



# Local Government Act 1988

## 1988 CHAPTER 9

### PART I

#### COMPETITION

##### *Preliminary*

#### **1 Defined authorities.**

- (1) For the purposes of this Part each of the following is a defined authority—
- (a) a local authority,
  - (b) an urban development corporation established by an order under section 135 of the <sup>M1</sup>Local Government, Planning and Land Act 1980,
  - (c) a development corporation established for the purposes of a new town,
  - (d) the Commission for the New Towns,
  - [<sup>F1</sup>(e) a police authority established under section 3 of the <sup>M2</sup>Police Act 1964,]
  - (f) a fire authority constituted by a combination scheme and a metropolitan county fire and civil defence authority,
  - (g) the London Fire and Civil Defence Authority,
  - (h) a metropolitan county passenger transport authority,
  - (i) an authority established by an order under section 10(1) of the Local Government Act 1985 (waste disposal),
  - <sup>F2</sup>(j) .....
  - (k) a water development board in Scotland, . . . <sup>F3</sup>
  - <sup>F3</sup>(l) .....
- (2) In the application of this Part to England <sup>F4</sup>. . . , “local authority” in subsection (1) above means—
- (a) a county council, a district council, a London borough council, a parish council, <sup>F4</sup>. . . or the Council of the Isles of Scilly;
  - (b) the Common Council of the City of London in its capacity as local authority or police authority.

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[<sup>F5</sup>(2A) In the application of this Part to Wales, “local authority” in subsection (1) above means a county council, a county borough council or a community council.]

- (3) In the application of this Part to Scotland, in subsection (1) above—
- (a) “local authority” means a regional, islands or district council or any joint board or joint committee within the meaning of the <sup>M3</sup>Local Government (Scotland) Act 1973, and
  - (b) “water development board” has the same meaning as in section 109(1) of the <sup>M4</sup>Water (Scotland) Act 1980.
- (4) In a case where two or more defined authorities arrange under section 101 of the <sup>M5</sup>Local Government Act 1972 for the discharge by a joint committee of theirs of any of their functions, the committee shall itself be treated as a defined authority for the purposes of this Part in its application to England and Wales.

#### Textual Amendments

- F1** S. 1(1)(e) substituted (1.10.1994 for certain purposes and 1.4.1995 otherwise) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 31**; S.I. 1994/2025, **art. 6(1)(3)-(6)**; S.I. 1994/3262, art. 4, **Sch.**
- F2** S. 1(1)(j) repealed (1.4.1994) by 1993 c. 35, ss. 303, 307(1)(3), Sch. 19 para. 110, **Sch. 21 Pt. II**; S.I. 1994/507, art. 4, **Sch. 2**, Appendix
- F3** S. 1(1)(l) and word immediately preceding it repealed by Housing (Scotland) Act 1988 (c.43, SIF 61), ss. 1, 3(1)(3), 72(3), Sch. 2 para. 16(b), **Sch. 10**
- F4** Words in s. 1(2) omitted (17.2.1995) by virtue of S.I. 1995/115, **art. 3**
- F5** S. 1(2A) inserted (17.2.1995) by S.I. 1995/115, **art. 3**

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

- C1** S. 1(2A) modified (17.2.1995) by S.I. 1995/115, **art. 4**

#### Marginal Citations

- M1** 1980 c. 65.  
**M2** 1967 c. 77.  
**M3** 1973 c. 65.  
**M4** 1980 c. 45.  
**M5** 1972 c. 70.

## 2 Defined activities.

- (1) This section applies for the purposes of this Part.
- (2) Each of the following is a defined activity—
- (a) collection of refuse,
  - (b) cleaning of buildings,
  - (c) other cleaning,
  - (d) catering for purposes of schools and welfare,
  - (e) other catering,
  - [<sup>F6</sup>(ee) managing sports and leisure facilities;]
  - (f) maintenance of ground, <sup>F7</sup> . . .
  - [<sup>F8</sup>(ff) supervision of parking,
  - <sup>F8</sup>(g) repair and maintenance of vehicles,

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<sup>F8</sup>(gg) management of vehicles,]

[<sup>F9</sup>, and

(h) housing management]

[<sup>F10</sup>(i) security work,

<sup>F10</sup>(j) legal services;]

[<sup>F11</sup>(k) construction and property services;]

[<sup>F12</sup>(l) financial services;

(m) information technology services;

(n) personnel services.]

and Schedule 1 to this Act applies for the purpose of interpreting the preceding provisions of this subsection.

- (3) The Secretary of State may by order provide for an activity to be a defined activity by adding a paragraph to those for the time being appearing in subsection (2) above [<sup>F13</sup>or by modifying any provision of Schedule 1 to this Act which for the time being excludes anything from the activities falling within any of those paragraphs].
- (4) Before making an order under subsection (3) above, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.
- (5) Where work would (apart from this subsection) fall within more than one defined activity it shall be treated as falling only within such one of them as the authority carrying out the work decide.
- (6) Work which is carried out by a defined authority through an employee and which would (apart from this subsection) fall within a defined activity shall not do so if it is incidental to the greater part of the work he is employed to do and the greater part does not constitute a defined activity.
- (7) If a defined authority carry out work which (apart from this subsection) would not fall within a defined activity, and which in their opinion cannot be carried out efficiently separately from a particular defined activity, the work shall (if they so decide) be treated as falling within that defined activity.
- (8) Work which would (apart from this subsection) fall within a defined activity shall not do so if it is calculated to avert, alleviate or eradicate the effects or potential effects of an emergency or disaster (actual or potential) involving or likely to involve danger to life or health or serious damage to or destruction of property.
- (9) The Secretary of State may provide by order that any activity specified in the order, if carried out by a defined authority or authorities so specified, shall not be treated as a defined activity so long as conditions so specified are fulfilled.
- [<sup>F14</sup>(10) Without prejudice to his powers to make orders or regulations under any other provision of this Part of this Act, the Secretary of State may by order provide that, from 31st March 1995 or such later date as may be specified in the order until such date as may be so specified, being a date not later than 31st December 2001, the provisions of this Part of this Act shall apply in relation to local authorities subject to such modifications as may be so specified.]

#### Textual Amendments

**F6** S. 2(2)(ee) inserted by S.I. 1989/2488, art. 2(1)

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- F7** Word after s. 2(2)(f) omitted (23.6.1994) by virtue of S.I. 1994/1671, **art. 2(1)(a)**
- F8** S. 2(2)(ff)(g)(gg) substituted (10.11.1994) for s. 2(2)(g) by S.I. 1994/2884, **art. 2(1)(a)**
- F9** S. 2(2)(h) and word immediately preceding it inserted (23.6.1994) by S.I. 1994/1671, **art. 2(1)(b)**
- F10** S. 2(2)(i)(j) inserted (10.11.1994) by S.I. 1994/2884, **art. 2(1)(b)**
- F11** S. 2(2)(k) inserted (11.11.1994) by S.I. 1994/2888, **art. 2(1)**
- F12** S. 2(2)(l)(m)(n) inserted (20.7.1995) by S.I. 1995/1915, **art. 2**
- F13** Words in s. 2(3) inserted (13.6.1994) by Local Government Act 1992 (c. 19), s. 11, **Sch. 1 para. 10**; S.I. 1994/1445, **art. 2**
- F14** S. 2(10) inserted (S.) (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(3)**; S.I. 1994/2850, **art. 3(c)**

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

- C2** S. 2 modified (10.11.1994) by S.I. 1994/2884, **art. 3(1)**
- C3** S. 2 modified (11.11.1994) by S.I. 1994/2888, **art. 3(1)**
- C4** S. 2 modified (20.7.1995) by S.I. 1995/1915, **art. 5(1)**
- C5** S. 2(2) modified (E.W.) by S.I. 1988/1372, **arts. 3–6**
- C6** S. 2(2) modified (S.) by S.I. 1988/1415, **arts. 3–6**
- C7** S. 2(2) excluded (E.W.) by S.I. 1988/1469, **arts. 3, 4, 6**
- C8** S. 2(2) restricted (6.4.1992) by S.I. 1992/583, **art. 3**
- C9** S. 2(2) excluded (3.3.1997) by S.I. 1997/198, **arts. 3, 6, 7, 9**
- C10** S. 2(2) restricted (27.3.1997) by S.I. 1997/560, **art. 3**
- C11** S. 2(2)(b)(d) restricted by S.I. 1990/403, **art. 3**
- C12** S. 2(2)(b) restricted (1.10.1996) by S.I. 1995/2449, **art. 2(1)**
- C13** S. 2(2)(b) excluded (3.3.1997) by S.I. 1997/198, **art. 4**
- C14** S. 2(2)(c) excluded (15.3.1991) by S.I. 1991/262, **art. 3**
- C15** S. 2(2)(c) excluded (22.2.1991) by S.I. 1991/312, **art. 3**
- C16** S. 2(2)(h) excluded (3.3.1997) by S.I. 1997/198, **art. 5**
- C17** S. 2(2)(j)-(n) excluded (3.3.1997) by S.I. 1997/198, **art. 10**
- C18** S. 2(6) modified (23.6.1994) by S.I. 1994/1671, **art. 3**

### **3 Other definitions.**

- (1) This section applies for the purposes of this Part.
- (2) “Works contract” means a contract constituting or including an agreement which provides for the carrying out of work by a defined authority.
- (3) But a contract is not a works contract if it constitutes or includes an agreement providing for a defined authority to discharge the functions of a Minister of the Crown, another defined authority or (in the application of this Part to England and Wales) a [<sup>F15</sup>sewerage undertaker].
- (4) “Functional work” means—
- (a) work carried out by a defined authority, other than work carried out under a works contract; and
  - (b) work which is carried out otherwise than by a defined authority but which is dependent upon, or incidental or preparatory to, other work which, by virtue of paragraph (a) above, is functional work in relation to that authority;
- and work carried out as mentioned in paragraph (b) above shall be treated as carried out by the defined authority.
- (5) “Financial year” means a period of 12 months beginning with 1st April.

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### **Textual Amendments**

**F15** Words substituted 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. 25 para. 79(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

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

**C19** [S. 3\(3\)](#) modified by [S.I. 1988/1373](#), **reg. 3**

**C20** [S. 3\(4\)](#) applied (with modifications) (10.11.1994) by [S.I. 1994/2884](#), **art. 3(2)**

[S. 3\(4\)](#) applied (with modifications) (11.11.1994) by [S.I. 1994/2888](#), **art. 3(2)**

[S. 3\(4\)](#) applied (with modifications) (20.7.1995) by [S.I. 1995/1915](#), **art. 5(2)**

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