see s. 195(2)(3) and S. I. 1991/344, art. 3(2)(b), **Sch.**

### **195 Short title, commencement and extent.** **E+W+S**

- (1) This Act may be cited as the Local Government and Housing Act 1989.
- (2) The provisions of sections 1 and 2, 9, 10, 13 to 20 above, Parts II to V (with the exception in Part II of section 24), VII and VIII and (in this Part) sections 140 to 145, 156, 159, 160, 162, 164, 165, 167 to 173, 175 to 180, 182 and 183, 185, 186 and 194, except in so far as it relates to paragraphs 104 to 106 of Schedule 11, shall come into force on such day as the Secretary of State may by order made by statutory

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instrument appoint, and different days may be so appointed for different provisions or for different purposes.

- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.
- (4) Subject to subsection (5) below, this Act, except Parts I and II and sections 36(9), 140 to 145, 150 to 152, 153, 155, 157, 159, 161, 166, 168, 170, 171, 176 to 182, 185, 190, 192, 194(1), 194(4) and this section, extendsto England and Wales only.
- (5) Notwithstanding anything in subsection (4) above, any provision of Schedule 11 or Part II of Schedule 12 to this Act which amends or repeals any provision of the following enactments does not extend to Scotland—
  - (a) the <sup>M186</sup>Military Lands Act 1892;
  - (b) the <sup>M187</sup>Local Authorities (Expenditure Powers) Act 1983.
- (6) This Act does not extend to Northern Ireland.

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

**C89** Power of appointment conferred by s. 195(2) partly exercised: [S.I. 1989/2180](#), 2186, 2445, 1990/191, 431, 762, 961, 1274, 1335, 1552, 2581

**Marginal Citations**

**M186** 1892 c. 43.

**M187** 1983 c. 52.

**Status:**

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**Changes to legislation:**

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