

Status: Point in time view as at 23/11/1995.

Changes to legislation: Local Government and Housing Act 1989, SCHEDULE 2 is up to date with all changes known to be in force on or before 06 July 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)

SCHEDULES

PROSPECTIVE

SCHEDULE 2

Section 36.

LOCAL GOVERNMENT ACT 1972, SECTION 137, AS AMENDED

Power of local authorities to incur expenditure for certain purposes not otherwise authorised.

“137(1) A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of, and will bring direct benefit to, their area or any part of it or all or some of its inhabitants, but a local authority shall not, by virtue of this subsection, incur any expenditure—

- (a) for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment; 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.

(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.

(2) It is hereby declared that the power of a local authority to incur expenditure under subsection (1) above includes power to do so by contributing towards the defraying of expenditure by another local authority in or in connection with the exercise of that other authority's functions.

(2C) A local authority may incur expenditure under subsection (1) above on publicity only by way of assistance to a public body or voluntary organisation where the publicity is incidental to the main purpose for which the assistance is given; but the following provisions of this section apply to expenditure incurred by a local authority under section 142 below on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as they apply to expenditure incurred under this section.

(2D) In subsection (2C) above—

“publicity” means any communication, in whatever form, addressed to the public at large or to a section of the public; and

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“voluntary organisation” means a body which is not a public body but whose activities are carried on otherwise than for profit.

- (3) A local authority may, subject to the following provisions of this section, incur expenditure on contributions to any of the following funds, that is to say—
- (a) the funds of any charitable body in furtherance of its work in the United Kingdom; or
 - (b) the funds of any body which provides any public service (whether to the public as a whole or to any section of it) in the United Kingdom otherwise than for the purposes of gain; or
 - (c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by the Lord Mayor of London or the chairman of a principal council or by a committee of which the Lord Mayor of London or the chairman of a principal council is a member or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973.
- (4) The expenditure of a local authority under this section in any financial year shall not exceed 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.
- (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.
- (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.
- (4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.
- (4B) The amounts mentioned in subsection (4A) above are—
- (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);
 - (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;
 - (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure;

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- (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the [F1EU], in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section;
 - (e) the amount of any repayment in that year of a loan under this section made by the authority in any year; and
 - (f) the amount of any expenditure—
 - (i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State; or
 - (ii) which is incurred by the authority in that year and is of a description so specified; or
 - (iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.
- (5) A statutory instrument containing an order under this section may apply to all local authorities or may make different provision in relation to local authorities of different descriptions.
- (6) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The accounts of a local authority by whom expenditure is incurred under this section shall include a separate account of that expenditure, and section 24 of the Local Government Finance Act 1982 (rights of inspection) shall apply in relation to any such separate account of a local authority as it applies in relation to any statement of accounts prepared by them pursuant to regulations under section 23 of that Act.
- (9) In this section “local authority” includes the Common Council.”

Textual Amendments

- F1** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

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