



# Local Government Act 1974

## 1974 CHAPTER 7

An Act to make further provision, in relation to England and Wales, with respect to the payment of grants to local authorities, rating and valuation, borrowing and lending by local authorities and the classification of highways; to extend the powers of the Countryside Commission to give financial assistance; to provide for the establishment of Commissions for the investigation of administrative action taken by or on behalf of local and other authorities; to restrict certain grants under the Transport Act 1968; to provide for the removal or relaxation of certain statutory controls affecting local government activities; to make provision in relation to the collection of sums by local authorities on behalf of water authorities; to amend section 259(3) of the Local Government Act 1972 and to make certain minor amendments of or consequential on that Act; and for connected purposes. [8th February 1974]

### Modifications etc. (not altering text)

C1 Act: transfer of certain functions (W.) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

### Commencement Information

I1 Act partly in force at Royal Assent, see [s. 43\(2\)](#); Act wholly in force at 1.4.1979

## PART I

### GRANTS

### Modifications etc. (not altering text)

C2 [Pt. I](#) extended by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 68\(7\)](#); excluded by [Highways Act 1980 \(c. 66\), s. 272\(4\)](#)

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*Rate support grants*

**F1 1 Rate support grants.**

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**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 10** Group 2

**F1 2 Elements of rate support grants.**

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**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 10** Group 2

**F1 3 Rate support grant orders.**

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**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 10** Group 2

**F1 4 Variation of rate support grant orders.**

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**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 10** Group 2

**F1 5 Reduction of grants in case of default.**

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**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 10** Group 2

*Grants for particular purposes*

**6 Supplementary grants for transport purposes.**

(1) ..... **F2**

*Status: Point in time view as at 01/10/2004.*

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- (8) In consequence of the introduction of supplementary grants for transport purposes and of the provisions of this Part of this Act relating to rate support grants, the provisions of Part II of Schedule I to this Act shall have effect with respect to certain grants under . . . <sup>F3</sup> the <sup>M1</sup>Transport Act 1968.

**Textual Amendments**

**F2** S. 6(1)–(7) repealed by Local Government Finance Act 1988 (c. 41, SIF 81:1), ss. 125, 149, **Sch. 13 Pt. II**

**F3** Words repealed by Highways Act 1980 (c. 66), **Sch. 25**

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

**C3** S. 6 excluded by S.I. 1984/1863, **arts. 4, 5**

**Marginal Citations**

**M1** 1968 c. 73.

<sup>F4</sup>7 .....

**Textual Amendments**

**F4** S. 7 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, Sch. 23 para. 12); S.I. 1996/2560, art. 2, **Sch.** and subject to an amendment (20.2.1999) by S.I. 1999/416, art. 3, **Sch. 1 para. 6(2)**

**8 Specific grants for purposes not covered by rate support grants.**

- (1) ..... <sup>F5</sup>  
(2) ..... <sup>F6</sup>  
(4) ..... <sup>F7</sup>

- (5) The provisions of Part III of Schedule 1 to this Act shall have effect with respect to the termination of certain grants for specific purposes, other than highways and public transport.

**Textual Amendments**

**F5** S. 8(1) repealed by Social Security and Housing Benefits Act 1982 (c. 24, SIF 113:1), s. 48(6), **Sch. 5**

**F6** S. 8(2)(3) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch 13 Pt. II**

**F7** S. 8(4) repealed by Social Security and Housing Benefits Act 1982 (c. 24, SIF 113:1), **Sch. 5**

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

**C4** S. 8 excluded by Local Government, Planning and Land Act 1980 (c. 65), s. **54(1)(2)**

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## 9 Grants and loans by the Countryside Commission.

- (1) In accordance with arrangements approved by the Secretary of State and the Treasury, the [<sup>F8</sup>Countryside Agency][<sup>F9</sup>and the Countryside Council for Wales may each] give financial assistance by way of grant or loan, or partly in the one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which, in the opinion of [<sup>F8</sup>the Agency][<sup>F10</sup>or, as the case may be, the Council], is conducive to the attainment of any of the purposes of the <sup>M2</sup>Countryside Act 1968 [<sup>F11</sup>, the National Parks and Access to the Countryside Act 1949 or the Countryside and Rights of Way Act 2000].
- (2) On making a grant or loan under this section the [<sup>F8</sup>Countryside Agency][<sup>F12</sup>or the Countryside Council for Wales] may impose such conditions as they think fit including (in the case of a grant) conditions for repayment in specified circumstances.
- (3) The exercise of the [<sup>F13</sup>the power of the [<sup>F8</sup>Countryside Agency] and of the Countryside Council for Wales] under this section shall be subject to any directions given to [<sup>F8</sup>the Agency][<sup>F14</sup>or to the Council] by the Secretary of State.
- (4) The provisions of this section shall have effect in place of the provisions of section 5 of the <sup>M3</sup>Countryside Act 1968 (under which grants may be made only to persons other than public bodies and only in respect of projects approved by the Secretary of State).

### Textual Amendments

- F8** Words in s. 9(1)-(3) substituted (20.2.1999) by S.I. 1999/416, art. 3, **Sch. 1 para. 6(3)**
- F9** Words in s. 9(1) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(a)**; S.I. 1991/685, **art. 3**
- F10** Words in s. 9(1) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(a)**; S.I. 1991/685, **art. 3**
- F11** Words in s. 9(1) substituted (E.) (1.4.2001) and (W.) (1.5.2001) by 2000 c. 37, ss. 46(3), **Sch. 4 para. 5**; S.I. 2001/114, **art. 2(2)(b)(j)**; S.I. 2001/1410, **art. 2(b)(j)**
- F12** Words in s. 9(2) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(b)**; S.I. 1991/685, **art. 3**
- F13** Words in s. 9(3) expressed to be substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(c)**; S.I. 1991/685, **art. 3**
- F14** Words in s. 9(3) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130(1), **Sch. 8 para. 4(c)**; S.I. 1991/685, **art. 3**

### Marginal Citations

- M2** 1968 c. 41.
- M3** 1968 c. 41.

## Supplementary

## 10 Supplementary provisions for Part I.

- (1) The following bodies are local authorities for the purposes of this Part of this Act, namely,—
  - (a) the council of a county,
  - (b) the Greater London Council,
  - (c) the council of a district,

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- (d) the council of a London borough,
  - (e) the Common Council of the City of London, and
  - (f) the Council of the Isles of Scilly,
- F15 ...

(2) In this Part of this Act —

F16 ...

“year” means a period of twelve months beginning with 1st April.

F17(3) .....

F17(4) .....

F17(5) .....

**Textual Amendments**

F15 Words in s. 10(1) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

F16 Words in s. 10(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

F17 S. 10(3)-(5) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

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

C5 Power to amend s. 10(1)(2) conferred by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 53(10)(11)(c), [Sch. 8](#)

**PART II**

**RATING**

11— ..... F18

14.

**Textual Amendments**

F18 Ss. 11–14 repealed and superseded by [Social Security and Housing Benefits Act 1982 \(c. 24\)](#), SIF 113:1, s. 28(5), [Sch. 5](#)

15— ..... F19

19.

**Textual Amendments**

F19 Ss. 15–19, 21 and 22 repealed by [S.I. 1990/776](#), art. 3, [Sch. 1](#)

20 ..... F20

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#### Textual Amendments

**F20** S. 20 repealed by Rating (Disabled Persons) Act 1978 (c. 40), **Sch. 2**

**21, 22.** ..... **F21**

#### Textual Amendments

**F21** Ss. 15–19, 21 and 22 repealed by S.I. 1990/776, art. 3, **Sch. 1**

## PART III

### LOCAL GOVERNMENT ADMINISTRATION

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

- C6** Pt. III (ss. 23-34) applied (with modifications) (1.4.1998) by S.I. 1998/633, art. L
- C7** Power to make provision about matters of the kind dealt with by Pt. III (ss. 23-34) conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (b); S.I. 1997/1930, **art. 3(1)(2)(m)**
- C8** Pt. III (ss. 23-34) applied (*temp.* from 4.5.1995 to 31.3.1996) by S.I. 1995/1042, **art. 4(1)**
- C9** Pt. III (ss. 23-34) restricted (30.7.1993) by S.I. 1993/1975, art. 10, **Sch. 2 para. 4(2)**.
- C10** Pt. III (ss. 23-34) power to extend, modify, apply or reproduce (with or without modifications) conferred (W.) (1.11.2000) and (E.) (28.7.2001) by 2000 c. 22, **ss. 68(3), 108(4)-(6)**; S.I. 2000/2948, **art. 2**  
Pt. III (ss. 23-34) extended (W.) (28.7.2001) by S.I. 2001/2275, **reg. 2**
- C11** Pt. III applied (1.4.2004) by Commissions for Local Administration (Extension of Jurisdiction) Order 2004 (S.I. 2004/344), arts. 1, 2
- C12** Pt. III extended (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, 24
- C13** Pt. III extended (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, 24

## 23 The Commissions for Local Administration.

(1) For the purpose of conducting investigations in accordance with this Part of this Act, there shall be—

- (a) a body of commissioners to be known as the Commission for Local Administration in England, and
- (b) a body consisting of two or more commissioners to be known as the Commission for Local Administration in Wales

[<sup>F22</sup>but each of the Commissions may include persons appointed to act as advisers, not exceeding the number appointed to conduct investigations.]

(2) The Parliamentary Commissioner shall be a member of each of the Commissions.

<sup>F23</sup>(2A) .....

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(3) In the following provisions of this Part of this Act the expression “Local Commissioner” means a person, other than the Parliamentary Commissioner<sup>F24</sup> ...<sup>F25</sup>or an advisory member], who is a member of one of the Commissions.

<sup>F26</sup>(3A) Where the person who is the Welsh Administration Ombudsman is not appointed as a member of the Commission for Local Administration in Wales under subsection (4)—  
(a) he shall be a member of that Commission by virtue of his office; but  
(b) he shall not be a “Local Commissioner” within the meaning of this Part.]

(4) Appointments to the office of . . . <sup>F27</sup>Commissioner shall be made by Her Majesty on the recommendation of the Secretary of State after consultation with the [<sup>F28</sup>such persons as appear to the Secretary of State to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies], and a person so appointed shall, subject to subsection (6) below, hold office during good behaviour.

(5) . . . . . <sup>F29</sup>Commissioners may be appointed to serve either as full-time commissioners or as part-time commissioners.

(6) A . . . <sup>F29</sup>Commissioner may be relieved of office by Her Majesty at his own request or may be removed from office by Her Majesty on grounds of incapacity or misbehaviour, and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five years.

(7) The Secretary of State shall designate two of the Local Commissioners for England as chairman and vice-chairman respectively of the Commission for Local Administration in England and, in the event of there being more than one Local Commissioner for Wales, shall designate one of them as chairman of the Commission for Local Administration in Wales.

(8) The Commission for Local Administration in England shall divide England into areas and shall provide, in relation to each area, for one or more of the Local Commissioners to be responsible for the area; and where the Commission for Local Administration in Wales consist of more than one Local Commissioner they may, if they think fit, act in a similar way in Wales.

A Local Commissioner may, by virtue of this subsection, be made responsible for more than one area.

(9) It shall be the duty of the Commission for Local Administration in England to ensure that any Local Commissioner made responsible for an area which includes the county of Cornwall is made responsible for an area which also includes the Isles of Scilly.

(10) Each of the Commissions—  
(a) shall make arrangements for Local Commissioners to accept cases for which they are not responsible including, where the other Commission so request, a case arising in the country of that other Commission, and  
(b) shall publish information about the procedures for making complaints under this Part of this Act.

(11) For the year ending on 31st March 1975, and for each subsequent financial year, every Local Commissioner shall prepare a general report on the discharge of his functions and shall submit it to his Commission; and where he has discharged functions at the request of the other Commission he shall prepare a general report on the discharge of those functions and shall submit it to the other Commission.

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Any such report shall be submitted to the appropriate Commission not later than two months after the end of the year to which it relates.

(12) [<sup>F30</sup>In the financial year beginning on 1st April 1990, and in every third financial year afterwards, the Commissions shall review the operation (since the last review was made under this subsection) of the provisions of this Part of this Act about the investigation of complaints, and shall have power to convey to authorities to which this Part of this Act applies] . . . <sup>F31</sup>, or to government departments [<sup>F32</sup>or the National Assembly for Wales], any recommendations or conclusions reached in the course of their reviews [<sup>F33</sup>and shall send copies of those recommendations or conclusions to the representative persons and authorities concerned].

[<sup>F34</sup>(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.]

(13) Schedule 4 to this Act shall have effect as respects the Commissions.

#### Textual Amendments

- F22** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), **s. 22(2)**
- F23** [S. 23\(2A\)](#) omitted (24.9.2004) by virtue of [Regulatory Reform \(Local Commissioner for Wales\) Order 2004 \(S.I. 2004/2359\)](#), arts. 1(3), **2(2)(a)**
- F24** Words in [s. 23\(3\)](#) omitted (24.9.2004) by virtue of [Regulatory Reform \(Local Commissioner for Wales\) Order 2004 \(S.I. 2004/2359\)](#), arts. 1(3), **2(2)(b)**
- F25** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 22(3)**
- F26** [S. 23\(3A\)](#) inserted (24.9.2004) by [Regulatory Reform \(Local Commissioner for Wales\) Order 2004 \(S.I. 2004/2359\)](#), arts. 1(3), **2(2)(c)**
- F27** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 22(4), 194(4), **Sch. 12 Pt. II**
- F28** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(1), **Sch. 11 para. 37**
- F29** Word repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 22(4), 194(4), **Sch. 12 Pt. II**
- F30** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 2(1)**
- F31** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(1)(4), [Sch. 11 para. 38](#), **Sch. 12 Pt. II**
- F32** Words in [s. 23\(12\)](#) inserted (1.4.1999) by [1998 c. 38, s. 125](#), **Sch. 12 para. 12(4)** (with ss. 139(2), 143(2)); [S.I. 1999/782](#), **art. 2**
- F33** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(1), **Sch. 11 para. 38**
- F34** [S. 23\(12A\)\(12B\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 23(1)**



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

**C14** S. 23(12) restricted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 2\(2\)](#)

**C15** S. 23(12)(12A)(12B)(13) extended (W.) (28.7.2001) by [S.I. 2001/2275](#), [reg. 3](#)

[<sup>F35</sup>**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 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.]

**Textual Amendments**

**F35** S. 23A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [s. 25\(2\)](#)

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

**C16** S. 23A extended (W.) (28.7.2001) by [S.I. 2001/2275](#), [reg. 3](#)

24

..... <sup>F36</sup>

**Textual Amendments**

**F36** S. 24 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), ss. 25(1), 194(4), [Sch. 12 Pt. II](#)

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## 25 Authorities subject to investigation.

- (1) This Part of this Act applies to [<sup>F37</sup>the following authorities]—
- (a) any local authority,
  - <sup>F38</sup>[(aaa) the Greater London Authority;]
  - (aa) .....
  - <sup>F39</sup>(ab) a National Park authority;]
  - (b) any joint board the constituent authorities of which are all local authorities,
  - <sup>F40</sup>(ba) the Commission for the New Towns,
  - (bb) any development corporation established for the purposes of a new town,
  - <sup>F41</sup>[ the London Development Agency;]
  - (bbb) .....
  - (bc) .....
  - (bd) any urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980,]
  - <sup>F42</sup>(be) any housing action trust established under Part III of the Housing Act 1988]
  - <sup>F43</sup>(bf) the Urban Regeneration Agency;]
  - <sup>F44</sup>(bg) [<sup>F45</sup>a fire authority constituted by a combination scheme under the M1 Fire Services Act 1947;][<sup>F45</sup>a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;]]
  - <sup>F46</sup>(c) any joint authority established by Part IV of the Local Government Act 1985;
  - <sup>F47</sup>[ the London Fire and Emergency Planning Authority;]
  - (cza) .....
  - [ any police authority established under [<sup>F49</sup>section 3 of the Police Act 1996];]
  - <sup>F48</sup>(ca) .....
  - <sup>F50</sup>[ the Metropolitan Police Authority;]
  - <sup>F51</sup>[ .....
  - (caa) .....
  - [ the Service Authority for the National Crime Squad;]]
  - <sup>F52</sup>(caa) .....
  - (cb) ..... ]<sup>F53</sup>[<sup>F54</sup>...]
  - <sup>F55</sup>[(cc) Transport for London; ]<sup>F56</sup>and]]
  - <sup>F57</sup>(d) in relation to the flood defence functions of the Environment Agency, within the meaning of the Water Resources Act 1991, the Environment Agency and any regional flood defence committee;]
  - <sup>F58</sup>,and
  - (e) the London Transport Users' Committee.]
- (2) Her Majesty may by Order in Council provide that this Part of this Act shall also apply, subject to any modifications or exceptions specified in the Order, to any authority specified in the Order, being an authority which is established by or under an Act of Parliament, and which has power to levy a rate, or to issue a precept.
- (3) An Order made by virtue of subsection (2) above may be varied or revoked by a subsequent Order so made and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any reference to an authority to which this Part of this Act applies includes a reference—

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- (a) to the members and officers of that authority, and
- (b) to any person or body of persons acting for the authority under section 101 . . .<sup>F59</sup>, or
- (c) any committee mentioned in section 101(9) of the said Act.

<sup>F60</sup>[(4A) Any reference to an authority to which this Part of this Act applies also includes, in the case of the Greater London Authority, a reference to each of the following—

- (a) the London Assembly;
- (b) any committee of the London Assembly;
- (c) any body or person exercising functions on behalf of the Greater London Authority.]

<sup>F61</sup>[(4B) Any reference to an authority to which this Part of this Act applies also includes, in the case of the London Transport Users' Committee, a reference to a sub-committee of that Committee.]

[<sup>F62</sup>(5) Any reference to an authority to which this Part of this Act applies also includes a reference to—

- (a) a school organisation committee constituted in accordance with section 24 of the School Standards and Framework Act 1998,
- <sup>F63</sup>(b) . . . . .
- (c) [<sup>F64</sup>an admission appeals panel constituted in accordance with Schedule 24 or paragraph 3 of Schedule 25 to that Act, and][<sup>F64</sup>an admission appeal panel constituted in accordance with regulations under section 94(5) or 95(3) of that Act,]
- (d) the governing body of any community, foundation or voluntary school so far as acting in connection with the admission of pupils to the school or otherwise performing any of their functions under Chapter I of Part III of that Act.][<sup>F65</sup>and
- (e) an exclusion appeal panel constituted in accordance with regulations under section 52 of the Education Act 2002.]

#### Textual Amendments

- F37** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 4**
- F38** S. 25(1)(aaa) inserted (8.5.2000) by [1999 c. 29, s. 74\(2\)](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/801, art. 2(b), **Sch. Pt. 2**
- F39** S. 25(1)(ab) inserted (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\)](#), **Sch. 7 para. 18(1)** (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7, Sch. 23 para. 12](#))
- F40** S. 25(1)(ba)–(bd) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 4**
- F41** S. 25(1)(bbb) inserted (8.5.2000) by [1999 c. 29, s. 394\(1\)\(2\)](#), (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- F42** S. 25(1)(be) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 para. 19**
- F43** S. 25(1)(bf) inserted (10.11.1993) by [1993 c. 28, s. 187\(1\)](#), **Sch. 21 para. 6(1)**; S.I. 1993/2762, **art. 3**.
- F44** S. 25(1)(bg) inserted (19.12.2000 with application in relation to England and to police authorities in Wales and 28.7.2001 otherwise) by [2000 c. 22, ss. 107, 108\(4\)–\(6\)](#), **Sch. 5 para. 14**; S.I. 2000/3335, **art. 2**
- F45** S. 25(1)(bg) substituted (1.10.2004 except in relation to W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, **Sch. 1 para. 42**; S.I. 2004/2304, art. 2
- F46** S. 25(1)(c)(ca)(cb) substituted for s. 25(1)(c) by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. II para. 51(a)**

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- F47** S. 25(1)(cza) inserted (8.5.2000) by 1999 c. 29, s. 394(1)(3), (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- F48** S. 25(1)(ca) substituted (1.10.1994 for specified purposes and otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 16**; S.I. 1994/2025 art. 6(1)(2)(e)(g) (with art. 6(3)-(6)); S.I. 1995/3262, art. 4(1), **Sch.** (with arts. 4(2)-(8), 5)
- F49** Words in s. 25(1)(ca) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 1(2)(j)**
- F50** It is provided that s. 25(1)(caa) is inserted (8.5.2000) by 1999 c. 29, s. 394(1)(4), (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- F51** S. 25(1)(caa) repealed (1.4.2002) by 2001 c. 16, ss. 128, 137, Sch. 6 Pt. 2 para. 33, **Sch. 7 Pt. 5(1)**, S.I. 2002/344, art. 3(k)(m) (with transitional provisions in art. 4)
- F52** S. 25(1)(caa) inserted (1.4.1998) by 1997 c. 50, s. 88, **Sch. 6 para. 11**; S.I. 1998/354, art. 2(1)(2)(au) (**az**)
- F53** S. 25(1)(cb) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F54** Word in s. 25(1)(cb) repealed (3.7.2000) by 1999 c. 29, s. 423, **Sch. 34 Pt. IX** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**
- F55** S. 25(1)(CC) inserted (8.5.2000) by 1999 c. 29, s. 394(1)(5) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- F56** Word “and” preceding para. (d) in s. 25(1) repealed (3.7.2000) by 1999 c. 29, ss. 247(7), 423, Sch. 18 para. 16(1)(2)(a), **Sch. 34 Pt. IV** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F57** S. 25(1)(d) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 18** (with ss. 7(6), 115, 117, Sch. 23 para. 12); S.I. 1996/186, art. 3
- F58** S. 25(1)(e) and word “and” immediately preceding it inserted (3.7.2000) by 1999 c. 29, s. 247(7), **Sch. 18 para. 16(1)(2)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F59** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), **Sch. 12 Pt. II**
- F60** S. 25(4A) inserted (8.5.2000) by 1999 c. 29, s. 74(3) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(b), **Sch. Pt. 2**
- F61** S. 25(4B) inserted (3.7.2000) by 1999 c. 29, s. 247(7), **Sch. 18 para. 16(1)(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F62** S. 25(5) substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 4(2), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F63** S. 25(5)(b) repealed (20.1.2003 for E., 9.1.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/2961, art. 7, Sch. Pt. IV
- F64** S. 25(5)(c) substituted (20.1.2003 for E.) by Education Act 2002 c. 32, s. 215(1), s. 216(4), **Sch. 21 para. 2(a)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2
- F65** S. 25(5)(e) and word inserted (20.1.2003 for E., 9.1.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 2(b) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/2961, art. 7, Sch. Pt. IV

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

- C17** S. 25(1)(c) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(k)** and by S.I. 1989/1815, art. 2, **Sch. 1 para. 6(b)**
- C18** S. 25(1)(c) extended by S.I. 1987/2110, art. 2(2), **Sch. 2 para. 8(h)**

## 26 Matters subject to investigation.

- (1) Subject to the provisions of this Part of this Act where a written complaint is made by or on behalf of a member of the public who claims to have sustained injustice in consequence of maladministration in connection with action taken by or on behalf of an authority to which this Part of this Act applies, being action taken in the exercise

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of administrative functions of that authority, a Local Commissioner may investigate that complaint.

- (2) A complaint shall not be entertained under this Part of this Act unless [<sup>F66</sup>it is made in writing to the Local Commissioner specifying the action alleged to constitute maladministration or]—
  - (a) it is made in writing to a member of the authority, or of any other authority concerned, specifying the action alleged to constitute maladministration, and
  - (b) it is referred to the Local Commissioner, with the consent of the person aggrieved, or of a person acting on his behalf, by that member, or by any other person who is a member of any authority concerned, with a request to investigate the complaint.
- (3) If the Local Commissioner is satisfied that any member of any authority concerned has been requested to refer the complaint to a Local Commissioner, and has not done so, the Local Commissioner may, if he thinks fit, dispense with the requirements in subsection (2)(b) above.
- (4) A complaint shall not be entertained unless it was made to [<sup>F67</sup>the Local Commissioner or] a member of any authority concerned within twelve months from the day on which the person aggrieved first had notice of the matters alleged in the complaint, but a Local Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers that [<sup>F68</sup>it is reasonable] to do so.
- (5) Before proceeding to investigate a complaint, a Local Commissioner shall satisfy himself that the complaint has been brought, by or on behalf of the person aggrieved, to the notice of the authority to which the complaint relates and that that authority has been afforded a reasonable opportunity to investigate, and reply to, the complaint.
- (6) A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters, that is to say,—
  - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment;
  - (b) any action in respect of which the person aggrieved has or had a right of appeal to a Minister of the Crown [<sup>F69</sup>or the National Assembly for Wales]; or
  - (c) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that a Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person aggrieved to resort or have resorted to it.

- (7) A Local Commissioner shall not conduct an investigation in respect of any action which in his opinion affects all or most of the inhabitants of the [<sup>F70</sup>following area—
  - <sup>F71</sup>(aa) [ where the complaint relates to a National Park authority, the area of the Park for which it is such an authority;]
  - (a) where the complaint relates to the Commission for the New Towns, the area of the new town or towns to which the complaint relates;
  - <sup>F72</sup>(b) .....
  - <sup>F73</sup>(ba) [ where the complaint relates to the Urban Regeneration Agency, any designated area within the meaning of Part III of the Leasehold Reform, Housing and Urban Development Act 1993;]

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- (c) in any other case, the area of the authority concerned.]
- (8) Without prejudice to the preceding provisions of this section, a Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action or matter as is described in Schedule 5 to this Act.
- (9) Her Majesty may by Order in Council amend the said Schedule 5 so as to <sup>F74</sup>add to or exclude from the provisions of that Schedule (as it has effect for the time being)] such actions or matters as may be described in the Order; and any Order made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In determining whether to initiate, continue or discontinue an investigation, a Local Commissioner shall, subject to the preceding provisions of this section, act at discretion; and any question whether a complaint is duly made under this Part of this Act shall be determined by the Local Commissioner.
- <sup>F75</sup>(11) In this section—
- (a) references to a person aggrieved include references to his personal representatives; and
  - (b) references to a member of an authority concerned include, in the case of a complaint relating to a joint authority established by Part IV of the Local Government Act 1985, references to a member of a constituent council of that authority.]
- (12) A complaint shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before 1st April 1974, or in respect of any default or alleged default first arising before that date.
- <sup>F76</sup>(13) A complaint as regards an authority mentioned in section 25(1)(ba), (bb) <sup>F77</sup>. . . or (bd) above shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before the coming into force of Schedule 3 to the Local Government Act 1988, or in respect of any default or alleged default first arising before its coming into force; and subsection (12) above shall have effect subject to this.]

#### Textual Amendments

- F66** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 5\(2\)](#)
- F67** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 5\(3\)\(7\)](#)
- F68** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 5\(3\)\(7\)](#)
- F69** Words in s. 26(6)(b) inserted (1.4.1999) by 1998 c. 38, s. 125, [Sch. 12 para. 13](#) (with ss. 139(2), 143(2)); [S.I. 1999/782](#), [art. 2](#)
- F70** S. 26(7)(a)-(c) and words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 5\(4\)](#)
- F71** S. 26(7)(aa) inserted (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), [Sch. 7 para. 18\(2\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#), [Sch. 23 para. 12](#))
- F72** S. 26(7)(b) 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](#)
- F73** S. 26(7)(ba) inserted (10.11.1993) by 1993 c. 28, s. 187(1), [Sch. 21 para. 6\(2\)](#); [S.I. 1993/2762](#), [art. 3](#).
- F74** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 5\(5\)](#)
- F75** S. 26(11) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, [Sch. 14 Pt. II para. 51\(b\)](#)
- F76** S. 26(13) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 5\(6\)](#)

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**F77** Words in s. 26(13) 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**

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

**C19** s. 26 modified by S.I. 1991/559, **art. 2(3)(5)**

**C20** S. 26 modified by S.I. 1986/452, **art. 8(3)(5)**

**C21** S. 26(11)(b) amended by S.I. 1985/1884, **art. 10, Sch. 3 para. 4(k)**

**C22** S. 26(11)(b) extended by S.I. 1987/2110, **art. 2(2), Sch. 1 para. 8(k)**

**27 Provisions relating to complaints.**

- (1) A complaint under this Part of this Act may be made by any individual, or by any body of persons whether incorporated or not, not being—
  - (a) a local authority or other authority or body constituted for purposes of the public service or of local government [<sup>F78</sup>(including the National Assembly for Wales)], or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;
  - (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department [<sup>F79</sup>or by the National Assembly for Wales], or whose revenues consist wholly or mainly of moneys provided by Parliament [<sup>F79</sup>or the National Assembly for Wales].
- (2) Where the person by whom a complaint might have been made under the preceding provisions of this Part of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or by some body or individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Part of this Act unless made by the person aggrieved himself.

**Textual Amendments**

**F78** Words in s. 27(1)(a) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 14(a)**(with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

**F79** Words in s. 27(1)(b) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 14(b)**(with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

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

**C23** S. 27: s. 26-34 modified by S.I. 1991/559, **art. 2(3)**

**C24** Ss. 27–30 modified by S.I. 1986/452, **art. 8(3)**

**28 Procedure in respect of investigations.**

- (1) Where a Local Commissioner proposes to conduct an investigation pursuant to a complaint, he shall afford to the authority concerned, and to any person who is alleged in the complaint to have taken or authorised the action complained of, an opportunity to comment on any allegations contained in the complaint.
- (2) Every such investigation shall be conducted in private, but except as aforesaid the procedure for conducting an investigation shall be such as the Local Commissioner considers appropriate in the circumstances of the case; and without prejudice to the generality of the preceding provision the Local Commissioner may obtain information

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from such persons and in such manner, and make such inquiries, as he thinks fit, and may determine whether any person may be represented (by counsel or solicitor or otherwise) in the investigation.

- (3) The Local Commissioner may, if he thinks fit, pay to the person by whom the complaint was made, and to any other person who attends or furnishes information for the purposes of an investigation under this Part of this Act—
- (a) sums in respect of the expenses properly incurred by them;
  - (b) allowances by way of compensation for the loss of their time,
- in accordance with such scales and subject to such conditions as may be determined by [<sup>F80</sup>the Treasury].
- (4) The conduct of an investigation under this Part of this Act shall not affect any action taken by the authority concerned, or any power or duty of that authority to take further action with respect to any matters subject to the investigation.

#### Textual Amendments

**F80** Words substituted by virtue of S.I. 1981/1670, arts. 2(3), 3(5)

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

**C25** S. 28: ss. 26-34 modified by S.I. 1991/559, art. 2(3)

**C26** Ss. 27–30 modified by S.I. 1986/452, art. 8(3)

**C27** S. 28 power to apply or reproduce (with or without modifications) conferred (W.) (1.11.2000) and (E.) (28.7.2001) by 2000 c. 22, ss. 70(2), 108(4)-(6); S.I. 2000/2948, art. 2

## 29 Investigations: further provisions.

- (1) For the purposes of an investigation under this Part of this Act a Local Commissioner may require any member or officer of the authority concerned, or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation a Local Commissioner shall have the same powers as the High Court in respect of the attendance and examination of witnesses, and in respect of the production of documents.
- (3) A Local Commissioner may, under subsection (1) above, require any person to furnish information concerning communications between the authority concerned and any Government department [<sup>F81</sup>or the National Assembly for Wales], or to produce any correspondence or other documents forming part of any such written communications.
- (4) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information in accordance with subsection (3) above; and where that subsection applies the Crown shall not be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (5) Nothing in subsection (1) or subsection (3) above affects—



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- (a) the restriction, imposed by section 11(2) of the <sup>M4</sup>Parliamentary Commissioner Act 1967, on the disclosure of information by the Parliamentary Commissioner or his officers;
- [<sup>F82</sup>(aa) the restriction, imposed by paragraph 25(1) of Schedule 9 to the Government of Wales Act 1998, on the disclosure of information by the Welsh Administration Ombudsman or members of his staff;]or
- (b) the restriction, imposed by [<sup>F83</sup>section 15 of the Health Service Commissioners Act 1993], on the disclosure of information by the Health Service Commissioner for England or the Health Service Commissioner for Wales, or by their officers.
- (6) To assist him in any investigation, a Local Commissioner may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of [<sup>F84</sup>the Treasury].
- (7) Subject to subsection (4) above, no person shall be compelled for the purposes of an investigation under this Part of this Act to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (8) If any person without lawful excuse obstructs a Local Commissioner in the performance of his functions under this Part of this Act, or any officer of the Commission assisting in the performance of those functions, or is guilty of any act or omission in relation to an investigation under this Part of this Act which, if that investigation were a proceeding in the High Court, would constitute contempt of court, the Local Commissioner may certify the offence to the High Court.
- (9) Where an offence is so certified, the High Court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the High Court could deal with him if he had committed the like offence in relation to the High Court.
- (10) Nothing in subsection (8) above shall be construed as applying to the taking of any such action as is mentioned in section 28(4) above.

#### Textual Amendments

- F81** Words in s. 29(3) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 15(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F82** S. 29(5)(aa) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 15(2)** (with ss. 137(1), 143(2)); S.I. 1999/782, **art. 2**
- F83** Words in s. 29(5)(b) substituted (5.2.1994) by 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 3**.
- F84** Words substituted by virtue of S.I. 1981/1670, **arts. 2(3), 3(5)**

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

- C28** S. 29: ss. 26–34 modified by S.I. 1991/559, **art. 2(3)**
- C29** Ss. 27–30 modified by S.I. 1986/452, **art. 8(3)**
- C30** S. 29 applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**

#### Marginal Citations

- M4** 1967 c. 13.

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### 30 Reports on investigations.

- (1) In any case where a Local Commissioner conducts an investigation, or decides not to conduct an investigation, he shall send a report of the results of the investigation, or as the case may be a statement of his reasons for not conducting an investigation—
- (a) to the person, if any, who referred the complaint to the Local Commissioner in accordance with section 26(2) above, and
  - (b) to the complainant, and
  - (c) to the authority concerned, and to any other authority or person who is alleged in the complaint to have taken or authorised the action complained of.
- (2) Where the complaint was referred by a person who was a member of an authority but who has since ceased to be a member of that authority, the report or statement shall be sent to the chairman, or, as the case may be, mayor of that authority.

<sup>F85</sup>[(2AA) If the authority concerned is the Greater London Authority—

- (a) the duty imposed by subsection (1)(c) above shall be discharged by sending the report or statement to both the Mayor of London and the London Assembly; and
- (b) in a case falling within subsection (2) above, the duty imposed by that subsection shall be discharged by sending the report or statement to both the Mayor of London and the London Assembly.]

<sup>F86</sup>(2AB) Where an authority are operating executive arrangements which involve a mayor and cabinet executive or mayor and council manager executive, subsection (2) shall have effect as if the words “, or, as the case may be, mayor of that authority” were omitted.]

(2A) .....

- (3) Apart from identifying the authority or authorities concerned, the report shall not, except where subsection (3A) below applies,—
- (a) mention the name of any person, or
  - (b) contain any particulars which, in the opinion of the Local Commissioner, are likely to identify any person and can be omitted without impairing the effectiveness of the report,

unless, after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, the Local Commissioner considers it necessary to mention the name of that person or to include in the report any such particulars.

<sup>F87</sup>[(3AA) Nothing in subsection (3) above prevents a report—

- (a) mentioning the name of, or
  - (b) containing particulars likely to identify,
- the Mayor of London or any member of the London Assembly.]

(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,

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.

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- (4) Subject to the provisions of subsection (7) below, the authority concerned shall for a period of three weeks make copies of the report 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, the report when so made available.
- [<sup>F88</sup>(4A) Subject to subsection (7) below, the authority concerned shall supply a copy of the report to any person on request if he pays such charge as the authority may reasonably require.]
- (5) Not later than [<sup>F89</sup>two weeks] after the report is received by the authority concerned, the proper officer of the authority shall give public notice, by advertisement in newspapers and such other ways as appear to him appropriate, that [<sup>F90</sup>copies of the report will be available as provided by subsections (4) and (4A)] above, and shall specify the date, being a date [<sup>F91</sup>not more than one week after the public notice is first given], from which the period of three weeks will begin.
- (6) If a person having the custody of a report made available for inspection as provided by subsection (4) above obstructs any person seeking to inspect the report, or to make a copy of, or extract from, the report, he shall be liable on summary conviction to a fine not exceeding [<sup>F92</sup>level 3 on the standard scale].
- (7) The Local Commissioner may, if he thinks fit after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, direct that a report specified in the direction shall not be subject to the provisions of subsections (4) [<sup>F93</sup>, (4A) and (5) above].
- <sup>F94</sup>[(8) Where the authority concerned is the Greater London Authority, any functions exercisable under this section by or in relation to the Authority (other than functions exercisable by or in relation to the proper officer of the Authority) shall be exercisable by or in relation to the Mayor and the Assembly acting jointly on behalf of the Authority, and references to the authority concerned (other than references to the proper officer or a member of the authority concerned) shall be construed accordingly.]

#### Textual Amendments

- F85** S. 30(2AA) inserted (8.5.2000) by 1999 c. 29, s. 74(1)(4) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b)
- F86** S. 30(2AB) inserted (E.) (6.5.2002) by S.I. 2002/1057, art. 8(1)
- F87** S. 30(3AA) inserted (8.5.2000) by 1999 c. 29, s. 74(1)(5) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b)
- F88** S. 30(4A) inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, Sch. 3 para. 6(2)(5)
- F89** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, Sch. 3 para. 6(3)(a)(5)
- F90** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, Sch. 3 para. 6(3)(b)(5)
- F91** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, Sch. 3 para. 6(3)(c)(5)
- F92** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46
- F93** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, Sch. 3 para. 6(4)(5)
- F94** S. 30(8) added (8.5.2000) by 1999 c. 29, s. 74(1)(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b)

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

- C31** S. 30: ss. 26-34 modified by S.I. 1991/559, art. 2(3)
- C32** Ss. 27-30 modified by S.I. 1986/452, art. 8(3)

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**C33** S. 30(3A) disappplied by SI 2001/2289 art.4 (as inserted (1.9.2004) by [The Conduct of Members \(Model Code of Conduct\) \(Wales\) \(Amendment\) \(No. 2\) Order 2004 \(S.I. 2004/1510\)](#), arts. 1(1), 3)

### 31 Reports on investigations: further provisions.

- [<sup>F95</sup>(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.
- (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—

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- (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,
- 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.]
- [<sup>F96</sup>(3) In any case where—
- (a) a report is laid before an authority under subsection [<sup>F97</sup>(2) or (2C)] above, and
  - (b) on consideration of the report, it appears to the authority that a payment should be made to, or some other benefit should be provided for, a person who has suffered injustice in consequence of maladministration [<sup>F98</sup>to which the report relates],
- the authority may incur such expenditure as appears to them to be appropriate in making such a payment or providing such a benefit.]
- <sup>F99</sup>[(4) Where the authority concerned is the Greater London Authority, any functions exercisable under this section by or in relation to the Authority shall be exercisable by or in relation to the Mayor and the Assembly acting jointly on behalf of the Authority, and references to the authority concerned (other than references to a member of the authority concerned) shall be construed accordingly.]

#### Textual Amendments

- F95** S. 31 subsections (1)–(2H) substituted for subsections (1)(2) by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. [26\(1\)\(2\)](#)
- F96** S. 31(3) added by [Local Government Act 1978 \(c. 39\)](#), s. [1](#)
- F97** Words substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. [194\(1\)](#), [Sch. 11 para. 39\(1\)\(2\)](#)
- F98** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. [29](#), [Sch. 3 para. 7\(1\)\(4\)\(5\)](#)

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**F99** S. 31(4) added (8.5.2000) by 1999 c. 29, s. 74(1)(7), (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

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

**C34** S. 31: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**

**C35** Ss. 31–34 modified by S.I. 1986/452, **art. 8(3)**

**[<sup>F100</sup>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 [<sup>F101</sup>paragraph 1 of Schedule 33 to the Education Act 1996] shall be subject to a corresponding restriction.
- [ In the case of a local authority which are operating executive arrangements,  
<sup>F102</sup>(2A) consideration of a further report of the Local Commissioner under section 31(2A) above by the executive of that local authority, or any person on behalf of that executive, 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.
- [ In the case of a local authority which are operating executive arrangements—  
<sup>F102</sup>(5A) (a) no member of the executive of that authority shall decide; and  
(b) no member of the executive or any body acting on behalf of that executive shall vote on any question with respect to a report or further report under this Part of the Act in which he is named and criticised by a Local Commissioner.]
- (6) Section 25(4) [<sup>F103</sup>, (4A)] and (5) above do not apply to this section.]
- <sup>F104</sup>[(7) Where the authority concerned is the Greater London Authority, any functions exercisable under this section by or in relation to the Authority shall be exercisable by

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or in relation to the Mayor and the Assembly acting jointly on behalf of the Authority, and references to the authority concerned (other than references to a member of the authority concerned) shall be construed accordingly.]

#### Textual Amendments

- F100** S. 31A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 28**
- F101** Words in s. 31A(2) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\)](#), **Sch. 37 Pt. I para. 28**(with s. 1(4), Sch. 39)
- F102** S. 31A(2A)(5A) inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), **arts. 2(b), 10(a)(b)** and s. 31A(2A)(5A) inserted (W.) (1.4.2002) by [S.I. 2002/808](#), **art. 10(1)(a)(b)**
- F103** Words in s. 31A(6) inserted (8.5.2000) by [1999 c. 29](#), **s. 74(1)(8)** (with Sch. 12 para. 9(1)); [S.I. 2000/801](#), **art. 2(2)(b)**, **Sch. Pt. 2**
- F104** S. 31A(7) inserted (8.5.2000) by [1999 c. 29](#), **s. 74(1)(9)** (with Sch. 12 para. 9(1)); [S.I. 2000/801](#), **art. 2(2)(b)**, **Sch. Pt. 2**

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

- C36** S. 31A: ss. 26-34 modified by [S.I. 1991/559](#), **art. 2(3)**
- C37** Ss. 31-34 modified by [S.I. 1986/452](#), **art. 8(3)**

## 32 Law of defamation, and disclosure of information.

- (1) For the purposes of the law of defamation, any such publication as is hereinafter mentioned shall be absolutely privileged, that is to say—
- the publication of any matter in communications between a member [<sup>F105</sup>or officer] of an authority and a Local Commissioner, or any officer of either Commission, for the purposes of this Part of this Act;
  - the publication of any matter by a Local Commissioner or by any officer of either Commission, in communicating with a complainant for the purposes of this Part of this Act;
  - the publication of any matter in preparing, making and sending a report or statement in accordance with section 30 or section 31 above, or, subject to section 30(7) above, in making a report available to the public [<sup>F106</sup>or in supplying a copy under section 30(4A) above];
  - the publication of any matter contained in a report by a Local Commissioner which has been made available to the public, being publication by inclusion in a report made or published under section 24 above.
- [<sup>F107</sup>(e) the publication of any matter by inclusion in a statement published in accordance with section 31(2D), (2E) and (2F) or (2G) above.]
- (2) Information obtained by a Local Commissioner, or any officer of either Commission, in the course of or for the purposes of an investigation under this Part of this Act shall not be disclosed except—
- for the purposes of the investigation and of any report to be made under section 30 or section 31 above; or
  - for the purposes of any proceedings for an offence under the Official Secrets Acts 1911 to 1939 alleged to have been committed in respect of information obtained, by virtue of this Part of this Act, by a Local Commissioner or by an officer of either Commission or for an offence of perjury alleged to have been committed in the course of an investigation under this Part of this Act or for the purposes of an inquiry with a view to the taking of such proceedings, or

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- (c) for the purpose of any proceedings under section 29(9) above, and a Local Commissioner and the officers of his Commission shall not be called upon to give evidence in any proceedings (other than proceedings within paragraph (b) or (c) above) of matters coming to his or their knowledge in the course of an investigation under this Part of this Act.
- (3) A Minister of the Crown or any of the authorities mentioned in section 25(1) above may give notice in writing to a Local Commissioner with respect to any document or information specified in the notice, or any class of documents or information so specified, that in the opinion of the Minister, or as the case may be of the authority, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest; and where such a notice is given nothing in this Part of this Act shall be construed as authorising or requiring [<sup>F108</sup>the Local Commissioner or any member of the staff of a Commission who is allocated to assist him] to communicate to any other person, or for any purpose, any document or information specified in the notice, or any document or information of a class so specified:
- Provided that a notice given under this subsection by any authority may be discharged by the Secretary of State.
- (4) Nothing in subsection (3) above shall affect the obligations imposed by subsections (3) and (4) of section 29 above.
- (5) Where information is disclosed in accordance with section 29(3) above, being information which is derived from a communication from a government department [<sup>F109</sup>or the National Assembly for Wales], and which has not been made public, a Local Commissioner shall not without the written consent of an officer of the government department [<sup>F110</sup>or a member of the Assembly's staff] make a report which includes all or any of that information unless he has given the department [<sup>F111</sup>or the Assembly] not less than one month's notice in writing of his intention.
- (6) The provisions of this section shall apply to the Commissioners of Customs and Excise and Commissioners of Inland Revenue as they apply to a Minister of the Crown.
- [<sup>F112</sup>(7) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of subsection (2) above as obtained for the purposes of an investigation under this Part of this Act and, in relation to such information, the reference in paragraph (a) of that subsection to the investigation shall have effect as a reference to any investigation.]

#### Textual Amendments

- F105** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 8(2)(4)**
- F106** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 8(3)(4)**
- F107** S. 32(1)(e) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(1), **Sch. 11 para. 40**
- F108** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 184(1)
- F109** Words in s. 32(5) inserted (1.4.1999) by [1998 c. 38, s. 125](#), **Sch. 12 para. 16(a)** (with ss. 139(2), 143(2)); [S.I. 1999/782, art. 2](#)
- F110** Words in s. 32(5) inserted (1.4.1999) by [1998 c. 38, s. 125](#), **Sch. 12 para. 16(b)** (with ss. 139(2), 143(2)); [S.I. 1999/782, art. 2](#)
- F111** Words in s. 32(5) inserted (1.4.1999) by [1998 c. 38, s. 125](#), **Sch. 12 para. 16(c)** (with ss. 139(2), 143(2)); [S.I. 1999/782, art. 2](#)



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**F112** S. 32(7) inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2), **Sch. 7 para. 3** (with ss. 56, 78)

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

**C38** S. 32: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**

**C39** Ss. 31–34 modified by S.I. 1986/452, **art. 8(3)**

**C40** S. 32 applied (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**

**C41** S. 32(2) modified (28.7.2001) by S.I. 2001/2286, **art. 4, Sch. 3**

**C42** S. 32(2) excluded (19.12.2000 with application in relation to England and to police authorities in Wales and 28.7.2001 otherwise) by 2000 c. 22, **ss. 67(4), 108(4)-(6)**; S.I. 2000/3335, **art. 2**

**C43** S. 32(2)(b) amended by **Official Secrets Act 1989** (c. 6, SIF 39:2), s. 16(3), **Sch. 1 para. 1(e)**

**[<sup>F113</sup>32A. Use of information by Local Commissioner in other capacity**

(1) Section (2) applies where—

- (a) a Local Commissioner for Wales also holds the office of Welsh Administration Ombudsman or of Health Service Commissioner for Wales (an “additional office”), and
- (b) a person initiates a complaint to him as the holder of the additional office which relates partly to a matter with respect to which that person has previously initiated, or subsequently initiates, a complaint to him as a Local Commissioner.

(2) Information obtained by a Local Commissioner for Wales or his officers in the course of or for the purposes of investigating a complaint made under this Part of this Act may be disclosed for the purposes of carrying out his functions in relation to the other complaint.]

**Textual Amendments**

**F113** S. 32A inserted (24.9.2004) by **Regulatory Reform (Local Commissioner for Wales) Order 2004** (S.I. 2004/2359), arts. 1(3), 2(3)

**33 Consultation between Local Commissioner, the Parliamentary Commissioner and the Health Service Commissioners.**

(1) If, at any stage in the course of conducting an investigation under this Part of this Act, a Local Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation—

(a) by the Parliamentary Commissioner, in accordance with section 5 of the Act of 1967,

<sup>F114</sup>(aa) by the Welsh Administration Ombudsman, in accordance with the Government of Wales Act 1998,]

<sup>F115</sup> ...

(b) by the Health Service Commissioner for England or the Health Service Commissioner for Wales, in accordance with [<sup>F116</sup>the Act of 1993,]<sup>F117</sup>or

(c) by the Scottish Public Services Ombudsman in accordance with the Act of 2002,]

he shall consult with the appropriate Commissioner [<sup>F114</sup>or <sup>F118</sup>... Ombudsman] about the complaint and, if he considers it necessary, inform the person initiating the complaint under this Part of this Act of the steps necessary to initiate a complaint

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under the Act of 1967 <sup>F114</sup>, under the Government of Wales Act 1998<sup>F119</sup>, the Act of 1993 or under the Act of 2002] , as the case may be.

- (2) Where, by virtue of subsection (1) above, a Local Commissioner consults the Parliamentary Commissioner <sup>F120</sup>, the Welsh Administration Ombudsman<sup>F121</sup>, the Scottish Public Services Ombudsman] or one of the Health Service Commissioners in relation to a complaint under this Part of this Act, he may consult that Commissioner <sup>F122</sup>or <sup>F123</sup>that Ombudsman]] about any matter relating to the complaint, including—
- (a) the conduct of any investigation into the complaint, and
  - (b) the form, content and publication of any report of the results of such an investigation.
- <sup>F124</sup>(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner] forms the opinion that the complaint relates partly to a matter which could be the subject of investigation under this Part of this Act, he shall consult with the appropriate Local Commissioner about the complaint and, if he considers it necessary, inform the person initiating the complaint <sup>F125</sup>. . . of the steps necessary to initiate a complaint under this Part of this Act.
- (4) Where, by virtue of subsection (3) above, a Local Commissioner is consulted about a complaint under the Act of 1967 <sup>F126</sup>. . ., subsection (2) above shall apply (with the necessary modifications) as it applies in relation to consultations held by virtue of subsection (1) above.
- (5) Nothing in section 11(2) of the Act of 1967, in <sup>F127</sup>section 15 of the Act of 1993], <sup>F128</sup>in paragraph 25(1) of Schedule 9 to the Government of Wales Act 1998]]<sup>F129</sup>, in section 19 of the Act of 2002] or in section 32(2) of this Act (restrictions of disclosure of information) shall apply in relation to the disclosure of information <sup>F130</sup>. . .] in the course of consultations held in accordance with this section.
- (6) In this section the “Act of 1967” means the <sup>M5</sup>Parliamentary Commissioner Act 1967 and <sup>F131</sup>the “Act of 1993” means the Health Service Commissioners Act 1993.]<sup>F132</sup> and the Act of 2002” means the Scottish Public Services Ombudsman Act 2002]

#### Textual Amendments

- F114** S. 33(1)(aa) and words in s. 33(1) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F115** Word in s. 33(1)(aa) omitted (14.7.2004) by virtue of Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(i)**
- F116** Words in s. 33(1) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(2)**.
- F117** S. 33(1)(c) and word inserted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(ii)**
- F118** Word in s. 33(1) omitted (14.7.2004) by virtue of Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(iii)**
- F119** Words in s. 33(1) substituted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(iv)**
- F120** Words in s. 33(2) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(3)(a)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F121** Words in s. 33(2) inserted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(b)(i)**
- F122** Words in s. 33(2) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(3)(b)**(with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**

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- F123** Words in s. 33(2) substituted (14.7.2004) by [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, **6(b)(ii)**
- F124** Words in s. 33(3) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(3)(a)**.
- F125** Words in s. 33(3) repealed (5.2.1994) by 1993 c. 46, ss. 20(1), 20(2), 22(4), Sch. 2 para. 4(3)(b), **Sch. 3**.
- F126** Words in s. 33(4) repealed (5.2.1994) by 1993 c. 46, ss. 20(1), 20(2), 22(4), Sch. 2 para. 4(4), **Sch. 3**.
- F127** Words in s. 33(5) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(5)**.
- F128** Words in s. 33(5) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(4)(a)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F129** Words in s. 33(5) inserted (14.7.2004) by [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, **6(c)**
- F130** Words in s. 33(5) repealed (1.4.1999) by 1998 c. 38, s. 125, 152, Sch. 12 para. 17(4)(b), **Sch. 18 Pt. I** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F131** Words in s. 33(6) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(6)**.
- F132** Words in s. 33(6) inserted (14.7.2004) by [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, **6(d)**

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

- C44** S. 33: ss. 26-34 modified by [S.I. 1991/559](#), **art. 2(3)**

**Marginal Citations**

- M5** 1967 c. 13.

**[<sup>F133</sup>33A Disclosure of information by Local Commissioner to Information Commissioner.**

- (1) A Local Commissioner may disclose to the Information Commissioner any information obtained by, or furnished to, the Local Commissioner under or for the purposes of this Part of this Act if the information appears to the Local Commissioner to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
- (i) Part V of the Data Protection Act 1998 (enforcement),
- (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
- (iii) Part IV of that Act (enforcement), or
- (b) the commission of an offence under—
- (i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9 (obstruction of execution of warrant), or
- (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc. records with intent to prevent disclosure).
- (2) Nothing in section 32(2) of this Act shall apply in relation to the disclosure of information in accordance with this section.]

**Textual Amendments**

- F133** S. 33A inserted (30.1.2001) by [2000 c. 36, ss. 76\(2\), 87\(2\)](#), **Sch. 7 para. 4** (with ss. 56, 78)

*Status: Point in time view as at 01/10/2004.*

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### 34 Interpretation of Part III.

(1) In this Part of this Act, unless the context otherwise requires—

“action” includes failure to act, and other expressions connoting action shall be construed accordingly,

“the Commissions” means the Commission for Local Administration in England and the Commission for Local Administration in Wales,

[<sup>F134</sup>“executive” and “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000;]

“local authority” means a county council, . . . <sup>F135</sup> a district council, [<sup>F136</sup>the Broads Authority][<sup>F137</sup>a Welsh county council, a county borough council], a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly,

[<sup>F138</sup>“mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000;]

“member”,

(a) <sup>F139</sup>[<sup>F140</sup>in relation to the Greater London Authority, means—

(i) the Mayor of London,

(ii) the Deputy Mayor, or

(iii) a member of the London Assembly;]

(b) in relation to a joint board, includes a member of any of the constituent authorities of the joint board

(c) <sup>F140</sup>[<sup>F141</sup>and in relation to a National Park authority, includes a member of any of the councils by whom a local authority member of the authority is appointed],

“person aggrieved” means the person who claims or is alleged to have sustained any such injustice as is mentioned in section 26(1) above,

“Parliamentary Commissioner” means the Parliamentary Commissioner for Administration,

<sup>F142</sup>

“tribunal” includes the person constituting a tribunal consisting of one person.

(2) Section 269 of the <sup>M6</sup>Local Government Act 1972 (which relates to the meaning of “England” and “Wales” in Acts passed after 1st April 1974) shall apply to this Part of this Act as if it had been passed after that date.

(3) It is hereby declared that nothing in this Part of this Act authorises or requires a Local Commissioner to question the merits of a decision taken without maladministration by an authority in the exercise of a discretion vested in that authority.

#### Textual Amendments

**F134** S. 34(1): definition of

“executive”

and

“executive arrangements”

inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [arts. 2\(b\)](#), [10\(2\)](#) and definition of “executive” and

“executive arrangements” inserted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 10\(2\)](#)

**F135** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), [ss. 1, 102](#), [Sch. 17](#)

*Status: Point in time view as at 01/10/2004.*

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- F136** Words inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 21, 23(2), 27(2), [Sch. 6 para. 12](#)
- F137** S. 34(1): words in definition of “local authority”  
inserted (1.4.1996) by [1994 c. 19, s. 66\(6\)](#), [Sch. 16 para. 44](#) (with ss. 54(5)(7), 55(5), [Sch. 17 para. 22\(1\)](#), 23(2)); [S.I. 1996/396, art. 4](#), [Sch. 2](#)
- F138** S. 34(1): definition of “mayor and cabinet executive” and “mayor and council manager executive” inserted (E.) (6.5.2002) by [S.I. 2002/1057, art. 8\(2\)](#)
- F139** S. 34(1)(a) and word “(b)” inserted (8.5.2000) by [1999 c. 29, s. 74\(10\)](#) (with [Sch. 12 para. 9\(1\)](#))
- F140** Paragraph in s. 34 renumbered as (c) (8.5.2000) by [1999 c. 29, s. 74\(10\)](#) (with [Sch. 12 para. 9\(1\)](#))
- F141** S. 34(1): words in definition of “member”  
inserted with respect to the supplemental and incidental powers of a National Park authority (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\)](#), [Sch. 7 para. 18\(3\)](#) (with ss. 7(6), 115, 117, [Sch. 23 para. 12](#))
- F142** Definition repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(4), [Sch. 12 Pt. II](#)

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

- C45** S. 34: ss. 26-34 modified by [S.I. 1991/559, art. 2\(3\)](#)
- C46** Ss. 31-34 modified by [S.I. 1986/452, art. 8\(3\)](#)

**Marginal Citations**

- M6** [1972 c. 70](#).

**PART IV**

MISCELLANEOUS AND GENERAL

**35 Removal or relaxation of controls affecting certain local authority functions.**

- (1) For the purpose of removing or relaxing controls which affect the exercise by local authorities of certain functions, including limits imposed on the amount of the fees which may be charged by local authorities in connection with the issue of licences and the exercise of other functions, the enactments specified in the first column of Schedule 6 to this Act shall have effect subject to the amendments specified in the second column of that Schedule.
- (2) Without prejudice to section 43(4) below, any reference in Schedule 6 to this Act to any enactment includes a reference to that enactment as applied by any other enactment, including a local Act.
- (3) Without prejudice to subsection (1) above, the Secretary of State may by order made by statutory instrument make provision for the removal or relaxation of any control, including any such limit as is referred to in subsection (1) above, which affects the exercise of any function by a local authority and which is conferred by or under any enactment on a Minister of the Crown or a body constituted by or under any enactment.
- (4) An order made under this section—
  - (a) may be revoked or varied by a further order so made, and
  - (b) may contain such incidental or consequential provisions as appear to the Secretary of State to be appropriate, including provisions amending or

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repealing or revoking, with or without savings, any enactment passed before this Act and any instrument made under any such enactment.

- (5) A statutory instrument containing an order under this section shall be of no effect unless approved by a resolution of each House of Parliament.
- (6) In this section “local authority” means any local authority within the meaning of the <sup>M7</sup>Local Government Act 1972, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple, the Council of the Isles of Scilly, a port health authority, [<sup>F143</sup>Transport for London] and a Passenger Transport Executive.

**Textual Amendments**  
**F143** Words in s. 35(6) substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), **Sch. 1 para. 5**

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**Modifications etc. (not altering text)**  
**C47** S. 35(3): application continued by [Weights and Measures Act 1985 \(c. 72, SIF 131\)](#), s. 196(1), **Sch. 11 para. 19**

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**Marginal Citations**  
**M7** 1972 c. 70.

**36 Recovery by local authorities of establishment charges.**

- (1) In any case where a local authority—
  - (a) are empowered under any enactment to carry out any works or do any other thing on or in relation to any land or building, and
  - (b) by virtue of that or any other enactment are entitled to recover from any person expenses incurred by them in exercising that power,
 the local authority shall be entitled to recover, together with and in like manner as the expenses which are recoverable as mentioned in paragraph (b) above, such sum as appears to them to be reasonable in respect of their establishment charges.
- (2) The provisions of subsection (1) above shall have effect in substitution for any provision contained in any enactment, including an enactment in a local Act, under which a local authority who have exercised any such power as is referred to in subsection (1)(a) above have power to recover any sum in respect of their establishment charges or any element or elements of those charges.
- (3) In this section “local authority” has the same meaning as in section 35 above.

**Modifications etc. (not altering text)**  
**C48** S. 36 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), **ss. 65(5), 68(4)**

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**Textual Amendments**

**F144** S. 37 repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), ss. 3, 6, **Sch. 1 Pt. I**

**38** ..... **F145**

**Textual Amendments**

**F145** S. 38 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 26 para. 3(1)(2)(3)**, 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

**39 Compensation for loss of office : extension of cases for which regulations may provide.**

For subsection (3) of section 259 of the <sup>M8</sup>Local Government Act 1972 (regulations providing for compensation for loss of office attributable to that Act may extend to persons whose loss is attributable to any such transfer or relinquishment of functions as is referred to in paragraph (c) of the new subsection set out below) there shall be substituted the following subsection :—

- “(3) Without prejudice to subsection (1) above, regulations under this section may make provision in relation to persons who suffer loss of employment or loss or diminution of emoluments which is attributable to—
- (a) the provisions of any such order as is referred to in section 326(1) of the Public Health Act 1936 ;
  - (b) an existing local authority ceasing, as respects the whole or part of their area, to be a food and drugs authority, within the meaning of the Food and Drugs Act 1955 ;
  - (c) any transfer or relinquishment of functions under any of the provisions of the Public Health Act 1936 which are incorporated in the Food and Drugs Act 1955 or in the Slaughterhouses Act 1974 ; or
  - (d) the provisions of an order under section 46 of the Children and Young Persons Act 1969 ;

and, without prejudice to the repeal of any enactment by this Act, regulations making provision for any of the cases specified in paragraphs (a) to (d) above may provide that the provisions as to compensation made for that case by section 326 of the Public Health Act 1936, section 129(1) of the Food and Drugs Act 1955 or, as the case may be, paragraph 2 of Schedule 3 to the Children and Young Persons Act 1969 shall not apply in relation to persons to whom the provisions of theregulations apply.”

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

**C49** The text of s. 39 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M8** 1972 c. 70.

*Status: Point in time view as at 01/10/2004.*

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40 ..... F146

**Textual Amendments**  
F146 S. 40 repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)

**41 Expenses.**

There shall be defrayed out of money provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of a Minister under this Act;
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

**42 Minor and consequential amendments and repeals.**

- (1) Schedule 7 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Schedule 8 to this Act are here by repealed to the extent specified in the third column of that Schedule.

**Modifications etc. (not altering text)**  
C50 The text of s. 42 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**43 Short title, commencement, construction, application and extent.**

- (1) This Act may be cited as the Local Government Act 1974.
- (2) Part II, other than sections 16 and 22, and sections 35, 37 and 42 of this Act and Schedules 6 to 8 to this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.
- (3) An order under subsection (2) above appointing a day for the coming into operation of any provision of Schedules 6 to 8 to this Act may contain such savings with respect to the operation of that provision as appear to the Secretary of State to be appropriate.
- (4) Any reference in this Act to any other enactment shall be construed as referring to that enactment as amended by or under any other enactment, including this Act.
- (5) In their application to the Isles of Scilly, the provisions of Parts I and IV of this Act shall have effect subject to such modifications as the Secretary of State may by order made by statutory instrument direct.
- (6) .....<sup>F147</sup>, this Act shall not extend to Scotland or to Northern Ireland.



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**Textual Amendments**

**F147** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), [Sch. 3](#) and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), [Sch. 3 Pt. I](#)

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

**C51** Power of appointment conferred by s. 43(2) fully exercised: [S.I. 1974/335](#), 1977/943 and 1978/1583

*Status: Point in time view as at 01/10/2004.*

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# SCHEDULES

## SCHEDULE 1

Sections 1, 6 and 8.

### TERMINATION OR MODIFICATION OF CERTAIN EXISTING GRANTS

#### PART I

1—5. . . . . F148

**Textual Amendments**  
**F148** Sch. 1 paras. 1–5, 10 repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. XVI](#)

#### PART II

##### EXISTING GRANTS FOR HIGHWAYS AND PUBLIC TRANSPORT

6 Subject to paragraph 8 below, on and after 1st April 1975 the power of the Secretary of State—

- (a) . . . . . F149
- (b) to make grants to a Passenger Transport Executive under section 20(8) of the <sup>M9</sup>Transport Act 1968 (towards expenditure incurred by the Executive for certain areas in pursuance of agreements with the Railways Board for the provision of railway passenger services), and
- (c) to make grants to any person under section 56(1) of the Transport Act 1968 (towards capital expenditure incurred or to be incurred in the provision, improvement or development of facilities for public passenger transport),

shall cease to be exercisable except in cases where it appears to the Secretary of State that, notwithstanding the grants for which provision is made in Part I of this Act, the whole or any part of any expenditure in respect of which any such advances or grants as are referred to in . . . F150, paragraph (b) or paragraph (c) above could be made should not fall on the local highway authority, Passenger Transport Executive or other person concerned.

**Textual Amendments**  
**F149** Sch. 1 para. 6(a) repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)  
**F150** Words repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)

**Marginal Citations**  
**M9** 1968 c. 73.

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7 No grants shall be paid under section 34(2) of the Transport Act 1968 (towards expenditure incurred by local authorities in making grants to provide assistance for rural bus or ferry services and in the provision of such ferry services) in respect of expenditure incurred in connection with the provision, improvement or continuance, after the end of the year 1974-75, of any bus service or ferry service, within the meaning of that Act.

8 (1) In any case where it appears to the Secretary of State—  
(a) that any person other than a local authority, a Passenger Transport Executive or [<sup>F151</sup>London Regional Transport] has before 1st April 1975 entered upon a course of expenditure of a capital nature such as is referred to in section 56(1) of the Transport Act 1968, and  
(b) that the course of expenditure was entered upon in reliance on an undertaking by the Secretary of State to make a grant or grants towards that expenditure under that section,

then, notwithstanding anything in paragraph 6 above, the Secretary of State may, on or after 1st April 1975, make to that person under that section any grant which he considers appropriate in the light of that undertaking.

(2) In sub-paragraph (1)(a) above “local authority” includes the council of an administrative county, county borough or county district.

#### Textual Amendments

**F151** Words substituted by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. 71(3)(a), Sch. 6 para. 11(a)

9 (1) In any case where it appears to the Secretary of State—  
(a) that a Passenger Transport Executive . . . <sup>F152</sup> has before 1st April 1975 entered upon a course of expenditure of a capital nature such as is referred to in section 56(1) of the <sup>M10</sup>Transport Act 1968, and  
(b) that the course of expenditure was entered upon in reliance on an undertaking by the Secretary of State to make a grant or grants towards that expenditure under that section,

the Secretary of State shall, as soon as practicable after 1st April 1975, give notice in writing to the appropriate local authority specifying the purpose of the expenditure, the Executive carrying it out and particulars of the grant or grants to which the undertaking relates, including the terms and conditions upon which the grant or grants were to be made and details of the amount or proportion thereof already paid at that date.

(2) An authority to whom a notice is given under sub-paragraph (1) above shall make to the Executive specified in the notice payments under subsection (2) of section 56 of the Transport Act 1968—

(a) corresponding in amount to the payments which, in accordance with the particulars specified in the notice, would have been made under the grant or grants concerned, and  
(b) on terms and conditions corresponding, as near as may be, to those so specified,

and, in relation to the authority, expenditure for the purpose specified in the notice shall be conclusively presumed for the purposes of that subsection to be expenditure towards which payments may be made under that subsection.

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(3) In sub-paragraph (1) above “the appropriate local authority”, in relation to a Passenger Transport Executive, means the county council which is the Passenger Transport Authority for the Executive’s area . . . <sup>F153</sup>

**Textual Amendments**

**F152** Words repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), [s. 71\(3\)\(a\)\(b\)](#), Sch. 6 para. 11(b), Sch. 7

**F153** Words repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), [s. 71\(3\)\(a\)\(b\)](#), Sch. 6 para. 11(c), Sch. 7

**Marginal Citations**

**M10** [1968 c. 73](#).

**PART III**

EXISTING GRANTS FOR OTHER SPECIFIC PURPOSES

10 . . . . . <sup>F154</sup>

**Textual Amendments**

**F154** [Sch. 1 paras. 1–5, 10](#) repealed by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 34 Pt. XVI](#)

- 11 (1) The Secretary of State may from time to time, by order made by statutory instrument, provide that, with effect from such year as may be specified in the order, no grant shall be paid under any such local authority grant provision as may be so specified or that no grant shall be so paid except in respect of expenditure of a description so specified.
- (2) In this paragraph “local authority grant provision” means an enactment providing for the payment of grants to local authorities (within the meaning of the enactment concerned) in respect of expenditure incurred in connection with a specific function.
- (3) An order under this paragraph may contain such provisions as appear to the Secretary of State to be necessary or proper in consequence of the termination of the grants, including provision amending, repealing or revoking, with or without savings, any enactment or instrument made under an enactment.
- (4) No order under this paragraph shall have effect unless it is approved by a resolution of each House of Parliament.

.....

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**Textual Amendments**

**F155** Sch. 2 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 10 Group 2

SCHEDULE 3

. . . F156

**Textual Amendments**

**F156** Sch. 3 repealed by S.I. 1990/776, art. 3, Sch. 1

SCHEDULE 4

Section 23.

THE COMMISSIONS

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

**C52** Sch. 4 extended (W.) (28.7.2001) by S.I. 2001/2275, reg. 3

*Disqualifications*

- 1 (1) A person shall be disqualified for being appointed as, or for being, a Local Commissioner if—
  - (a) he is disqualified for being elected, or being, a member of any of the authorities mentioned in section 25(1) of this Act; or
  - (b) he is a member of any of those authorities or is a member (by co-option) of a committee of any of those authorities.
- (2) A Local Commissioner shall not at any time conduct a case arising in an area if it is wholly or partly within an area for which one of those authorities is responsible and, within the five years ending at that time, the Local Commissioner has been a member of that authority, or a member (by co-option) of a committee of that authority.
- (3) The acts and proceedings of a person appointed as a Local Commissioner and acting in that office shall, notwithstanding his disqualification under this paragraph, be as valid and effectual as if he had been qualified.
- 2 (1) So long as a Local Commissioner is responsible for any area, and for three years after he ceases to be so responsible, he shall be disqualified for being appointed to any paid office by any of the authorities mentioned in section 25(1) of this Act if the area for which the Local Commissioner is, or was, responsible falls wholly or partly within the area for which that authority is responsible.
- (2) In this paragraph references to the area for which a Local Commissioner is responsible are references to an area for which he assumes responsibility under

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section 23 of this Act and, if the Commission for Local Administration in Wales consist of more than one Local Commissioner but Wales has not been divided into areas under that section, each of the Local Commissioners for Wales shall be treated as responsible for the whole of Wales.

*Remuneration, etc.*

- 3 (1) Each Commission shall pay to or in respect of their Local Commissioners and their officers such amounts, by way of remuneration, pensions, allowances or gratuities or by way of provision for any such benefits, as the Secretary of State may, with the approval of [<sup>F157</sup>the Treasury], determine.
- (2) If a person ceases to be a Local Commissioner and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the appropriate Commission may pay to that person a sum of such amount as the Secretary of State may, with the consent of [<sup>F157</sup>the Treasury], determine.
- [<sup>F158</sup>(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.]

**Textual Amendments**

**F157** Words substituted by virtue of S.I. 1981/1670, arts. 2(1)(c)(d)(2), 3(5)

**F158** Sch. 4 para. 3(3) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 22(5)

*Staff and accommodation*

- 4 (1) Each of the Commissions may appoint a secretary, and such other officers as they may consider to be required for the discharge of their functions.
- (2) Each of the Commissions shall make arrangements to enable Local Commissioners to investigate complaints, and in particular arrangements for—
- (a) allocating members of their staff to assist Local Commissioners, and
  - (b) providing offices and other accommodation.
- (3) An officer of a Commission shall not be allocated to assist a Local Commissioner without the approval of that Local Commissioner.
- (4) The Commission for Wales shall ensure that staff are available who can enable a Local Commissioner to deal with complaints in the Welsh language.
- (5) Any function of a Local Commissioner . . . <sup>F159</sup> may be performed by any officer of the Commission who is authorised for the purpose by the Local Commissioner.

**Textual Amendments**

**F159** Words repealed by Local Government Act 1988 (c. 9, SIF 81:1, 2), ss. 29(4), Sch. 3 para. 9(1)(2), Sch. 7 Pt. II

*Status: Point in time view as at 01/10/2004.*

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### *Proceedings of the Commissions*

- 5 (1) The Commissions may determine their own procedure, including the quorum necessary for their meetings.
- (2) The validity of any proceedings of either Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any member of the Commission.
- (3) Each of the Commissions shall be a body corporate, and their common seal shall be authenticated by the signature of a member of the Commission, or of some other person authorised in that behalf by the Commission.

### *[<sup>F160</sup> Expenses of the Commissions*

#### **Textual Amendments**

**F160** Sch. 4 paras. 6–8 substituted for paras. 6–11 by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), [s. 24\(1\)\(3\)](#)

- 6 (1) [<sup>F161</sup>the Commission for Local Administration in England] 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 [<sup>F162</sup>the Commission for Local Administration in England] 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 [<sup>F163</sup>the Commission for Local Administration in England], 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.

<sup>F164</sup>(5) .....

#### **Textual Amendments**

**F161** Words in Sch. 4 para. 6(1) substituted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(4\)\(f\)](#), [Sch. 7 para. 5\(2\)\(a\)](#) (with [Sch. 7 para. 5\(6\)](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)

**F162** Words in Sch. 4 para. 6(2) substituted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(4\)\(f\)](#), [Sch. 7 para. 5\(2\)\(b\)](#) (with [Sch. 7 para. 5\(6\)](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)

**F163** Words in Sch. 4 para. 6(3) substituted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(4\)\(f\)](#), [Sch. 7 para. 5\(2\)\(c\)](#) (with [Sch. 7 para. 5\(6\)](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)

**F164** Sch. 4 para. 6A substituted for Sch. 4 para. 6(5) (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(4\)\(f\)](#), [Sch. 7 para. 5\(3\)](#) (with [Sch. 7 para. 5\(6\)](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)

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

**C53** Sch. 4 para. 6 extended (W.) (28.7.2001) by [S.I. 2001/2275](#), [reg. 4](#)

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- [<sup>F164</sup>6A(1) The Commission for Local Administration in Wales shall be treated as if they were a specified body for the purposes of Chapter 3 of Part 5 of the 1988 Act (revenue support grant: Wales), and that Chapter shall accordingly have effect with the following modifications.
- (2) Before making a determination under section 84F(2) or (3) of the 1988 Act, the National Assembly for Wales shall, except in the case mentioned in paragraph 8A below, take into account—
- (a) estimates of the expenses of the Commission for Local Administration in Wales, and
  - (b) any observations on those estimates,
- made and submitted to the Assembly in accordance with paragraph 7 below.
- (3) The Assembly may also take into account any other information available to it as to the expenses of the Commission for Local Administration in Wales, whatever its source.
- (4) A determination under section 84F of the 1988 Act shall not be invalid merely because the requirements of paragraph 7 below were not complied with.]

#### Textual Amendments

**F164** Sch. 4 para. 6A substituted for Sch. 4 para. 6(5) (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), s. 128(4)(f), [Sch. 7 para. 5\(3\)](#) (with [Sch. 7 para. 5\(6\)](#)); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

- 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.
- (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 [<sup>F165</sup>the Commission for Local Administration in England ] 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.]

#### Textual Amendments

**F165** Words in Sch. 4 para. 8 substituted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), s. 128(4)(f), [Sch. 7 para. 5\(4\)](#) (with [Sch. 7 para. 5\(6\)](#)); S.I. 2003/3034, art. 2, Sch. 1 Pt. I



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

**C54** Sch. 4 para. 8 amended by [S.I. 1981/327](#), [rule 6](#)

[<sup>F166</sup>8A Where the Commission for Local Administration in Wales fail to submit an estimate of their expenses for the forthcoming financial year under paragraph 7 above, the National Assembly for Wales may, for the purposes of a determination under section 84F of the 1988 Act, assume those expenses to be such as it sees fit.]

**Textual Amendments**

**F166** Sch. 4 para. 8A inserted (27.11.2003) by [Local Government Act 2003 \(c. 26\)](#), s. 128(4)(f), [Sch. 7 para. 5\(5\)](#) (with [Sch. 7 para. 5\(6\)](#)); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I

12 ..... <sup>F167</sup>

**Textual Amendments**

**F167** Sch. 4 para. 12 repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), [Sch. 3](#) and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), [Sch. 3 Pt. I](#)

SCHEDULE 5

Section 26.

MATTERS NOT SUBJECT TO INVESTIGATION

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

**C55** Sch. 5 amended by [S.I. 1988/242](#), [art. 2](#)

- 1 The commencement or conduct of civil or criminal proceedings before any court of law.
- 2 Action taken by any [<sup>F168</sup>police] authority in connection with the investigation or prevention of crime.

**Textual Amendments**

**F168** Word inserted by [S.I. 1988/242](#), [art. 2](#)

- 3 (1) Action taken in matters relating to contractual or other commercial transactions of any authority to which Part III of this Act applies, including transactions falling within sub-paragraph (2) below but excluding transactions falling within sub-paragraph (3) below.  
(2) The transactions mentioned in sub-paragraph (1) above as included in the matters which, by virtue of that sub-paragraph, are not subject to investigation are all transactions of an authority to which Part III of this Act applies relating to the operation of public passenger transport, the carrying on of a dock or harbour undertaking, the provision of entertainment, or the provision and operation of industrial establishments and of markets [<sup>F169</sup>other than transactions relating to the

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grant, renewal or revocation of a licence to occupy a pitch or stall in a fair or market, or the attachment of any condition to such a licence].

- (3) The transactions mentioned in sub-paragraph (1) above as not included in those matters are—
- (a) transactions for or relating to the acquisition or disposal of land [<sup>F170</sup>or the provision of moorings (not being moorings provided in connection with a dock or harbour undertaking)]; and
  - (b) all transactions (not being transactions falling within sub-paragraph (2) above) in the discharge of functions exercisable under any public general Act, other than those required for the procurement of the goods and services necessary to discharge those functions.

#### Textual Amendments

**F169** Words in Sch. 5 para. 2(2) inserted (28.4.1993) (with the view mentioned in art. 2 of S.I. 1993/940) by S.I. 1993/940, art. 2(i).

**F170** Words in Sch. 5 para. 2(3)(a) inserted (28.4.1993) (with the view mentioned in art. 2 of S.I. 1993/940) by S.I. 1993/940, art. 2(ii).

4 Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters.

5 <sup>F171</sup>(1) . . . . .

- (2) Any action concerning—
- (a) the giving of instruction, whether secular or religious, or
  - (b) conduct, curriculum, internal organisation, management or discipline, [<sup>F172</sup>in any school or other educational establishment maintained by the authority].

#### Textual Amendments

**F171** S. 5(1) repealed (1.10.1998) by 1998 c. 31, s. 140(3), Sch. 31 (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch. 1 Pt. I

**F172** Words substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), Sch. 12 para. 71

[<sup>F173</sup>6 Action taken by an authority mentioned in section 25(1)(ba) [<sup>F174</sup>or (bb)] of this Act which is not action in connection with functions in relation to housing.]

#### Textual Amendments

**F173** Sch. 5 paras. 6 and 7 inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, Sch. 3 para. 10

**F174** Words in Sch. 5 para. 6 substituted (1.10.1998) by 1998 c. 38, s. 129, Sch. 15 para. 3 (with ss. 139(2), 143(2)); S.I. 1998/2244, art. 4

7 Action taken by an authority mentioned in section 25(1)(bd) of this Act which is not action in connection with functions in relation to town and country planning.

[<sup>F175</sup>8 Action taken by the Urban Regeneration Agency which is not action in connection with functions in relation to town and country planning.]

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### Textual Amendments

**F175** Sch. 5 para. 8 inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 6(3)**; S.I. 1993/2762, **art.3**.

## SCHEDULE 6

Section 35.

### RELAXATION AND REMOVAL OF CONTROLS

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

**C56** The text of Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

| <b>Enactment relating to local authority function</b>  | <b>Amendment</b>   |
|--|--|
| 1. Section 94 of the<br><b>M11</b><br>Public Health Act Amendment Act 1907<br>(power of local authorities to licence pleasure boats and boatmen).    | In subsection (1), for the words from “annual fees” to the end of the subsection there shall be substituted the words “for each type of licence such annual fee as appears to them to be appropriate”.   |
| 2.—(1) Section 1 of the<br><b>M12</b><br>Performing Animals (Regulation) Act 1925<br>(restriction on exhibition and training of performing animals). | In subsection (2), for the words “the prescribed fee” there shall be substituted the words “such fee as appears to the local authority to be appropriate” ; in subsection (5) the words “on payment of the prescribed fee”, in both places where they occur, shall be omitted; in subsection (7) the words “subject to payment of the prescribed fee” shall be omitted; and at the end of the section there shall be added the following subsection :<br>“(8) A local authority may charge such fees as appear to them to be appropriate for inspection of the register, for taking copies thereof or making extracts therefrom or for inspection of copies of certificates of registration issued by them”. |
| (2) Section 5(3) of that Act (expenses of local authorities, etc.).  | The words from “and the fee for registration” to the end shall be omitted.   |
| 3. . . .<br><b>F176</b>  | . . . .<br><b>F176</b>   |
| 4. Section 3 of the<br><b>M13</b><br>Civic Restaurants Act 1947 (financial provisions).  | In subsection (1) (every civic restaurant authority to keep an account of income and expenditure on income account, and form of that account and particulars to be   |

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|   | included therein to be prescribed by Minister of Agriculture, Fisheries and Food) the words from “and the form of the account” to the end of the subsection shall be omitted and in subsection (2) (every civic restaurant authority to endeavour to ensure that their income under the Act is sufficient to defray their expenditure thereunder and if their account shows a deficit for three consecutive financial years their powers to cease to be exercisable) the words from “and if the account” to the end of the subsection shall be omitted. |
| 5. . . .<br>F177  | . . .<br>F177   |
| 6.—(1) Section 64 of the<br>M14<br>National Parks and Access to the Countryside Act 1949 (power of local planning authority to make access agreements with landowners in their area). | In subsection (1) the words “with the approval of the Minister” shall be omitted.   |
| (2) Section 65 of that Act (power of local planning authorities to make access orders).   | Subsection (6) (power of Secretary of State to direct a local planning authority to make an access order or to make such an order himself) shall be omitted.  |
| (3) Section 104 of that Act (general provisions as to appropriation and disposal of land).  | Subsections (7) and (8) (power of Secretary of State to require local authority to dispose of land in certain cases and to resolve differences as to the best consideration in those cases) shall be omitted.   |
| (4) Section 105 of that Act (default powers of Secretary of State).   | The section shall cease to have effect.   |
| 7. . . .<br>F178  | . . .<br>F178   |
| 8. Section 1 of the<br>M15<br>Pet Animals Act 1951 (licensing of pet shops by local authorities).   | In subsection (2), as originally enacted, the words “not exceeding ten shillings” shall be omitted.   |
| 9. . . .<br>F179  | . . .<br>F179   |
| 10. Section 6 of the<br>M16<br>Pests Act 1954 (Order in Council may authorise a port health authority to make and recover charges for inspection of ships and hovercraft).            | The words from the beginning to “may authorise” shall be omitted ; for the words “to make and recover charges” there shall be substituted the words “may impose such charges as appear to the authority to be appropriate” ; and for the words “any such Order in Council” there shall be substituted the words “ any Order in Council under  |

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|   | section 23 of the Prevention of Damage by Pests Act 1949 ”.  |
| 11. . . .<br>F180   | . . .<br>F180<br>Subsection (3) (advertisement of local authority’s intention to apply for Minister’s approval) shall be omitted.  |
| 12. . . .<br>F181   | . . .<br>F181  |
| 13. Schedule 2 to the<br>M17<br>Caravan Sites and Control of Development Act 1960 (orders of district councils prohibiting caravans on commons).            | In paragraph 3, sub-paragraph (1) (service of notices and power of Secretary of State to dispense with service) for the words “Provided that where” there shall be substituted the words “unless the council are satisfied that” and the words from “the Minister” to the end of the sub-paragraph shall be omitted. |
| 14. Section 2 of the<br>M18<br>Local Authorities (Land) Act 1963 (power of local authorities to develop land for the benefit or improvement of their area). | Subsections (2) and (3) (consent of the Secretary of State required for local authorities to develop land) shall be omitted.   |
| 15. . . .<br>F182   | . . .<br>F182  |
| 16. Schedule 12 to the<br>M19<br>London Government Act 1963 (licensing of public entertainments in Greater London).   | In each of paragraphs 3 and 6 (fees payable on application for licences for differing types of public entertainment to be such as the Greater London Council may fix, within specified limits) the words from “not exceeding” to the end of the paragraph shall be omitted.  |
| 17. Section 1 of the<br>M20<br>Animal Boarding Establishments Act 1963 (licensing by local authorities of boarding establishments for animals).             | In subsection (2), as originally enacted, the words “not exceeding ten shillings” shall be omitted.  |
| 18. Section 1 of the<br>M21<br>Riding Establishments Act 1964 (licensing of riding establishments by local authorities).                                    | In subsection (2), for the words from “and on payment” to “grant” there shall be substituted the words “grant, on payment of such fee as may be determined by the local authority”.  |
| 19.—(1) Section 5 of the<br>M22<br>Plant Health Act 1967 (execution of Act by local authorities).   | In subsection (2) (local authorities to keep certain records in such manner and form as competent authority may direct), the words from “in such manner” to “direct” shall be omitted.   |

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| (2) Section 6 of that Act (publication of orders).  | In subsection (3) (local authorities to publish orders in such manner and form as competent authority directs) the words from “in such manner as the competent authority directs” to “such direction” shall be omitted.   |
| 20. . . .<br>F183   | . . . .<br>F183   |
| 21. . . .<br>F184   | . . . .<br>F184   |
| 22.—(1) Section 10 of the<br>M23<br>Transport Act 1968 (general powers of the Passengers Transport Executive).                                    | In subsection (1)(xvi) (power with Passenger Transport Authority’s approval and Secretary of State’s consent, to make arrangements for transfer of part of the Executive’s undertaking of property to persons who have agreed to carry on any of the Executive’s activities) the words “and the consent of the Minister” shall be omitted.                              |
| (2) Section 11 of that Act (financial duty of Executive).   | Subsection (4) (Executive to submit to Secretary of State statement of Executive’s proposals for expenditure on capital account and power of Secretary of State to limit such expenditure) shall be omitted.  |
| (3) Section 12 of that Act (borrowing powers of Executive).   | In subsection (4) (power of certain councils to lend money to Executive and, with Secretary of State’s consent, to borrow money for that purpose) the words “with the consent of the Minister” shall be omitted.  |
| (4) Section 13 of that Act (power for Authority to precept for Executive).  | Subsection (4) (power of Secretary of State to restrict the aggregate amount for which Authority may issue precepts) shall be omitted.  |
| (5) Section 16 of that Act (publication of annual report by Authority and Executive and prevention of improper conduct of subsidiary activities). | In subsection (2), in paragraph (c), the final word “and” and paragraph (d) (in certain cases report to contain such information as the Secretary of State may direct) shall be omitted, and subsections (3) to (5) (Secretary of State’s powers to control conduct of certain types of business carried on by an Executive and subsidiaries thereof) shall be omitted. |
| (6) Section 18 of that Act (planning of passenger transport services in designated areas).  | In subsection (1) (statement of general policy to be prepared within twelve months of establishment of Authority, or such longer period as the Secretary of State allows, and copies to be sent to the Secretary of State and to local authorities concerned) the words “to the Minister and” shall be omitted, and in subsection (2) (plan for development of          |

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|  | passenger transport system to be prepared within two years of establishment of Executive, or such longer period as the Secretary of State allows, and copies to be sent to the Secretary of State and to local authorities concerned) the words “to the Minister and” shall be omitted.  |
| (7) . . .<br>F185  | . . .<br>F185  |
| (8) Section 21 of that Act (provisions as to functions of traffic commissioners in connection with designated areas).  | In subsection (5), paragraph (a) (regulations of Secretary of State may require Executive to furnish commissioners with information as to certain road passenger transport services) shall be omitted.   |
| (9) Section 36 of that Act (power of local authority to run public service vehicles as contract carriages).  | In subsection (2), the words “subject to subsection (3) of this section” and subsections (3) to (8) (control of Secretary of State over exercise of local authorities’ powers) shall be omitted.   |
| (10) Section 37 of that Act (power of local authorities, with the Secretary of State’s consent, to acquire or dispose of public service vehicle undertakings).                         | In subsection (1), the words from “with the consent” to “Secretary of State” and subsection (2) (terms on which consent may be given) shall be omitted.  |
| (11) Section 138 of that Act (power of a local authority to make arrangements to reimburse, and to contribute towards, costs incurred by other bodies in granting travel concessions). | Subsections (7) and (8) (power of Secretary of State to prescribe method of calculating cost incurred in providing travel concessions and to make regulations about determinations of disputes with respect to such cost) shall be omitted.  |
| (12) Part III of Schedule 5 to that Act (matters which may be dealt with an order designating a passenger transport area).   | Paragraph 14 (making of reports and furnishing of information by Authority and Executive to Secretary of State) shall be omitted.  |
| 23. . . .<br>F186  | . . .<br>F186  |
| 24.—(1) Section 3 of the<br>M24<br>Late Night Refreshment Houses Act 1969 (annual duty payable to licencing authority in respect of licence to keep late night refreshment house).     | In subsection (1) (duty of £6 payable in respect of licence) for the words from “charges” to “the licensing authority” there shall be substituted the words “payable to the licensing authority a fee of such amount as appears to them to be appropriate” and for the word “duty”, in the second place where it occurs, there shall be substituted the word “fee”, and subsections (2) and (3) (power of Secretary of State by order to vary or dispense with licence duty) shall be omitted. |

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| <p>(2) Sections 4 and 5 of that Act (reduced duty on beginner’s part-year licence and date of licence and period of validity).</p>                 | <p>For the word “duty”, in each place where it occurs, there shall be substituted the word “fee” and for the words “chargeable” (in section 5(2)) there shall be substituted the word “payable”.</p>  |
| <p>25. . . .<br/>F186</p>  | <p>. . . .<br/>F186</p>   |
| <p>26.—(1) Section 18 of the<br/>M25<br/>Slaughterhouses Act 1974 (power to provide cold stores and refrigerators for public slaughterhouses).</p> | <p>In subsection (1) (power of a local authority, with the approval of the Minister, to provide cold store or refrigerator for the storage and preservation of meat and other articles of food) the words “with the approval of the Minister” shall be omitted and subsections (3) to (5) (advertisement of local authority’s intention to apply for Minister’s approval and provisions as to public inquiries) shall be omitted.</p> |
| <p>(2) Section 40(9) of that Act (power of local authority to charge fixed fees for grant and renewal of licence).</p>                             | <p>For the words from “a fee”, in the first place where they occur, to “5p” there shall be substituted the words “such fees as appear to them to be appropriate for the grant and”.</p>   |

#### Textual Amendments

- F176** Sch. 6 para. 3 repealed by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. 47, **Sch. 7 Pt. I**
- F177** Sch. 6 para. 5 repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), **Sch. 1 Pt. IV**
- F178** Sch. 6 para. 7 repealed by [Animal Health Act 1981 \(c. 22\)](#), **Sch. 6**
- F179** Sch. 6 para. 9 repealed by [Mineral Workings Act 1985 \(c. 12, SIF 86\)](#), s. 10, **Sch. 2**
- F180** Sch. 6 para. 11 repealed by [Food Act 1984 \(c. 30, SIF 53:1\)](#), s. 134, **Sch. 11**
- F181** Sch. 6 para. 12 repealed by [Highways Act 1980 \(c. 66\)](#), **Sch. 25**
- F182** Sch. 6 para. 15 repealed by [Weights and Measures Act 1985 \(c. 72, SIF 131\)](#), s. 98, **Sch. 13 Pt. I**
- F183** Sch. 6 para. 20 repealed by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, **Sch. 14**
- F184** Sch. 6 para. 21 repealed by [National Health Service Act 1977 \(c. 49\)](#), **Sch. 16**
- F185** Sch. 6 para. 22(7) repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(3), **Sch. 8**
- F186** Sch. 6 para. 23 repealed by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. 71(3)(b), Sch. 7

#### Marginal Citations

- M11** 1907 c. 53.
- M12** 1925 c. 38.
- M13** 1947 c. 22.
- M14** 1949 c. 97.
- M15** 1951 c. 35.
- M16** 1954 c. 68.
- M17** 1960 c. 62.
- M18** 1963 c. 29.
- M19** 1963 c. 33.
- M20** 1963 c. 43.
- M21** 1964 c. 70.
- M22** 1967 c. 8.



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**M23** 1968 c. 73.  
**M24** 1969 c. 53.  
**M25** 1974 c. 3.

SCHEDULE 7

Section 42.

MINOR AND CONSEQUENTIAL AMENDMENTS

1 ..... **F187**

**Textual Amendments**

**F187** Sch. 7 para. 1 repealed by Derelict Land Act 1982 (c. 42, SIF 46:4), s. 5(2), Sch.

2 ..... **F188**

**Textual Amendments**

**F188** Sch. 7 para. 2 repealed by Highways Act 1980 (c. 66), Sch. 25

3—10. .... **F189**

**Textual Amendments**

**F189** Sch. 7 paras. 3—10 repealed by S.I. 1990/776, art. 3, Sch. 1

11 ..... **F190**

**Textual Amendments**

**F190** Sch. 7 para. 11 repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(b), Sch. 7

12 ..... **F191**

**Textual Amendments**

**F191** Sch. 7 para. 12 repealed (with savings in S.I. 1990/431, Sch. 1 para. 1(a)) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), Sch. 12 Pt. I

*The Water Act 1973*<sup>M26</sup>

**Marginal Citations**

**M26** 1973 c. 37.

13 ..... **F192**

*Status: Point in time view as at 01/10/2004.*

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**Textual Amendments**

**F192** Sch. 7 para. 13 repealed by Land Drainage Act 1976 (c. 70), Sch. 8

- 14 In Schedule 6 to that Act, in paragraph (c) after the words “transitional period” there shall be inserted the words “in respect of which no provision is made by agreement under section 32A of this Act” and at the end of the said paragraph (c) there shall be inserted the following paragraph :—

“(cc) without prejudice to the generality of paragraph (c) above, for the demand, collection and recovery by a local authority of any such amount as is mentioned in that paragraph in like manner as, and together with, any amount due to the authority in respect of the general rate and for the extension of section 113 of, and the modification of Schedule 12 to, the General Rate Act 1967 (power to make rules, and forms of documents) to take account of any such provision made by the order.”.

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

**C57** The text of Sch. 7 paras. 14 and 15 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The Breeding of Dogs Act 1973* <sup>M27</sup>

**Marginal Citations**

**M27** 1973 c. 60.

- 15 (1) Section 4 of the Breeding of Dogs Act 1973 (which confers power on a local authority to prosecute for certain offences but is rendered unnecessary by section 111 of the Local Government Act 1972) shall cease to have effect.
- (2) In section 5(2) of that Act, in the definition of local authority, after the word “means” there shall be inserted the words “ in England and Wales ” and for the words from “or of a district” to “Wales)” there shall be substituted the words “ the council of a district ”.

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

**C58** The text of Sch. 7 paras. 14 and 15 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## SCHEDULE 8

Section 42.

### ENACTMENTS REPEALED

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

**C59** The text of Schedule 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

| Chapter                       | Short Title  | Extent of Repeal  |
|-------------------------------|--|---|
| 15 & 16 Geo. 5. c. 38.        | The Performing Animals (Regulation) Act 1925.              | In section 1, in subsection (5) the words “on payment of the prescribed fee”, in both places where they occur, and in subsection (7) the words “subject to payment of the prescribed fee”.<br><br>In section 5, in subsection (3) the words from “and the fee for registration” to the end of the subsection. |
| 26 Geo. 5. & 1 Edw. 8. c. 49. | The Public Health Act 1936.                                | Section 292.  |
| 10 & 11 Geo. 6. c. 22.        | The Civic Restaurants Act 1947.                            | In section 3, in subsection (1) the words from “and the form of the account” to the end of the subsection, and in subsection (2) the words from “and if the account” to the end of the subsection.  |
| 11 & 12 Geo. 6. c. 26.        | The Local Government Act 1948.                             | Section 138(2).   |
| 12, 13 & 14 Geo. 6. c. 55.    | The Prevention of Damage by Pests Act 1949.                | In section 7(2) the words “two hundred and ninety-two” and the words “for the inclusion of sums in respect of establishment charges in expenses recoverable under that Act”.  |
| 12, 13 & 14 Geo. 6. c. 97.    | The National Parks and Access to the Countryside Act 1949. | In section 64(1) the words “with the approval of the Minister”.<br><br>Section 65(6).<br><br>In section 97, in subsection (1), paragraphs (a) and (b), and in paragraph (c) the words from “and under”  |

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|                        |  | to the end of the paragraph, and subsections (6) and (7).<br>Section 98.<br>In section 104, subsections (7) and (8).<br>Section 105.  |
| 14 Geo. 6. c. 36.      | The Diseases of Animals Act 1950.                      | In section 43 the words “with the sanction of the Minister”.<br>Section 61(7).  |
| 14 & 15 Geo. 6. c. 35. | The Pet Animals Act 1951.                              | In section 1(2), as originally enacted, the words “not exceeding ten shillings”.  |
| 14 & 15 Geo. 6. c. 60. | The Mineral Workings Act 1951.                         | In section 19, in subsection (2) the words from “but the local authority” to the end of the subsection, and subsection (4).   |
| 2 & 3 Eliz. 2. c. 68.  | The Pests Act 1954.                                    | In section 6 the words from the beginning to “may authorise”.   |
| 4 & 5 Eliz. 2. c. 16.  | The Food and Drugs Act 1955.                           | In section 80, in subsection (1) the words “with approval of the Minister”, and subsection (3).   |
| 7 & 8 Eliz. 2. c. 25.  | The Highways Act 1959.                                 | In section 124, in subsection (2), and in subsection (3) the words from “or, in a case where” to “so extended” and the words from “or, if an appeal” to the end of the subsection.<br><br>In section 174(2)(b) the words from “which may include” to “and notices”. |
| 8 & 9 Eliz. 2. c. 62.  | The Caravan Sites and Control of Development Act 1960. | In Schedule 2, in paragraph 3, in sub-paragraph (1) the words from “the Minister” to the end of the sub-paragraph.  |
| 1963 c. 29.            | The Local Authorities (Land) Act 1963.                 | In section 2, subsections (2) and (3).  |
| 1963 c. 31.            | The Weights and Measures Act 1963.                     | In section 4(2) the words “and approved for the purpose by the Board”.  |

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|                         |  | In section 5(3) the words “and approved for the purpose of the Board”.   |
|                         |  | In section 44(1) the words “with the consent of the Board”.  |
| 1963 c. 33.             | The London Government Act 1963.              | In Schedule 12, in each of paragraphs 3 and 6, the words from “not exceeding” to the end of the paragraph.   |
| 1963 c. 43.             | The Animal Boarding Establishments Act 1963. | In section 1(2), as originally enacted, the words “not exceeding ten shillings”.   |
| 1966 c. 9.              | The Rating Act 1966.                         | Section 9.<br>Section 12(a).   |
| 1966 c. 42.             | The Local Government Act 1966.               | Sections 1 to 5.<br>Section 8.<br>Section 10.<br>In section 27(2) the words from “all or any” to “authorites, and”.<br>Schedule 1.<br>In Schedule 3, in Part II, in column 1 the entries numbered 11, 14, 16, 21, 24, 25, 26 and 28.                                 |
| 1967 c. 8.              | The Plant Health Act 1967.                   | In section 5(2) the words from “in such manner” to “direct”.   |
| 1967 c. 8— <i>cont.</i> | The Plant Health Act 1967— <i>cont.</i>      | In section 6(3) the words from “in such manner as the competent authority directs” to “such direction”.  |
| 1967 c. 9.              | The General Rate Act 1967.                   | In section 17(2), in paragraph (a) the words from “not being earlier” to the end of the paragraph, and in paragraph (b) the words from “not being earlier” to the end of the paragraph.<br>In section 21(7) the words “or in section 22 of this Act”.<br>Section 22. |

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| 1967 c. 76. | The Road Traffic Regulation Act 1967. | <p>Section 35.</p> <p>Section 49.</p> <p>In section 51(1) the words “not exceeding two-and-a-half per cent”.</p> <p>Section 52.</p> <p>In section 115, in subsection (1) the definitions of “rebate application” and “rebate period”, and subsection (3)(b).</p> <p>Schedules 9 and 11.</p> <p>In section 29, in subsection (1) the words from “exercisable” to “approved by him”, and subsection (2).</p> <p>In section 31, in subsection (2) the words from “and, where an order provides” to the end of the subsection.</p> <p>In section 37, in subsection (5) the words “in the prescribed manner” and the words from “and in this” onwards.</p> <p>In section 44, in subsection (2) in the proviso the words from “but shall not be carried forward” to the end of the proviso, and in subsection (3)(c) the words “with the consent of the appropriate Minister”.</p> <p>In section 46(2) the words “with the consent of the Minister of Housing and Local Government”.</p> <p>In section 72(6)(a) the words “for the purposes of advances under section 235 of the Highways Act 1959”.</p> <p>In section 84B(8)(a) the words “for the purposes of advances under section 235 of the Highways Act 1959”.</p> |
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|-------------|---|---|
| 1968 c. 41. | The Countryside Act 1968.                       | <p>In section 2(9) the words “this Act or”.</p> <p>Section 5.</p> <p>Sections 33 to 35.</p> <p>In section 36, in subsection (1) the words from “under this Act” to “making of grants”, and in subsection (8) the words from “and subsections (2)” onwards.</p>  |
| 1968 c. 46. | The Health Services and Public Health Act 1968. | <p>In section 12(5) the words “with the approval of the Minister”.</p> <p>In section 13(2), the words “with the approval of the Minister”.</p>  |
| 1968 c. 73. | The Transport Act 1968.                         | <p>In section 10(1)(xvi) the words “and the consent of the Minister”.</p> <p>In section 11, subsections (4) and (5).</p> <p>In section 12(4) the words “with the consent of the Minister”.</p> <p>In section 13, subsections (4) and (7).</p> <p>In section 15, in subsection (4) the words from “to the provisions” to the end of the subsection.</p> <p>In section 16, in subsection (2), in paragraph (c) the final word “and” and paragraph (d), and subsections (3) to (5).</p> <p>In section 18, in each of subsections (1) and (2), the words “to the Minister and”.</p> <p>Section 21(5)(a).</p> <p>In section 34, subsections (2) and (3).</p> <p>In section 36, in subsection (2) the words “subject to subsection (3) of</p> |

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|             |   | <p>this section” and subsections (3) to (8).</p> <p>In section 37, in subsection (1) the words from “with the consent” to “Secretary of State”, and subsection (2).</p> <p>In section 138, subsections (6) to (8) and (9)(a).</p> <p>In Schedule 5, in Part III paragraph 14.</p> <p>In Schedule 14, in Part IV paragraph 10.</p> |
| 1969 c. 10. | The Mines and Quarries (Tips) Act 1969.     | In section 23(1), paragraph (c) except the final word “and”.  |
| 1969 c. 33. | The Housing Act 1969.                       | Section 74.   |
| 1969 c. 35. | The Transport (London) Act 1969.            | In section 3, in subsection (1) the words from “but any expenditure” to the end of the subsection.  |
|             |   | In section 7, in subsection (5) and in subsection (6), in paragraph (a) the final word “and” and paragraphs (b) and (c).  |
|             |   | In section 12, in subsection (2), in paragraph (c) the final word “and” and paragraph (d), and subsections (3) to (5).  |
|             |   | In section 23(6), paragraph (b) and the word “and” immediately preceding it.  |
|             |   | In section 29(1)(a) the words “for the purposes of advances under section 235 of the Highways Act 1959”.  |
| 1969 c. 53. | The Late Night Refreshment Houses Act 1969. | In section 3, subsections (2) and (3).  |
|             |   | Section 12.   |
| 1970 c. 21. | The New Forest Act 1970.                    | Section 4.  |
| 1970 c. 32. | The Riding Establishment Act 1970.          | In section 2(1), paragraph (i).   |



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|                          |  |  |
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| 1971 c. 41.              | The Highways Act 1971.                               | In section 1(6)(a)(i) the words “for the purposes of advances under section 235 of the principal Act”.   |
| 1971 c. 78.              | The Town and Country Planning Act 1971.              | <p>In section 28(1) the word “either”, paragraph (b) and the word “or” immediately preceding it.</p> <p>In section 31, subsections (2) and (3).</p> <p>In section 46, in subsection (1) paragraph (b) and the word “and” immediately preceding it, and in subsection (3) the words from “and the notice” to the end of the subsection.</p> <p>In section 65(1) the words “then, given to any directions given by the Secretary of State”.</p> <p>In section 87(1) the words “any directions given by the Secretary of State and to”.</p> <p>In section 91(4), paragraph (c) except the final word “and”.</p> |
| 1971 c. 78— <i>cont.</i> | The Town and Country Planning Act 1971— <i>cont.</i> | <p>In section 96(1) the words “then, subject to any directions given by the Secretary of State”.</p> <p>In section 100(1) the words from “give directions” to “or may”.</p> <p>In section 117, in subsection (1) the words “an application for” and the words from “and the Secretary of State” to the end of the subsection, and in subsection (5) the words “an application for”, “the local authority’s application for” and “be refused or, as the case may be, that such a direction”.</p> <p>In section 124, subsections (3) and (4), in subsection (6)</p>  |

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|              |  | the words “with the consent of the Secretary of State” and in subsection (8) the words “approved by the Secretary of State”.   |
|              |  | In section 125, in subsection (1) the words from “and the Secretary of State” to the end of the subsection, subsection (2) and in subsection (3) the words from ““preservation” in” to “and”.                                  |
|              |  | In section 164(1) the words from “(other than” to “Secretary of State”.  |
|              |  | In section 212(1) the words “for the purposes of advances under section 235 of the Highways Act 1959”.   |
|              |  | In section 276, in subsection (1) the words from “give directions” to “or may” and in subsection (5) paragraph (b), in paragraph (c) the words from “or under” to “this Act” and the words from “give directions” to “or may”. |
|              |  | Section 277(2).  |
|              |  | In Schedule 11, in paragraph 11(1) the words from “give directions” to “or may”.   |
| 1971 c. lxx. | The Chichester Harbour Conservancy Act 1971. | Section 30(3).   |
| 1972 c. 47.  | The Housing Finance Act 1972.                | In Schedule 9, paragraphs 7 and 8.   |
| 1972 c. 70.  | The Local Government Act 1970.               | Section 203(5).  |
|              |  | In Schedule 24, paragraph 11, and in paragraph 12, in section 13 of the Transport Act 1968 as set out in that paragraph, subsection (2).   |
| 1973 c. 28.  | The Rate Rebate Act 1973.                    | The whole Act.   |
| 1973 c. 37.  | The Water Act 1973.                          | In Schedule 5, in paragraph 11(9) the words from   |

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| 1973 c. 60. | The Breeding of Dogs Act 1973. | “multiplied by” to “authority for that year”, in paragraph 11(13) the definition of “the conclusive calculation” and paragraph 13(2).<br>Section 4.  |
| 1974 c. 3.  | The Slaughterhouses Act 1974.  | In section 18, in subsection (1) the words “with the approval of the Minister” and subsections (3) to (5).<br><br>In Schedule 3, paragraphs 3 and 6. |

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