



# Local Government Act 2003

## 2003 CHAPTER 26

### PART 8

#### MISCELLANEOUS AND GENERAL

#### CHAPTER 1

#### MISCELLANEOUS

#### *Charging and trading*

#### **97 Power to modify enactments in connection with charging or trading**

- (1) If it appears to the Secretary of State that an enactment (whenever passed or made), other than section 93(2) or 95(2), prevents or obstructs best value authorities—
  - (a) charging by agreement for the provision of a discretionary service, or
  - (b) doing for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions,he may by order amend, repeal, revoke or disapply the enactment.
- (2) The Secretary of State may by order amend, repeal, revoke or disapply an enactment (whenever passed or made), other than section 93, which makes in relation to a best value authority provision for, or in connection with, power to charge for the provision of a discretionary service.
- (3) The power under subsection (1) or (2) to amend or disapply an enactment includes power to amend or disapply an enactment for a particular period.
- (4) An order under this section may be made in relation to—
  - (a) all best value authorities,
  - (b) particular best value authorities, or
  - (c) particular descriptions of best value authority.

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*Status: This is the original version (as it was originally enacted).*

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- (5) An order under subsection (1)(b) may be made in relation to—
- (a) all things authorised to be done for the purpose of carrying on a particular function,
  - (b) particular things authorised to be done for that purpose, or
  - (c) particular descriptions of thing authorised to be so done.
- (6) An order under subsection (1)(b) may not be used to authorise a best value authority to do in relation to a person anything which it is required to do in relation to him under its ordinary functions.
- (7) In exercising the power under subsection (1) or (2), the Secretary of State—
- (a) must not make any provision which has effect in relation to Wales unless he has consulted the National Assembly for Wales, and
  - (b) must not make any provision in relation to legislation made by the National Assembly for Wales without the consent of the Assembly.
- (8) The National Assembly for Wales may submit proposals to the Secretary of State that the power under subsection (1) or (2) should be exercised in relation to Wales in accordance with those proposals.
- (9) Subject to subsection (10), no order shall be made under this section unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.
- (10) An order under this section which is made only for the purpose of amending an earlier order under this section—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
- “discretionary service”, in relation to a best value authority, means a service which the authority is authorised, but not required, to provide;
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the [Interpretation Act 1978 \(c. 30\)](#));
- “ordinary functions”, in relation to a best value authority, means functions of the authority which are not functions under section 95.