



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

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

#### MISCELLANEOUS AND GENERAL

##### *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,
- 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.
- (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

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- (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;
  - (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;
  - [<sup>F1</sup>(ea) a police authority established under section 3 of the <sup>M1</sup>Police Act 1964;]
  - (f) the Receiver for the Metropolitan Police District; or
  - (g) a joint authority established by Part IV of the <sup>M2</sup>Local Government Act 1985, other than a metropolitan county passenger transport authority.
- (5) In the application of this section to Scotland, any reference to a local authority is a reference to
- [<sup>F2</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]
  - <sup>F3</sup>. . . a joint board or joint committee within the meaning of the <sup>M3</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

- F1** 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)
- F2** 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)**
- F3** S. 155(5): letter “(d)” repealed (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(12)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

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

- C1** S. 155 amended (28.11.1994) by S.I. 1994/2825, **reg. 41**

#### Marginal Citations

- M1** 1964 c. 48.  
**M2** 1985 c. 51.  
**M3** 1973 c.65.

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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>M4</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

M4 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.

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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 payments to 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;
  - (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 Receiver for the Metropolitan Police District;
  - [<sup>F4</sup>(g) a police authority established under section 3 of the <sup>M5</sup>Police Act 1964;]
  - (h) a joint authority established by Part IV of the <sup>M6</sup>Local Government Act 1985; and
  - (i) a residuary body established under Part VII of that Act;
- and, as respects Scotland, means a [<sup>F5</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>M7</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>F6</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>M8</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>M9</sup>Local Government Act <sup>M10</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

- F4** S. 157(6)(g) substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 43**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F5** 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)**
- F6** 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)

- C2** 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 s. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C3** S. 157(1) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(a)**
- C4** S. 157(1)(b) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(b)**

#### Marginal Citations

- M5** 1964 c. 48.  
**M6** 1985 c. 51.  
**M7** 1973 c. 65.  
**M8** 1985 c. 68.  
**M9** 1972 c. 70.  
**M10** 1973 c. 65.

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

- (1) In subsection (2) of section 9 of the <sup>M11</sup>Local Land Charges Act 1975, the words “A requisition under this section must be in writing, and” shall be omitted.

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- (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

M11 1975 c. 76.

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

(1) Section 211 of the <sup>M12</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 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

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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**

M12 1973 c. 65.

**160 Welsh language names for local authorities. E+W**

- (1) For the purpose of enabling local authorities in Wales to be known solely by Welsh language names, the provisions of the <sup>M13</sup>Local Government Act 1972 specified in Schedule 8 to this Act shall be amended in accordance with that Schedule.
- (2) Any reference in the provisions amended by Schedule 8 to this Act to a specially convened meeting of a council is a reference to a meeting of which notice is given as required by Schedule 12 to the Local Government Act 1972 but with the substitution for the words “ three clear days ” in paragraph 4(2) of that Schedule (principal councils) or, as the case may be, paragraph 26(2) (community councils) of “ fourteen clear days ”.

**Marginal Citations**

M13 1972 c. 70.

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