



Local Government and Housing Act 1989

1989 CHAPTER 42

^{F1}PART IV

REVENUE ACCOUNTS AND CAPITAL FINANCE OF LOCAL AUTHORITIES

Introductory

39 Application of Part IV.

- (1) For financial years beginning on or after 1st April 1990, this Part has effect with respect to the finances of the following authorities (in this Part referred to as “local authorities”)—
- (a) a county council;
 - ^{F1}(bb) 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) an authority established under section 10 of the ^{M1}Local Government Act 1985 (waste disposal authorities);
 - (g) a joint authority established by Part IV of that Act (^{F2}[police,]fire services, civil defence and transport);
 - (h) a joint or special planning board constituted for a National Park by an order under paragraph ^{F3}[1, 3 or 3A]of Schedule 17 to the Local Government Act 1972; ^{F4}[or under section 2(1B) of the Town and Country Planning Act 1990]
 - ^{F5}(hh) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990;
 - (i) the Broads Authority;
 - ^{F6}(ia) a National Park authority;

Status: Point in time view as at 23/11/1995.

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- [^{F7}(ia) a fire authority constituted by a combination scheme made under section 6 of the Fire Services Act 1947 in consequence of an order made under Part II of the Local Government Act 1992.]
 - [^{F8}(j) a police authority established under section 3 of the Police Act 1964; ^{M2}]
 - (k) any other body prescribed by regulations under subsection (3) below.
- (2) The reference in subsection (1)(d) above to the Common Council of the City of London is a reference to that Council in their capacity as a local authority, a police authority or a port health authority.
- (3) The Secretary of State may by regulations prescribe for the purposes of subsection (1) (k) above any body which is (or any class of bodies each of which is)—
- (a) a levying body, within the meaning of section 74 of the ^{M3}Local Government Finance Act 1988;
 - (b) a body to which section 75 of that Act applies (bodies having power to issue special levies);
 - [^{F9}(c) a body to which section 118 of that Act applies;
 - (d) a local precepting authority, as defined in section 69 of the Local Government Finance Act 1992; or
 - (e) the Receiver for the Metropolitan Police District.]
- (4) Regulations under subsection (3) above may provide that, in relation to a body prescribed by the regulations, the following provisions of this Part shall have effect subject to such modifications as may be specified in the regulations.
- (5) For the purposes of the application of this Part, the Secretary of State may by order make provision for treating things done by or to—
- (a) a company which, in accordance with Part V of this Act, is under the control of a local authority, or
 - (b) a company which, in accordance with that Part, is for the time being subject to the influence of an authority, or
 - (c) a trust to which, by virtue of an order under section 72 below, the provisions of section 69 below are applicable, or
 - (d) a Passenger Transport Executive and any company which, in accordance with that Part, is either under the control or for the time being subject to the influence of such an Executive,
- in such cases and to such extent as may be provided in the order as if they were done by or to the local authority specified or determined in accordance with the order; and, where an order so provides in relation to a local authority, that authority together with any companies and Executive concerned are in subsection (6) below referred to as members of a local authority group.
- (6) Without prejudice to the generality of subsection (5) above, an order under that subsection—
- (a) may provide for the application of the provisions of this Part to the members of a local authority group subject to such modifications as may be specified in the order;
 - (b) may make provision as to the way in which dealings between members of a local authority group and changes in the capitalisation or capital structure of any company in a local authority group are to be brought into account for the purposes of this Part; and

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- (c) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate.
- (7) The power to make an order under subsection (5) above—
 - (a) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and
 - (b) may make different provision in relation to different cases or descriptions of case.
- (8) This Part has effect in place of the provisions of Part VIII of the ^{M4}Local Government, Planning and Land Act 1980.

Textual Amendments

- F1** S. 39(1)(bb) inserted (3.4.1995) by 1994 c. 19, s. 66(6), **Sch. 16 para. 88** (with ss. 54(5)(7), 55(5), Sch. 17 paras 22(1), 23(2)); S.I. 1995/852, art. 9(1), **Sch. 5**
- F2** Word in s. 39(1)(g) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, **art. 4** (subject to art. 5)
- F3** Words s. 39(1)(h) substituted (3.4.1995) by 1994 c. 19, s. 20(4), **Sch. 6, Pt. II para. 23(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**
- F4** Words in s 39(1)(h) added (3.4.1995) by 1994 c. 19, s. 20(4), **Sch. 6, Pt. II para. 23(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, art. 4(1), **Sch. 2**
- F5** S. 39(1)(hh) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F6** S. 39(1)(ia) inserted (19.9.1995) by 1995 c. 25, **ss. 73, 125(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- F7** S. 39(1)(ia) inserted (28.11.1994) by S.I. 1994/2825, **reg. 10**
- F8** S. 39(1)(j) substituted (1.4.1995) by 1994 c. 29, **s. 30**; S.I. 1994/3262, **art. 4 Sch.** (subject to art. 5)
- F9** S. 39(3)(c)(d)(e) substituted for s. 39(3)(c)(d) (2.11.1992) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 90** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 2**

Marginal Citations

- M1** 1985 c. 51.
- M2** 1964 c. 48.
- M3** 1988 c.41.
- M4** 1980 c. 65.

40 Capital purposes.

- (1) References in this Part to expenditure for capital purposes shall be construed in accordance with this section.
- (2) Subject to subsections (5) and (6) below, the following expenditure (relating to tangible assets) is expenditure for capital purposes, namely, expenditure on—
 - (a) the acquisition, reclamation, enhancement or laying out of land, exclusive of roads, buildings and other structures;
 - (b) the acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures; and
 - (c) the acquisition, installation or replacement of movable or immovable plant, machinery and apparatus and vehicles and vessels.
- (3) For the purposes of subsection (2) above, “enhancement”, in relation to any asset, means the carrying out of works which are intended—

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- (a) to lengthen substantially the useful life of the asset; or
- (b) to increase substantially the open market value of the asset; or
- (c) to increase substantially the extent to which the asset can or will be used for the purposes of or in connection with the functions of the local authority concerned;

but expenditure on the enhancement of an asset shall not be regarded as expenditure for capital purposes unless it should be so regarded in accordance with proper practices.

- (4) Subject to subsection (5) below, the following expenditure, in so far as it is not expenditure on approved investments, is expenditure for capital purposes, namely, expenditure on—
- (a) the making of advances, grants or other financial assistance to any person towards expenditure incurred or to be incurred by him on the matters mentioned in paragraphs (a) to (c) of subsection (2) above or on the acquisition of investments; and
 - (b) the acquisition of share capital or loan capital in any body corporate.
- (5) The Secretary of State may by regulations provide—
- (a) that expenditure which, apart from the provision made by the regulations, would not be expenditure for capital purposes shall be such expenditure; or
 - (b) that expenditure which, apart from the provision made by the regulations, would be expenditure for capital purposes shall not be such expenditure.
- (6) Notwithstanding anything in the preceding provisions of this section, if the Secretary of State so directs, expenditure which—
- (a) is of a description or for a purpose specified in the direction, and
 - (b) has been or is to be incurred by a particular local authority, and
 - (c) does not exceed such amount as is specified in the direction, and
 - (d) was or will be incurred during a period specified in the direction,
- may be treated by the authority concerned as expenditure for capital purposes.

Modifications etc. (not altering text)

- C1** S. 40 applied (19.6.1997) by 1997 c. 25, ss. 72(1), 74(1)
- C2** S. 40(2) amended by S.I. 1990/432, reg. 2(3) (as added by S.I. 1991/500, reg. 2(1))
- C3** S. 40(4) amended by S.I. 1990/432, reg. 2(6) (as added by S.I. 1991/500, reg. 2(a))

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